

SENATE No. 1895

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 further strengthening public safety by reducing unlicensed, uninsured driving by OUI offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	
<i>James T. Welch</i>	<i>Hampden</i>	<i>5/7/2015</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>9/10/2015</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>12/17/2015</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>3/2/2016</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>3/2/2016</i>

SENATE No. 1895

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1895) of James E. Timilty for legislation to further strengthen public safety by reducing unlicensed, uninsured driving by OUI offenders. Transportation.

The Commonwealth of Massachusetts

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

An Act further strengthening public safety by reducing unlicensed, uninsured driving by OUI offenders.

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. Subsection 1(c)(1) of section 24 of chapter 90 of the general laws, as
2 appearing in the 2012 Official Edition, is hereby amended by striking all words from “; provided,
3 however, that such person may”, in line 318, through and including the words “deems
4 appropriate and necessary”, in line 335, and replacing them with the following words:- “;
5 provided, however, that such person may, after receiving notice of the revocation from the
6 registrar, apply for the issuance of an ignition interlock license. Mandatory restrictions on an
7 ignition interlock license granted by the registrar under this subparagraph shall be that such
8 person provides proof in a format acceptable to the registrar that a functioning certified ignition
9 interlock device is installed and will be maintained on any and all vehicles to be operated by the
10 person, and that the person may operate only vehicles so equipped, for the duration of the
11 ignition interlock license. Failure of the operator to remain in compliance with court probation
12 may be cause for immediate revocation of the ignition interlock license.”

13 SECTION 2. Subsection 1(c)(2) of section 24 of chapter 90 of the General Laws, as
14 appearing in the 2012 Official Edition, is hereby amended by striking all words from “;
15 provided, however, that such person may”, in line 345, through and including the words “for the
16 duration of the hardship license”, in line 368, and replacing it with the following words:- “;
17 provided, however, that such person may, after receiving notice of the revocation from the
18 registrar, apply for the issuance of an ignition interlock license. Such person shall provide proof
19 in a format acceptable to the registrar that the person has enrolled in, and is successfully
20 completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision
21 (1), or such treatment program mandated by section twenty-four D, or has completed the
22 incarcerated portion of the sentence. Mandatory restrictions on an ignition interlock license
23 granted by the registrar under this subparagraph shall be that such person provides proof in a
24 format acceptable to the registrar that a functioning certified ignition interlock device is installed
25 and will be maintained on any and all vehicles to be operated by the person, and that the person
26 may operate only vehicles so equipped, for the duration of the ignition interlock license. Failure
27 of the operator to remain in compliance with court probation may be cause for immediate
28 revocation of the ignition interlock license.”

29 SECTION 3. Subsection 1(c)(3) of section 24 of chapter 90 of the general laws, as
30 appearing in the 2012 Official Edition, is hereby amended by striking all words from “;
31 provided, however, that such person may”, in line 381, through and including the words “for the
32 duration of the hardship license”, in line 401, and replacing them with the following words:-“;
33 provided however, that such person may, after completion of the incarcerated portion of the
34 sentence, apply for an ignition interlock license for the balance of the eight year revocation
35 period. Such person shall provide proof in a format acceptable to the registrar that the person has

enrolled in, and is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1), or such treatment program mandated by section twenty-four D. Mandatory restrictions on an ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that a functioning certified ignition interlock device is installed and will be maintained on any and all vehicles to be operated by the person, and that the person may operate only vehicles so equipped, for the duration of the ignition interlock license. Failure of the operator to remain in compliance with court probation may be cause for immediate revocation of the ignition interlock license.”

