

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

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Nine**  
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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  
2 amended by striking out in the last sentence the words “thirty-five” and replacing it with “three  
3 hundred.”

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

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

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

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

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

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

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

31           SECTION 5. Section 13A(c) of Chapter 265 of the General Laws, as so appearing, is  
32 hereby amended, by adding to this sentence, “medical expenses incurred by the victim twice in  
33 excess of the offender’s liability insurance limits applicable, or which involves either total

- 34 disability or the loss or substantial impairment of some bodily function for a substantial period of
- 35 time greater than thirty days.