

**HOUSE . . . . . No. 1438**

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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 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:*

1 SECTION 1. Section 24 of chapter 90 of the General Laws, as most recently amended by  
2 chapter 302 of the acts of 2008, is hereby amended by inserting in the fourth paragraph after the  
3 words “has served thirty days of such sentence” the following words:- provided, further, that  
4 any such probation, parole, or furlough shall consist of not less than 30 days of community  
5 service.

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

9 A mandatory condition of any probation or parole that may be ordered as a result of this  
10 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
11 public health. The assessment shall include, but need not be limited to, an assessment of the level  
12 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of  
13 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
14 recommendations contained therein shall become a mandatory condition of his probation or

15 parole. No person shall be excluded from an assessment or recommended course of treatment for  
16 inability to pay, if the offender files an affidavit of indigency or inability to pay with the court,  
17 investigation by the probation or parole officer confirms such indigency or establishes that such  
18 payment would cause a grave and serious hardship to the offender or his family, and the court  
19 enters written findings thereof. The department of public health may make such rules and  
20 regulations as are necessary to accomplish the intent of this assessment.

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

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

28 A mandatory condition of any probation or parole that may be ordered as a result of this  
29 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
30 public health. The assessment shall include, but need not be limited to, an assessment of the level  
31 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of  
32 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
33 recommendations contained therein shall become a mandatory condition of his probation or  
34 parole. No person shall be excluded from said assessment or recommended course of treatment  
35 for inability to pay, if the offender files an affidavit of indigency or inability to pay with the  
36 court, the investigation by the probation or parole officer confirms such indigency or establishes

37 that such payment would cause a grave and serious hardship to the offender or his family, and  
38 the court enters written findings thereof. The department of public health may make such rules  
39 and regulations as are necessary to accomplish the intent of this assessment.

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

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

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

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

59 establishes that such payment would cause a grave and serious hardship to the offender or his  
60 family, and that the court enters written findings thereof. The department of public health may  
61 make rules and regulations as are necessary to accomplish the intent of this assessment.

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

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

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

72 A mandatory condition of any probation or parole that may be ordered as a result of this  
73 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
74 public health. The assessment will include, but need not be limited to, an assessment of the level  
75 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of  
76 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
77 recommendations contained therein shall become a mandatory condition of his probation or  
78 parole. No person shall be excluded from said assessment or recommended course of treatment  
79 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay  
80 with the court, that investigation by the probation or parole officer confirms such indigency or

81 establishes that such payment would cause a grave and serious hardship to the offender or his  
82 family, and that the court enters written findings thereof. The department of public health may  
83 make rules and regulations as are necessary to accomplish the intent of this assessment.

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

86 Notwithstanding the provisions of any section of this chapter, any person who after being  
87 administered the chemical test set forth in this section and such evidence indicates that the  
88 percentage was fifteen one hundredths or more and the person is before the court for the first  
89 time for such offense, upon conviction the court shall order an alcohol assessment conducted by  
90 the department of public health. The assessment will include, but need not be limited to, an  
91 assessment of the level of the offender's addictions to alcohol or drugs, and the department's  
92 recommended course of treatment. No person shall be excluded from said assessment or  
93 recommended course of treatment for inability to pay, provided that the offender files an  
94 affidavit of indigency or inability to pay with the court, that investigation by the probation or  
95 parole officer confirms such indigency or establishes that such payment would cause a grave and  
96 serious hardship to offender or his family, and that the court enters written findings thereof. The  
97 department of public health may make such rules and regulations as are necessary to accomplish  
98 the intent of this assessment.

99 SECTION 12. Chapter 90, as so amended, is hereby amended by inserting after section  
100 24X, the following section:-

101 Section 24Y. (a) Whoever, upon any way or in any place to which members of the public  
102 has a right to access, or upon any way or in any place to which members of the public have

103 access as invitees or licensees, operates a motor vehicle with a percentage of weight, of alcohol  
104 in his blood of eight-one hundredths or greater, or while under the influence of intoxicating  
105 liquor, or of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue,  
106 in violation of sections 24, 24G or 24L, while a child under the age of 14 is in the vehicle, shall  
107 be punished by imprisonment in the house of correction for not more than 6 months and a fine of  
108 not more than \$10,000.

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

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