SENATE DOCKET, NO. 1767 FILED ON: 1/21/2011

SENATE . . . . . No. 1455

The Commonwealth of Massachusetts

PRESENTED BY:

Susan C. Fargo

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:

An Act relative to the reimbursement of the gas tax on Massachusetts toll payers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Susan C. Fargo	
	☐ *[District]*
	☐

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SENATE . . . . . No. 1455

By Ms. Fargo, a petition (accompanied by bill, Senate, No. 1455) of Susan C. Fargo for legislation relative to the reimbursement of the gas tax on Massachusetts Turnpike toll payers. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1269* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to the reimbursement of the gas tax on Massachusetts toll payers.

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. Chapter 64A of the General Laws, is hereby amended by striking out section 7, as amended by section 67 of chapter 25 of the acts of 2009, and inserting in place thereof the following section:-

"Section 7. Any person who shall buy any fuel other than aviation fuel on which an excise has been paid or is chargeable under this chapter, and shall consume the same in any manner except on a farm for farming purposes or in the operation of motor vehicles upon or over highways, whether or not such vehicles are registered under the provisions of section 5 of chapter 90, and any person who transfers into another state fuel on which the excise has been paid or is chargeable under this chapter, and pays an additional excise or other tax which is properly due to such other state on such fuel so transferred, shall be reimbursed the amount of said excise in the manner and subject to the conditions hereinafter set forth; provided, however, that any turnpike, roadway, bridge or tunnel for which a toll is collected or charged for travel that is operated by the Massachusetts Department of Transportation referred to as "MassDOT", shall not be considered a highway for the purposes of this chapter. All claims for reimbursement shall be for not less than 1 dollar, shall be made by affidavit in such form and containing such information as the commissioner of revenue shall prescribe consistent with this section and in the case of claims for reimbursement for tax on fuel consumed on such tolled turnpike, roadway, bridge or tunnel shall be accompanied by toll receipts, invoices or statements provided or made available by the MassDOT to users of such tolled turnpike, roadway, bridge or tunnel. All

20 claims for reimbursement shall be accompanied by original invoices or sales receipts of such fuel
21 or by other documentation acceptable to the commissioner, evidencing the transfer of fuel in
22 bulk to a motor vehicle, except no such invoices, sales receipts or bulk transfer documents, need
23 accompany such claim for reimbursement from non-commercial users for travel on a tolled
24 turnpike, roadway, bridge or tunnel provided, the toll for which reimbursement is claimed was
25 for travel by motorcycle, passenger vehicle or light truck, registered under section 2 of chapter
26 90.

27 All claims for reimbursement shall be filed with the commissioner within 2 years from
28 the date of purchase or invoice of fuel; except claims for reimbursement of the excise paid for
29 fuel used in producing or generating power for the operation of watercraft of every description,
30 other than a seaplane, which shall be filed within 6 months from the date of purchase or invoice
31 of such fuel; or in the operation of motor vehicles on any turnpike, roadway, bridge or tunnel for
32 which a toll is collected, shall be based on quarterly year periods, the ending dates of such
33 periods shall be the last day of March, June, September, and December, respectively, and claims
34 for reimbursement for tolled travel occurring in a quarterly year period shall be filed within 1
35 year from the ending date of that period.

36 Such toll receipts, invoices or statements provided or made available by the MassDOT to
37 users of such tolled turnpike, roadway, bridge or tunnel, shall be accepted by the commissioner
38 as evidence of the use of fuel for such tolled travel in the proportion of 1 gallon for each 20 miles
39 of indicated travel by passenger cars, ambulances, hearses, motorcycles and light trucks, and in
40 the proportion of 1 gallon for each 8 miles of indicated travel by all other trucks and buses.

