

HOUSE No. 4098

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka and Claire D. Cronin

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 offenses while operating on a suspended license.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>3/1/2016</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>3/8/2016</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	<i>3/9/2016</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>3/7/2016</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>3/2/2016</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>	<i>3/2/2016</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>	<i>3/2/2016</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>	<i>3/2/2016</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>3/9/2016</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>3/9/2016</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>3/2/2016</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>3/2/2016</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>3/2/2016</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>3/9/2016</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>3/9/2016</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>3/3/2016</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>3/2/2016</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>3/1/2016</i>

<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>3/2/2016</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>3/1/2016</i>
<i>Linda Dean Campbell</i>	<i>15th Essex</i>	<i>3/10/2016</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>3/2/2016</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>3/8/2016</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>	<i>3/3/2016</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>	<i>3/10/2016</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>3/3/2016</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>3/4/2016</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>3/8/2016</i>
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>3/2/2016</i>

HOUSE No. 4098

By Representatives Kafka of Stoughton and Cronin of Easton, a petition (subject to Joint Rule 12) of Louis L. Kafka, Claire Cronin and others relative to penalties for operating a motor vehicles after licenses to operate have been suspended or revoked. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to offenses while operating on a suspended license.

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 Massachusetts General Laws, as appearing
2 in the 2014 Official Edition, is hereby amended by inserting after the fourth paragraph the
3 following 3 paragraphs:-

4 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
5 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;
6 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
7 after notice of the suspension or revocation of his right to operate a motor vehicle without a
8 license has been issued by the registrar and received by such person or by his agent or employer,
9 and prior to the restoration of such license or right to operate or to the issuance to him of a new
10 license to operate and by such operation causes injury to another person shall be punished by a
11 fine of not more than \$5,000 and by imprisonment in a house of correction for not more than 2 ½
12 years. Prosecutions commenced under this paragraph shall only apply to a person whose license

13 or right to operate has been suspended or revoked due to a conviction or continuance without a
14 finding under this or any other chapter, due to an outstanding default or arrest warrant, or due to
15 offenses which are required by any provision of law to be reported to the registrar and for which
16 the registrar is authorized or required to suspend or revoke the person's license or right to operate
17 motor vehicles for a period of 30 days or more. If the person has been previously convicted of a
18 violation of sections 10 or 23 of chapter 90 by a court of the commonwealth or by a court of any
19 other jurisdiction because of a like violation preceding the date of the commission of the offense
20 for which he has been convicted, the person shall be punished by a fine of not more than \$5,000
21 and by imprisonment in a house of correction for not less than 6 months and not more than 2 ½
22 years. Section 87 of chapter 276 shall not apply to any person charged with a violation of this
23 paragraph. Prosecutions commenced under this paragraph shall not be placed on file or
24 continued without a finding.

25 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
26 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;
27 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
28 after notice of the suspension or revocation of his right to operate a motor vehicle without a
29 license has been issued by the registrar and received by such person or by his agent or employer,
30 and prior to the restoration of such license or right to operate or to the issuance to him of a new
31 license to operate and by such operation causes serious bodily injury to another person shall be
32 punished by a fine of not more than \$10,000 and by imprisonment in a house of correction for
33 not more than 2 ½ years or imprisonment in the state prison for not more than 5 years.
34 Prosecutions commenced under this paragraph shall only apply to a person whose license or right
35 to operate has been suspended or revoked due to a conviction or continuance without a finding

