

## **Legislation for Electric Vehicles Is Racing Towards the Finish Line**

By Jessica E. Molignano, Esq.

Make way for duck...er... I mean electric vehicles? At least that's what the Commonwealth of Massachusetts is hoping for in order to meet the goals set by the Massachusetts Global Warming Solutions Act. Former Mayor Marty Walsh committed the City of Boston to a similar goal to be carbon neutral by 2050. At the end of 2020, Massachusetts had roughly 30,000 electric vehicles on the road.<sup>1</sup> Governor Charlie Baker's goal is to increase that number to 300,000 in 2025<sup>2</sup> and 750,000<sup>3</sup> by 2035. To accomplish this goal, Governor Baker's administration is planning to restrict all new cars sold in the state to be electric by 2035.<sup>4</sup> These ambitious goals require increased electrification of travel modes, such as expanding the use of electric vehicles, which will require the Commonwealth to develop and grow a supportive infrastructure.



In the United States, 80% of electric vehicle charging is done at the owner's home.<sup>5</sup> There tends to be a slower electric vehicle adoption rate for consumers without possession of a garage or parking spot or for those who must rely upon a third-party for installation of such infrastructure, such as a condominium association, property manager, landlord, etc. The Governor has supported legislature governing this matter, making it easier for those with these challenges to own and charge their electric vehicle. As an initial step in this direction, Governor Baker signed into law, on January 2, 2019, the Home Rule Petition for the City of Boston relative to electric vehicle charging stations at condominiums and community associations. Pursuant to this law, condominium associations may not prohibit or unreasonably restrict an owner from installing an electric vehicle charging station. As predicted at the time this bill was passed, it was only a matter of time until similar legislation was introduced in communities outside of Boston.

In the first quarter of 2021, two bills were filed which pertain to electric vehicle charging stations. Representative Michelle L. Ciccolo, State Representative for the

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<sup>1</sup> <https://www.bostonglobe.com/2020/12/30/science/mass-require-all-new-cars-sold-be-electric-by-2035-part-climate-change-measures/>

<sup>2</sup> <https://www.mass.gov/news/governor-baker-signs-electric-vehicle-promotion-legislation>

<sup>3</sup> <https://www.bostonglobe.com/2021/01/31/metro/push-clean-transportation-mass-focuses-electric-cars-over-public-transit/>

<sup>4</sup> <https://www.mass.gov/doc/ma-2050-decarbonization-roadmap/download>

<sup>5</sup> [https://www.boston.gov/sites/default/files/file/2020/10/Boston%20ZEV%20Roadmap\\_1.pdf](https://www.boston.gov/sites/default/files/file/2020/10/Boston%20ZEV%20Roadmap_1.pdf)

15<sup>th</sup> Middlesex District filed the first, Bill H. 3425 “An Act relative to electric vehicle charging stations,” on February 1, 2021. On March 29, 2021, the bill was referred to the Joint Committee on Transportation. The second Bill H. 3858 “An Act providing for electric vehicle charging stations in the city of Cambridge” was filed on March 18, 2021 by Representative Marjorie C. Decker, State Representative for the 25<sup>th</sup> Middlesex District. This bill was referred to the Joint Committee on Transportation on June 7, 2021.

Though you can probably discern one of the differences between the two bills from the titles alone, you may be wondering what else differentiates the two. Bill H. 3425 applies to Associations (including homeowners associations, community associations, condominium associations, cooperatives, and other nongovernmental entities), Historic District Commissions (HDC), and Neighborhood Conservation Districts (NCD)\* in the Commonwealth of Massachusetts. Conversely, Bill H. 3858 applies only to Associations (as defined above) within the city of Cambridge. Now, let’s get to the similarities. Both bills restrict, similar to the City of Boston’s Home Rule Petition, an Association from prohibiting or unreasonably restricting an owner from installing an electric vehicle charging station in certain areas of the condominium, subject to the following:

- the location of the request shall be on or in areas subject to the owner’s separate interest, exclusive use, or on a common element within reasonable distance of the dedicated parking spot;
- the installation of the charging station is at the owner’s expense and must be installed by a licensed contractor or electrician and in accordance with all applicable health, safety, accessibility, and requirements imposed by national, state, and local authorities;
- the Association may require an owner to submit an application before installing a charging station, which application must be approved if it complies with the Association’s architectural standards. If the application is not denied in writing within 60 days of receipt of the application, it is deemed approved;
- the Association cannot assess or charge the owner any fees, besides reasonable processing fees and only if such fees are required for approval of all other architectural modifications.

The proposed bills also require owners to:

- disclose to prospective buyers the existence of any charging station and the responsibilities associated, as well as whether the owner intends on removing the station prior to the sale;
- pay for maintenance, repair and replacement of the charging station and restoration of the common area after removal, any damage to the charging station, common area, exclusive common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station, and the cost of electricity associated with the charging station;
- remove the charging station if necessary to repair, replace or maintain Association property.

Last, but certainly not least, the bills provide for an Association to install charging stations in the common area for the use of all members of the Association.

In light of this proposed legislation, Associations may want to consider a proactive approach to electric vehicle charging stations. This could include evaluating current infrastructure, such as the existing electrical and other utilities on condominium property; reviewing the governing documents, administrative procedures, and current insurance coverage for processing such requests; and preparing specific rules in the event of misconduct or applications and agreements in advance of any request. If your Association is interested in learning more about the topic or preparing for electric vehicle charging stations, our office would be happy to assist with the process.

*\*For the purposes of this article, I focused solely on Associations and the responsibilities pertaining to Associations and owners under the Bill. Please note that this is just a summary and does not include all aspects of the proposed legislation. For more information, please visit <https://malegislature.gov/Bills/192/H3425> and <https://malegislature.gov/Bills/192/H3858>.*