

**THE CITY OF PROVIDENCE**  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

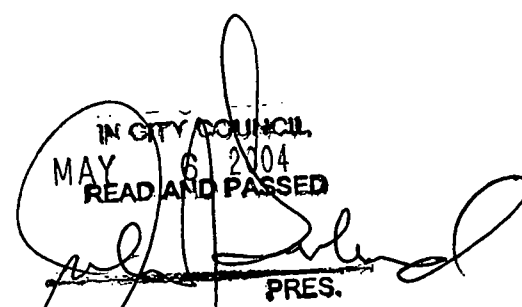

# RESOLUTION OF THE CITY COUNCIL

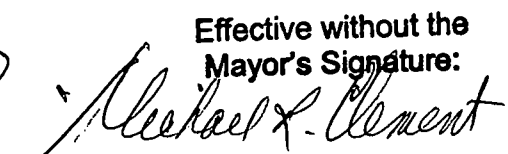
No. 235


EFFECTIVE ~~Approved~~ May 16, 2004

RECEIVED  
CITY CLERK  
MAY 16 2004

RESOLVED, That the Members of the Providence City Council hereby Endorse and Urge Passage by the General Assembly of Senate Bill 2004-S 2734 and House Bill 2004-H 8259, Relative to Parking Surcharges In The Providence Parking District.

IN CITY COUNCIL  
MAY 6 2004  
READ AND PASSED  
  
PRES.  
  
CLERK

Effective without the  
Mayor's Signature:  
  
Michael R. Clement  
City Clerk

IN CITY COUNCIL  
APR 15 2004  
FIRST READING  
REFERRED TO COMMITTEE ON  
STATE LEGISLATION  
Michael D. Leonard 

THE COMMITTEE ON  
STATE LEGISLATION  
Recommends Approval  
Claire E. Burtch   
April 21, 2004  
CLERK

Macini and Municipal Woman Roman (By Request)

2004 -- S 2734

=====  
LC01770  
=====**STATE OF RHODE ISLAND****IN GENERAL ASSEMBLY****JANUARY SESSION, A.D. 2004**

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**A N A C T**  
**RELATING TO PARKING SURCHARGES IN THE PROVIDENCE PARKING DISTRICT****Introduced By:** Senators Perry, Ruggerio, and Goodwin**Date Introduced:** February 11, 2004**Referred To:** Senate Finance

It is enacted by the General Assembly as follows:

1-1       SECTION 1. The general assembly finds that the city of Providence provides substantial  
1-2       benefits to the people of the state beyond the city of Providence as well as within the city of  
1-3       Providence, but that many of the cultural, educational, governmental and business attractions of  
1-4       the city impose a significant burden on the city of Providence not borne by inhabitants of the state  
1-5       beyond the city of Providence. Among these burdens is use of city highways by persons not  
1-6       resident in Providence and, in some cases, not resident in the state. The general assembly  
1-7       therefore finds it fair and appropriate to dedicate certain parking surcharges to the city of  
1-8       Providence.

1-9       SECTION 2. Title 45 of the General Laws entitled "Towns and Cities" is hereby  
1-10      amended by adding thereto the following chapter:

1-11

**CHAPTER 62**

1-12

**CITY OF PROVIDENCE PARKING DISTRICT**

1-13      **45-62-1. Definitions.** – As used in this chapter:

1-14      **(1) "Administrator" means the state tax administrator.**

1-15       (2) "District" means the city of Providence parking district, being the entirety of the city  
1-16 of Providence within its boundaries. If any parking facility (including entrances, driveways, or  
1-17 private access roads) is constructed partly within the district as so defined, the entire facility shall  
1-18 be treated as though within the district.

1-19       (3) "Operator" means any person providing transient parking within the district.

2-1       (4) "Permit fee" means the fee payable annually by an operator to the tax administrator in  
2-2 an amount equal to ten dollars (\$10.00) for each space made or to be made available by the  
2-3 operator for transient parking during the period of a permit's effectiveness, but not more than two  
2-4 hundred fifty dollars (\$250) for each permit.

2-5       (5) "Transient parking" means any parking for motor vehicles at a lot, garage, or other  
2-6 parking facility within the district for which a fee is collected by the operator, but excludes:

2-7       (i) parking for any employee of the operator of the facility;

2-8       (ii) parking provided by any hotel or motel for registered guests.

2-9       (6) "Transient parking receipts" shall mean the gross receipts collected by an operator  
2-10 (excluding the surcharge imposed by this chapter) in consideration of the provision of transient  
2-11 parking.

2-12       **45-62-2. Surcharge on transient parking in district.** – There is hereby imposed on all  
2-13 transient parking in the district a surcharge in an amount equal to five percent (5%) of transient  
2-14 parking receipts. The surcharge shall be collected by the operator of each facility providing  
2-15 transient parking in the district and remitted by the operator to the tax administrator not later than  
2-16 the twentieth (20th) day of the month following the calendar month in which such transient  
2-17 parking was provided. The tax administrator may require the filing of such forms with such  
2-18 information as the tax administrator may reasonably determine is necessary to carry out the  
2-19 provisions of this statute. The surcharges collected by the tax administrator under this section  
2-20 shall be deposited upon receipt in a special account denominated by the city of Providence  
2-21 parking district account. At annual or more frequent intervals, amounts accumulated in the city  
2-22 of Providence parking district account shall be remitted to the treasurer of the city of Providence  
2-23 to be held as part of the general fund of the city of Providence.

