

HOUSE No. 962

The Commonwealth of Massachusetts

PRESENTED BY:

Todd M. Smola

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 court filing fees.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>1/19/2017</i>

HOUSE No. 962

By Mr. Smola of Warren, a petition (accompanied by bill, House, No. 962) of Todd M. Smola relative to court filing fees. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1601 OF 2015-2016.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to court filing fees.

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

1 Subsection (A) of section 3 of chapter 90C of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out subdivision (4) and inserting in place thereof
3 the following subdivision:-

4 (4) A violator may contest responsibility for the infraction by making a signed request for
5 a noncriminal hearing on the back of the citation and mailing such citation to the registrar at the
6 address indicated on the citation within 20 days of the citation.

7 A violator who does not, within 20 days of the date of the citation, request a noncriminal
8 hearing shall not thereafter be given such a hearing, unless the registrar shall determine that the
9 failure to make such a request timely was for good cause that was not within the control of the
10 violator. The registrar’s determination of such issue shall be final.

11 The registrar shall notify the clerk-magistrate of the district court for the judicial district
12 in which the infraction occurred of such request for a noncriminal hearing, in such manner as the
13 chief justice of the district court department and the registrar shall jointly determine. Unless a
14 hearing date and time has already been assigned pursuant to procedures jointly established by the
15 chief justice of the district court department and the registrar, the clerk-magistrate shall notify the
16 police agency concerned and the violator of the date and time of the hearing before a magistrate
17 of the court.

18 If the hearing is conducted by a magistrate other than a justice, either the violator or the
19 police agency concerned may appeal the decision of the magistrate to a justice, who shall hear
20 the case de novo. There shall be no right of jury trial for civil motor vehicle infractions.

21 In any such hearing before a magistrate or justice, the citation shall be admissible and
22 shall be prima facie evidence of the facts stated therein. Compulsory process for witnesses may
23 be had by either party in the same manner as in criminal cases. On a showing of need in advance
24 of such hearing, the magistrate or justice may direct that the violator be permitted to inspect
25 specific written documents or materials in the possession of the police officer or agency
26 concerned that are essential to the violator's defense.

27 At the conclusion of the hearing, the magistrate or justice shall announce a finding of
28 responsible or not responsible. The magistrate or justice shall enter a finding of responsible if it
29 was shown by a preponderance of the credible evidence that the violator committed the
30 infraction alleged; otherwise the magistrate or justice shall enter a finding of not responsible. No
31 other disposition shall be permitted, and such matters shall not be continued without a finding,
32 dismissed, or filed.

33 If the violator is found responsible after a noncriminal hearing, the magistrate or justice
34 shall require the violator to pay to the registrar an assessment which shall not exceed the
35 scheduled assessment for that infraction. Such assessment shall be in accordance with any
36 guidelines promulgated by the chief justice of that department of the trial court, which shall be
37 binding on magistrates and justices, to the end that such assessments are made as uniformly as
38 possible, and which may include provisions requiring a prescribed or a minimum assessment for
39 specified civil motor vehicle infractions.

40 The violator shall pay to the registrar the assessment imposed by the magistrate or justice
41 within 20 days of the date the violator is personally notified or is mailed notice of the decision of
42 the magistrate or justice, unless for good cause the magistrate or justice allows the violator a
43 longer time to pay the imposed assessment.

44 The violator's obligation to pay such imposed assessment shall automatically be stayed
45 during the pendency of any timely appeal to the appellate division or any subsequent appeal to an
46 appellate court. The violator shall be required to pay such imposed assessment to the registrar
47 within 20 days of the date the appellate division or the appellate court renders a decision that is
48 adverse to the violator and that has not been further appealed.