

**HOUSE . . . . . No. 1590**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act to protect the citizens of the Commonwealth from drunk drivers..

*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.

2 Section 1 of Chapter 90 of the General Laws, as appearing in the 2006 Official Edition, is  
3 hereby amended by including the following definitions:

4 Blood alcohol content:

5 Disposition:

6 The number of grams of alcohol per 100 milliliters of blood; or the number of grams of  
7 alcohol per 210 liters of breath; or the number of grams of alcohol per 67 milliliters of urine.

8 Blood alcohol content is also known as: blood alcohol level, blood alcohol concentration, and  
9 BAC.

10 A conviction, guilty plea, placement on probation, continuance without a finding or  
11 admission to sufficient facts.

12 Drugs or other substance:

13           Marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1  
14 of chapter 94C, or vapors of glue.

15           Ignition interlock device:

16           A breath alcohol sensing instrument designed to be mounted in an automobile and  
17 connected to the ignition key switching system in a way that prevents the vehicle from starting  
18 unless the driver first provides a breath sample. These devices contain an instrument to measure  
19 the alcohol content of a deep lung breath sample. If the measured blood alcohol content is at or  
20 above a set level, the ignition is locked and the vehicle will not start. For purposes of this  
21 chapter, the registrar will certify each model or device approved for use.

22           Minimum mandatory:

23           The term of a sentence that shall not be reduced or suspended nor shall any person be  
24 eligible for probation, parole, furlough, or receive any deduction for good conduct during that  
25 term provided; however, that the commissioner of correction may, on the recommendation of the  
26 warden, superintendent, or other person in charge of a correctional institution, or the  
27 administrator of a county correctional institution, grant to an offender committed a temporary  
28 release in the custody of an officer of such institution for the following purposes only: to attend  
29 the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or  
30 psychiatric services unavailable at said institution; to engage in employment pursuant to a work  
31 release program; or for the purposes of an aftercare program designed to support the recovery of  
32 an offender who has completed an alcohol or controlled substance education, treatment, or  
33 rehabilitation program operated by the department of correction; and provided, further, that the  
34 defendant may serve all or party of such minimum mandatory sentence to the extent that

35 resources are available in a correctional facility specifically designed by the department of  
36 correction for the incarceration and rehabilitation of drinking drivers.

37 Operating under the influence offense:

38 Any conviction, nolo contendere plea, continuation without a finding with an assignment  
39 to an alcohol, drug or substance abuse education treatment program for operating under the  
40 influence under chapter 90, chapter 90A , chapter 90B, or chapter 265, or of a like offense of  
41 operating under the influence from another jurisdiction.

42 Prior under the influence offense:

43 Any conviction, nolo contendere plea, or continuation without a finding with an  
44 assignment to an alcohol, drug or substance abuse education treatment program for operating  
45 under the influence under chapter 90, chapter 90A, chapter 90B, or chapter 265, or of a like  
46 offense of operating under the influence from another jurisdiction, where the findings, judgment,  
47 or adjudication date by the court precedes the date of offense for which he is now charged.

48 Public way:

49 Any street or highway that is open to the public and is controlled and maintained by some  
50 level of government, or in a place to which the public has a right of access, or in a place to which  
51 members of the public have access as invitees or licensees.

52 Under the influence:

53 Having ingested enough marijuana, narcotic drugs, depressants or stimulant substances,  
54 all as defined in section 1 of chapter 94C, or intoxicating liquor or vapors of glue to diminish  
55 one's capacity or ability to drive safely ; or

56 SECTION 2.

57 Section 23 of Chapter 90 of the General Laws, as appearing in the 2004 Official Edition,  
58 is hereby amended by striking lines 1 through 94 and replacing it with the following:

59 No person shall operate a motor vehicle with a suspended license or right to operate, or  
60 after being notified by the Registry of Motor Vehicles of such suspension.

61 No person shall operate a motor vehicle with a suspended certificate of registration unless  
62 the registration has been restored or a new registration has been issued.

63 No person shall allow another to operate a motor vehicle with a suspended certificate of  
64 registration unless the registration has been restored or a new registration has been issued.

65 No person with intent to conceal his identity shall, upon request, present to an officer  
66 authorized to make arrests a license issued to another person.

67 A person convicted under subsection (1), (2), (3) or (4) of this section shall be punished  
68 as follows:

69 First offense: The defendant shall be imprisoned in a jail or house of correction for not  
70 more than 10 days, or fined not less than \$500 but not more than \$1000, or both.

71 Subsequent offense: The defendant shall be imprisoned in a jail or house of correction  
72 for not less than 60 days but not more than 1 year.

73 Upon a conviction under subsection (1), (2), (3), or (4), of this section the registrar shall  
74 extend said suspension of the license or right to operate for an additional 60 days.

75           No person shall attach or permit to be attached to a motor vehicle or trailer a number  
76 plate assigned to another motor vehicle or trailer with the intent to conceal the identity of the  
77 motor vehicle or trailer.

78           No person shall obscure or permit to be obscured the figures on any number plate  
79 attached to a motor vehicle or trailer with the intent to conceal the identity of the motor vehicle  
80 or trailer.

81           No person shall fail to display a number plate and registration number duly assigned to a  
82 motor vehicle or trailer with the intent to conceal the identity of such motor vehicle or trailer.

83           A person convicted under subsection (5), (6), or (7) of this section shall be imprisoned in  
84 a jail or house of correction for not more than 10 days, or fined not more than \$100, or both.

85           Upon a conviction under subsection (5), (6), or (7) of this section the registrar shall  
86 extend said suspension of the license or right to operate for an additional 60 days.

87           No person shall operate a motor vehicle with a suspended license or right to operate due  
88 to being a habitual traffic offender pursuant to section 22F of chapter 90 after being notified by  
89 the Registry of Motor Vehicles of such suspension.

90           A person convicted under this subsection shall be imprisoned in a jail or house of  
91 correction for not more than 2 years or fined not less than \$500 but not more than \$5000, or both.

92           Upon a conviction under this subsection the registrar shall extend said suspension of the  
93 license or right to operate for an additional 60 days.

94 No person shall operate a motor vehicle with a suspended license or right to operate due  
95 to a prior operating under the influence offense under chapter 90, 90B, 90F, or 265, or after  
96 being notified by the Registry of Motor Vehicles of such suspension.

97 A person convicted under this subsection shall be imprisoned in a jail or house of  
98 correction for a minimum mandatory term of 60 days but not more than 2 ½ years and fined not  
99 less than \$1,000 but not more than \$10,000. No case commenced under this subsection shall be  
100 continued without a finding or placed on file, or subject to the provisions of section 87 of  
101 chapter 276.

102 Upon a conviction under this subsection the registrar shall extend said suspension of the  
103 license or right to operate for an additional 1 year.

104 No person shall operate a motor vehicle under the influence with a suspended license or  
105 right to operate due to a prior operating under the influence offense or after being notified by the  
106 Registry of Motor Vehicles of such suspension.

107 A person convicted under this subsection shall be imprisoned in a jail or house of  
108 correction for a minimum mandatory term of 1 year but not more than 2 ½ years and fined not  
109 less than \$2,500 but not more than \$10,000. No case commenced under this subsection shall be  
110 continued without a finding, or placed on file, or subject to the provisions of section 87 of  
111 chapter 276.

112 Upon a conviction under this subsection the registrar shall extend said suspension of the  
113 license or right to operate for an additional 1 year.

114 A sentence imposed under this subsection shall be served consecutively to and not  
115 concurrently with any other sentence or penalty.

116 A certificate of the registrar or his authorized agent indicating that: (1) a license or  
117 right to operate has not been restored; or (2) a certificate of registration has not been restored; or  
118 (3) a new license to operate has not been issued; or (4) a new certificate of registration has not  
119 been issued shall be admissible as evidence in any court of the commonwealth to prove the facts  
120 certified to therein.

121 A certificate of a clerk of court that a person's license or right to operate a motor  
122 vehicle was suspended for a period of time shall be admissible as prima facie evidence in any  
123 court of the commonwealth to prove the facts certified to therein.

124 In no case shall a person who fails to pay an administrative reinstatement fee be  
125 prosecuted for operating after suspension of a license.

126 Upon a finding by the registrar that a person with a suspended license or right to  
127 operate, did operate a vehicle registered to another, the registrar shall, after hearing, suspend the  
128 certificate of registration of said motor vehicle for up to 30 days. Immediately, upon suspension,  
129 the certificate of registration and the number plates shall be surrendered to the registrar.

### 130 SECTION 3.

131 Section 24, 24A, 24B, 24D, 24E, 24F, 24G, 24H, 24I, 24J, 24K, 24L, 24M, 24N, 24O,  
132 24P, 24Q, 24R, 24S, 24T, 24U, 24V, 24W, and 24X of Chapter 90 of the General Laws, is  
133 hereby amended by deleting each section and replacing it with the following:

134 Chapter 90, § 24 - False statements in an application

135 No person shall falsely make, steal, alter, forge, or counterfeit, a learner's permit, a  
136 license to operate a motor vehicle, an identification card issued under section 8E of this chapter,  
137 a certificate of registration of a motor vehicle or trailer or an inspection sticker.

138 No person shall procure or assist another to falsely make, steal, alter, forge, or  
139 counterfeit, a learner's permit, a license to operate a motor vehicle, an identification card issued  
140 under section 8E of this chapter, a certificate of registration of a motor vehicle or trailer or an  
141 inspection sticker.

142 No person shall forge or use without authority the signature, a facsimile of the  
143 signature, or validating signature stamp of the registrar or a deputy registrar upon a genuine,  
144 falsely made, stolen, altered, forged, or counterfeited learner's permit, license to operate a motor  
145 vehicle, identification card issued under section 8E of this chapter, certificate of registration of a  
146 motor vehicle or trailer, or an inspection sticker.

