The Commonwealth of Massachusetts

PRESENTED BY:

Michael S. Day

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 regulating alternative healing therapies.

PETITION OF:

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<th>DISTRICT/ADDRESS:</th>
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<tr>
<td>Michael S. Day</td>
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<td>2/10/2021</td>
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An Act regulating alternative healing therapies.

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. Section 98 of chapter 13 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) There shall be within the division of professional licensure a board of registration of massage therapy and alternative healing therapies. The board shall consist of 7 members who shall be appointed by the governor for terms of 3 years, 3 of whom shall be licensed massage therapists who have been actively engaged in the practice of massage therapy in the commonwealth for not less than 5 years immediately before their appointments, 2 of whom shall be a licensed alternative healing therapist represented within the advisory council established pursuant to section 99 and who has been actively engaged in the practice of an alternative
healing therapy in the commonwealth for not less than 5 years immediately before their
appointments; 1 of whom shall be a law enforcement representative whose area of focus is
human trafficking and 1 of whom shall be a consumer who is familiar with the massage therapy
or alternative healing therapy fields. The members shall be residents of the commonwealth and
shall be subject to chapter 268A.

SECTION 2. Said chapter 13 is hereby further amended by striking out section 99, as so
appearing, and inserting in place thereof the following section:-

Section 99. (a) The board shall: (i) administer and enforce sections 227 to 235, inclusive,
of chapter 112; (ii) adopt rules and regulations governing the licensure of massage therapists, the
practice of massage therapy, and the approval and operation of massage schools and to promote
public health, welfare and safety; (iii) adopt rules and regulations, in consultation with the
advisory council set forth in this section, governing the licensure of alternative healing therapists,
the various and distinct practices of alternative healing therapies, and the approval and operation
of alternative therapy training and certification programs; (iv) establish standards of professional
and ethical conduct for massage therapy; (v) establish standards of professional and ethical
conduct for alternative healing therapies that reflecting national, state, or other recognized
professional organization or certification standards of each discipline; (vi) establish standards for
continuing education reflecting acceptable national, state, or other recognized professional
organization or certification standards of each discipline; and (vi) investigate complaints,
conduct inspections, review billing and treatment records and set and administer penalties as
defined in sections 61 to 65E, inclusive, and sections 232 to 235, inclusive, of said chapter 112
for fraudulent, deceptive or professionally incompetent and unsafe practices and for violations of
rules and regulations promulgated by the board.
(b) The board shall make available to the public a list of licensed massage therapists and alternative healing therapists, as well as a list of each licensed facility under its jurisdiction.

(c) The board shall adopt rules and regulations to define and differentiate among varying scopes of practice within alternative healing therapies, as defined by section 227 of chapter 112, unless otherwise defined by section 227 of chapter 112; provided, that the board shall adopt appropriate licensure restrictions to ensure that an alternative healing therapist operates within the authorized scope of practice for which the alternative healing therapist has demonstrated satisfactory competency to the board; provided further, that the board shall consult with the advisory council set forth in this section to ensure appropriate standards and scopes of practice for alternative healing therapies identified by said council.

(d) To inform the standards set forth above, there shall be a Massachusetts alternative healing therapies advisory council to study and make recommendations to the board on the regulation of alternative healing therapies. The council shall consist of licensed alternative healing therapists, as defined in section 227 of chapter 112, who have been actively engaged in the practice of their respective disciplines for not less than 3 years immediately before their memberships. The commissioner shall appoint one licensed practitioner of each discipline that expresses an interest to the commissioner in participating on the council which may include but not be limited to Asian bodywork therapy, reflexology, structural integration, the Feldenkrais Method; the Trager Approach; Ayurvedic Therapies; Polarity or Polarity Therapy; Qi Gong; Body/Mind Centering; and Reiki, levels II and above.
The commissioner shall, from time to time, designate one of the members as chair of the council. The chair shall serve for no more than 1 year and the position shall rotate among practitioners of each discipline.

