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thereafter negotiate, a hospital contract that would be applicable to some or all of the hospitals represented by the agent.

Such a negotiating agent that represents more than one hospital shall have the right to propose to a nonprofit hospital service corporation, and thereafter negotiate, a hospital contract which would be applicable to some or all of the hospitals represented by it.

The commission shall not disapprove any contract between a hospital and a nonprofit hospital service corporation on the grounds that a term or terms of the contract are similar or identical to the terms of a proposed or approved contract between any other hospital and such corporation, or that the hospital was represented by a negotiating agent which represented one or more other hospitals.

SECTION 9. Any acute hospital aggrieved by an action of the commission under this act shall have a right of appeal in accordance with the provisions of section thirty-six of chapter six A of the General Laws.

SECTION 10. Section three and section seven A of this act shall take effect upon its passage. All other sections of this act shall become operative only upon approval of the medicare experimental project P-98199/1-01, as amended in accordance with section three of this act and as may be further amended with the consent of the Massachusetts Hospital Association, by the Health Care Financing Administration, United States Department of Health and Human Services. In the event said experimental project is approved, and said experimental project, or any extension thereof or successor thereto, shall subsequently cease to be in effect for a period of six consecutive months, then at the end of such six month period sections one, one A, two, five, five A, six and eight of this act shall become void and shall cease to be in effect. Section seven A shall cease to be operative in the event said medicare experimental project is not approved.

Approved August 10, 1982.

Chap. 373. AN ACT INCREASING THE PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUORS.

Whereas, The deferred operation of this act would tend to

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defeat its purpose, which is to provide an immediate increase in the penalties of operating a motor vehicle while under the influence of alcoholic beverages, therefore it is hereby declared to be an emergency law, necessary for the preservation of the public safety. _____

Be it enacted, etc., as follows:

SECTION 1. Section 23 of chapter 90 of the General Laws, as most recently amended by section 2 of chapter 1033 of the acts of 1971, is hereby further amended by inserting after the first paragraph the following paragraph:-

Any person convicted of operating a motor vehicle after his license to operate has been revoked pursuant to a violation of paragraph (a) of subdivision (1) of sections twenty-four, twenty-four D, twenty-four E and twenty-four G, or after notice of such revocation of his right to operate a motor vehicle without a license has been issued and received by such person or by his agent or employer, and prior to the restoration of such license or right to operate or the issuance to him of a new license to operate shall be punished by a fine of not less than two hundred dollars and not more than five thousand dollars and by imprisonment in a house of correction for not less than seven days and not more than two and one-half years, provided that, the sentence of imprisonment imposed upon such person shall not be reduced to less than seven days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served seven days of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this paragraph a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person charged with a violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

SECTION 2 Subdivision (1) of section 24 of said chapter 90 is hereby amended by striking out paragraph (a), as most recently

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amended by section 4 of chapter 1071 of the acts of 1971, and inserting in place thereof the following paragraph:-

(a) (1) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment for not more than two years, or both.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like violation within six years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than three hundred nor more than one thousand dollars and by imprisonment for not less than seven days nor more than two years, provided that the sentence imposed upon such person shall not be reduced to less than seven days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served seven days of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

If the defendant has been previously convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense two or more times within six years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment for not less than sixty days nor more than two years, provided that the sentence imposed upon such person shall not be reduced to less than sixty days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have

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served sixty days of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer committed under this subsection or a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program.

A prosecution commenced under this paragraph may not be placed on file or continued without a finding except for dispositions under section twenty-four D.

At any time before the commencement of trial or acceptance of a plea on a complaint alleging a violation of this subparagraph, the prosecutor may move for the dismissal of the complaint and the issuance of a new complaint alleging a violation of this subparagraph and one or more prior like violations. After a hearing and a finding of probable cause, the judge may order the issuance of said complaint. If a new complaint is issued, the court shall order that further proceedings on the matter be postponed until the defendant has had sufficient time to prepare a defense.

If a defendant waives right to a jury trial pursuant to section twenty-six A of chapter two hundred and eighteen on a complaint under this subdivision he shall be deemed to have waived right to a jury trial on all elements of said complaint subject to the right to appeal pursuant to section twenty-seven A of said chapter two hundred and eighteen.

