

HOUSE No. 3712

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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 amending Chapter 317 of the Acts of 1974 (as amended on May 19, 2006) to allow the Town of Brookline, through its Board of Selectmen, to sell taxi licenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Frank I. Smizik	15th Norfolk
Ms. Creem	First Middlesex and Norfolk
Michael J. Moran	18th Suffolk
Michael F. Rush	10th Suffolk
Jeffrey Sánchez	15th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT AMENDING CHAPTER 317 OF THE ACTS OF 1974 (AS AMENDED ON MAY 19, 2006) TO ALLOW THE TOWN OF BROOKLINE, THROUGH ITS BOARD OF SELECTMEN, TO SELL TAXI LICENSES.

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. The purposes of this Act consist of the following:

- 2 a) to generate revenue for the Town of Brookline by selling licenses to operate taxis, and in doing
3 so, balance any competing interests in maintaining the continuity of existing taxi businesses,
4 acknowledging the investment by existing taxi license holders in their businesses, and
5 augmenting the portion of the taxi fleet serving the town that meets the needs of its elderly and
6 disabled residents and that minimizes the fleet's detrimental impact on the town's air quality and
7 on the level of the town's carbon emissions as a whole;
- 8 b) notwithstanding the requirements of General Laws Chapter 40, Section 3, and General Laws
9 Chapter 30B, to create a mechanism for the town to sell taxi licenses that expedites the process to
10 the extent possible, giving due consideration to the interest of town residents, existing taxi
11 businesses and other stakeholders in having input into the process.

12 SECTION 2. Section 1 of chapter 317 of the acts of 1974 is hereby amended by striking out the second
13 sentence and inserting in place thereof the following sentence: -

14 Except as otherwise provided herein, all statutes and by-laws applicable to transportation, vehicular
15 licensing and traffic rules, regulations and orders shall apply to the division of transportation.

16 SECTION 3. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the first
17 sentence of the first paragraph and inserting in place thereof the following sentence: -

18 Except as otherwise set forth herein with regard to taxi license sales, the Board shall have exclusive
19 authority, generally consistent with the transportation policies of the Board of Selectmen and except as
20 otherwise provided in this act, to take any and all of the following actions after public notice and at a
21 public meeting, if it determines, by the vote of at least four members, that such actions serve the public
22 safety, welfare, environment or convenience.

23 SECTION 4. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the second
24 sentence of the second paragraph and inserting in place thereof the following sentence:-

25 The Board shall also have all authority previously granted to the Selectmen by virtue of the provisions of
26 Section Twenty-Two for Chapter Forty of the General Laws, except with respect to the sale of taxi
27 licenses as set forth in Section 4A below.

28 SECTION 5. Section 4 of chapter 317 of the acts of 1974 is hereby amended by striking out the third
29 paragraph and inserting in place thereof the following paragraph:-

30 Except as otherwise set forth herein with regard to taxi license sales, no such adoption, alteration or repeal
31 of a rule or regulation shall take effect, except for special rules or regulations that are declared by the
32 Board to be urgently required for public safety or welfare or are of temporary nature and are able to be
33 effective for a period of not more than 60 days, until 30 days have expired after both publication in a
34 newspaper published or distributed in the Town and action on any appeal petition filed under this section.

35 SECTION 6. Section 4 of chapter 317 of the acts of 1974 is hereby amended by inserting as the first
36 sentence of the fourth paragraph the following sentence:-

37 Except as set forth herein with regard to taxi license sales, the following describes the appeal procedures
38 applicable to any board action.

39 SECTION 7. Chapter 317 of the acts of 1974 is hereby amended by inserting after Paragraph 4 the
40 following Paragraph 4A: -

41 Notwithstanding the provisions of General Laws Chapter 40, Section 3, General Laws Chapter 30B, or
42 any other general or special law to the contrary, the board of selectman shall have the exclusive authority
43 to sell taxi licenses by public auction, public sale, sealed bid or other competitive process established by
44 regulations promulgated by the board after public hearing. The board of selectmen may entrust to the
45 board broad discretion to take such actions as are necessary to implement this section and to sell taxi
46 licenses, including, but not limited to, determining the number of licenses that shall be sold, the timing of
47 any such sale(s), and any conditions and limitations pertaining to such sale(s) (including the power to
48 revoke, suspend, renew and assign such licenses), except that the board of selectman shall approve sales
49 prices and execute sales contracts. Proceeds from any such sale(s) of licenses shall be paid to the
50 collector-treasurer of the town of Brookline for deposit into the general fund to be appropriated pursuant
51 to the provisions of General Laws Chapter 40, Section 5. Notwithstanding the provisions of General
52 Laws Chapter 30B, the board of selectmen may direct the board that in taking any action the board deems
53 necessary to implement this section and to sell taxi licenses (including the adoption, alteration or repeal of
54 rules and regulations after public hearing), the board may balance, in its discretion, the interest of
55 Brookline residents in the continuity of existing Brookline taxi businesses, the interest of existing license
56 holders in their investment in their businesses, the interest of the town in augmenting the portion of the
57 taxi fleet serving the town that meets the needs of its elderly and disabled residents and that minimizes the
58 fleet's detrimental impact on the town's air quality and on the level of the town's carbon emissions as a
59 whole, and the town's interest in maximizing revenue generated from sales of taxi licenses. The board of
60 selectmen may consider these factors in determining whether to agree to a taxi license sales price. Any
61 appeal from the board of selectmen's sale of a taxi license shall be to a court of competent jurisdiction.

62 The provisions of this section shall not apply to a license issued and outstanding on the effective date of
63 this Act.

64 Any rules and regulations adopted, altered, or repealed by the board after public hearing in connection
65 with implementing this section, including any rules or regulations adopted, altered, or repealed for the
66 purpose of creating a property interest in the licenses and of undertaking the sales of taxi licenses, shall
67 not take effect until 30 days have expired after publication of such rules and regulations in a newspaper
68 published or distributed in the town and on the town's website. Any appeal from the board's adoption,
69 alteration, or repeal by the board in connection with implementing this section shall be to a court of
70 competent jurisdiction.

71 SECTION 8. This act shall take effect upon its passage.