147 No person shall have in his possession, utter, publish as true, or in any way make use of  
148 a falsely made, stolen, altered, forged, or counterfeited learner's permit, license to operate a  
149 motor vehicle, identification card issued under section 8E of this chapter, certificate of  
150 registration of a motor vehicle or trailer or an inspection sticker.

151 No person shall have in his possession, utter, publish as true, or in any way make use of  
152 a falsely made, stolen, altered, forged, or counterfeited signature, facsimile of the signature, or  
153 validating signature stamp of the registrar or a deputy registrar.

154 A person convicted under subsection (1), (2), (3), (4), or (5) of this section shall be  
155 imprisoned in a jail or house of correction for not more than 2 years or state prison for not more  
156 than 5 years or fined not more than \$500.



157           Upon a conviction under this section the registrar shall suspend the license or right to  
158 operate for 1 year. No appeal or motion for a new trial shall stay the suspension of the license or  
159 right to operate provided; however, that if the prosecution against such person has terminated in  
160 his favor, the registrar shall immediately reinstate his license or right to operate.

161           No person shall make any false statement in an application for a learner's permit or  
162 license to operate a motor vehicle.

163           No person shall make any false statement in an application for a registration of a motor  
164 vehicle.

165           No person shall loan or knowingly permit his learner's permit or license to operate a  
166 motor vehicle to another.

167           A person convicted under subsection (6), (7), or (8) of this section shall be imprisoned in  
168 a jail or house of correction for not less than 2 weeks but not more than 2 years, or fined not less  
169 than \$20 but no more than \$200, or both.

170           Upon a conviction under subsection (6), (7), or (8) of this section the registrar shall,  
171 unless the court or magistrate recommends otherwise, suspend the license or right to operate as  
172 follows:

173           First offense: 60 days

174           Subsequent offense within 3 years: 1 year

175           No appeal or motion for new trial shall stay the suspension of the license or right to  
176 operate provided; however, that if the prosecution against such person has terminated in his  
177 favor, the registrar shall immediately reinstate his license or right to operate.

178           A summons may be issued instead of a warrant for arrest upon a complaint for a violation  
179 if there is reason to believe the defendant will appear before the court.

180           Chapter 90, § 24A - Operation of a motor vehicle while drinking alcoholic beverage from  
181 open container

182           No person shall possess an open container of alcoholic beverage in the passenger area  
183 of any motor vehicle while on a public way.

184           A person convicted under this section shall be fined not less than \$100 but not more  
185 than \$500.

186           These words, as used in this section, have the following meaning:

187           Open container – any bottle, can or other receptacle used to contain liquid that has been  
188 opened or has a broken seal, or the contents of which have been partially removed or consumed  
189 provided; however, that a bottle resealed pursuant to section 12 of chapter 138 shall not be  
190 considered an open container.

191           Passenger area – the area designed to seat the driver and the passengers while the motor  
192 vehicle is in operation and any area that is readily accessible to the driver or a passenger while in  
193 a seated position including, but not limited to, the glove compartment. But in a motor vehicle  
194 that is not equipped with a trunk, the passenger area shall not include a locked glove  
195 compartment, the area behind the last upright seat, or an area not normally occupied by the driver  
196 or a passenger.

197           This section shall not apply to passengers of a motor vehicle designed, maintained and  
198 used for the transportation of persons for compensation, or the living quarters of a house coach  
199 or house trailer.

200           Notwithstanding the provisions of this section, the driver of any motor vehicle,  
201 including a house coach or house trailer, shall not possess an open container of alcoholic  
202 beverage.

203           Chapter 90, § 24B - Negligent/Reckless operation

204           No person shall operate a motor vehicle on a public way negligently or recklessly so  
205 that the lives or safety of the public might be endangered.

206           A person convicted under this section shall be imprisoned in a jail or house of  
207 correction for not less than 2 weeks but not more than 2 years or fined not less than \$20 but not  
208 more than \$200 dollars, or both.

209           Upon a conviction under this section the registrar shall, unless the court or magistrate  
210 recommends otherwise, suspend the license or right to operate as follows:

211           First offense: 60 days

212           Subsequent offense within 3 years: 1 year

213           No appeal or motion for a new trial shall stay the suspension of the license or right to  
214 operate provided; however, that if the prosecution against such person has terminated in his  
215 favor, the registrar shall immediately reinstate his license or right to operate.

216           Upon a conviction of this subsection, if it appears by the records of the registrar that the  
217 person convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as  
218 a manufacturer or dealer or otherwise, the registrar may suspend the certificate of registration of  
219 any or all motor vehicles owned or exclusively controlled by the person.

220           Upon a disposition under this section the court shall assess a \$250 fee to the person.  
221 The court shall deposit \$125 of the \$250 collected under this assessment into the Head Injury  
222 Treatment Services Trust Fund. The remaining \$125 shall be deposited into the General Fund.  
223 The fee may be reduced or waived if the court makes written findings that payment would cause  
224 the person severe financial hardship. If the court sentences the person to a correctional facility  
225 the outstanding assessment shall be noted on the mittimus.

226           A summons may be issued instead of a warrant for arrest upon a complaint for a violation  
227 of this section if there is reason to believe the defendant will appear before the court.

228           Chapter 90, § 24C (1) - Leaving the scene after causing property damage

229           No person operating a motor vehicle on a public way shall knowingly collide with or  
230 otherwise cause injury to any other vehicle or property without stopping and making known his  
231 name, residence and the registration number of his motor vehicle.

232           A person convicted of this subsection shall be imprisoned in a jail or house of correction  
233 for not less than 2 weeks but not more than 2 years or fined not less than \$20 but not more than  
234 \$200, or both.

235           Upon a conviction under this subsection the registrar shall, unless the court or magistrate  
236 recommends otherwise, suspend the license or right to operate as follows:

237 First offense: 60 days

238 Subsequent offense within 3 years: 1 year

239 No appeal or motion for a new trial shall stay the suspension of the license or right to  
240 operate provided; however, if the charges against the person are dismissed, or the person is found  
241 not guilty, the person may immediately file a motion before the judge that heard the case, for the  
242 purpose of seeking restoration of the license or right to operate. At said hearing, if the court  
243 finds that the charges were resolved in favor of the defendant, that there are no alcohol related  
244 charges pending in this or any other court, and that there is no evidence before the court based on  
245 a preponderance of the evidence that reinstatement of the license or right to operate would  
246 endanger the public, there shall be a presumption that the court shall order that this particular  
247 suspension be terminated.

248 Upon a conviction of this section, if it appears by the records of the registrar that the  
249 person convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as  
250 a manufacturer or dealer or otherwise, the registrar may suspend the certificate of registration of  
251 any or all motor vehicles owned or exclusively controlled by the person.

252 A summons may be issued instead of a warrant for arrest upon a complaint for a violation  
253 of this subsection if there is reason to believe the defendant will appear before the court.

254 Chapter 90, § 24C (2) - Leaving the scene after causing personal injury

255 No person operating a motor vehicle on a public way shall knowingly collide with or  
256 otherwise cause injury to any person, not resulting in the death of another person, without

257 stopping and making known his name, residence and the registration number of his motor  
258 vehicle.

259 A person convicted of this subsection shall be imprisoned in a jail or house of correction  
260 for not less than 6 months but not more than 2 years and fined not less than \$500 but not more  
261 than \$1,000. No case commenced under this subsection shall be continued without a finding or  
262 placed on file.

263 Upon a conviction of this subsection the registrar shall, unless the court or magistrate  
264 recommend otherwise, suspend the license or right to operate as follows:

265 First offense: 1 year

266 Subsequent offense: 2 years

267 No appeal or motion for a new trial shall stay the suspension of the license or right to  
268 operate provided; however, if the charges against the person are dismissed, or the person is found  
269 not guilty, the person may immediately file a motion before the judge that heard the case, for the  
270 purpose of seeking restoration of the license or right to operate. At said hearing, if the court  
271 finds that the charges were resolved in favor of the defendant, that there are no alcohol related  
272 charges pending in this or any other court, and that there is no evidence before the court based on  
273 a preponderance of the evidence that reinstatement of the license or right to operate would  
274 endanger the public, there shall be a presumption that the court shall order that this particular  
275 suspension be terminated.

276 Upon a conviction of this section, if it appears by the records of the registrar that the  
277 person convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as

278 a manufacturer or dealer or otherwise, the registrar may suspend the certificate of registration of  
279 any or all motor vehicles owned or exclusively controlled by the person.

280 Chapter 90, § 24C (3) - Leaving the scene after causing death

281 No person operating a motor vehicle on a public way shall knowingly collide with or  
282 otherwise cause injury to any person, resulting in death, without stopping and making known his  
283 name, residence and the registration number of his motor vehicle.

284 A person convicted under this subsection shall be imprisoned in a jail or house of  
285 correction for a minimum mandatory 1 year but not more than 2 ½ years or state prison for not  
286 less than 2 ½ but not more than 10 years with a minimum mandatory term of 1 year and fined not  
287 less than \$1,000 but not more than \$5,000. No case commenced under this subsection shall be  
288 continued without a finding or placed on file.

289 Upon a conviction of this subsection the registrar shall, unless the court or magistrate  
290 recommends otherwise, suspend the license or right to operate as follows:

291 First offense: 3 years

292 Subsequent offense: 10 years

293 No appeal or motion for a new trial shall stay the suspension of the license or right to  
294 operate provided; however, if the charges against the person are dismissed, or the person is found  
295 not guilty, the person may immediately file a motion before the judge that heard the case, for the  
296 purpose of seeking restoration of the license or right to operate. At said hearing, if the court  
297 finds that the charges were resolved in favor of the defendant, that there are no alcohol related  
298 charges pending in this or any other court, and that there is no evidence before the court based on

299 a preponderance of the evidence that reinstatement of the license or right to operate would  
300 endanger the public, there shall be a presumption that the court shall order that this particular  
301 suspension be terminated.