2-24       **45-62-3. Permits for parking operations in district.** – (a) Every person desiring to  
2-25 provide transient parking in the district shall file with the tax administrator an application for a  
2-26 permit for each place of business where transient parking will be provided. The application shall

2-27 be in a form, include information, and bear any signatures that the tax administrator may require.  
2-28 At the time of making an application, the applicant shall pay to the tax administrator the permit  
2-29 fee. Every permit issued under this chapter shall expire on June 30 of each year. Every permit  
2-30 holder desiring to renew a permit shall annually, on or before February 1, of each year, apply for  
2-31 renewal of its permit and file therewith the appropriate permit fee. The renewal permit shall be  
2-32 valid for the period of July 1 of that calendar year through June 30 of the subsequent calendar  
2-33 year, unless sooner canceled, suspended, or revoked. Upon receipt of the required application  
2-34 and permit fee, the tax administrator shall issue to the applicant a permit. Provided, that if the  
3-1 applicant, at the time of making the application, owes any fee, surcharge, penalty, or interest  
3-2 imposed under the authority of this chapter, the applicant shall pay the amount owed. An  
3-3 operator whose permit has been previously suspended or revoked shall pay to the tax  
3-4 administrator a permit fee for the renewal or issuance of a permit.

3-5 (b) Whenever any person fails to comply with any provision of this chapter, the tax  
3-6 administrator upon hearing, after giving the person at least five (5) days' notice, in writing,  
3-7 specifying the time and place of hearing and requiring the person to show cause why his or her  
3-8 permit or permits should not be revoked, may revoke or suspend any one (1) or more of the  
3-9 permits held by the person. The notice may be served personally or by mail. The tax  
3-10 administrator shall not issue a new permit after the revocation of a permit unless the administrator  
3-11 is satisfied that the former holder of the permit will comply with the provisions of the ordinance.

3-12 (c) The superior court of this state has jurisdiction to restrain and enjoin any person from  
3-13 engaging in business as an operator of a transient parking facility in the district without a parking  
3-14 operator's permit or permits or after a transient parking facility operator's permit has been  
3-15 suspended or revoked. The tax administrator may institute proceedings to prevent and restrain  
3-16 violations of this chapter. In any proceeding instituted under this section, proof that a person  
3-17 continues to operate a transient parking facility from the location to which a revoked parking  
3-18 operator's permit was assigned is prima facie evidence that the person is engaging in business as a  
3-19 parking operator without a parking operator's permit.

3-20 (d) Permit fees collected under the authority of this section shall be deposited into the  
3-21 general fund of the state.

3-22 **45-62-4. Returns.** – The administrator may require the filing of periodic reports, not  
3-23 more frequently than monthly, setting out such information as the tax administrator may require.

3-24 The surcharge for the transient parking shown or which should be shown on the report shall be  
3-25 due with the report; provided, that if an operator will operate a transient parking facility for a  
3-26 period of less than one (1) month, the administrator may require the filing of reports more  
3-27 frequently than monthly. The ordinance may authorize the tax administrator for good cause to  
3-28 extend the time for making any return or paying any amount required to be paid. Any person to  
3-29 whom an extension is granted shall pay, in addition to the surcharge, interest at the annual rate  
3-30 prescribed by section 44-5-9, as amended, or fraction of it, from the date on which the surcharge  
3-31 would have been due without the extension until the date of payment.

3-32 **45-62-5. Payment of surcharges -- Enforcement.** – (a) If the tax administrator is not  
3-33 satisfied with the return or returns or the amount of surcharges paid to the tax administrator by  
3-34 any person, the tax administrator may compute and determine the amount required to be paid  
4-1 upon the basis of the facts contained in the return or returns or upon the basis of any information  
4-2 in his or her possession or that may come into his or her possession. The amount of the  
4-3 determination, exclusive of penalties, bears interest at the annual rate provided by section 44-5-9,  
4-4 as amended, from the fifteenth (15th) day after the close of the month for which the amount, or  
4-5 any portion of it, should have been paid until the date of payment.

4-6 (b) If any part of the deficiency for which a deficiency determination is made is due to  
4-7 negligence or intentional disregard of the provisions of the ordinance, the ordinance may provide  
4-8 that a penalty of not more than ten percent (10%) of the amount of the determination is added to  
4-9 it. If any part of the deficiency for which a deficiency determination is made is due to fraud or an  
4-10 intent to evade the provisions of the ordinance, the ordinance may provide that a penalty of not  
4-11 more than fifty percent (50%) of the amount of the determination is added to it.

4-12 (c) The tax administrator shall give to the parking operator a written notice of his or her  
4-13 determination. Every notice of a deficiency determination shall be mailed within two (2) years  
4-14 after the fifteenth (15th) day of the calendar month following the month for which the amount is  
4-15 proposed to be determined or within two (2) years after the return is filed, whichever period  
4-16 expires the later, unless a longer period is agreed upon by the tax administrator and the parking  
4-17 operator.

