

By Mr. Flaherty of Boston, petition of Michael F. Flaherty and another relative to the criminal penalties for operating a motor vehicle under the influence of intoxicating liquors. Criminal Justice.

The Commonwealth of Massachusetts

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

ACT ACT RELATIVE TO THE CRIMINAL PENALTIES FOR OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUORS.

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(a) of Chapter 90 of the General
2 Laws, as appearing in the 1984 Official Edition, is hereby amended
3 by striking out in lines 14 and 17 the word "one" and inserting
4 in place thereof the word: — "two".

1 SECTION 2. Section 24G of chapter 90 of the General Laws,
2 as appearing in the 1984 Official Edition, is hereby amended by
3 striking out subsection (b), and inserting in place thereof the
4 following new subsections:

5 (b) 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 serious
14 bodily injury to another person, shall be guilty of causing serious
15 bodily injury by a motor vehicle while under the influence of an
16 intoxicating substance, and shall be punished by imprisonment
17 in the state prison for not less than two and one-half years or more

18 than ten years and a fine of not more than five thousand dollars,
19 or by imprisonment in a jail or house of correction for not less
20 than one year nor more than two and one-half years and a fine
21 of not more than five thousand dollars. "Serious bodily injury"
22 shall be defined as an injury which (1) consists in whole or in part
23 of loss of a body member, or (2) consists in whole or in part of
24 permanent and serious disfigurement, or (3) results in loss of sight
25 or hearing. The sentence imposed upon such person shall not be
26 reduced to less than one year, nor suspended, nor shall any person
27 convicted under this subsection be eligible for probation, parole,
28 or furlough or receive any deduction from his sentence; provided,
29 however, that the commissioner of correction may, on the
30 recommendation of the warden, superintendent, or other person
31 in charge of a correctional institution, or the administrator of a
32 county correctional institution, grant to an offender committed
33 under this subsection a temporary release in the custody of an
34 officer of such institution for the following purposes only: to
35 attend the funeral of a relative; to visit a critically ill relative; to
36 obtain emergency medical or psychiatric services unavailable at
37 said institution; or to engage in employment pursuant to a work
38 release program. Prosecutions commenced under this section shall
39 neither be continued without a finding nor placed on file.

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

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