

SENATE No. 1939

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Drowsy Driving..

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. This act shall be known as the “Drowsy Driving Act of 2009,” and may also
2 be referred to as “Rob’s Law,” in memory of Major Robert Raneri, United States Army Reserve,
3 who was killed on June 26, 2002 by an admitted drowsy driver on his way to work at Fort
4 Devens where he served as Provost Marshal of the 655th Area Support Group’s Military Police.

5 SECTION 2. Section 8 of chapter 90 of the General Laws, as appearing in the 2006
6 Official Edition, is hereby amended by inserting after the word, “require”, in line 11, the
7 following words:- ; provided, however, that said examination shall include questions relative to
8 the importance of obtaining adequate sleep and how to recognize the signs of driver impairment
9 associated with drowsiness and sleep disorders and any appropriate countermeasures to
10 drowsiness.

11 SECTION 3. Section 8A of said chapter 90, as so appearing, is hereby amended by
12 inserting after the word “energy”, in line 47, the following words:- ; provided, however, that said
13 course shall include education about obtaining adequate sleep and how to recognize the signs of

14 driver impairment associated with drowsiness and sleep disorders and any appropriate
15 countermeasures to drowsiness.

16 SECTION 4. Section 8C of said chapter 90, as so appearing, is hereby amended by
17 inserting after the word “optometrist”, in line 8, the following words:- ; provided, further, that at
18 least 1 of the physicians shall have expertise in sleep disorders and the effects of sleep
19 deprivation.

20 SECTION 5. Section 22C of said chapter 90, as so appearing, is hereby amended by
21 striking out, in line 4, the words “seventy-two” and inserting in place thereof the following
22 figure:- “4”.

23 SECTION 6. Section 22F of said chapter 90, as so appearing, is hereby amended by
24 inserting in the first paragraph after the words “endangered”, in line 13, the following words:- ,
25 including falling asleep while operating a motor vehicle or impairment by drowsiness or sleep
26 deprivation

27 SECTION 7. Said section 22F of said chapter 90, as so appearing, is hereby further
28 amended by inserting after the words “vehicle”, in line 15, the following words:- or fails to
29 provide truthful information on an accident report.

30 SECTION 8. Section 24 of said chapter 90, as so appearing, of the General Laws is
31 hereby amended by striking out subparagraph (1) of paragraph (a) of subsection (1) and inserting
32 in place thereof the following subparagraph:-

33 (1) (a) (1) Whoever, upon any way or in any place to which the public has a right of
34 access, or upon any way or in any place to which members of the public have access as invitees

35 or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of
36 .08 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,
37 depressants or stimulant substances, all as defined in section 1 of chapter 94C, or the vapors of
38 glue or who has fallen asleep while operating a motor vehicle, or who was impaired by
39 drowsiness of which the person was aware or could reasonably be expected to be aware shall be
40 punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more
41 than 2 1/2 years, or both such fine and imprisonment. Evidence that the operator of a motor
42 vehicle was awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at
43 least 140 hours of the 168 hours prior to said operation of a motor vehicle that is involved in a
44 crash that results in death, debilitating injury, or property damage in excess of \$50,000, shall
45 constitute sufficient evidence to conclude that said motor vehicle operator was impaired by
46 drowsiness.

47 SECTION 9. Section 6 of Chapter 9F of the General Laws, as so appearing, is hereby
48 amended by inserting at the end thereof the following:

49 “Drivers wishing to renew or obtain a commercial drivers license in the Commonwealth
50 who have a body mass index (BMI) above 33 kg/m² are required to undergo an objective
51 diagnostic screening test for obstructive sleep apnea at health care facility that is licensed by the
52 Commonwealth of Massachusetts to perform such testing. The Registry of Motor Vehicle’s
53 Medical Advisory Board will develop criteria for drivers wishing to renew or obtain a
54 commercial drivers license and who test positive for obstructive sleep apnea that make continued
55 certification for commercial driving dependent on documentation of the efficacy of and
56 compliance with therapy for obstructive sleep apnea and associated excessive sleepiness.”

57 SECTION 10. Section 24G of chapter 90 of the General Laws, as so appearing, is hereby
58 amended by striking out the first paragraph of paragraph (a) and inserting in place thereof the
59 following paragraph:-

