HOUSE . . . . . No. 3920

Substituted by the House, on motion of Mr. Smizik of Brookline, for a Bill amending Chapter 51 of the Acts of 2010 to reflect the passage of Chapter 398 of the Acts of 2008 and to make certain other corrections (House, No. 3432). February 2, 2012.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act RELATIVE TO THE DIVISION OF TRANSPORTATION IN THE TOWN OF BROOKLINE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of chapter 317 of the acts of 1974 is hereby amended by striking out the second sentence, as amended by section 1 of chapter 51 of the acts of 2010, and inserting in place thereof the following sentence:- Except as otherwise provided herein, all statutes and by-laws applicable to transportation, vehicular licensing and traffic rules, regulations and orders shall apply to the division of transportation.

SECTION 2. Said chapter 317 is hereby further amended by striking out section 4, as most recently amended by section 5 of said chapter 51, and inserting in place thereof the following section:-

Section 4. Except as otherwise set forth herein with regard to taxi license sales, the board shall have exclusive authority, generally consistent with the transportation policies of the board of selectmen and except as otherwise provided in this act, to take any and all of the following actions after public notice and at a public meeting, if it determines, by the vote of at least 4 members, that the actions serve the public safety, welfare, environment or convenience.

The board may adopt, alter or repeal rules and regulations, not inconsistent with general law as modified by this act, relative to pedestrian movement, vehicular and bicycle traffic in the streets and in the town-controlled public off-street parking areas in the town, and to the movement, stopping, standing or parking of vehicles and bicycles on, and their exclusion from, all or any streets, ways, highways, roads, parkways and public off-street parking areas under the control of the town, including rules and regulations designating any way or part thereof under such control as a through way under and subject to the provisions of section 9 of chapter 89 of

the General Laws. The board shall also have all authority previously granted to the selectmen under section 22 of chapter 40 of the General Laws, except with respect to the sale of taxi licenses as set forth in section 4A. The board may prescribe a schedule of fines for each violation of parking regulations as authorized by section 20C of chapter 90 of the General Laws. All other violations of regulations adopted under this act, except as otherwise provided by statute, shall be subject to fines not to exceed $50 for each offense as set forth in the regulations.

Notwithstanding any general or special law to the contrary, the board shall have authority to adopt, alter or repeal rules and regulations relative to the operation, licensing or permitting of any valet parking service that utilizes any part of a town-controlled public way, public off-street parking area, or public property for the movement, transport, parking, standing, storage, pick-up, drop-off, or delivery of a motor vehicle, if it determines, by a vote of at least 4 members, that such actions serve the public safety, welfare, environment or convenience. For the purposes of this section, a "valet parking service" shall mean a parking service offered, with or without a fee, to an operator or owner of a motor vehicle who is a patron, customer, visitor, employee, guest, invitee or licensee of any restaurant, store, hotel, club, business, institution or commercial establishment wherein the operator or owner delivers possession or control of the motor vehicle to an attendant commonly known as a valet who then transports, parks, stores, retrieves or delivers the motor vehicle.

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

Except as set forth herein with regard to taxi license sales, the following describes the appeal procedures applicable to any board action. Upon the filing of a petition with the board by not less than 20 registered voters of the town seeking the adoption, alteration or repeal of any rule or regulation under this section, the board shall hold an evening public hearing on that petition within 30 days after the petition has been filed. Petition forms for this purpose shall be available in the office of the board.

Upon the filing of an appeal petition with the board of selectmen by not less than 20 registered voters of the town within 21 days after either the adoption, alteration or repeal of any rule or regulation under this section or the action or inaction of the board on a citizen petition, the board of selectmen shall hold an evening public hearing on the petition within 30 days after the petition has been filed. Petition forms for this purpose shall be available in the office of the board of selectmen. A majority vote of the board of selectmen shall be required to overturn an action of the transportation board. If the board action is not overturned by the selectmen, within 21 days after the conclusion of the selectmen's hearing, not less than 30 registered voters of the

town may file with the town clerk an appeal of this action of the board. The appeal shall contain a warrant article which shall be included in the warrant for the next town meeting, which, by a two-thirds vote, may determine that there is either a general policy issue or a serious safety issue and may overturn the board action. For a general policy issue, town meeting may also, by a two-thirds vote, pass a by-law modifying the board action.

The board may authorize the construction, installation and maintenance of traffic signs, signals, markings, parking meters and other devices for the control of traffic and parking in the town and for informing and warning the public as to rules and regulations adopted under this act, subject however, to section 2 of chapter 85, sections 8 and 9 of chapter 89, and sections 18 and 18A of chapter 90 of the General Laws.

Nothing in this act shall be construed to authorize the board to adopt any rule or regulation excluding the trackless trolley vehicles or buses of a street railway or bus company from any way or part thereof in which said company has a location, or to modify or limit any power or authority of the department of conservation and recreation, the Massachusetts Department of Transportation or the department of public utilities, or to modify or limit any power or authority now vested in the selectmen or heads of town departments with reference to the issuance of licenses or permits for the opening, using or occupying of streets and sidewalks.

SECTION 3. The third sentence of section 4A of said chapter 317, as inserted by section 6 of said chapter 51, is hereby amended by striking out the words “the general fund” and inserting in place thereof the following words:- a Taxi Medallion Fund which is hereby created under this section, .

SECTION 4. This act shall take effect upon its passage.