4-18 (d) Unless a hearing has been requested as provided in subsection (e), any determination  
4-19 made by the tax administrator becomes final and shall be paid within forty (40) days after mailing  
4-20 by the tax administrator of the notice of that determination. If that determination is not paid, the

4-21 ordinance may provide a further penalty of not more than ten percent (10%) of the amount of the  
4-22 determination, exclusive of interest and other penalties, is added to it.

4-23 (e) Any person aggrieved by any assessment, deficiency, or otherwise, shall notify the tax  
4-24 administrator, in writing, within thirty (30) days from the date of mailing by the tax administrator  
4-25 of the notice of the assessment and request a hearing relative to the assessment; and the tax  
4-26 administrator shall, as soon as practicable, fix a time and place for a hearing and shall, after the  
4-27 hearing, determine the correct amount of the fee, surcharges, interest, and penalties.

4-28 (f) Appeals from administrative orders or decisions made pursuant to any provisions of  
4-29 this chapter are to the sixth division district court pursuant to chapter 8 of title 8. The operator's  
4-30 right to appeal under this chapter is expressly made conditional upon prepayment of all fees,  
4-31 surcharges, interest, and penalties, unless the operator moves for and is granted an exemption  
4-32 from the prepayment requirement pursuant to section 8-8-26.

4-33 (g) If, upon final determination of the petition, it appears that the tax administrator's  
4-34 assessment was correct, the court shall confirm the assessment; or, if incorrect, the court shall  
5-1 determine the proper amount of the fees, surcharges, interest, and penalties, and if it appears that  
5-2 the petitioner, by reason of the payment of the fees, surcharges, interest, and penalties, is entitled  
5-3 to recover them or any part of them, the court may order a refund with interest at the annual rate  
5-4 provided by section 6-26-1, as amended, or order a credit, as the circumstances may warrant. If it  
5-5 appears that the administrator is entitled to a greater amount of fees, surcharges, interest, and  
5-6 penalties than assessed or determined by the tax administrator and paid by the petitioner, the court  
5-7 shall order the payment by the petitioner of an additional amount as the court determines, and the  
5-8 petitioner shall immediately pay that amount to the tax administrator.

5-9 (h) The amount of any fees, surcharges, interest, and penalties imposed upon any operator  
5-10 under this chapter is a debt due from the operator to the administrator, is recoverable at law in the  
5-11 same manner as other debts.

5-12 **45-62-6. Transfer of parking facilities. – Prior to the sale or transfer by any operator**  
5-13 **other than receivers, assignees under a voluntary assignment for the benefit of creditors, trustees**  
5-14 **in bankruptcy, or public officers acting under judicial process of a parking facility the parking**  
5-15 **operator, at least five (5) days before the sale or transfer, must notify the tax administrator of the**  
5-16 **proposed sale or transfer. Whenever an operator makes a sale or transfer of a parking facility, all**  
5-17 **fees and surcharges must be paid at the time when the tax administrator is notified, or, if the tax**

5-18 administrator is not notified, at the time when the tax administrator should have been notified.

5-19 **45-62-7. Books to be kept -- Examinations.** – (a) Every operator shall keep books,  
5-20 records, receipts, invoices, and other pertinent papers in the form the tax administrator may  
5-21 require, that those books, records, receipts, invoices, and other papers shall at all reasonable times  
5-22 be open to the inspection of the tax administrator and his or her agents, and that the records shall  
5-23 be available for inspection and examination at any time upon demand by the tax administrator or  
5-24 his or her authorized agent or employee and preserved for a period of two (2) years (or such  
5-25 longer period as the parking facility operator and the tax administrator may agree), except that the  
5-26 tax administrator may consent to their destruction within that period.

5-27 (b) The tax administrator and his or her agents for the purpose of ascertaining the  
5-28 correctness of any return, report, or other statement required to be filed under this chapter or by  
5-29 the tax administrator thereunder, or for the purpose of determining the amount of any fee or  
5-30 surcharge imposed under the provisions of this chapter, may examine any books, papers, records,  
5-31 or memoranda bearing upon the matters required to be included in the return, report, or other  
5-32 statement, and may require the attendance of the person executing the return, report, or other  
5-33 statement, or of any officer or employee of any operator, or the attendance of any other person,  
5-34 and may examine the person under penalty of perjury respecting any matter which the tax  
6-1 administrator or his or her agent deems pertinent or material in determining the liability of any  
6-2 person to a fee or surcharge imposed under the provisions of this chapter.

6-3 (c) The tax administrator may summon any operator, or officer, agent, or employee of an  
6-4 operator, or any other person, to appear before the tax administrator and produce records and  
6-5 documents at a time and place named in the summons and to give testimony and to answer  
6-6 interrogatories, under penalty of perjury, respecting any matter which the tax administrator deems  
6-7 pertinent or material to the administration of the ordinance authorized by this act. The summons  
6-8 may be sent by registered or certified mail to the operator, or officer, agent, or employee of the  
6-9 operator, or to any other authorized person or may be left by any authorized agent of the tax  
6-10 administrator with the operator, or officer, agent, or employee of the operator, or other authorized  
6-11 person, or left at his or her last and usual place of abode. When the summons requires the  
6-12 production of records or documents, it is sufficient if those records and documents are described  
6-13 with reasonable certainty.