(2) Except as provided in subparagraph (4), the provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person charged with a violation of subparagraph (1) and if said person has been convicted of or assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth within a period of six years immediately preceding the commission of the offense with which he is charged.

(3) Notwithstanding the provisions of section six A of chapter two hundred and seventy-nine, the court may order that a defendant convicted of a violation of subparagraph (1) be actually imprisoned only on designated weekends, evenings or holidays.

(4) Notwithstanding the provisions of subparagraphs (1) and (2), a judge, before imposing sentence on a defendant who

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pleads guilty to or is found guilty of a violation of subparagraph (1) and who has not been convicted or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like offense two or more times within six years of the date of the commission of the offense for which he has been convicted, shall receive a report from the probation copy of the defendant's driving record, the criminal record of the defendant, if any, and such information as may be available as to the defendant's use of alcohol and may, upon a written finding that appropriate and adequate treatment is available to the defendant and the defendant would benefit from such treatment and that the safety of the public would not be endangered, with the defendant's consent place a defendant on probation for two years provided that a condition of such probation shall be that the defendant be confined for no less than fourteen days in a residential alcohol treatment program as provided or sanctioned by the division of alcoholism, pursuant to regulations to be promulgated by said division in consultation with the department of correction and with the approval of the secretary of human services or at any other facility so sanctioned or regulated as may be established by the commonwealth or any political subdivision thereof for the purpose of alcohol or drug treatment or rehabilitation, and comply with all conditions of said residential alcohol treatment program.

Failure of the defendant to comply with said conditions and any other terms of probation as imposed under this section shall be reported forthwith to the court and proceedings under the provisions of section three of chapter two hundred and seventy-nine shall be commenced.

The defendant shall pay for the cost of the services provided by the residential alcohol treatment program; however, no person shall be excluded from said programs for inability to pay, provided that such person files an affidavit of indigency or inability to pay with the court, that investigation by the probation officer confirms such indigency or establishes that the payment of such fee would cause a grave and serious hardship to such individual or to the family of such individual, and that the court enters a written finding thereof. In lieu of waiver of the entire amount of said fee, the court may direct such individual to make partial or installment payments of the cost of said program.

SECTION 3. Said subdivision (1) of said section 24 of said chapter 90 is hereby further amended by striking out paragraph (b), as amended by chapter 200 of the acts of 1964, and inserting in place thereof the following paragraph:-

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(b) A conviction of a violation of subparagraph (1) of paragraph (a) shall revoke the license or right to operate of the person so convicted unless such person has not been convicted of or assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth within a period of six years preceding the date of the commission of the offense for which he has been convicted, and said person qualifies for disposition under section twenty-four D and has consented to probation as provided for in said section twenty-four D, no appeal, motion for new trial or exceptions shall operate to stay the revocation of the license or the right to operate. Such revoked license shall immediately be surrendered to the prosecuting officer who shall forward the same to the registrar. The court shall report immediately any revocation, under this section, of a license or right to operate to the registrar and to the police department of the municipality in which the defendant is domiciled. Notwithstanding the provisions of section twenty-two, the revocation, reinstatement or issuance of a license or right to operate by reason of a violation of paragraph (a) shall be controlled by the provisions of this section and sections twenty-four D and twenty-four E.

SECTION 4. Said subdivision (1) of said section 24 of said chapter 90 is hereby further amended by striking out paragraph (c), as most recently amended by section 2 of chapter 647 of the acts of 1974, and inserting in place thereof the following paragraph:-

(c) (1) Where the license or right to operate has been revoked under section twenty-four D or twenty-four E or revoked under subparagraph (1) of paragraph (b) and such person has not been convicted of a like offense or has not been assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth within a period of six years preceding the date of the commission of the offense for which he has been convicted, the registrar shall not restore the license or reinstate the right to operate to such person unless the prosecution of such person has terminated in favor of the defendant, until one year after the date of conviction.

(2) Where the license or the right to operate of a person has been revoked under subparagraph (1) of paragraph (b) and such person has been previously convicted of or assigned to an alcohol education or rehabilitation program by a court of the commonwealth because of a like violation within a period of six years preceding the date of the commission of the offense for which such person has been convicted, the registrar shall not

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restore the license or reinstate the right to operate of such person unless the prosecution of such person has terminated in favor of the defendant, until two years after the date of the conviction; provided, however, that such person may, after the expiration of one year from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary.

