

HOUSE No. 4108

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 21, 2016.

The committee on the Judiciary to whom was referred the petition (accompanied by bill, House, No. 1250) of Mark J. Cusack and Ruth B. Balser relative to persons incapacitated by the use of drugs with the exception of the administration of breathalyzer tests, reports recommending that the accompanying bill (House, No. 4108) ought to pass.

For the committee,

JOHN V. FERNANDES.

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

An Act protecting incapacitated persons.

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 3 of chapter 111B, as so appearing, is hereby amended by inserting
2 after the words “or alcoholics”, in line 17, the following words:- ,including the emergency
3 department of a medical center, clinic or hospital.

4 SECTION 2. Said section 3 of chapter 111B, as so appearing, is hereby further amended
5 by striking out, in line 25, the word “is” and inserting in place thereof the following words:-
6 ,drugs or substance that causes the individual to become.

7 SECTION 3. Section 8 of said chapter 111B, as so appearing, is hereby further amended
8 by striking out, in lines 4, 10, 25 and 27, the word “intoxicated” and inserting in place thereof the
9 following word:- incapacitated.

10 SECTION 4. Section 8 of said chapter 111B, as so appearing, is hereby amended by
11 striking out, in lines 13 through 23, inclusive, the words:- “Any person who is administered a
12 breathalyzer test, under this section, shall be presumed not to be intoxicated if evidence from

13 said test indicated that the percentage of alcohol in his blood is five one hundredths or less and
14 shall be released from custody forthwith. If any person who is administered a breathalyzer test,
15 under this section, and evidence from said test indicates that the percentage of alcohol in his
16 blood is more than five one hundredths and is less than ten one hundredths there shall be no
17 presumption made based solely on the breathalyzer test. In such instance a reasonable test of
18 coordination or speech coherency must be administered to determine if said person is
19 intoxicated. “ and inserting in place thereof the words:- If evidence from said breathalyzer test
20 indicates that the percentage of alcohol in his blood is less than ten one hundredths, a reasonable
21 test of coordination or speech coherency must be administered to determine if said person is
22 incapacitated.