302         Upon a conviction of this section, if it appears by the records of the registrar that the  
303 person convicted is the owner of a motor vehicle or has exclusive control of any motor vehicle as  
304 a manufacturer or dealer or otherwise, the registrar may suspend the certificate of registration of  
305 any or all motor vehicles owned or exclusively controlled by the person.

306         Chapter 90, § 24D- Operating under the influence of intoxicating liquor or other  
307 substances

308         No person shall operate a motor vehicle on a public way while under the influence of  
309 intoxicating liquor, drugs, or other substances as defined in section 1 of chapter 90.

310         A person convicted under subsection (1) of this section shall be punished as follows:

311         First Offense: If there is no prior operating under the influence offense, the defendant  
312 shall be imprisoned in a jail or house of correction for not more than 2 ½ years or fined not less  
313 than \$500 but not more than \$5,000, or both.

314         Second Offense: If there is 1 prior operating under the influence offense, the defendant  
315 shall be imprisoned in a jail or house of correction for a minimum mandatory term of 30 days but  
316 not more than 2 ½ years and fined not less than \$600 but not more than \$10,000.

317         Third Offense: If there are 2 prior operating under the influence offenses, the defendant  
318 shall be imprisoned in a jail or house of correction for not less than 150 days but not more than 2



319 ½ years, or state prison for not less than 2 ½ years but not more than 5 years with a minimum  
320 mandatory term of 150 days and fined not less than \$1,000 but not more than \$15,000.

321 Fourth Offense: If there are 3 prior operating under the influence offenses, the defendant  
322 shall be imprisoned in a jail or house of correction for not less than 2 years but not more than 2 ½  
323 years, or state prison for not less than 2 ½ years but not more than 5 years with a minimum  
324 mandatory term of 1 year and fined not less than \$1,500 but not more than \$25,000.

325 Fifth or Subsequent Offense: If there are 4 or more prior operating under the influence  
326 offenses, the defendant shall be imprisoned in a jail or house of correction for not less than 2 ½  
327 years, or be imprisoned in the state prison for not less than 2 ½ years but not more than 5 years  
328 with a minimum mandatory term of 2 years and fined not less than \$2,000 but not more than  
329 \$50,000.

330 Upon a disposition under this section the court shall assess a \$250 fee to the person. The  
331 court shall transmit \$125 of the \$250 collected under this assessment to the state treasurer to be  
332 deposited into the Head Injury Treatment Services Trust Fund. The remaining \$125 shall be  
333 deposited into the General Fund. The assessment may be reduced or waived if the court makes  
334 written findings that payment would cause the person severe financial hardship. If the court  
335 sentences the person to a correctional facility the outstanding assessment shall be noted on the  
336 mittimus.

337 Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
338 court shall transmit the \$50 to the state treasurer to be deposited into the Victims of Drunk  
339 Driving Trust Fund. The assessment shall not be subject to waiver by the court for any reason.

340 If the court sentences the person to a correctional facility the outstanding assessment shall be  
341 noted on the mittimus.

342 In any prosecution commenced pursuant to this section, introduction into evidence of a  
343 prior conviction or a prior finding of sufficient facts by either certified attested copies of original  
344 court papers, or certified attested copies of the defendant's biographical and informational data  
345 from records of the department of probation, any jail or house of correction, the department of  
346 correction, or the registry of motor vehicles, shall be prima facie evidence that the defendant  
347 before the court has been convicted previously or assigned to an alcohol or controlled substance  
348 education, treatment, or rehabilitation program by a court of the commonwealth or of a like  
349 offense from any other jurisdiction. Such documentation shall be self-authenticating and  
350 admissible, after the commonwealth has established the defendant's guilt on the primary offense,  
351 as evidence in any court of the commonwealth to prove the defendant's commission of any prior  
352 convictions or assignments to alcohol or controlled substance education, treatment, or  
353 rehabilitation programs described therein. The commonwealth shall not be required to introduce  
354 any additional corroborative evidence, nor live witness testimony to establish the validity of such  
355 prior offenses.

356 No prosecutions under this section shall be continued without a finding except for cases  
357 disposed of pursuant to the provisions of subdivision (a) of subsection (3) of this section. No  
358 prosecutions under this section shall be placed on file, or subject to the provisions of section 87  
359 of chapter 276. At any time before the commencement of a trial or acceptance of a plea on a  
360 complaint alleging a violation of this section, the prosecutor may apply for the issuance of a new  
361 complaint pursuant to section 35A of chapter 218 alleging a violation of this section and 1 or  
362 more prior operating under the influence offenses. If such application is made, upon motion of

363 the prosecutor, the court shall stay further proceedings on the original complaint pending the  
364 determination of the application for the new complaint. If a new complaint is issued, the court  
365 shall dismiss the original complaint and order that further proceedings on the new complaint be  
366 postponed until the defendant has had sufficient time to prepare a defense. Upon any conviction  
367 or continuation without a finding under this section, the court shall order that any license issued  
368 by the commonwealth be surrendered to the probation department, and disposed of in a manner  
369 prescribed by the registrar. The clerk of courts shall notify the registrar forthwith of the  
370 disposition.

371         Upon a disposition for an operating under the influence offense as defined in section (1)  
372 of this chapter the probation department, in the court in which the finding was entered, shall  
373 provide the defendant a copy of the statutory provisions that apply to any further operating under  
374 the influence offense. The statement of statutory provisions shall be prepared by the secretary of  
375 public safety.

376         Upon a disposition for an operating under the influence offense as defined in section (1)  
377 of this chapter the court shall ask the defendant whether he was served alcohol prior to his  
378 violation at an establishment licensed to serve alcohol. If the defendant answers in the  
379 affirmative, the defendant shall provide the name and address of the establishment. The clerk's  
380 office shall provide in writing to the Alcohol Beverage Control Commission the name of the  
381 establishment and date of offense given by the defendant. The Alcohol Beverage Control  
382 Commission shall inform the named establishment of this incident forthwith. The trial court  
383 shall, in conjunction with the Alcohol Beverage Control Commission, promulgate a standard  
384 form for reporting and collecting said information. The Alcohol Beverage Control Commission

385 shall provide an annual report including the collected data to the attorney general, each district  
386 attorney, and the local liquor licensing authorities.

387 The provisions of section 6A of chapter 279 shall not apply to a person with a prior  
388 operating under the influence offense as defined in section 1 of chapter 90.

389 If a defendant waives his right to a jury trial pursuant to section 26A of chapter 218 on a  
390 complaint under this section he shall be deemed to have waived his right to a jury trial on all  
391 elements of the complaint.

#### 392 Alternative Dispositions

393 First Offense: If there is no evidence of a prior operating under the influence offense, a  
394 person may consent to being placed on probation for not more than 2 years instead of the  
395 disposition specified in subdivision (a) of subsection (2) of this section. Offenders with a single  
396 prior operating under the influence offense more than 10 years preceding the date of the most  
397 recent offense may also be eligible for a disposition under this subdivision. As a condition of this  
398 probation, the person shall be ordered to complete an out patient alcohol, drug, or substance  
399 abuse program as specified by the court. Offenders who reside out of state, or are a full time  
400 student out of state, may at the court's discretion complete a licensed first offender's program in  
401 that other state, as approved by the Department of Public Health.

402 If a person is sentenced to an alternative disposition, notwithstanding the provisions of  
403 subsection (5) of this section, the court shall impose a suspension of the defendant's license or  
404 right to operate for not less than 45 days nor more than 90 days if said person was over the age of  
405 21 at the time of the offense, or 210 days if said person was under the age of 21 at the time of  
406 offense. A person may immediately apply for a hardship license following disposition and

407 enrollment into the treatment program required by this subsection. In all cases where a hardship  
408 license is sought, the probation office where the offender is or was on probation will, upon  
409 request, furnish the registrar with documentation verifying the person's status with probation.  
410 Hardship licenses under this subsection shall be issued under such terms and conditions as the  
411 registrar may prescribe, after the registry is convinced that the issues that this offense(s) arose  
412 from have been dealt with by the operator and brought under control. Said hardship license shall  
413 be issued, subject to the agency's discretion, upon a showing of hardship for work, education, or  
414 other purpose the registrar deems valid and significant, and shall be for an identical 12 hour  
415 period, 7 days a week. Notwithstanding the above, if the records of the registrar contain  
416 additional information regarding operating under the influence offenses, the registrar shall  
417 suspend the license in accordance with subsection (5) of this section. A person shall be  
418 presumed to be a suitable candidate for this disposition after trial unless otherwise prohibited by  
419 this section. In cases where an eligible person is not granted such a disposition should he or she  
420 seek it, the court shall make written findings supporting its decision.

421           Second Offense: Notwithstanding the provisions of subsection (2) of this section, in  
422 cases where a defendant has only one prior operating under the influence offense, the court, in its  
423 discretion, may order the defendant to enter and complete a 14 day in patient program in lieu of  
424 the required 30 day minimum mandatory term.

425           The provisions of this subsection shall not apply to any person who causes serious bodily  
426 injury or death to another person during the events that gave rise to the complaint or indictment.

427           Each person placed in such a program shall pay a program fee as determined by the  
428 department of public health. The program fee shall not exceed the cost per client to run the

429 program. The department of public health shall compile a schedule of uniform fees for these  
430 programs, which shall be changed only after notice and public hearing. The department shall  
431 promulgate rules and regulations regarding the process and methodology of setting these fees.  
432 No person shall be denied entry into a program where the court, after review and investigation by  
433 the probation department, determines that the defendant is indigent, and has filed such an  
434 affidavit with the court. The court may then waive or reduce said fee on a case by case basis.  
435 Subject to appropriation, the department of public health shall reimburse each program for the  
436 costs of services provided to persons for whom payment of a fee has been waived or reduced on  
437 the grounds of indigency.

