HOUSE . . . . . No. 4011

Message from His Excellency the Governor recommending legislation relative to certain reforms and corrective changes relative to the Massachusetts Department of Transportation. March 28, 2012.

The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT
STATE HOUSE • BOSTON 02133
(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

March 28, 2012.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal, entitled, "An Act Relative to Certain Reforms and Corrective Changes Relative to the Massachusetts Department of Transportation."

As part of the ongoing efforts at MassDOT to reduce costs, increase efficiencies and improve customer experience, the Massachusetts Bay Transportation Authority (MBTA) has successfully reduced its original projected FY13 budget deficit through a combination of administrative efficiencies and cost-reductions in collaboration with MassDOT. However, a structural deficit still remains at the MBTA that proposed fare increases and service cuts simply cannot overcome.

The legislation that I am filing with you today seeks statutory corrections that will enable the MBTA to obtain additional funding to cover its deficit without increasing the revenue collected by the Commonwealth. By proposing to shift a $51 million surplus identified in the Motor Vehicle Inspection Trust Fund to MassDOT, by instituting tort reform at the MBTA to save approximately $4 million per year and by recognizing a potential $5 million federal reimbursement for the RIDE, MassDOT has responsibly identified revenue enhancements that will close the MBTA's FY13 budget deficit.

With the success of the Transportation Reform Act of 2009, MassDOT continues to create cost savings and efficiencies while improving the on-time completion of transportation projects. In order to further build on this success, this legislation creates reforms that will provide an additional cost-savings and needed efficiencies. MassDOT would save approximately $150,000 per year by avoiding costs associated with renewal

premiums for surplus lines insurance, as well as another $100,000 by reducing costly and duplicative functions at the Rail & Transit and Aeronautics divisions.

This legislation also helps to preserve federal funding sources while identifying additional efficiency and revenue measures, making agencies and public entities more accountable and improving the experience of the Commonwealth's commuters.

By advancing some of our most successful and homegrown innovations, such as the Utility Relocation Incentive Agreements, MassDOT will increase its on-time performance and provide earlier close-out measures for projects across all modes. This legislation would also expand MassDOT's authority to enter into advertising contracts and leases to grow its advertising opportunities, such as on department websites and social media outlets, thereby creating a revenue stream to help fund department operational costs.

It has been MassDOT's aim, since its inception, to improve customers' experience and ensure that all commuters feel that our transportation system is working for them. In addition to the cutting edge innovations MassDOT already has implemented, such as smart phone applications displaying real-time data for trains and buses, this legislation proposes to crack down on fare evasions at the MBTA and ensure all users are paying their fair share.

I also believe that the Commonwealth should require accountability from those who utilize state funding for the administration of our public facilities. That is why I have included changes to the governance of the Rose Kennedy Greenway Conservancy as well as measures to increase the Conservancy's accountability to the taxpayers of Massachusetts. First, I am recommending that the Secretary of Transportation and the Secretary of Energy and Environmental Affairs become voting members of the Greenway Conservancy Board, creating a clear line of accountability to those agencies responsible for the creation and maintenance of the Greenway. Second, I am recommending that MassDOT endeavor to amend the current lease agreement to require the Conservancy to comply with open meeting and public records laws. Lastly, this legislation requires that any future lease agreements with the Conservancy include compliance with the open meeting and public records laws in order to preserve accountability well into the future.

With all of the initiatives and investments that MassDOT has made to help grow our economy, move goods efficiently across the Commonwealth, and spur private investment, this legislation is focused on building upon these successes and furthering any opportunity to cut costs and improve efficiencies.

I look forward to your prompt and favorable action on this bill that will take MassDOT into the next phase of transportation reform.

Respectfully submitted,

DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve.

AN ACT RELATIVE TO CERTAIN REFORMS AND CORRECTIVE CHANGES RELATIVE TO THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is immediately to provide for an accelerated transportation development and improvement program for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. Section 3 of chapter 1 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 6, the word "highways" and inserting in place thereof the following word:- transportation.

SECTION 2. Section 4 of said chapter 1, as so appearing, is hereby amended by striking out, in line 1, the word "highways" and inserting in place thereof the following word:- transportation.

SECTION 3. Section 91 of chapter 6 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 17, the word "highways" and inserting in place thereof the following word:- transportation.

SECTION 4. Section 2 of chapter 6A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 5, the words "transportation and public works" and inserting in place thereof the following words:- and transportation.

SECTION 5. Section 8C of said chapter 6A, as so appearing, is hereby amended by striking out, in line 12, the word "highways" and inserting in place thereof the following word:- transportation.

SECTION 6. Section 1 of chapter 6C of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 30, the words “highway division” and inserting in place thereof, the following word:- department.

SECTION 7. Said section 1 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 52, the words “highway division” and inserting in place thereof, the following word:- department.

SECTION 8. Said section 1 of said chapter 6C, as so appearing, is hereby further amended by striking out the definitions of “Independent agencies” , “state agencies”, and “State public transit system”.

SECTION 9. Said section 1 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 133, the words “Tobin memorial bridge” and inserting in place thereof, the following words:- Maurice J. Tobin Memorial Bridge.

SECTION 10. Said section 1 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 146 to 147, the words “Office of Planning and Programming” and inserting in place thereof, the following word:- department.

SECTION 11. Said section 1 of said chapter 6C, as so appearing, is hereby further amended by inserting after the words “the secretary”, in line 151, the following words:- and chief executive officer.

SECTION 12. Section 2 of said chapter 6C, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) The department shall be governed and its corporate powers exercised by a board of directors. The board shall consist of 7 members appointed by the governor for a term of 4 years, 3 of whom shall be experts in the field of public or private transportation finance; 2 of whom shall have practical experience in transportation planning and policy; 1 of whom shall be the secretary of transportation, who shall serve ex officio; and 1 of whom shall be a registered civil engineer with at least 10 years experience. One of the members shall be designated by the governor to serve as chairperson of the board. Not more than 4 of the directors shall be members of the same political party. Each director shall serve without compensation but may be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties, including reimbursement for reasonable travel; provided, however, that such

reimbursement shall not exceed $3000 annually. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like manner and shall serve for only the unexpired term of such former member. Any director shall be eligible for reappointment. Any director may be removed from his appointment by the governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

SECTION 13. Said section 2 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 30, the word "Four" and inserting in place thereof the following words:- A majority of.

SECTION 14. Said Section 2 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 67 to 68, the words "and the treasurer, as elected by the board pursuant to subsection (f)" and inserting in pace thereof the following words:- of the department.

SECTION 15. Said Section 2 of said chapter 6C, as so appearing, is hereby further amended by inserting after the last sentence in paragraph (f) the following sentence:- The secretary of the board is authorized to delegate in writing any of their powers and duties required pursuant to this section.

SECTION 16. Section 3 of said chapter 6C, as so appearing, is hereby amended by striking out subsection (5) and inserting, in place thereof, the following subsection:-

(5) direct, operate, administer and implement (i) the programs of roadway, general aviation, rail and transit, and vehicular registration and regulation, and (ii) the design, construction, repair, maintenance, development, and planning of capital improvements and transportation facilities throughout the Commonwealth, as appropriate;

SECTION 17. Said section 3 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 165 to 166, the following words "administration and finance" and inserting in place thereof the following words:- transportation, in consultation with the secretary of administration and finance.

SECTION 18. Said section 3 of said chapter 6C, as so appearing, is hereby further amended by inserting after the word "grants," in subsection (30), the following words:- bequests, gifts,.

SECTION 19. Said section 3 of said chapter 6C, as so appearing, is hereby further amended by inserting the following subsection:-

(49) sell, lease, or otherwise contract for advertising, including in or on the facilities of the department.

SECTION 20. Section 4 of said chapter 6C, as so appearing, is hereby amended by inserting after the word “turnpike”, in line 11, the following words:- and metropolitan highway system.

SECTION 21. Said section 4 of said chapter 6C, as so appearing, is hereby further amended by striking out subsection (c), and inserting in place thereof the following subsection:-

(c) for expenditure by the department for maintaining, repairing, and improving state highways and bridges in the state highway system, the turnpike, and the metropolitan highway system;

SESCTION 22. Section 6 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 32 and 40, the words “division of highways” and inserting in place thereof, in each instance, the following words:- highway division.

SECTION 23. Said section 6 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 46, the words “December 31” and inserting in place thereof the following words:- September 30.

SECTION 24. Section 10 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 3, the words “office of planning and programming” and inserting in place thereof the following words:- department and its divisions.

SECTION 25. Said section 10 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 11 to 12, the words “planning and programming” and inserting in place thereof the following words:- transportation planning.

SECTION 26. Said section 10 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 31 to 32, the words “for the office of planning and programming” and inserting in place thereof the following word:- of the Commonwealth and the department .

SECTION 27. Said section 10 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 88 to 89, the words “of planning and programming”.

SECTION 28. Section 11 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 1 to 2, the following “April 30, 2010” and inserting in place thereof the following:- October 1, 2010.

SECTION 29. Said section 11 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 8, the word “highway, road and bridge” and inserting in place thereof the following word:- transportation.

SECTION 30. Said section 11 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 25, the word “value” and inserting in place thereof the following word:- cost.

SECTION 31. Said section 11 of said chapter 6C, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The long range transportation plan developed by the secretary of transportation under this section shall ensure that the commonwealth’s total 5 year capital expenditures for road and bridge projects across all capital programs for such projects managed by the department, excluding competitive grant programs, shall be equitable across the department’s highway districts. For the purposes of this paragraph, “equitable” shall mean not less than 75 per cent of the annual percentage of the total statewide collections of motor vehicle fuel tax as determined by the department through vehicle miles travelled in each such district, or by such other reasonable means as determined by the department; provided, however, that the minimum percentage shall be 85 per cent for districts in which the revenue generated by registered vehicles that have a Fast Lane transponder exceeds the average revenue generated by registered vehicles that have a Fast Lane transponder in highway districts statewide.

SECTION 32. Section 13 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 41, the words “clause (j) of section (4)” and inserting in place thereof the following words:- subsection (18) of section 3 of this chapter.

SECTION 33. Section 14 of said chapter 6C, as so appearing, is hereby repealed.

SECTION 34. Section 17 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines, the words “chapter 81A and”.

SECTION 35. Said section 17 of said chapter 6C, as so appearing, is hereby further amended by striking out, in the subsection (g), the words “pursuant to chapter 81A”.

SECTION 36. Section 18 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 2, the word “departments” and inserting in place thereof the following words:- administrative units.

SECTION 37. Said section 18 of said chapter 6C, as so appearing, is hereby further amending by striking out, in line 10, the words “and its divisions, departments” and inserting in place thereof the following words:- , its divisions, administrative units

SECTION 38. Said chapter 6C, as so appearing, is hereby amended by striking out section 20 and inserting in place thereof the following section:-

SECTION 20. Except as otherwise provided by law, any sale of real property shall be awarded, utilizing appropriate, competitive, and customarily acceptable real estate disposition processes and procedures, to the bidder who is the highest responsible bidder subject to any restrictions, covenants, or conditions the department shall find that sound reasons in the public interest require. Such processes and procedures may include, but shall not be limited to, absolute auction, sealed bids and requests for price and development proposals. The department shall have the right to reject all bids submitted under such processes and procedures and to re-advertise for bids. Before any real property shall be so sold or conveyed, notice that such real property is for sale shall be publicly advertised in a newspaper with a circulation sufficient to inform the people of the city or town in which the real property to be sold is located, once a week for 3 successive weeks. Such advertisements shall state the time and place where all pertinent information relative to the real property to be sold or conveyed may be obtained, the time and location of the auction, or the time and place for the submission of such bids and for the opening thereof, and that the department reserves the right to reject any or all such bids. After the execution of a sale agreement completing such transaction, all bids relating thereto shall be retained by the department and shall be open to inspection by the public until the expiration of such agreement or six months from the date thereof, whichever occurs first, and may thereafter be destroyed by the department. The department may require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the department, accompany the proposals or bids. This paragraph shall not be applicable to any sale of real property by the department to the commonwealth or any city, town or public instrumentality nor to a sale of real property which is determined by the department to have a fair market value of $5,000 or less.