(3) Where the license or right to operate of any person has been revoked under subparagraph (1) of paragraph (b) and such person has been previously convicted or assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth two or more times within a period of six years preceding the date of commission of the offense for which he has been convicted or where the license or right to operate has been revoked pursuant to section twenty-three due to a violation of said section due to a prior revocation under subparagraph (1) of paragraph (b) or under section twenty-four D or twenty-four E, the registrar shall not restore the license or reinstate the right to operate to such person, unless the prosecution of such person has terminated in favor of the defendant, until five years after the date of conviction; provided, however, that such person may, after the expiration of two years from the date of conviction, apply for and shall be granted a hearing before the registrar for the purpose of requesting the issuance of a new license on a limited basis on the grounds of hardship and a showing by the person that the causes of the present and past violations have been dealt with or brought under control and the registrar may, in his discretion, issue such a license under such terms and conditions as he deems appropriate and necessary. An appeal to the superior court may be had, in accordance with the provisions of chapter thirty A, from any order of the registrar of motor vehicles under the provisions of this section.

(4) Notwithstanding the foregoing, no new license shall be issued or right to operate be reinstated by the registrar to any person convicted of a violation of subparagraph (1) of paragraph (a) until ten years after the date of conviction in case the registrar determines upon investigation and after hearing that the action of the person so convicted in committing such offense caused an accident resulting in the death of another, nor at any time after a subsequent conviction of such an offense, whenever

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committed, in case the registrar determines in the manner aforesaid that the action of such person, in committing the offense of which he was so subsequently convicted, caused an accident resulting in the death of another.

SECTION 5. Said subdivision (1) of said section 24 of said chapter 90 is hereby further amended by adding the following paragraph:-

(h) Any person convicted of a violation of subparagraph (1) of paragraph (a) that involves operating a motor vehicle while under the influence of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, may, as part of the disposition in the case, be ordered to participate in a driver education program or a drug treatment or drug rehabilitation program, or any combination of said programs. The court shall set such financial and other terms for the participation of the defendant as it deems appropriate.

SECTION 6. Said chapter 90 is hereby further amended by striking out section 24D, as most recently amended by section 4 of chapter 758 of the acts of 1975, and inserting in place thereof the following section:-

Section 24D. Any person convicted of or charged with operating a motor vehicle while under the influence of intoxicating liquor, may, if he consents, be placed on probation for not more than two years and shall, as a condition of probation, be assigned to a driver alcohol education program as provided herein and, if deemed necessary by the court, to an alcohol treatment or rehabilitation program or to both, and the person's license or right to operate shall be suspended for thirty days. Such order of probation shall be in addition to any penalties imposed as provided in subparagraph (1) of paragraph (a) of subdivision (1) of section twenty-four and shall be in addition to any requirements imposed as a condition for any suspension of sentence. Said person shall cooperate in an investigation conducted by the probation staff of the court for supervision of cases of operating under the influence of intoxicating liquor in such manner as the commissioner of probation shall determine.

The provisions of this section shall not apply to any person convicted or assigned to an alcohol education or rehabilitation program because of a like offense by a court of the commonwealth within a period of six years preceding the date of the commission of the offense with which he is charged nor shall the provisions of this section apply to any person who during

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the events that gave rise to the complaint under paragraph (a) of subdivision (1) of section twenty-four caused serious personal injury to or the death of another person.

At the time of trial or prior to disposition a report shall be made to the judge. Said report shall be uniform in content and format throughout the commonwealth and shall include but shall not be limited to a copy of said person's driving record and other records obtained from the registrar, or other person designated by him, pertaining to said person's operation of a motor vehicle as well as any recommendation by the registrar as to whether said person should later be eligible for early reinstatement of his license. The court shall report the disposition or finding of any such case to the registrar. Following disposition, the probation officer supervising a person pursuant to the provisions of this section shall maintain a written and current report which shall include but shall not be limited to consideration of said person's participation in any program in which he has been placed as a condition of probation as well as to a consideration of his drinking and driving behavior.

The suspended license or right to operate shall be retained in the probation office of the court for the duration of the suspension period. The court shall immediately report the suspension to the registrar and the police department of the municipality in which the defendant is domiciled.