438 In addition to the program fee, the court shall assess a \$250 fee to each person placed in  
439 such a program. The court shall transmit the \$250 to the state treasurer for the support of  
440 programs operated by the commissioner of public health for the investigation, enforcement,  
441 treatment and rehabilitation of persons charged with or convicted of operating under the  
442 influence. The assessment may be reduced or waived if the court makes written findings that  
443 payment would cause the person severe financial hardship.

444 The alternative disposition programs utilized under this subsection shall be established,  
445 administered or approved by the department of public health, who shall have authority to  
446 promulgate such regulations as is necessary to govern the content, conduct, operation or approval  
447 of these programs. The department of public health shall prepare and publish annually a list of  
448 all accepted alcohol treatment and rehabilitation programs, make this list available upon request  
449 to members of the public, and annually furnish the commissioner of probation, the registrar, and  
450 the secretary of public safety with a copy of said list.

451           The commissioner of probation shall annually report to the department of public health  
452 the number of persons who receive an alternative disposition and the number of persons who  
453 have been required by the court to participate in alcohol or controlled substance abuse treatment  
454 or rehabilitation programs. In addition, the commissioner of probation, and the chief justice of  
455 the district courts and the Boston Municipal Court shall annually report to the department of  
456 public health the resources available for alcohol and controlled substance abuse treatment and  
457 rehabilitation of alcohol-impaired or controlled substance abuse-impaired drivers. The report  
458 shall evaluate the existing resources and shall make recommendations as to any additional  
459 resources. The department of public health shall take such reports into consideration in the  
460 development, implementation, and review of the state's alcoholism or controlled substance abuse  
461 plan and in the preparation of the division's annual budget in a manner consistent with the  
462 Alcoholism Treatment and Rehabilitation Law.

463           The following persons shall complete an alcohol and drug assessment conducted by the  
464 department of public health or other court approved program as a mandatory condition of any  
465 sentence imposed:

466           A person having a percentage, by weight, of alcohol in his blood of .20% or above during  
467 an operating under the influence offense; or

468           A person with a second or subsequent operating under the influence offense.

469           The assessment shall include at a minimum an evaluation of the level of the offender's  
470 addiction to alcohol and/or drugs and the department's recommended course of treatment. Such  
471 assessment and recommendation shall be reported to the offender's probation or parole officer.

472 The commissioner of public health may make such rules and regulations as are necessary to  
473 carry out this section.

474           Upon conviction the registrar shall suspend the license or right to operate, based on the  
475 number of offenses on the agency's records, as follows:

476           First offense: 1 year except for persons that have properly received dispositions  
477 pursuant to subsection 3 of section 24D of this chapter. The operator may apply for a hardship  
478 license 90 days from the date of conviction, absent any other suspensions.

479           Second offense: 2 years except for persons that have properly received dispositions  
480 pursuant to subsection 3 of section 24D of this chapter. The operator may apply for a hardship  
481 license 1 year from the date of conviction, absent any other suspensions.

482           Third offense: 8 years. The operator may apply for a hardship license 2 years from the  
483 date of conviction, absent any other suspensions.

484           Fourth offense: 10 years. The operator may apply for a hardship license 5 years from the  
485 date of conviction, absent any other suspensions.

486           Fifth or subsequent offense: Lifetime.

487           Notwithstanding subdivisions (a) through (e) of this subsection, the registrar shall  
488 suspend for life a person's license or right to operate upon an operating under the influence  
489 offense if the person has been previously convicted of motor vehicle homicide while under the  
490 influence or manslaughter by motor vehicle.

491           Hardship licenses under this subsection shall be issued under such terms and conditions  
492 as the registrar may prescribe, after the registry is convinced that the issues that this offense(s)



493 arose from have been dealt with by the operator and brought under control. Said hardship  
494 license shall be issued, subject to the agency's discretion, upon a showing of hardship for work,  
495 education, or other purpose the registrar deems valid and significant, and shall be for an identical  
496 12 hour period, 7 days a week.

497 If there are 2 prior operating under the influence offenses, the registrar may suspend the  
498 registration of a motor vehicle owned by a person for the duration of the suspension of the  
499 license or right to operate. No new registration shall be issued to said person during the  
500 suspension period.

501 Chapter 90, § 24E – Implied Consent

502 Whoever operates a motor vehicle on a public way shall be deemed to have consented  
503 to a test of his breath or blood in the event he is arrested with operating a motor vehicle while  
504 under the influence of intoxicating liquor. A person brought to a police station or place of  
505 detention is deemed to have consented to a test of his breath. A valid breath test under this  
506 section shall be one adequate breath sample analysis, followed by one calibration standard  
507 analysis, and then by a second adequate breath sample analysis. A person is deemed to have  
508 consented to a test of his blood only if he has been brought to a medical facility licensed pursuant  
509 to the provisions of section 51 of chapter 111, and the blood is drawn by a physician, registered  
510 nurse or certified medical technician; provided further that no person inflicted with hemophilia  
511 or any other condition requiring the use of anticoagulants shall be deemed to have consented to  
512 the withdrawal of blood. Such test shall be administered by or at the direction of a police officer  
513 as defined in section 1 of chapter 90C, having reasonable grounds to believe that the defendant  
514 was operating under the influence.

515 In any prosecution for an operating under the influence offense, evidence of a defendant's  
516 blood alcohol content at the time of offense, shown by breath or blood, is relevant and admissible  
517 to determine whether the defendant was under the influence of intoxicating liquor as defined in  
518 section 1 of this chapter, if test was conducted by or at the direction of a police officer, with the  
519 consent of the defendant. Upon the defendant's request the results of said test shall be made  
520 available to him. In any case where a test is given, the defendant shall have the right to have  
521 another test done at his own expense, by a physician of his choosing.

522 Evidence that the defendant refused such test shall not be admissible in a criminal or civil  
523 proceeding, but shall be admissible in any action by the registrar in any proceeding provided for  
524 in under this section. For purposes of this section, a refusal is either a verbal or written refusal to  
525 take a test, or a failure to consent to a test required by this section.

526 If such evidence is that the blood alcohol content was .05% or less, there shall be a  
527 permissible inference that the defendant was not under the influence of intoxicating liquor, and  
528 he shall be released from custody forthwith, absent any other arrestable charges. The officer(s)  
529 who placed the defendant in custody shall not be liable for false arrest if there were reasonable  
530 grounds to believe that he was operating under the influence.

531 If the evidence is that such blood alcohol content was more than .05% but less than  
532 .08%, there shall be no permissible inference.

533 If the evidence is that such blood alcohol content was .08% or more, the defendant is  
534 deemed to be under the influence as defined in section 1 of this chapter.

535 A certificate, signed and sworn to, by a chemist of the department of the state police or a  
536 laboratory certified by the department of public health, which contains the results of an analysis  
537 made by such chemist of the blood alcohol content shall be prima facie evidence.

538 Upon any refusal by the person arrested of a test required by this section, after the  
539 person has been informed that his license or right to operate a motor vehicle shall be suspended  
540 for the refusal, the registrar shall immediately suspend the person's license or right to operate as  
541 follows:

542 If the person was age 21 or over at the time of offense, and has no prior operating under  
543 the influence convictions, the suspension shall be for 180 days.

544 If the person has 1 prior operating under the influence conviction, or was under age 21 at  
545 the time of offense and has no more than 1 prior operating under the influence conviction, the  
546 suspension shall be for 3 years.

547 If the person has 2 prior operating under the influence convictions, the suspension shall  
548 be for 5 years.

549 If the person has 3 or more prior operating under the influence convictions, the  
550 suspension shall be for life.

551 If the person has a prior conviction under sections 24L or 24J of this chapter, the  
552 suspension shall be for 10 years.

553 If the person has a prior operating under the influence conviction pursuant to section 24G  
554 or 24K of this chapter or a conviction under section 24L of this chapter or section 13 ½ of  
555 chapter 265, the suspension shall be for life.

556 No hardship licenses on suspensions for test refusals shall be granted, except for  
557 candidates that have properly received dispositions pursuant to subsection 3 of section 24D of  
558 this chapter. Any suspensions under this section shall be consecutive with any suspension or  
559 suspension for the underlying operation under the influence offense. Notwithstanding that, if  
560 the charges against the person are dismissed, or the person is found not guilty, the person may  
561 immediately file a motion before the judge that heard the case, for the purpose of seeking  
562 restoration of the license or right to operate. At said hearing, if the court finds that the charges  
563 were resolved in favor of the defendant, that there are no alcohol related charges pending in this  
564 or any other court, and that there is no evidence before the court based on a preponderance of the  
565 evidence that reinstatement of the license or right to operate would endanger the public, there  
566 shall be a presumption that the court shall order that this particular suspension be terminated.

567 Any person refusing a test under this section shall have a right, at his request, to a hearing  
568 before the registrar to determine if grounds exist for the suspension. Any hearing request shall  
569 be made within 15 days of the incident giving rise to this suspension. The hearing shall be  
570 limited to the issues of whether reasonable grounds exist for the officer's belief that the person  
571 was operating under the influence at the time of the incident, whether the person was advised of  
572 the consequences of the refusal, and did the person refuse or fail to consent to such test. The  
573 registrar, upon accepting an appeal, shall have a reasonable period of time to request and gather  
574 such evidence as the hearings officer needs in order to rule on the issues raised by the appellant.  
575 The registrar shall compile a record of the hearing. If the ruling is in the person's favor, absent  
576 any other reason for suspension, the registrar shall restore the person's license or right to operate.  
577 The registrar may promulgate such rules and regulations as is necessary regarding the conduct of  
578 these hearings.