SECTION 39. Section 27 of said chapter 6C, as so appearing, is hereby amended by inserting the following subsection:-

(c) Notwithstanding section 168 of chapter 175 or any other general or special law to the contrary, the department shall be exempt from any fees or taxes associated with surplus lines insurance; provided, however, that the exemption shall extend to any insurance broker for any insurance premium tax or surplus lines tax being incurred or having been incurred by the insurance broker as a result of the insurance having been procured, placed, negotiated, continued or renewed for or on behalf of the department.

SECTION 40. Section 28 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 2, 6 to 7, 32 to 33, 45 to 46, the words "Massachusetts Department of Transportation" and inserting in place thereof the following word:- department.

SECTION 41. Said section 28 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 10 to 12, the following words "Massachusetts Department of Transportation, the registry of motor vehicles, the aeronautics division and the division of highways and the division of mass transit" and inserting in place thereof the following words:- department and its divisions.

SECTION 42. Said section 28 of said chapter 6C, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

To provide a full accounting, the report shall also provide information relative to expenditures by the department and its divisions including operating and capital expenditures. In addition to the above-referenced expenditures, the report shall also detail the overall expenditures for commuter rail, rapid transit, water transportation; regional transit services; the statewide road and bridge program, the chapter 90 program, so called, which funds town and county ways; the accelerated bridge program until its conclusion, and any other capital programs administered by the department.

SECTION 43. Said chapter 6C, as so appearing, is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

SECTION 29. (a) There shall be within the department an office of the secretary, which shall be under the supervision, direction, and control of the secretary. The secretary shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The secretary shall act as the executive officer in all matters pertaining to the

administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, agencies, commissions, offices, boards, divisions, and other agencies within the department. The secretary shall serve at the pleasure of the governor, shall receive such salary as may be determined by law, and shall devote his full time to the duties of his office. In the case of an absence, disability, or vacancy in the office of the secretary the Governor may designate an acting secretary to serve as secretary until the vacancy is filled or the absence or disability ceases. The acting secretary shall have all the powers and duties of the secretary and shall have similar qualifications as the secretary.

(b) The department shall contain the following administrative units: the highway division, the rail and transit division, the aeronautics division, and the registry of motor vehicles division. The Massachusetts Bay Transportation Authority and any regional transit authorities established under chapter 161 or 161B of the General Laws shall be within the jurisdiction of the department.

(c) The secretary shall, notwithstanding the provisions of chapter 31 and section 9A of chapter 30 and subject to the approval of the governor, appoint 4 administrators: 1 of whom shall be the administrator for highways and shall be a person of skill and experience in the fields of highway management and public works; 1 of whom shall be the administrator for rail and transit and shall be a person of skill and experience in the fields of rail transportation or mass transit; 1 of whom shall be the administrator for aeronautics and shall be a person of skill and experience in the field of aeronautics; and 1 of whom shall be the administrator for motor vehicle enforcement, who shall also be known as the registrar of motor vehicles, and shall be a person of skill and experience in management and motor vehicle law. Each administrator shall receive such salary as the secretary shall determine in accordance with section 46C of chapter 30 and subject to the approval of the board, and shall devote his full time to the duties of his office.

(d) Subject to appropriation and consistent with subsection (e), the secretary may appoint such persons as he shall deem necessary to perform the functions of the department; provided, however, that section 9A of chapter 30 and chapter 31 shall not apply to any person holding any such appointment. Every person so appointed to any position in the department shall have experience and skill in the field of such position. So far as practicable in the

judgment of the secretary, appointments to such positions in the department shall be made by promoting or transferring employees of the department or of the commonwealth serving in positions which are classified under said chapter 31, and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under said chapter 31 or in which an employee has tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within this office which is not subject to the provisions of said chapter 31, the employee shall upon termination of his service in such position be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering said chapter 31. Such restoration shall be made without impairment of his civil service status or tenure under said section 9A of said chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled him. During the period of such appointment, each person so appointed from a position in the classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

(e) The secretary shall collaborate with other state agencies to reduce greenhouse gas emissions to achieve the greenhouse gas emission limits established in chapter 21N.

SECTION 44. Said chapter 6C, as so appearing, is hereby amended by striking out section 30 and inserting in place thereof the following section:-

SECTION 30. (a) The office of the secretary shall serve as the principal agency of the executive department for the following purposes: (1) developing, coordinating, administering and managing transportation policies, planning and programs related to design, construction, maintenance, operations and financing; (2) supervising and managing the organization and conduct of the business affairs of the divisions, agencies, commissions, offices, boards, divisions, and other entities within the department to improve administrative efficiency and program effectiveness and to preserve fiscal resources; (3) developing and implementing effective policies and programs to assure the coordination and quality of roadway, transit, airport and port infrastructure and security provided by the secretary and all of the divisions, agencies, commissions, offices, boards, divisions, authorities and other entities within the

department.

(b) Subject to the approval of the board the secretary may: (1) operate and administer the programs of roadway design, construction, repair, maintenance, capital improvement, development, and planning through the highway division and other agencies within the department, as appropriate; (2) coordinate and supervise the administration of the department and its agencies to promote economy and efficiency and to leverage federal funding; (3) develop, in consultation with the commonwealth development coordinating council, and administer a long-term state-wide transportation plan for the commonwealth that includes planning for intermodal and integrated transportation; (4) develop, based on a public hearing process, procedures to be used for transportation project selection; (5) establish criteria for project selection to be used in the procedures developed pursuant to clause (4); (6) enter into agreements with commissions, offices, boards, divisions, authorities and other entities within the department to improve divisions, agencies, administrative efficiency and program effectiveness and to preserve fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the department and agencies within the department; (8) execute all instruments necessary for carrying out the business of the department and its agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of the department and its agencies; (10) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the department or its agencies; and (11) apply for and accept funds, including grants, on behalf of the commonwealth in accordance with applicable law. The secretary may delegate any of the foregoing powers to an officer having charge of a division, office, or other administrative unit within the department.

SECTION 45. Said chapter 6C, as so appearing, is hereby amended by striking out section 31 and inserting in place thereof the following section:-

SECTION 31. The secretary may from time to time establish within the department such administrative units and divisions as may be necessary for the efficient and economical administration of the department, and when necessary for such purpose, may abolish any such administrative unit or division, or may merge any 2 or more units, as the secretary deems

advisable. The secretary shall prepare and keep current a statement of the organization of the department, of the assignment of its functions to its various administrative units and divisions, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the department's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

SECTION 46. Section 33 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 8, the words “of transportation”.

SECTION 47. Said section 33 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 8, the words “of transportation for mass” and inserting in place thereof the following words:- for rail and.

SECTION 48. Section 34 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 6 to 7 and 11, the words “Massachusetts Department of Transportation” and inserting in place thereof, in each instance, the following word:- department.

SECTION 49. Said section 34 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 10, the first time it appears, the word “be”.

SECTION 50. Said section 34 of said chapter 6C, as so appearing, is hereby further amended by inserting, in line 12, after the words “mass transit” the following words:- funded by Commonwealth financing.

SECTION 51. Said chapter 6C, as so appearing, is hereby amended by striking out section 36 and inserting in place thereof the following section:-

SECTION 36. As used in sections 37 to 50, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Division’, the highway division.

‘Administrator’, the administrator for the highway division.

SECTION 52. Section 37 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 1-2, the words “division of highways” and inserting in place thereof the following words:- highway division.

SECTION 53. Said section 37 of said chapter 6C, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to transportation infrastructure, including roads and bridges, such as the construction, operations or financing thereof, or such other relevant experience to assist in the efficient exercise of his powers and duties. The administrator shall administer this section and the General and Special Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

SECTION 54. Section 39 of said chapter 6C, as so appearing, is hereby amended by striking out the last sentence in paragraph (a).

SECTION 55. Said section 39 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 24-27, the words “a general counsel to serve in the office of the administrator; a director to serve in the division of administrative services; 4 executive assistants to the administrator; a personnel director; a director of the right of way bureau; and a director of public information” and inserting in place thereof the following words:- paragraph (b) and inserting in place thereof the following paragraph:- 4 executive assistants to the administrator; and a director of the right of way bureau.

SECTION 56. Section 40 of chapter 6C, as so appearing, is hereby amended by striking out the last sentence of the first paragraph.

SECTION 57. Section 41 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 6-7, the words “The number of persons employed in the division as highway engineer interns shall at not time exceed 7, nor may such highway” and inserting in place thereof the following paragraph word:- Highway

SECTION 58. Said section 41 of said chapter 6C, as so appearing, is hereby further amended by inserting, after the word “division” in line 8, the following word:- shall

SECTION 59. Said section 41 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 40, the word “providing” and inserting in place thereof the following word:- provided.

SECTION 60. Section 43 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 11, the word “council” and inserting in place thereof the following word:- board.

SECTION 61. Said section 43 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 22, the words “of the Massachusetts Department of Transportation”.

SECTION 62. Said chapter 6C, as so appearing, is hereby amended by striking out section 44 and inserting in place thereof the following section:-

SECTION 44. (a) The division may provide functional replacement of real property in public ownership whenever the division has acquired such property, in whole or in part, under this chapter or when such property is significantly and adversely affected as a result of the acquisition of property for a highway or highway-related project and whenever the division determines that functional replacement is necessary and in the public interest. For the purposes of this section, "functional replacement" shall mean the replacement, pursuant to chapter 7, requiring authorization of the general court prior to disposition of real property, including either land or facilities thereon, or both, which shall provide equivalent utility, For the purposes of this section “real property in public ownership” shall mean any present or future interest in land, including rights of use, now existing or hereafter arising, held by an agency, authority, board, bureau, commission, department, division or other unit, body, instrumentality or political subdivision of the commonwealth. This section shall not constitute authorization by the general court as required by said chapter 7.

(b) Whenever the division determines it is necessary that a utility or utility facility, as defined under federal law, be relocated because of construction of a project which is to be reimbursed federally, in whole or in part, or which is to be paid by the commonwealth, in whole or in part, such facility shall be relocated by the division or by the owner thereof in accordance with an order from the division. Failure to comply with an order from the division shall be subject to enforcement under chapter 81. The division shall reimburse the owner of such utility or utility facility for the cost of relocation subject to the limitations in subsection (e) and in accordance with the following formula: for any utility facility that is to be reimbursed federally, in whole or in part, and for any utility facility that does not qualify for federal reimbursement, the division shall reimburse the owner at least 50 per cent of the costs of relocating the utility facility.

(c) Any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to sections 26 to 27F inclusive of chapter 149.

(d) Notwithstanding any general or special law to the contrary, any utility facility that is required to be relocated because of the construction of a project federally funded under the Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated temporarily above ground during the construction of the project.

(e) A utility relocation shall be eligible for reimbursement under this section only if it is completed to the satisfaction of the division within target dates established by the division and in accordance with design criteria set forth by the division for the relocation in a manner that facilitates the timely completion of the affected project.