6-14 (d) When any operator, or officer, agent, or employee of the operator, or other person,



6-15 summoned under the provisions of this chapter neglects or refuses to obey the summons or to  
6-16 give testimony or to answer interrogatories as required, the tax administrator may apply to the  
6-17 sixth division of the district court for a citation against the person or it as for a contempt. Any  
6-18 judge of that court may hear the application and, if satisfactory proof is made, issue a citation for  
6-19 the arrest of the operator, or officer, agent or employee thereof, or other person, and upon the  
6-20 operator, or officer, agent, or employee of the operator, or other person, being brought before the  
6-21 judge, the judge shall proceed to a hearing of the case; and upon the hearing the judge has power  
6-22 to make any order the judge deems proper. A party aggrieved by an order of the court may  
6-23 appeal the order to the supreme court in accordance with the procedures contained in the rules of  
6-24 appellate procedure of the supreme court.

6-25 (e) It is unlawful, except in proceedings before a court of competent jurisdiction or to  
6-26 collect the fees or surcharges or enforce the penalties provided by this chapter, for the tax  
6-27 administrator or any person having an administrative duty under those authorities to make known  
6-28 in any manner whatever the business affairs, operations, or information obtained by an  
6-29 investigation of records and equipment of any parking facility operator or any other person visited  
6-30 or examined in the discharge of official duty, or the amount or source of receipts, or any  
6-31 particular, stated or disclosed in any return, or to permit any return or copy of any book  
6-32 containing any abstract or particulars to be seen or examined by any person. Nothing in this  
6-33 paragraph shall be construed to prevent the disclosure or publication of statistical or other  
6-34 information where the identity of individual operators is not made known. An operator may  
7-1 waive the confidentiality established by this paragraph by notifying the hearing officer at any  
7-2 time, and may limit the waiver at his or her own direction. An operator may bring other persons  
7-3 into the hearing without waiving the confidentiality described herein.

7-4 **45-62-8. Regulations.** – The tax administrator may prescribe rules and regulations, not  
7-5 inconsistent with law, to carry into effect the provisions of this section, which rules and  
7-6 regulations, when reasonably designed to carry out the intent and purpose of this section, are  
7-7 prima facie evidence of their proper interpretation. Those rules and regulations may from time to  
7-8 time be amended, suspended, or revoked, in whole or in part, by the tax administrator. The tax  
7-9 administrator may prescribe, and may furnish, any forms necessary or proper for the  
7-10 administration of this chapter.

7-11 **45-62-9. Nonresident operators.** – Any operator who is not a resident of this state shall,

7-12 as a condition precedent to engaging in such business, and by engaging in such business does  
7-13 consent that any process issued in the enforcement of the provisions of this chapter may be served  
7-14 upon the director of the department of business regulation as agent of that person. The process  
7-15 may be served by leaving a copy of the process in the hands of the director of the department of  
7-16 business regulation or in the director's office with someone in charge of the office. The service is  
7-17 sufficient service upon the person; provided, that notice of the service and a copy of the process,  
7-18 at least fifteen (15) days before the return day of the process, is sent by registered or certified  
7-19 mail, postage prepaid, by the tax administrator or the tax administrator's attorney of record, to the  
7-20 person's last known address, and the sender's registered or certified mail receipt of sending and  
7-21 the tax administrator's or the administrator's attorney's affidavit of compliance are appended to  
7-22 the process and entered with the declaration. Service of process in the manner provided for in  
7-23 this section, under the circumstances specified in this section, is of the same force and validity as  
7-24 if served upon the operator personally within this state. Nothing in this section limits or affects  
7-25 the right to serve process upon a person not a resident of this state within this state in any other  
7-26 manner now or hereafter permitted by law.

7-27 **45-62-10. Surcharges are trust funds of state.** – All surcharges collect by a parking  
7-28 facility operator in accordance with the provisions of this chapter, and all surcharges collected by  
7-29 any parking facility operator from persons paying transient parking surcharges under color of  
7-30 these provisions, constitute a trust fund until paid to the tax administrator. That trust is  
7-31 enforceable against:

7-32 (1) the parking facility operator;

7-33 (2) any officer, agent, servant, or employee of any parking facility operator responsible  
7-34 for either the collection or payment, or both, of the surcharge;

8-1 (3) any person receiving any part of the fund without consideration, or knowing that the  
8-2 parking facility operator or any officer, agent, servant, or employee of any corporate parking  
8-3 facility operator is committing a breach of trust; and

8-4 (4) their estates, heirs, and representatives.

