

By Mr. Manning of Milton, petition of Aldo E. Peroli, M. Joseph Manning and Joseph B. Walsh for legislation to further define the comparative negligence law in certain motor vehicle cases. The Judiciary.

**The Commonwealth of Massachusetts**

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

AN ACT FURTHER DEFINING THE COMPARATIVE NEGLIGENCE LAW IN CERTAIN MOTOR VEHICLE CASES.

*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 85 of chapter 231 of the General Laws, as most recently  
2 amended by section 1 of chapter 1123 of the acts of 1973, is hereby  
3 further amended by adding the following paragraph: —

4 Notwithstanding the foregoing provisions of this section, in any  
5 action to recover damages for negligence resulting in death or in  
6 injury to person or property and arising out of the operation or use  
7 of a motor vehicle, no amount or percentage of negligence shall be  
8 attributable to the plaintiff in the following cases:

9 (a) cases in which the damage or injury is incurred while the  
10 motor vehicle owned, operated or used by the plaintiff is lawfully  
11 parked and is struck by another vehicle operated by the defendant  
12 or a person for whose conduct the defendant is legally responsible.

13 (b) cases in which the damage or injury is incurred while the  
14 motor vehicle owned, operated or used by the plaintiff is struck in  
15 the rear by another vehicle moving in the same direction and  
16 operated by the defendant or a person for whose conduct the  
17 defendant is legally responsible; and

18 (c) cases in which the operator of the vehicle causing damage to  
19 the vehicle owned, operated or used by the plaintiff or injury to the  
20 plaintiff is, as a result of his operation, convicted of operating  
21 under the influence of alcohol or a narcotic drug or of driving the

22 wrong way on a one way street or of speeding or of driving to  
23 endanger or of any similar violation of law.