41 Notwithstanding any other method to calculate miles traveled, the collection or charge of
42 a toll for travel, as evidenced by such receipt, invoice or statement, shall determine the distance
43 traveled in accordance with the established mileage for such respective toll as set forth: (i) 2.2
44 miles for such toll collected or charged for travel through the Sumner Tunnel, the vehicular
45 tunnel under Boston Harbor that was constructed by the city of Boston under the provisions of
46 chapter 297 of the acts of 1929; (ii) 2 miles for such toll collected or charged for southbound
47 travel on the Maurice J. Tobin Memorial Bridge, the bridge formerly known as the Mystic River
48 Bridge that connects the city of Boston with the city of Chelsea; (iii) 6.8 miles for such toll
49 collected or charged for westbound travel through the Ted Williams Tunnel, the vehicular tunnel
50 under Boston Harbor that constitutes a part of the interstate highway route 90 that connects
51 South Boston with East Boston in the city of Boston; and (iv) for such toll collected or charged
52 for travel on the so called Boston extension of the interstate highway route 90, which extension
53 begins at the interchange of interstate highway 90 and interstate highway 95, also known as state
54 highway route 128, in the town of Weston and ends in the city of Boston at the interchange of
55 interstate highway 90 and interstate highway route 93, the travel mileage for such toll shall be
56 established as: (A) 4.4 miles for such toll collected or charged for eastbound travel at the toll
57 plaza, known as the Weston Toll Plaza, at the interchange of said interstate 90 and interstate
58 highway 95, exit 15, in the town of Weston, to access or continue eastbound travel on interstate

highway 90 onto the Boston extension segment; (B) 2.5 miles for eastbound travel accessing the Boston extension at West Newton, exit 16, in the city of Newton, provided a toll is collected or charged at such entry interchange; (C) 3.1 miles for such toll collected or charged for eastbound travel exiting the Boston extension at the Allston-Brighton interchange, exit 18, in the city of Boston; (D) 6.8 miles for such toll collected or charged for continued eastbound travel on the Boston extension, at the Allston-Brighton Toll Plaza in the city of Boston; (E) 3.7 miles for such toll collected or charged for westbound travel exiting the Boston extension at Brighton-Cambridge, exit 20, in the city of Boston; except, the mileage for such toll collected for use of the so-called U-Turn Lane at exit 20 shall be established as 7.4 miles; (F) 6.9 miles for such toll collected or charged for continued westbound travel on the Boston extension at the Allston-Brighton Toll Plaza in the city of Boston; (G) 2.4 miles for westbound travel exiting the Boston extension at West Newton, exit 16, in the city of Newton, provided a toll is collected or charged at such exit interchange; and (H) 4.3 miles for such toll collected or charged for westbound travel at the toll plaza known as the Weston Toll Plaza at the interchange of said interstate 90 and interstate highway 95, exit 15, in the town of Weston, to exit the Boston extension or continue such westbound travel on the non-Boston extension segment of said interstate 90, notwithstanding, the term "collected or charged" shall for the purposes of this sub clause, also mean a toll that is assessed for westbound travel on the Boston extension segment, when such westbound travel is continued onto the non-Boston extension segment of interstate 90.

Except as specifically set forth in the preceding paragraph, no reimbursement claim for any other mileage shall be allowed for travel occurring for the Maurice J. Tobin Memorial Bridge, Sumner Tunnel, Ted Williams Tunnel or any travel on interstate highway 90 that is east of interstate highway 95, or for the Callahan Tunnel, the vehicular tunnel constructed under the provisions of chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East Boston section of said city.

For any other turnpike, roadway, bridge or tunnel for which a toll is collected or charged for which the mileage is not specifically listed in this section, subject to the restrictions in the preceding paragraph, the Mass DOT shall establish a standardized schedule of mileage for travel between all public points of entry and exit, which to the extent feasible shall be calculated to reflect the actual mileage for travel between such points. All claims for reimbursement for travel between such exit and entry points shall be based on such standardized schedule.