Members shall serve on the council for terms of 3 years. Members whose appointments have expired may continue to serve until a replacement is appointed. Members of the council shall not be state employees under chapter 268A by virtue of their service on the council and shall serve without compensation.

(e) The council shall: (i) inform the board on the scope of practice of each discipline and current standards adopted by each discipline’s respective national, state or otherwise recognized professional organization or certification process; (ii) advise on the preparation of regulations under this chapter; (iii) consider all matters submitted to it by the board; (iv) on its own initiative, recommend to the board guidelines, rules and regulations and any changes to guidelines, rules and regulations that the council considers important or necessary for the board’s review and consideration; and (v) advise and make recommendations to the board regarding new and emerging alternative healing therapies that may fall under the scope of the boards’ authority.

SECTION 3. Section 227 of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word “therapy”, in line 4, the following words:- and alternative healing therapies.

SECTION 4. Said section 227 of said chapter 112, as so appearing, is hereby further amended by inserting before the definition of “Board”, the following 2 definitions:-

“Alternative healing therapist”, a person licensed by the board who instructs or administers an alternative healing therapy or therapies for compensation.
“Alternative healing therapy” or “alternative healing therapies”, a series of separate and distinct complementary health practices that include Asian bodywork therapy, bodywork, reflexology, structural integration or Rolfing, and energy and somatic healing practices as identified by the advisory council established pursuant to section 99 of chapter 13; provided further, that alternative healing therapy shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, acupuncture, chiropractic, massage therapy, naturopathy, occupational therapy, physical therapy or podiatry is required by law.

“Asian bodywork therapy”, “bodywork” or “bodywork therapy”, the practice of a person who treats the human body/mind/spirit, including the electromagnetic or energetic field, which surrounds, infuses and brings that body to life, by pressure and/or manipulation. Asian Bodywork Therapy is based upon traditional Chinese medicine principles for assessing and evaluating the body’s system of energy (Qi or Ki). Asian Bodywork Therapy uses traditional Asian techniques and treatment strategies primarily to affect and balance the energetic system for the promotion, maintenance and restoration of health. Asian Bodywork Therapy is one of the three professional branches of Chinese Medicine nationally recognized by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM). ABT Qi assessment and treatment may include, but is not limited to: touching, stretching, pressing or holding meridians (channels of Qi) and/or acu-points, primarily with the hands. Appropriately trained practitioners may also use external application of medicinal plants, heat or cold; dietary and exercise suggestions; cupping; gua sha; moxibustion and other Asian-based techniques or practices;
provided further, that “Asian bodywork therapy”, “bodywork”, or “bodywork therapy” shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, acupuncture, chiropractic, massage therapy, naturopathy, occupational therapy, physical therapy or podiatry is required by law.

“Energy and somatic healing practices”, a series of separate and distinct alternative healing practices identified by the advisory council established pursuant to section 99 of chapter 13 and defined by the board under said section that may include but not be limited to the Feldenkrais Method; the Trager Approach; Ayurvedic Therapies; Polarity or Polarity Therapy; Qi Gong; Body/Mind Centering; and Reiki, levels II and above.

SECTION 5. Said section 227 of said chapter 112, as so appearing, is hereby further amended by striking out the definitions of “Licensed massage school” and “Licensed massage therapy salon” and inserting in place thereof the following 2 definitions:-

“Licensed massage school” or “licensed alternative healing therapy program”, a facility or program that is licensed by the office of private occupational school education pursuant to section 263 or any other state or federal agency or department after meeting minimum standards for training, facilities, instructors and curriculum as determined by the board in accordance with sections 228 to 235, inclusive.

“Licensed massage therapy facility” or “licensed alternative healing therapy facility”, a place, office, clinic or establishment licensed by the board to offer massage or alternative healing therapy services.
SECTION 6. Said section 227 of said chapter 112, as so appearing, is hereby further amended by inserting after the definition of “Massage therapist”, the following 2 definitions:-

“Reflexology”, the use of alternating pressure applied to the reflexes within the reflex maps of the body located on the feet, hands, and outer ears; provided, that “reflexology” shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, acupuncture, chiropractic, naturopathy, occupational therapy, physical therapy, massage therapy or podiatry is required by law.