Driver alcohol education programs utilized under the provisions of this section shall be established and administered by the director of the division of alcoholism in consultation with the registrar and the secretary of public safety, and shall include but shall not be limited to instruction on driver improvement skills as part of the course content.

Alcohol treatment, rehabilitation program or alcohol treatment and rehabilitation programs utilized under the provisions of this section shall include any public or private out-patient clinic, hospital, employer or unionsponsored program, self-help group, or any other organization, facility, service or program which the division of alcoholism has accepted as appropriate for the purposes of this section. The division shall prepare and publish annually a list of all such accepted alcohol treatment, rehabilitation programs and alcohol treatment and rehabilitation programs, shall make this list available upon request to members of the public, and shall from time to time furnish each court in the commonwealth, the registrar, and the secretary of public safety with a current copy of said list.

Each person placed in a program of driver alcohol education and, if deemed necessary by the court, a program of alcohol

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treatment, rehabilitation, or alcohol treatment and rehabilitation pursuant to this section shall pay directly to such program a fee in an amount to be determined by the director of the division of alcoholism. The director shall establish and may from time to time revise a schedule of uniform fees to be charged by such programs which shall not exceed the actual cost per client of running said programs after notice and a public hearing, provided that until such time as the director establishes a schedule of such fees pursuant to this section the fee for such programs shall be two hundred dollars. The division shall promulgate regulations relative to the methodology of setting such fees. No person may be excluded from said program for inability to pay the stated fee, provided that such person files an affidavit of indigency or inability to pay with the court within ten days of the date of disposition, that investigation by the probation officer confirms such indigency or establishes that the payment of such fee would cause a grave and serious hardship to such individual or to the family of such individual, and that the court enters a written finding thereof. In lieu of waiver of the entire amount of said fee, the court may direct such individual to make partial or installment payments of such fee when appropriate. Subject to appropriation, the division shall reimburse each program for the costs of services provided to persons for whom payment of a fee has been waived on the grounds of indigency.

The state treasurer may accept for the commonwealth for the purpose of driver alcohol education, treatment, or rehabilitation any gift or bequest of money or property and any grant, loan, service, payment of property from a governmental authority. Any such money received shall be deposited in the state treasury for expenditure by the division of alcoholism subject to appropriation for the support of said driver alcohol treatment or rehabilitation programs in accordance with the conditions of the gift, grant, or loan. Any federal legislation generating funds for driver alcohol education or treatment or rehabilitation shall be used by the division of alcoholism to the extent possible to support the purposes of this section.

An additional fee of two hundred dollars shall be paid to the chief probation officer of each court by each person placed in a program of driver alcohol education pursuant to this section and all such fees shall be deposited with the state treasurer, subject to appropriation, for the support of programs for the apprehension, treatment and rehabilitation of those persons convicted of or charged with driving under the influence of intoxicating liquor or drugs.

No such fee shall be collected from any person who, after the

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filing of an affidavit of indigency or inability to pay with the court within ten days of disposition and investigation by the probation officer confirming such indigency or establishing that the payment of such fee would cause a grave and serious hardship to such individual or to the family thereof, is determined by the court to be indigent, provided that the court enters a written finding thereof. In lieu of waiver of the entire amount of said fee, the court may direct such individual to make partial or installment payments of such fee when appropriate. Failure to pay the fees required under this section shall, unless excused, constitute sufficient basis for a finding by the court at a hearing held pursuant to section twenty-four E that the person has failed to satisfactorily comply with the program.

The commissioner of probation shall report in writing at least once annually to the director of the division of alcoholism on the total number of persons who have received disposition hereunder and on the number of such persons who have been determined by the court to require alcohol treatment or rehabilitation, or both. Said commissioner and the chief justices of the district courts and the Boston municipal court shall make further written report at least once annually to said director on the resources available for alcohol treatment or rehabilitation, or alcohol treatment and rehabilitation, of alcohol-impaired drivers, which report shall evaluate the existing resources and shall make recommendation as to additional necessary resources. Said director shall take such reports into consideration in the development, implementation, and review of the state's alcoholism plan and in the preparation of the division's annual budget in a manner consistent with the Alcoholism Treatment and Rehabilitation Law.

When imposing a sentence pursuant to subparagraph (1) of paragraph (a) of section twenty-four or this section, the court may consider requiring the defendant, as a condition of probation, to serve a minimum of thirty hours in public service or in a community work project.

