HOUSE DOCKET, NO. 2317 FILED ON: 1/20/2011

HOUSE . . . . . No. 2213

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to repeat offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bradley H. Jones, Jr.	*20th Middlesex*
Marc T. Lombardo	*22nd Middlesex*
Donald F. Humason, Jr.	*4th Hampden*
Randy Hunt	*5th Barnstable*
F. Jay Barrows	*1st Bristol*
George T. Ross	*2nd Bristol*
Todd M. Smola	*1st Hampden*
Sheila C. Harrington	*1st Middlesex*
Matthew A. Beaton	*11th Worcester*
Kimberly N. Ferguson	*1st Worcester*
Steven L. Levy	*4th Middlesex*
Paul K. Frost	*7th Worcester*
George N. Peterson, Jr.	*9th Worcester*
Elizabeth A. Poirier	*14th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*

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By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2213) of Bradley H. Jones, Jr., and others relative to repeat offenders. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1438* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to repeat offenders.

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

SECTION 1. Section 24 of chapter 90 of the General Laws, as most recently amended by 256 of the Acts of 2010, is hereby amended by inserting in the fourth paragraph after the words "has served thirty days of such sentence" the following words:- provided, further, that any such probation, parole, or furlough shall consist of not less than 30 days of community service.

SECTION 2. Said section 24 of said chapter 90, as so amended, is hereby further amended by inserting after the word "drivers" at the end of the fourth paragraph the following paragraph:-

A mandatory condition of any probation or parole that may be ordered as a result of this paragraph is that the offender shall have an alcohol assessment conducted by the department of public health. The assessment shall include, but need not be limited to, an assessment of the level of the offender's addiction to alcohol or drugs, and the department's recommended course of treatment. Such assessment shall be reported to the offender's probation or parole officer, and the recommendations contained therein shall become a mandatory condition of his probation or parole. No person shall be excluded from an assessment or recommended course of treatment for inability to pay, if the offender files an affidavit of indigency or inability to pay with the court, investigation by the probation or parole officer confirms such indigency or establishes that such payment would cause a grave and serious hardship to the offender or his family, and the court enters written findings thereof. The department of public health may make such rules and regulations as are necessary to accomplish the intent of this assessment.

20 SECTION 3. Said section 24 of said chapter 90, as so amended, is hereby amended by
21 inserting in the fifth paragraph after the words “he shall have served one hundred and fifty days
22 of such sentence” the following words:- provided, further, that any such probation, parole, or
23 furlough shall consist of not less than 60 days of community service.

24 SECTION 4. Said section 24 of said chapter 90, as so amended, is hereby further
25 amended by inserting after the word “drivers” at the end of the fifth paragraph the following
26 paragraph:-

27 A mandatory condition of any probation or parole that may be ordered as a result of this
28 paragraph is that the offender shall have an alcohol assessment conducted by the department of
29 public health. The assessment shall include, but need not be limited to, an assessment of the level
30 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of
31 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
32 recommendations contained therein shall become a mandatory condition of his probation or
33 parole. No person shall be excluded from said assessment or recommended course of treatment
34 for inability to pay, if the offender files an affidavit of indigency or inability to pay with the
35 court, the investigation by the probation or parole officer confirms such indigency or establishes
36 that such payment would cause a grave and serious hardship to the offender or his family, and
37 the court enters written findings thereof. The department of public health may make such rules
38 and regulations as are necessary to accomplish the intent of this assessment.

39 SECTION 5. Said section 24 of said chapter 90, as so amended, is hereby further
40 amended in the sixth paragraph by striking out “nor more than five years;” and inserting in place
41 thereof:- nor more than seven years;

42 SECTION 6. Said section 24 of said chapter 90, as so amended, is hereby amended by
43 inserting in the sixth paragraph after the words “has served twelve months of such sentence” the
44 following words:- provided, further, that any such probation, parole, or furlough shall consist of
45 not less than 60 days of community service.

