

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Mr. Petruccelli**

*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 passage of the accompanying bill:

An Act permitting cities and towns to impose an excise on the use of off-street parking facilities.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Mr. Petruccelli

First Suffolk and Middlesex

Angelo M. Scaccia

14th Suffolk

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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## AN ACT PERMITTING CITIES AND TOWNS TO IMPOSE AN EXCISE ON THE USE OF OFF-STREET PARKING FACILITIES.

*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 I. The General Laws as appearing in the 2006 official edition, are hereby amended by inserting  
2 after chapter 64K the following chapter:-

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4 Chapter 64L: Excise Upon Transfer of Parking Spaces

5

6 Section 1. As used in this chapter, the following words, unless the context otherwise indicates, shall  
7 have the following meanings:

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9 "Motor vehicles", as defined in section one of chapter 90 of the General Laws.

10

11 "Commercial", any parking facility as defined herein other than (a) one provided or leased to occupants  
12 of a residence on the same or other premises for use only in connection with and as an accessory to the  
13 occupancy of such residence, or (b) one operated exclusively by an owner or lessee of a hotel, motel, or  
14 lodging house, as defined in chapter 64G, or a trailer park, to the extent that the parking facility is  
15 provided to guests or tenants of such hotel, motel, lodging house or trailer park for no additional  
16 consideration.

17

18 "Operator", any person operating an off-street, unmetered parking facility, including, but not limited to,  
19 the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any  
20 other person otherwise operating such parking facility, and including the commonwealth and political  
21 subdivisions, agencies and authorities thereof, except as otherwise provided by law.

22

23 "Parking facility", any premises utilized in whole or in part for the provision of commercial, unmetered,  
24 off-street parking for motor vehicles, whether in a building or not, including facilities open to the public  
25 for a fee.

26

27 "Parking fee", the consideration received upon an express or implied contract or under a lease or  
28 otherwise, whether or not separately stated, and whether or not paid, provided or allowed by the  
29 person on whose behalf the motor vehicle is parked or stored or by some other person.

30

31 "Parking space", that portion of a parking facility normally allocated to the use of a single motor vehicle.

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33 "Person", an individual, partnership, trust or association joint stock company, corporation, whether  
34 charitable or otherwise, society, club, organization, institution, estate receiver, trustee, assignee or  
35 referee and any person acting in a fiduciary or representative capacity, whether appointed by a court or  
36 otherwise, or any combination of individuals acting as a unit.

37

38 "Transfer of the right to use", that transfer of right which occurs whenever a motor vehicle enters a  
39 parking facility for consideration.

40

41 "Treasurer", the treasurer of a city or town which accepts the provisions of this Act.

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43 Section 2. The provisions of this act shall not be construed to include parking facilities operated by the  
44 United States or an instrumentality thereof.

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46 Section 3. Any city or town which accepts the provisions of this Act, as hereinafter provided, may impose  
47 an excise on the transfer of the right to use any parking space in a parking facility for the purpose of  
48 parking a motor vehicle by any operator for a period of more than two hours at a rate of 10% of the  
49 parking fee for each transfer of the right to use such parking space.

50

51 Section 4. Reimbursement for an excise imposed under this Act shall be paid by the person using such  
52 parking space to the operator and each operator shall collect from the person using such parking space  
53 the full amount of the excise imposed by this Act.

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55 Section 5. The amount of the excise collected by the operator from the person using such parking space  
56 under the provisions of this Act shall be stated and charged separately from the parking fee at the time  
57 that any transfer of the right to use such parking space is made, or any evidence of such transfer is  
58 issued or used by the operator.

59

60 Section 6. On or before the twentieth day of each calendar month, every operator who has made any  
61 transfer of the right to use any parking space on which an excise is payable under the provisions of this  
62 Act during the preceding calendar month shall file a sworn return with the treasurer, in such form as the  
63 treasurer shall prescribe, giving such information as the treasurer shall require for the determinate of  
64 the excise imposed by this Act. Said excise shall be due and payable on or before the due date of the  
65 return.

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67 Section 7. Every operator shall keep and preserve suitable records of the number of such transfers of the  
68 right to use such parking spaces and such other books and accounts as the treasurer may require to  
69 determine the amount of the excise due under this Act.

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71 Section 8. Any operator who knowingly fails to file a return as provided in section 6, or who knowingly  
72 files a fraudulent return, shall be subject to a fine of five hundred dollars for each such failure or  
73 fraudulent return. If any recipient fails to file a return on or before its due date, the city or town may  
74 suspend or revoke any license or permit issued to the recipient by the city or town allowing the recipient  
75 the right or privilege to operate an off-street parking facility, as defined in this chapter, in that city or  
76 town. Notice of suspension or revocation shall be deemed sufficient if sent by certified mail to the last  
77 known place of residence or business of said recipient. Notice of suspension or revocation shall be  
78 accompanied by a statement which provides that the recipient may obtain a hearing upon his written  
79 request. The request must be filed with the city or town before the expiration of the twenty-first day  
80 from the date of issuance of said notification of suspension or revocation.

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82 If a recipient charged with failing to file a return on or before its due date requests a hearing before the  
83 expiration of the twenty-first day from the date of issuance of said notification of suspension or  
84 revocation, the city or town shall forthwith schedule the matter before a person referred to as a hearing  
85 officer, said hearing officer to be such person as the treasurer may designate. Written notice of the date,  
86 time and place of said hearing shall be sent by certified mail to the recipient. Said hearing shall be  
87 informal and the rules of evidence shall not apply. The hearing officer shall keep a record of the hearing  
88 and the decision of the hearing officer, which shall be in writing, shall be final subject to judicial review  
89 as provided by section 14 of chapter 30A of the General Laws. Sums due a city or town under the  
90 provisions of this chapter may be recovered by such city or town in an action brought in the name of the  
91 treasurer.

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93 Section 9. This act shall take effect in a city or town on the first day of the first full month not less than  
94 thirty days following its acceptance in the following manner: in a city having a plan D or plan E charter by  
95 a majority vote of the city council; in any other city by vote of its city council, approved by the mayor;  
96 and in a town by submission for acceptance to the registered voters in the form of the following  
97 question which shall be printed upon the official ballot to be used at election:-- "Shall the town impose  
98 an excise on the use of certain parking facilities within the town?"

99

100 Section 10. Any Municipality that so adopts this chapter may also by vote of the board of selectman or  
101 mayor and city council, or by the declaration of a state of emergency by the board of selectman, town  
102 manager or mayor, temporarily suspend the collection of this excise during the course of weather  
103 emergencies or other public safety or traffic related emergencies or events that may require the clearing  
104 of public ways for the public good upon reasonable public notification of such an emergency or event  
105 and shall refund any amount collected in error upon proof of that error made to the treasurer.

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