

HOUSE No. 2980

The Commonwealth of Massachusetts

PRESENTED BY:

James J. Dwyer

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 adoption of the accompanying bill:

An Act relative to community works programs.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-----------------------|-----------------------|
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> |
| <i>Leonard Mirra</i> | <i>2nd Essex</i> |
| <i>Stephen Kulik</i> | <i>1st Franklin</i> |

HOUSE No. 2980

By Mr. Dwyer of Woburn, a petition (accompanied by bill, House, No. 2980) of James J. Dwyer, Leonard Mirra and Stephen Kulik relative to operating a motor vehicle after a suspension or revocation of license. Transportation.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1299 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to community works programs.

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

1 Section 1. Section 23 of chapter 90 of the General Laws is hereby amended by striking
2 out the third paragraph and inserting in place thereof the following paragraph:

3 Any person convicted of operating a motor vehicle after his license to operate has been
4 suspended or revoked pursuant to a violation of paragraph (a) of subdivision (1) of section
5 twenty-four, or pursuant to section twenty-four D, twenty-four E, twenty-four G, twenty-four L,
6 or twenty-four N of this chapter, or pursuant to subsection (a) of section eight, or pursuant to a
7 violation of section eight A or section eight B of chapter ninety B, or after notice of such
8 suspension or revocation of his right to operate a motor vehicle without a license has been issued
9 and received by such person or by his agent or employer, and prior to the restoration of such
10 license or right to operate or the issuance to him of a new license to operate shall be punished by

11 a fine of not less than one thousand nor more than ten thousand dollars and by imprisonment in a
12 house of correction for not less than sixty days and not more than two and one-half years;
13 provided, however, that the sentence of imprisonment imposed upon such person shall not be
14 reduced to less than sixty days, nor suspended, nor shall any such person be eligible for
15 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
16 he shall have served sixty days of such sentence; provided, further, that the commissioner of
17 correction may, on the recommendation of the warden, superintendent or other person in charge
18 of a correctional institution, or of the administrator of a county correctional institution, grant to
19 an offender committed under this paragraph a temporary release in the custody of an officer of
20 such institution for the following purposes only: to attend the funeral of a relative; to visit a
21 critically ill relative; to obtain emergency medical or psychiatric services unavailable at said
22 institution; to engage in employment pursuant to a work release program; or to participate in a
23 program to provide services to municipalities within a county pursuant to section forty nine C of
24 chapter one hundred twenty seven. The provisions of section eighty-seven of chapter two
25 hundred and seventy-six shall not apply to any person charged with a violation of this paragraph.
26 Prosecutions commenced under this paragraph shall not be placed on file or continued without a
27 finding.

28 Section 2. Section 24 of chapter 90 of the General Laws is hereby amended by striking
29 out the fourth paragraph and inserting in place thereof the following paragraph:

30 If the defendant has been previously convicted or assigned to an alcohol or controlled
31 substance education, treatment, or rehabilitation program by a court of the commonwealth or any
32 other jurisdiction because of a like violation within ten years preceding the date of the
33 commission of the offense for which he has been convicted, the defendant shall be punished by a

34 fine of not less than six hundred nor more than ten thousand dollars and by imprisonment for not
35 less than sixty days nor more than two and one-half years; provided, however, that the sentence
36 imposed upon such person shall not be reduced to less than thirty days, nor suspended, nor shall
37 any such person be eligible for probation, parole, or furlough or receive any deduction from his
38 sentence for good conduct until such person has served thirty days of such sentence, unless
39 otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission
40 established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-
41 three; provided, further, that the commissioner of correction may, on the recommendation of the
42 warden, superintendent, or other person in charge of a correctional institution, or the
43 administrator of a county correctional institution, grant to an offender committed under this
44 subdivision a temporary release in the custody of an officer of such institution for the following
45 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
46 emergency medical or psychiatric services unavailable at said institution; to engage in
47 employment pursuant to a work release program; to participate in a program to provide services
48 to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty
49 seven; or for the purposes of an aftercare program designed to support the recovery of an
50 offender who has completed an alcohol or controlled substance education, treatment or
51 rehabilitation program operated by the department of correction; and provided, further, that the
52 defendant may serve all or part of such thirty day sentence to the extent such resources are
53 available in a correctional facility specifically designated by the department of correction for the
54 incarceration and rehabilitation of drinking drivers.

