SENATE DOCKET, NO. 1309 FILED ON: 1/21/2011

SENATE . . . . . No. 1499

The Commonwealth of Massachusetts

PRESENTED BY:

Anthony W. 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:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anthony W. Petruccelli	
	☐ *[District]*
	☐

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SENATE . . . . . No. 1499

By Mr. Petruccelli, a petition (accompanied by bill, Senate, No. 1499) of Anthony W. Petruccelli for legislation to permit cities and town to impose an excise on the use of offstreet parking facilities. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1323* OF 2009-2010.]

The Commonwealth of Massachusetts

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:

SECTION 1. The General Laws are hereby amended by inserting after chapter 64M the following chapter:-

Chapter 64N.

EXCISE UPON TRANSFER OF PARKING SPACES

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

“Commissioner”, the commissioner of revenue.

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

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

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

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

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

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

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

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

35 "Treasurer", the treasurer of a city or town which accepts the provisions of this chapter.

36 Section 2. Any city or town which accepts the provisions of this chapter in the manner
37 provided in section 4 of chapter 4, may impose an excise on the transfer of the right to use any
38 parking space in a parking facility for the purpose of parking a motor vehicle by any operator for
39 a period of more than two hours at a rate of 10% of the parking fee for each transfer of the right
40 to use such parking space.

41 Section 3. Reimbursement for an excise imposed under this chapter shall be paid by the
42 person using such parking space to the operator and each operator shall collect from the person
43 using such parking space the full amount of the excise imposed by this chapter.

44 Section 4. The amount of the excise collected by the operator from the person using such
45 parking space under the provisions of this chapter shall be stated and charged separately from the
46 parking fee at the time that any transfer of the right to use such parking space is made, or any
47 evidence of such transfer is issued or used by the operator.

48 Section 5. Every operator who has made any transfer of the right to use any parking space
49 on which an excise is payable under the provisions of this chapter shall pay the excise tax
50 imposed under this chapter to the commissioner at the same time and in the same manner as the
51 sales tax due to the commonwealth.

52 Section 6. All sums received by the commissioner under this chapter shall, at least
53 quarterly, be distributed, credited and paid by the state treasurer upon certification of the
54 commissioner to each city or town that has accepted this chapter in proportion to the amount of
55 the sums received from the transfer of the right to use such parking space in that city or town.
56 Any city or town seeking to dispute the commissioner's calculation of its distribution under this
57 subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax
58 was distributed by the commissioner

59 Section 7. Notwithstanding any provisions in section 21 of chapter 62C to the contrary,
60 the commissioner may make available to cities and towns any information necessary for
61 administration of the excise imposed by this section.

62 Section 8. Every person who fails to pay the commissioner any sums required by this
63 chapter shall be personally and individually liable therefor to the commonwealth.

64 Section 9. The provisions of this chapter shall not be construed to include parking
65 facilities operated by the United States or an instrumentality thereof.

66 Section 10. This chapter shall take effect in a municipality on the first day of the calendar
67 quarter following 30 days after its acceptance by the municipality or on the first day of a later
68 calendar quarter that the city or town may designate.