36 under this or any other chapter, due to an outstanding default or arrest warrant, or due to offenses
37 which are required by any provision of law to be reported to the registrar and for which the
38 registrar is authorized or required to suspend or revoke the person's license or right to operate
39 motor vehicles for a period of 30 days or more. If the person has been previously convicted of a
40 violation of sections 10 or 23 of chapter 90 by a court of the commonwealth or by a court of any
41 other jurisdiction because of a like violation preceding the date of the commission of the offense
42 for which he has been convicted, the person shall be punished by a fine of not more than \$10,000
43 and by imprisonment in a house of correction for a mandatory period of not less than 1 year and
44 not more than 2 ½ years, or state prison for not less than 1 year but no more than 10 years with
45 said sentence to be served consecutively to and not concurrent with any other sentence or
46 penalty. Such sentence shall not be suspended, nor shall any such person be eligible for
47 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
48 he shall have served said 1 year of such sentence; provided, however, that the commissioner of
49 correction may, on the recommendation of the warden, superintendent or other person in charge
50 of a correctional institution, or of the administrator of a county correctional institution, grant to
51 an offender committed under this paragraph a temporary release in the custody of an officer of
52 such institution only to obtain emergency medical or psychiatric services unavailable at said
53 institution or to engage in employment pursuant to a work release program. Section 87 of
54 chapter 276 shall not apply to any person charged with a violation of this paragraph.
55 Prosecutions commenced under this paragraph shall not be placed on file or continued without a
56 finding.

57 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
58 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;

59 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
60 after notice of the suspension or revocation of his right to operate a motor vehicle without a
61 license has been issued by the registrar and received by such person or by his agent or employer,
62 and prior to the restoration of such license or right to operate or to the issuance to him of a new
63 license to operate and by such operation causes the death of another shall be punished by a fine
64 of not more than \$15,000 and by imprisonment in a house of correction for a mandatory period
65 of not less than 2 years and not more than 2 ½ years, or state prison for not less than 2 years but
66 no more than 10 years with said sentence to be served consecutively to and not concurrent with
67 any other sentence or penalty. Such sentence shall not be suspended, nor shall any such person
68 be eligible for probation, parole, or furlough or receive any deduction from his sentence for good
69 conduct until he shall have served said 2 years of such sentence; provided, however, that the
70 commissioner of correction may, on the recommendation of the warden, superintendent or other
71 person in charge of a correctional institution, or of the administrator of a county correctional
72 institution, grant to an offender committed under this paragraph a temporary release in the
73 custody of an officer of such institution only to obtain emergency medical or psychiatric services
74 unavailable at said institution or to engage in employment pursuant to a work release program.
75 Prosecutions commenced under this paragraph shall only apply to a person whose license or right
76 to operate has been suspended or revoked due to a conviction or continuance without a finding
77 under this or any other chapter, due to an outstanding default or arrest warrant, or due to offenses
78 which are required by any provision of law to be reported to the registrar and for which the
79 registrar is authorized or required to suspend or revoke the person's license or right to operate
80 motor vehicles for a period of 30 days or more. If the person has been previously convicted of a
81 violation of sections 10 or 23 of chapter 90 by a court of the commonwealth or by a court of any

82 other jurisdiction because of a like violation preceding the date of the commission of the offense
83 for which he has been convicted, the person shall be punished by a fine of not more than \$15,000
84 and by imprisonment in the state prison for not less than 5 years but no more than 15 years with
85 said sentence to be served consecutively to and not concurrent with any other sentence or
86 penalty. Such sentence shall not be suspended, nor shall any such person be eligible for
87 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
88 he shall have served said 5 years of such sentence; provided, however, that the commissioner of
89 correction may, on the recommendation of the warden, superintendent or other person in charge
90 of a correctional institution, or of the administrator of a county correctional institution, grant to
91 an offender committed under this paragraph a temporary release in the custody of an officer of
92 such institution only to obtain emergency medical or psychiatric services unavailable at said
93 institution or to engage in employment pursuant to a work release program. Section 87 of
94 chapter 276 shall not apply to any person charged with a violation of this paragraph.
95 Prosecutions commenced under this paragraph shall not be placed on file or continued without a
96 finding.

97 SECTION 2. Said section 23 of said chapter 90, as so appearing, is hereby amended by
98 striking out the words "first or second", in line 148, and inserting in place thereof the following
99 words:- first, second, fifth, sixth or seventh.

100 SECTION 3. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby
101 amended by inserting, in line 12, after the word "90B" the following words:- , sixth or seventh
102 paragraph of section 23 of chapter 90.