SECTION 63. Section 45 of said chapter 6C, as so appearing, is hereby amended by striking out said section and inserting in place thereof the following section:-

SECTION 45. Notwithstanding clause (e) of section 44 or any other general or special law to the contrary, the commonwealth may reimburse the owner of an underground utility or utility facility whenever such underground utility or utility facility has been relocated because of construction of a project which is to be reimbursed federally in whole or in part. The reimbursement authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the federal government.

SECTION 64. Section 46 of said chapter 6C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

In addition to any other power the department may have to enter into leases, the department may lease, at 1 time or from time to time, for terms not to exceed 99 years, upon such terms and conditions as the department in its discretion deems advisable, air rights over land owned or held by the department, including rights for support, access, utilities, light and air for such purposes as, in the opinion of the department, shall not impair the construction, full use, safety, maintenance, repair, operation or revenues of transportation facilities under its ownership or control; provided, however, that any such lease for a period of 40 years or more shall be subject to the approval of the governor. Any lease granted under this section may, with

the consent of the department, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

SECTION 65. Said section 46 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 18 to 19, the words “the turnpike or the metropolitan highway system” and inserting in place thereof the following words:- transportation facilities under its ownership or control

SECTION 66. Section 46A of said chapter 6C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

In addition to any other power the department may have to enter into leases, the department may lease at 1 time or from time to time for terms not to exceed 99 years, upon such terms and conditions as the department in its discretion deems advisable, land owned or held by the department and no longer required for the maintenance, repair, reconstruction, improvement, use, administration or operation of the transportation facilities under its control; provided, however, that any such lease for a period of 40 years or more shall be subject to the approval of the governor. Any lease granted under this section may, with the consent of the department, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be foreclosed by appropriate action.

SECTION 67. Section 47 of said chapter 6C is hereby repealed.

SECTION 68. Section 48 of said chapter 6C is hereby repealed.

SECTION 69. Said chapter 6C, as so appearing, is hereby further amended by striking out section 51 and inserting in place thereof the following section:-

SECTION 51. As used in sections 52 to 54, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Division”, the rail and transit division.

“Administrator”, the administrator for the rail and transit division.

SECTION 70. Section 52 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 1, the words “Mass Transit” and inserting in place thereof the following words:- rail and transit.

SECTION 71. Said section 52 of said chapter 6C, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to rail transportation and mass transit, including the development of rail and transit properties and infrastructure, and the operations or financing thereof, or such other relevant experience to assist in the efficient exercise of his powers and duties. The administrator shall administer this section and the General and Special Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

SECTION 72. Section 54 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 6-8, the words “; provided, however, that the administrator shall establish the following units: highway engineering, highway construction and highway maintenance”.

SECTION 73. Said section 54 of said chapter 6C, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 74. Section 55 of said chapter 6C, as so appearing, is hereby amended by striking out said section and inserting in place thereof the following section:-

Section 55. As used in sections 56 to 57, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Registry”, the registry of motor vehicles division.

“Administrator”, the administrator for the registry of motor vehicles division, who shall also be known as the registrar of motor vehicles.

SECTION 75. Section 56 of said chapter 6C, as so appearing, is hereby amended by striking out the first two sentences of the first paragraph and inserting in place thereof the following two sentences:-

There shall be within the department a registry of motor vehicles division, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over motor vehicles. The registry shall be under the supervision and control of the administrator.

SECTION 76. Said section 56 of said chapter 6C, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to motor vehicle laws, or by reason of his training, experience, capacity, and interest in the field of administration or administering the laws relating to motor vehicles, or such other relevant experience to assist in the efficient exercise of his powers and duties. The administrator shall administer this section and the General and Special Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

SECTION 77. Section 57 of said chapter 6C, as so appearing, is hereby amended by striking out the last sentence.

SECTION 78. Section 58 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 5, the word "of transportation for aeronautics" and inserting in place thereof the following words"- for the aeronautics division.

SECTION 79. Section 59 of said chapter 6C, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The administrator shall be exempt from chapter 31 and the position of administrator shall be classified in accordance with section 45 of chapter 30. The administrator shall be appointed with due regard to his fitness, by reason of his experience in matters relating to aviation, including aeronautical training and practical experience and knowledge of aeronautics, or such other relevant experience to assist in the efficient exercise of his powers and duties.

The administrator shall administer this section and the General and Special Laws, rules and regulations that grant powers to or impose duties upon the division, subject to the supervision of the secretary.

SECTION 80. Said chapter 6C, as so appearing, is hereby further amended by inserting the following two sections:-

SECTION 60A. The division, with the approval of the secretary, shall have the authority to promulgate rules, regulations, orders, and directives for establishing security standards for all Airports and restricted landing areas in the commonwealth, so long as such standards are not contrary to or inconsistent with mandatory federal security standards. The division may cooperate with other local, state, and federal authorities in matters of security, including the sharing of information, for the protection of the commonwealth and national security interests.

Each public-use Airport, through its manager, shall prepare an Airport Security Plan that must be submitted to and approved by the division. The Airport Security Plan shall be developed under guidelines and regulations issued by the division through security directives. An Airport Security Plan submitted and approved by the federal Transportation Security Administration in accordance with federal law shall be considered sufficient to comply with the requirements of this section.

The Airport Security Plan shall be considered Sensitive Security Information under Title 49 of the Code of Federal Regulations Part 1520 and shall not be subject to disclosure under the Public Records Act.

Any authorized representative of the division shall be permitted to inspect any Airport, airfield, restricted landing area, aviation facility, hangar, or aircraft for the purpose of determining compliance with security standards established by the division.

The division shall be authorized to access Criminal Offender Record Information and to order and receive background checks completed by the Department of State Police on its employees, appointees, agents, and persons with whom the division enters into a contract, agreement, certification, or license.

SECTION 60B. (a) The division shall have the authority to issue civil citations and to impose and collect fines and to impose other penalties for violation of aeronautics laws contained in

sections 35 to 52, inclusive, of chapter 90, including any rules and regulations established by the division. The administrator, or his or her designee, after determining that a violation has occurred, is authorized to cite the offender for such violation by issuing a civil citation.

(b) The administrator, or his or her designee, shall request, and the offender shall provide, the offender's name, address and a form of identification. If the infraction involves the operation of an aircraft, the administrator, or his or her designee, shall request the examination of the offender's current airman and medical certificates, if applicable, as well as an examination of the aircraft, if any, involved in the violation.

(c) The administrator, or his or her designee, shall issue a written citation to the offender at the time and place of the violation, if possible, and the offender shall sign the citation acknowledging its receipt. If it is not possible to serve the offender with a citation at the time of the infraction, the administrator, or his or her designee, shall mail a copy of the citation, by certified mail, return receipt requested, to the offender at the offender's last known address, within 10 working days of the date the citation was issued.

(d) If the administrator, or his or her designee, is unable to identify the offender, a citation shall be sent to the registered owner of the aircraft involved in the violation as appearing on the records of the division or the Federal Aviation Administration. The issuance of the citation shall be deemed to be sufficient notice to the alleged offender. Proof of registration shall be prima facie evidence that the registrant is the offender.

(e) Each citation served shall include, (1) the name and address of the offender and the federal registration number of the aircraft involved, if any; (2) date, time and place of the offense; (3) description of the offense alleged; (4) signature of the administrator, or his or her designee, issuing the citation; (5) amount of penalty derived from a schedule established by the division and promulgated by statute or regulation; (6) instructions and time limits for paying the penalty; and (7) procedures for requesting a non-criminal hearing.

(f) The offender shall remit full payment of the penalty within 30 days of the date of the citation, by mailing or delivering a bank check or money order payable to the commonwealth at the address stated on the citation. Payment in full of the specified penalty and any late payment penalty shall operate as final disposition of the matter and no record shall be

entered in any criminal or probation records of the court. Late payment charges in the amount of 10% of the penalty shall be assessed, in addition to the penalty, for each 30 days, or part thereof, while the citation is unpaid.

(g) In lieu of initial payment, the offender may request, in writing within 30 calendar days from the date of the citation, a non-criminal hearing to be held before the administrator, or his or her designee. All hearings shall comply with chapter 30A of the General Laws.

(h) The administrator, or his or her designee, shall issue an adjudicatory decision for or against the offender. If the offender is found liable, the administrator, or his or her designee, shall require the offender to pay, within 21 calendar days from the date of the finding or a longer time as may be determined by the administrator, or his or her designee, an amount not to exceed the scheduled penalty established for the offense by regulation or statute.

(i) If the offender fails to timely render payment of the citation, fails to timely request a hearing, fails to appear for a scheduled hearing or fails to render payment of the citation upon an order of the court, the division may seek a criminal complaint against the offender without conducting a preliminary hearing pursuant to section 35A of chapter 218 of the General Laws.

(j) All fees, fines, and penalties collected by the division shall be deposited into the Massachusetts Transportation Trust Fund, established in section 4 of this chapter.

SECTION 81. Section 61 of said chapter 6C, as so appearing, is hereby amended by striking out the last sentence.

SECTION 82. Section 62 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 33, 40, 58, 90, 102, and 106, the figure “61” and inserting in place thereof, in each instance, the following figure:- 62

SECTION 83. Section 63 of said chapter 6C, as so appearing, is hereby amended by inserting the following subsection:-

(d) Sections 62-73 shall only apply to public-private agreements valued above $100,000,000.00.

SECTION 84. Said section 63 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 4, the figure “70” and inserting in place thereof the following figure:- 73.

SECTION 85. Said section 63 of said chapter 6C, as so appearing, is hereby further amended by striking out, in line 13, the words “section 39M”.

SECTION 86. Section 68 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 17, the figures “57 to 70” and inserting in place thereof the following figure:- 62 to 73.

SECTION 87. Section 69 of said chapter 6C, as so appearing, is hereby amended by striking out, in line 1, the figure “26” and inserting in place thereof the following figure:- 27.

SECTION 88. Section 73 of said chapter 6C, as so appearing, is hereby amended by striking out, in lines 5 to 7, the words “none of whom shall be employees of the executive branch or members or employees of the legislature for a period of at least 2 years prior to his appointment. The commission” and inserting in place thereof the following word:- which

SECTION 89. Said section 73 of said chapter 6C, as so appearing, is hereby further amended by striking out, in lines 68 and 71, the words “57 to 60, inclusive” and inserting in place thereof the following figures:- 52 to 55, inclusive, of chapter 7.

SECTION 90. Sections 4C, 4D, 4E, 4F, and 4G of chapter 16 of the General Laws, as appearing in the 2010 Official Edition, are hereby repealed.

SECTION 91. Section 1 of chapter 19 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 52, the word “highways” and inserting in place thereof the following word:- transportation.

SECTION 92. Section 1 of chapter 19B of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 45, the word “highways” and inserting in place thereof the following word:- transportation.

SECTION 93. Section 11A of chapter 21A of the General Laws, as appearing in the 2010 Official Edition, is hereby by striking out, in line 1, the words “office of planning and programming” and inserting in place thereof the following words:- department of transportation.

SECTION 94. Section 3I of chapter 23A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in line 6, the words “office of planning and programming and construction” and inserting in place thereof the following words:- department of transportation.

SECTION 95. Said section 3I of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 18-19, the words "executive office of transportation and public works" and inserting in place thereof the following words:- department of transportation.

SECTION 96. Section 3I of said chapter 23A, as so appearing, is hereby amended by striking out, in line 30, the words "executive office of transportation and public works" and inserting in place thereof the following words:- department of transportation.

SECTION 97. Section 39G of chapter 30 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "retainage", in lines 25, 26, and 64, each time it appears, the following words:- , if held by the awarding authority,

SECTION 98. Section 1 of chapter 81 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the words "division of highways" and inserting in place thereof the following words:- highway division of the department of transportation, established pursuant to chapter 6C of the General Laws.

