

**SENATE . . . . . No. 1708**

---

The Commonwealth of Massachusetts

\_\_\_\_\_  
**In the Year Two Thousand Nine**  
\_\_\_\_\_

An Act relative to enhancing Melanie's Law..

*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 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the  
2 2008 Official Edition, is hereby amended by inserting at the end of the first paragraph the  
3 following sentence:---

4 Any sentence imposed for the above offense shall not run concurrent with a sentence for  
5 any prior or subsequent conviction or assignment to an alcohol or controlled substance education  
6 program for any like offense in this Commonwealth or any other jurisdiction.

7 SECTION 2. Section 24 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the  
8 2008 Official Edition, is hereby amended by deleting the fourth, fifth, sixth and seventh  
9 paragraphs and inserting the following paragraphs in their place:---

10 If the defendant has been previously convicted or assigned to an alcohol or controlled  
11 substance education, treatment, or rehabilitation program by a court of the commonwealth or any  
12 other jurisdiction because of a like violation preceding the date of conviction or assignment in  
13 the instant case, the defendant shall be punished by a fine of not less than six hundred nor more

14 than ten thousand dollars and by imprisonment for not less than sixty days nor more than two  
15 and one-half years; provided, however, that the sentence imposed upon such person shall not be  
16 reduced to less than thirty days, nor suspended, nor shall any sentence run concurrent with a  
17 sentence for any prior or subsequent conviction for any like offense in this Commonwealth or  
18 any other jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or  
19 receive any deduction from his sentence for good conduct until such person has served thirty  
20 days of such sentence; provided, further, that the commissioner of correction may, on the  
21 recommendation of the warden, superintendent, or other person in charge of a correctional  
22 institution, or the administrator of a county correctional institution, grant to an offender  
23 committed under this subdivision a temporary release in the custody of an officer of such  
24 institution for the following purposes only: to attend the funeral of a relative; to visit a critically  
25 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to  
26 engage in employment pursuant to a work release program; or for the purposes of an aftercare  
27 program designed to support the recovery of an offender who has completed an alcohol or  
28 controlled substance education, treatment or rehabilitation program operated by the department  
29 of correction; and provided, further, that the defendant may serve all or part of such thirty day  
30 sentence to the extent such resources are available in a correctional facility specifically  
31 designated by the department of correction for the incarceration and rehabilitation of drinking  
32 drivers. If the defendant has been previously convicted or assigned to an alcohol or controlled  
33 substance education, treatment, or rehabilitation program by a court of the commonwealth, or  
34 any other jurisdiction because of a like offense two times preceding the date of conviction or  
35 assignment in the instant case, the defendant shall be punished by a fine of not less than one  
36 thousand nor more than fifteen thousand dollars and by imprisonment for not less than one

37 hundred and eighty days nor more than two and one-half years or by a fine of not less than one  
38 thousand nor more than fifteen thousand dollars and by imprisonment in the state prison for not  
39 less than two and one-half years nor more than five years; provided, however, that the sentence  
40 imposed upon such person shall not be reduced to less than one hundred and fifty days, nor shall  
41 any sentence run concurrent with a sentence for any prior or subsequent conviction for any like  
42 offense in this Commonwealth or any other jurisdiction, nor suspended, nor shall any such  
43 person be eligible for probation, parole, or furlough or receive any deduction from his sentence  
44 for good conduct until he shall have served one hundred and fifty days of such sentence;  
45 provided, further, that the commissioner of correction may, on the recommendation of the  
46 warden, superintendent, or other person in charge of a correctional institution, or the  
47 administrator of a county correctional institution, grant to an offender committed under this  
48 subdivision a temporary release in the custody of an officer of such institution for the following  
49 purposes only: to attend the funeral of a relative, to visit a critically ill relative; to obtain  
50 emergency medical or psychiatric services unavailable at said institution; to engage in  
51 employment pursuant to a work release program; or for the purposes of an aftercare program  
52 designed to support the recovery of an offender who has completed an alcohol or controlled  
53 substance education, treatment or rehabilitation program operated by the department of  
54 correction; and provided, further, that the defendant may serve all or part of such one hundred  
55 and fifty days sentence to the extent such resources are available in a correctional facility  
56 specifically designated by the department of correction for the incarceration and rehabilitation of  
57 drinking drivers. If the defendant has been previously convicted or assigned to an alcohol or  
58 controlled substance education, treatment, or rehabilitation program by a court of the  
59 commonwealth or any other jurisdiction because of a like offense three times preceding the date

