

By Mr. Fitzgerald of Boston, petition of Kevin W. Fitzgerald for legislation to permit cities and towns to impose an excise on the use of off-street parking facilities. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT PERMITTING CITIES AND TOWNS TO IMPOSE AN EXCISE ON THE USE OF OFF-STREET 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 insert-
2 ing after chapter 64I the following chapter: —

3 **Chapter 64J.**
4 **EXCISE UPON TRANSFER OF PARKING SPACES.**

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

7 “Motor vehicles”, as defined in section one of chapter ninety of
8 the General Laws.

9 “Non-residential”, any parking facility as defined herein other
10 than (a) one provided or leased to occupants of a residence on the
11 same or other premises for use only in connection with and as an
12 accessory to the occupancy of such residence, or (b) one operated
13 exclusively by an owner or lessee of a hotel, motel or lodging house,
14 as defined in chapter 64G, or a trailer park, to the extent that the
15 parking facility is provided to guests or tenants of such hotel,
16 motel, lodging house or trailer park for no additional considera-
17 tion.

18 “Operator”, any person operating an off-street, unmetered park-
19 ing facility, including, but not limited to, the owner or proprietor of
20 such premises, lessee, sublessee, mortgagee in possession, licensee

21 or any other person otherwise operating such parking facility, and
22 including the commonwealth and political subdivisions, agencies
23 and authorities thereof.

24 "Parking facility", any premises utilized in whole or in part for
25 the provision of non-residential, unmetered, off-street parking for
26 motor vehicles, whether in a building or not, including, but not
27 limited to, facilities open to the public for a fee and facilities
28 provided by an employer for use by customers, employees, or
29 licensees.

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

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

37 "Person", an individual, partnership, trust or association, joint
38 stock company, corporation, whether charitable or otherwise, so-
39 ciety, club, organization, institution, estate receiver, trustee, assign-
40 ee or referee and any person acting in a fiduciary or representative
41 capacity, whether appointed by a court or otherwise, or any com-
42 bination of individuals acting as a unit.

43 "Transfer of the right to use", that transfer of right which occurs
44 whenever a motor vehicle enters a parking facility for considera-
45 tion.

46 "Traffic impacted area", any part of a city or town subject to
47 congestion of streets, ways, highways, roads or parkways caused
48 by the use of motor vehicles thereon, and designated as such by
49 vote of the city council of a city, or the board of selectmen of a
50 town.

51 "Treasurer", the treasurer of a city or town which accepts the
52 provisions of this act.

1 SECTION 2. The provisions of this act shall not be construed
2 to include parking facilities operated by the United States or an
3 instrumentality thereof.

1 SECTION 3. Any city or town which accepts the provisions of
2 this Act, as hereinafter provided, may impose an excise on the

3 transfer of the right to use any space in a parking facility for the
4 purpose of parking a motor vehicle in a traffic impacted area by
5 any operator at a rate to be determined by the city council of a city
6 or the board of selectmen of a town, such excise not to exceed 25
7 percent of the parking fee for each transfer of the right to use such
8 space.

1 SECTION 4. Reimbursement for an excise imposed under this
2 Act shall be paid by the person using such space to the operator and
3 each operator shall collect from the person using such space the full
4 amount of the excise imposed by this Act.

1 SECTION 5. The amount of the excise collected by the opera-
2 tor from the person using such parking space under the provisions
3 of this Act shall be stated and charged separately from the parking
4 fee at the time that any transfer of the right to use such parking
5 space is made, or any evidence of such transfer is issued or used by
6 the operator.

1 SECTION 6. On or before the twentieth day of each calendar
2 month, every operator who has made any transfer of the right to
3 use any parking space on which an excise is payable under the
4 provisions of this Act during the preceding calendar month shall
5 file a sworn return with the treasurer, in such form as the treasurer
6 shall prescribe, giving such information as the treasurer shall re-
7 quire for the determination of the excise imposed by this act. Said
8 excise shall be due and payable on or before the due date of the
9 return.

1 SECTION 7. Every operator shall keep and preserve suitable
2 records of the number of such transfers of the right to use such
3 parking spaces and such other books and accounts as the treasurer
4 may require to determine the amount of the excise due under this
5 act.

1 SECTION 8. Any operator who knowingly fails to file a return
2 as provided in section six, or who knowingly files a fraudulent
3 return, shall be subject to a fine of five hundred dollars for each

4 such failure or fraudulent return. Delinquent excises shall bear
5 interest at the rate of twelve percent per annum from the date on
6 which they were first due and payable. Sums due a city or town
7 under the provisions of this chapter may be recovered by such city
8 or town in an action brought in the name of the treasurer.

1 SECTION 9. This act shall take effect in a city or town on the
2 first day of the first full month not less than thirty days following its
3 acceptance in the following manner in a city having a plan D or
4 plan E charter by a majority vote of the city council in any other
5 city by vote of its city council, approved by the mayor; and in a
6 town by submission for acceptance to the registered voters in the
7 form of the following question which shall be printed upon the
8 official ballot to be used at election: "Shall the town impose an
9 excise on the use of certain parking facilities within the town?"