

By Mr. Brewer, a petition (accompanied by bill, Senate, No. 158) of Stephen M. Brewer, Reed V. Hillman, Guy W. Glodis, Elizabeth A. Malia and other members of the General Court for legislation to increase the penalty for operating under the influence with a child in the vehicle. Criminal Justice.

The Commonwealth of Massachusetts

In the Year Two Thousand and One.

AN ACT ENHANCING THE PENALTY FOR OPERATING UNDER THE INFLUENCE WITH A CHILD IN THE VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 90 of the General Laws is hereby amended by inserting
2 after section 24P, as appearing in the 1998 Official Edition, the
3 following section:—

4 Section 24Q. (a) Whoever, upon any way or in any place to
5 which the public has a right of access or upon any way or in any
6 place to which members of the public have access as invitees or
7 licensees, operates a motor vehicle while under the influence of
8 intoxicating liquor, or marijuana, narcotic drugs, depressants or
9 stimulant substances, all as defined in section 1 of chapter 94C, or
10 the vapors of glue, while a child aged 14 or under is in the
11 vehicle, shall be punished by a fine of not less than \$1,000 nor
12 more than \$10,000 and by imprisonment for not more than five
13 years in state prison; provided, however, that the sentence
14 imposed upon such person shall not be reduced to less than 60
15 days, nor suspended, nor shall any such person be eligible for pro-
16 bation, parole or furlough or receive any deduction from his sen-
17 tence for good conduct until such person has served 60 days of
18 such sentence, unless otherwise sentenced to an intermediate
19 sanction as promulgated by the sentencing commission estab-
20 lished in chapter 432 of the acts of 1993; provided, further, that
21 the commissioner of correction may, on the recommendation of
22 the warden, superintendent or other person in charge of a correc-

23 tional institution or the administrator of a county correctional
24 institution, grant to an offender under this subdivision a temporary
25 release in the custody of an officer of such institution for the
26 following purposes only: to attend the funeral of a relative; to visit
27 a critically ill relative; to obtain emergency medical or psychiatric
28 services unavailable at said institution; to engage in employment
29 pursuant to a work release program; or for the purposes of an
30 aftercare program designed to support the recovery of an offender
31 who has completed an alcohol or controlled substance education,
32 treatment or rehabilitation program operated by the department of
33 correction.

34 (b) A conviction of a violation of paragraph (a) shall revoke the
35 license or right to operate of the person so convicted. No appeal,
36 motion for a new trial or exceptions shall operate to stay the revo-
37 cation of the license or the right to operate. Such revoked license
38 shall immediately be surrendered to the prosecuting officer who
39 shall forward the same to the registrar. The court shall report
40 immediately any revocation, under this section, of a license or
41 right to operate to the registrar and to the police department of the
42 municipality in which the defendant is domiciled. Notwith-
43 standing the provisions of section 22 of chapter 90, the revoca-
44 tion, reinstatement or issuance of a license or right to operate, by
45 reason of a violation of paragraph (a) shall be controlled by the
46 provisions of this section and sections 24D and 24E.