8-5 **45-62-11. Application to certain exempt entities.** – The surcharges authorized by  
8-6 section 45-62-2 shall apply notwithstanding section 42-64-20 of the general laws; provided,  
8-7 however, that any transient parking facility operator subject to the provisions of section 42-64-20:

8-8 (1) shall not be required to pay any permit fee in connection with the application for or

8-9 issuance of any transient parking facility permit;

8-10 (2) shall not be required to pay an amount greater than the surcharges actually collected

8-11 by or on behalf of the transient parking facility operator. This provision of this subsection shall

8-12 apply notwithstanding the occurrence of any default by the transient parking facility operator;

8-13 (i) If the transient parking facility operator is a quasi-public corporation, no court may

8-14 order the corporation to collect the surcharges or the proper amount thereof, but an injunction

8-15 may issue, if otherwise justified, against any officer or employee thereof;

8-16 (ii) Any assessment or order requiring the payment of surcharges shall be effective only

8-17 against the trust funds established under section 45-62-10 and not against any other funds of the

8-18 transient parking facility operator.

8-19 SECTION 3. Section 8-8-27 of the General Laws in Chapter 8-8 entitled "District Court"

8-20 is hereby amended to read as follows:

8-21 **8-8-27. Refund suits.** -- (a) Any taxpayer may bring an action for a refund of taxes

8-22 previously overpaid. The suit for refund may not be brought prior to the date of a final

8-23 determination by the tax administrator denying the claim for refund. No action for a refund of tax

8-24 shall be brought after the expiration of thirty (30) days from a notice of final determination of the

8-25 tax administrator denying the claimed refund.

8-26 (b) As used in this section and section 8-8-28, "tax" includes any surcharge imposed

8-27 under section 1-6-2; and section 45-62-2 and "taxpayer" includes an operator as defined in section

8-28 1-6-1 and section 45-62-1.

8-29 SECTION 4. This act shall take effect on July 1, 2004.

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LC01770  
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**EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF**

**A N A C T  
RELATING TO PARKING SURCHARGES IN THE PROVIDENCE PARKING DISTRICT**

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9-1 This act would impose a surcharge on transient parking in the city of Providence and

9-2 these funds would be transmitted to the general fund of the city of Providence.

9-3

This act would take effect on July 1, 2004.

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LC01770  
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2004 -- H 8259

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LC01535

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**STATE OF RHODE ISLAND****IN GENERAL ASSEMBLY****JANUARY SESSION, A.D. 2004**

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**A N A C T**  
**RELATING TO PARKING SURCHARGES IN THE PROVIDENCE PARKING DISTRICT****Introduced By:** Representative Edith H. Ajello**Date Introduced:** March 09, 2004**Referred To:** House Corporations

It is enacted by the General Assembly as follows:

1-1       SECTION 1. The general assembly finds that the city of Providence provides substantial  
1-2       benefits to the people of the state beyond the city of Providence as well as within the city of  
1-3       Providence, but that many of the cultural, educational, governmental and business attractions of  
1-4       the city impose a significant burden on the city of Providence not borne by inhabitants of the state  
1-5       beyond the city of Providence. Among these burdens is use of city highways by persons not  
1-6       resident in Providence and, in some cases, not resident in the state. The general assembly  
1-7       therefore finds it fair and appropriate to dedicate certain parking surcharges to the city of  
1-8       Providence.

1-9       SECTION 2. Title 45 of the General Laws entitled "Towns and Cities" is hereby  
1-10      amended by adding thereto the following chapter:

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**CHAPTER 62**

1-12

**CITY OF PROVIDENCE PARKING DISTRICT**

1-13      **45-62-1. Definitions.** – As used in this chapter:

1-14      (1) **"Administrator" means the state tax administrator.**

(2) "District" means the city of Providence parking district, being the entirety of the city of Providence within its boundaries. If any parking facility (including entrances, driveways, or private access roads) is constructed partly within the district as so defined, the entire facility shall be treated as though within the district.

(3) "Operator" means any person providing transient parking within the district.

(4) "Permit fee" means the fee payable annually by an operator to the tax administrator in an amount equal to ten dollars (\$10.00) for each space made or to be made available by the operator for transient parking during the period of a permit's effectiveness, but not more than two hundred fifty dollars (\$250) for each permit.

(5) "Transient parking" means any parking for motor vehicles at a lot, garage, or other parking facility within the district for which a fee is collected by the operator, but excludes:

(i) parking for any employee of the operator of the facility;

(ii) parking provided by any hotel or motel for registered guests.

(6) "Transient parking receipts" shall mean the gross receipts collected by an operator (excluding the surcharge imposed by this chapter) in consideration of the provision of transient parking.

**45-62-2. Surcharge on transient parking in district.** – There is hereby imposed on all transient parking in the district a surcharge in an amount equal to five percent (5%) of transient parking receipts. The surcharge shall be collected by the operator of each facility providing transient parking in the district and remitted by the operator to the tax administrator not later than the twentieth (20th) day of the month following the calendar month in which such transient parking was provided. The tax administrator may require the filing of such forms with such information as the tax administrator may reasonably determine is necessary to carry out the provisions of this statute. The surcharges collected by the tax administrator under this section shall be deposited upon receipt in a special account denominated by the city of Providence parking district account. At annual or more frequent intervals, amounts accumulated in the city of Providence parking district account shall be remitted to the treasurer of the city of Providence to be held as part of the general fund of the city of Providence.

**45-62-3. Permits for parking operations in district.** – (a) Every person desiring to provide transient parking in the district shall file with the tax administrator an application for a permit for each place of business where transient parking will be provided. The application shall

2-27 be in a form, include information, and bear any signatures that the tax administrator may require.

