

HOUSE No. 1393

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to repeat drunk driving offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Daniel B. Winslow</i>	<i>9th Norfolk</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>

HOUSE No. 1393

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 1393) of Bradley H. Jones, Jr. and others relative to repeat offenders. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE

□ HOUSE
□ , NO. 2213 OF 2011-2012.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Thirteen
—————

An Act relative to repeat drunk driving offenders.

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

1 SECTION 1. Subdivision (1) of section 24 of chapter 90 of the General Laws, as most
2 recently amended by chapter 139 of the acts of 2012, is hereby further amended by inserting in
3 the fourth paragraph of subparagraph (1) of paragraph (a) after the words “has served thirty days
4 of such sentence” the following words:- provided, further, that any such probation, parole, or
5 furlough shall consist of not less than 30 days of community service.

6 SECTION 2. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
7 hereby further amended by inserting after the word “drivers.” at the end of the fourth paragraph
8 of subparagraph (1) of paragraph (a) the following paragraph:-

9 A mandatory condition of any probation or parole that may be ordered as a result of this
10 paragraph is that the offender shall have an alcohol assessment conducted by the department of
11 public health. The assessment shall include, but not be limited to, an assessment of the level of
12 the offender’s addiction to alcohol or drugs, and the department’s recommended course of
13 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
14 recommendations contained therein shall become a mandatory condition of his probation or
15 parole. No person shall be excluded from an assessment or recommended course of treatment for
16 inability to pay, if the offender files an affidavit of indigency or inability to pay with the court,

17 investigation by the probation or parole officer confirms such indigency or establishes that such
18 payment would cause a grave and serious hardship to the offender or his family, and the court
19 enters written findings thereof. The department of public health may make such rules and
20 regulations as are necessary to accomplish the intent of this assessment.

21 SECTION 3. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
22 hereby amended by inserting in the fifth paragraph of subparagraph (1) of paragraph (a) after the
23 words “he shall have served one hundred and fifty days of such sentence” the following words:-
24 ; provided further, that any such probation, parole, or furlough shall consist of not less than 60
25 days of community service

26 SECTION 4. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
27 hereby further amended by inserting after the word “drivers.” at the end of the fifth paragraph of
28 subparagraph (1) of paragraph (a) the following paragraph:-

29 A mandatory condition of any probation or parole that may be ordered as a result of this
30 paragraph is that the offender shall have an alcohol assessment conducted by the department of
31 public health. The assessment shall include, but not be limited to, an assessment of the level of
32 the offender’s addiction to alcohol or drugs, and the department’s recommended course of
33 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
34 recommendations contained therein shall become a mandatory condition of his probation or
35 parole. No person shall be excluded from said assessment or recommended course of treatment
36 for inability to pay, if the offender files an affidavit of indigency or inability to pay with the
37 court, the investigation by the probation or parole officer confirms such indigency or establishes
38 that such payment would cause a grave and serious hardship to the offender or his family, and
39 the court enters written findings thereof. The department of public health may make such rules
40 and regulations as are necessary to accomplish the intent of this assessment.

41 SECTION 5. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
42 hereby further amended in the sixth paragraph of subparagraph (1) of paragraph (a) by striking
43 out “nor more than five years;” and inserting in place thereof:- nor more than seven years;

44 SECTION 6. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
45 hereby amended by inserting in the sixth paragraph of subparagraph (1) of paragraph (a) after the
46 words “has served twelve months of such sentence” the following words:- provided, further, that
47 any such probation, parole, or furlough shall consist of not less than 60 days of community
48 service.