SECTION 7. Section 24E of said chapter 90, as amended by section 2 of chapter 505 of the acts of 1975, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph: -

The provisions of this section shall apply to any person convicted of or charged with operating a motor vehicle while under the influence of intoxicating liquor provided said person is qualified for a disposition under section twenty-four D. The provisions of this section shall not apply where notice from the registrar of intention to suspend or revoke a person's license or

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right to operate is pending prior to the date of complaint on the offense before the court.

SECTION 8. Said section 24E of said chapter 90 is hereby further amended by striking out the fifth, sixth and seventh paragraphs and inserting in place thereof the following two paragraphs:-

At said hearing the probation officer shall submit to the courts a written report which shall include but shall not be limited to a written statement by the supervisor of any program of alcohol education and of any program of alcohol education and of any program of alcohol treatment, rehabilitation, or alcohol treatment and rehabilitation to which the court has assigned such person. Such statement shall consider such person's participation and attendance in each such court ordered program. The registrar shall submit a written report to the judge at said hearing regarding any entries made on said person's driving record in the period following placement in the program. If the court finds sufficient basis to conclude that said person has not satisfactorily completed or is not satisfactorily complying with such program, the court may notify the registrar and the registrar shall revoke the person's license or right to operate forthwith. If the judge finds that the person is satisfactorily complying with the conditions of probation, the judge may enter a dismissal of the charges and issue appropriate orders relative to said person's participation in a program or relative to a later hearing, subject to the duration of the term of probation. The court shall cause to be entered and to be maintained upon the probation record of said person notice of a dismissal of charges under this section. The probation officer supervising a person pursuant to the provisions of this section shall make a written report to the court if at any time such person has failed to satisfactorily comply with a court ordered program or if such person's operation of a motor vehicle constitutes a threat to the public safety. Upon receipt of such report the court shall forthwith hold a hearing on the matter. If at such hearing the court determines that said person has failed to satisfactorily comply with such program or that the said operation of a motor vehicle constitutes such a threat, the court may notify the registrar and the registrar shall without further hearing revoke said person's license or right to operate. Such revocation shall be for the remainder of the period from the date of conviction provided in subparagraph (1) of paragraph (c) of subdivision (1) of section twenty-four. Said person shall thereafter be subject to the same conditions for issuance of a new license or right to operate as any person applying for a new license or

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right to operate following revocation as provided in subparagraph (1) of paragraph (c) of said subdivision (1).

Where an order of probation has been revoked by the court, the court shall forthwith so notify the registrar in writing and the registrar shall forthwith revoke said person's operator's license or right to operate which was restored under this section and without further hearing.

SECTION 9. Said chapter 90 is hereby further amended by striking out section 24G, inserted by chapter 227 of the acts of 1976, and inserting in place thereof the following section:-

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than two and one-half years or more than ten years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of not more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

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

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(b) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, and whoever operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered by any such operation causes the death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not less than thirty days nor more than two and one-half years, or by a fine of not less than three hundred nor more than three thousand dollars, or both.

SECTION 10. Said chapter 90 is hereby further amended by inserting after section 24H the following two sections:-

Section 24I. Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle while drinking from an open container of any alcoholic beverage shall be punished by a fine of not less than one hundred nor more than five hundred dollars.

Section 24J. In every case of a conviction of or a plea of guilty to a violation of subdivision one of section twenty-four involving driving under the influence of intoxicating liquors or a disposition under section twenty-four D, the court shall inquire of the defendant, before sentencing, regarding whether he was served alcohol prior to his violation of said section at an establishment licensed to serve alcohol on the premises and the name and location of said establishment.

Any information so acquired by the court shall be transmitted to the office of the attorney general and the office of the district attorney for the district in which said establishment is located.

SECTION 11. Chapter 138 of the General Laws is hereby amended by inserting after section 34C the following section:-

Section 34D. Any establishment which sells alcoholic beverages to be drunk on the premises, shall post a copy of the penalties set forth in subdivision (1) of section twenty-four of chapter ninety for driving under the influence. Any establishment which sells alcoholic beverages not to be drunk on the premises shall post a copy of the penalties set forth in section twenty-four I of said chapter ninety for operating a motor vehicle while drinking

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from an open container of alcohol. Said copies shall be posted conspicuously by the owner or person in charge of the respective establishment, and whoever violates this provision shall be punished by a fine of not more than fifty dollars. Any person unlawfully removing a copy so posted shall be punished by a fine of fifty dollars. Said copies, printed in letters not less in size than eighteen point capitals, boldface, shall be prepared by the commission and distributed to business establishments which sell, serve or otherwise dispense alcohol or alcoholic beverages to the general public.