579           If the registrar rules that the suspension for refusal was proper, the appellant may file a  
580 petition for judicial review in the district court having jurisdiction over the underlying operation  
581 under the influence charge within 30 days of the registrar's decision. The court must then  
582 schedule a hearing within 30 days of the appellant's application, unless the appellant has waived  
583 this time requirement. The petition shall be filed in the nature of a civil action challenging the  
584 action of an administrative agency, and shall be an administrative review limited to the record,  
585 including the evidence and arguments, compiled at the hearing. Along with the submission of  
586 the record, the registrar shall prepare written findings supporting the reasons for denying the  
587 petition for the court to review. If the court rules in the appellant's favor, the court shall prepare  
588 specific findings indicating the reasons for reversing the registrar's determination, and send the  
589 findings to the registrar forthwith. The registrar shall restore the license, absent any other  
590 reasons for suspension. In cases where other suspensions exist, the registrar shall then terminate  
591 this suspension for refusal, but maintain any other valid suspensions.

592           If a test indicates that a person was operating with a blood alcohol content of .08% or  
593 above, the registrar shall immediately suspend the person's license or right to operate for 30  
594 days, or until the conclusion of the court case, whichever is shorter.

595           A person whose license or right to operate is suspended under this subsection may appeal  
596 the suspension within 10 days of the arraignment to the court where the charges are pending.  
597 The appeal shall be limited to the issues of whether a blood test, taken within a reasonable period  
598 of time after the arrest, shows a result of less than .08%, or that the test results were not  
599 consistent with the requirements of subsection (1) of this section.

600           If the charges against the person are dismissed, or the person is found not guilty, the  
601 person may immediately file a motion before the judge that heard the case, for the purpose of  
602 seeking restoration of the license or right to operate. At said hearing, if the court finds that the  
603 charges were resolved in favor of the defendant, that there are no alcohol related charges pending  
604 in this or any other court, and that there is no evidence before the court based on a preponderance  
605 of the evidence that reinstatement of the license or right to operate would endanger the public,  
606 there shall be a presumption that the court shall order that this particular suspension be  
607 terminated.

608           Chemical analysis of the breath of a person charged with a violation of this chapter  
609 shall not be considered valid under the provisions of this chapter, unless such analysis has been  
610 performed by a certified operator, using infrared breath-testing devices according to methods  
611 approved by the secretary of public safety. The secretary of public safety shall promulgate rules  
612 and regulations regarding satisfactory methods, techniques and criteria for the conduct of such  
613 tests, and shall establish a statewide training and certification program for all operators of such  
614 devices and a periodic certification program for such breath testing devices; provided, however,  
615 that the secretary may terminate or suspend such certification at his discretion.

616           Said regulations shall include, but shall not be limited to the following:

617           The chemical analysis of the breath of a person charged be performed by a certified  
618 operator using a certified infrared breath-testing device in the following sequence:

- 619           (1) one adequate breath sample analysis
- 620           (2) one calibration standard analysis

621 (3) a second adequate breath sample analysis

622 No person shall perform such a test unless certified by the secretary of public safety

623 No breath testing device, mouthpiece or tube shall be cleaned with any substance

624 containing alcohol.

625 The secretary of public safety shall prescribe uniform formats, electronic or otherwise,  
626 for reports of such chemical analysis to be used by law enforcement officers and others acting in  
627 accordance with the provisions of this chapter. The reports generated in these formats shall be  
628 sequentially numbered. Each chief of police or other officer or official having charge or control  
629 of a law enforcement agency shall be responsible for the proper availability of these formats.  
630 Each party so responsible shall prepare or cause to be prepared such records and reports relating  
631 to such uniform formats and their disposition in such manner and at such times as the secretary  
632 of public safety shall prescribe.

633 Upon any failed or refused test under this section the police shall confiscate any license  
634 or permit issued by the commonwealth in the possession of the defendant, serve the defendant  
635 with a notice of suspension on behalf of the registrar, and impound the operator's vehicle for a  
636 12 hour period following the incident. The operator shall be responsible for all costs associated  
637 with towing, storage and maintenance of the vehicle. In addition, in each case, the police shall  
638 prepare a report to the registrar, indicating the following:

639 the grounds the arresting officer had to believe that the defendant was operating under the  
640 influence;

641 the defendant was advised of the consequences of refusing the test;

642 the results of any failed test;  
643 whether or not the operator refused or failed to consent to the test;  
644 the identity of the officer who advised the defendant of his rights;  
645 the identity and certification of the officer who conducted the breath test;  
646 the identity of any witness to the test or refusal;  
647 that the test was administered in accordance with the regulations and standards  
648 promulgated by the secretary of safety; and  
649 the equipment used was regularly serviced and maintained and believed to be in proper  
650 working order.

651 The reports specified in this subsection shall be reported to the registrar forthwith in order  
652 to expedite the suspension of the license or right to operate, and shall be admissible as prima  
653 facie evidence in any administrative action before the registrar.

654 If a test is an analysis of blood rather than breath, in cases where a test indicates a blood  
655 alcohol content of .08% or above, or .02% or above if the operator is under age 21 at the time of  
656 offense, the police shall report said result to the registrar, who shall suspend the license  
657 consistent with the provisions of this section.

658 Notwithstanding the findings of any charge, the following additional provisions shall  
659 apply to persons under age 21 after having been arrested for an operating under the influence  
660 offense:



661           Upon evidence that a person under the age of 21 had a blood alcohol content of .02% or  
662 above or refused to submit to a chemical test or analysis of his breath or blood under this section,  
663 shall have his license or right to operate a motor vehicle suspended by the registrar for a period  
664 of an additional 180 days. Any person who is less than 18 years of age at the time of such  
665 offense shall have his license suspended by the registrar for an additional 1 year.

666           If a person has not been previously arrested for or charged with operating under the  
667 influence, such person shall, if he consents, be assigned to a program specifically designed by the  
668 department of public health for the treatment of underage drinking drivers. Upon entry into a  
669 program, authorized by this subsection, or a program required by section 24D of this chapter, the  
670 suspension of a license or right to operate as required by this subsection shall be waived by the  
671 registrar for a person under 21 years of age and over 18 years of age. The suspension shall be  
672 reduced to 180 days for a person who was under the age of 18 at the time of such offense. Upon  
673 the failure of a person who, at the time of offense was under the age of 21, to successfully  
674 complete such program, the registrar shall forthwith suspend such license or permit to operate for  
675 180 days, or for 1 year if the person was under age 18 at the time of offense.

676           The license, permit, or right to operate of a person convicted of any violation under  
677 section 24, 24A, 24B, 24C, 24I or 24J of this chapter, who was under the age of 18 at the time of  
678 such violation and whose license or permit to operate was not already suspended under this  
679 section for failing or refusing a test, shall have such license or right to operate suspended for an  
680 additional period of 180 days for a first offense and for a period of 1 year for a second or  
681 subsequent offense.

682 (5) When a complaint is issued alleging a person has violated section 24D, 24J, or  
683 24K of this chapter, or violated section 8(1) (a), 8A, or 8B of chapter 90B, upon the failure of a  
684 police officer to suspend or take custody of the defendant's license or permit, the judge shall  
685 immediately suspend and take custody of the defendant's license or right to operate in the  
686 following instances:

687 If the prosecutor makes a prima facie showing at arraignment that the defendant was  
688 operating a motor vehicle with a blood alcohol content of .08 or greater, or if the defendant is  
689 under 21 years of age a blood alcohol content of .02 or greater, as shown by a test of his breath  
690 or blood; and the prosecutor presents written certification of oral testimony from the person who  
691 administered the test that:

692 the defendant was given a test;

693 the person administering the test was trained and certified in the administration of the  
694 test;

695 the test was performed in accordance with regulations and standards promulgated by the  
696 secretary of public safety;

697 the equipment used for the test was regularly serviced and maintained; and

698 the person administering the test had every reason to believe the equipment was  
699 functioning properly at the time the test was administered.

700 The written certification shall be prima facie evidence of the facts contained therein.

701 Upon a showing of the above facts, the judge shall take immediate physical possession of  
702 the license or permit and shall direct the prosecuting officer to immediately notify the criminal

703 history systems board and the registrar of such suspension. The defendant's license or right to  
704 operate shall be suspended for a period not to exceed 30 days; or

705         If the prosecutor makes a prima facie showing at arraignment that the defendant was  
706 arrested for operating on any such way or place while under the influence of intoxicating liquor  
707 and refused a test of his breath or blood, the judge shall take immediate physical possession of  
708 the license or permit and shall direct the prosecuting officer to immediately notify the criminal  
709 history systems board and the registrar of such suspension. The defendant's license or right to  
710 operate shall be suspended as follows:

711         If the person was age 21 or over at the time of offense, and has no prior operating under  
712 the influence offenses, the suspension shall be for 180 days.

713         If the person has one prior operating under the influence offense, or was under the age of  
714 21 at the time of offense and has no more than 1 prior operating under the influence offenses, the  
715 suspension shall be for 1 year.

716         If the person has 2 prior operating under the influence offenses, the suspension shall be  
717 for 18 months.

718         No license shall be restored under any circumstances and no restricted or hardship  
719 permits shall be issued during the suspension period imposed by this paragraph. If the charges  
720 against the person are dismissed, or the person is found not guilty, the person may immediately  
721 file a motion before the judge that heard the case, for the purpose of seeking restoration of the  
722 license or right to operate. At said hearing, if the court finds that the charges were resolved in  
723 favor of the defendant, that there are no alcohol related charges pending in this or any other  
724 court, and that there is no evidence before the court based on a preponderance of the evidence

725 that reinstatement of the license or right to operate would endanger the public, there shall be a  
726 presumption that the court shall order that this particular suspension be terminated.

727 Any person refusing a test under this section shall have a right, at his request, to a hearing  
728 before the registrar to determine if grounds exist for the suspension. Any hearing request shall  
729 be made within 10 days of the incident giving rise to this suspension. The hearing shall be  
730 limited to the issues of whether or not a blood test administered pursuant to section 24E of this  
731 chapter, within a reasonable period of time after a test of his breath, shows that that the blood  
732 alcohol content was less than .08% or less than .02% if the person was under the age of 21 at the  
733 time of the offense.