46 SECTION 7. Said section 24 of said chapter 90, as so amended, is hereby further
47 amended by inserting after the word “drivers” at the end of the sixth paragraph the following
48 paragraph:-

49 A mandatory condition of any probation or parole that may be ordered as a result of this
50 paragraph is that the offender shall have an alcohol assessment conducted by the department of
51 public health. The assessment will include, but need not be limited to, an assessment of the level
52 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of
53 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the
54 recommendations contained therein shall become a mandatory condition of his probation or
55 parole. No person shall be excluded from said assessment or recommended course of treatment
56 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay

57 with the court, that investigation by the probation or parole officer confirms such indigency or
58 establishes that such payment would cause a grave and serious hardship to the offender or his
59 family, and that the court enters written findings thereof. The department of public health may
60 make rules and regulations as are necessary to accomplish the intent of this assessment.

61 SECTION 8. Said section 24 of said chapter 90, as so amended, is hereby further
62 amended in the seventh paragraph by striking out "nor more than five years;" and inserting in
63 place thereof:- nor more than ten years.

64 SECTION 9. Said section 24 of said chapter 90, as so amended, is hereby amended by
65 inserting in the seventh paragraph after the words "has served twenty-four months of such
66 sentence" the following words:- provided, further, that any such probation, parole, or furlough
67 shall consist of not less than 60 days of community service.

68 SECTION 10. Said section 24 of said chapter 90, as so amended, is hereby further
69 amended by inserting after the word "drivers" at the end of the seventh paragraph the following
70 paragraph:-

71 A mandatory condition of any probation or parole that may be ordered as a result of this
72 paragraph is that the offender shall have an alcohol assessment conducted by the department of
73 public health. The assessment will include, but need not be limited to, an assessment of the level
74 of the offender's addictions to alcohol or drugs, and the department's recommended course of
75 treatment. Such assessment shall be reported to the offender's probation or parole officer, and the
76 recommendations contained therein shall become a mandatory condition of his probation or
77 parole. No person shall be excluded from said assessment or recommended course of treatment
78 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay
79 with the court, that investigation by the probation or parole officer confirms such indigency or
80 establishes that such payment would cause a grave and serious hardship to the offender or his
81 family, and that the court enters written findings thereof. The department of public health may
82 make rules and regulations as are necessary to accomplish the intent of this assessment.

83 SECTION 11. Said section 24 of said chapter 90, as so amended, is hereby amended by
84 adding the following:-

85 Notwithstanding the provisions of any section of this chapter, any person who after being
86 administered the chemical test set forth in this section and such evidence indicates that the
87 percentage was fifteen one hundredths or more and the person is before the court for the first
88 time for such offense, upon conviction the court shall order an alcohol assessment conducted by
89 the department of public health. The assessment will include, but need not be limited to, an
90 assessment of the level of the offender's addictions to alcohol or drugs, and the department's
91 recommended course of treatment. No person shall be excluded from said assessment or
92 recommended course of treatment for inability to pay, provided that the offender files an
93 affidavit of indigency or inability to pay with the court, that investigation by the probation or

94 parole officer confirms such indigency or establishes that such payment would cause a grave and
95 serious hardship to offender or his family, and that the court enters written findings thereof. The
96 department of public health may make such rules and regulations as are necessary to accomplish
97 the intent of this assessment.

98 SECTION 12. Chapter 90, as so amended, is hereby amended by inserting after section
99 24X, the following section:-

100 Section 24Y. (a) Whoever, upon any way or in any place to which members of the public
101 has a right to access, or upon any way or in any place to which members of the public have
102 access as invitees or licensees, operates a motor vehicle with a percentage of weight, of alcohol
103 in his blood of eight-one hundredths or greater, or while under the influence of intoxicating
104 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue,
105 in violation of sections 24, 24G or 24L, while a child under the age of 14 is in the vehicle, shall
106 be punished by imprisonment in the house of correction for not more than 6 months and a fine of
107 not more than $10,000.

108 (b) In accordance with section 8A of chapter 279, such sentence shall begin from and
109 after the expiration of the sentence for violation of said sections 24, 24G or 24L.

110 (c) The registrar may extend, for an additional 2 months, any suspension or revocation of
111 a license or right to operate imposed for violation of said sections 24, 24G or 24L, on any person
112 that violates this section.