2-28 At the time of making an application, the applicant shall pay to the tax administrator the permit

2-29 fee. Every permit issued under this chapter shall expire on June 30 of each year. Every permit

2-30 holder desiring to renew a permit shall annually, on or before February 1, of each year, apply for

2-31 renewal of its permit and file therewith the appropriate permit fee. The renewal permit shall be

2-32 valid for the period of July 1 of that calendar year through June 30 of the subsequent calendar

2-33 year, unless sooner canceled, suspended, or revoked. Upon receipt of the required application

2-34 and permit fee, the tax administrator shall issue to the applicant a permit. Provided, that if the

3-1 applicant, at the time of making the application, owes any fee, surcharge, penalty, or interest

3-2 imposed under the authority of this chapter, the applicant shall pay the amount owed. An

3-3 operator whose permit has been previously suspended or revoked shall pay to the tax

3-4 administrator a permit fee for the renewal or issuance of a permit.

3-5 (b) Whenever any person fails to comply with any provision of this chapter, the tax

3-6 administrator upon hearing, after giving the person at least five (5) days' notice, in writing,

3-7 specifying the time and place of hearing and requiring the person to show cause why his or her

3-8 permit or permits should not be revoked, may revoke or suspend any one (1) or more of the

3-9 permits held by the person. The notice may be served personally or by mail. The tax

3-10 administrator shall not issue a new permit after the revocation of a permit unless the administrator

3-11 is satisfied that the former holder of the permit will comply with the provisions of the ordinance.

3-12 (c) The superior court of this state has jurisdiction to restrain and enjoin any person from

3-13 engaging in business as an operator of a transient parking facility in the district without a parking

3-14 operator's permit or permits or after a transient parking facility operator's permit has been

3-15 suspended or revoked. The tax administrator may institute proceedings to prevent and restrain

3-16 violations of this chapter. In any proceeding instituted under this section, proof that a person

3-17 continues to operate a transient parking facility from the location to which a revoked parking

3-18 operator's permit was assigned is prima facie evidence that the person is engaging in business as a

3-19 parking operator without a parking operator's permit.

3-20 (d) Permit fees collected under the authority of this section shall be deposited into the

3-21 general fund of the state.

3-22 **45-62-4. Returns.** – The administrator may require the filing of periodic reports, not

3-23 more frequently than monthly, setting out such information as the tax administrator may require.

The surcharge for the transient parking shown or which should be shown on the report shall be due with the report; provided, that if an operator will operate a transient parking facility for a period of less than one (1) month, the administrator may require the filing of reports more frequently than monthly. The ordinance may authorize the tax administrator for good cause to extend the time for making any return or paying any amount required to be paid. Any person to whom an extension is granted shall pay, in addition to the surcharge, interest at the annual rate prescribed by section 44-5-9, as amended, or fraction of it, from the date on which the surcharge would have been due without the extension until the date of payment.

**45-62-5. Payment of surcharges -- Enforcement.** – (a) If the tax administrator is not satisfied with the return or returns or the amount of surcharges paid to the tax administrator by any person, the tax administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information in his or her possession or that may come into his or her possession. The amount of the determination, exclusive of penalties, bears interest at the annual rate provided by section 44-5-9, as amended, from the fifteenth (15th) day after the close of the month for which the amount, or any portion of it, should have been paid until the date of payment.

(b) If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of the provisions of the ordinance, the ordinance may provide that a penalty of not more than ten percent (10%) of the amount of the determination is added to it. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the provisions of the ordinance, the ordinance may provide that a penalty of not more than fifty percent (50%) of the amount of the determination is added to it.

(c) The tax administrator shall give to the parking operator a written notice of his or her determination. Every notice of a deficiency determination shall be mailed within two (2) years after the fifteenth (15th) day of the calendar month following the month for which the amount is proposed to be determined or within two (2) years after the return is filed, whichever period expires the later, unless a longer period is agreed upon by the tax administrator and the parking operator.

(d) Unless a hearing has been requested as provided in subsection (e), any determination made by the tax administrator becomes final and shall be paid within forty (40) days after mailing by the tax administrator of the notice of that determination. If that determination is not paid, the



4-21 ordinance may provide a further penalty of not more than ten percent (10%) of the amount of the  
4-22 determination, exclusive of interest and other penalties, is added to it.

4-23 (e) Any person aggrieved by any assessment, deficiency, or otherwise, shall notify the tax  
4-24 administrator, in writing, within thirty (30) days from the date of mailing by the tax administrator  
4-25 of the notice of the assessment and request a hearing relative to the assessment; and the tax  
4-26 administrator shall, as soon as practicable, fix a time and place for a hearing and shall, after the  
4-27 hearing, determine the correct amount of the fee, surcharges, interest, and penalties.

4-28 (f) Appeals from administrative orders or decisions made pursuant to any provisions of  
4-29 this chapter are to the sixth division district court pursuant to chapter 8 of title 8. The operator's  
4-30 right to appeal under this chapter is expressly made conditional upon prepayment of all fees,  
4-31 surcharges, interest, and penalties, unless the operator moves for and is granted an exemption  
4-32 from the prepayment requirement pursuant to section 8-8-26.

