

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Walsh, Marian (SEN)

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 relative to the vitality of the parkways.

PETITION OF:

| | |
|---------------------|---------------------|
| NAME: | DISTRICT/ADDRESS: |
| Walsh, Marian (SEN) | Suffolk and Norfolk |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02122 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE VITALITY OF THE PARKWAYS.

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 92 of the General Laws is hereby amended by inserting after section 35A
2 the following section:-

3 Section 35B. (a) No person shall operate a truck, bus, motor home, camper, tractor, trailer, semi-
4 trailer or any other motor vehicle with a seating capacity of more than 15 persons on a road,
5 driveway, parkway, boulevard or bridge under the jurisdiction of the division of urban parks and
6 recreation that is restricted to pleasure vehicles only without express consent of the division;
7 provided, however, that light duty trucks, having a gross vehicle weight of 10,000 pounds or less
8 and a maximum overall height of 7 feet or less may be operated on such roadway.

9 (b) As used in this section, 'express consent' shall mean a written permit by the division.

10 Express consent shall only be granted if it is determined by the division to serve the public need

11 and after the completion of a formal permitting process to be established by the division, which
12 shall require that:

13 (1) all parties seeking a permit submit a written application to the division that provides the
14 grounds for which the permit is being sought and a comprehensive description of the anticipated
15 prohibited activity;

16 (2) the division hold at least 1 public hearing in each impacted community concerning the public
17 need for each permit;

18 (3) the division provide the local governing body of each impacted community a copy of each
19 permit application not less than 30 days prior to a public hearing on a permit application;

20 (4) the division, within 180 days from receipt of a permit application, notify in writing each
21 permit applicant and the local governing body of each impacted community of its decision to
22 either grant or refuse to grant the permit; and

23 (5) the division provide to each permit applicant and local governing body of each impacted
24 community, within 10 days of such notification of its decision, written findings that set forth the
25 reasons for its decision to either grant or refuse to grant the permit.

26 (c) Notice of the time and place of a public hearing held under this section shall be given by the
27 division, at the expense of the party who submitted the application, not less than 14 days before
28 the hearing by publication in a newspaper of general circulation in the impacted city or town and
29 by first class mail to the local governing body of the impacted city or town.

30 (d) The term of a permit issued under this section shall not exceed 1 year but shall be renewed if
31 it is determined by the division that the permit serves the public need. All permits shall be
32 revocable at will by the division and shall be nontransferable by the holder. The division may
33 assess a reasonable fee upon the receipt of each permit application and upon the renewal of each
34 permit. All funds collected pursuant thereto shall be deposited in the General Fund.

35 (e) A vehicle that receives express consent as described in this section shall, when accessing a
36 destination situated on a restricted roadway, enter from the nearest unrestricted roadway and exit
37 in the same manner.

38 (f) Judicial review shall be governed by section 14 of chapter 30A to the extent not inconsistent
39 with this section.

40 (g) The division may formulate such rules and regulations as are necessary to carry out this
41 section.

42 (h) A person who violates subsection (a) or (e) shall be punished for each offense by a fine of not
43 less than \$100 nor more than \$500.

44 SECTION 2. Within 30 days after the effective date of this act, the division shall notify anyone
45 who, prior to the effective date of this act, has been permitted by the division to operate a vehicle
46 that is prohibited by section 35B of chapter 92 of the General Laws of the need to comply with
47 said section 35B of said chapter 92. Within 90 days after receiving a notice under this section, a
48 person shall submit a permit application and may continue to operate his vehicle on the roads,
49 driveways, parkways, boulevards and bridges while the decision on his permit application is
50 pending.

51 SECTION 3. Notwithstanding subsection (a) of section 35B of chapter 92 of General Laws, the
52 buses under the care and control of the Massachusetts Bay Transportation Authority may operate
53 on a road, driveway, parkway, boulevard or bridge under the jurisdiction of the division to the
54 same extent that they were authorized to do so before the effective date of this act. After the
55 effective date of this act, the Massachusetts Bay Transportation Authority shall be required to
56 seek the express consent of the division and comply with the permitting process provided in
57 section 35B of chapter 92; provided however that the permitting process shall be deemed to be
58 completed for the Massachusetts Bay Transportation Authority Arborway Bus Terminal Project
59 and the division shall have no more than 180 days from the effective date of this act to render a
60 decision for a permit as provided in section 32B of chapter 92.

61 SECTION 4. The division of urban parks and recreation and the Massachusetts Bay
62 Transportation Authority shall, within 180 days of the effective date of this act, provide a joint
63 report to the clerks of the senate and the house of representatives and the legislature's joint
64 committees on transportation and public safety providing a formal process for reviewing the use
65 of the roads, driveways, parkways, boulevards and bridges under the jurisdiction of the division
66 by the buses under the care and control of the Massachusetts Bay Transportation Authority."