SENATE DOCKET, NO. 2605 FILED ON: 1/17/2025

SENATE . . . . . No. 1537

The Commonwealth of Massachusetts

PRESENTED BY:

Paul R. Feeney

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 safeguarding victims of illicit drink spiking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Paul R. Feeney	*Bristol and Norfolk*	
Patrick M. O'Connor	*First Plymouth and Norfolk*	
Sal N. DiDomenico	*Middlesex and Suffolk*	*4/22/2025*
Patricia D. Jehlen	*Second Middlesex*	*5/20/2025*
Sally P. Kerans	*13th Essex*	*6/26/2025*
Hannah Kane	*11th Worcester*	*6/26/2025*
John F. Keenan	*Norfolk and Plymouth*	*6/26/2025*
John J. Lawn, Jr.	*10th Middlesex*	*9/24/2025*
Mindy Domb	*3rd Hampshire*	*10/6/2025*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*10/21/2025*

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SENATE . . . . . No. 1537

By Mr. Feeney, a petition (accompanied by bill, Senate, No. 1537) of Paul R. Feeney and Patrick M. O'Connor for legislation to establish testing protocol and care for victims of date rape drugs. Public Health.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1371* OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act safeguarding victims of illicit drink spiking.

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

SECTION 1. (a) There shall be within the department of public health, bureau of community health and prevention an illicit drink spiking response and intervention task force to study, report, and recommend regulations relative to incidences of illicit drink spiking in the commonwealth.

(b) The illicit drink spiking response and intervention task force shall consist of: the commissioner of the department of public health, who shall serve as chair; 2 member of the senate appointed by the president of the senate; 1 member of the senate appointed by the minority leader of the senate; 2 member of the house of representatives appointed by the speaker of the house of representatives; 1 member of the house of representatives appointed by the minority leader of the house of representatives; 2 members appointed by the governor; the

secretary of health and human services, or their designee; and the director of nightlife economy in the city of Boston, or their designee. The commissioner shall appoint members to the task force, 3 of whom shall be experts in public health, 1 of whom shall be a representative from the Professional Fire Fighters of Massachusetts, 1 of whom shall be a representative from the Massachusetts Coalition of Police, 1 of whom shall be a representative from Mass Restaurants United, 1 of whom shall be a representative from the Massachusetts Restaurant Association, 1 of whom shall be a representative from the Boston Area Rape Crisis Center, 1 of whom shall be a representative from the Massachusetts Medical Society, 1 of whom shall be a representative from the Massachusetts Alcoholic Beverages Control Commission, 1 of whom shall be a representative from the Massachusetts Nurses Association, 1 of whom shall be a victim of illicit drink spiking, 1 of whom shall be the parent of a victim of illicit drink spiking, 1 of whom shall be a representative from the Massachusetts Health & Hospital Association, 1 of whom shall be a representative from the Massachusetts State Police Crime Laboratory, 1 of whom shall be a representative from the Boston Police Department, 1 of whom shall be a representative from the Boston Police Department Office of Research and Development, 1 of whom shall be a representative from the Peace Officer Standards and Training Commission, 1 of whom shall be a representative from the Massachusetts Department of Higher Education, 1 of whom shall be a representative with the Sexual Assault Nurse Examiner.

(c) The taskforce shall be tasked with (i) formulating the definition of illicit drink spiking; (ii) issuing recommendations on standardizing care, including, but not limited to, emergency care and testing at hospital facilities across the commonwealth following a suspected illicit drink spiking incident, regardless of whether or not a sexual assault has occurred; (iii) recommending trauma-based empathy best practices for nurses examining patients reporting an

illicit drink spiking incident when presenting at a hospital or health care facility in the commonwealth; (iv) determining cost sharing best practices for care associated with treating a victim of illicit drink spiking in the hospital setting; (v) determining how illicit drink spiking shall be encompassed under the Emergency Medical Treatment and Labor Act (EMTALA); (vi) creating protocols for hospital admission due to an illicit drink spiking incident consistent with EMTALA; (vii) determining best practices for administering timely medical screening and stabilizing treatment to anyone who requests emergency care due to a confirmed or suspected illicit drink spiking incident consistent with EMTALA; (viii) determining how a medical screening examination consistent with EMTALA may include the administration of a relevant and timely testing sample to test for the presence of a substance used in illicit drink spiking upon request by the patient exhibiting symptoms of an illicit drink spiking incident or by any patient exhibiting symptoms of an illicit drink spiking incident; (ix) formulating a list of common signs of drink spiking; (x) identifying possible alternative toxicology support and testing solutions outside the hospital setting; (xi) establishing training practices for nurses and hospital personnel to determine signs of an individual experiencing an illicit drink spiking incident; (xii) examining the toxicology component of a Sexual Assault Evidence Collection Kit when the toxicology component of the kit goes unused; (xiii) determining a list of victim rights under current law for victims of illicit drink spiking, including an evidence-based risk assessment; (xiv) determining relevant illicit drink spiking data factors that may be tracked and collected by the department of public health; (xv) investigating the need for new criminal statutes to hold perpetrators of illicit drink spiking accountable.

