

HOUSE No. 1299

The Commonwealth of Massachusetts

PRESENTED BY:

James J. Dwyer

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 community works programs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>1/15/2013</i>

HOUSE No. 1299

By Mr. Dwyer of Woburn, a petition (accompanied by bill, House, No. 1299) of James J. Dwyer relative to community work programs. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to community works programs.

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 23 of chapter 90 of the General Laws is hereby amended by striking
2 out the third paragraph and inserting in place thereof the following paragraph:

3 Any person convicted of operating a motor vehicle after his license to operate has been
4 suspended or revoked pursuant to a violation of paragraph (a) of subdivision (1) of section
5 twenty-four, or pursuant to section twenty-four D, twenty-four E, twenty-four G, twenty-four L,
6 or twenty-four N of this chapter, or pursuant to subsection (a) of section eight, or pursuant to a
7 violation of section eight A or section eight B of chapter ninety B, or after notice of such
8 suspension or revocation of his right to operate a motor vehicle without a license has been issued
9 and received by such person or by his agent or employer, and prior to the restoration of such
10 license or right to operate or the issuance to him of a new license to operate shall be punished by
11 a fine of not less than one thousand nor more than ten thousand dollars and by imprisonment in a
12 house of correction for not less than sixty days and not more than two and one-half years;
13 provided, however, that the sentence of imprisonment imposed upon such person shall not be
14 reduced to less than sixty days, nor suspended, nor shall any such person be eligible for
15 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
16 he shall have served sixty days of such sentence; provided, further, that the commissioner of
17 correction may, on the recommendation of the warden, superintendent or other person in charge
18 of a correctional institution, or of the administrator of a county correctional institution, grant to
19 an offender committed under this paragraph a temporary release in the custody of an officer of
20 such institution for the following purposes only: to attend the funeral of a relative; to visit a
21 critically ill relative; to obtain emergency medical or psychiatric services unavailable at said
22 institution; to engage in employment pursuant to a work release program; or to participate in a
23 program to provide services to municipalities within a county pursuant to section forty nine C of

chapter one hundred twenty seven. The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person charged with a violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or continued without a finding.

Section 2. Section 24 of chapter 90 of the General Laws is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like violation within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than six hundred nor more than ten thousand dollars and by imprisonment for not less than sixty days nor more than two and one-half years; provided, however, that the sentence imposed upon such person shall not be reduced to less than thirty days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until such person has served thirty days of such sentence, unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; to participate in a program to provide services to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such thirty day sentence to the extent such resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

Section 3. Section 24 of chapter 90 of the General Laws is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth, or any other jurisdiction because of a like offense two times within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than one thousand nor more than fifteen thousand dollars and by

imprisonment for not less than one hundred and eighty days nor more than two and one-half years or by a fine of not less than one thousand nor more than fifteen thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than one hundred and fifty days, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one hundred and fifty days of such sentence, unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative, to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; to participate in a program to provide services to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such one hundred and fifty days sentence to the extent such resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

Section 4. Section 24 of chapter 90 of the General Laws is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment, or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense three times within ten years preceding the date of the commission of the offense for which he has been convicted the defendant shall be punished by a fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and by imprisonment for not less than two years nor more than two and one-half years, or by a fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than twelve months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until such person has served twelve months of such sentence, unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the

commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; to participate in a program to provide services to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the defendant may serve all or part of such twelve months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

Section 5. Section 24 of chapter 90 of the General Laws is hereby amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:

If the defendant has been previously convicted or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction because of a like offense four or more times within ten years preceding the date of the commission of the offense for which he has been convicted, the defendant shall be punished by a fine of not less than two thousand nor more than fifty thousand dollars and by imprisonment for not less than two and one-half years or by a fine of not less than two thousand nor more than fifty thousand dollars and by imprisonment in the state prison for not less than two and one-half years nor more than five years; provided, however, that the sentence imposed upon such person shall not be reduced to less than twenty-four months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served twenty-four months of such sentence, unless otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subdivision a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; to participate in a program to provide services to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program designed to support the recovery of an offender who has completed an alcohol or controlled substance education, treatment or rehabilitation program operated by the department of correction; and provided, further, that the

defendant may serve all or part of such twenty-four months sentence to the extent that resources are available in a correctional facility specifically designated by the department of correction for the incarceration and rehabilitation of drinking drivers.

Section 6. Section 24G of chapter 90 of the General Laws is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:

(a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than two and one-half years or more than fifteen years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of not more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least one year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; to engage in employment pursuant to a work release program; or to participate in a program to provide services to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty seven. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Section 7. Section 24L of chapter 90 of the General Laws is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:

The sentence imposed upon such person shall not be reduced to less than six months, nor suspended, nor shall any person convicted under this subsection be eligible for probation, parole, or furlough or receive any deduction from his sentence until such person has served at least six months of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such

178 institution for the following purposes only: to attend the funeral of a relative; to visit a critically
179 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution;
180 to engage in employment pursuant to a work release program; or to participate in a program to
181 provide services to municipalities within a county pursuant to section forty nine C of chapter one
182 hundred twenty seven. Prosecutions commenced under this subdivision shall neither be
183 continued without a finding nor placed on file.