

SENATE NO. 1014

AN ACT TO COMBAT RECIDIVIST DRUNK 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. Chapter 90, Section 23, paragraph two, is amended by striking the entire
2 paragraph and replacing it with the following:
3 “Any person convicted of operating a motor vehicle after his license to operate has been
4 suspended or revoked pursuant to a violation of paragraph (a) of subdivision (1) of section
5 twenty-four, or pursuant to section twenty-four D, twenty-four E, twenty-four G, twenty-four L,
6 or twenty-four N of this chapter, or pursuant to subsection (a) of section eight, or pursuant to a
7 violation of section eight A or section eight B of chapter ninety B, or after notice of such
8 suspension or revocation of his right to operate a motor vehicle without a license has been
9 issued and received by such person or by his agent or employer, and prior to the restoration of
10 such license or right to operate or the issuance to him of a new license to operate, or after his
11 license to operate has been suspended or revoked pursuant to a substantially similar law in
12 another state, or, in the case of a person operating a motor vehicle without obtaining a license,
13 any person convicted of operating a motor vehicle after a violation of paragraph (a) of
14 subdivision (1) of section twenty-four, or pursuant to section twenty-four D, twenty-four E,
15 twenty-four G, twenty-four L, or twenty-four N of this chapter, or pursuant to subsection (a) of

16 section eight, or pursuant to a violation of section eight A or section eight B of chapter ninety B,
17 or after a violation of a substantially similar law in another state, shall be punished by a fine of
18 not less than three thousand and not more than twenty thousand dollars and by imprisonment in
19 a house of correction for not less than one hundred and twenty days and not more than five
20 years; provided, however, that the sentence of imprisonment imposed upon such person shall
21 not be reduced to less than one hundred and twenty days, nor suspended, nor shall any such
22 person be eligible for probation, parole, or furlough or receive any deduction from his sentence
23 for good conduct until he shall have served one hundred and twenty days of such sentence;
24 provided, further, that the commissioner of correction may, on the recommendation of the
25 warden, superintendent or other person in charge of a correctional institution, or of the
26 administrator of a county correctional institution, grant to an offender committed under this
27 paragraph a temporary release in the custody of an officer of such institution for the following
28 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
29 emergency medical or psychiatric services unavailable at said institution; or to engage in
30 employment pursuant to a work release program. The provisions of section eighty-seven of
31 chapter two hundred and seventy-six shall not apply to any person charged with a violation of
32 this paragraph. Prosecutions commenced under this paragraph shall not be placed on file or
33 continued without a finding.”

34 Section 2. Chapter 90, Section 24(1)(a)(1), paragraphs 4 through 7 shall be stricken and
35 replaced by the following paragraphs:

36 If the defendant has been previously convicted or assigned to an alcohol or controlled substance
37 education, treatment, or rehabilitation program by a court of the commonwealth or any other
38 jurisdiction because of a like violation preceding the date of the commission of the offense for

39 which he has been convicted, the defendant shall be punished by a fine of not less than nine
40 hundred nor more than fifteen thousand dollars and by imprisonment for not less than ninety
41 days nor more than three and three-quarters years; provided, however, that the sentence imposed
42 upon such person shall not be reduced to less than forty-five days, nor suspended, nor shall any
43 such person be eligible for probation, parole, or furlough or receive any deduction from his
44 sentence for good conduct until such person has served forty-five days of such sentence, unless
45 otherwise sentenced to an intermediate sanction as promulgated by the sentencing commission
46 established in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-
47 three; provided, further, that the commissioner of correction may, on the recommendation of the
48 warden, superintendent, or other person in charge of a correctional institution, or the
49 administrator of a county correctional institution, grant to an offender committed under this
50 subdivision a temporary release in the custody of an officer of such institution for the following
51 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain
52 emergency medical or psychiatric services unavailable at said institution; to engage in
53 employment pursuant to a work release program; or for the purposes of an aftercare program
54 designed to support the recovery of an offender who has completed an alcohol or controlled
55 substance education, treatment or rehabilitation program operated by the department of
56 correction; and provided, further, that the defendant may serve all or part of such forty-five day
57 sentence to the extent such resources are available in a correctional facility specifically
58 designated by the department of correction for the incarceration and rehabilitation of drinking
59 drivers.

60 If the defendant has been previously convicted or assigned to an alcohol or controlled substance
61 education, treatment, or rehabilitation program by a court of the commonwealth, or any other

