

**HOUSE . . . . . No. 3870**

---

---

**The Commonwealth of Massachusetts**

---

HOUSE OF REPRESENTATIVES, May 28, 2003.

The committee on Criminal Justice, to whom was referred the petition (accompanied by bill, House, No. 2569) of Charles A. Murphy and other members of the House relative to the drunk driving laws, reports recommending that the accompanying bill (House, No. 3870) ought to pass.

For the committee,

JAMES E. VALLEE.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

### AN ACT TO PROTECT FEDERAL TRANSPORTATION FUNDING AND STRENGTHEN DRUNK DRIVING LAW.

*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. Subsection (1)(a)(1) of section 24 of chapter 90 of  
2 the General Laws, as appearing in the 2000 Official Edition, is  
3 hereby amended in line 4 by inserting after the word "vehicle" the  
4 following:— with a percentage, by weight, of alcohol in their blood  
5 of eight one-hundredths or greater, or.

1 SECTION 2. Subsection (1)(a)(1) of said section 24 of chap-  
2 ter 90, as so appearing, is hereby amended in line 10 by striking the  
3 following: "\$125" and inserting in place thereof the following:—  
4 \$250.

1 SECTION 3. Subsection (1)(e) of said section 24 of chapter 90 is  
2 hereby amended by striking out, in lines 457-470, the words "When  
3 there is no evidence presented at a civil or criminal proceeding of the  
4 percentage, by weight, of alcohol in the defendants blood, the pre-  
5 siding judge at a trial before a jury shall include in his instructions to  
6 the jury a statement of an arresting officer's responsibilities upon  
7 arrest of a person suspected to be operating a motor vehicle under  
8 the influence of alcohol and a statement that a blood alcohol test  
9 may only be administered with a person's consent; that a person has  
10 a legal right to take or not take such a test; that there may be a  
11 number of reasons why a person would or would not take such a  
12 test; that there may be a number of reasons why such test was not  
13 administered; that there shall be no speculation as to the reason for  
14 the absence of the test and no inference can be drawn from the fact  
15 that there was no evidence of a blood alcohol test; and that a finding  
16 of guilty or not guilty must be based solely on the evidence that was  
17 presented in the case."

1 SECTION 4. Subsection (1)(e) of said section 24 of chapter 90 is  
2 hereby amended by striking out in lines 485-488 the words “and if  
3 such evidence is that such percentage was eight one-hundredths or  
4 more, there shall be a permissible inference that such defendant was  
5 under the influence of intoxicating liquor.” and inserting in place  
6 thereof the following:— “in no instance shall a person operate a  
7 motor vehicle if such percentage was eight one-hundredths or  
8 greater, and any person in violation thereof shall be punished by a  
9 fine or by imprisonment, or both fine and imprisonment, in accor-  
10 dance with that a court may order for a defendant convicted of a vio-  
11 lation of subsection (1)(a)(1) or for a defendant previously convicted  
12 or assigned to an alcohol or controlled substance education, treat-  
13 ment, or rehabilitation program by a court of the commonwealth or  
14 any other jurisdiction because of a like violation.”

1 SECTION 5. Subsection (1)(f)(1) of said section 24 of chapter 90,  
2 as amended by section 4 of chapter 302 of the Acts of 2002, is  
3 hereby further amended by striking the third sentence and inserting  
4 in place thereof the following sentence:— If the person arrested  
5 refuses to submit to such test or analysis, after having been informed  
6 that his license or permit to operate motor vehicles or right to  
7 operate motor vehicles in the commonwealth shall be suspended for  
8 at least a period of 180 days, but not more than one year for such  
9 refusal, no such test or analysis shall be made and he shall have his  
10 license or right to operate suspended in accordance with this para-  
11 graph for a period of 180 days; provided, however, that any person  
12 who is under the age of 21 or who has been previously convicted of  
13 a violation under this section or a like violation by a court of any  
14 other jurisdiction shall have his license or right to operate suspended  
15 forthwith for a period of one year for such refusal; and provided fur-  
16 ther, that any person previously convicted two or more times for a  
17 violation under this section or a like violation by a court of any other  
18 jurisdiction shall have his license or right to operate suspended  
19 forthwith for a period of two years for such refusal.