No claim for reimbursement for tax on fuel consumed on said turnpike, roadway, bridge or tunnel shall be allowed unless the fuel, which an excise was paid or chargeable under this chapter, was purchased in an amount not less than the quantity of fuel which is the basis for the claim of reimbursement during the same quarterly period, or was transferred from bulk to the vehicle tank during the same quarterly period of such claim.

95 All claimants shall certify as part of the affidavit required for such claim, in a form
96 prescribed by the commissioner, that such claim for reimbursement meets the requirements
97 under this section.

98 The commissioner may require such further information or documentation, consistent
99 with this section, as he shall deem necessary for the determination of such claims, and shall
100 transmit all claims approved by him to the comptroller for certification; and the amount approved
101 by the commissioner and certified as aforesaid shall be paid forthwith from the proceeds of the
102 excise tax levied under this chapter, without specific appropriation.

103 The provisions of chapter 64I shall not apply to fuel consumed on said turnpike, highway,
104 roadway, bridge or tunnel as calculated based on miles of travel, which is the basis for
105 reimbursement of the fuel excise under this section.

106 The commissioner shall provide on the department of revenue's public website
107 information relating to the reimbursement of fuel excise under this section, to include, the
108 requirements for excise reimbursement, application reimbursement forms, applicable regulations
109 and any other information as the commissioner may determine; provided, no information shall
110 be publicly disclosed or released that is confidential or prohibited by law.

111 Notwithstanding any other law to the contrary, the commissioner may request account
112 information of an account holder who participates in the electronic toll collection system of the
113 MassDOT, for the sole purpose to audit or verify any claim for reimbursement submitted by the
114 holder of such account, and such information received shall be held by the commissioner in the
115 same manner as confidential taxpayer information.

116 The commissioner by regulation shall be authorized to establish procedures for the
117 administration and filing of claims for reimbursement for such fuel excise in accordance with
118 this section. "

119 SECTION 2. Section 13 of chapter 6C of the General Laws, as appearing in section 185
120 of chapter 25 of the acts of 2009, is hereby amended by adding after subsection (c), the following
121 subsection:-

122 "(d) The department shall make available on its public website to account holders who
123 participate in its electronic toll collection system, a statement of the account holder's toll account
124 activity for the current month period and for any month period that such activity has occurred in
125 the 6 months immediately preceding. Such account statements shall provide information for
126 each monthly period based on every incidence of tolled travel in the Commonwealth that was
127 electronically collected during such month, to be stated separately and to include the: date and
128 time of such toll; amount of the toll paid at a specified toll interchange or toll collection point;
129 related vehicle transponder device assigned identifying number; travel mileage representing
130 such paid tolls as established specifically by section 7 of chapter 64A or otherwise required to be

131 established by the department, by the entry and exit points for each trip of travel; and for each
132 month period, the aggregate travel mileage based on such tolls electronically collected and the
133 aggregate amount of such tolls collected. No charge shall be made by the department to an
134 account holder for access to such statement information. Except as otherwise permitted by law,
135 all statement information of account holders who participate in the department's electronic toll
136 collection system shall be confidentially maintained by the department and shall not be a public
137 record under, clause Twenty-sixth of section 7 of chapter 4 or section 10 of chapter 66. The
138 department shall take reasonable security measures so that public access shall be limited so that
139 only an account holder may access confidential account statement information on such website
140 that solely pertains to the account holder. Notwithstanding any other provision in this section to
141 the contrary, no written request shall be required by the account holder to access such
142 information on the department's website.

143 The department shall on its public website make available a schedule of mileage
144 distances representing the mileage as specifically established by section 7 of chapter 64A and the
145 mileage between each tolled interchange on interstate highway 90, from the toll plaza, known as
146 the Weston Toll Plaza, at the interchange of said interstate 90 and interstate highway 95, exit 15,
147 in the town of Weston, to all interchanges on interstate 90, located in the Commonwealth to the
148 west of such plaza. "