

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

BILL FILING TEMPLATE

Be It Enacted, by the Senate and House of Representatives, etc., as follows:

SECTION 1. The General Laws as appearing in the 2004 official edition, are hereby amended by inserting after chapter 64K the following chapter:-

Chapter 64L: Excise Upon Transfer of Parking Spaces

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

"Motor vehicles", as defined in section one of chapter 90 of the General Laws.

"Commercial", any parking facility as defined herein other than (a) one provided or leased to occupants of a residence on the same or other premises for use only in connection with and as an accessory to the occupancy of such residence, or (b) one operated exclusively by an owner or lessee of a hotel, motel, or lodging house, as defined in chapter 64G, or a trailer park, to the extent that the parking facility is provided to guests or tenants of such hotel, motel, lodging house or trailer park for no additional consideration.

"Operator", any person operating an off-street, unmetered parking facility, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such parking facility, and including the commonwealth and political subdivisions, agencies and authorities thereof, except as otherwise provided by law.

"Parking facility", any premises utilized in whole or in part for the provision of commercial, unmetered, off-street parking for motor vehicles, whether in a building or not, including facilities open to the public for a fee.

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

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

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

"Transfer of the right to use", that transfer of right which occurs whenever a motor vehicle enters a parking facility for consideration.

"Treasurer", the treasurer of a city or town which accepts the provisions of this Act.

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

SECTION 3. Any city or town which accepts the provisions of this Act, as hereinafter provided, may impose an excise on the transfer of the right to use any parking space in a

parking facility for the purpose of parking a motor vehicle by any operator for a period of more than two hours at a rate of 10% of the parking fee for each transfer of the right to use such parking space.

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

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

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

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

SECTION 8. Any operator who knowingly fails to file a return as provided in section 6, or who knowingly files a fraudulent return, shall be subject to a fine of five hundred dollars for each such failure or fraudulent return. If any recipient fails to file a return on or before its due date, the city or town may suspend or revoke any license or permit issued to the recipient by the city or town allowing the recipient the right or privilege to operate an off-street parking facility, as defined in this chapter, in that city or town.

Notice of suspension or revocation shall be deemed sufficient if sent by certified mail to the last known place of residence or business of said recipient. Notice of suspension or revocation shall be accompanied by a statement which provides that the recipient may obtain a hearing upon his written request. The request must be filed with the city or town before the expiration of the twenty-first day from the date of issuance of said notification of suspension or revocation.

If a recipient charged with failing to file a return on or before its due date requests a hearing before the expiration of the twenty-first day from the date of issuance of said notification of suspension or revocation, the city or town shall forthwith schedule the matter before a person referred to as a hearing officer, said hearing officer to be such person as the treasurer may designate. Written notice of the date, time and place of said hearing shall be sent by certified mail to the recipient. Said hearing shall be informal and the rules of evidence shall not apply. The hearing officer shall keep a record of the hearing and the decision of the hearing officer, which shall be in writing, shall be final subject to judicial review as provided by section 14 of chapter 30A of the General Laws.

Sums due a city or town under the provisions of this chapter may be recovered by such city or town in an action brought in the name of the treasurer.

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

SECTION 10. Any Municipality that so adopts this chapter may also by vote of the board of selectman or mayor and city council, or by the declaration of a state of emergency by the board of selectman, town manager or mayor, temporarily suspend the collection of this excise during the course of weather emergencies or other public safety or traffic related emergencies or events that may require the clearing of public ways for the public good upon reasonable public notification of such an emergency or event and shall refund any amount collected in error upon proof of that error made to the treasurer.