(d) All appointments to the task force shall be made not later than 90 days after the effective day of this act. The taskforce shall hold its first meeting no later than 150 days after the

effective date of this act. The task force shall meet no less than quarterly per calendar year. The task force shall prepare its findings and recommendations, together with drafts of legislation or regulations necessary to carry those recommendations into effect, by filing the same with the clerks of the senate and house of representatives and the joint committee on public health not later than 1 year after the effective date of this act.

(e) Notwithstanding any general or special law to the contrary, the department of public health shall produce a comprehensive list of known substances in illicit drink spiking incidents and publish on the department webpage. The department shall provide resources on known substances used in illicit drink spiking incidents to serve as an informational source for the general public on the department webpage. The department shall provide on said website all available resources to individuals who suspect they have been a victim of involuntary consumption of a drug commonly used for drug-facilitated sexual assault. The department shall provide on said website a list of victim rights under current law to educate victims about their legal rights as victims of illicit drink spiking, including but not limited to an evidence-based risk assessment. The department shall update said website to ensure all information is updated and relevant at least 4 times per calendar year. The department shall develop and maintain an illicit drink spiking portal and hotline available on said website for the purpose of reporting incidents of illicit drink spiking. The department shall collect and track data provided via the illicit drink spiking portal and hotline. The department shall make data on incidents of illicit drink spiking publicly available on its website.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, the department of public health shall develop regulations requiring all hospitals to issue an evidence based testing sample to test for the presence of a substance used in illicit drink spiking upon

request by the patient exhibiting symptoms of an illicit drink spiking incident or by any patient exhibiting symptoms of illicit drink spiking in the emergency room. The department shall promulgate guidance on cost sharing and insurance coverage relative to treatment of a victim of a confirmed or suspected illicit drink spiking incident to hospital facilities across the commonwealth. The department shall promulgate guidance detailing best practices for standardizing care and testing for suspected or confirmed victims of illicit drink spiking at hospital facilities across the commonwealth, regardless of whether or not a sexual assault has occurred. The department shall determine mechanisms for enforcing implementation of this guidance across the hospital setting. The department shall develop best practices determined for the purpose of training nurses and hospital personnel to identify signs of an individual experiencing an illicit drink spiking incident. The department may collect and track data on the location, victim demographics, and other relevant data factors of confirmed incidents of illicit drink spiking that are reported to the department.

(b) The department shall develop and launch a strategic and comprehensive public awareness campaign to inform the public about the prevalence and danger of illicit drink spiking through the department's website, digital and social media, traditional media, and other media, provided that the department may partner with relevant advocacy organizations, employers, boards of health, institutions of higher education and community groups to ensure that the campaign reaches the populations that are most at risk of being targeted for illicit drink spiking and includes evidence-based and culturally relevant response and safety tips for patrons at bars, restaurants, and nightlife establishments. The department shall launch said public awareness campaign no later than 1 year after the effective date of this act.

SECTION 3. Chapter 138 of the General Laws is hereby amended by inserting after section 121 1/2 the following new section:-

Section 122. (a) For purposes of this section, the following terms shall have the following meanings:

"Drug testing devices" means test strips, stickers, straws, and other devices designed to detect the presence of controlled substances in a drink.

"Controlled substances" includes, but is not limited to, flunitrazepam, ketamine, and gamma hydroxybutyric acid, also known by other names, including GHB, gamma hydroxybutyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, and sodium oxybutyrate.

(b) The Alcoholic Beverages Control Commission, as defined in section 70 of chapter 10 of the General Laws, in concert with the department of public health shall design and disseminate a notice that provides information and guidance to patrons relative to preventing and responding to an illicit drink spiking incident. Any bar, club, restaurant or establishment licensed under section 12 of chapter 138 of the Generals Laws shall post the notice in a prominent and conspicuous location. At least 1 sign shall be posted conspicuously in every publicly accessible bathroom.

(c) Any bar, club, restaurant or establishment licensed under section 12 of chapter 138 of the Generals Laws shall offer for sale to their customers drug testing devices at a cost not to exceed a reasonable amount based on the wholesale cost of those devices.

(d) Any bar, club, or restaurant licensed under section 12 of chapter 138 of the Generals Laws may offer drug testing devices for controlled substances to their customers free of charge.

(e) Any bar, club, or restaurant licensed under section 12 of chapter 138 of the Generals Laws shall not be held liable for a defective test or inaccurate test result, including, but not limited to, a false positive or false negative test result.

(f) Any bar, club, or restaurant licensed under section 12 of chapter 138 of the Generals Laws shall ensure that all testing devices offered to customers have not exceeded their expiration date or recommended period of use, according to the product label, product packaging, or otherwise recommended by the manufacturer.

(g) A violation of this section is not a crime.

(h) The commission shall post on its webpage information about the requirements of this section, including, but not limited to the signage that is required to be posted and the types of drug testing devices that are required to be available on a licensed premise.