



Quick Reference Guide

Mandatory Retirement Age for Firefighters in Massachusetts

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Department of Fire Services

Commonwealth of Massachusetts

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I. INTRODUCTION

This document serves to provide a basic overview of the mandatory retirement age for firefighters in Massachusetts. The information presented here is for informational purposes only and does not, nor is it intended to, constitute legal and/or retirement advice. Questions about a specific factual scenario should be directed to the state or local retirement board.

II. HISTORY

In 1987, Chapter 415 of the Acts of 1987 eliminated the maximum age and mandatory retirement requirements for most public employees. For firefighters though, the language stated that “no member in the occupation or position classification of uniformed member of a paid fire department *** shall continue in service beyond the last day of the month in which he attains the age of sixty-five unless *** age is not a reasonably necessary bona fide occupations qualification ***.”

This law also required the Personnel Administrator to conduct a study to determine if age was to remain a bona fide occupational qualification for certain occupations. Factors that were used in making the determination included:

- Like the rest of the population, aging firefighters are at significantly higher risk of injury and illness.
- Due to the extremely strenuous nature of the job (with little or no "warm up time,") firefighters suffer higher rates of disabling occupational injury. The older the firefighter, the more likely these injuries become, and recovery times (and cost) increase.
- These injuries are expensive to taxpayers and firefighters, decreasing the quality of life and requiring expensive treatment, overtime pay to replace the injured worker which stresses already low staffing levels.

As a result, the study determined that for firefighters, age was a bona fide occupational qualification, and as a result, Massachusetts could impose a maximum age for firefighters.

III. MAXIMUM AGE

Pursuant to Chapter 415 of the Acts of 1987 and M.G.L. c. 32, s. 1, a firefighter is required to retire upon attaining age 65. The law does not allow for distinctions between someone's chronological age and actual physical fitness, strength, and health.

Despite successful legal challenges to mandatory retirement in other occupations, those cases do not apply to firefighters, and the Massachusetts statutes have been found to not violate the Age Discrimination in Employment Act.



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IV. EXCEPTION

A city or town may seek a home-rule petition from the Massachusetts Legislature and Governor to allow an individual to continue to serve in a position past the age of 65. Although only a handful of municipalities have done so, small towns with limited public safety resources have pursued home-rule petitions to give them flexibility and more time to replace key personnel. An example of such a petition can be found in Appendix A.

V. APPLICABILITY

A. Paid Firefighters – Career and Call

The language of Chapter 415 of the Acts of 1987 and M.G.L. c. 32, s. 1 refers to a “member in the occupation or position classification of uniformed member of a paid fire department.” The Commonwealth of Massachusetts Public Employee Retirement Administration Commission has opined, and published in memoranda and opinions, that the mandatory retirement age provisions of Chapter 415 of the Acts of 1987 apply to call firefighters, and by extension, to reserve or permanent-intermittent firefighters as well.

Their rationale is based upon the fact that the Contributory Retirement Appeal Board has held that the Heart Law presumption contained in M.G.L. c 32, s. 94 applies to call firefighters because call firefighters are “a uniformed member of a paid fire department.” Therefore, if the Heart Law presumption applies, consistency requires that the mandatory retirement law applies as well.

Concerning a “paid fire department,” this means at least one member of the fire department receives a salary, not that the individual firefighter must be receiving compensation. As such the “maximum age” applies to call firefighters as they are uniformed members of a paid fire department.

B. Unpaid Firefighters

There are no statutory requirements that require an unpaid firefighter to “retire” at a certain age, provided their employing fire department is entirely volunteer.

It is important to note it is unacceptable for a uniform member of a paid fire department to switch to a voluntary unpaid status specifically to skirt the maximum age and mandatory retirement requirements. As noted above, it does not depend on whether the firefighter is actually receiving the payment, but rather whether they are a uniformed member of a paid fire department (i.e., at



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least one member of the department, usually the Chief, receives a salary).

VI. ADDITIONAL RESOURCES

For more information, the following resources may be utilized:

The Massachusetts Public Employee Retirement Administration Commission.

PERAC's mission is to provide regulatory oversight and guidance for the effective, equitable, and ethical operation of the Commonwealth of Massachusetts' public pension systems. PERAC also provides a wealth of retirement related information via memos it published on its website.



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The specific retirement board to which the employee is a member of.

A list of all Massachusetts state retirement boards can be found by visiting
<https://www.mass.gov/massachusetts-public-retirement-systems>

The Professional Firefighters of Massachusetts www.pffm.org

The Fire Chiefs Association of Massachusetts www.fcam.org

Massachusetts Call/Volunteer Firefighters Association <https://mcvfa.org>

VII. APPENDIX

A. Sample Home Rule Petition

HOUSE No.1234

The Commonwealth of Massachusetts

PRESENTED BY:

Name of Legislature

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the town of Anytown to continue the employment of Fire Chief John Doe.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
.....

HOUSE No.1234

By Representative Smith of Anytown and Senator Apple, a joint petition (accompanied by bill, House, No. 41234) of Smith and Apple (by vote of the town) that the town of Anytown be authorized to continue the employment of John Doe, fire chief of said town.Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act authorizing the town of Norwood to continue the employment of Fire Chief John Do.

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. Notwithstanding any general or special law to the contrary, John Doe,
2 Fire Chief of the Town of Anytown, may continue to serve in that position until reaching age 70,
3 the date of his retirement or the date he is relieved of his duties by the General Manager of the
4 Town of Anytown at his discretion, whichever occurs first; provided, however, that he is
5 mentally and physically capable of performing the duties of his office. The General Manager
6 may, at the Town's own expense, require that John Doe be examined annually by a physician
7 designated by the general manager, to determine such physical and mental capability to perform
8 the duties of his office.

9 No further deductions shall be made from the regular compensation of John Doe
10 pursuant to Chapter 32 of the General Laws for service subsequent to his reaching age 65; and

11 upon retirement for superannuation, he shall receive a superannuation retirement allowance equal
12 to the allowance that he would have been entitled had he retired upon reaching age 65.

13 SECTION 2. This act shall take effect upon its passage.