

HOUSE No. 1779

The Commonwealth of Massachusetts

PRESENTED BY:

Carolyn C. Dykema

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 parking and pedestrian safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/18/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/28/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>2/1/2019</i>

HOUSE No. 1779

By Ms. Dykema of Holliston, a petition (accompanied by bill, House, No. 1779) of Carolyn C. Dykema, Tommy Vitolo and Tram T. Nguyen relative to parking and pedestrian safety. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to parking and pedestrian safety.

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. Chapter 22 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by adding the following section:-

3 Section 23. (a) In a city or town, where municipal on-street angle or perpendicular
4 parking is provided adjacent to a commercial building, there shall be constructed safety
5 appurtenances to: (i) separate parking spaces from the sidewalk or frontage area of the building,
6 (ii) prevent a motor vehicle from erroneously moving onto the sidewalk or other frontage to said
7 building where pedestrian activity is likely to occur, and (iii) prevent a motor vehicle from
8 coming into contact with the building structure. For purposes of this section, the term
9 commercial building shall mean the construction, reconstruction or substantial rehabilitation to
10 enlarge or extend an existing building or structure so as to increase its gross floor area, which is
11 intended for 1 or more of the following uses: (1) office, (2) retail business or service, (3)

12 institutional or educational, or (4) hotel or motel; provided, that such construction, reconstruction
13 or substantial rehabilitation shall exceed \$1,000,000 in cost.

14 (b) The owner of a commercial building shall design any enclosed or off-street parking
15 lots or facilities for commercial developments, districts or buildings in a way that maintains a
16 safe walking distance between the denoted parking and the entryway to the building. The owner
17 of a commercial building shall construct safety appurtenances to separate the parking spaces
18 from the walkway and to prevent a motor vehicle from erroneously leaving the parking area and
19 entering the walkway or colliding with the building.

20 (c) Safety appurtenances shall have the ability to physically stop a motor vehicle from
21 breaching the pedestrian walkway or building frontage and structure. The safety appurtenances
22 may be either a standard structural bollard, retaining wall, landscape planter or any other
23 structural member or frame that will withstand the force of the motor vehicle and prevent it from
24 crashing through to the pedestrian walkway or building frontage and structure.

25 (d) All safety appurtenances shall be constructed based on local zoning ordinances and
26 bylaws so as to not reduce the sidewalk or the building frontage below the minimum width
27 required for pedestrian accessibility under the architectural access board regulations,
28 promulgated pursuant to section 13A of chapter 22. No municipality or agency shall approve a
29 plan or grant a permit for a commercial development or district unless the plan and proposed
30 development includes the safety appurtenances required pursuant to this section.

31 (e) The department may issue a waiver for buildings and developments for which unique
32 circumstances make compliance with the requirements of this section an unreasonable burden.
33 Developers shall submit requests in writing that include an explanation of the unique

34 circumstances and information on alternative safety measures included in the project's design
35 that will protect against vehicle incursions on sidewalks or into buildings. The board shall
36 maintain records of waiver requests and outcomes in a written and publicly-accessible form.

37 (f) The department shall promulgate rules and regulations relative to the construction,
38 installation and maintenance of such safety appurtenances.

39 SECTION 2. Said Chapter 22, as so appearing, is hereby amended by adding the
40 following section:-

41 Section 23A. There shall be a commission on parking and public space safety
42 improvements, referred to in this section as the commission. The commission shall investigate
43 best practices for planning, design, installation, and maintenance of physical safety measures to
44 improve the safety of parking lots and public spaces and shall develop recommendations for
45 rules and regulations governing the installation of bollards, appurtenances, or other physical
46 safety improvements designed to protect sidewalks and other public spaces from vehicle
47 encroachment.

48 The commission shall consist of 15 members, 1 of whom shall be a member of the house
49 of representatives appointed by the speaker of the house of representatives; 1 member of the
50 house of representatives to be appointed by the minority leader of the house; 1 of whom shall be
51 a member of the senate appointed by the president of the senate; 1 member of the senate to be
52 appointed by the senate minority leader; 1 of whom shall be the secretary of the executive office
53 of public safety and security or a designee, who shall serve as chair; 1 of whom shall be the
54 executive director of the architectural access board or a designee; 1 of whom shall be the
55 executive director of the Massachusetts School Building Authority or a designee; 1 of whom

56 shall be the secretary of the Department of Transportation or a designee; 1 of whom shall be a
57 professional engineer appointed by the American Council of Engineering Companies of
58 Massachusetts; 1 of whom shall be appointed by the Massachusetts Municipal Association; 1 of
59 whom shall be appointed by appointed by NAIOP Massachusetts; 1 of whom shall be appointed
60 by the Massachusetts chapter of the American Institute of Architects; 1 of whom shall be
61 appointed by The Massachusetts Property Insurance Underwriting Association; 1 of whom shall
62 be appointed by the Associated General Contractors of Massachusetts; and 1 of whom shall be
63 appointed by the New England chapter of the American Public Works Association.

64 The commission shall submit a report with recommendations for best practices and any
65 draft rules and regulations to the Executive Office of Public Safety and the chairs of the Joint
66 Committee on Transportation by December 31, 2019.

67 SECTION 3. Section 1 of Chapter 90I of the General Laws, as so appearing, is hereby
68 amended by striking the words “and (v)” and inserting in place thereof the following:-

69 “ (v) ensure that eligible projects comply with the requirements of section 101 of chapter
70 143 and any additional rules or regulations promulgated by the department; and (vi)”

71 SECTION 4. Chapter 175 of the General Laws, as so appearing, is hereby amended by
72 adding the following section:-

73 Section 230. (a) An insurer may consider the installation of safety appurtenances that
74 comply with section 101 of chapter 143 to protect persons located within, or in or on the property
75 of, buildings, or to protect pedestrians, from collisions into those buildings by motor vehicles, on
76 a commercial property parking lot as a safety measure and may provide or offer a discount on the
77 property owner's insurance covering damage or loss to the covered commercial property, or

78 liability arising out of the ownership, maintenance, or use of the commercial property relative to
79 the reduced risk to the property as a result of installation of the appurtenances.

80 (b) The commissioner may promulgate rules and regulations to implement the
81 requirements of this section.

82 SECTION 5. Safety appurtenances required pursuant to this act shall only be required for
83 commercial building permitted after the effective date of this act.