



CITY OF CAMBRIDGE  
POLICE DEPARTMENT  
INTEROFFICE CORRESPONDENCE

TO: Mr. Robert W. Healy  
City Manager  
FROM: Chief Anthony G. Paolillo

DATE: May 15, 1989

REFERENCE:

SUBJECT: City Council Order #10 of April 3, 1989

In response to City Council Order #10 of April 3, 1989 regarding the enforcement of the jay-walking law, enclosed please find a copy of M.G.L. C90, s18A.

During the 1960's, violation books were printed and issued. In the past, the Department realized the law was unenforceable. As long as any violator states a name and address, the offense has no right of arrest. The Department found many violators were giving fictitious names (such as prominent political officials or television and movie actors. I do not recall exactly when, but at one point in time, violation books ceased being printed.

In conclusion, the way the present law is written, it is unenforceable.

*Anthony G. Paolillo*

## 90 § 18

Note 6

in the thickly settled or business part of a city or town, and a rate of twenty miles outside thereof, as extreme limit of speed. 3 Op. Atty. Gen. 1906, p. 26.

## PUBLIC WAYS AND WORKS

### 7. Violation of regulations

In actions for injuries sustained by plaintiffs when automobile in which they were riding skidded and collided, in vehicular tunnel owned by city, with rear of taxicab and defendant's truck parked near catch basin, which defendant's employees were cleaning pursuant to contract with city, defendant was not chargeable with negligence because of absence of usual lights on truck in compliance with tunnel regulations, or because traffic control lights in tunnel remained green, contrary to rule of tunnel authority, while outside workmen were at work in tunnel. *Barresy v. James A. Freaney, Inc.* (1958) 150 N.E.2d 921, 337 Mass. 643.

### 8. Damage to vehicle

A parking lot operator is not a bailee of a vehicle left there for a consideration, and is under no duty to guard against damage to the vehicle. *Hall v. Lyndon* (1953) 6 Mass. App. Dec. 1.

### 9. Judicial notice

Registry of Motor Vehicles' table showing distance that an automobile ordinarily would travel at given speeds after the brakes were applied, could not be judicially noticed. *Jensen v. McEldowney* (1960) 170 N.E.2d 472, 341 Mass. 485.

### 10. Evidence, in general

In actions for injuries sustained by plaintiffs when automobile in which they were riding skidded and collided, in vehicular tunnel owned by city, with rear of taxicab and defendant's truck parked near catch basin, which defend-

ant's employees were cleaning pursuant to contract with city, testimony of tunnel superintendent, offered by plaintiffs, that defendant should have placed flares not less than 200 feet beyond either end of truck and that failure to do so was a violation of obligation to protect safety of traveling public did not show any regulation or instruction governing truck and was properly excluded. *Barresy v. James A. Freaney, Inc.* (1958) 150 N.E.2d 921, 337 Mass. 643.

In actions for injuries sustained by plaintiffs when automobile in which they were riding skidded and collided, in vehicular tunnel owned by city, with rear of taxicab and defendant's truck parked near catch basin, which defendant's employees were engaged in cleaning pursuant to contract with city, evidence was insufficient to establish any negligence of defendant, in view of evidence that under city traffic regulations relating to use of tunnel, defendant's truck and employees working in tunnel were subject to direction and control of tunnel superintendent and employees under him and absence of evidence that defendant failed to do anything that it was required to do by such regulations or that it was told to do by tunnel personnel. *Id.*

### 11. Argument of counsel

In action for wrongful death of pedestrian, who was hit by automobile, where testimony of police officer that there were signs on road indicating that speed limit was 45 miles per hour was admitted without objection, argument by defendant's counsel that sign showed speed limit, and that under law you can drive up to 45 miles an hour and be within the law, was not improper, even if defendant failed to establish that the road was lawfully posted. *Jensen v. McEldowney* (1960) 170 N.E.2d 472, 341 Mass. 485.