“Structural integration” or “Rolfing”, the restoration of postural balance and functional ease by systematically aligning and integrating the human body in gravity; provided, that structural integration may use manipulation of the connective tissue matrix, enhancement of awareness, and education techniques; provided further, that “structural integration” shall not include diagnoses, the prescribing of drugs or medicines, spinal or other joint manipulations or any services or procedures for which a license to practice medicine, acupuncture, chiropractic, naturopathy, occupational therapy, physical therapy, massage therapy or podiatry is required by law.

SECTION 7. Said chapter 112, as so appearing, is hereby further amended by inserting after section 227 the following new section:-

Section 227A. A city or town may adopt ordinances or by-laws relative to health and safety of the practice of alternative healing therapies not inconsistent with sections 227 to 235, inclusive; provided, however, that local ordinances pertaining to alternative healing therapies in
effect prior to the effective date of this Act and that are consistent with and that may exceed the
requirements of said sections 227 to 235, inclusive, may remain in effect.

SECTION 8. Said chapter 112 is hereby further amended by striking out section 228, as
so appearing, and inserting in place thereof the following section:-

Section 228. (a) A person shall not hold the person’s self out to others as a massage
therapist or alternative healing therapist or practice massage, massage therapy, or any alternative
healing therapy unless the person holds a valid license issued in accordance with this chapter. A
person licensed to practice massage or massage therapy or an alternative healing therapy shall
not perform: (i) diagnosis of illness or disease; (ii) high velocity, low-amplitude thrust
applied to a joint; (iii) electrical stimulation; (iv) application of ultrasound; (v) exercise and
prescription of medicines.

(b) The following practitioners shall be exempt from the licensure requirements of this
section:

(i) a person who: (A) is otherwise licensed, certified or registered under the General
Laws; (B) is performing services within the person’s authorized scope of practice; and (C) does
not hold the person’s self out to be a massage therapist, or alternative healing therapist;

(ii) a person who is duly licensed, registered or certified in another state, territory, the
District of Columbia or a foreign country when temporarily called into the commonwealth to
teach a course related to massage therapy or an alternative healing therapy or to consult with a
person licensed as a massage therapist or alternative healing therapist or under this chapter;
(iii) a student of massage therapy or an alternative healing therapy who is enrolled in a licensed massage school or alternative healing therapy program for massage or an alternative healing therapy and is performing work as a required component of his course of study at such school or program; provided, however, that the student shall not hold the student’s self out as a licensed therapist under this chapter and shall not receive compensation for the work;

(iv) a person giving massage or alternative healing therapy to a member of that person’s immediate family for which the person received no compensation;

(v) a person, duly licensed, registered or certified in another state, territory, the District of Columbia or a foreign country who is incidentally in the commonwealth to provide service as part of an emergency response team working in conjunction with disaster relief officials; and

(vi) a person giving massage or alternative healing therapy in a sporting, health or other event, whether on a single day or on consecutive days, that is non-compensatory and under the supervision of a licensed therapist.

SECTION 9. Said chapter 112 is hereby further amended by striking out section 229, as most recently amended by section 74 of chapter 6 of the acts of 2017, and inserting in place thereof the following section:-

Section 229. (a) A person who desires to engage in the practice of massage therapy shall apply on a form furnished by the board that shall be signed and sworn to by the applicant. Each application shall be accompanied by payment of the fee prescribed by the executive office for administration and finance pursuant to section 3B of chapter 7. Upon submission of a completed application to the board and the payment of the required fee, the board may issue a license to practice as a massage therapist to an applicant who: (i) has obtained a high school diploma or its
equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference, with at least 1 being from an employer or professional in the massage therapy or medical field; (iv) is of good moral character, as determined by the discretion of the board; (v) has successfully completed a course of study consisting of not less than 500 classroom hours or an equivalent number of credit hours of supervised instruction at a licensed massage school; (vi) has not been convicted in any jurisdiction of sexually-related crime or a crime involving moral turpitude for the 10 years immediately before the date of application; (vii) provides proof of professional liability coverage; and (viii) demonstrates the professional competence that may be required by the board's regulations.