SECTION 99. Chapter 89 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 4C the following section:-

Section 4D. Notwithstanding the provisions of section 4A of this chapter, when any way has been divided into lanes, the driver of a commercial motor vehicle as defined in section 1 of chapter 90F, shall so drive that the vehicle shall be entirely within a single lane and he shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety. A violation of this section shall be deemed an 'improper or erratic lane change' as included within the definition of "serious traffic violation" in section 1 of chapter 90F.

SECTION 100. Chapter 90 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 2I the following section:-

SECTION 2J. The registrar may refuse to register, and may suspend or revoke if already registered, a commercial motor vehicle if he has received notice, in any form which the registrar deems appropriate, including electronic transmissions, that the commercial motor carrier attempting to register a commercial motor vehicle has been prohibited from operating in interstate commerce by a Federal agency with authority to do so under Federal law.

SECTION 101. Section 7A of Chapter 90 of the General Laws, as so appearing, is hereby amended in the seventh paragraph by striking the third sentence and inserting in place thereof the following new sentences:-

Amounts credited to said fund shall be expended at the direction of the registrar in consultation with said commissioner, without further appropriation; provided, however, that any such expenditures shall ensure that the costs of the implementation, administration, oversight and enforcement of the inspection program instituted by the registrar pursuant to this chapter are offset by the fund. Amounts credited to said fund in excess of the program costs may be transferred to the Massachusetts Transportation Trust Fund to be used for any other expense of the registry of motor vehicles and the Massachusetts department of transportation necessary to carry out its purposes.

SECTION 102. Section 7D of said chapter 90, as so appearing, is hereby amended by striking out, in line 2, the following "(13), and (16)" and inserting in place thereof the following figures:- (13), (16), and (17).

SECTION 103. Said chapter 90, as so appearing, is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

SECTION 15. (a) Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red lights which flash as a warning, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating

any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately one thousand five hundred feet of a highway crossing shall emit a warning signal audible from such distance.

(b) In addition to the above, an operator of a commercial motor vehicle who has a commercial driver license or who is required to have a commercial driver license, including the operator of a school bus, who fails to take the appropriate action as provided in subparts (1) through (6) of this subsection when approaching a railroad grade crossing shall be subject to the penalties contained in this section and the periods of disqualification contained in Section 9(I) of chapter 90F. The violations are:

(1) the operator is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train;

(2) the operator is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear;

(3) the operator is always required to stop, but fails to stop before driving onto the crossing;

(4) the operator fails to have sufficient space to drive completely through the crossing without stopping;

(5) the operator fails to obey a traffic control device or the directions of an enforcement official at the crossing; or

(6) the operator fails to negotiate a crossing because of insufficient undercarriage clearance.

Whoever violates any provisions of this section and is operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo,

shall be punished by a fine of not less than $500 or by being required to perform a total of 100 hours of community service which may include service in the operation lifesaver program. All other persons violating the provisions of this section not operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $100 nor more than $200 or by being required to perform a total of 50 hours of community service which may include service in the operation lifesaver program.

SECTION 104. Said chapter 90, as so appearing, is hereby further amended by inserting after section 22 the following section:-

SECTION 22½. The registrar may, after due hearing, suspend or revoke the certificate of registration of any commercial motor vehicle issued under this chapter if the registrar receives notice in any form which the registrar deems appropriate, including electronic transmissions, that the commercial motor carrier responsible for its safety has been prohibited from operating in interstate commerce by a Federal agency with authority to do so under Federal law. Notice to the registrant shall be as provided in subsection (d) of section 22 of chapter 90.

SECTION 105. Said chapter 90, as so appearing, is hereby amended by striking out the first paragraph of section 24B and inserting in place thereof the following paragraph:-

Whoever falsely makes, steals, alters, forges or counterfeits or procures or assists another to falsely make, steal, alter, forge or counterfeit a registration plate, a learner's permit, a license to operate motor vehicles, an identification card issued under section 8E, a special parking identification disability placard, a certificate of registration of a motor vehicle or trailer, an inspection sticker, a registration plate validation decal, a certificate of registration of a motorized bicycle, a registration decal sticker for a motorized bicycle, or a professional driving instructor’s license, or whoever forges or without authority uses the signature, facsimile of the signature, or validating signature stamp of the registrar or deputy registrar upon a genuine, stolen or falsely made, altered, forged or counterfeited learner's permit, license to operate motor vehicles, certificate of registration of a motor vehicle or trailer, a certificate of registration of a motorized bicycle, or an inspection sticker, or whoever has in his possession, or utters, publishes as true or in any way makes use of a falsely made, stolen,

altered, forged or counterfeited registration plate, learner's permit, license to operate motor vehicles, an identification card issued under section 8E, a special parking identification disability placard, a certificate of registration of a motor vehicle or trailer, an inspection sticker, a registration plate validation decal, a certificate of registration of a motorized bicycle, a registration decal sticker for a motorized bicycle, or a professional driving instructor's license, and whoever has in his possession, or utters, publishes as true, or in any way makes use of a falsely made, stolen, altered, forged or counterfeited signature, facsimile of the signature or validating signature stamp of the registrar or deputy registrar, shall be punished by a fine of not more than 500 hundred dollars or by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2 years.

SECTION 106. Said chapter 90, as so appearing, is hereby amended by striking out sections 35, 35A, 35B, and 35C and inserting in place thereof the following sections:-

SECTION 35. The following words and phrases used in sections 35 to 52, inclusive, shall have the following meanings, unless a different meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the general court:—

"Administrator" or "director", administrator for aeronautics appointed by the secretary of transportation pursuant to section 29 of chapter 6C of the General Laws.

"Aeronautics", transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories; the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports, restricted landing areas or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

"Aeronautics instructor", any person who for hire engages in giving instructions or offering to give instruction in flying or ground subjects pertaining thereto.

"Air navigation facility", any facility, other than one owned or controlled by the federal government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area, and any combination of any or all of such facilities.

"Air school", (1) any aeronautics instructor who is duly certified and maintains a pilot certificate in accordance with Federal Aviation Administration regulations and advertises, represents, or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto; and (2) any person who advertises, represents or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto, whether for or without hire.

"Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

"Airport", any area of land or water other than a restricted landing area, which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"Airport Hazard", any structure, object of natural growth or use of land which obstructs the air space required for the flight of aircraft navigating in an approach area for the purpose of landing, taking off or transiting an airport or restricted landing area.

"Airman", any person who engages, as the person in command, or as pilot, mechanic or member of the crew, in the navigation of aircraft while under way, and any person who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances, and any person who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator; but does not include any person employed outside the United

States, or any person employed by a manufacturer of aircraft, aircraft engines, propellers or appliances, to perform duties as inspector or mechanic in connection therewith, or any person performing inspection or mechanical duties in connection with aircraft owned or operated by him.

"Airworthy", an aircraft that conforms to its Federal Aviation Administrator type design and certification and in a condition safe for operation.

"Citation", a notice to an offender upon which the administrator, or his or her designee, shall record one or more civil infractions which are to be disposed of under procedures in section 60B of chapter 6C of the General Laws.

"Civil aircraft", any aircraft other than a public aircraft.

"Civil infraction", a violation of any statute, regulation, rule or directive that is to be disposed of under the civil procedures in this chapter.

"Civil penalty", the monetary amount scheduled as payment for a civil infraction.

"Dealer in aircraft" or "aircraft dealer", any person who engages in a business in which a substantial part consists of the manufacture, sale, or exchange of aircraft.

"Division", the aeronautics division of the department of transportation, established in section 59 of chapter 6C of the General Laws.

"Federal Aviation Administration", the Federal Aviation Administration of the United States Department of Transportation, or its successor entity.

"General Aviation", the section of the aviation industry that excludes both military and commercial passenger transport. Examples of General Aviation include private flying, air charter, flight training, air ambulance, and gliding.

789 “Navigable Air Space”, airspace at and above the minimum flight altitudes as
790 prescribed by the Federal Aviation Administration, including airspace needed for safe takeoff
791 and landing.

792 “Offense”, a violation of sections 35 to 52, inclusive, of chapter 90 of the General
793 Laws, or any directives issued or regulations promulgated, by the division.

794 “Operation of aircraft” or “operate aircraft”, the use, navigation or piloting of aircraft
795 in the air space over the Commonwealth or upon any airport within the Commonwealth. Any
796 person who causes or authorizes the operation of aircraft, whether with or without the right of
797 legal control, in the capacity of owner, lessee or otherwise, of the aircraft, is deemed to be
798 engaged in the operation of aircraft.

799 “Public aircraft”, an aircraft used exclusively in the service of any government or of
800 any political subdivision thereof, including the government of any state, territory or possession
801 of the United States, or the District of Columbia, but not including any government-owned
802 aircraft engaged in carrying persons or property for commercial purposes.

803 “Person”, any individual, firm, partnership, corporation, company, association, joint
804 stock association; and includes any trustee, receiver, assignee or other similar representative
805 thereof.

806 “Restricted landing area”, any area of land or water other than an airport which is
807 used, or is made available, for the landing and take-off of aircraft; provided, that the use of
808 such an area meets minimum standards for aircraft operations on land or water as established
809 by the division.

810 SECTION 35A. (a) The safety, welfare and protection of persons and property in the air and
811 on the ground requires that the navigable air space overlying the Commonwealth in the
812 approaches to, and the air traffic pattern area of, airports approved by the division be
813 maintained in a reasonably unobstructed condition for the safe flight of aircraft, and therefore,

in the exercise of the police power, the location and height of structures and the use of land thereto related is regulated as provided in sections 35B to 35D, inclusive of this chapter.

(b) Airport Vegetation Management Projects (VMP), including those relating to airports owned or operated by the Massachusetts Port Authority, that are required for public safety reasons to comply with Federal Aviation Administration and division regulations, orders, or advisories to prevent vegetation from penetrating an airport approach or safety surface, shall be exempt from regulation by any local wetlands authority and from any local ordinance or by-law and from any rule, regulation, or order of any municipal conservation commission or other board or official that may in any way interfere with such activities. Removal of vegetation in wetlands associated with an airport shall be in compliance with section 40 of chapter 131 of the General Laws and with the limited project provisions provided in 310 CMR 10.00.

(c) If any tree is allowed to grow in such manner as to become an airport hazard or in violation of any regulation adopted by the division, then the division, the administrative agency of a city, city council, or selectmen, as the case may be, may request its owner to remove or trim it so that it will no longer constitute such a hazard, and, if said owner neglects or refuses to comply with such request within sixty days, then said division, administrative agency of a city, city council, or selectmen may enter upon the owner's land and remove or trim said tree. No part of the expense of such removal or trimming shall be charged to the owner of the tree.

SECTION 35B. No person shall construct or alter the height of a structure without a permit issued by the division, if any part of the structure is located within a protected surface associated with a runway of a public-use airport possessing a valid operating certificate issued by the division or the Federal Aviation Administration. A protected surface shall be defined in accordance with any applicable regulations, directives, orders, or advisory criteria promulgated by the Federal Aviation Administration.

The provisions of this section shall not apply (1) to areas subject to airport approach regulations adopted pursuant to sections forty A to forty I, inclusive, (2) to air approaches to the General Edward Lawrence Logan International Airport, nor (3) to structures which will be thirty feet or less in height above ground.

SECTION 35C. All permit applications shall be made to the division on forms developed by said division. If such application is granted, the permit shall specify the location of such structure or a defined area within which it shall be located, its maximum height, and, in conformity with federal laws and regulations in so far as applicable, the obstruction markers, marking, lighting or other visual identification characteristics to be installed thereon or in its vicinity. If not inconsistent with federal laws and regulations, the permit may require that lights flash at intervals and in a specified pattern.