SECTION 4. Subsection 1(c)(3 ½) of section 24 of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by striking all words from “; provided, however, that such person may”, in line 411, through and including the words “for the duration of the hardship license.”, in line 431, and replacing them with the following words:- “; provided, however, that such person may, after the completion of the incarcerated portion of the sentence, apply for the issuance of an ignition interlock license. Such person shall provide proof in a format acceptable to the registrar that the person has enrolled in, and is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1), or such treatment program mandated by section twenty-four D. Such ignition interlock license shall not be removed for the life of such person, provided however, the person may petition the registrar for removal not less than 10 years after the issuance of such license and not less than every 5 years thereafter. Mandatory restrictions on ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that a functioning certified ignition interlock device is installed and will be maintained on any and all vehicles to be operated by the person, and that the person may

operate only vehicles so equipped, for the duration of the ignition interlock license. Failure of the operator to remain in compliance with probation may be cause for immediate revocation of the ignition interlock license.”

SECTION 5. Subsection 1(c)(3 ³/₄) of section 24 of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by striking the paragraph and inserting the following in place thereof:-

“Where the license or the right to operate of a person has been revoked under paragraph (b) and such person has been previously convicted of 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 four or more times preceding the date of the commission of the offense for which such person has been convicted, such person's license or right to operate a motor vehicle shall be revoked for the life of such person; provided however, that such person may, after completion of the incarcerated portion of the sentence, apply for an ignition interlock license. Such person shall provide proof in a format acceptable to the registrar that the person has enrolled in, and has successfully completed or is successfully completing the residential treatment program in subparagraph (4) of paragraph (a) of subdivision (1), or such treatment program mandated by section twenty-four D, or has completed the incarcerated portion of the sentence. Such ignition interlock license shall not be removed for the life of such person, provided however, the person may petition the registrar for removal not less than 10 years after the issuance of such license and not less than every 5 years thereafter. Mandatory restrictions on an ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that a functioning certified ignition interlock device is installed and will be maintained on any and all vehicles to be operated by the

82 person, and that the person may operate only vehicles so equipped, for the duration of the
83 ignition interlock license. An aggrieved party may appeal, in accordance with the provisions of
84 chapter thirty A, from any order of the registrar of motor vehicles under the provisions of this
85 section.”

86 SECTION 6. Subsection 1(f)(1) of section 24 of chapter 90 of the general laws, as
87 appearing in the 2012 Official Edition, is hereby amended by striking, in line 552, the word
88 “restistrar” and inserting in place thereof:- “registrar”

89 SECTION 7. Subsection 1(f)(1) of section 24 of chapter 90 of the general laws, as
90 appearing in the 2012 Official Edition, is hereby amended by striking, in line 594, the words “No
91 license or right to operate” through and including the words “paragraph; provided however, that
92 the”, in lines 596-7, and replacing it with the following words:- “A person who refused to submit
93 to such test or analysis may apply, on or after the effective date of the suspension, for the
94 issuance of an ignition interlock license for the balance of the revocation period listed in this
95 subsection. A mandatory restriction on an ignition interlock license granted by the registrar
96 under this subparagraph shall be that such person provides proof in a format acceptable to the
97 registrar that a functioning certified ignition interlock device is installed and will be maintained
98 on any and all vehicles to be operated by the person, and that the person may operate only
99 vehicles so equipped, for the duration of the ignition interlock license. A person issued an
100 ignition interlock license under this subsection shall not receive credit against any additional
101 ignition interlock requirement arising from the same or from another incident. The”

SECTION 8. Subsection 1(f)(2) of section 24 of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, after the word “days.” In line 643, the following new paragraph:-

“Such person may apply in advance of or after the effective date of the suspension, for the issuance of an ignition interlock license for the balance of the suspension period listed in this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that such person has a functioning certified ignition interlock device installed and maintained on any and all vehicles to be operated by the person, and that the person may operate only vehicles so equipped, for the duration of the ignition interlock license. A suspension for failure of a chemical test or analysis of breath or blood shall run concurrently, both as to any additional suspension periods arising from the same incident, and as to each other. A person issued an ignition interlock license under this subsection shall receive day for day credit against any additional ignition interlock requirement arising from the same incident.”

