

SENATE No. 00880

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 providing for progressive penalties for the crime of motor vehicular homicide..

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|--------------------------|--|
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> |
| <i>Michael R. Knapik</i> | <i>Second Hampden and Hampshire</i> |
| <i>Robert L. Hedlund</i> | <i>Plymouth and Norfolk</i> |
| <i>Richard J. Ross</i> | <i>Norfolk, Bristol, and Middlesex</i> |

SENATE No. 00880

By Mr. Tarr, petition (accompanied by bill, Senate, No. 880) of Ross, Hedlund, Knapik and other members of the Senate for legislation to provide for progressive penalties for the crime of motor vehicular homicide [Joint Committee on the Judiciary].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1808 OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act providing for progressive penalties for the crime of motor vehicular homicide..

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 24G of chapter 90 of the General Laws is hereby amended by
2 striking the section in its entirety and replacing it with the following section:--

3 Section 24G. (a) Whoever, upon any way or in any place to which the public has a right
4 of access, or upon any way or in any place to which members of the public have access as
5 invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their
6 blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or
7 of marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one
8 of chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or
9 negligently so that the lives or safety of the public might be endangered, and by any such

10 operation so described causes the death of another person, shall be guilty of homicide by a motor
11 vehicle while under the influence of an intoxicating substance, and shall be punished by
12 imprisonment in the state prison for not less than two and one-half years or more than fifteen
13 years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of
14 correction for not less than one year nor more than two and one-half years and a fine of not more
15 than five thousand dollars. The sentence imposed upon such person shall not be reduced to less
16 than one year, nor suspended, nor shall any person convicted under this subsection be eligible for
17 probation, parole, or furlough or receive any deduction from his sentence until such person has
18 served at least one year of such sentence; provided, however, that the commissioner of correction
19 may, on the recommendation of the warden, superintendent, or other person in charge of a
20 correctional institution, or the administrator of a county correctional institution, grant to an
21 offender committed under this subsection a temporary release in the custody of an officer of such
22 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
23 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or
24 to engage in employment pursuant to a work release program. Prosecutions commenced under
25 this section shall neither be continued without a finding nor placed on file.

26 The provisions of section eighty-seven of chapter two hundred and seventy-six shall not
27 apply to any person charged with a violation of this subsection.

28 (b) Whoever, upon any way or in any place to which the public has a right of access or
29 upon any way or in any place to which members of the public have access as invitees or
30 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of
31 eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of
32 marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of

33 chapter ninety-four C, or the vapors of glue, or whoever operates a motor vehicle negligently so
34 that the lives or safety of the public might be endangered and by any such operation causes the
35 death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by
36 imprisonment in a jail or house of correction for not less than thirty days nor more than two and
37 one-half years, or by a fine of not less than three hundred nor more than three thousand dollars,
38 or both.

39 (c) Whoever, upon any way or in any place to which the public has a right of access or
40 upon any way or in any place to which members of the public have access as invitees or
41 licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be
42 endangered and by any such operation causes the death of another person, shall be guilty of
43 reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of
44 correction for not more than two and one-half years, or by imprisonment in the state prison for
45 not more than ten years, or by a fine of not more than three thousand dollars, or by both such fine
46 and imprisonment. For the purpose of this section, a person operates recklessly when he
47 consciously disregards a substantial and unjustifiable risk that the lives or safety of the public
48 might be endangered.

49 (d) The registrar shall revoke the license or right to operate of a person convicted of a
50 violation of subsection (a), (b), (c) or punished under section 13 of chapter 265 of the General
51 Laws when a motor vehicle is the instrument of the offense for a period of ten years after the
52 date of conviction for a first offense. The registrar shall revoke the license or right to operate of a
53 person convicted for a subsequent violation of this section for the life of such person. No appeal,
54 motion for a new trial or exceptions shall operate to stay the revocation of the license or of the

55 right to operate; provided, however, such license shall be restored or such right to operate shall
56 be reinstated if the prosecution of such person ultimately terminates in favor of the defendant.