62 jurisdiction because of a like offense two times preceding the date of the commission of the
63 offense for which he has been convicted, the defendant shall be punished by a fine of not less
64 than one thousand seven hundred and fifty nor more than twenty-five thousand dollars and by
65 imprisonment for not less than three hundred days nor more than four and one-half years or by a
66 fine of not less than one thousand seven hundred and fifty nor more than twenty-five thousand
67 dollars and by imprisonment in the state prison for not less than four and one-half years nor
68 more than nine years; provided, however, that the sentence imposed upon such person shall not
69 be reduced to less than two hundred and fifty days, nor suspended, nor shall any such person be
70 eligible for probation, parole, or furlough or receive any deduction from his sentence for good
71 conduct until he shall have served two hundred and fifty days of such sentence, unless otherwise
72 sentenced to an intermediate sanction as promulgated by the sentencing commission established
73 in chapter four hundred and thirty-two of the acts of nineteen hundred and ninety-three;
74 provided, further, that the commissioner of correction may, on the recommendation of the
75 warden, superintendent, or other person in charge of a correctional institution, or the
76 administrator of a county correctional institution, grant to an offender committed under this
77 subdivision a temporary release in the custody of an officer of such institution for the following
78 purposes only: to attend the funeral of a relative, to visit a critically ill relative; to obtain
79 emergency medical or psychiatric services unavailable at said institution; to engage in
80 employment pursuant to a work release program; or for the purposes of an aftercare program
81 designed to support the recovery of an offender who has completed an alcohol or controlled
82 substance education, treatment or rehabilitation program operated by the department of
83 correction; and provided, further, that the defendant may serve all or part of such two hundred
84 and fifty days sentence to the extent such resources are available in a correctional facility

85 specifically designated by the department of correction for the incarceration and rehabilitation
86 of drinking drivers.

87 If the defendant has been previously convicted or assigned to an alcohol or controlled substance
88 education, treatment, or rehabilitation program by a court of the commonwealth or any other
89 jurisdiction because of a like offense three times preceding the date of the commission of the
90 offense for which he has been convicted the defendant shall be punished by a fine of not less
91 than three thousand nor more than fifty thousand dollars and by imprisonment for not less than
92 four years nor more than five years, or by a fine of not less than three thousand nor more than
93 fifty thousand dollars and by imprisonment in the state prison for not less than five years nor
94 more than ten years; provided, however, that the sentence imposed upon such person shall not
95 be reduced to less than two years, nor suspended, nor shall any such person be eligible for
96 probation, parole, or furlough or receive any deduction from his sentence for good conduct until
97 such person has served two years of such sentence, unless otherwise sentenced to an
98 intermediate sanction as promulgated by the sentencing commission established in chapter four
99 hundred and thirty-two of the acts of nineteen hundred and ninety-three; provided, further, that
100 the commissioner of correction may, on the recommendation of the warden, superintendent, or
101 other person in charge of a correctional institution, or the administrator of a county correctional
102 institution, grant to an offender committed under this subdivision a temporary release in the
103 custody of an officer of such institution for the following purposes only: to attend the funeral of
104 a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
105 unavailable at said institution; to engage in employment pursuant to a work release program; or
106 for the purposes of an aftercare program designed to support the recovery of an offender who
107 has completed an alcohol or controlled substance education, treatment or rehabilitation program

108 operated by the department of correction; and provided, further, that the defendant may serve all
109 or part of such two years sentence to the extent that resources are available in a correctional
110 facility specifically designated by the department of correction for the incarceration and
111 rehabilitation of drinking drivers.

112 If the defendant has been previously convicted or assigned to an alcohol or controlled substance
113 education, treatment or rehabilitation program by a court of the commonwealth or any other
114 jurisdiction because of a like offense four or more times preceding the date of the commission
115 of the offense for which he has been convicted, the defendant shall be punished by a fine of not
116 less than five thousand nor more than one hundred and twenty-five thousand dollars and by
117 imprisonment for not less than six and one-half years or by a fine of not less than five thousand
118 nor more than one hundred and twenty-five thousand dollars and by imprisonment in the state
119 prison for not less than six and one-half years nor more than twelve and one-half years;
120 provided, however, that the sentence imposed upon such person shall not be reduced to less than
121 five years, nor suspended, nor shall any such person be eligible for probation, parole, or
122 furlough or receive any deduction from his sentence for good conduct until he shall have served
123 five years of such sentence, unless otherwise sentenced to an intermediate sanction as
124 promulgated by the sentencing commission established in chapter four hundred and thirty-two
125 of the acts of nineteen hundred and ninety-three; provided, further, that the commissioner of
126 correction may, on the recommendation of the warden, superintendent, or other person in charge
127 of a correctional institution, or the administrator of a county correctional institution, grant to an
128 offender committed under this subdivision a temporary release in the custody of an officer of
129 such institution for the following purposes only: to attend the funeral of a relative; to visit a
130 critically ill relative; to obtain emergency medical or psychiatric services unavailable at said

131 institution; to engage in employment pursuant to a work release program; or for the purposes of
132 an aftercare program designed to support the recovery of an offender who has completed an
133 alcohol or controlled substance education, treatment or rehabilitation program operated by the
134 department of correction; and provided, further, that the defendant may serve all or part of such
135 five years sentence to the extent that resources are available in a correctional facility specifically
136 designated by the department of correction for the incarceration and rehabilitation of drinking
137 drivers.

138 Section 3. Chapter 90 Section 24(1)(a)(1), paragraph 1 shall be amended by adding “but in no
139 case shall the defendant receive less than ten days’ imprisonment.”