1 SECTION 6, Paragraph 2 of subsection (1)(f)(2)(iv) of said  
2 section 24 of chapter 90, as amended by section 4 of chapter 302 of  
3 the Acts of 2002, is hereby amended by striking out the word  
4 “ninety” in the second sentence and inserting in place thereof the  
5 following:— 30.

1 SECTION 7. Paragraph 2 of subsection (2)(a) of said section 24  
2 of chapter 90, as amended by section 4 of chapter 302 of the Acts of  
3 2002, is hereby amended by striking in the first sentence the  
4 following: "\$125" and inserting in place thereof the following:—  
5 \$250.

1 SECTION 8. Section 24D of said chapter 90, as amended by  
2 section 5 of chapter 302 of the Acts of 2002, is hereby amended in  
3 the first sentence by inserting after the word "vehicle" the  
4 following:— with a percentage, by weight, of alcohol in their blood  
5 of eight one-hundredths or greater, or.

1 SECTION 9. Section 24E of said chapter 90, as appearing in the  
2 2000 Official Edition, is hereby amended by inserting after the word  
3 "vehicle" in line 2 the following:— with a percentage, by weight, of  
4 alcohol in their blood of eight one-hundredths or greater, or.

1 SECTION 10. Subsection (a) of section 24G of said chapter 90,  
2 as so appearing, is hereby amended in line 4 by inserting after the  
3 word "vehicle" the following:— with a percentage, by weight, of  
4 alcohol in their blood of eight one-hundredths or greater, or.

1 SECTION 11. Subsection (b) of said section 24G of said chap-  
2 ter 90 is hereby amended in line 35 by inserting after the word  
3 "vehicle" the following:— with a percentage, by weight, of alcohol  
4 in their blood of eight one-hundredths or greater, or.

1 SECTION 12. Section 24J of said chapter 90 is hereby amended  
2 by striking out in lines 2-3 the words "driving under the influence of  
3 intoxicating liquors" and inserting in place thereof the following:—  
4 operating a motor vehicle with a percentage, by weight, of alcohol in  
5 their blood of eight one-hundredths or greater, or under the influence  
6 of intoxicating liquor.

1 SECTION 13. Subsection (1) of section 24L of said chapter 90 is  
2 hereby amended in line 4 by inserting after the word "vehicle" the  
3 following:— with a percentage, by weight, of alcohol in their blood  
4 of eight one-hundredths or greater, or.

1 SECTION 14. Subsection (2) of said section 24L of chapter 90 is  
2 hereby amended by inserting in line 35 after the word "vehicle" the  
3 following:— with a percentage, by weight, of alcohol in their blood  
4 of eight one-hundredths or greater, or.

1 SECTION 15. Section 24N of said chapter 90 is hereby amended  
2 in line 36 by striking out the word "ninety" and inserting in place  
3 thereof the following:— 30.

1 SECTION 16. Said section 24N of said chapter 90 is hereby fur-  
2 ther amended by deleting in lines 45-57 the words "The defendant's  
3 license or permit to operate a motor vehicle shall remain suspended  
4 for a period of one hundred and twenty days; provided, however,  
5 that any person who is under the age of twenty-one or who has pre-  
6 viously been convicted of a violation under section twenty-four or a  
7 like violation by a court of any other jurisdiction within ten years of  
8 the date of the charge in question shall have his license or right to  
9 operate suspended forthwith for a period of one hundred and eighty  
10 days for such refusal; provided, further, that any person previously  
11 convicted two or more times of a violation under section twenty-four  
12 of a like violation by a court of any other jurisdiction within ten  
13 years of the date of the charge in question, shall have his license or  
14 right to operate suspended forthwith for a period of one year for such  
15 refusal." and inserting in place thereof the following:— The defen-  
16 dant's license or permit to operate a motor vehicle shall remain sus-  
17 pended for a period of 180 days; provided, however, that any person  
18 who is under the age of 21 or who has been previously convicted of  
19 a violation under section 24 or a like violation by a court of any  
20 other jurisdiction shall have his license or right to operate suspended  
21 forthwith for a period of one year for such refusal; provided, further,  
22 that any person previously convicted two or more times of a viola-  
23 tion under section 24 of a like violation by a court of any other juris-  
24 diction shall have his license or right to operate suspended forthwith  
25 for a period of two years for such refusal.

