

By Mr. Alexander of Marblehead, petition of Lawrence R. Alexander for legislation to make certain changes in the law relative to drunk driving. Criminal Justice.

The Commonwealth of Massachusetts

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

AN ACT FURTHER AMENDING STATUTES REGARDING DRUNK DRIVING.

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. Paragraph (a) of subdivision 1 of section 24 of
2 chapter 90 of the General Laws, as most recently amended by
3 section two of chapter 373 of the Acts of 1982, is hereby further
4 amended by inserting between the first paragraph and the second
5 paragraph of subparagraph (1) of said paragraph (a) the following
6 words:

7 Whoever, upon any way or in any place to which the public
8 has a right of access as invitees or licensees, operated a motor
9 vehicle while having a percentage, by weight, of alcohol in his
10 blood which equals or exceeds ten one-hundredths shall be guilty
11 of operating while impaired and shall be punished by a fine of
12 not less than one hundred nor more than one thousand dollars,
13 or by imprisonment for not more than two years, or both. A
14 violation of the preceding sentence shall be considered a like
15 offense to a violation of the first sentence of this subparagraph.

1 SECTION 2. Said Section 24 of said chapter 90 of the General
2 Laws is hereby amended by striking the sentence which reads, "A
3 prosecution commenced under this paragraph may not be placed
4 on file or continued without a finding except for dispositions
5 under section twenty-four D." Where it appears in subparagraph
6 (1) of paragraph (a) of subdivision (1), and inserting in place
7 thereof the following sentence: A prosecution commenced under
8 this paragraph may not be placed on file or continued without
9 a finding.

1 SECTION 3. Paragraph (e) of subdivision (1) of said section
2 24 of said chapter 90 of the General Laws is hereby amended by
3 striking the word "not" where it appears in the second sentence
4 thereof. The said second sentence of the said paragraph (e) of the
5 said section 24 of the said chapter 90 of the General Laws is further
6 amended by striking the word "but" where it appears and inserting
7 in place thereof the word "and". The said paragraph (e) is further
8 amended by striking the period "." which appears at the end of
9 the third sentence of such paragraph and inserting in place thereof
10 a comma ",", and by inserting subsequent to such comma the
11 following words: and such defendant shall be guilty of operating
12 while impaired, if so charged.

1 SECTION 4. Section 24D of the said chapter 90 of the General
2 Laws is amended by striking the words "or charged with" where
3 they appear in the first sentence of said section.

1 SECTION 5. The said chapter 90 of the General Laws is hereby
2 further amended by striking section twenty-four J, as inserted by
3 section 10 of chapter 373 of the acts of 1982 and inserting in place
4 thereof the following section: —

5 Section 24J. In every case of a conviction of or a plea of guilty
6 to a violation of subdivision one of section twenty-four or of a
7 violation of section twenty-four G involving operating under the
8 influence of intoxicating liquors, the court shall inquire or cause
9 inquiry to be made of the defendant under oath, before sentencing,
10 regarding whether he was served alcohol prior to his violation of
11 either said sections at one or more establishments licensed to serve
12 alcohol on the premises. Such inquiry shall include: the name and
13 address of any such establishments; the number of drinks
14 consumed at such establishment; the time at which defendant was
15 served by any such establishment(s). The statement by the
16 defendant under oath that he does not recall information requested
17 shall conclude the inquiry with regard to that information. No
18 statement made by a defendant in response to such inquiry shall
19 be used by the Commonwealth, except for impeaching defendant's
20 testimony, in any subsequent criminal proceeding arising from the
21 violation of either of said sections.

22 Any information acquired in said inquiry shall be transmitted

23 by the court to the office of the attorney general and to the office
24 of the district attorney for the district in which said establishment
25 or establishments is or are located. Such transmittal shall be on
26 a standard form uniform throughout the commonwealth
27 promulgated by the chief administrative justice of the district
28 court department, with the approval of the attorney general.

