The committee on Public Safety, to whom was referred the petition (accompanied by bill, Senate, No. 587) of John W. Bullock for legislation to establish an architectural carriers board in the Department of Public Safety; the petition (accompanied by bill, House, No. 1315) of Richard E. McLaughlin and Robert Owens for legislation to facilitate the use of public buildings by the physically handicapped; the petition (accompanied by bill, House, No. 1316) of Richard E. McLaughlin and Robert Owens for legislation to facilitate the use of public buildings by the physically handicapped by prohibiting the use of shopping cart barriers; the petition (accompanied by bill, House, No. 1317) of Richard E. McLaughlin and Robert Owens for legislation to facilitate the use of public and private parking lots by handicapped persons; and the petition (accompanied by bill, House, No. 1318) of Richard E. McLaughlin and Robert Owens that provision be made that the rules and regulations of the Board to Facilitate the Use of Public Buildings by the Physically Handicapped be advertised in newspapers where buildings are put up for bids, reports the accompanying bill (Senate, No. 1699).

For the Committee,

Stanley J. Zarod.
The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four

AN ACT ESTABLISHING AN ARCHITECTURAL BARRIERS BOARD IN THE DEPARTMENT OF PUBLIC 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 is hereby amended by striking out Section 13A as most recently amended by section 1 of chapter 827 of the acts of 1971, and inserting in place thereof the following section: —

2 Section 13A: There shall be in the department of public safety a board to be known as the architectural barriers board, which shall consist of the secretary of public safety or his designee, the secretary of elder affairs or his designee, and five members appointed by the secretary of public safety, with the approval of the governor, three of whom shall be selected from a list of nominees submitted by advocacy groups in behalf of the physically handicapped. The members initially appointed by the secretary of public safety shall serve for one, two, three and four years, respectively, according to the terms of their respective appointments. Upon the expiration of the term of a member appointed by the secretary of public safety, his successor shall be appointed for a term of four years. Any vacancy in the office of a member appointed by the secretary of public safety shall be filled for the unexpired term. At all times, at least three members of the board shall be physically handicapped persons and the chairman of the board shall be elected annually by the members. Employees of the board shall not be subject to the provisions of chapter thirty-one.

3 Each board member appointed by the secretary of public safety shall be paid for each day while in the actual performance of official functions at such rate as shall be approved by the commissioner of administration and shall also receive from the commonwealth all expenses necessarily incurred in connection with such official functions. Any board member...
appointed by the secretary of public safety absent from three
consecutive board meetings, which absence is not for reasons
of health, may be removed from membership by said secretary
upon request of a majority of the members of the board.

The board shall make and from time to time alter, amend,
and repeal, in accordance with the provisions of chapter
thirty A, rules and regulations designed to make public build-
ings accessible to, functional for, and safe for use by physically
handicapped persons and shall cause the dissemination of the
rules and regulations, any amendment or revision thereof, and
other information to design and building professionals and to
persons requesting the same including but not limited to
architects, engineers, contractors, each state and local build-
ing inspector and building commissioner, state and local public
works officials, each chief executive of the respective cities
and towns, and handicapped persons. All public newspaper
solicitations for bids on projects falling under this section
shall state the requirement of conformity to board rules and
regulations. Said rules and regulations shall be deemed to be a
specialized code as referred to in section nineteen of chapter
twenty-three B, the violation of which shall be subject to the
provisions of section seventeen of said chapter twenty-three B
and which shall constitute gross negligence for the purposes
of clause d of section sixty-G of chapter one hundred twelve.
In addition to the penalties provided for violations of said
state building code the board shall have the power of local
and state inspectors in the enforcement of its rules and regu-
lations, including but not limited to, the right to enter all
public buildings as defined by this section, and the power to
institute and prosecute proceedings in the Superior Court to
compel such compliance. In any such proceedings, the board
or any member thereof may appear pro se or be represented
by the attorney general or by counsel employed or designated
by it for such purpose. The board shall not be required to pay
any entry fee in connection with the institution of any such
proceedings.