55 Section 3. Section 24 of chapter 90 of the General Laws is hereby amended by striking
56 out the fifth paragraph and inserting in place thereof the following paragraph:

57 If the defendant has been previously convicted or assigned to an alcohol or controlled
58 substance education, treatment, or rehabilitation program by a court of the commonwealth, or
59 any other jurisdiction because of a like offense two times within ten years preceding the date of
60 the commission of the offense for which he has been convicted, the defendant shall be punished
61 by a fine of not less than one thousand nor more than fifteen thousand dollars and by
62 imprisonment for not less than one hundred and eighty days nor more than two and one-half
63 years or by a fine of not less than one thousand nor more than fifteen thousand dollars and by
64 imprisonment in the state prison for not less than two and one-half years nor more than five
65 years; provided, however, that the sentence imposed upon such person shall not be reduced to
66 less than one hundred and fifty days, nor suspended, nor shall any such person be eligible for
67 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
68 he shall have served one hundred and fifty days of such sentence, unless otherwise sentenced to
69 an intermediate sanction as promulgated by the sentencing commission established in chapter
70 four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further,
71 that the commissioner of correction may, on the recommendation of the warden, superintendent,
72 or other person in charge of a correctional institution, or the administrator of a county
73 correctional institution, grant to an offender committed under this subdivision a temporary
74 release in the custody of an officer of such institution for the following purposes only: to attend
75 the funeral of a relative, to visit a critically ill relative; to obtain emergency medical or
76 psychiatric services unavailable at said institution; to engage in employment pursuant to a work
77 release program; to participate in a program to provide services to municipalities within a county
78 pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an
79 aftercare program designed to support the recovery of an offender who has completed an alcohol

80 or controlled substance education, treatment or rehabilitation program operated by the
81 department of correction; and provided, further, that the defendant may serve all or part of such
82 one hundred and fifty days sentence to the extent such resources are available in a correctional
83 facility specifically designated by the department of correction for the incarceration and
84 rehabilitation of drinking drivers.

85 Section 4. Section 24 of chapter 90 of the General Laws is hereby amended by striking
86 out the fifth paragraph and inserting in place thereof the following paragraph:

87 If the defendant has been previously convicted or assigned to an alcohol or controlled
88 substance education, treatment, or rehabilitation program by a court of the commonwealth or any
89 other jurisdiction because of a like offense three times within ten years preceding the date of the
90 commission of the offense for which he has been convicted the defendant shall be punished by a
91 fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and
92 by imprisonment for not less than two years nor more than two and one-half years, or by a fine of
93 not less than one thousand five hundred nor more than twenty-five thousand dollars and by
94 imprisonment in the state prison for not less than two and one-half years nor more than five
95 years; provided, however, that the sentence imposed upon such person shall not be reduced to
96 less than twelve months, nor suspended, nor shall any such person be eligible for probation,
97 parole, or furlough or receive any deduction from his sentence for good conduct until such
98 person has served twelve months of such sentence, unless otherwise sentenced to an intermediate
99 sanction as promulgated by the sentencing commission established in chapter four hundred and
100 thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the
101 commissioner of correction may, on the recommendation of the warden, superintendent, or other
102 person in charge of a correctional institution, or the administrator of a county correctional

103 institution, grant to an offender committed under this subdivision a temporary release in the
104 custody of an officer of such institution for the following purposes only: to attend the funeral of
105 a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
106 unavailable at said institution; to engage in employment pursuant to a work release program; to
107 participate in a program to provide services to municipalities within a county pursuant to section
108 forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program
109 designed to support the recovery of an offender who has completed an alcohol or controlled
110 substance education, treatment or rehabilitation program operated by the department of
111 correction; and provided, further, that the defendant may serve all or part of such twelve months
112 sentence to the extent that resources are available in a correctional facility specifically designated
113 by the department of correction for the incarceration and rehabilitation of drinking drivers.

