

HOUSE No. 1490

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>1/29/2021</i> |
| <i>Michael Morrissey</i> | <i>Office of the Norfolk District Attorney 45 Shawmut Rd., Canton, MA 02021</i> | <i>1/29/2021</i> |

HOUSE No. 1490

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 1490) of Tackey Chan and Michael Morrissey 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. 3247 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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

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

34 such violations shall have the person's license or right to operate suspended forthwith for life
35 based upon such refusal. If a person refuses to submit to any such test or analysis after having
36 been convicted of a violation of section 24L, the registrar shall suspend his license or right to
37 operate for 10 years. If a person refuses to submit to any such test or analysis after having been
38 convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a
39 percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the
40 influence of intoxicating liquor in violation of subsection (b) of said section 24G, or section
41 131/2 of chapter 265, the registrar shall revoke his license or right to operate for life. If a person
42 refuses to take a test under this paragraph, the police officer shall:

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