If such application is denied pursuant to the division's airspace review criteria, notice thereof shall be given the applicant by certified mail at the address specified in the application. The applicant may, within twenty days thereafter, file a written request with the division for a public hearing. Such hearing shall be subject to the provisions of chapter 30A.

SECTION 107. Section 35D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 4 and 10, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 108. Section 39 of said chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 1, 3, 4, 6, 12, 22-23, and 29, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 109. Section 39A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1, 4, 7, 12, 15, and 18, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 110. Said chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 39B and inserting in place thereof the following section:-

Section 39B. (a) Each city or town before acquiring any property within the Commonwealth for the purpose of establishing, constructing, enlarging or improving thereon an airport or restricted landing area, shall apply to the division for a certificate of approval of the site. Before granting a certificate of approval for an airport or restricted landing area, the division may, and upon the request of a resident of such city or town shall, hold a public hearing in the city or town where such airport or restricted landing area is to be located and at least seven

days' notice of such hearing shall be published by the division in a newspaper of general circulation in such city or town. The administrator is authorized to hold such a hearing.

(b) No such certificate of approval of a site for an Airport or restricted landing area shall be issued by the division if such Airport or area is situated on any lake or pond outside the metropolitan area, unless such site has previously been approved by the mayor and city council of the city, or at an annual or special town meeting of the town, within which the same is located.

(c) All Airports, restricted landing areas, and air navigation facilities shall conform to plans and specifications approved by the division and shall not be in conflict with the state airport plan and no such Airport, restricted landing area or air navigation facility shall be maintained or operated unless a certificate of approval of the maintenance and operation thereof is granted and is continued in force by the division; provided, that no such certificate of approval with respect to a restricted landing area or air navigation facility on which public funds have been expended shall confer an exclusive right for the use thereof.

(d) Paragraphs (a), (b), and (c) of this section shall not apply to restricted landing areas designed for non-commercial private use, nor to any airport, restricted landing area or other air navigation facility owned or operated within the commonwealth by the federal government; provided, that each person constructing or maintaining a restricted landing area for non-commercial private use shall so inform the division in writing; and provided, further, that such person shall construct and maintain said restricted landing area designed for non-commercial private use in such manner as shall not endanger the public safety.

(e) A city or town in which is situated the whole or any portion of an airport, restricted landing area, or a restricted landing area for non-commercial private use may, as to so much thereof as is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft on said airport, restricted landing area, or restricted landing area for non-commercial private use. Such rules and regulations, ordinances or by-laws shall be submitted to the division and shall not take effect until approved by the division.

(f) All approvals or licenses of airports or restricted landing areas granted by the division prior to the effective date of this section shall remain in effect, unless otherwise conflicting with the state airport plan, any provision of sections 35 to 52, inclusive, or rules and regulations promulgated by the division or the Federal Aviation Administration.

SECTION 111. Section 39C of said chapter 90, as so appearing, is hereby amended by striking out, in lines 1 and 5, the word "commission" and inserting in place thereof, in each instance, the following word:- division.

SECTION 112. Section 39E of said chapter 90, as so appearing, is hereby amended by striking out, in line 1, the word "commission" and inserting in place thereof the following word:- division.

SECTION 113. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 39F inserting in place thereof the following section:-

SECTION 39F. Whenever any city or town undertakes, in conformity with the state airport plan, the acquisition, construction, establishment, enlargement, improvement or protection of an airport for a project eligible for applicable federal and state funding and has appropriated sufficient funds, which together with funds available under this section, shall equal at least 5 per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purposes, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

If any such city or town appropriates sufficient funds for a project eligible for applicable federal and state funding, which, together with the funds available under this section, is equal to one hundred per cent of the cost thereof, the state treasurer, at the request of the division, shall pay to or reimburse such city or town from such funds as have been appropriated for such purpose, such amount, not exceeding 95 per cent of the cost of such work, as may be determined by the division.

SECTION 114. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 40 and inserting in place thereof the following section:-

SECTION 40. The aeronautics division shall foster air commerce and private flying within the Commonwealth and for such purpose shall: (a) encourage the establishment of airports and air navigation facilities and the development of education in aeronautics; (b) make recommendations as to necessary legislation or action pertaining thereto; (c) consult with the Federal Aviation Administration and other agencies of the federal government in carrying forward research and development in aeronautics; (d) exchange with the said Federal Aviation Administration and with other state governments through existing governmental channels information pertaining to civil air navigation.

The division may: (1) co-operate with the federal government, and with any agency or department thereof, in the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the Commonwealth, and comply with the provisions of federal law, and any rules and regulations made thereunder, for the expenditure of federal funds for or in connection with such airports or other navigation facilities; (2) accept, receive, and receipt for federal funds, and also other funds, public or private, for and in behalf of the Commonwealth or as agent for any subdivision thereof, for the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the commonwealth or such subdivisions, or jointly; provided that, if federal funds are received for such work, such funds shall be accepted upon such terms and conditions as may be prescribed by federal law and any rules and regulations made thereunder; (3) advise and co-operate with any political subdivision of this state or of any other state in all or any matters relating to aeronautics. For such purpose the division may confer with, or hold joint hearings with, any federal or state aeronautical agency in connection with any provision of sections 35 to 52, inclusive.

The division shall enforce sections 35 to 52, inclusive, and all orders, rules and regulations made pursuant thereto and other laws of the Commonwealth relating to aeronautics, and shall have and may exercise for any or all of such purposes such powers and authority as may be reasonably necessary therefor. Every state, county and municipal officer charged with

the enforcement of laws in their respective jurisdiction shall assist and co-operate with the division in such enforcement.

Persons employed as inspectors under the provisions of section 59 of chapter 6 shall have and exercise throughout the Commonwealth all the powers of constables, except the service of civil process, and of police officers, including the power to arrest any person who, in the presence of the inspector making the arrest, commits a breach of the peace which violates any provision of the aviation law as contained in this chapter or the rules and regulations established by the division and they may serve all process issued by the courts with respect to the enforcement of such laws. Any officer authorized to make arrests, providing such officer is in uniform or displaying his badge of office conspicuously on his outer coat or garment, may arrest without a warrant any person who operates an aircraft and who does not have in his possession a license to operate an aircraft, granted by federal authority; or who violates any statute or regulation relating to the operation or control of aircraft; or who operates said aircraft while under the influence of intoxicating liquor; or who refuses to produce a pilot or aircraft license or registration upon request; or who uses an aircraft without authority; or who is a non-resident operator violating any statute or regulation relating to the control of aircraft.

The pilot in command of any aircraft carrying passengers for hire may take such action as is reasonably necessary to restrain any person who interferes with, or threatens to interfere with, the operation of the aircraft.

The person so restrained may be placed in charge of a police officer in the city or town where the aircraft next lands within the Commonwealth, to be taken to a lawful place of detention. Complaint shall be made against the person arrested, by the officer taking him to the place of detention, to a district court having jurisdiction over such offenses committed in the city or town where such person is detained, and such court shall have jurisdiction of the case.

SECTION 115. Section 40A of said chapter 90, as so appearing, is hereby amended by striking out, in line 11, the word “commission” and inserting in place thereof the following word:- division.

SECTION 116. Section 40B of said chapter 90, as so appearing, is hereby amended by inserting after the word “chapter”, in line 2, the following words:- , and approved by the division,

SECTION 117. Chapter 90 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 41 and inserting in place thereof the following section:-

SECTION 41. The administrator may conduct investigations or hearings relative to matters covered by any provision of sections 35 to 52, inclusive, or of any order, rule or regulation of the division, and may conduct investigations relative to any accident involving personal injury occurring in connection with aeronautics within the Commonwealth.

The division shall report to the appropriate federal agency all accidents within the commonwealth, and so far as possible, shall preserve, protect and prevent the removal of the component parts of any aircraft involved in any such accident being investigated by it.

SECTION 118. Said chapter 90, as so appearing, is hereby further amended by striking out section 42 and inserting in place thereof the following section:-

SECTION 42. The superior court shall have jurisdiction to enforce any lawful rule, regulation, or order made by the division or by a city or town under any provision of sections 35 to 52, inclusive, and may compel the attendance of and the giving of testimony by witnesses before the division or any member thereof, in the same manner and to the same extent as before said court.

SECTION 119. Said chapter 90, as so appearing, is hereby further amended by striking out section 44 and inserting in place thereof the following section:-

SECTION 44. Any person failing to comply with any requirement, or violating any provision, of sections 35-52, inclusive, of this chapter, sections 60A or 60B of chapter 6C, or any rules and regulations for the enforcement of said sections made by the division, or airport approach

regulations made by a city or town under section 40A, and in full force and effect, shall be punished by a fine, as established by the division, not to exceed ten thousand dollars, or by imprisonment for not less than one month nor more than six months, or both. Whoever operates an aircraft while under the influence of an intoxicating substance shall be punished by imprisonment for not less than one month nor more than two years.

SECTION 120. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 45 and inserting in place thereof the following section:-

SECTION 45. Any person aggrieved by any rule or regulation promulgated by the division, or by any ruling, decision, or order under any provision of this chapter or chapter 6C may, within thirty days after the effective date of such rule or regulation or within thirty days after such ruling, decision, or order, appeal to the superior court.

SECTION 121. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 46 and inserting in place thereof the following section:-

SECTION 46. Flight of aircraft over the lands and waters of this Commonwealth, within the navigable air space as defined in section 35, shall be lawful unless at such a low altitude as to be imminently dangerous to persons or property lawfully on the land or water beneath.

SECTION 122. Section 47 of said chapter 90, as so appearing, is hereby amended by striking out, in line 4, the words “of navigation”.

SECTION 123. Said section 47 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 6, the words “Civil Aeronautics Authority” and inserting in place thereof the following:- Federal Aviation Administration.

SECTION 124. Said section 47 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 14-16, the words “, nor to glider pilots licensed by the commission in accordance with such regulations as it may prescribe”.

SECTION 125. Section 48 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 8-9, the words “Civil Aeronautics Authority” and inserting in place thereof the following words:- Federal Aviation Administration.

1032 SECTION 126. Said section 48 of said chapter 90, as so appearing, is hereby further amended
1033 by striking out, in lines 15 and 18, the word "commission" and inserting in place thereof, in
1034 each instance, the following word:- division.
1035 SECTION 127. Said section 48 of said chapter 90, as so appearing, is hereby further amended
1036 by striking out, in lines 16 to 17, the words ", nor to glider pilots licensed by the commission
1037 in accordance with such regulations as it may prescribe".
1038 SECTION 128. Chapter 90 of the General Laws, as so appearing, is hereby further amended
1039 by striking out section 49 and inserting in place thereof the following section:-
1040 SECTION 49. Each owner or operator of an airworthy aircraft based in Massachusetts or
1041 dealer in aircraft in Massachusetts shall register said aircraft or federal dealer's aircraft
1042 certificate in such a manner as the division may by regulation prescribe.
1043 (a) Subject to the limitations of paragraphs (b) and (c), every person who owns or
1044 operates an airworthy aircraft shall register the aircraft with the division during each calendar
1045 year in which the aircraft is based within the commonwealth for 60 cumulative days or more.
1046 Every dealer in aircraft shall register a federal dealer's aircraft registration certificate with the
1047 division. The division may charge fees for each such registration certificate and for each
1048 renewal thereof. Further, the division may charge for the registration of each federal dealer's
1049 aircraft registration certificate for each aircraft in the dealer's possession operated solely for the
1050 purpose of sale or demonstration. The amounts of said fees and charges shall be determined
1051 annually by the secretary of administration and finance under the provisions of section 3B of
1052 chapter 7 and published in 801 CMR 4.02. Such fees shall be in lieu of all personal property
1053 taxes on aircraft authorized by any law, ordinance, or by-law. Registration certificates issued
1054 after expiration of the first 6 months of the annual registration period, as prescribed by the
1055 division, shall be issued upon payment of 50 per cent of the annual fee.
1056 If the annual registration fee is not received by the division on or before December 31,
1057 a late fee in an amount determined by the division may be assessed in addition to the specified
1058 annual registration fee. The timely annual registration of all airworthy aircraft and dealers in
1059 aircraft shall be the sole responsibility of aircraft owners and dealers. The deadline for
1060 registration renewal of all airworthy aircraft and for dealer's in aircraft is December 31.