SECTION 9. Subsection 1(g) of section 24 of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, after the words “the court may reverse the registrar’s determination” in line 702, the following new paragraph:-

“Upon issuance of an ignition interlock license during the period of suspension by a person whose license, permit or right to operate has been suspended under subparagraph (1) of paragraph (f), such person waives his or her right to a hearing under this subparagraph.”

SECTION 10. Subsection 1(g) of section 24 of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting, in line 643, after the words “registrar of such restoration”, the following:-

“Upon issuance of an ignition interlock license during the period of suspension by a person whose license, permit or right to operate has been suspended under subparagraph (2) of paragraph (f), such person waives his or her right to a hearing under this subsection.”

SECTION 11. Section 24 ½ of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by striking the words from “; unless a certified ignition interlock device”, in lines 12-13, through and including the words “ordered by the registrar.”, in line 33, and replacing it with the following words:-

“such person provides proof in a format acceptable to the registrar that such person has a functioning certified ignition interlock device installed on any and all vehicles to be operated by that person as a precondition to the issuance of a new license or right to operate or the restoration of such person’s license or right to operate. A functioning certified ignition interlock device shall be installed and maintained on any and all vehicles owned, leased and operated by the person for a period of 6 months if he or she has not previously been assigned or convicted, and for a period of 2 years if he or she has previously been so assigned or convicted. Any person whose license or right to operate is restricted to operating vehicles equipped with a functioning certified ignition interlock device shall have such device inspected, maintained and monitored in accordance with such regulations as the registrar shall promulgate. The registrar may extend, for up to two years, the period of the ignition interlock restriction on the license of a person who (i) removes, tampers with or circumvents the proper operation of such device, (ii) fails on two or

144 more occasions during the period of the restricted license or right to operate to have such device
145 inspected, maintained or monitored within ten days of the end of each inspection, maintenance,
146 or monitoring period as required by such regulations as the registrar shall promulgate, or (iii) if
147 during the period of the restricted license or right to operate, the person has recorded in such
148 device on at least two occasions, two or more blood alcohol tests in excess of .02 within any
149 fifteen minute period of time. A person aggrieved by a decision of the registrar pursuant to this
150 section may file an appeal in the superior court of the trial court department. If the court
151 determines that the registrar abused his discretion, the court may vacate the extension of an
152 ignition interlock restriction on a person's of a license or right to operate ordered by the
153 registrar."

154 SECTION 12. Section 24D of chapter 90 of the general laws, as appearing in the 2012
155 Official Edition, is hereby amended by striking all words from "a defendant may", in line 62,
156 through and including the words "12 hour period, 7 days a week", in line 66, and replacing them
157 with the following words:- " , a defendant shall immediately upon entering a program pursuant to
158 this section apply to the registrar for issuance of an ignition interlock license for a minimum of
159 one year or for the period of probation, whichever is longer. A mandatory restriction on an
160 ignition interlock license granted by the registrar under this subparagraph shall be that such
161 person provides proof in a format acceptable to the registrar that a functioning certified ignition
162 interlock device has been installed and will be maintained on any and all vehicles to be operated
163 by the licensee for the duration of the ignition interlock license.

164 SECTION 13. Section 24D of chapter 90 of the general laws, as appearing in the 2012
165 Official Edition, is hereby amended by striking the word "hardship" in lines 71, 76 and 77, and
166 replacing it in each instance with the words "ignition interlock".

SECTION 14. Section 24E of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the words “in the program”, in line 37, the following words:- “and may include a written statement by the supervisor of the ignition interlock provider used by such person detailing the person’s compliance with his or her ignition interlock requirement.”