734 If, after a hearing, the court finds the defendant's blood alcohol content was less than  
735 .08% or less than .02% if the person was under the age of 21 at the time of offense, the court  
736 shall restore the defendant's license or right to operate and shall direct the prosecuting officer to  
737 immediately notify the criminal history systems board and the registrar of such restoration.

738 (2) Any person whose license or right to operate has been suspended because the  
739 person refused to submit to a test of his breath or blood under this section shall have the right, at  
740 his request, to a hearing before the court in which the underlying charges are pending to  
741 determine if grounds exist for the suspension. Any hearing request shall be made within 10 days  
742 of the hearing giving rise to this suspension. The hearing shall be limited to the following issues:

743 whether or not the police officer had reasonable grounds to believe that the person had  
744 been operating a motor vehicle while under the influence of intoxicating liquor on a public way;

745 whether or not the person was placed under arrest; and

746 whether or not the person refused to submit to a test of his breath or blood.

747 If, after a hearing, the court finds in the negative on any one of the issues, the court shall  
748 restore the defendant's license or right to operate and shall direct the prosecuting officer to  
749 immediately notify the criminal history systems board and the registrar of such restoration.

750 Chapter 90, § 24F – Ignition Interlock Devices

751 Any person whose license or right to operate is suspended for 2 or more operating  
752 under the influence offenses, or who is operating on a restricted license for such offenses, shall  
753 be required to have an ignition interlock device installed on each vehicle that he may own, lease,  
754 or operate as a mandatory condition of issuance of a new license or right to operate. The  
755 restriction shall remain on the license during the hardship license period and an additional 2  
756 years upon the full restoration of the license. In cases where the person has not been granted a  
757 hardship license, the ignition interlock requirement shall be for a 2 year period following the  
758 reinstatement of the license or right to operate.

759 Each device shall be subject to inspection, maintenance, and monitoring as the registrar  
760 may prescribe. No ignition interlock device utilized under this section shall allow a vehicle to  
761 start if a person's blood alcohol content exceeds .02%. The registrar shall promulgate such rules  
762 and regulations as deemed necessary regarding this section.

763 The registrar may, after hearing, suspend the license or right to operate of any person  
764 who:

765 removes an ignition interlock device without the written consent of the registrar; or

766 who fails to have it inspected, maintained or monitored on at least 2 occasions during the  
767 requirement period,

768 if the licensee has:

769 (a) operated a vehicle with a blood alcohol content that caused the certified ignition  
770 interlock device to prevent the vehicle from starting on at least 2 occasions; or

771 (b) recorded a blood alcohol content in excess of .02% on at least 2 occasions.

772 The suspension shall be for an extended period or for life. A person aggrieved by the  
773 decision of the registrar pursuant to this section may file an appeal in the superior court. If the  
774 court determines that the registrar abused his discretion, the court may vacate the suspension or  
775 reduce the period ordered by the registrar.

776 No person required to have an ignition interlock device shall operate a motor vehicle  
777 without such a device on a public way.

778 A person convicted under this subsection shall be imprisoned in a jail or house of  
779 correction for not less than 6 months but not more than 2 ½ years, or the state prison for not less  
780 than 2 ½ years but not more than 5 years with a minimum mandatory term of 6 months and fined  
781 not less than \$1,000 but not more than \$15,000.

782 The provisions of this subsection shall not apply when the person is operating a vehicle  
783 with a police officer or employee or agent of the registrar present for the sole purpose of  
784 conducting a road test as a condition of license reinstatement.

785 No person shall interfere with or tamper with an ignition interlock device with the intent  
786 to disable such device.

787 A person convicted under this subsection shall be punished by imprisonment in a jail or  
788 house of correction for not less than 6 months but not more than 2 ½ years, or state prison for not  
789 less than 3 years but not more than 5 years.

790 No person shall knowingly breathe into an ignition interlock device, or start a motor  
791 vehicle equipped with an ignition interlock device, for the purpose of providing an operable  
792 motor vehicle to a person under a license restriction requiring an ignition interlock device.

793 A person convicted under this subsection shall be punished as follows:

794 First offense: The defendant shall be imprisoned in a jail or house of correction for not  
795 less than 6 months but not more than 2 ½ years or punished by a fine of not less than \$1,000 but  
796 not more than \$5,000.

797 Second or subsequent offense: The defendant shall be imprisoned in state prison for not  
798 less than 3 years but not more than 5 years.

799 A certified copy of a signed acknowledgement of the terms and existence of an ignition  
800 interlock device restriction, executed by a person alleged to have violated this section, shall be  
801 admissible as prima facie evidence to prove the knowledge of the person who executed the  
802 document.

803 Chapter 90, § 24G – Motor Vehicle Forfeitures

804 A motor vehicle or vessel owned by a person who has at least 3 prior operating under the  
805 influence offenses, as defined in section 1 of chapter 90, may be forfeited to the commonwealth.

806 A district attorney or the attorney general may petition the superior or district court, in the  
807 name of the commonwealth in the nature of a proceeding in rem to order forfeiture of such motor

808 vehicle or vessel. The petition shall be filed in the court having jurisdiction over the criminal  
809 proceeding brought under this chapter or chapter 90B. The proceeding shall be deemed a civil  
810 suit in equity. In all such actions where the motor vehicle or vessel is jointly owned by either a  
811 parent, spouse, child, grandparent, brother, sister, or parent of the spouse living in the defendant's  
812 household, before the date of the second or subsequent operating under the influence offense  
813 committed by the defendant, the commonwealth shall have the burden of proving the existence  
814 of probable cause to institute the action. The claimant shall have the burden of proving that the  
815 property is not forfeitable because the claimant is dependent on the motor vehicle or vessel for  
816 his livelihood or the maintenance of his family.

817         The court shall order the commonwealth to give notice, by certified or registered mail, to  
818 the owners of the motor vehicle or vessel and, to such other persons or entities who appear to  
819 have an interest therein. The court shall promptly, but not less than 2 weeks after notice, hold a  
820 hearing on the petition. Upon the motion of an owner of the motor vehicle or vessel, the court  
821 may continue the hearing on the petition pending the outcome of a criminal trial related to a  
822 charge of operating under the influence in violation of this chapter or chapter 90B. During the  
823 pendency of the proceedings, the court may issue, at the request of the commonwealth, ex parte,  
824 any preliminary order or process necessary to seize and secure the property for which forfeiture  
825 is sought. Process for seizure of the property shall issue only upon a showing of probable cause.  
826 The application, issuance, execution, and return thereof shall be subject to the provisions of  
827 chapter 276, as applicable.

828         At a hearing under this section, the court shall hear evidence and make findings of fact  
829 and conclusions of law, and shall issue a final order. The parties shall have a right of appeal as  
830 from a decree in equity. No forfeiture under this section shall extinguish a perfected security



831 interest held by a creditor in the property at the time of the filing of the forfeiture action. In all  
832 actions where a proceeding results in forfeiture, the final order shall provide for disposition of  
833 the property by the commonwealth in any manner not prohibited by law, including official use  
834 by an authorized law enforcement or other agency, or at sale at public auction or by competitive  
835 bidding, with such sale being conducted by the office of the district attorney or the attorney  
836 general that obtained the final order of forfeiture.

837         The final order of the court shall provide that the proceeds of any such sale shall be used  
838 to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of  
839 custody, advertising and notice, and the balance of any such sale shall be distributed equally  
840 among the prosecuting district attorney or attorney general, the city, town or state police  
841 department involved in the forfeiture and the Victims of Drunk Driving Trust Fund established in  
842 section 66 of chapter 10. If more than 1 department was substantially involved in the seizure, the  
843 court having jurisdiction over the forfeiture proceeding shall distribute the portion for law  
844 enforcement equitably among the departments.

845         There shall be established within the office of the state treasurer a separate Operating  
846 Under the Influence Deterrent Trust Fund for each district attorney and for the attorney general.  
847 All monies and proceeds received by a prosecuting district attorney or attorney general pursuant  
848 to this section shall be deposited in the fund and shall be expended without further appropriation  
849 to defray the costs of investigations, to provide additional technical equipment or expertise, to  
850 provide matching funds to obtain federal grants, or for such other law enforcement purposes as  
851 the district attorney or attorney general deems appropriate. Any program seeking to be an  
852 eligible recipient of the funds shall file an annual audit report with the local district attorney and  
853 attorney general. Such report shall include, but not be limited to, a listing of the assets,

854 liabilities, itemized expenditures and board of directors of the program. Within 90 days of the  
855 close of the fiscal year, each district attorney and the attorney general shall file an annual report  
856 with the house and senate committees on ways and means on the use of the monies in the trust  
857 fund for the purposes of deterring operating under the influence programs.

858 All moneys and proceeds received by a police department shall be deposited into the fund  
859 and shall be expended without further appropriation to defray the costs of investigations, to  
860 provide additional technical equipment or expertise, to provide matching funds to obtain federal  
861 grants, or to accomplish such other law enforcement purposes as the chief of police of such city  
862 or town, or the colonel of state police deem appropriate, but such funds shall not be considered a  
863 source of revenue to meet the operating needs of such department.

864 Chapter 90, § 24H - Aggravated OUI

865 Any person aged 17 to 21 years, inclusive, who commits an operating under the  
866 influence offense, and who has a blood alcohol content of .20% or above, shall also be guilty of  
867 aggravated operating under the influence, and in addition to the penalties mandated in section  
868 24D of this chapter, shall also be required to enter and complete a 14 day residential treatment  
869 program as described in subdivision (b) of subsection (3) of that section. In cases where the  
870 person is otherwise qualified for a disposition under subdivision (a) of subsection (3), the person  
871 shall be required to complete the 14 day residential program in lieu of the outpatient program  
872 specified therein.