60 of conviction or assignment in the instant case, the defendant shall be punished by a fine of not  
61 less than one thousand five hundred nor more than twenty-five thousand dollars and by  
62 imprisonment for not less than two years nor more than two and one-half years, or by a fine of  
63 not less than one thousand five hundred nor more than twenty-five thousand dollars and by  
64 imprisonment in the state prison for not less than two and one-half years nor more than five  
65 years; provided, however, that the sentence imposed upon such person shall not be reduced to  
66 less than twelve months, nor suspended, nor shall any sentence run concurrent with a sentence  
67 for any prior or subsequent conviction for any like offense in this Commonwealth or any other  
68 jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or receive  
69 any deduction from his sentence for good conduct until such person has served twelve months of  
70 such sentence; provided, further, that the commission of correction may, on the recommendation  
71 of the warden, superintendent, or other person in charge of a correctional institution, or the  
72 administrator of a county correctional institution, grant to an offender committed under this  
73 subdivision a temporary release in the custody of an officer of such institution for the following  
74 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain  
75 emergency medical or psychiatric services unavailable at said institution; to engage in  
76 employment pursuant to a work release program; or for the purposes of an aftercare program  
77 designed to support the recovery of an offender who has completed an alcohol or controlled  
78 substance education, treatment or rehabilitation program operated by the department of  
79 correction; and provided, further, that the defendant may serve all or part of such twelve months  
80 sentence to the extent that resources are available in a correctional facility specifically designated  
81 by the department of correction for the incarceration and rehabilitation of drinking drivers. If  
82 the defendant has been previously convicted or assigned to an alcohol or controlled substance

83 education, treatment or rehabilitation program by a court of the commonwealth or any other  
84 jurisdiction because of a like offense four or more times preceding the date of conviction or  
85 assignment in the instant case, the defendant shall be punished by a fine of not less than two  
86 thousand nor more than fifty thousand dollars and by imprisonment for not less than two and  
87 one-half years or by a fine of not less than two thousand nor more than fifty thousand dollars and  
88 by imprisonment in the state prison for not less than two and one-half years nor more than  
89 twenty years; provided, however, that the sentence imposed upon such person shall not be  
90 reduced to less than twenty-four months, nor suspended, nor shall any sentence run concurrent  
91 with a sentence for any prior or subsequent conviction for any like offense in this  
92 Commonwealth or any other jurisdiction, nor shall any such person be eligible for probation,  
93 parole, or furlough or receive any deduction from his sentence for good conduct until he shall  
94 have served twenty-four months of such sentence; provided, further, that the commissioner of  
95 correction may, on the recommendation of the warden, superintendent, or other person in charge  
96 of a correctional institution, or the administrator of a county correctional institution, grant to an  
97 offender committed under this subdivision a temporary release in the custody of an officer of  
98 such institution for the following purposes only: to attend the funeral of a relative; to visit a  
99 critically ill relative; to obtain emergency medical or psychiatric services unavailable at said  
100 institution; to engage in employment pursuant to a work release program; or for the purposes of  
101 an aftercare program designed to support the recovery of an offender who has completed an  
102 alcohol or controlled substance education, treatment or rehabilitation program operated by the  
103 department of correction; and provided, further, that the defendant may serve all or part of such  
104 twenty-four months sentence to the extent that resources are available in a correctional facility

105 specifically designated by the department of correction for the incarceration and rehabilitation of  
106 drinking drivers.

107 SECTION 3. Section 24 (1)(c)(1) of chapter 90 of the General Laws, as appearing in the  
108 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
109 commission of the offense for which he has been convicted,” in line 5 with the following words:-

110 “at any time,”.

111 SECTION 4. Section 24 (1)(c)(2) of chapter 90 of the General Laws, as appearing in the  
112 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
113 commission of the offense for which he has been convicted,” in line 4 with the following words:-

114 “at any time,”.

115 SECTION 5. Section 24 (1)(c)(3) of chapter 90 of the General Laws, as appearing in the  
116 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
117 commission of the offense for which he has been convicted,” in line 4 with the following words:-

118 “, at any time,”.

119 SECTION 6. Section 24 (1)(c)(3½) of chapter 90 of the General Laws, as appearing in  
120 the 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the  
121 commission of the offense for which he has been convicted,” in line 4 with the following words:-

122 “, at any time,”.

123 SECTION 7. Section 24 (1)(c)(3¾) of chapter 90 of the General Laws, as appearing in  
124 the 2008 Official Edition, is hereby amended by replacing the words “preceding the date of the

125 commission of the offense for which he has been convicted,” in lines 4 and 5 with the following  
126 words:-

127 “, at any time,”.

128 SECTION 8. Section 24 (1)(c)(4) of chapter 90 of the General Laws, as appearing in the  
129 2008 Official Edition, is hereby amended by replacing the word, “corroborating” in the second to  
130 last line with the following word:---

131 “corroborating”.

132 SECTION 9. Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the  
133 2008 Official Edition, is hereby amended by replacing the word, “restistrar” in line 29 with the  
134 following word:-

135 “registrar”.

136 SECTION 9. Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the  
137 2008 Official Edition, is hereby amended by deleting the last paragraph containing the following  
138 language:

139 No license or right to operate shall be restored under any circumstances and no restricted  
140 or hardship permits shall be issued during the suspension period imposed by this paragraph;  
141 provided, however, that the defendant may immediately, upon the entry of a not guilty finding or  
142 dismissal of all charges under this section, section 24G, section 24L, or section 13½ of chapter  
143 265, and in the absence of any other alcohol related charges pending against said defendant,  
144 apply for and be immediately granted a hearing before the court which took final action on the  
145 charges for the purpose of requesting the restoration of said license. At said hearing, there shall

146 be a rebuttable presumption that said license be restored, unless the commonwealth shall  
147 establish, by a fair preponderance of the evidence, that restoration of said license would likely  
148 endanger the public safety. In all such instances, the court shall issue written findings of fact with  
149 its decision.