4-33 (g) If, upon final determination of the petition, it appears that the tax administrator's  
4-34 assessment was correct, the court shall confirm the assessment; or, if incorrect, the court shall  
5-1 determine the proper amount of the fees, surcharges, interest, and penalties, and if it appears that  
5-2 the petitioner, by reason of the payment of the fees, surcharges, interest, and penalties, is entitled  
5-3 to recover them or any part of them, the court may order a refund with interest at the annual rate  
5-4 provided by section 6-26-1, as amended, or order a credit, as the circumstances may warrant. If it  
5-5 appears that the administrator is entitled to a greater amount of fees, surcharges, interest, and  
5-6 penalties than assessed or determined by the tax administrator and paid by the petitioner, the court  
5-7 shall order the payment by the petitioner of an additional amount as the court determines, and the  
5-8 petitioner shall immediately pay that amount to the tax administrator.

5-9 (h) The amount of any fees, surcharges, interest, and penalties imposed upon any operator  
5-10 under this chapter is a debt due from the operator to the administrator, is recoverable at law in the  
5-11 same manner as other debts.

5-12 **45-62-6. Transfer of parking facilities.** – Prior to the sale or transfer by any operator  
5-13 other than receivers, assignees under a voluntary assignment for the benefit of creditors, trustees  
5-14 in bankruptcy, or public officers acting under judicial process of a parking facility the parking  
5-15 operator, at least five (5) days before the sale or transfer, must notify the tax administrator of the  
5-16 proposed sale or transfer. Whenever an operator makes a sale or transfer of a parking facility, all  
5-17 fees and surcharges must be paid at the time when the tax administrator is notified, or, if the tax

5-18 administrator is not notified, at the time when the tax administrator should have been notified.

5-19 **45-62-7. Books to be kept -- Examinations.** – (a) Every operator shall keep books,  
5-20 records, receipts, invoices, and other pertinent papers in the form the tax administrator may  
5-21 require, that those books, records, receipts, invoices, and other papers shall at all reasonable times  
5-22 be open to the inspection of the tax administrator and his or her agents, and that the records shall  
5-23 be available for inspection and examination at any time upon demand by the tax administrator or  
5-24 his or her authorized agent or employee and preserved for a period of two (2) years (or such  
5-25 longer period as the parking facility operator and the tax administrator may agree), except that the  
5-26 tax administrator may consent to their destruction within that period.

5-27 (b) The tax administrator and his or her agents for the purpose of ascertaining the  
5-28 correctness of any return, report, or other statement required to be filed under this chapter or by  
5-29 the tax administrator thereunder, or for the purpose of determining the amount of any fee or  
5-30 surcharge imposed under the provisions of this chapter, may examine any books, papers, records,  
5-31 or memoranda bearing upon the matters required to be included in the return, report, or other  
5-32 statement, and may require the attendance of the person executing the return, report, or other  
5-33 statement, or of any officer or employee of any operator, or the attendance of any other person,  
5-34 and may examine the person under penalty of perjury respecting any matter which the tax  
6-1 administrator or his or her agent deems pertinent or material in determining the liability of any  
6-2 person to a fee or surcharge imposed under the provisions of this chapter.

6-3 (c) The tax administrator may summon any operator, or officer, agent, or employee of an  
6-4 operator, or any other person, to appear before the tax administrator and produce records and  
6-5 documents at a time and place named in the summons and to give testimony and to answer  
6-6 interrogatories, under penalty of perjury, respecting any matter which the tax administrator deems  
6-7 pertinent or material to the administration of the ordinance authorized by this act. The summons  
6-8 may be sent by registered or certified mail to the operator, or officer, agent, or employee of the  
6-9 operator, or to any other authorized person or may be left by any authorized agent of the tax  
6-10 administrator with the operator, or officer, agent, or employee of the operator, or other authorized  
6-11 person, or left at his or her last and usual place of abode. When the summons requires the  
6-12 production of records or documents, it is sufficient if those records and documents are described  
6-13 with reasonable certainty.

6-14 (d) When any operator, or officer, agent, or employee of the operator, or other person,

6-15 summoned under the provisions of this chapter neglects or refuses to obey the summons or to  
6-16 give testimony or to answer interrogatories as required, the tax administrator may apply to the  
6-17 sixth division of the district court for a citation against the person or it as for a contempt. Any  
6-18 judge of that court may hear the application and, if satisfactory proof is made, issue a citation for  
6-19 the arrest of the operator, or officer, agent or employee thereof, or other person, and upon the  
6-20 operator, or officer, agent, or employee of the operator, or other person, being brought before the  
6-21 judge, the judge shall proceed to a hearing of the case; and upon the hearing the judge has power  
6-22 to make any order the judge deems proper. A party aggrieved by an order of the court may  
6-23 appeal the order to the supreme court in accordance with the procedures contained in the rules of  
6-24 appellate procedure of the supreme court.

