

SENATE No. 1773

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to drowsy driving.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Richard T. Moore

8th Middlesex

Carolyn C. Dykema

SENATE No. 1773

By Mr. Moore, petition (accompanied by bill, Senate, No. 1773) of Dykema and Moore for legislation relative to drowsy driving [Joint Committee on Transportation].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 1939 OF 2009-2010.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
—————

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 2011,”
2 and may also be referred to as “Rob’s Law,” in memory of Major Robert Raneri, United States
3 Army Reserve, who was killed on June 26, 2002 by an admitted drowsy driver on his way to
4 work at Fort Devens where he served as Provost Marshal of the 655th Area Support Group’s
5 Military Police.

6 SECTION 2. Section 8 of chapter 90 of the General Laws, as appearing in the
7 2008 Official Edition, is hereby amended by inserting after the word, “require”, in line 11, the
8 following words:- ; provided, however, that said examination shall include questions relative to
9 the importance of obtaining adequate sleep and how to recognize the signs of driver impairment
10 associated with drowsiness and sleep disorders and any appropriate countermeasures to
11 drowsiness.

12 SECTION 3. Section 8A of said chapter 90, as so appearing, is hereby
13 amended by inserting after the word “energy”, in line 47, the following words:- ; provided,
14 however, that said course shall include education about obtaining adequate sleep and how to
15 recognize the signs of driver impairment associated with drowsiness and sleep disorders and any
16 appropriate countermeasures to drowsiness.

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

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

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

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

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

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

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

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

56 certification for commercial driving dependent on documentation of the efficacy of and
57 compliance with therapy for obstructive sleep apnea and associated excessive sleepiness.”

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

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

79 deduction from his sentence until such person has served at least one year of such sentence;
80 provided, however, that the commissioner of correction may, on the recommendation of the
81 warden, superintendent, or other person in charge of a correctional institution, or the
82 administrator of a county correctional institution, grant to an offender committed under this
83 subsection a temporary release in the custody of an officer of such institution for the following
84 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
85 emergency medical or psychiatric services unavailable at said institution; or to engage in
86 employment pursuant to a work release program. Prosecutions commenced under this section
87 shall neither be continued without a finding nor placed on file.

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

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

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

99 SECTION 14. Section 26 of said chapter 90, as so appearing, is hereby
100 amended by inserting after the word “him”, in line 5, the following words:- including provisions

101 for the collection of information relative to whether drowsiness or sleep caused or contributed to
102 said accident; provided, that, this shall include collection of information regarding the amount
103 and timing of sleep that the operator of the motor vehicle obtained in the 168 hours prior to the
104 accident.

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

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

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

123 designee; and 5 persons to be appointed by the governor, 3 of whom shall be members of the
124 medical or academic community with specialty experience in sleep deprivation research, 1 of
125 whom shall be a representative of the Massachusetts trial lawyers association, and 1 of whom
126 shall represent victims who have been injured or killed by a drowsy driver . The commission
127 shall study the impact of drowsy driving on the safety of the highways of the commonwealth
128 with respect to determining scientific or other evidence that should be used by police officers in
129 determining the effects of sleep deprivation on drivers, the appropriate sanctions for operating
130 under the influence of sleep deprivation, the training requirements that shall be followed by
131 driver education programs licensed in the commonwealth and police training programs with
132 respect to recognition of the causes, symptoms and effects of drowsiness on drivers and with
133 respect to countermeasures to reduce the safety hazards associated with sleep deprivation and
134 sleep disorders, and an evaluation of the adequacy and safety of highway rest areas and the
135 possible need for improvements to rest area policies, planning, and operations, and shall submit a
136 report, including legislative recommendations, if any, to the clerks of the senate and house of
137 representatives who shall forward the same to the joint committee on health care, the joint
138 committee on criminal justice, the joint committee on public safety, and the house and senate
139 committee on ways and means and to the registrar of motor vehicles, including administrative
140 recommendations, if any, by December 1, 2012.

141 SECTION 17. Sections 8 and 9 of this act shall take effect on January 1, 2012.