There shall be no construction, reconstruction, alteration
or remodeling of a public building except in conformity with
said rules and regulations, nor shall the use of any building
be changed to a use in which the building is open to and used by the public as defined in this section until such building so conforms, nor until a copy of the plans and specifications have been approved as provided in this section and in section three-W of chapter one hundred forty-three, showing compliance with said rules and regulations; provided, however, that if the said board determines that compliance with said rules and regulations is impracticable in the particular case, it may provide for modification of, or substitution for, such rule or regulation.

With respect to lodging and residential facilities for hire, rent or lease, containing twenty or more units, within any public or private category, including but not limited to those mentioned in this section, there shall be a ratio of five percent of accessible, functional and safe units for physically handicapped persons.

The board shall receive complaints of noncompliance with this section or any rule or regulation promulgated hereunder from any person. The board shall investigate each such complaint and take such action thereon as is consistent with this section. The board shall, within sixty days of receipt of any such complaint, give notice in writing to the complaining party of its actions or proposed actions.

The following words, as used in this section, shall be construed to have the following meanings:

"alteration", a) external or internal rehabilitation or renovation when a building permit is needed or when the value of such rehabilitation or renovation equals or exceeds five percent of a building's full and fair cash value; or b) work that a state or local building inspector determines is alteration.

"board", the architectural barriers board established by this section.

"construction", a) work for which a building permit is required; b) work that a state or local building inspector determines is construction; or c) work upon the completion of which a certificate of occupancy is necessary.

"physically handicapped person", a person confined to a wheelchair; a person who, because of the use of braces or crutches or because of the loss of a foot or leg, or because of
an arthritic, spastic, pulmonary or cardiac condition, walks
difficulty or insecurity; a person who, due to a brain,
spinal or peripheral nerve injury, suffers from faulty coordina-
tion or palsy; a person who is blind or whose sight is so
impaired that, functioning in a public area, he is insecure or
exposed to danger; a person whose hearing is so impaired
that he is unable to hear warning signals; and a person whose
mobility, flexibility, coordination, and perceptiveness are signi-
ficantly reduced by aging.

"public building", buildings constructed by the common-
wealth or any political subdivision thereof with public funds
and open to public use, including but not limited to those con-
structed by public housing authorities, the Massachusetts Port
Authority, the Massachusetts Parking Authority, the Massa-
chusetts Turnpike Authority, the Massachusetts Bay Trans-
portation Authority, or building authorities of any public
educational institution, or their successors; and privately
financed buildings that are open to and used by the public.

Buildings that are open to and used by the public shall
include but not be limited to the following buildings: transpor-
tation terminals, institutional buildings, commercial buildings
exceeding two stories in height in which more than forty
persons are employed, buildings having places of assembly of
a capacity of more than one hundred and fifty persons, hotels,
motels, dormitories, public parking garages or lots with a
capacity of twenty-five or more automobiles, public sidewalks
and ways, public areas of apartment buildings and condonin-
iums containing twelve or more units and of funeral homes,
and rest rooms and public areas of shopping centers and
restaurants.

"reconstruction", the tearing down, removal, demolition or
replacement of a public building or part of a public building.

"remodeling", a) a modification beyond an interior decorat-
tion or involving any structural change; or b) the refurbish-
ing, updating or redecorating of a public building when the
value of such refurbishing, updating or redecorating equals or
exceeds five percent of a building's full and fair cash value.
ment, facilities and other property, both personal and real, which immediately prior to the effective date of this act, are in the custody of the board to facilitate the use of public buildings by the physically handicapped, are hereby transferred to the architectural barriers board established by this act.

All monies heretofore appropriated for the board to facilitate the use of public buildings by the physically handicapped which remain unexpended on the effective date of this act are hereby transferred to, and shall be available for expenditure by the architectural barriers board.

All duly existing contracts, leases and obligations of the board to facilitate the use of public buildings by the physically handicapped which are in force immediately prior to the effective date of this act, shall thereafter be performed by the architectural barriers board.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted by the board to facilitate the use of public buildings by the physically handicapped which are in force immediately prior to the effective date of this act, shall continue in force, and the provisions thereof shall thereafter be enforced until superseded, revised, rescinded or cancelled in accordance with law by the architectural barriers board.

All questions regarding the identification of any of the above shall be determined by the secretary of administration.