114 Section 5. Section 24 of chapter 90 of the General Laws is hereby amended by striking
115 out the sixth paragraph and inserting in place thereof the following paragraph:

116 If the defendant has been previously convicted or assigned to an alcohol or controlled
117 substance education, treatment or rehabilitation program by a court of the commonwealth or any
118 other jurisdiction because of a like offense four or more times within ten years preceding the date
119 of the commission of the offense for which he has been convicted, the defendant shall be
120 punished by a fine of not less than two thousand nor more than fifty thousand dollars and by
121 imprisonment for not less than two and one-half years or by a fine of not less than two thousand
122 nor more than fifty thousand dollars and by imprisonment in the state prison for not less than two
123 and one-half years nor more than five years; provided, however, that the sentence imposed upon
124 such person shall not be reduced to less than twenty-four months, nor suspended, nor shall any
125 such person be eligible for probation, parole, or furlough or receive any deduction from his

126 sentence for good conduct until he shall have served twenty-four months of such sentence, unless
127 otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission
128 established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-
129 three; provided, further, that the commissioner of correction may, on the recommendation of the
130 warden, superintendent, or other person in charge of a correctional institution, or the
131 administrator of a county correctional institution, grant to an offender committed under this
132 subdivision a temporary release in the custody of an officer of such institution for the following
133 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
134 emergency medical or psychiatric services unavailable at said institution; to engage in
135 employment pursuant to a work release program; to participate in a program to provide services
136 to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty
137 seven; or for the purposes of an aftercare program designed to support the recovery of an
138 offender who has completed an alcohol or controlled substance education, treatment or
139 rehabilitation program operated by the department of correction; and provided, further, that the
140 defendant may serve all or part of such twenty-four months sentence to the extent that resources
141 are available in a correctional facility specifically designated by the department of correction for
142 the incarceration and rehabilitation of drinking drivers.

143 Section 6. Section 24G of chapter 90 of the General Laws is hereby amended by striking
144 out the first paragraph and inserting in place thereof the following paragraph:

145 (a) Whoever, upon any way or in any place to which the public has a right of access, or
146 upon any way or in any place to which members of the public have access as invitees or
147 licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of
148 marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of

149 chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or
150 negligently so that the lives or safety of the public might be endangered, and by any such
151 operation so described causes the death of another person, shall be guilty of homicide by a motor
152 vehicle while under the influence of an intoxicating substance, and shall be punished by
153 imprisonment in the state prison for not less than two and one-half years or more than fifteen
154 years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of
155 correction for not less than one year nor more than two and one-half years and a fine of not more
156 than five thousand dollars. The sentence imposed upon such person shall not be reduced to less
157 than one year, nor suspended, nor shall any person convicted under this subsection be eligible for
158 probation, parole, or furlough or receive any deduction from his sentence until such person has
159 served at least one year of such sentence; provided, however, that the commissioner of
160 correction may, on the recommendation of the warden, superintendent, or other person in charge
161 of a correctional institution, or the administrator of a county correctional institution, grant to an
162 offender committed under this subsection a temporary release in the custody of an officer of such
163 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
164 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution;
165 to engage in employment pursuant to a work release program; or to participate in a program to
166 provide services to municipalities within a county pursuant to section forty nine C of chapter one
167 hundred twenty seven. Prosecutions commenced under this section shall neither be continued
168 without a finding nor placed on file.

169 Section 7. Section 24L of chapter 90 of the General Laws is hereby amended by striking
170 out the second paragraph and inserting in place thereof the following paragraph:

171 The sentence imposed upon such person shall not be reduced to less than six months, nor
172 suspended, nor shall any person convicted under this subsection be eligible for probation, parole,
173 or furlough or receive any deduction from his sentence until such person has served at least six
174 months of such sentence; provided, however, that the commissioner of correction may, on the
175 recommendation of the warden, superintendent, or other person in charge of a correctional
176 institution, or of the administrator of a county correctional institution, grant to an offender
177 committed under this subsection a temporary release in the custody of an officer of such
178 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
179 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution;
180 to engage in employment pursuant to a work release program; or to participate in a program to
181 provide services to municipalities within a county pursuant to section forty nine C of chapter one
182 hundred twenty seven. Prosecutions commenced under this subdivision shall neither be
183 continued without a finding nor placed on file.