

**SENATE . . . . . No. 1581**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to certain blood tests..

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

1           SECTION 1. Section 24 of chapter 90 of the General Laws, as appearing in the 2004  
2 Official Edition, is hereby amended by inserting after the word “arrested”, in lines 504, 514, 515,  
3 540, 553, 605, 617, and 654, each time it appears, the following words: - or cited.

4           SECTION 2. Said section 24 of said chapter 90, as so appearing, is hereby further  
5 amended by inserting after the word “arrest”, in lines 542, 589, 607 and 716, each time it  
6 appears, the following words: - or citation.

7           SECTION 3. Said section 24 of said chapter 90, as so appearing, is hereby further  
8 amended by inserting after the word “arrest”, in line 691, the following words:- or issued a  
9 citation.

10          SECTION 4. Said chapter 90 is hereby further amended by inserting after section 24P, as  
11 appearing in the 2004 Official Edition, the following: -

12           Section 24Q. Notwithstanding the provisions of section 70E of chapter 111 or section 1B  
13 of chapter 214, a health care provider, who provides medical treatment in a medical facility

14 licensed under the provisions of section 51 of chapter 111 to a person who was involved in a  
15 motor vehicle accident and whose blood is tested for evidence of the percentage by weight, of  
16 alcohol, in the course of reasonable and medically necessary treatment, may notify the police  
17 department having jurisdiction of the location where the accident occurred of the results of such  
18 blood alcohol level; provided, however, that such health care provider reasonably believes such  
19 patient to be the operator of a motor vehicle involved in an accident; and provided further, that  
20 such patient's blood alcohol level meets or exceeds .08 or, if the patient is under 21 years of age,  
21 meets or exceeds .02.

22       Upon receipt of such notification, the police department shall conduct an investigation  
23 into the accident and such a patient's operation of a motor vehicle. If such department arrests or  
24 issues a citation alleging a violation of paragraph (a) of subdivision (1) of section 24, section  
25 24G or section 24L, such department shall proceed to request a license suspension in accordance  
26 with the provisions of section 24N. Notice the suspension of such person's license or permit to  
27 operate shall be forwarded to the registry, in a format approved by the registrar.

28       If no arrest occurs or if no citation is issued, such department shall notify the registry of  
29 the results of such investigation, in a format approved by the registrar. The registrar shall  
30 provide to the subject of the investigation a notice of intent to suspend such person's license or  
31 permit to operate. Such person shall be entitled to a hearing on the suspension of his license or  
32 permit to operate, which request for hearing shall be made within 30 days of the registrar's  
33 notice. If a hearing is timely requested, the registrar shall hold a hearing. At such hearing, the  
34 issues shall be limited to the following: (i) did the subject of the hearing operate a motor vehicle  
35 involved in such accident upon any way or in any place to which members of the public have a  
36 right of access or upon any way to which members of the public have a right of access as invitees

37 or licensees, (ii) do hospital records of blood tests conducted on such person in the course of  
38 reasonable and medically necessary treatment indicate that his blood alcohol level met or  
39 exceeded .08 or, if the such person is under 21 years of age, met or exceeded .02. If, after  
40 hearing, the registrar finds on either of such issues in the negative, the license or right to operate  
41 shall not be suspended. Otherwise, the registrar shall suspend such license or right to operate for  
42 90 days.

43 No health care provider, its employees or agents or any police department, officer or  
44 employee or municipality or other state or federal agency or their employees shall be liable for  
45 any act or omission pursuant to the provisions of this section.