

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:
James J. Dwyer	30th Middlesex	1/15/2013

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:

Section 1. Section 23 of chapter 90 of the General Laws is hereby amended by striking
 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; provided, however, that the sentence of imprisonment imposed upon such person shall not be 13 14 reduced to less than sixty 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 15 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 such institution for the following purposes only: to attend the funeral of a relative; to visit a 20 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

24 chapter one hundred twenty seven. The provisions of section eighty-seven of chapter two

25 hundred and seventy-six shall not apply to any person charged with a violation of this paragraph.

26 Prosecutions commenced under this paragraph shall not be placed on file or continued without a

27 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:

30 If the defendant has been previously convicted or assigned to an alcohol or controlled 31 substance education, treatment, or rehabilitation program by a court of the commonwealth or any 32 other jurisdiction because of a like violation within ten years preceding the date of the 33 commission of the offense for which he has been convicted, the defendant shall be punished by a 34 fine of not less than six hundred nor more than ten thousand dollars and by imprisonment for not 35 less than sixty days nor more than two and one-half years; provided, however, that the sentence 36 imposed upon such person shall not be reduced to less than thirty days, nor suspended, nor shall 37 any such person be eligible for probation, parole, or furlough or receive any deduction from his 38 sentence for good conduct until such person has served thirty days of such sentence, unless 39 otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission 40 established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-41 three; provided, further, that the commissioner of correction may, on the recommendation of the 42 warden, superintendent, or other person in charge of a correctional institution, or the 43 administrator of a county correctional institution, grant to an offender committed under this 44 subdivision a temporary release in the custody of an officer of such institution for the following 45 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain 46 emergency medical or psychiatric services unavailable at said institution; to engage in 47 employment pursuant to a work release program; to participate in a program to provide services 48 to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty 49 seven; or for the purposes of an aftercare program designed to support the recovery of an 50 offender who has completed an alcohol or controlled substance education, treatment or 51 rehabilitation program operated by the department of correction; and provided, further, that the 52 defendant may serve all or part of such thirty day sentence to the extent such resources are 53 available in a correctional facility specifically designated by the department of correction for the 54 incarceration and rehabilitation of drinking drivers. 55 Section 3. Section 24 of chapter 90 of the General Laws is hereby amended by striking

56 out the fifth paragraph and inserting in place thereof the following paragraph:

57 If the defendant has been previously convicted or assigned to an alcohol or controlled 58 substance education, treatment, or rehabilitation program by a court of the commonwealth, or 59 any other jurisdiction because of a like offense two times within ten years preceding the date of 50 the commission of the offense for which he has been convicted, the defendant shall be punished 51 by a fine of not less than one thousand nor more than fifteen thousand dollars and by

62 imprisonment for not less than one hundred and eighty days nor more than two and one-half 63 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 64 65 years; provided, however, that the sentence imposed upon such person shall not be reduced to 66 less than one hundred and fifty days, nor suspended, nor shall any such person be eligible for 67 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 68 69 an intermediate sanction as promulgated by the sentencing commission established in chapter 70 four hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, 71 that the commissioner of correction may, on the recommendation of the warden, superintendent, 72 or other person in charge of a correctional institution, or the administrator of a county 73 correctional institution, grant to an offender committed under this subdivision a temporary 74 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 75 76 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 77 pursuant to section forty nine C of chapter one hundred twenty seven; or for the purposes of an 78 79 aftercare program designed to support the recovery of an offender who has completed an alcohol 80 or controlled substance education, treatment or rehabilitation program operated by the 81 department of correction; and provided, further, that the defendant may serve all or part of such 82 one hundred and fifty days sentence to the extent such resources are available in a correctional 83 facility specifically designated by the department of correction for the incarceration and

84 rehabilitation of drinking drivers.

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

87 If the defendant has been previously convicted or assigned to an alcohol or controlled 88 substance education, treatment, or rehabilitation program by a court of the commonwealth or any 89 other jurisdiction because of a like offense three times within ten years preceding the date of the 90 commission of the offense for which he has been convicted the defendant shall be punished by a 91 fine of not less than one thousand five hundred nor more than twenty-five thousand dollars and 92 by imprisonment for not less than two years nor more than two and one-half years, or by a fine of 93 not less than one thousand five hundred nor more than twenty-five thousand dollars and by 94 imprisonment in the state prison for not less than two and one-half years nor more than five 95 vears: provided, however, that the sentence imposed upon such person shall not be reduced to 96 less than twelve months, nor suspended, nor shall any such person be eligible for probation, 97 parole, or furlough or receive any deduction from his sentence for good conduct until such 98 person has served twelve months of such sentence, unless otherwise sentenced to an intermediate 99 sanction as promulgated by the sentencing commission established in chapter four hundred and 100 thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that the

