

Mass General Laws regarding Local Board of Health Authority to Protect the Public Health

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Section 5. The department shall take cognizance of the interests of life, health, comfort and convenience among the citizens of the commonwealth; shall conduct sanitary investigations and investigations as to the causes of disease, and especially of epidemics, and the sale of food and drugs and adulterations thereof; and shall disseminate such information relating thereto as it considers proper. It shall advise the government concerning the location and other sanitary condition of any public institution. It may produce and distribute immunological, diagnostic and therapeutic agents as it may deem advisable, and may sell such portions of such materials produced in its laboratories as constitute an excess over those required for its use within the commonwealth.

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Section 6. The department shall have the power to define, and shall from time to time define, what diseases shall be deemed to be dangerous to the public health, and shall make such rules and regulations consistent with law for the control and prevention of such diseases as it deems advisable for the protection of the public health. The department shall also have the power to define, and shall from time to time so define, what diseases shall be included within the term venereal diseases in the provisions of the laws relative to public health.

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Section 95. If a disease dangerous to the public health breaks out in a town, or if a person is infected or lately has been infected therewith, the board of health shall immediately provide such hospital or place of reception and such nurses and other assistance and necessaries as is judged best for his accommodation and for the safety of the inhabitants, and the same shall be subject to the regulations of the board. The board may cause any sick or infected person to be removed to such hospital or place, if it can be done without danger to his health; otherwise the house or place in which he remains shall be considered as a hospital, and all persons residing in or in any way connected therewith shall be subject to the regulations of the board, and, if necessary, persons in the neighborhood may be removed. When the board of health of a town shall deem it necessary, in the interest of the public health, to require a resident wage earner to remain within such house or place or otherwise to interfere with the following of his employment, he shall receive from such town during the period of his restraint compensation to the extent of three fourths of his regular wages; provided, that the amount so received shall not exceed two dollars for each working day.

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Section 96. A magistrate authorized to issue warrants may issue a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring him, under the direction of the board of health, to remove any person infected with a disease dangerous to the public health or who is a carrier of the causative agent thereof, or to take control of convenient houses and lodgings, and to impress into service and use such convenient houses, lodgings, nurses, attendants and other necessaries. The removal authorized by this section may be made to a hospital in any town established for the reception of persons having diseases dangerous to the public health; provided, that the assent of the board of health of the town to which such removal is to be made shall first have been obtained.

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Section 97. Sections ninety-five and ninety-six, so far as they confer authority for the removal of patients from their homes, shall apply only to persons residing in boarding houses or hotels, or to two or more families occupying the same dwelling, or in other cases where, in the opinion of the board, the patient cannot properly be isolated.

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Section 100. The magistrate may, by the same warrant, require the officers, under the direction of the board, to impress and take up convenient houses or stores for the safe keeping of such articles; and the board may remove them thereto or otherwise detain them until, in its opinion, they are freed from infection.

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Section 104. If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection and may give public notice of infected places by such means as in their judgment may be most effectual for the common safety. Whoever obstructs the selectmen, board of health or its agent in using such means, or whoever wilfully and without authority removes, obliterates, defaces or handles such public notices which have been posted, shall forfeit not less than ten nor more than one hundred dollars.

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Section 111. If a physician knows or has cause to believe that a person whom he visits is infected with a disease dangerous to the public health, or if either eye of an infant whom or whose mother a physician, or a hospital medical officer registered under section nine of chapter one hundred and twelve, visits, becomes inflamed, swollen and red, or shows an unnatural discharge within two weeks after birth, he shall immediately give written notice thereof, signed by him, to the board of health of the town where the patient is being attended by him. If the board of health which receives such written notice is the board of health of a town other than that wherein the patient dwells, it shall, immediately upon receipt of such notice, send a copy thereof to the board of health of the town wherein the patient dwells; and, in addition thereto, the board of health which receives such written notice, whether or not it is the board of health of the town wherein the patient dwells, shall send a copy thereof to the board of health of the town in which the patient is known to have contracted such disease and to the board of health of each town in which he is known to have exposed any person to such disease. If a physician or such a hospital medical officer refuses or neglects to give the notice required by this section he shall be punished by a fine of not less than fifty nor more than two hundred dollars.

The foregoing provisions of this section shall not apply to tuberculosis, nor shall the foregoing provisions of this section and the provisions of section one hundred and nine apply to venereal diseases as defined under section six, except in the case of eye infections in infants under two weeks of age. Any person having tuberculosis or a venereal disease shall be reported to local boards of health either directly or through the department in accordance with such special rules and regulations as the department may make, having due regard for the best interests of the public.

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Section 122. The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the public health and safety relative thereto and to articles capable of containing or conveying infection or contagion or of creating sickness brought into or conveyed from the town or into or from any vessel. Whoever violates any such regulation shall forfeit not more than one thousand dollars.

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Section 123. Said board shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, source of filth or cause of sickness found thereon within twenty-four hours, or within such other time as it considers reasonable, after notice; and an owner or occupant shall forfeit not more than one thousand dollars for every day during which he knowingly violates such order.

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Chapter 111: Section 124. Service of order for abatement

Section 124. Such order shall be in writing, and may be served personally on the owner, occupant or his authorized agent by any person authorized to serve civil process; or a copy of the order may be left at the last and usual place of abode of the owner, occupant or agent, if he is known and within or without the commonwealth; or a copy of the order may be sent to the owner, occupant or agent by registered mail, return receipt requested, if he is known and within the commonwealth. If the order is directed against the owner and if the residence and whereabouts of the owner or his agent are unknown or without the commonwealth, the board may direct the order to be served by posting a copy thereof in a conspicuous place on the premises and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the municipality wherein the building affected is situated.

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Section 125. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall constitute a debt due the city or town upon the completion of the removal and the rendering of an account therefor to the owner, his authorized agent, or the occupant, and shall be recoverable from such owner or occupant in an action of contract.

The provisions of the second paragraph of section three A of chapter one hundred and thirty-nine, relative to liens for such debt and the collection of the claims for such debt, shall apply to any debt referred to in this section, except that the board of health shall act hereunder in place of the mayor or board of selectmen.

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Section 187. The supreme judicial or superior court, upon the application of the board of health of a town, may enforce the orders of said board relative to public health. Sections eleven and twelve of chapter two hundred and fourteen shall apply to such cases; but a jury may be summoned under said sections, if there is no sitting of the court, within one month after issues have been framed.