

HOUSE DOCKET, NO.

XXXXX

FILED ON: 02/02/2012

HOUSE No. 03920

The Commonwealth of Massachusetts

PRESENTED BY:

Frank I. Smizik

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 passage of the accompanying bill:

An Act RELATIVE TO THE DIVISION OF TRANSPORTATION IN THE TOWN OF
BROOKLINE.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

HOUSE No. 03920

Substituted by the House, on motion of Mr. Smizik of Brookline, for a Bill amending Chapter 51 of the Acts of 2010 to reflect the passage of Chapter 398 of the Acts of 2008 and to make certain other corrections (House, No. 3432). February 2, 2012.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act RELATIVE TO THE DIVISION OF TRANSPORTATION IN THE TOWN OF BROOKLINE.

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. Section 1 of chapter 317 of the acts of 1974 is hereby amended by striking out the
2 second sentence, as amended by section 1 of chapter 51 of the acts of 2010, and inserting in
3 place thereof the following sentence:- Except as otherwise provided herein, all statutes and by-
4 laws applicable to transportation, vehicular licensing and traffic rules, regulations and orders
5 shall apply to the division of transportation.

6 SECTION 2. Said chapter 317 is hereby further amended by striking out section 4, as most
7 recently amended by section 5 of said chapter 51, and inserting in place thereof the following
8 section:-

9 Section 4. Except as otherwise set forth herein with regard to taxi license sales, the board shall
10 have exclusive authority, generally consistent with the transportation policies of the board of

11 selectmen and except as otherwise provided in this act, to take any and all of the following
12 actions after public notice and at a public meeting, if it determines, by the vote of at least 4
13 members, that the actions serve the public safety, welfare, environment or convenience.

14 The board may adopt, alter or repeal rules and regulations, not inconsistent with general
15 law as modified by this act, relative to pedestrian movement, vehicular and bicycle traffic in the
16 streets and in the town-controlled public off-street parking areas in the town, and to the
17 movement, stopping, standing or parking of vehicles and bicycles on, and their exclusion from,
18 all or any streets, ways, highways, roads, parkways and public off-street parking areas under the
19 control of the town, including rules and regulations designating any way or part thereof under
20 such control as a through way under and subject to the provisions of section 9 of chapter 89 of
21 the General Laws. The board shall also have all authority previously granted to the selectmen
22 under section 22 of chapter 40 of the General Laws, except with respect to the sale of taxi
23 licenses as set forth in section 4A. The board may prescribe a schedule of fines for each
24 violation of parking regulations as authorized by section 20C of chapter 90 of the General Laws.
25 All other violations of regulations adopted under this act, except as otherwise provided by
26 statute, shall be subject to fines not to exceed \$50 for each offense as set forth in the regulations.

27 Notwithstanding any general or special law to the contrary, the board shall have authority
28 to adopt, alter or repeal rules and regulations relative to the operation, licensing or permitting of
29 any valet parking service that utilizes any part of a town-controlled public way, public off-street
30 parking area, or public property for the movement, transport, parking, standing, storage, pick-up,
31 drop-off, or delivery of a motor vehicle, if it determines, by a vote of at least 4 members, that
32 such actions serve the public safety, welfare, environment or convenience. For the purposes of
33 this section, a “valet parking service” shall mean a parking service offered, with or without a fee,

34 to an operator or owner of a motor vehicle who is a patron, customer, visitor, employee, guest,
35 invitee or licensee of any restaurant, store, hotel, club, business, institution or commercial
36 establishment wherein the operator or owner delivers possession or control of the motor vehicle
37 to an attendant commonly known as a valet who then transports, parks, stores, retrieves or
38 delivers the motor vehicle.

39 Except as otherwise set forth herein with regard to taxi license sales, no such adoption, alteration
40 or repeal of a rule or regulation shall take effect, except for special rules or regulations that are
41 declared by the board to be urgently required for public safety or welfare or are of temporary
42 nature and are able to be effective for a period of not more than 60 days, until 30 days have
43 expired after both publication in a newspaper published or distributed in the town and action on
44 any appeal petition filed under this section.

45 Except as set forth herein with regard to taxi license sales, the following describes the appeal
46 procedures applicable to any board action. Upon the filing of a petition with the board by not less
47 than 20 registered voters of the town seeking the adoption, alteration or repeal of any rule or
48 regulation under this section, the board shall hold an evening public hearing on that petition
49 within 30 days after the petition has been filed. Petition forms for this purpose shall be available
50 in the office of the board.

51 Upon the filing of an appeal petition with the board of selectmen by not less than 20 registered
52 voters of the town within 21 days after either the adoption, alteration or repeal of any rule or
53 regulation under this section or the action or inaction of the board on a citizen petition, the board
54 of selectmen shall hold an evening public hearing on the petition within 30 days after the petition
55 has been filed. Petition forms for this purpose shall be available in the office of the board of

56 selectmen. A majority vote of the board of selectmen shall be required to overturn an action of
57 the transportation board. If the board action is not overturned by the selectmen, within 21 days
58 after the conclusion of the selectmen's hearing, not less than 30 registered voters of the town
59 may file with the town clerk an appeal of this action of the board. The appeal shall contain a
60 warrant article which shall be included in the warrant for the next town meeting, which, by a
61 two-thirds vote, may determine that there is either a general policy issue or a serious safety issue
62 and may overturn the board action. For a general policy issue, town meeting may also, by a two-
63 thirds vote, pass a by-law modifying the board action.

64 The board may authorize the construction, installation and maintenance of traffic signs, signals,
65 markings, parking meters and other devices for the control of traffic and parking in the town and
66 for informing and warning the public as to rules and regulations adopted under this act, subject
67 however, to section 2 of chapter 85, sections 8 and 9 of chapter 89, and sections 18 and 18A of
68 chapter 90 of the General Laws.

69 Nothing in this act shall be construed to authorize the board to adopt any rule or regulation
70 excluding the trackless trolley vehicles or buses of a street railway or bus company from any way
71 or part thereof in which said company has a location, or to modify or limit any power or
72 authority of the department of conservation and recreation, the Massachusetts Department of
73 Transportation or the department of public utilities, or to modify or limit any power or authority
74 now vested in the selectmen or heads of town departments with reference to the issuance of
75 licenses or permits for the opening, using or occupying of streets and sidewalks.

76 SECTION 3. The third sentence of section 4A of said chapter 317, as inserted by section 6 of
77 said chapter 51, is hereby amended by striking out the words "the general fund" and inserting in

78 place thereof the following words:- a Taxi Medallion Fund which is hereby created under this
79 section, .

80 SECTION 4. This act shall take effect upon its passage.