

By Mr. Scaccia of Boston, petition of Thomas M. Menino, Angelo M. Scaccia, Brian P. Wallace, John A. Hart, Jr., Dianne Wilkerson and Kevin G. Honan relative to authorizing a local option excise on entertainment events or services. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT AUTHORIZING A LOCAL OPTION EXCISE ON ENTERTAINMENT EVENTS OR SERVICES.

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

1 The General Laws are hereby amended by inserting after
2 chapter sixty-four K the following chapter:

3 Chapter 64L.

4 EXCISE UPON AN ENTERTAINMENT EVENT
5 OR SERVICE.

6 Section 1. As used in this chapter, unless the context indicates
7 otherwise, the following words shall have the following mean-
8 ings:

9 "Entertainment charge", any fee, payment, dues or other con-
10 sideration charged for the entitlement to attend or utilize an enter-
11 tainment event or service.

12 "Entertainment event or service", a performance of the
13 following type or of a similar type or the provision of services of
14 the following type or a similar type: motion picture theaters or
15 drive-ins: theaters, choreographic or musical performances, pro-
16 fessional or college sporting or athletic events.

17 "Recipient", any person collecting an entertainment charge.

18 "Commissioner", the commissioner of revenue.

19 "Person", an individual, partnership, trust or association, joint
20 stock company, corporation, whether charitable or otherwise,
21 society, club, organization, institution, estate, receiver, trustee,
22 assignee or referee and any person acting in a fiduciary or repre-
23 sentative capacity, whether appointed by a court or otherwise, or
24 any combination of individuals acting as a unit.

25 "Treasurer", the treasurer of a city or town which accepts the
26 provisions of this legislation.

27 Section 2. Notwithstanding the provisions of chapter sixty-
28 four H or any other general or special law to the contrary, any city
29 or town which accepts the provisions of this chapter may impose
30 an excise on each entertainment event or service, except as other-
31 wise provided in this chapter, in the amount of \$.50 per entertain-
32 ment charge.

33 Section 3. Each recipient shall add to the entertainment charge
34 and shall collect from the person entitled to attend such event or
35 utilize such service the full amount of the excise imposed by this
36 chapter.

37 Section 4. The amount of the excise collected by the recipient
38 from the person attending such event utilizing such service under
39 the provisions of this chapter shall be stated and charged sepa-
40 rately from the entertainment event or service charge.

41 Section 5. It shall be unlawful for any advertiser to hold out or
42 state to the public, directly or indirectly, that the excise or any part
43 thereof will be assumed or absorbed by the recipient or that it will
44 not be added to the price of the entertainment event or service or,
45 if added, it or any part thereof will be refunded. Whoever violates
46 any provision of this section shall be punished by a fine of not
47 more than one hundred dollars for each offense.

48 Section 6. The excise shall be paid by the recipient to the com-
49 missioner at the time provided for filing the return required by
50 section sixteen of chapter sixty-two c. Said commissioner shall
51 quarterly pay over all excises collected under the provisions of
52 this chapter to the city or town in which the entertainment event
53 occurred or service was provided.

54 Section 7. Notwithstanding any other provision of law to the
55 contrary, if any recipient fails to file a return on or before its due
56 date, there shall be added to and become part of the excise, as an
57 additional excise, a penalty as prescribed in Chapter sixty-two c,

58 section 33, of the General Laws of a percentage for each month,
59 or fraction thereof, during which such failure continues.

60 Notwithstanding any other provision of law to the contrary, and
61 in addition to the penalty set forth in the previous paragraph, if
62 any recipient fails to file a return on or before its due date, there
63 shall be added to and become part of the excise interest at the rate
64 prescribed in Chapter sixty two c, section 32, of the General
65 Laws.

66 Notwithstanding any other provision of law to the contrary, and
67 in addition to the penalty set forth in the first paragraph of this
68 section and the interest payment set forth in the second paragraph
69 of this section, if any recipient fails to file a return on or before its
70 due date, the city or town may suspend or revoke any license or
71 permit issued to the recipient by the city or town allowing the
72 recipient the right or privilege to operate an entertainment event
73 or service in that city or town. Notice of suspension or revocation
74 shall be deemed sufficient if sent by certified mail to the last
75 known place of residence or business of said recipient. Notice of
76 suspension or revocation shall be accompanied by a statement
77 which provides that the recipient may obtain a hearing upon his
78 written request. The request must be filed with the city or town
79 before the expiration of the twenty-first day from the date of
80 issuance of said notification of suspension or revocation.

81 If a recipient charged with failing to file a return on or before
82 its due date requests a hearing before the expiration of the twenty-
83 first day from the date of issuance of said notification of suspen-
84 sion or revocation, the city or town shall forthwith schedule the
85 matter before a person referred to as a hearing officer, said
86 hearing officer to be such person as the treasurer may designate.
87 Written notice of the date, time and place of said hearing shall be
88 sent by certified mail to the recipient. Said hearing shall be
89 informal and the rules of evidence shall not apply. The hearing
90 officer shall keep a record of the hearing and the decision of the
91 hearing officer, which shall be in writing, shall be final subject to
92 judicial review as provided by section fourteen of chapter thirty A
93 of the General Laws.

94 Section 8. Amounts received by a city or town under this
95 chapter shall not be considered in the determination of the amount
96 of any distribution of state assistance to such city or town.

97 Section 9. The provisions of this chapter are severable and if
98 any of its provisions shall be held invalid in any circumstances,
99 such invalidity shall not affect any other provisions or circum-
100 stances. This chapter being necessary for the welfare of the com-
101 monwealth and its inhabitants, shall be construed in all respects so
102 as to meet all constitutional requirements. In carrying out the pur-
103 poses and provisions of this chapter, all steps shall be taken which
104 are necessary to meet constitutional requirements whether or not
105 such steps are required or expressly authorized by statute.

106 Section 10. The provisions of chapter sixty-four L of the
107 General Laws shall take effect in a city or town on the first day of
108 the calendar month following its acceptance in the following
109 manner: in a city having a plan D or plan E charter by a majority
110 vote of the city council; in any other city, by vote of its city
111 council, approved by the mayor; and in a town, in the discretion of
112 the selectmen, either (i) by a majority vote at an annual town
113 meeting or at a special town meeting called for that purpose or
114 (ii) by submission for acceptance to the registered voters in the
115 form of the following question which shall be printed upon the
116 official ballot to be used at election: "Shall the town impose an
117 excise on entertainment events and entertainment services within
118 the town?"

119 Section 11. Section sixteen of chapter sixty-two C of the
120 General Laws is hereby amended by inserting after subsection (k)
121 the following new subsection:

122 (1) Every recipient, as defined in section one of chapter sixty-
123 four L, subject to taxation under chapter sixty-four L shall file a
124 return with the commissioner for each calendar month. Every such
125 return shall be filed within twenty days after the expiration of the
126 period covered thereby.