

# HOUSE . . . . . No. 1822

By Mr. Longworth of Methuen, petition of Richard E. McLaughlin (Registrar of Motor Vehicles) and William Longworth that said registrar be authorized to suspend the license to operate motor vehicles following refusal to submit to chemical tests or analysis designed to measure intoxication. Highways and Motor Vehicles.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

AN ACT AUTHORIZING THE REGISTRAR OF MOTOR VEHICLES TO SUSPEND LICENSES TO OPERATE MOTOR VEHICLES FOLLOWING REFUSAL TO SUBMIT TO CHEMICAL TESTS OR ANALYSIS DESIGNED TO MEASURE INTOXICATION.

*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 24 of chapter 90 of the General Laws,  
2 is amended by striking out the second sentence of paragraph  
3 (1) (e) thereof and inserting the following sentence:—Evi-  
4 dence that the defendant failed or refused to consent to such  
5 test or analysis shall not be admissible against him in any civil  
6 or criminal proceeding except as provided in paragraph (f) of  
7 this section.

1 SECTION 2. Section 24 of chapter 90 of the General Laws is  
2 hereby amended by adding after paragraph (1) (e) thereof,  
3 the following paragraph:—

4 (f) Whoever operates a motor vehicle upon any way or in  
5 any place to which the public has right of access, or upon any  
6 way or in any place to which members of the public have  
7 access as invitees or licensees shall be deemed to have  
8 consented to undergo a chemical test or analysis of his breath

9 if he is arrested for operating a motor vehicle while under the  
10 influence of intoxicating liquor. Such tests will be administer-  
11 ed at the direction of a police officer, as defined in section one  
12 of chapter ninety C, having reasonable grounds to believe that  
13 the person arrested has been driving a motor vehicle upon  
14 any such way or place while under the influence of intoxica-  
15 ting liquor. If the person arrested refuses to undergo such  
16 tests or analysis, none shall be given, but the police officer  
17 before whom such refusal was made shall immediately  
18 prepare a written report of such refusal. All such reports shall  
19 be made on a form which shall be approved by the registrar,  
20 and sworn to by the police officer before whom such refusal  
21 was made. All such reports shall set forth the grounds for the  
22 officer's belief that the person arrested had been driving a  
23 motor vehicle on any such way or place while under the  
24 influence of intoxicating liquor, and that such person had  
25 refused to undergo such chemical test or analysis when  
26 requested by such police officer to do so.

27 All such reports shall be endorsed by the police chief, as  
28 defined in section one of chapter ninety C, or by the person  
29 authorized by him and shall be sent forthwith to the  
30 registrar. Upon receipt of such report, the registrar shall  
31 suspend in accordance with the provisions of chapter twenty-  
32 two of this chapter any license or permit to operate motor  
33 vehicles issued to such persons under this chapter or the right  
34 of such persons to operate motor vehicles in this common-  
35 wealth under section ten of this chapter, and he shall not  
36 reinstate said license, permit or right to operate until six  
37 months after the date of such suspension. Any person whose  
38 license, permit or right to operate has been suspended in  
39 accordance with the provisions of section twenty-two of this  
40 chapter shall be entitled to a hearing except that such  
41 hearing shall be limited to the issues of whether the police  
42 officer had reason to believe that the person had been driving  
43 or was in actual control of a motor vehicle while under the  
44 influence of intoxicating liquor upon any way or in any place  
45 to which the public has a right of access or upon any way or  
46 in any place to which members of the public have right of  
47 access as invitees or licensees, whether the person was placed  
48 under arrest, and whether he refused to submit to such tests

49 or analysis. Any person arrested for operating a motor vehicle  
50 while under the influence of intoxicating liquor and who  
51 submits to a chemical test or analysis of his breath shall be  
52 released from custody forthwith if the evidence indicates that  
53 the percentage by weight of alcohol in the defendant's blood  
54 at the time of the alleged offense was five one-hundredths or  
55 less according to such test or analysis, and the police officer  
56 who placed such person under arrest shall not be liable for  
57 false arrest because of such evidence.