873 Chapter 90, § 24I - Child Endangerment

874 No person shall operate a motor vehicle on a public way while under the influence of  
875 intoxicating liquor, drugs, or other substance with a child 14 years of age or younger in the  
876 vehicle.

877 A person convicted under this section shall be punished as follows:

878 First offense: The defendant shall be imprisoned in a jail or house of correction for not  
879 less than 90 days but not more than 2 ½ years and fined not less than \$1,000 but not more than  
880 \$5,000.

881 Subsequent offense: If there is a prior conviction for a violation of this subsection or a  
882 like offense in another jurisdiction the defendant shall be imprisoned in a jail or house of  
883 correction for a minimum mandatory term of 6 months but not more than 2 ½ years, or state  
884 prison for not less than 3 years but not more than 5 years with a minimum mandatory term of 6  
885 months and fined not less than \$5,000 but not more than \$10,000.

886 Upon a conviction under this section the registrar shall suspend the license or right to  
887 operate for an additional period as follows:

888 First offense: 1 year

889 Subsequent offense: 3 years

890 No appeal or motion for a new trial shall stay the suspension of the license or right to  
891 operate.

892 A sentence imposed under this subsection shall be served consecutively to and not  
893 concurrently with the underlying operating under the influence offense. No case commenced

894 under this section shall be continued without a finding, or placed on file, or subject to the  
895 provisions of section 87 of chapter 276.

896 Chapter 90, § 24J - Operating under the influence causing serious bodily injury

897 No person shall operate a motor vehicle on a public way while under the influence of  
898 intoxicating liquor, drugs, or other substances and by such operation cause serious bodily injury  
899 to another person.

900 A person convicted under this subsection shall be imprisoned in a jail or house of  
901 correction for not more than 2 ½ years or fined not more than \$3,000, or both.

902 No person shall operate a motor vehicle on a public way negligently or recklessly so that  
903 the lives or safety of the public might be endangered while under the influence of intoxicating  
904 liquor, drugs, or other substances and by such operation cause serious bodily injury to another  
905 person.

906 A person convicted under this subsection shall be imprisoned in a jail or house of  
907 correction for a minimum mandatory term of 6 months but not more than 2 ½ years, or state  
908 prison for not less than 2 ½ years but not more than 10 years with a minimum mandatory term of  
909 6 months and fined not more than \$5,000. No case commenced under this section shall be  
910 continued without a finding, or placed on file, or subject to the provisions of section 87 of  
911 chapter 276.

912 Upon a conviction under this section the registrar shall suspend the license or right to  
913 operate for 2 years after the date of conviction. No appeal or motion for a new trial shall stay  
914 the suspension of the license or right to operate, provided; however, if the charges against the

915 person are dismissed, or the person is found not guilty, the person may immediately file a motion  
916 before the judge that heard the case, for the purpose of seeking restoration of the license or right  
917 to operate. At said hearing, if the court finds that the charges were resolved in favor of the  
918 defendant, that there are no alcohol related charges pending in this or any other court, and that  
919 there is no evidence before the court based on a preponderance of the evidence that reinstatement  
920 of the license or right to operate would endanger the public, there shall be a presumption that the  
921 court shall order that this particular suspension be terminated.

922           Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
923 court shall transmit the \$50 to the state treasurer to be deposited into the Victims of Drunk  
924 Driving Trust Fund. The assessment shall not be subject to waiver by the court for any reason.  
925 If the court sentences the person to a correctional facility the outstanding assessment shall be  
926 noted on the mittimus.

927           For purposes of this section “serious bodily injury” shall mean bodily injury which  
928 creates a substantial risk of death or involves either total disability or the loss or substantial  
929 impairment of some bodily function for a substantial period of time.

930           Chapter 90, § 24K (1) – Misdemeanor motor vehicle homicide – negligently or recklessly

931           No person shall operate a motor vehicle on a public way negligently or recklessly so  
932 that the lives or safety of the public might be endangered and by such operation cause the death  
933 of another person.

934           A person convicted under this subsection shall be imprisoned in a jail or house of  
935 correction for not less than 30 days but not more than 2 ½ years or fined not less than \$300 but

936 not more than \$3,000, or both. No case commenced under this subsection shall be continued  
937 without a finding or placed on file.

938           Upon a conviction under this subsection the registrar shall suspend the license or right to  
939 operate as follows:

940           First offense: 15 years after the date of conviction

941           Subsequent offense: Lifetime

942           Notwithstanding the provisions of subdivision (b) above, if a person           is convicted  
943 under this subsection and has a prior operating under           the influence offense, the registrar  
944 shall suspend his license or right           to operate for life.

945           No appeal or motion for a new trial shall stay the suspension of the           license or right  
946 to operate, provided; however, if the charges           against the person are dismissed, or the  
947 person is found not guilty,           the person may immediately file a motion before the judge that  
948           heard the case, for the purpose of seeking restoration of the license or right to operate.

949 At said hearing, if the court finds that the           charges were resolved in favor of the defendant,  
950 that there are no           alcohol related charges pending in this or any other court, and that there is  
951 no evidence before the court based on a preponderance of           the evidence that reinstatement of the  
952 license or right to operate           would endanger the public, there shall be a presumption that the  
953           court shall order that this particular suspension be terminated.

954           Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
955 court shall transmit the \$50 to the state treasurer to be deposited into the Victim's of Drunk  
956 Driving Trust Fund. The assessment shall not be subjected to waiver by the court for any reason.

957 If the court sentences the person to a correctional facility the outstanding assessment shall be  
958 noted on the mittimus.

959 Chapter 90, § 24K (2) – Misdemeanor motor vehicle homicide - under the influence

960 No person shall operate a motor vehicle on a public way under the influence of  
961 intoxicating liquor, drugs, or other substances and by such operation cause the death of another  
962 person.

963 A person convicted under this subsection shall be imprisoned in the jail or house of  
964 correction for not less than 30 days but not more than 2 ½ years or fined not less than \$300 but  
965 not more than \$3,000, or both. No case commenced under this subsection shall be continued  
966 without a finding or placed on file.

967 Upon a conviction under this subsection the registrar shall suspend the license or right to  
968 operate as follows:

969 First offense: 15 years after the date of conviction

970 Subsequent offense: Lifetime

971 Notwithstanding the provisions of subdivision (b) above, if a person is convicted  
972 under this subsection and has a prior operating under the influence offense, the registrar  
973 shall suspend his license or right to operate for life.

974 No appeal or motion for a new trial shall stay the suspension of the license or right  
975 to operate, provided; however, if the charges against the person are dismissed, or the  
976 person is found not guilty, the person may immediately file a motion before the judge that  
977 heard the case, for the purpose of seeking restoration of the license or right to operate.

978 At said hearing, if the court finds that the charges were resolved in favor of the defendant,  
979 that there are no alcohol related charges pending in this or any other court, and that there is  
980 no evidence before the court based on a preponderance of the evidence that reinstatement of the  
981 license or right to operate would endanger the public, there shall be a presumption that the  
982 court shall order that this particular suspension be terminated.

983 Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
984 court shall transmit the \$50 to the state treasurer to be deposited into the Victims of Drunk  
985 Driving Trust Fund. The assessment shall not be subject to waiver by the court for any reason.  
986 If the court sentences the person to a correctional facility the outstanding assessment shall be  
987 noted on the mittimus.

988 Chapter 90, § 24K (3) – Felony motor vehicle homicide

989 No person shall operate a motor vehicle negligently or recklessly on a public way so  
990 that the lives or safety of the public might be endangered while under the influence of  
991 intoxicating liquor, drugs, or other substances and by such operation cause the death of another  
992 person.

993 A person convicted under this subsection shall be imprisoned in a jail or house of  
994 correction for a minimum mandatory term of 1 year but not more than 2 ½ years, or state prison  
995 for not less than 2 ½ years but not more than 15 years with a minimum mandatory term of 1 year  
996 and fined not more than \$5,000. No case commenced under this subsection shall be continued  
997 without a finding or placed on file.

998 Upon a conviction under this subsection the registrar shall suspend the license or right to  
999 operate as follows:



1000 First offense: 15 years after the date of conviction

1001 Subsequent offense: Lifetime

1002 Notwithstanding the provisions of subdivision (b) above, if a person is convicted under  
1003 this subsection and has a prior operating under the influence offense, the registrar shall suspend  
1004 his license or right to operate for life.

1005 No appeal or motion for a new trial shall stay the suspension of the license or right to  
1006 operate, provided; however, if the charges against the person are dismissed, or the person is  
1007 found not guilty, the person may immediately file a motion before the judge that heard the case,  
1008 for the purpose of seeking restoration of the license or right to operate. At said hearing, if the  
1009 court finds that the charges were resolved in favor of the defendant, that there are no alcohol  
1010 related charges pending in this or any other court, and that there is no evidence before the court  
1011 based on a preponderance of the evidence that reinstatement of the license or right to operate  
1012 would endanger the public, there shall be a presumption that the court shall order that this  
1013 particular suspension be terminated.

1014 Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
1015 court shall transmit the \$50 to the state treasurer to be deposited into the Victims of Drunk  
1016 Driving Trust Fund. The assessment shall not be subject to waiver by the court for any reason.  
1017 If the court sentences the person to a correctional facility the outstanding assessment shall be  
1018 noted on the mittimus.

1019 Chapter 90, § 24L - Manslaughter by motor vehicle

1020 No person shall operate a motor vehicle wantonly and recklessly on a public way while  
1021 under the influence of intoxicating liquor, drugs, or other substances and by such operation cause  
1022 the death of another person.

1023 A person convicted under this section shall be imprisoned in state prison for a minimum  
1024 mandatory term of 5 years but not more than 20 years and fined not more than \$25,000.