(b) Possession of the appropriate effective federal aircraft certificate or dealer's certificate, and the payment of the appropriate fee as set forth in 801 CMR 4.02, shall be the only requisites for registration of an aircraft or dealer in aircraft.

(c) The provisions of this section shall not apply to: (1) an aircraft owned by, and used exclusively in the service of, any government, including the government of the United States or of any state thereof, or political subdivision thereof, which is not engaged in carrying persons or property for commercial purposes; (2) an aircraft registered under the laws of a foreign country; (3) an aircraft owned by a non-resident and based in another state; (4) an aircraft engaged principally in federally certificated scheduled airline operation having a certificate of public convenience and necessity issued by the Civil Aeronautics Board of the United States or its successor; (5) a person piloting an aircraft engaged principally in federally certificated scheduled airline operation; (6) a person piloting an aircraft owned by, and used exclusively in the service of, any government, including the government of the United States or of any state thereof, or political subdivision thereof, which is not engaged in carrying persons or property for commercial purposes; (7) a person piloting an aircraft registered under the laws of a foreign country; (8) a non-resident piloting aircraft within the commonwealth; (9) a person operating model aircraft; or (10) a person piloting an aircraft equipped with fully functioning dual controls when a properly certificated pilot is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

Section 49A of said chapter 90, as so appearing, is hereby amended by striking out, in lines 4, 7, 8, and 12, the word "commission" each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 130. Section 49B of said chapter 90, as so appearing, is hereby amended by striking out, in lines 25 and 30, the word "commission" each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 131. Section 49C of said chapter 90, as so appearing, is hereby amended by striking out, in lines 1, 6, 10, and 11, the word "commission" each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 132. Section 49D of said chapter 90, as so appearing, is hereby amended by striking out, in lines 2, 8, 10, 18, 46, 52, 53, 55, and 58, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 133. Section 49E of said chapter 90, as so appearing, is hereby amended by striking out, in lines 5 and 6, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 134. Section 49F of said chapter 90, as so appearing, is hereby amended by striking out, in lines 7, 10, 15, 19, 24, 28, and 29, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 135. Section 49G of said chapter 90, as so appearing, is hereby amended by striking out, in lines 1, 5, and 9, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 136. Section 49H of said chapter 90, as so appearing, is hereby amended by striking out, in lines 7, 16, and 18, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 137. Section 49I of said chapter 90, as so appearing, is hereby amended by striking out, in lines 3, 8, 12, and 19, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 138. Section 49J of said chapter 90, as so appearing, is hereby amended by striking out, in lines 4, 11, 12, 18, and 21, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 139. Section 49K of said chapter 90, as so appearing, is hereby amended by striking out, in line 1, the word “commission” and inserting in place thereof, in each instance, the following word:- division.

SECTION 140. Section 49L of said chapter 90, as so appearing, is hereby amended by striking out, in lines 3 and 4, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 141. Section 49M of said chapter 90, as so appearing, is hereby amended by striking out, in lines 2, 3, and 6, the word “commission” each time it appears and inserting in place thereof, in each instance, the following word:- division.

SECTION 142. Section 49P of said chapter 90, as so appearing, is hereby amended by striking out, in line 3, the word “commission” and inserting in place thereof, in each instance, the following word:- division.

SECTION 143. Section 49Q of said chapter 90, as so appearing, is hereby amended by striking out, in line 3, the words “chairman of the commission” and inserting in place thereof the following words:- administrator of the division.

SECTION 144. Said section 49Q of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 13 to 14, the word “commission” and inserting in place thereof the following word:- division.

SECTION 145. Section 50 of said chapter 90, as so appearing, is hereby amended by striking out, in line 13, the words “chairman of the commission” and inserting in place thereof the following words:- administrator of the division.

SECTION 146. Section 51J of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 6 and 9 to 10, the words “Massachusetts aeronautics commission” and inserting in place thereof, in each instance, the following:- division.

SECTION 147. Section 51K of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 2 to 3 and 12 to 13, the word “Massachusetts aeronautics commission” and inserting in place thereof, in each instance, the following:- division.

SECTION 148. Said section 51K of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 4 to 5, the words “said last mentioned commission” and inserting in place thereof the following:- the division.

SECTION 149. Section 51L of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 4-5 and 10, the words “Massachusetts aeronautics division” and inserting in place thereof, in each instance, the following:- division.

SECTION 150. Section 51M of said chapter 90, as so appearing, is hereby further amended by striking out, in line 5, the words “under the ‘drive it yourself’ system, so called” and inserting in place thereof the following:- through a car rental business.

SECTION 151. Said chapter 90, as so appearing, is hereby further amended by striking out section 51N, and inserting in place thereof the following section:-

SECTION 51N. (a) Except to the extent inconsistent with then current law, two or more municipalities, by vote of the city council in a city with the approval of the mayor or by vote of a town meeting in a town, may agree to establish, maintain and operate an Airport as a joint enterprise, in this section referred to as a joint airport. For the purposes of this section, the foregoing authorization, in so far as it relates to the establishment of a joint airport, shall be deemed also to authorize the acquisition, construction, enlargement and improvement thereof, including other action involving capital expenditures in connection with such an airport, all of which action shall be comprehended within the meaning of the words "establish", "establishing" and "establishment", and such authorization, in so far as it relates to the maintenance and operation of such an airport, shall be deemed also to authorize the regulation, protection, policing, alteration or repair thereof, including other action involving expenditures, other than capital expenditures, in connection with such an airport, all of which action shall be comprehended within the meaning of the words "maintain and operate", "maintaining and operating" and "maintenance and operation". Within thirty days after such votes have been passed the mayor and city council of cities and selectmen of towns which have so voted shall meet and draft a tentative agreement covering the contemplated action or actions. Said tentative agreement when completed shall be submitted and may be resubmitted to the director of accounts in the department of corporations and taxation for approval as to its financial provisions and to the division for approval as to its other provisions. The agreement, as approved by the division and said director, shall become effective when agreed to by the mayor and city council of each such city and the town meeting of each such town. Any reference in this section to the mayor of a city shall, in case of a city having a Plan E form of government, be deemed to refer to its city manager.

(b) In addition to the provisions covering the requirements contained in this section, such an agreement shall include, but shall not be limited to, provision for the following:

(1) Establishing a joint airport commission for the purpose of exercising as agent all of the powers relative to the joint airport granted to each participating municipality, specifying the terms of office and compensation of each member of such a commission.

(2) Choice by the joint airport commission of officers of the joint enterprise including a treasurer who may be treasurer of one of the participating municipalities and who shall be custodian of the joint airport fund and shall deposit with the director of accounts a bond running to such municipalities with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties as treasurer of the joint enterprise, in such form and upon such conditions as said director may require. Said director shall cause an audit to be made of the accounts of the joint enterprise and may cause subsequent audits to be made of such accounts annually, and for this purpose he and his duly accredited agents shall have access to all necessary books, papers and records. Upon completion of such audit, copies of the report thereof shall be sent to the treasurer of the joint enterprise and to the mayor, selectmen, and city or town clerk of each participating municipality.

(3) Establishing a joint airport fund into which there shall be deposited the proportionate share of the cost and expenses incident to the establishing, maintaining and operating of the joint airport, all revenues obtained from or on account of the joint airport and all federal, state and other contributions or loans and from which disbursement shall be made by order of the joint airport commission.

(4) Specifying the proportionate interest of each participating municipality in the joint airport and its proportionate share of the cost and expenses and indebtedness incident to the establishing, maintaining and operating thereof, which proportionate interest and share shall be determined on the basis of the taxable valuations of said municipalities as last established by the general court as a basis for state and county taxes or on any other basis agreed upon.

(5) Terminating the joint enterprise and liquidating its affairs.

(6) Amending the agreement, provided that any amendment thereof providing for the enlargement of the joint airport or any alteration or improvement thereof involving capital expenditures shall become effective only when agreed to by the mayor and city council of each participating city and the town meeting of each participating town.

(c) The joint airport commission from time to time shall determine the amounts necessary to be raised to establish the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify said municipalities of such apportionment by sending notice to the mayor, in the case of a city, and to the selectmen, in the case of a town. There shall be no referendum to the voters on any action taken under this paragraph by the legislative body of any participating municipality. In case any such municipality fails to pay over to the treasurer of the joint enterprise the amount of its apportionment within the time specified in the agreement for such payment, the treasurer of such municipality shall forthwith certify such amount to the board of assessors of his municipality who shall include such amount in the tax levy next following the certification, and the amount when raised shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise.

The joint airport commission shall determine the amounts necessary to be raised to maintain and operate the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify the treasurers of said municipalities of such apportionment. Every treasurer so notified shall, annually in December, certify the amount of such apportionment to the board of assessors of his municipality, who shall, unless funds are available from appropriations or otherwise, include such amount in the tax levy of the following year, and the amount of such apportionment shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise within the time specified in the agreement for such payment.

Action by a participating municipality in establishing, maintaining and operating a joint airport shall be authorized to the same extent and subject to the same provisions of law as in the case of like action by such municipality independently with respect to an airport, except as otherwise provided in this section and except that the joint airport commission is authorized to acquire property by eminent domain, purchase or otherwise for purposes of the joint airport in the names of the participating municipalities but only within the territorial limits of such municipalities, and each of such municipalities shall have the same interest in the property so acquired that it has in the joint airport under the agreement.

SECTION 152. Chapter 90 of the General Laws, as so appearing, is hereby further amended by striking out section 52, and inserting in place thereof the following section:-

SECTION 52. If any provision of said sections 35 to 51, inclusive, is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remaining provisions thereof and the application of such provision to other persons and circumstances shall not be affected thereby. These sections, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 153. Section 1 of chapter 90F of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the definition of "Commerce" the following definition:-

"Commercial Driver's License" (CDL), means a license issued in accordance with the standards contained in Federal regulations at 49 C.F.R. Part 383 to an individual which authorizes the individual to operate a class of a commercial motor vehicle.

SECTION 154. Said section 1 of said chapter 90F, as so appearing, is hereby further amended by inserting, in line 18, after the words "'Commercial motor vehicle'," the following:- (CMV).

SECTION 155. Said section 1 of said chapter 90F, as so appearing, is hereby further amended by inserting after the word "probated", in line 39, the following:- ; dispositions under section 24D of chapter 90; dispositions under section 24E of chapter 90; an admission to sufficient facts; a continuance without a finding; assignment to an alcohol or controlled substance

education, treatment or rehabilitation program; refusing to submit to a chemical test or analysis of one's breath or blood; an alcohol concentration in one's breath or blood of 0.04 or more.

SECTION 156. Section 4 of said chapter 90F, as so appearing, is hereby amended by striking out, in line 16, the figure "$11,000" and inserting in place thereof the following figure:- $25,000.

SECTION 157. Section 6 of said chapter 90F, as so appearing, is hereby amended by striking out the third paragraph.

