

SENATE No. 2477

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

SENATE, Monday, April 23, 2018

The committee on Public Safety and Homeland Security, to whom was referred the petition (accompanied by bill, Senate, No. 1361) of Bruce E. Tarr for legislation to create a pilot program to limit driving under the influence of alcohol,- reports the accompanying bill (Senate, No. 2477).

For the committee,
Michael O. Moore

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act creating a pilot program to limit driving under the influence of alcohol.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 There shall be a pilot program for the purpose of implementing alternatives to
2 incarceration and strengthening pretrial and post-trial options available to prosecutors and judges
3 for responding to certain operating under the influence of alcohol or drug offenses.

4 The executive office of public safety and security, in consultation with the attorney
5 general, the district attorneys association, Massachusetts Association of Criminal Defense
6 Lawyers and the Massachusetts sheriffs association, shall develop a 3-year pilot program for a
7 county sheriff department to establish a 24/7 sobriety program. The pilot program shall be a
8 competitive grant process. The executive office of public safety and security, in consultation
9 with the attorney general, the district attorneys association, and the Massachusetts sheriffs
10 association, shall develop criteria for grant eligibility, which shall include the implementation of
11 a 24/7 sobriety program which shall be designed to (1) allow for those selected by a prosecutor
12 and court charged or convicted of a second or subsequent offense of operating a motor vehicle
13 under the influence to participate; (2) allow a court to condition any bond, pre-trial release, the
14 suspended imposition of a sentence, suspended execution of a sentence, or probation upon

15 participation in the 24/7 sobriety program; (3) test to determine the presence and level of alcohol
16 or a controlled substance in an individual's sweat, blood, breath or urine as shown by chemical
17 test or analysis; and (4) provide testing to occur not less than 2 times a day at multiple testing
18 locations throughout the county.

19 The executive office of public safety and security, in consultation with the attorney
20 general, the district attorneys association, Massachusetts Association of Criminal Defense
21 Lawyers and the Massachusetts sheriffs association, may promulgate rules and regulations for
22 the pilot program, which may include, though not necessarily limited to:

23 (i) regulate the nature and manner of testing;

24 (ii) regulate the procedures and apparatus for testing;

25 (iii) set user fees; provided, however, that the fees collected shall be deposited into the
26 county sheriff department administering the 24/7 sobriety program; provided, further, however,
27 that fees collected shall be applied and used only toward the costs of testing, including
28 maintaining equipment, funding support services and ensuring compliance;

29 (iv) require and provide for a sobriety data management plan to be used by the executive
30 office of public safety and security and the sheriff department to manage testing, data access,
31 fees and fee payments, and any required reports; and

32 (v) allow for those participating in the 24/7 sobriety program, in addition to any and all
33 necessary education, treatment, or rehabilitation programs, to operate a motor vehicle with any
34 conditions imposed by the court, sheriff department, and registrar, notwithstanding section 24 of

35 chapter 90, provided further that any ignition interlock required by law shall not be eliminated,
36 reduced or replaced by the 24/7 sobriety program

37 The executive office of public safety and security, in consultation with the attorney
38 general, the district attorneys association, Massachusetts Association of Criminal Defense
39 Lawyers and the Massachusetts sheriffs association shall develop guidelines for review of the
40 sheriff department pilot program. The sheriff department shall participate in any evaluation or
41 accountability process implemented by or authorized by the executive office of public safety and
42 security.