

By Mr. John P. Burke, a petition (accompanied by bill, Senate, No. 384) of John P. Burke, Roger R. Goyette, Linda J. Melconian and Martin T. Reilly for legislation to control the transportation of hazardous materials in the Commonwealth. Public Safety.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-five.

AN ACT TO CONTROL THE TRANSPORTATION OF HAZARDOUS MATERIALS IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 6A of the General Laws is hereby
2 amended by adding after section 18 the following new section:
3 Section 18A. (a) The Secretary of Public Safety shall assign
4 among the several divisions and agencies under his control the
5 duty of coordinating and assisting in the enforcement of the
6 hazardous materials transportation and motor carrier safety
7 regulations promulgated pursuant to sections 31 and 31A of
8 chapter 90 of the General Laws, except that the Massachusetts
9 Civil Defense Agency and Office of Emergency Preparedness
10 shall serve as the lead agency charged with coordinating the
11 first response to hazardous materials incidents pursuant to its
12 authority under chapter 639 Of the acts of 1950 as amended.
13 (b) The Secretary of Public Safety shall apply for, accept
14 and expend, subject to appropriation, on behalf of the com-
15 monwealth, any gift, loan or grant-in-aid from the federal
16 government, or any agency or instrumentality thereof for
17 demonstration projects or programs as may become available
18 to the commonwealth for the purpose of enforcing laws and
19 regulations related to the transportation of hazardous
20 materials in the commonwealth.

1 SECTION 2. Chapter 22 of the General Laws is hereby amend-
2 ed by adding after section 3B the following new section:
3 Section 3C. There shall be within the division of state police
4 a commercial motor vehicle enforcement section. The com-

5 missioner may from time to time assign such members of the
6 division of state police and other assistants as he may deem
7 necessary to carry out the duties of said section, but at no time
8 shall the section number less than fifty-one members.

1 SECTION 3. Chapter 28 of the General Laws is hereby amend-
2 ed by adding after section 3 the following new section:

3 *Section 3A.* There shall be within the Metropolitan District
4 Commission Police Division, a Commercial Motor Vehicle En-
5 forcement Section. The Commissioner may from time to time
6 assign such members of the Division and other assistants as
7 he may deem necessary to carry out the duties of said section,
8 but at no time shall the Section number less than fifteen
9 members.

1 SECTION 4. Section 1 of Chapter 639 of the Acts of 1950, as
2 most recently amended Chapter 579 of the Acts of 1968, is
3 hereby further amended by adding the following new defini-
4 tions: "Hazardous Material", any substance or material in a
5 quantity and form determined by the United States Depart-
6 ment of Transportation as capable of posing an unreasonable
7 risk to health and safety or property when transported in com-
8 merce. "Imminent Hazard", a clear and present danger that
9 death, illness, personal injury, or irreparable harm to the en-
10 vironment may occur. "Law Enforcement Official", any du-
11 ly authorized employee of a state agency primarily responsi-
12 ble for prevention or detection of crime and the enforcement
13 of the criminal code or the highway and traffic laws of the com-
14 monwealth. "Transportation", any movement by any mode
15 over the ways of the commonwealth, and any loading,
16 unloading or storage incidental thereto.

1 SECTION 5. Chapter 639 of the Acts of 1950 is hereby further
2 amended by adding the following new section:

3 *Section 2C.* The director shall coordinate the response of state
4 and local agencies, including law enforcement officials and
5 local fire departments to incidents involving the transporta-
6 tion of hazardous materials which pose an imminent hazard.

1 SECTION 6. Section 2B of Chapter 85 of the General Laws, as

2 enacted by Chapter 541 of the acts of 1951, is hereby amended
3 by striking it in its entirety and inserting in place thereof the
4 following new section:

5 *Section 2B.* The department for the purpose of promoting
6 public safety upon limited access and express state highways,
7 may from time to time make, alter, rescind or add to regula-
8 tions to exclude, govern and restrict the use of such state
9 highways by horsedrawn vehicles, bicycles, pedestrians, and
10 vehicles determined by the department, because of their type
11 or because of materials or products being transported, as un-
12 safe for limited access and express state highways, bridges
13 tunnels or overhead highway structures, which regulations
14 may provide penalties for the violation thereof not exceeding
15 twenty dollars for each offense, excepting regulations gover-
16 ning the transportation of unsafe materials or products, the
17 penalties for violation of which shall not be less than one-
18 hundred and twenty-five dollars nor more than five-hundred
19 dollars for the first offense and not less than two-hundred and
20 fifty dollars nor more than one-thousand dollars for a second
21 or subsequent offense occurring within a three year period.

1 SECTION 7. Section 29 of Chapter 90 of the General Laws, as
2 most recently amended by Chapter 262 of the Acts of 1982, is
3 hereby further amended by striking out the fourth sentence
4 in its entirety and inserting in place thereof the following new
5 sentence:

6 He shall establish a section for the inspection of motor
7 vehicles used for the transportation of property with reference
8 to all police requirements, including equipment, content and
9 weight of loads, said section herein after called the Commer-
10 cial Weight, Dimensions and Hazardous Materials Enforce-
11 ment Section, and he may from time to time assign personnel
12 as he may deem necessary to carry out the duties of said Sec-
13 tion, but at no time shall the Section number less than twenty-
14 six members.