1 SECTION 17. Subsection (a)(1) of section 8 of chapter 90B of the  
2 General Laws, as so appearing, is hereby amended by inserting in  
3 line 2 after the word "commonwealth" the following:— with a per-  
4 centage, by weight, of alcohol in their blood of eight one-hundredths  
5 or greater, or.

1 SECTION 18. Subsection (a)(2)(a) of said section 8 of chap-  
2 ter 90B, as so appearing, is hereby amended in lines 172-174 by  
3 striking the words “; and if such evidence is that such percentage  
4 was eight one-hundredths or more, there shall be a permissible infer-  
5 ence that such defendant was under the influence of intoxicating  
6 liquor” and inserting in place thereof the following words:— In no  
7 instance shall a person operate a vessel if such percentage was eight  
8 one-hundredths or more. In cases where a person’s percentage, by  
9 weight, of alcohol in their blood was eight one-hundredths or  
10 greater, they shall be punished according to the provisions of subsec-  
11 tion (a)(1)(A) of this section.

1 SECTION 19. Subsection (1) of section 8A of said chapter 90B is  
2 hereby amended by inserting in line 2 after the word “common-  
3 wealth” the following:— with a percentage, by weight, of alcohol in  
4 their blood of eight one-hundredths or greater, or.

1 SECTION 20. Subsection (2) of said section 8A of said chap-  
2 ter 90B is hereby amended by inserting in line 29 after the word  
3 “commonwealth” the following:— with a percentage, by weight, of  
4 alcohol in their blood of eight one-hundredths or greater, or.

1 SECTION 21. Subsection (1) of section 8B of said chapter 90B is  
2 hereby amended in line 2 by inserting after the word “common-  
3 wealth” the following:— with a percentage, by weight, of alcohol in  
4 their blood of eight one-hundredths or greater, or.

1 SECTION 22. Subsection (2) of said section 8B of said chap-  
2 ter 90B is hereby amended in line 31 by inserting after the word  
3 “commonwealth” the following:— with a percentage, by weight, of  
4 alcohol in their blood of eight one-hundredths or greater, or.

1 SECTION 23. Section 26 of said chapter 90B, as so appearing, is  
2 hereby amended in line 1 by inserting after the words “recreation  
3 vehicle” the following:— with a percentage, by weight, of alcohol in  
4 their blood of eight one-hundredths or greater, or.

1 SECTION 24. Section 24D of chapter 90 of the General Laws, as  
2 so amended, is hereby further amended by striking out lines 70-74,  
3 and inserting in place thereof the following:—

4 Upon each disposition under this section, the defendant will sur-  
5 render any Massachusetts drivers license or permit in his possession  
6 to the probation department of that court. The probation department  
7 will dispose of the license, and the court shall report the disposition  
8 in the case in a manner as determined by the registrar. Notwith-  
9 standing the provisions of section 24 (1)(c)(2), section 24 (1)(f)(1),  
10 and section 24P of this chapter, a defendant may immediately upon  
11 entering a program pursuant to this section apply to the registrar for  
12 consideration of a limited license for hardship purposes. The regis-  
13 trar, at his discretion, may issue such license under such terms and  
14 conditions as he may proscribe. Any such license shall be valid for  
15 an identical 12 hour period, seven days a week. This provision shall  
16 also apply to any other suspensions due to the same incident that  
17 may be in effect pursuant to section 24 (1)(c)(2), section 24 (1)(f)(1)  
18 and section 24P of this chapter. Nothing in this section shall be con-  
19 strued to authorize hardship eligibility if the person is suspended or  
20 revoked, or to be suspended or revoked, under any other statute not  
21 referenced in this section, or due to any other incident. Failure of the  
22 operator to complete his obligations to the program, or remain in  
23 compliance with court probation, shall be cause for immediate revo-  
24 cation of the hardship license. In these and all cases where a hard-  
25 ship license is sought by an operator, the probation office for the  
26 court where the offender is on probation will, upon request, furnish  
27 the registry with documentation verifying the person's status with  
28 probation.