49 SECTION 7. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
50 hereby further amended by inserting after the word “drivers” at the end of the sixth paragraph of
51 subparagraph (1) of paragraph (a) the following paragraph:-

52 A mandatory condition of any probation or parole that may be ordered as a result of this
53 paragraph is that the offender shall have an alcohol assessment conducted by the department of
54 public health. The assessment will include, but need not be limited to, an assessment of the level
55 of the offender's addictions to alcohol or drugs, and the department's recommended course of
56 treatment. Such assessment shall be reported to the offender's probation or parole officer, and the
57 recommendations contained therein shall become a mandatory condition of his probation or
58 parole. No person shall be excluded from said assessment or recommended course of treatment
59 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay
60 with the court, that investigation by the probation or parole officer confirms such indigency or
61 establishes that such payment would cause a grave and serious hardship to the offender or his
62 family, and that the court enters written findings thereof. The department of public health may
63 make rules and regulations as are necessary to accomplish the intent of this assessment.

64 SECTION 8. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
65 hereby further amended in the seventh paragraph of subparagraph (1) of paragraph (a) by striking
66 out "nor more than five years;" and inserting in place thereof:- nor more than ten years.

67 SECTION 9. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
68 hereby amended by inserting in the seventh paragraph of subparagraph (1) of paragraph (a) after
69 the words "has served twenty-four months of such sentence" the following words:- provided,
70 further, that any such probation, parole, or furlough shall consist of not less than 60 days of
71 community service.

72 SECTION 10. Said subdivision (1) of section 24 of said chapter 90, as so amended, is
73 hereby further amended by inserting after the word "drivers" at the end of the seventh paragraph
74 of subparagraph (1) of paragraph (a) the following paragraph:-

75 A mandatory condition of any probation or parole that may be ordered as a result of this
76 paragraph is that the offender shall have an alcohol assessment conducted by the department of
77 public health. The assessment will include, but need not be limited to, an assessment of the level
78 of the offender's addictions to alcohol or drugs, and the department's recommended course of
79 treatment. Such assessment shall be reported to the offender's probation or parole officer, and the
80 recommendations contained therein shall become a mandatory condition of his probation or
81 parole. No person shall be excluded from said assessment or recommended course of treatment
82 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay
83 with the court, that investigation by the probation or parole officer confirms such indigency or
84 establishes that such payment would cause a grave and serious hardship to the offender or his
85 family, and that the court enters written findings thereof. The department of public health may
86 make rules and regulations as are necessary to accomplish the intent of this assessment.

87 SECTION 11. Said section 24 of said chapter 90, as so amended, is hereby amended by
88 adding the following:-

89 Notwithstanding the provisions of any section of this chapter, any person who after being
90 administered the chemical test set forth in this section and such evidence indicates that the
91 percentage was fifteen one hundredths or more and the person is before the court for the first
92 time for such offense, upon conviction the court shall order an alcohol assessment conducted by
93 the department of public health. The assessment will include, but need not be limited to, an
94 assessment of the level of the offender's addictions to alcohol or drugs, and the department's
95 recommended course of treatment. No person shall be excluded from said assessment or
96 recommended course of treatment for inability to pay, provided that the offender files an
97 affidavit of indigency or inability to pay with the court, that investigation by the probation or
98 parole officer confirms such indigency or establishes that such payment would cause a grave and
99 serious hardship to offender or his family, and that the court enters written findings thereof. The
100 department of public health may make such rules and regulations as are necessary to accomplish
101 the intent of this assessment.

102 SECTION 12. Chapter 90, as so amended, is hereby amended by inserting after section
103 24X, the following section:-

104 Section 24Y. (a) Whoever, upon any way or in any place to which members of the public
105 has a right to access, or upon any way or in any place to which members of the public have
106 access as invitees or licensees, operates a motor vehicle with a percentage of weight, of alcohol
107 in his blood of eight-one hundredths or greater, or while under the influence of intoxicating
108 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue,
109 in violation of sections 24, 24G or 24L, while a child under the age of 14 is in the vehicle, shall
110 be punished by imprisonment in the house of correction for not more than 6 months and a fine of
111 not more than \$10,000.

112 (b) In accordance with section 8A of chapter 279, such sentence shall begin from and
113 after the expiration of the sentence for violation of said sections 24, 24G or 24L.

114 (c) The registrar may extend, for an additional 2 months, any suspension or revocation of
115 a license or right to operate imposed for violation of said sections 24, 24G or 24L, on any person
116 that violates this section.