## § 18A. Use of ways by pedestrians; rules and regulations; violations

The department on ways within their control and at the intersection of state highways, and other ways, the metropolitan district commission on ways within their control and at the intersection of metropolitan district commission roadways, except state highways,

Other ways, the traffic and parking commission of the city of Boston, the traffic commission or traffic director of any city or town having such a commission or director with authority to promulgate traffic rules, the city council of any other city, and the board of selectmen of any other town may, subject to the provisions of section two of chapter eighty-five, adopt, amend and repeal rules, not repugnant to law, regulating the use by pedestrians of ways within their respective control; provided, however, that no such rule adopted by said traffic and parking commission or by any such traffic commission or traffic director, any city council or any board of selectmen shall take effect until approved in writing by the department, nor, in the case of any such rule adopted by said traffic and parking commission, until published in the City Record, or, in the case of any other such rule, until published in a newspaper published in the city or town in which such rule is to be applicable, if any, otherwise in the county wherein such city or town lies. As used in this paragraph, the word "pedestrian" shall include a person in or on any conveyance, other than a bicycle, constructed and designed for propulsion by human muscular power, as well as including a person on foot. Whoever violates any provision of any such rule shall be punished by a fine of one dollar for the first, second or third such offense committed by such person within the jurisdiction of the district court in the particular calendar year, and by a fine of two dollars for the fourth or subsequent such offense so committed in such calendar year.

If a police officer takes cognizance of a violation of any provision of any such rule, he shall forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than twenty-one days after the time of such violation. Such notice shall be made in triplicate and shall contain the name and address of the offender, the time, place and nature of the violation, and the name of the police officer. Upon the completion of his tour of duty such police officer shall give his commanding officer two copies of such notice. Said commanding officer shall retain one such copy in his files and, not later than the next court day, deliver the other copy to the clerk of the court before whom the offender has been notified to appear. The notice to appear as provided herein shall be printed in such form as the chief justice of the municipal court of the city of Boston and the chief justice of the district courts may prescribe for such courts.

A police officer taking cognizance of any such violation may request the offender to state his name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than

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## 90 § 18A

### PUBLIC WAYS AND WORKS

twenty nor more than fifty dollars. Any such offender who refuses upon such request to state his name and address may be arrested without a warrant; but no person shall be arrested without a warrant for any other violation of any provision of this paragraph or for any violation of any provision of any such rule.

Any person notified to appear before the clerk of a district court as hereinbefore provided may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing or by mailing to such clerk, with the notice, the sum provided herein, such payment to be made only by postal note, money order or check. If it is the first, second or third offense subject to this section committed by such person within the jurisdiction of the court in the calendar year, payment to such clerk of the sum of one dollar shall operate as a final disposition of the case; if it is the fourth or subsequent such offense so committed in such calendar year payment to such clerk of the sum of two dollars shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

Should any person notified to appear before the clerk of the district court fail to appear or, having appeared, desire not to avail himself of the procedure hereinbefore provided for the non-criminal disposition of the case, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within twenty-one days from the sending of such notice a warrant for his arrest will be issued. If any person fails to appear within twenty-one days from the sending of such notice the court shall issue a warrant for his arrest.

A violation of any provision of any such rule or of any provision of this section shall not, in any civil proceeding, constitute negligence or be admissible as evidence of negligence, nor shall a conviction for such a violation be shown to affect the credibility of a witness in any proceeding.

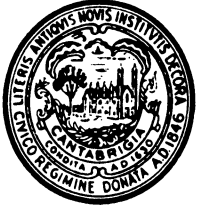
The provisions of this section relative to ways within the control of cities or towns shall be effective in cities or towns accepting said provisions; provided, however, that at any time after the expiration of two years from the time of any such acceptance a city or town

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*Paulillo*



## CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

RICHARD C. ROSSI

Deputy City Manager

May 22, 1989

To the Honorable, the City Council:

In response to Awaiting Report No. 30 regarding enforcement of the jay-walking law, I submit the attached report from the Police Department.

Very truly yours,

Robert W. Healy  
City Manager

Agenda Item No. S-385

Re: response to Awaiting Report Item 30 on  
enforcement of the jaywalking law.

In City Council,

May 22, 1989

5-22-89

Placed on file.