SECTION 158. Said section 6 of said chapter 90F, as so appearing, is hereby further amended by inserting after the last paragraph the following paragraph:-

In addition to the above, no person shall be issued a special license or permit, or a provisional, temporary or hardship license or permit to drive a commercial motor vehicle during a period in which the person is disqualified from operating a commercial motor vehicle or after the person's noncommercial driving privilege has been revoked, suspended or cancelled, or when any type of driver's license held by such person is suspended, revoked or cancelled by the State in which the driver is licensed for any State or local law related to motor vehicle traffic control (other than parking violations). A person shall not be issued a commercial driver license or learner's permit to operate a commercial motor vehicle on a limited basis on the grounds of hardship.

SECTION 159. Section 7 of said chapter 90F, as so appearing, is hereby amended by striking out, in lines 6-7, the words "weight, and eye and hair color" and inserting in place thereof the follow words:- and weight.

SECTION 160. Said section 7 of said chapter 90F, as so appearing, is hereby further amended by striking out subsections (6), (7), (8) and (9) and inserting in place thereof the following subsections:-

(6) certifications, including those required by 49 C.F.R. 383.71(a);

(7) consent of the applicant to release driving record information; and

(8) any other information required by the registrar.

SECTION 161. Said chapter 90F, as so appearing, is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

SECTION 9. (A) Any person, who holds a license to operate a motor vehicle, a license to operate a commercial motor vehicle or is unlicensed, is disqualified from operating a commercial motor vehicle and is prohibited from operating a commercial motor vehicle for a period of not less than 1 year if convicted of a first violation of:

(1) Operating a commercial motor vehicle or a motor vehicle under the influence of alcohol or drugs;

(2) Operating a commercial motor vehicle while the alcohol concentration in the person's blood or breath is 0.04 or more;

(3) Operating a motor vehicle while the alcohol concentration in the person's breath or blood is 0.08 or more;

(4) Leaving the scene of an accident involving a commercial motor vehicle or a motor vehicle driven by the person;

(5) Refusing to submit to a chemical test or analysis of the person's breath or blood after operating a commercial motor vehicle or a motor vehicle;

(6) Using a commercial motor vehicle or a motor vehicle in the commission of a felony as defined in this chapter.

(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CDL is revoked, suspended or canceled, or the driver is disqualified from operating a CMV; or

(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of 3 years.

(B) Any person shall be disqualified for life if convicted of 2 or more violations of any of the offenses specified in subsection (A), or for 2 or more refusals to submit to a chemical test or analysis of the person's breath or blood after operating a commercial motor vehicle or a motor vehicle, or any combination of those offenses, arising from 2 or more separate incidents.

(C) The registrar may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (B) may be reduced to a period of not less than ten years.

(D) Any person shall be disqualified from operating a commercial motor vehicle for life who uses a vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(E) Any person shall be disqualified from operating a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred and twenty days if convicted of three serious traffic violations, committed in the operation of a commercial motor vehicle arising from separate incidents occurring within a three-year period. The one hundred twenty day disqualification period shall be imposed in addition to any other previously imposed period of disqualification.

(E½) (1) Except as provided in subparagraph (2), any person who violates the provisions of an out-of-service order shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than 180 days or more than 1 year for a first violation of an out-of-service order;

(ii) for not less than 2 years or more than 5 years for a second violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period; and

(iii) for not less than 3 years or more than 5 years for a third or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period.

(2) Any person who violates the provisions of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. app. 1801-1813, or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver, shall be disqualified from driving a commercial motor vehicle as follows:

(i) for not less than one hundred and eighty days or more than 2 years for a first violation of an out-of-service order; and

(ii) for not less than 3 years or more than 5 years for a second or subsequent violation of an out-of-service order; provided, however, that such violations arose out of separate incidents during any ten year period.

(3) In addition to the disqualification provided for in subparagraphs (1) and (2), any driver who violates the provisions of an out-of-service order shall be subject to a civil penalty of not less than $2,500 and not more than $5,000.

(F) After suspending, revoking, or cancelling a license to operate a commercial motor vehicle, the registrar shall update its records to reflect such action within ten days. After suspending, revoking or cancelling the privileges of a nonresident operator of a commercial motor vehicle, the registrar shall notify the licensing authority of the state which issued the license or certificate of the nonresident operator of a commercial motor vehicle within ten days.

(G) Pursuant to the provisions of 49 C.F.R. 383.52 or any regulations promulgated by the registrar to reflect the applicable Federal requirements, the registrar shall disqualify from operating a commercial motor vehicle any driver whose driving is determined by the assistant administrator of the Federal Motor Carrier Safety Administration of the United States Department of Transportation, or his designee, to constitute an imminent hazard. The period of disqualification shall not exceed 30 days, unless the assistant administrator or his designee complies with 49 C.F.R. 383.52(c). Any disqualification so imposed must be transmitted by the Federal Motor Carrier Safety Administration to the registrar and shall become a part of the driver's record maintained by the registrar. A driver who is simultaneously disqualified under this subsection and pursuant to any other Federal or state disqualification from holding a commercial driver license shall serve such disqualification periods concurrently.

(H) The registrar may disqualify and reject any application for commercial licensure by any Massachusetts resident holding a non-commercial driver license who has been convicted of a disqualifying event as defined in 49 C.F.R. 383.51 or in regulations promulgated by the registrar to reflect the applicable Federal requirements.

(I) (1) Any person, who holds a license to operate a motor vehicle, a license (CDL) to operate a commercial motor vehicle or is unlicensed, is disqualified

from operating a commercial motor vehicle (CMV) and is prohibited from operating a commercial motor vehicle during the period of disqualification provided in subparagraph (2) below for a violation of any offense committed in a commercial motor vehicle listed in subsection (b) of section 15 of chapter 90 for a railroad crossing violation, in addition to the penalties contained in that section, the violations are:

(i) the operator is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train;

(ii) the operator is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear;

(iii) the operator is always required to stop, but fails to stop before driving onto the crossing;

(iv) the operator fails to have sufficient space to drive completely through the crossing without stopping;

(v) the operator fails to obey a traffic control device or the directions of an enforcement official at the crossing;

(vi) the operator fails to negotiate a crossing because of insufficient undercarriage clearance.

(2) The periods of disqualification are:

(i) For a first conviction a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for no less than 60 days.

(ii) For a second conviction, of any combination of offenses numbered 1-6 above, in a separate incident within a 3-year period a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for no less than 120 days.

(iii) For a third or subsequent conviction of any combination of offenses numbered 1-6 above, in a separate incident within a 3-year period a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for no less than 1 year.

SECTION 162. Section 16 of chapter 149A of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 38-39, the words "highway department," and inserting in place thereof the following:- department of transportation, the Massachusetts bay transportation authority,

SECTION 163. Chapter 159 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out section 101 and inserting in place thereof the following section:-

SECTION 101. Whoever fraudulently evades or attempts to evade the payment of a fare lawfully established by a railroad corporation or railway company, either by giving a false answer to the collector of the fare, or by traveling beyond the point to which he has paid the same, or by leaving the station, train, trolley, car, motor bus, or trackless trolley vehicle without having paid the fare established for the distance traveled, or otherwise, shall forfeit not less than fifty nor more than five hundred dollars. Whoever passes beyond the point where a fare is collected and does not first pay such fare shall not be entitled to be transported for any distance, and may be removed from a railway car, train, trolley, motor bus or trackless trolley vehicle; but no person shall be removed from a car of a railroad corporation except as provided in section ninety-three, nor from a train except at a regular passenger station.

Passengers who fail to pay or prepay the required fare on any vehicle or ferry owned by or operated for the Massachusetts Bay Transportation Authority in violation of this section shall be subject to a noncriminal citation, and may be requested to provide identification to Massachusetts Bay Transportation Authority police or employees within the instructor, chief inspector, or inspector classifications for the purpose of issuing a noncriminal citation. Upon request by a Massachusetts Bay Transportation Authority police officer, a passenger shall make themselves known to police by personal identification or any other means for the purpose of issuing a non-criminal citation. Whoever fails or refuses to make himself known by personal

identification or any other means upon demand by a Massachusetts Bay Transportation Authority police officer for the purposes of issuing a non-criminal citation shall be subject to arrest for fare evasion pursuant to section 93. This paragraph does not confer any power of arrest or any other power, other than to inquire as to personal identification and to issue noncriminal citations to fare evaders, on Massachusetts Bay Transportation Authority employees classified as an instructor, chief inspector, or inspector.

A person who is issued a noncriminal citation shall be assessed a fine as follows: $75 for a first offense; $200 for a second offense; or $350 for a third or subsequent offense. If the person fails to pay the fine within 21 days of the date of the issuance of a noncriminal citation under this section, or the violator fails to request a hearing within 21 days of the date of the issuance of a noncriminal citation under this section, the authority shall provide notice of nonpayment of a fine indicating that the person's license or right to operate a motor vehicle will be suspended until the fine is paid. The authority shall provide reasonable opportunity for a hearing and may waive or reduce a fine imposed under this section within its discretion. If the fine is not waived under this section, the violator shall have 21 days from the date of the hearing to pay the fine.

Upon the report of the authority of nonpayment of a fine under this section, the registrar shall not renew that person's license or right to operate a motor vehicle under Chapter 90 until the registrar receives a report from the authority indicating that the fine has been satisfied. Fines imposed under this section shall be paid to the general fund of the Massachusetts Bay Transportation Authority.

If the records of the registrar indicate that the violator has no current information on file and the violator is under 17 years of age, the record shall be retained until such time the violator is eligible for a license to operate a motor vehicle under Chapter 90. The violator must first pay the fine before being issued said license.

If the records of the registrar indicate that the violator has no current information on file and the violator is 17 years of age or older and the violator fails to pay the fine or request a

1463 hearing, a surcharge of $100 will be assessed to each violation and an application for a criminal
1464 complaint will be made in accordance with paragraph one of this section.

1465 Each citation shall state: "This noncriminal citation may be returned by mail,
1466 personally or by an authorized person. A hearing may be obtained upon the written request of
1467 the violator. Failure to obey this notice within twenty-one days after the date of violation may
1468 result in the non-renewal of the license to operate a motor vehicle."

1469 SECTION 164. Section 5 of chapter 161A of the General Laws, as appearing in the 2010
1470 Official Edition, is hereby amended by striking out subsection (m).
1471 SECTION 165. Section 7 of said chapter 161A, as so appearing, is hereby amended by
1472 striking out said section, and inserting in place thereof the following section:-
1473 SECTION 7. The authority shall be governed and its corporate powers exercised by the board
1474 of directors of the Massachusetts Department of Transportation established pursuant to chapter
1475 6C of the General Laws.
1476 SECTION 166. Section 1 of chapter 161B of the General Laws, as appearing in the 2010
1477 Official Edition, is hereby amended by striking out, in line 8, the words "mass transit transit"
1478 and inserting in place thereof the following words:- rail and transit.
1479 SECTION 167. Said section 1 of said chapter 161B, as so appearing, is hereby further
1480 amended by striking out, in line 38, the words "of transportation for mass transit" and inserting
1481 in place thereof the following words:- for the rail and transit division
1482 SECTION 168. Section 2 of chapter 161C of the General Laws, as appearing in the 2010
1483 Official Edition, is hereby amended by striking out the definitions of "Executive office" and
1484 "Secretary" and inserting in place thereof the following two definitions:-
1485 "Department", the rail and transit division of the department of transportation,
1486 established pursuant to chapter 6C of the General Laws.
1487 "Secretary", the administrator for the rail and transit division of the department of
1488 transportation, or his designee.
1489 SECTION 169. Section 3 of said chapter 161C of the Generals Laws, as appearing in the 2008
1490 Official Edition, is hereby amended by striking out, in lines 1 and 5, the words "executive

office" each time they appear, and inserting in place thereof, in each instance, the following word:- department.

