SENATE DOCKET, NO. 1529 FILED ON: 1/18/2013

SENATE . . . . . No. 810

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 providing for progressive penalties for the crime of motor vehicular homicide..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	*First Essex and Middlesex*
Bradley H. Jones, Jr.	*20th Middlesex*

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By Mr. Tarr, a petition (accompanied by bill, Senate, No. 810) of Bruce E. Tarr and Bradley H. Jones, Jr. for legislation to provide for progressive penalties for the crime of motor vehicular homicide. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *880* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act providing for progressive penalties for the crime of motor vehicular homicide..

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. Section 24G of chapter 90 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking the section in its entirety and replacing it with the following section:--

Section 24G. (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, and so operates a motor vehicle recklessly or negligently so that the lives or safety of the public might be endangered, and by any such operation so described causes the death of another person, shall be guilty of homicide by a motor vehicle while under the influence of an intoxicating substance, and shall be punished by imprisonment in the state prison for not less than two and one-half years or more than fifteen years and a fine of not more than five thousand dollars, or by imprisonment in a jail or house of correction for not less than one year nor more than two and one-half years and a fine of not more than five thousand dollars. The sentence imposed upon such person shall not be reduced to less than one year, nor suspended, nor shall any person convicted under this subsection be eligible for

probation, parole, or furlough or receive any deduction from his sentence until such person has served at least one year of such sentence; provided, however, that the commissioner of correction may, on the recommendation of the warden, superintendent, or other person in charge of a correctional institution, or the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at said institution; or to engage in employment pursuant to a work release program. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

The provisions of section eighty-seven of chapter two hundred and seventy-six shall not apply to any person charged with a violation of this subsection.

(b) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of eight one-hundredths or greater, or while under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, or the vapors of glue, or whoever operates a motor vehicle negligently so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not less than thirty days nor more than two and one-half years, or by a fine of not less than three hundred nor more than three thousand dollars, or both.

(c) Whoever, upon any way or in any place to which the public has a right of access or upon any way or in any place to which members of the public have access as invitees or licensees, operates a motor vehicle recklessly so that the lives or safety of the public might be endangered and by any such operation causes the death of another person, shall be guilty of reckless homicide by a motor vehicle and shall be punished by imprisonment in a jail or house of correction for not more than two and one-half years, or by imprisonment in the state prison for not more than ten years, or by a fine of not more than three thousand dollars, or by both such fine and imprisonment. For the purpose of this section, a person operates recklessly when he consciously disregards a substantial and unjustifiable risk that the lives or safety of the public might be endangered.

(d) The registrar shall revoke the license or right to operate of a person convicted of a violation of subsection (a), (b), (c) or punished under section 13 of chapter 265 of the General Laws when a motor vehicle is the instrument of the offense for a period of ten years after the date of conviction for a first offense. The registrar shall revoke the license or right to operate of a person convicted for a subsequent violation of this section for the life of such person. No appeal, motion for a new trial or exceptions shall operate to stay the revocation of the license or of the

56 right to operate; provided, however, such license shall be restored or such right to operate shall
57 be reinstated if the prosecution of such person ultimately terminates in favor of the defendant.