

SENATE No. 130

By Mr. Kirby, petition (accompanied by bill, Senate, No. 130) of Richard H. 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 Ninety-Two.

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 24 of Chapter 90 of the General Laws, as appearing
2 in the 1988 Official Edition is hereby amended by adding the
3 following new section: —

4 Section 24G^{1/2}. Any person convicted under Section 24D for
5 a second or subsequent offense and any person convicted under
6 Section 24G shall be punishable under the following provisions:

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

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

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