SECTION 170. Section 4 of said chapter 161C, as so appearing, is hereby amended by striking out, in lines 1-2, the words "executive office or the department of highways acting pursuant to paragraph (f) of section six" and inserting in place thereof the following words:- department.

SECTION 171. Said section 4 of said chapter 161C, as so appearing, is hereby further amended by striking out, in lines 15 and 25, the words "executive office" each time they appear, and inserting in place thereof, in each instance, the following word:- department.

SECTION 172. Section 6 of said chapter 161C, as so appearing, is hereby amended by striking out paragraphs (b) and (c) and inserting in place thereof the following paragraphs:-

(b) To apply for, accept and expend on behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, any agency or instrumentality thereof, or from any foundation, private corporation, group or person, in furtherance of the purposes of this chapter. The secretary is authorized and directed to take all necessary action to secure any federal assistance which is or may become available to the department or any administrative unit thereof, including without limitation, filing applications for assistance, supervising the expenditure of federal grants or loans and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than the department, such other department, agency or instrumentality is authorized and directed to take all such action. It is the intent of this clause that the provisions of any federal law, administrative regulation or practice governing federal assistance shall, to the extent necessary to enable the commonwealth or its subdivisions to receive such assistance and not constitutionally prohibited; override any inconsistent provisions of this chapter or any general or special law.

(c) To make and enter into any contracts or agreements necessary or incidental to the performance and execution of the powers and duties of the department under this chapter or any general or special law. Any party, public or private including, without limitation, federal, state and local agencies, authorities or political subdivisions of the commonwealth, or private

corporations or companies, is hereby granted the power and authority to enter into any such contracts or agreements, subject to such provisions of law as may be applicable. Any such contract or agreement, if made with a division or administrative unit of the department may include provisions for the transfer to said division or administrative unit of appropriations or other funds made available to the department under sections four or five for the purpose of carrying out such contract or agreement. Any contract or agreement made under this chapter, including, without limitation, contracts or agreements entered into by the executive office for administration and finance pursuant to section five, shall include such provisions, terms or conditions as the secretary may deem necessary or appropriate.

SECTION 173. Said section 6 of said chapter 161C, as so appearing, is hereby further amended by striking out paragraph (f).

SECTION 174. Section 7 of said chapter 161C, as so appearing, is hereby amended by striking out, in lines 5, 8, 10, 11, 15, 17, 18-19, 20, 23-24, 26-27, 28, the words "executive office" each time they appear, and inserting in place thereof, in each instance, the following word:- department.

SECTION 175. Section 2 of chapter 161D of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out the definitions of "Executive office" and "Secretary" and inserting in place thereof the following two definitions:-

"Department", the rail and transit division of the department of transportation, established pursuant to chapter 6C of the General Laws.

"Secretary", the administrator for the rail and transit division of the department of transportation, or his designee.

SECTION 176. Section 3 of said chapter 161D, as so appearing, is hereby amended by striking out, in line 1, the word "executive office" and inserting in place thereof the following word:- department.

SECTION 177. Section 4 of said chapter 161D, as so appearing, is hereby amended by striking out, in line 1, the word "executive office" and inserting in place thereof the following word:- department.

1549 SECTION 178. Section 5 of said chapter 161D, as so appearing, is hereby amended by
1550 striking out, in lines 1 to 2, the word "executive office" and inserting in place thereof the
1551 following word:- department.
1552 SECTION 179. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby
1553 amended by inserting after the word "district", in line 13, the following words:- in case of the
1554 Massachusetts bay transportation authority, its general manager and rail & transit
1555 administrator,
1556 SECTION 180. Said section 1 of said chapter 258, as so appearing, is hereby further amended
1557 by inserting after the word "purpose", in line 23, the following words:- ; and, in case of the
1558 Massachusetts bay transportation authority, he shall be the general counsel
1559 SECTION 181. Said section 1 of said chapter 258 of the General laws, as appearing in the
1560 2010 Official Edition, is hereby further amended by striking out the definition of "Serious
1561 bodily injury."
1562 SECTION 182. Section 2 of said chapter 258, as so appearing, is hereby amended by striking
1563 out, in lines 8 and 9, the words "$100,000; provided, however, that all claims for serious
1564 bodily injury against the Massachusetts Bay Transportation Authority shall not be subject to a
1565 $100,000 limitation on compensatory damages" and inserting in place thereof the following
1566 words: one hundred thousand dollars.
1567 SECTION 183. Section 8 of chapter 306 of the acts of 2008 is hereby amended by striking out
1568 the second paragraph and inserting in place thereof the following paragraph:-
1569 The board of directors shall consist of 17 persons who shall be voting members, 2 of
1570 whom shall be ex officio members, as described herein. The by-laws shall contain provisions
1571 ensuring that as a director's term expires, the board of directors fill each vacant position,
1572 provided that: (i) the initial chairman of the board shall be the chairman of the conservancy
1573 then serving in that capacity at the time of passage of this act and he shall serve as a director
1574 for a term of 3 years and continue as chairman for 1 year from the effective date of this act,
1575 and thereafter said chairman or any other member of the board of directors shall be chosen
1576 chairman of the board in accordance with the by-laws; (ii) 2 directors shall be residents of the
1577 neighborhoods adjoining the greenway 1 such director shall be voted from nominees selected
1578 by the state representative representing the third suffolk district for a term of 5 years and 1

such director shall be voted from nominees selected by the state senator representing the first suffolk and first middlesex district for a term of 5 years; (iii) 1 director shall be selected by the board from a list of names provided by the governor; (iv) 1 director shall be selected by the board from a list of names provided by the mayor of the city of Boston; (v) 1 director shall be the chairperson of the greenway leadership council; (vi) the secretary of the executive office of energy and environmental affairs and the secretary of the department of transportation, or their respective designees, shall serve as ex officio members of the board; and (vii) the remaining directors shall be selected for 3 year terms by a majority vote of said board then serving. After the cessation of the initial chairman's term, the future director position caused by the initial chairman's end of term shall be chosen by the then board of directors. The directors serving as such on the effective date of this act shall continue to serve as directors until the end of their respective terms, or resignation or any other reason, and their successors shall be selected by the board in accordance with the provisions of this act and the by-laws. The board shall, following the effective date of this act, select additional members in accordance with this act so that at all times there are 17 directors.

SECTION 184. Chapter 25 of the acts of 2009 is hereby amended by striking out section 139 and inserting in place thereof the following section:-

SECTION 139. Notwithstanding the provisions of any general or special law to the contrary, employees of the Massachusetts Department of Transportation as defined in Section 8 of this Act who are hired after the effective date of this act shall become members of the Massachusetts State Employees' retirement system, and notwithstanding the provisions of any general or special law to the contrary including, but not limited to, paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws, said system shall be responsible for all liability attributable to said service of such employees. The liabilities attributable to any other service of such employees shall be recoverable by the commonwealth pursuant to the terms of paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws.

SECTION 185. Section 159 of chapter 25 of the acts of 2009 is hereby amended by striking said section and inserting in place thereof the following section:-

SECTION 159. (a) Effective upon the date of dissolution of the Massachusetts Turnpike Authority: (1) the Massachusetts Turnpike Authority employees' retirement system shall be

1609 dissolved ; (2) all members of the Massachusetts Turnpike Authority Employees' Retirement
1610 System shall become members of the Massachusetts State Employees' Retirement System; (3)
1611 the management of benefits of the dissolved Massachusetts Turnpike Authority employees'
1612 retirement system shall be transferred to the state board of retirement in section 18 of chapter
1613 10 of the General Laws which board shall have with respect thereto the general powers and
1614 duties set forth in subdivision (5) of section 20 of said chapter 32; (4) all data, files, papers and
1615 records and other materials of the Massachusetts Turnpike Authority retirement board provided
1616 for in paragraph (b) of subdivision (41/2) of said section 20 of said chapter 32 shall be
1617 transferred to and held by the state board of retirement; (5) ownership and control of all the
1618 assets of the dissolved Massachusetts Turnpike Authority Employees' Retirement System in
1619 the custody of the secretary-treasurer of the authority shall be transferred to the Pension
1620 Reserves Investment Management Board and be made assets of the Massachusetts State
1621 Employees' Retirement System ; and (6) the Massachusetts Turnpike Authority retirement
1622 board in said paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 43 shall be
1623 abolished; provided, however, that the members and officers thereof shall continue to be
1624 authorized to do all such things and take all such action as may be necessary or desirable to be
1625 done or taken by them to effectuate the transfers to be made pursuant to this section (7) the
1626 public employee retirement administration commission shall conduct an audit related to the
1627 dissolution of the Massachusetts Turnpike Authority Employees' Retirement System and the
1628 transfer of its assets.

1629 (b) Effective upon the date of dissolution of the Massachusetts Turnpike Authority , the
1630 payment of all annuities, pensions, retirement allowances and refunds of accumulated total
1631 deductions and of any other benefits granted under sections 1 to 28, inclusive, of said chapter
1632 32 are hereby made obligations of the commonwealth.

1633 SECTION 186. Subsection (b) of section 167 of chapter 25 of the acts of 2009 is hereby
1634 amended by striking out, in the first sentence, the words "division of highways" and inserting
1635 in place thereof the following words:- rail and transit division.

1636 SECTION 187. Section 181A of chapter 25 of the acts of 2009, as inserted by section 59 of
1637 chapter 26 of the acts of 2009, is hereby amended by inserting after the date "July 1, 2012" in
1638 the first sentence, the following words:- , and shall be considered subject to appropriation.

SECTION 188. Notwithstanding the provisions of any other general or special law to the contrary, the aeronautics division of the department of transportation is hereby authorized to establish a pavement improvement program for public-use airports not eligible for federal airport improvement program funding. The department shall utilize available appropriated funds for airport development and planning projects and shall be authorized to reimburse up to 97.5% of the total cost of a pavement improvement project performed pursuant to this program.

SECTION 189. Notwithstanding the provisions of any other general or special law to the contrary, the highway division of the department of transportation shall create and maintain a comprehensive data base of all bridges under the responsibility of the department that shall inventory and grade the condition of each bridge in the Commonwealth. The highway division shall assume the inspection responsibility for all highway bridges owned and operated by the department. The Massachusetts bay transportation authority shall maintain the inspection responsibility for all bridges owned by the authority, including bridges over transit or transit facilities, whereas the results of all such bridge inspections shall be incorporated into said comprehensive bridge database maintained by the highway division.

SECTION 190. Notwithstanding chapter 66A of the General Laws or any other general or special law to the contrary, the Massachusetts Bay Transportation Authority (MBTA) is hereby authorized to provide the Executive Office of Health and Human Services personal data relative to customers utilizing the MBTA's paratransit services for the purpose of securing federal reimbursement and administration of the MassHealth program.

SECTION 191. Section 7A of Chapter 90 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended in the seventh paragraph by striking the third sentence and inserting in place thereof the following new sentences:-

Amounts credited to said fund shall be expended at the direction of the registrar in consultation with said commissioner, without further appropriation; provided, however, that any such expenditures shall ensure that the costs of the implementation, administration, oversight and enforcement of the inspection program instituted by the registrar pursuant to this chapter are offset by the fund. Amounts credited to said fund in excess of the program costs may be transferred to the Massachusetts Transportation Trust Fund to be used for any other

expense of the registry of motor vehicles and the Massachusetts department of transportation necessary to carry out its purposes.