

HOUSE No. 3247

The Commonwealth of Massachusetts

PRESENTED BY:

Tackey Chan

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 drug driving.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/15/2019</i>
<i>Michael Morrissey</i>	<i>Office of the Norfolk District Attorney 45 Shawmut Rd., Canton, MA 02021</i>	<i>1/15/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/28/2019</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>1/28/2019</i>

HOUSE No. 3247

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 3247) of Tackey Chan and others relative to operating a motor vehicle while under the influence of intoxicating liquor or drugs. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3038 OF 2017-2018.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to drug driving.

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. The first paragraph of subsection (f)(1) of section 24 of chapter 90 of the
2 General Laws is hereby struck out and replaced with the following paragraph:- (f) (1) Whoever
3 operates a motor vehicle upon any way or in any place to which the public has right to access, or
4 upon any way or in any place to which the public has access as invitees or licensees, shall be
5 deemed to have consented to submit to a chemical test or analysis of his breath or blood or a test
6 performed by a certified Drug Recognition Expert in the event that he is arrested for operating a
7 motor vehicle while under the influence of intoxicating liquor or drugs defined in section 31
8 Chapter 94C; provided, however, that no such person shall be deemed to have consented to a
9 blood test unless such person has been brought for treatment to a medical facility licensed under
10 the provisions of section 51 of chapter 111; and provided, further, that no person who is afflicted

with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be deemed to have consented to a withdrawal of blood. Such test shall be administered at the direction of a police officer or certified Drug Recognition Expert, as defined in section 1 of chapter 90C, having reasonable grounds to believe that the person arrested has been operating a motor vehicle upon such way or place while under the influence of intoxicating liquor or drugs. If the person arrested refuses to submit to such test or analysis, after having been informed that his license or permit to operate motor vehicles or right to operate motor vehicles in the commonwealth shall be suspended for a period of at least 180 days and up to a lifetime loss, for such refusal, no such test or analysis shall be made and he shall have his license or right to operate suspended in accordance with this paragraph for a period of 180 days; provided, however, that any person who is under the age of 21 years or who has been previously convicted of a violation under this section, subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L or subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B, or section 131/2 of chapter 265 or a like violation by a court of any other jurisdiction or assigned to an alcohol or controlled substance education, treatment or rehabilitation program by a court of the commonwealth or any other jurisdiction for a like offense including operating under the influence of drugs defined in section 31 of Chapter 94C shall have his license or right to operate suspended forthwith for a period of 3 years for such refusal; provided, further, that any person previously convicted of, or assigned to a program for, 2 such violations shall have the person's license or right to operate suspended forthwith for a period of 5 years for such refusal; and provided, further, that a person previously convicted of, or assigned to a program for, 3 or more

such violations shall have the person's license or right to operate suspended forthwith for life based upon such refusal. If a person refuses to submit to any such test or analysis after having been convicted of a violation of section 24L, the registrar shall suspend his license or right to operate for 10 years. If a person refuses to submit to any such test or analysis after having been convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, or section 131/2 of chapter 265, the registrar shall revoke his license or right to operate for life. If a person refuses to take a test under this paragraph, the police officer shall:

SECTION 2. Section 1 of Chapter 90C of the General Laws is hereby amended by inserting after the words "'Division", a division of the district court department or juvenile court department or a division of the Boston municipal court department." the following: - "'Drug Recognition Expert (DRE)", any police officer defined in this section who has completed the training requirement for a certification or accreditation by any state or maternal organization."