(b) A person who desires to engage in the practice of one or more alternative healing therapies shall apply on a form applicant. Each application shall be accompanied by payment of the fee prescribed by the executive office for administration and finance pursuant to section 3B of chapter 7. Upon submission of a completed application to the board and the payment of the required fee, the board may issue a license to practice as an alternative healing therapist to an applicant who: (i) has obtained a high school diploma or its equivalent; (ii) is 18 years of age or older; (iii) has submitted 2 professional letters of reference, with at least 1 being from an employer or professional in the alternative healing therapy or medical field; (iv) is of good moral character, as determined by the discretion of the board; (v) has successfully completed a course of study, supervised instruction, or certification process reflecting a national, state, or other recognized professional organization standard at a licensed alternative health therapy program that has been determined appropriate by the board; (vi) has not been convicted in any jurisdiction of sexually-related crime or a crime involving moral turpitude for the 10 years immediately before the date
of application; (vii) provides proof of professional liability coverage; and (viii) demonstrates the
professional competence that may be required by the board's regulations. The board shall require
no more than one application for any applicant seeking to practice multiple disciplines under its
jurisdiction; provided, that said applicant can demonstrate competency in each discipline as
determined by the board; provided further, that the board shall collect one fee per application.

(c) The commissioner of the division of professional licensure shall determine the
renewal cycle and renewal period for massage therapy and alternative health therapy licenses.
Each person licensed in accordance with these sections shall apply to the board for renewal of
the person’s license not later than the expiration date, as determined by the director, unless the
license was revoked, suspended or canceled earlier by the board as a result of a disciplinary
proceeding instituted pursuant to this chapter. Applications for renewal shall be made on forms
approved by the board and accompanied by payment of a renewal fee, as prescribed by the
executive office for administration and finance pursuant to section 3B of chapter 7;
provided, however, that the fee shall not be less than $100.

(d) As a condition of license renewal, a licensed massage therapist or licensed alternative
health therapist shall furnish the board with satisfactory proof that the licensee: (i) has not been
convicted in any jurisdiction of a sexually-related crime or a crime involving moral turpitude
since the original application for licensure; (ii) has professional liability coverage; and (iii) has
completed the continuing education requirements that reflect acceptable national, state, or other
recognized professional organization or certification standards of each pertinent discipline and
have been reviewed and approved by the board.
Upon satisfactory compliance with the licensing requirements for massage therapists or alternative health therapists and successful completion of the continuing education requirements, the board shall issue a renewal license showing that the holder is entitled to be licensed for the renewal period. The board may provide for the late renewal of a license that has lapsed and may require payment of a late fee. All licensing and application fees and administrative fines collected pursuant to sections 227 to 235, inclusive, shall be deposited into the Division of Professional Licensure Trust Fund established in section 35V of chapter 10.

SECTION 10. Section 230 of said chapter 112, as appearing in the 2016 Official Edition, is hereby amended by inserting after the word “therapists”, in line 2, the following words: - , or alternative healing therapists.

SECTION 11. Said chapter 112 is hereby further amended by striking out section 231, as so appearing, and inserting in place thereof the following section:-

Section 231. The board may grant a license to an applicant for an alternative healing therapist license who: (i) (A) provides documentation, acceptable to the board, that demonstrates that the applicant has provided an appropriate number of hours of an alternative healing therapy, as determined by the board, to members of the public for compensation; (B) has been authorized to practice an alternative healing therapy by the municipal board of health within the commonwealth; provided, however, that the authorization shall be valid not more than 2 years after the date of application; or (C) provides proof of the successful passage or compliance with a training or certification process reflecting a national, state, or other recognized professional organization standard acceptable to the board; (ii) submits a completed application and pays the necessary fee prescribed by the executive office for administration and finance pursuant to
section 3B of chapter 7; (iii) is of good moral character, as determined by the discretion of the
board; and (iv) provides proof of professional liability coverage.

