

# SENATE . . . . . No. 1399

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Anthony W. Petrucci*

*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 adoption of the accompanying bill:

An Act relative to the excise on the use of commercial parking facilities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Anthony W. Petrucci</i>	<i>First Suffolk and Middlesex</i>
<i>Thomas M. Menino</i>	<i>1 City Hall Square Boston, MA 02201</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>
<i>Martin J. Walsh</i>	<i>13th Suffolk</i>

# SENATE . . . . . No. 1399

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By Mr. Petruccelli, a petition (accompanied by bill, Senate, No. 1399) of Anthony W. Petruccelli, Thomas M. Menino, Carlo Basile and Martin J. Walsh for legislation relative to the excise on the use of commercial parking facilities. Revenue.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
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An Act relative to the excise on the use of commercial 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:*

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

3           CHAPTER 64N.

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

6           "Commissioner", the commissioner of revenue.

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

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

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

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

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

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

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

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

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

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

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

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

50 Section 6. All sums received by the commissioner under this chapter shall, at least  
51 quarterly, be distributed, credited and paid by the state treasurer upon certification of the  
52 commissioner to each city or town that has accepted this chapter in proportion to the amount of  
53 the sums received from the transfer of the right to use such parking space in that city or town.

54 Any city or town seeking to dispute the commissioner's calculation of its distribution under this  
55 subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax  
56 was distributed by the commissioner

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

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

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

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