SECTION 15. Section 24E of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the words “right to operate”, in lines 61 and 62, the following words:- “or an ignition interlock license”

SECTION 16. Section 24G of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by inserting the following new subsection at the end thereof:-

(d) Upon completion of the period of imprisonment prescribed in either (a) or (b) of this Section 24G, the person may apply to the registrar for the issuance of an ignition interlock license for the remainder of the revocation period designated in (c) of this Section 24G. The registrar may, in his or her discretion, issue such license under such terms and conditions as he or she deems appropriate and necessary for the balance of the revocation period listed in this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that a functioning certified ignition interlock device has been installed and will be maintained on any and all vehicles to be operated by the person, and that the person may operate only vehicles so equipped, for the duration of the ignition interlock license. Failure of the operator to remain in

188 compliance with the sentence or court probation may be cause for immediate revocation of the
189 ignition interlock license.”

190 SECTION 17. Section 24L of chapter 90 of the general laws, as appearing in the 2012
191 Official Edition, is hereby amended by inserting the following new section at the end thereof:-

192 “(5) Upon completion of the period of imprisonment prescribed in either (1) or (2) of this
193 Section 24L, the person may apply to the registrar for the issuance of an ignition interlock
194 license for the remainder of the revocation period designated in (4) of this Section 24L. The
195 registrar may, in his or her discretion, issue such license under such terms and conditions as he or
196 she deems appropriate and necessary for the balance of the revocation period listed in this
197 subsection. Mandatory restrictions on an ignition interlock license granted by the registrar under
198 this subparagraph shall be that such person provides proof in a format acceptable to the registrar
199 that a functioning certified ignition interlock device is installed and will be maintained on any
200 and all vehicles to be operated by the person, and that the person may operate only vehicles so
201 equipped, for the duration of the ignition interlock license. Failure of the operator to remain in
202 compliance with the sentence or court probation may be cause for immediate revocation of the
203 ignition interlock license.”

204 SECTION 18. Section 24N of chapter 90 of the general laws, as appearing in the 2012
205 Official Edition, is hereby amended by inserting, in line 36, after the word “days”, the following
206 words:- “, provided that such person may apply, on or after the effective date of the suspension,
207 for the issuance of an ignition interlock license for the balance of the suspension period listed in
208 this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar
209 under this subparagraph shall be that such person provides proof in a format acceptable to the

registrar that a functioning certified ignition interlock device is installed and will be maintained on any and all vehicles to be operated by the person, and that the person may operate only vehicles so equipped, for the duration of the ignition interlock license. A suspension for failure of a chemical test or analysis of breath or blood shall run concurrently, both as to any additional suspension periods arising from the same incident, and as to each other. A person issued an ignition interlock license under this subsection shall receive day for day credit against any additional ignition interlock requirement arising from the same incident”

SECTION 19. Section 24N of chapter 90 of the general laws, as appearing in the 2012 Official Edition, is hereby amended by striking, in lines 55 to 58, the following words:- “No license shall be restored under any circumstances and no restricted or hardship permits shall be issued during the suspension period imposed by this paragraph; provided, however, that the” and inserting in place thereof the following:-

“A person who refused to submit to such test or analysis may apply, on or after the effective date of the suspension, for the issuance of an ignition interlock license for the balance of the suspension period listed in this subsection. Mandatory restrictions on an ignition interlock license granted by the registrar under this subparagraph shall be that such person provides proof in a format acceptable to the registrar that a functioning certified ignition interlock device is installed and will be maintained on any and all vehicles to be operated by the person, and that the person may operate only vehicles so equipped, for the duration of the ignition interlock license. A suspension for a refusal of either a chemical test or analysis of breath or blood shall run consecutively and not concurrently, both as to any additional suspension periods arising from the same incident, and as to each other. A person issued an ignition interlock license under this

232 subsection shall not receive credit against any additional ignition interlock requirement arising
233 from the same incident. The”

234 SECTION 20. Section 24N of chapter 90 of the general laws, as appearing in the 2012
235 Official Edition, is hereby amended inserting after the word “restoration.” in line 101, the
236 following new paragraph:-

237 “Upon issuance of an ignition interlock license during the period of suspension when a
238 person whose license, permit or right to operate has been suspended under this section, such
239 person waives his or her right to a hearing under this section.”