SECTION 12. Said chapter 112 is hereby further amended by striking out section 232, as
so appearing, and inserting in place thereof the following section:-

Section 232. (a) The board shall conduct inspections and investigate all complaints filed
that relate to the proper practice of massage therapy or alternative healing therapy, the operation
of a massage therapy or alternative healing therapy facility and any violation of sections 227 to
235, inclusive, or a rule or regulation of the board. Such a complaint may be brought by any
person or the board may, on its own, initiate a complaint.

(b) The board shall be under the supervision of the division of professional licensure and
shall have all the authority conferred under sections 61 to 65E, inclusive. For the purposes of this
section and sections 61 to 65E, inclusive, conduct that places into question the holder's
competence to practice massage therapy or an alternative healing therapy or operate a massage or
alternative healing therapy facility shall include, but not be limited to: (i) committing
fraud or misrepresentation in obtaining a license; (ii) criminal conduct that the board determines
to be of such a nature as to render the person unfit to practice as a licensed massage therapist or
alternative healing therapist or to operate a licensed massage therapy or alternative healing
therapy facility, as evidenced by criminal proceedings that resulted in a conviction, guilty plea or
plea of nolo contendere or an admission of sufficient facts; (iii) violating any rule or regulation
of the board; (iv) failing to cooperate with the board or its agents in the conduct of an inspection
or investigation; (v) failing to fulfill any continuing education requirements set out by the board;
(vi) violating an ethical standard that the board determines to be of such a nature as to render the
person unfit to practice as a massage therapist or alternative healing therapist or to operate a
licensed massage therapy or alternative healing therapy facility, including, but not limited to: (A)
inappropriate conduct or touching in the practice of massage therapy or bodywork therapy; (B)
offering medical opinion or diagnosis; or (C) negligence in the course of professional practice.

The board may issue an order to a licensee directing the licensee to cease and desist from
unethical or unprofessional conduct if the board finds, after the opportunity for a hearing, that the
licensee has engaged in such conduct.

(c) A massage therapist or alternative healing therapist whose license to practice is
suspended for more than 1 year for professional misconduct with regard to insurance claims shall
not own, operate, practice in or be employed by another massage therapist, alternative healing
therapist or a physical therapist or chiropractor, in any capacity, until the license is reinstated by
the board. A massage therapist or alternative healing therapist whose license is suspended for a
second offense with regard to insurance claims shall have the license permanently revoked and
may not own, operate, practice in or be employed by a business that provides massage therapy,
alternative healing therapy, physical therapy or chiropractic care.

(d) Nothing in this section shall limit the board's authority to impose sanctions by consent
agreements that are considered reasonable and appropriate by the board. A person aggrieved by a
disciplinary action taken by the board pursuant to this section or section 235 may, pursuant to
section 64, file a petition for judicial review.

SECTION 13. Said chapter 112 is hereby further amended by striking out section 233, as
most recently amended by section 75 of chapter 6 of the acts of 2017, and inserting in place
thereof the following section:-
Section 233. The board shall establish standards to be met by the massage therapy schools as well as alternative healing therapy programs. The board shall approve massage therapy school and alternative healing therapy program curriculum, training, facilities and instructors. A school or program shall not teach massage therapy or alternative healing therapies without prior approval by the board unless licensed by the division of professional licensure pursuant section 263 or other state or federal agency or department.

SECTION 14. Section 234 of said chapter 112, as appearing in the 2016 Official Edition, is hereby amended by inserting after the words “massage therapy”, in line 2, the following words:- and alternative healing therapies.

SECTION 15. Section 235 of said chapter 112, as so appearing, is hereby amended by inserting after the word “means”, in line 25, the following words:- or through online advertising means or forums.