SECTION 12. Section 16 of chapter 139 of the General Laws, as amended by section 11 of chapter 328 of the acts of 1934, is hereby further amended by inserting after the word "thirty-eight", in line 8, the words:- , or houses a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety.

SECTION 13. Section 16A of said chapter 139, as most recently amended by section 12 of chapter 1114 of the acts of 1973, is hereby further amended by inserting after the word "thirty-eight", in line 8, the words:- , or houses a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety.

SECTION 14. Section 19 of said chapter 139, as amended by section 14 of chapter 328 of the acts of 1934, is hereby further amended by inserting after the word "thirty-eight", in line 8, the words:- , or the housing of a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor

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vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety.

SECTION 15. Section 20 of said chapter 139, as most recently amended by chapter 132 of the acts of 1948, is hereby further amended by inserting after the word "thirty-eight", in line 5, the words:- , or the housing of a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety.

SECTION 16. Subdivision (H) of section 110 of chapter 175 of the General Laws, inserted by section 2 of chapter 1221 of the acts of 1973, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) In the case of benefits based upon confinement as an in-patient in an accredited or licensed hospital or in any other public or private facility thereof providing services especially for the detoxification or rehabilitation of intoxicated persons or alcoholics and which is licensed by the department of public health for those services, or in a residential alcohol treatment program as referred to in section twenty-four of chapter ninety, such benefits shall be at least thirty days in any calendar year.

SECTION 17. The third paragraph of section 10 of chapter 176A of the General Laws, inserted by section 4 of chapter 1221 of the acts of 1973, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

(a) In the case of benefits based upon confinement as an in-patient in an accredited or licensed hospital or in any other public or private facility thereof providing services especially for the detoxification or rehabilitation of intoxicated persons or alcoholics and which is licensed by the department of public health for those services, or in a residential alcohol treatment program as referred to in section twenty-four of chapter ninety, such benefits shall be at least thirty days in any calendar year.

SECTION 18. Section 4A½ of chapter 176B of the General Laws, inserted by chapter 526 of the acts of 1979, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:-

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(a) In the case of benefits based upon confinement as an in-patient in an accredited or licensed hospital or in any other public or private facility thereof providing services especially for the detoxification or rehabilitation of intoxicated persons or alcoholics and which is licensed by the department of public health for those services, or in a residential alcohol treatment program as referred to in section twenty-four of chapter ninety, such benefits shall be at least thirty days in any calendar year.

SECTION 19. Section 26 of chapter 218 of the General Laws is hereby amended by inserting after the word "in", in line 11, as appearing in chapter 175 of the acts of 1982, the words:- paragraph (a) of section twenty-four G of chapter ninety.

SECTION 20. This act shall take effect as of September first, nineteen hundred and eighty-two.

Approved August 12, 1982.

Chap. 374. AN ACT AUTHORIZING THE TOWN OF LEXINGTON TO SELL AND CONVEY CERTAIN BUILDINGS AND TO LEASE A CERTAIN PARCEL OF PARK LAND IN SAID TOWN.

Be it enacted, etc., as follows:

SECTION 1. The town of Lexington is hereby authorized to sell and convey to Robert J. Lind, with preservation restrictions, two certain buildings located in Buckman park in said town known as the Garrity House and the Carriage House, and to lease to said Robert J. Lind, for private residential purposes, for a term of ninety-nine years a certain parcel of park land in said Buckman park on which said buildings are located, all for such consideration and upon such terms and conditions as shall be determined by the board of selectmen of said town. Said parcel of land being situated on Hancock street in said town, and shown on a plan entitled "Compiled Plan of Land in Lexington, Mass. for Garrity House Conveyance" dated May 10, 1982 and prepared by Walter J. Tonaszuck, Jr., Town Engineer, on file with the town engineer, and being bounded and described according to said plan as follows:

Beginning at a point at the intersection of the easterly sideline of Hancock Street and the southwesterly sideline of land now or formerly of the Boston & Maine Railroad;