

By Mr. Kirby, a petition (accompanied by bill, Senate, No. 147) of Richard A. Shire and Edward P. Kirby for legislation to increase the penalties for operating a motor vehicle under the influence of intoxicating liquors or controlled substances and causing a death. Criminal Justice.

---

---

**The Commonwealth of Massachusetts**

---

In the Year One Thousand Nine Hundred and Eighty-Eight.

---

AN ACT RELATIVE TO MOTOR VEHICLE 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 24G of Chapter 90 of General Laws, as appearing in  
2 the 1986 Official Edition is hereby amended by striking out  
3 paragraph (a) and inserting in place thereof the following  
4 paragraph: —

5 (a) Whoever, upon any way or in any place to which the public  
6 has a right of access, or upon any way or in any place to which  
7 members of the public have access as invitees or licensees, operates  
8 a motor vehicle while under the influence of intoxicating liquor,  
9 or of marihuana, narcotic drugs, depressants, or stimulant  
10 substances, all as defined in section one of chapter ninety-four C,  
11 or the vapors of glue, and so operates a motor vehicle recklessly  
12 or negligently so that the lives or safety of the public might be  
13 endangered, and by any such operation so described causes the  
14 death of another person, shall be guilty of homicide by a motor  
15 vehicle while under the influence of an intoxicating substance, and  
16 shall be punished by imprisonment in the state prison for not less  
17 than five years nor more than fifteen years and a fine of not more  
18 than five thousand dollars. The sentence imposed upon such  
19 person shall not be reduced to less than five years, nor suspended,  
20 nor shall any person convicted under this subsection be eligible  
21 for probation, parole, or furlough or receive any deduction from

22 his sentence until such person has served at least one year of such  
23 sentence; provided, however, that the commissioner of correction  
24 may, on the recommendation of the warden, superintendent, or  
25 other person in charge of a correctional institution, or the  
26 administrator of a county correctional institution, grant to an  
27 offender committed under this subsection a temporary release in  
28 the custody of an officer of such institution for the following  
29 purposes only: to attend the funeral of a relative; to visit a critically  
30 ill relative; to obtain emergency medical or psychiatric services  
31 unavailable at said institution; or to engage in employment  
32 pursuant to a work release program. Prosecutions commenced  
33 under this section shall neither be continued without a finding nor  
34 placed on file.

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