SECTION 16. Said section 235 of said chapter 112, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following 2 subsections:-

(b) Only a person duly licensed under this chapter shall be designated as an “alternative healing therapist” and entitled to use the terms “alternative healing therapist”, “alternative healing therapy”, or any term reflecting one of the separate and distinct complementary health practices defined as alternative healing therapy under section 227” when advertising or printing promotional material. A person who uses such a term in the person’s professional title without being authorized to do so shall be subject to discipline by the board. A person who: (i) knowingly aids and abets another to use such a term when the person is not authorized to do so;
or (ii) knowingly employs a person not authorized to use such a term in the course of the
employment, shall be subject to a disciplinary proceeding before the board. Nothing in this
section shall prohibit a licensed alternative healing therapist from using terms reflecting a
specific discipline for which they are authorized by the board to practice when advertising or
printing promotional material; provided further, that such terms shall include, but not be limited
to, Feldenkrais, reflexology, Asian Bodywork Therapy, Acupressure, Amma, Tuina, and Shiatsu,
Trager, Ayurvedic therapy, Rolf structural integration, polarity, acupressure, and reiki.

It shall be a violation of this chapter for a person to advertise: (i) as an alternative healing
therapy facility, as defined by section 227, unless the person has an employee who holds a valid
license under this chapter; (ii) by combining advertising for a licensed alternative healing therapy
service with escort or dating services; (iii) as performing alternative healing therapy in a form in
which the person has not received training or of a type that is not licensed or otherwise
recognized by law or administrative rule;

As used in this section, the term “advertise” shall include, but not be limited to: (i) the
issuance of a card, sign or device to another; (ii) the causing, permitting or allowing of a sign or
marking on or in a building, vehicle or structure; (iii) advertising in a newspaper or magazine, on
television or through electronic means or online advertising means or forums; (iv) a listing or
advertising in a directory under a classification or heading that includes the word
“alternative healing therapy”, “bodyworker”, “bodywork therapy”, or “alternative healing
therapist”; or (v) a commercial broadcast by airwave transmission.

(c) A person who: (i) is otherwise licensed, certified or registered under the law; (ii) is
performing services within the person’s authorized scope of practice; and (iii) does not hold the
person’s self out to be a massage therapist or alternative healing therapist, shall be exempt from this section.

SECTION 17. Section 51 of chapter 140 of the General Laws, as so appearing, is hereby amended by inserting after the word “therapy”, in lines 1 and 8, each time it appears, the following words:- or any alternative health therapy.

SECTION 18. Subsection (a) of said section 51 of said chapter 140 is hereby amended by striking out the last sentence and inserting in place thereof the following:-

Any premises used to offer massage therapy or any alternative health therapy under said section 227 to 236, inclusive, of said chapter 112 shall be subject to inspection by local boards of health, and their respective agents, in addition to the department of professional licensure and board of registration of massage therapy and alternative healing therapies. Nothing in section shall require a license from a municipal authority in addition to the license required pursuant to said section 227 to 236, inclusive, of chapter 112.

SECTION 19. Subsection (b) of said section 51 of said chapter 140 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:-

A massage therapist or alternative healing therapist, whose license to practice massage therapy or alternative healing therapy is revoked or suspended for more than 1 year with regard to insurance claims, shall not own, operate, practice in or be employed by a massage therapy or alternative healing therapy office, clinic or other place designated for the practice of massage therapy, alternative healing therapy, physical therapy or chiropractic.
SECTION 20. Said chapter 140 is hereby further amended by striking out section 52, as so appearing, and inserting in place thereof the following section:-

Section 52. A member of the police department of a town may, upon appropriate legal process, enter and inspect any premises in that town used for massage, alternative healing therapy or the giving of vapor baths.

SECTION 21. The board of registration of massage therapy and alternative healing therapies established under section 98 of chapter 13 of the General Laws shall promulgate regulations not more than 180 days after a quorum of the board is appointed.

SECTION 22. All orders, rules and regulations duly made and all licenses and approvals duly granted that are in force immediately before the effective date of this act shall continue in force and shall thereafter be enforced until superseded, revised, rescinded or cancelled in accordance with law by the appropriate board.

SECTION 23. The board of registration of massage therapy and alternative healing therapies established under section 98 of chapter 13 of the General Laws shall receive applications for licenses under section 231 of chapter 112 of the General Laws on or before July 1, 2023.

SECTION 24. This act shall take effect upon its passage.