6-25 (e) It is unlawful, except in proceedings before a court of competent jurisdiction or to  
6-26 collect the fees or surcharges or enforce the penalties provided by this chapter, for the tax  
6-27 administrator or any person having an administrative duty under those authorities to make known  
6-28 in any manner whatever the business affairs, operations, or information obtained by an  
6-29 investigation of records and equipment of any parking facility operator or any other person visited  
6-30 or examined in the discharge of official duty, or the amount or source of receipts, or any  
6-31 particular, stated or disclosed in any return, or to permit any return or copy of any book  
6-32 containing any abstract or particulars to be seen or examined by any person. Nothing in this  
6-33 paragraph shall be construed to prevent the disclosure or publication of statistical or other  
6-34 information where the identity of individual operators is not made known. An operator may  
7-1 waive the confidentiality established by this paragraph by notifying the hearing officer at any  
7-2 time, and may limit the waiver at his or her own direction. An operator may bring other persons  
7-3 into the hearing without waiving the confidentiality described herein.

7-4 **45-62-8. Regulations.** – The tax administrator may prescribe rules and regulations, not  
7-5 inconsistent with law, to carry into effect the provisions of this section, which rules and  
7-6 regulations, when reasonably designed to carry out the intent and purpose of this section, are  
7-7 prima facie evidence of their proper interpretation. Those rules and regulations may from time to  
7-8 time be amended, suspended, or revoked, in whole or in part, by the tax administrator. The tax  
7-9 administrator may prescribe, and may furnish, any forms necessary or proper for the  
7-10 administration of this chapter.

7-11 **45-62-9. Nonresident operators.** – Any operator who is not a resident of this state shall,

as a condition precedent to engaging in such business, and by engaging in such business does consent that any process issued in the enforcement of the provisions of this chapter may be served upon the director of the department of business regulation as agent of that person. The process may be served by leaving a copy of the process in the hands of the director of the department of business regulation or in the director's office with someone in charge of the office. The service is sufficient service upon the person; provided, that notice of the service and a copy of the process, at least fifteen (15) days before the return day of the process, is sent by registered or certified mail, postage prepaid, by the tax administrator or the tax administrator's attorney of record, to the person's last known address, and the sender's registered or certified mail receipt of sending and the tax administrator's or the administrator's attorney's affidavit of compliance are appended to the process and entered with the declaration. Service of process in the manner provided for in this section, under the circumstances specified in this section, is of the same force and validity as if served upon the operator personally within this state. Nothing in this section limits or affects the right to serve process upon a person not a resident of this state within this state in any other manner now or hereafter permitted by law.

**45-62-10. Surcharges are trust funds of state.** – All surcharges collect by a parking facility operator in accordance with the provisions of this chapter, and all surcharges collected by any parking facility operator from persons paying transient parking surcharges under color of these provisions, constitute a trust fund until paid to the tax administrator. That trust is enforceable against:

- (1) the parking facility operator;
- (2) any officer, agent, servant, or employee of any parking facility operator responsible for either the collection or payment, or both, of the surcharge;
- (3) any person receiving any part of the fund without consideration, or knowing that the parking facility operator or any officer, agent, servant, or employee of any corporate parking facility operator is committing a breach of trust; and
- (4) their estates, heirs, and representatives.

**45-62-11. Application to certain exempt entities.** – The surcharges authorized by section 45-62-2 shall apply notwithstanding section 42-64-20 of the general laws; provided, however, that any transient parking facility operator subject to the provisions of section 42-64-20:

- (1) shall not be required to pay any permit fee in connection with the application for or

8-9 issuance of any transient parking facility permit:  
8-10 (2) shall not be required to pay an amount greater than the surcharges actually collected  
8-11 by or on behalf of the transient parking facility operator. This provision of this subsection shall  
8-12 apply notwithstanding the occurrence of any default by the transient parking facility operator;  
8-13 (i) If the transient parking facility operator is a quasi-public corporation, no court may  
8-14 order the corporation to collect the surcharges or the proper amount thereof, but an injunction  
8-15 may issue, if otherwise justified, against any officer or employee thereof;  
8-16 (ii) Any assessment or order requiring the payment of surcharges shall be effective only  
8-17 against the trust funds established under section 45-62-10 and not against any other funds of the  
8-18 transient parking facility operator.

8-19 SECTION 3. Section 8-8-27 of the General Laws in Chapter 8-8 entitled "District Court"  
8-20 is hereby amended to read as follows:

8-21 **8-8-27. Refund suits.** -- (a) Any taxpayer may bring an action for a refund of taxes  
8-22 previously overpaid. The suit for refund may not be brought prior to the date of a final  
8-23 determination by the tax administrator denying the claim for refund. No action for a refund of tax  
8-24 shall be brought after the expiration of thirty (30) days from a notice of final determination of the  
8-25 tax administrator denying the claimed refund.

8-26 (b) As used in this section and section 8-8-28, "tax" includes any surcharge imposed  
8-27 under section 1-6-2; and section 45-62-2 and "taxpayer" includes an operator as defined in section  
8-28 1-6-1 and section 45-62-1.

8-29 SECTION 4. This act shall take effect on July 1, 2004.

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LC01535  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO PARKING SURCHARGES IN THE PROVIDENCE PARKING DISTRICT

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9-1 This act would impose a surcharge on transient parking in the city of Providence and  
9-2 these funds would be transmitted to the general fund of the city of Providence.

9-3        This act would take effect on July 1, 2004.

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LC01535  
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