1025 (b) Upon a conviction of this section the registrar shall suspend the license or right  
1026 to operate for 15 years to life. Any person aggrieved by the registrar's decision may file an  
1027 appeal in the superior court. If the court determines that the registrar abused his discretion, the  
1028 court may vacate and reduce the suspension of the license or the right to operate as ordered by  
1029 the registrar. In no case shall the suspension period be less than 15 years.

1030 No appeal or motion for a new trial shall stay the suspension of the license or right to  
1031 operate, provided; however, if the charges against the person are dismissed, or the person is  
1032 found not guilty, the person may immediately file a motion before the judge that heard the case,  
1033 for the purpose of seeking restoration of the license or right to operate. At said hearing, if the  
1034 court finds that the charges were resolved in favor of the defendant, that there are no alcohol  
1035 related charges pending in this or any other court, and that there is no evidence before the court  
1036 based on a preponderance of the evidence that reinstatement of the license or right to operate  
1037 would endanger the public, there shall be a presumption that the court shall order that this  
1038 particular suspension be terminated.

1039 (c) Notwithstanding the provisions of paragraph (b) above, if a person convicted  
1040 under this section has a prior operating under the influence offense, the registrar shall suspend  
1041 his license or right to operate for life.

1042           Upon a disposition under this section the court shall assess a \$50 fee to the person. The  
1043 court shall transmit the \$50 to the state treasurer to be deposited into the Victims of Drunk  
1044 Driving Trust Fund. The assessment shall not be subject to waiver by the court for any reason.  
1045 If the court sentences the person to a correctional facility the outstanding assessment shall be  
1046 noted on the mittimus.

1047           Chapter 90, § 24M - Alcohol education for law enforcement personnel; duties of officials  
1048 and agencies

1049           The officials and agencies designated in this section are hereby directed to perform the  
1050 duties in this section and any other action within their authority in order to ensure effective  
1051 enforcement of chapter 90 section 24 to 24M, inclusive.

1052           The municipal police training committee established in section 116 of chapter 6 shall  
1053 provide training, including but not limited to, education concerning the aforesaid sections to all  
1054 law enforcement personnel throughout the commonwealth.

1055           The chief administrative justice of the trial court department shall provide training,  
1056 including but not limited to education concerning the aforesaid sections to all appropriate court  
1057 personnel throughout the commonwealth, including but not limited to, judges, district attorneys  
1058 and probation officers.

1059           The courts of the Commonwealth shall give priority to the speedy and effective  
1060 disposition of all matters under the aforesaid sections.

1061           The executive office of public safety shall establish and implement an alcohol sensitive  
1062 selective traffic enforcement program.

1063 SECTION 4

1064 Chapter 90B of the General Laws is hereby amended by adding the following:

1065 Section 8B ½ -

1066 No person shall operate a vessel on the waters of the commonwealth wantonly and  
1067 recklessly while under the influence of intoxicating liquor, drugs, or other substances and by  
1068 such operation cause the death of another person.

1069 A person convicted under this section shall be imprisoned in state prison for a minimum  
1070 mandatory term of 5 years but not more than 20 years and fined not more than \$25,000.

1071 Upon a conviction of this section the registrar shall suspend the person's license or right  
1072 to operate for 15 years to life. Any person aggrieved by the registrar's decision may file an  
1073 appeal in the superior court. If the court determines that the registrar abused his discretion, the  
1074 court may vacate and reduce the suspension of the license or suspension of the right to operate as  
1075 ordered by the registrar. In no case shall the suspension or suspension period be less than 15  
1076 years.

1077 No appeal or motion for a new trial shall stay the suspension of the license or right to  
1078 operate, provided; however, if the charges against the person are dismissed, or the person is  
1079 found not guilty, the person may immediately file a motion before the judge that heard the case,  
1080 for the purpose of seeking restoration of the license or right to operate. At said hearing, if the  
1081 court finds that the charges were resolved in favor of the defendant, that there are no alcohol  
1082 related charges pending in this or any other court, and that there is no evidence before the court  
1083 based on a preponderance of the evidence that reinstatement of the license or right to operate

1084 would endanger the public, there shall be a presumption that the court shall order that this  
1085 particular suspension be terminated.

1086 Notwithstanding the provisions of paragraph (b) above, if a person convicted under this  
1087 section has a prior operating under the influence offense, the registrar shall suspend his license or  
1088 right to operate for life

1089 SECTION 5.

1090 Section 13 ½ of Chapter 265 of the General Laws is hereby repealed.

1091 SECTION 6.

1092 Section 28 of Chapter 266 is hereby amended by inserting at the end:

1093 Whoever knowingly uses a motor vehicle without authority shall be punished as follows:

1094 First offense: The defendant shall be imprisoned in the jail or house of correction for not  
1095 less than 30 days but not more than 2 years, or fined not less than \$50 but not more than \$500 or  
1096 both.

1097 Second offense: The defendant shall be imprisoned in jail or house of correction for not  
1098 less than 30 days but not more than 2 ½ years, or state prison for not more than 5 years, or fined  
1099 not less than \$1000, or both.

1100 Third offense within 5 years: The defendant shall be imprisoned in jail or house of  
1101 correction for not less than 6 months but not more than 2 ½ years, or state prison for not less than  
1102 2 ½ years but not more than 5 years, or a fine of not less than \$200 but not more than \$1,000, or  
1103 both.

1104           Upon a conviction of this subsection the registrar shall, unless the court or magistrate  
1105 recommends otherwise, suspend the license or right to operate as follows:

1106           First offense: 1 year

1107           Subsequent offense: 3 years

1108           No appeal or motion for a new trial shall stay the suspension of the license or right to  
1109 operate, provided; however, that if the prosecution against such person has terminated in his  
1110 favor, the registrar shall immediately reinstate his license or right to operate provided; however,  
1111 if the charges against the person are dismissed, or the person is found not guilty, the person may  
1112 immediately file a motion before the judge that heard the case, for the purpose of seeking  
1113 restoration of the license or right to operate. At said hearing, if the court finds that the charges  
1114 were resolved in favor of the defendant, that there are no alcohol related charges pending in this  
1115 or any other court, and that there is no evidence before the court based on a preponderance of the  
1116 evidence that reinstatement of the license or right to operate would endanger the public, there  
1117 shall be a presumption that the court shall order that this particular suspension be terminated.

1118           Upon a conviction of this section, if it appears from the records of the registrar that the  
1119 person convicted is the owner of the motor vehicle or has exclusive control of any motor vehicle  
1120 as a manufacturer or dealer or otherwise, the registrar may suspend the certificate of registration  
1121 of any or all motor vehicles owned or exclusively controlled by the person.

1122           A summons may be issued instead of a warrant for arrest upon a complaint for a violation  
1123 of this section if there is reason to believe the defendant will appear before the court.

1124           If a motor vehicle is used in connection with the commission of a felony, of any larceny,  
1125 or of any offense punishable under any provision of sections 22, 113 to 117, inclusive, and 120  
1126 of chapter 266, or sections 13 of 269, of which a person is convicted, the material facts relative  
1127 to such use, including the registration number of the vehicle, so far as disclosed in the  
1128 proceedings, shall be reported forthwith to the registrar by the clerk of the court in which the  
1129 underlying conviction occurs.

1130           SECTION 7.

1131           Section 28(a) of Chapter 266 is hereby amended by inserting subsection (e) as follows:

1132           Persons convicted of using a motor vehicle without authority under the provisions of  
1133 paragraph (d) of section 28 shall be liable in a civil action to the owner of such vehicle, if it is  
1134 recovered, for all towing and storage charges necessitated and all property damage caused to said  
1135 vehicle by such use without authority.

1136           SECTION 8.

1137           Section 24(2) (a) of Chapter 90 is hereby amended by striking from lines 742, 743, 744,  
1138 and 745 the following:

1139           or upon a bet or wager or in a race, or whoever operates a motor vehicle for the purpose  
1140 of making a record and thereby violates any provision of section seventeen or any regulation  
1141 under section eighteen

1142           SECTION 9.

1143           Section 17B of Chapter 90 is hereby amended by inserting in line 8 after the word “and”  
1144 the following:

1145 by imprisonment for not less than 2 weeks but not more than 2 years.

1146 SECTION 10.

1147 Section 17B of Chapter 90 is hereby amended by inserting in line 11 after the word “and”  
1148 the following:

1149 by imprisonment in a jail or house of correction for not less than 30 days but not more  
1150 than 2 ½ years, or state prison for not more than 5 years.

1151 SECTION 11.

1152 Section 22(c) of Chapter 90 is hereby amended by striking the words, “state or country”  
1153 in line 51 and inserting the following:

1154 Jurisdiction

1155 SECTION 12.

1156 Chapter 266 of the General Laws is hereby amended by adding the following:

1157 Section 29A -

1158 No person shall remove an abandoned or stolen motor vehicle on a public way as  
1159 defined in section 1 of chapter 90 without the express consent of the owner of such vehicle or  
1160 without the written permission of the police department. The owner or operator of a motor  
1161 vehicle that is designed to carry or tow another vehicle shall be licensed for that specific purpose  
1162 or as a towing service.



1163           The owner of any machine that is designed to crush, mutilate or destroy a motor vehicle,  
1164 whether the machine be mobile or affixed permanently, shall have that machine listed with the  
1165 registry of motor vehicles.

1166           If the owner or agent of a salvage or junk yard transports crushed or mutilated vehicles  
1167 without the commonwealth for purposes of resale, the operator of the transporting vehicle shall  
1168 carry a list of the vehicles being transported, and a copy of such list shall be forwarded to said  
1169 registrar.

1170           Any person convicted under this section shall be imprisoned for not less than 2 years, a  
1171 fine of not less than \$1,000, or both.

1172           Any person convicted under this section shall forfeit, to the registrar, any license issued  
1173 which is related to such violation.