60 (a) Whoever, upon any way or in any place to which the public has a right of access, or
61 upon any way or in any place to which members of the public have access as invitees or
62 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08
63 or greater, or while under the influence of intoxicating liquor, or of marihuana, narcotic drugs,
64 depressants, or stimulant substances, all as defined in section 1 of chapter 94 C, or the vapors of
65 glue or who was impaired by drowsiness or sleep deprivation, or has fallen asleep while
66 operating a motor vehicle and so operates a motor vehicle recklessly or negligently so that the
67 lives or safety of the public might be endangered, and by any such operation so described causes
68 the death of another person, shall be guilty of homicide by a motor vehicle while under the
69 influence of an intoxicating substance, and shall be punished by imprisonment in the state prison
70 for not less than 2 1/2 years or more than 15 years and a fine of not more than \$5000, or by
71 imprisonment in a jail or house of correction for not less than 1 year nor more than 2 1/2 years
72 and a fine of not more than \$5,000. Evidence that the operator of a motor vehicle was awake for
73 at least 22 of the 24 hours prior to the operation of a motor vehicle or at least 140 hours of the
74 168 hours prior to said operation of a motor vehicle shall constitute sufficient evidence to
75 conclude that said motor vehicle operator was impaired by drowsiness. The sentence imposed
76 upon such person shall not be reduced to less than 1 year, nor suspended, nor shall any person
77 convicted under this subsection be eligible for probation, parole, or furlough or receive any
78 deduction from his sentence until such person has served at least one year of such sentence;
79 provided, however, that the commissioner of correction may, on the recommendation of the

80 warden, superintendent, or other person in charge of a correctional institution, or the
81 administrator of a county correctional institution, grant to an offender committed under this
82 subsection a temporary release in the custody of an officer of such institution for the following
83 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
84 emergency medical or psychiatric services unavailable at said institution; or to engage in
85 employment pursuant to a work release program. Prosecutions commenced under this section
86 shall neither be continued without a finding nor placed on file.

87 SECTION 11. Section 24M of said chapter 90, as so appearing, is hereby amended by
88 inserting after the words “education”, in line 7, the first time it appears, the following words:- ,
89 education to recognize signs of reduced alertness from drowsiness, sleep deprivation or sleep
90 disorders.

91 SECTION 12. Said section 24M of said chapter 90, as so appearing, is hereby further
92 amended by inserting after the word “education”, in line 10, the first time it appears, the
93 following words:- , education to recognize signs of reduced alertness from drowsiness, sleep
94 deprivation or sleep disorders.

95 SECTION 13. Said section 24M of said chapter 90, as so appearing, is hereby further
96 amended by inserting after the word “sensitive”, in line 18, the words:- and sleep deprivation
97 sensitive.

98 SECTION 14. Section 26 of said chapter 90, as so appearing, is hereby amended by
99 inserting after the word “him”, in line 5, the following words:- including provisions for the
100 collection of information relative to whether drowsiness or sleep caused or contributed to said
101 accident; provided, that, this shall include collection of information regarding the amount and

102 timing of sleep that the operator of the motor vehicle obtained in the 168 hours prior to the
103 accident.

104 SECTION 15. Said chapter 90 is hereby amended by inserting after section 29 the
105 following section:-

106 Section 29 ½. Proof that an operator of a motor vehicle has been awake for at least
107 22 of the 24 hours prior to said operation of the motor vehicle or at least 140 hours of the 168
108 hours prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude
109 that said motor vehicle operator was impaired by drowsiness.

110 SECTION 16. Notwithstanding any general or special law to the contrary, there shall be
111 a special commission to study the impact drowsy driving on the safety of the highways of the
112 Commonwealth and the effects of sleep deprivation on drivers operating on said highways,
113 adjacent parking areas, or any other places. The commission shall consist of: 5 members of the
114 house of representatives, including the house chair of the joint committee on public health, the
115 house chair of the joint committee on the judiciary and the house chair of the joint committee on
116 public safety; 5 members of the senate, including the senate chair of the joint committee on
117 public health, the senate chair of the joint committee on the judiciary and the senate chair of the
118 joint committee on public safety; the secretary of the executive office of public safety or his
119 designee; the registrar of motor vehicles or his designee; the commissioner of public health or his
120 designee; the president of the Massachusetts District Attorney's Association or his designee; the
121 president of the Massachusetts Association of Chiefs of Police or his designee; and 5 persons to
122 be appointed by the governor, 3 of whom shall be members of the medical or academic
123 community with specialty experience in sleep deprivation research, 1 of whom shall be a

124 representative of the Massachusetts trial lawyers association, and 1 of whom shall represent
125 victims who have been injured or killed by a drowsy driver . The commission shall study the
126 impact of drowsy driving on the safety of the highways of the commonwealth with respect to
127 determining scientific or other evidence that should be used by police officers in determining the
128 effects of sleep deprivation on drivers, the appropriate sanctions for operating under the
129 influence of sleep deprivation, the training requirements that shall be followed by driver
130 education programs licensed in the commonwealth and police training programs with respect to
131 recognition of the causes, symptoms and effects of drowsiness on drivers and with respect to
132 countermeasures to reduce the safety hazards associated with sleep deprivation and sleep
133 disorders, and an evaluation of the adequacy and safety of highway rest areas and the possible
134 need for improvements to rest area policies, planning, and operations, and shall submit a report,
135 including legislative recommendations, if any, to the clerks of the senate and house of
136 representatives who shall forward the same to the joint committee on health care, the joint
137 committee on criminal justice, the joint committee on public safety, and the house and senate
138 committee on ways and means and to the registrar of motor vehicles, including administrative
139 recommendations, if any, by December 1, 2010.

140 SECTION 17. Sections 8 and 9 of this act shall take effect on January 1, 2010.