

**HOUSE . . . . . No. 1405**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Anne M. Gobi**

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*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 bill:

An Act relative to increasing the civil fines and financial responsibilities and criminal penalties of motorists who violate the right of way of other motorists, motorcyclists, bicyclists and/or pedestrians, resulting in serious bodily injury and/or death.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anne M. Gobi	5th Worcester
Paul W. Cote	1 Birchwood Pointe, #102 Amesbury, MA 01913
Todd M. Smola	1st Hampden
Jennifer M. Callahan	18th Worcester
John W. Scibak	2nd Hampshire

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO INCREASING THE CIVIL FINES AND FINANCIAL RESPONSIBILITIES AND CRIMINAL PENALTIES OF MOTORISTS WHO VIOLATE THE RIGHT OF WAY OF OTHER MOTORISTS, MOTORCYCLISTS, BICYCLISTS AND/OR PEDESTRIANS, RESULTING IN SERIOUS BODILY INJURY AND/OR DEATH.

*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. Section 8 of chapter 89, as appearing in the 1998 Official Edition, is hereby amended by  
2 striking out in the last sentence the words “thirty-five” and replacing it with “three hundred.”

3 SECTION 2. Section 8 of Chapter 89 of the General Laws, as so appearing, is hereby amended by adding  
4 at the end of said section the following new paragraphs:—

5 Any person who violates the provisions of the paragraph and as a result causes serious bodily injury or  
6 death to another operating a motor vehicle, a motorcycle or bicycle, or as a pedestrian, shall be financially  
7 responsible to that injured person or persons, or their Estate, for out of pocket medical or funeral  
8 expenses, actual lost wages, excess what might otherwise be covered by liability insurance, and to other  
9 insurers who may be obligated to pay such medical expenses.

10 The injured person or their Estate shall have a right to file an action in the Superior Court of the judicial  
11 district where they reside or their Estate exists, seeking Judgment against the at-fault operator and vehicle  
12 owner, for unpaid medical and or funeral expenses, actual lost wages, and assignment to the at-fault  
13 operator and owner, of any medical insurer liens incurred for medical services and treatments, excess the  
14 at-fault operator and vehicle owner liability limits, for which the at-fault operator and owner are  
15 responsible for.

16 In any such action commenced in the Superior Court in the judicial district in which the injured party  
17 resides or Estate exist, the Court shall, upon the filing of an answer or upon default and upon motion of  
18 the injured person or Estate, advance the action for a speedy trial.

19 The intent of this language is to hold the at-fault operator and owner financially responsible, above their  
20 insured liability limits, for damages caused as a result of violation of this Section.

21 SECTION 3. Any motor vehicle liability insurer's duty to defend an insured shall cease, upon their  
22 payment of their insured's policy limits, upon application to the Superior Court of jurisdiction, without  
23 the injured party or their Estate having to Release the insurer's insured.

24 SECTION 4. Section 13A (iii) of Chapter 265 of the General Laws, as so appearing, is hereby  
25 amended by adding at the end of said section the following new paragraph:— Any person in violation of  
26 Section 8 of Chapter 89, resulting in serious bodily injury to any other road user, as defined herein.

27 SECTION 5. Section 13A(c) of Chapter 265 of the General Laws, as so appearing, is hereby amended,  
28 by adding to this sentence, "medical expenses incurred by the victim twice in excess of the offender's  
29 liability insurance limits applicable, or which involves either total disability or the loss or substantial  
30 impairment of some bodily function for a substantial period of time greater than thirty days.