101 commissioner of correction may, on the recommendation of the warden, superintendent, or other 102 person in charge of a correctional institution, or the administrator of a county correctional 103 institution, grant to an offender committed under this subdivision a temporary release in the 104 custody of an officer of such institution for the following purposes only: to attend the funeral of 105 a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services 106 unavailable at said institution; to engage in employment pursuant to a work release program; to 107 participate in a program to provide services to municipalities within a county pursuant to section 108 forty nine C of chapter one hundred twenty seven; or for the purposes of an aftercare program 109 designed to support the recovery of an offender who has completed an alcohol or controlled 110 substance education, treatment or rehabilitation program operated by the department of 111 correction; and provided, further, that the defendant may serve all or part of such twelve months 112 sentence to the extent that resources are available in a correctional facility specifically designated 113 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 strikingout the sixth paragraph and inserting in place thereof the following paragraph:

116 If the defendant has been previously convicted or assigned to an alcohol or controlled 117 substance education, treatment or rehabilitation program by a court of the commonwealth or any 118 other jurisdiction because of a like offense four or more times within ten years preceding the date 119 of the commission of the offense for which he has been convicted, the defendant shall be 120 punished by a fine of not less than two thousand nor more than fifty thousand dollars and by 121 imprisonment for not less than two and one-half years or by a fine of not less than two thousand 122 nor more than fifty thousand dollars and by imprisonment in the state prison for not less than two 123 and one-half years nor more than five years; provided, however, that the sentence imposed upon 124 such person shall not be reduced to less than twenty-four months, nor suspended, nor shall any 125 such person be eligible for probation, parole, or furlough or receive any deduction from his 126 sentence for good conduct until he shall have served twenty-four months of such sentence, unless 127 otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission 128 established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-129 three; provided, further, that the commissioner of correction may, on the recommendation of the 130 warden, superintendent, or other person in charge of a correctional institution, or the 131 administrator of a county correctional institution, grant to an offender committed under this 132 subdivision a temporary release in the custody of an officer of such institution for the following 133 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain 134 emergency medical or psychiatric services unavailable at said institution; to engage in 135 employment pursuant to a work release program; to participate in a program to provide services 136 to municipalities within a county pursuant to section forty nine C of chapter one hundred twenty 137 seven; or for the purposes of an aftercare program designed to support the recovery of an 138 offender who has completed an alcohol or controlled substance education, treatment or 139 rehabilitation program operated by the department of correction; and provided, further, that the

- 140 defendant may serve all or part of such twenty-four months sentence to the extent that resources
- 141 are available in a correctional facility specifically designated by the department of correction for
- 142 the incarceration and rehabilitation of drinking drivers.
- 143 Section 6. Section 24G of chapter 90 of the General Laws is hereby amended by striking 144 out the first paragraph and inserting in place thereof the following paragraph:

145 (a) Whoever, upon any way or in any place to which the public has a right of access, or 146 upon any way or in any place to which members of the public have access as invitees or 147 licensees, operates a motor vehicle while under the influence of intoxicating liquor, or of 148 marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of 149 chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or 150 negligently so that the lives or safety of the public might be endangered, and by any such 151 operation so described causes the death of another person, shall be guilty of homicide by a motor 152 vehicle while under the influence of an intoxicating substance, and shall be punished by 153 imprisonment in the state prison for not less than two and one-half years or more than fifteen 154 years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of 155 correction for not less than one year nor more than two and one-half years and a fine of not more 156 than five thousand dollars. The sentence imposed upon such person shall not be reduced to less 157 than one year, nor suspended, nor shall any person convicted under this subsection be eligible for 158 probation, parole, or furlough or receive any deduction from his sentence until such person has 159 served at least one year of such sentence; provided, however, that the commissioner of 160 correction may, on the recommendation of the warden, superintendent, or other person in charge 161 of a correctional institution, or the administrator of a county correctional institution, grant to an 162 offender committed under this subsection a temporary release in the custody of an officer of such 163 institution for the following purposes only: to attend the funeral of a relative; to visit a critically 164 ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; 165 to engage in employment pursuant to a work release program; or to participate in a program to 166 provide services to municipalities within a county pursuant to section forty nine C of chapter one 167 hundred twenty seven. Prosecutions commenced under this section shall neither be continued 168 without a finding nor placed on file.

169 Section 7. Section 24L of chapter 90 of the General Laws is hereby amended by striking 170 out the second paragraph and inserting in place thereof the following paragraph:

171 The sentence imposed upon such person shall not be reduced to less than six months, nor 172 suspended, nor shall any person convicted under this subsection be eligible for probation, parole, 173 or furlough or receive any deduction from his sentence until such person has served at least six 174 months of such sentence; provided, however, that the commissioner of correction may, on the 175 recommendation of the warden, superintendent, or other person in charge of a correctional 176 institution, or of the administrator of a county correctional institution, grant to an offender 177 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.