1 SECTION 8. Section 31 of Chapter 90 of the General Laws, as
2 most recently amended by Chapter 222 of the Acts of 1966, is
3 hereby further amended by striking out the first sentence in
4 its entirety and inserting in place thereof the following new

5 sentence:

6 The registrar may make rules and regulations governing the
7 use and operation of motor vehicles or trailers and the con-
8 duct of operators and chauffeurs, and may alter, rescind or
9 add to any rules and regulations previously made by him; pro-
10 vided, however, in governing the operation and use of com-
11 mercial motor vehicles, he shall adopt by reference the Code
12 of Federal Regulations, being Title 49, Subchapter B of
13 Chapter III, parts 390 through 397, and he shall review and
14 adopt by reference any subsequent amendments to said
15 federal regulations whenever such amendments are made.

1 SECTION 9. Section 31A of Chapter 90 of the General Laws,
2 as most recently amended by Chapter 387 of the Acts of 1956,
3 is hereby further amended by striking it out in its entirety and
4 inserting in place thereof the following new section:

5 *Section 31A.* The department after a public hearing, may
6 make, and may alter, rescind or add to, rules and regulations
7 for the reasonable and proper control and regulation of the
8 transportation by motor vehicle of personal property over the
9 ways of the commonwealth, except ways under the control of
10 the metropolitan district commission. Said rules and regula-
11 tions shall cover, among other matters which the department
12 may deem necessary or desirable, the fixing of routes with
13 respect to the physical capacity of such ways to carry traffic:
14 the establishment of the maximum weight of loads per com-
15 mercial motor vehicle and per inch of tire in contact with the
16 surface of such ways; the maximum dimension of loads; the
17 regulation of the rate of speed of such vehicles over such ways;
18 and the transportation of hazardous materials over such ways
19 provided, however that the department shall adopt by
20 reference the Code of Federal Regulations, being Title 49, Sub-
21 chapter C of Chapter I, Parts 171 through 179, and shall review
22 and adopt by reference any subsequent amendments to said
23 federal regulations whenever such amendments are made.
24 Any person convicted of a violation of any rule or regulation
25 made under this section, unless otherwise provided by law,
26 shall be punished by a fine of not less than twenty-five dollars,
27 excepting regulations governing the transportation of hazar-
28 dous materials, the penalties for violation of which shall be

29 the same as those provided under the provisions of Section 2B
30 of Chapter 85; and in the case of a second or subsequent of-
31 fense of any rule or regulation made under this section, in-
32 cluding hazardous materials regulations, the registration of
33 the vehicle or vehicles involved shall be suspended for such
34 length of time as the registrar may determine.

1 SECTION 10. Section 37 of Chapter 92 of the General Laws,
2 as most recently amended by Chapter 106 of the Acts of 1980,
3 is hereby further amended by adding at the end of the first
4 paragraph the following new sentence:

5 In governing the use and operation of commercial motor
6 vehicles on the boulevards and ways under its care, the com-
7 mission shall adopt by reference the Code of Federal Regula-
8 tions, being Title 49, Subchapter C of Chapter I, Parts 171
9 through 179, and shall review and adopt by reference any
10 subsequent amendments to said federal regulations whenever
11 such amendments are made.

1 SECTION 11. Section 2 of Chapter 159B, as most recently
2 amended by Chapter 546 of the Acts of 1975, is hereby further
3 amended by adding the following new definition: "Law En-
4 forcement Officer", any duly authorized state police officer,
5 an investigator or examiner of the commercial motor vehicle
6 division, an employee of the registry of motor vehicles with
7 police powers, or a metropolitan district commission police
8 officer.

1 SECTION 12. Section 14A of Chapter 159B, as most recently
2 amended by Chapter 142 of the Acts of 1983, is hereby further
3 amended by striking out the first sentence in its entirety and
4 inserting in place thereof the following new sentence:

5 Every motor carrier, including private carriers and in-
6 terstate licensees, their agents and employees, when requested
7 by a duly authorized law enforcement official, who is in
8 uniform and displays the proper insignia of his office, shall
9 stop and submit to said duly authorized law enforcement of-
10 ficial all transportation documents, including bills of lading,
11 way bills and other papers relating to his cargo which are in
12 his possession and shall submit the cargo and other contents,

13 if any, of his motor vehicle to such reasonable examination
14 as may be necessary to inform the duly authorized law en-
15 forcement officer of the nature and weight thereof.

1 SECTION 13. The Massachusetts Firefighting Academy shall
2 have the duty to plan and coordinate adequate and effective
3 training programs which shall be conducted by the academy
4 to train firefighters to respond to hazardous materials
5 incidents.

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1 SECTION 14. Each of the fifteen fire districts, as established
2 by Executive Order 221, signed June 30, 1982, and as recogniz-
3 ed by the most recent Mutual Aid Agreement, is hereby
4 authorized and directed to purchase a Hazardous Materials
5 Incident Response Vehicle.

1 SECTION 15. The Secretary of Public Safety shall conduct a
2 study of the administration and enforcement of sections one
3 through fourteen of this act and of the necessity for additional
4 legislation to control the transportation of hazardous materials
5 in the commonwealth. The Secretary shall report his findings
6 and recommendations to the governor, the committees on
7 ways and means, and the committee on public safety.

1 SECTION 16. If any portion of this act shall be found un-
2 constitutional by a court of competent jurisdiction, the re-
3 mainder of this act shall remain in full force and effect, not-
4 withstanding such finding.

1. In the year 1784, the first...

2. The first of the...

3. The second of the...

4. The third of the...

5. The fourth of the...