

SENATE No. 1939

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

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 passage of the accompanying bill:

An Act Relative to Drowsy Driving.

PETITION OF:

NAME:

Richard T. Moore

DISTRICT/ADDRESS:

Worcester and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO DROWSY 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. This act shall be known as the “Drowsy Driving Act of 2009,” and may also
2 be referred to as “Rob’s Law,” in memory of Major Robert Raneri, United States Army Reserve,
3 who was killed on June 26, 2002 by an admitted drowsy driver on his way to work at Fort
4 Devens where he served as Provost Marshal of the 655th Area Support Group’s Military Police.

5 SECTION 2. Section 8 of chapter 90 of the General Laws, as appearing in the 2006 Official
6 Edition, is hereby amended by inserting after the word, “require”, in line 11, the following
7 words:- ; provided, however, that said examination shall include questions relative to the
8 importance of obtaining adequate sleep and how to recognize the signs of driver impairment
9 associated with drowsiness and sleep disorders and any appropriate countermeasures to
10 drowsiness.

11 SECTION 3. Section 8A of said chapter 90, as so appearing, is hereby amended by inserting
12 after the word “energy”, in line 47, the following words:- ; provided, however, that said course
13 shall include education about obtaining adequate sleep and how to recognize the signs of driver

14 impairment associated with drowsiness and sleep disorders and any appropriate countermeasures
15 to drowsiness.

16 SECTION 4. Section 8C of said chapter 90, as so appearing, is hereby amended by inserting
17 after the word “optometrist”, in line 8, the following words:- ; provided, further, that at least 1 of
18 the physicians shall have expertise in sleep disorders and the effects of sleep deprivation.

19 SECTION 5. Section 22C of said chapter 90, as so appearing, is hereby amended by striking out,
20 in line 4, the words “seventy-two” and inserting in place thereof the following figure:- “4”.

21 SECTION 6. Section 22F of said chapter 90, as so appearing, is hereby amended by inserting in
22 the first paragraph after the words “endangered”, in line 13, the following words:- , including
23 falling asleep while operating a motor vehicle or impairment by drowsiness or sleep deprivation

24 SECTION 7. Said section 22F of said chapter 90, as so appearing, is hereby further amended by
25 inserting after the words “vehicle”, in line 15, the following words:- or fails to provide truthful
26 information on an accident report.

27 SECTION 8. Section 24 of said chapter 90, as so appearing, of the General Laws is hereby
28 amended by striking out subparagraph (1) of paragraph (a) of subsection (1) and inserting in
29 place thereof the following subparagraph:-

30 (1) (a) (1) Whoever, upon any way or in any place to which the public has a right of access, or
31 upon any way or in any place to which members of the public have access as invitees or
32 licensees, operates a motor vehicle with a percentage, by weight, of alcohol in their blood of .08
33 or greater, or while under the influence of intoxicating liquor, or of marijuana, narcotic drugs,
34 depressants or stimulant substances, all as defined in section 1 of chapter 94C, or the vapors of

35 glue or who has fallen asleep while operating a motor vehicle, or who was impaired by
36 drowsiness of which the person was aware or could reasonably be expected to be aware shall be
37 punished by a fine of not less than \$500 nor more than \$5,000 or by imprisonment for not more
38 than 2 1/2 years, or both such fine and imprisonment. Evidence that the operator of a motor
39 vehicle was awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at
40 least 140 hours of the 168 hours prior to said operation of a motor vehicle that is involved in a
41 crash that results in death, debilitating injury, or property damage in excess of \$50,000, shall
42 constitute sufficient evidence to conclude that said motor vehicle operator was impaired by
43 drowsiness.

44 SECTION 9. Section 6 of Chapter 9F of the General Laws, as so appearing, is hereby amended
45 by inserting at the end thereof the following:

46 “Drivers wishing to renew or obtain a commercial drivers license in the Commonwealth who
47 have a body mass index (BMI) above 33 kg/m² are required to undergo an objective diagnostic
48 screening test for obstructive sleep apnea at health care facility that is licensed by the
49 Commonwealth of Massachusetts to perform such testing. The Registry of Motor Vehicle’s
50 Medical Advisory Board will develop criteria for drivers wishing to renew or obtain a
51 commercial drivers license and who test positive for obstructive sleep apnea that make continued
52 certification for commercial driving dependent on documentation of the efficacy of and
53 compliance with therapy for obstructive sleep apnea and associated excessive sleepiness.”

54 SECTION 10. Section 24G of chapter 90 of the General Laws, as so appearing, is hereby
55 amended by striking out the first paragraph of paragraph (a) and inserting in place thereof the
56 following paragraph:-

57 (a) Whoever, upon any way or in any place to which the public has a right of access, or upon any
58 way or in any place to which members of the public have access as invitees or licensees, operates
59 a motor vehicle with a percentage, by weight, of alcohol in their blood of .08 or greater, or while
60 under the influence of intoxicating liquor, or of marihuana, narcotic drugs, depressants, or
61 stimulant substances, all as defined in section 1 of chapter 94 C, or the vapors of glue or who
62 was impaired by drowsiness or sleep deprivation, or has fallen asleep while operating a motor
63 vehicle and so operates a motor vehicle recklessly or negligently so that the lives or safety of the
64 public might be endangered, and by any such operation so described causes the death of another
65 person, shall be guilty of homicide by a motor vehicle while under the influence of an
66 intoxicating substance, and shall be punished by imprisonment in the state prison for not less
67 than 2 1/2 years or more than 15 years and a fine of not more than \$5000, or by imprisonment in
68 a jail or house of correction for not less than 1 year nor more than 2 1/2 years and a fine of not
69 more than \$5,000. Evidence that the operator of a motor vehicle was awake for at least 22 of the
70 24 hours prior to the operation of a motor vehicle or at least 140 hours of the 168 hours prior to
71 said operation of a motor vehicle shall constitute sufficient evidence to conclude that said motor
72 vehicle operator was impaired by drowsiness. The sentence imposed upon such person shall not
73 be reduced to less than 1 year, nor suspended, nor shall any person convicted under this
74 subsection be eligible for probation, parole, or furlough or receive any deduction from his
75 sentence until such person has served at least one year of such sentence; provided, however, that
76 the commissioner of correction may, on the recommendation of the warden, superintendent, or
77 other person in charge of a correctional institution, or the administrator of a county correctional
78 institution, grant to an offender committed under this subsection a temporary release in the
79 custody of an officer of such institution for the following purposes only: to attend the funeral of a

80 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services
81 unavailable at said institution; or to engage in employment pursuant to a work release program.
82 Prosecutions commenced under this section shall neither be continued without a finding nor
83 placed on file.

84 SECTION 11. Section 24M of said chapter 90, as so appearing, is hereby amended by inserting
85 after the words “education”, in line 7, the first time it appears, the following words:- , education
86 to recognize signs of reduced alertness from drowsiness, sleep deprivation or sleep disorders.

87 SECTION 12. Said section 24M of said chapter 90, as so appearing, is hereby further amended
88 by inserting after the word “education”, in line 10, the first time it appears, the following words:-
89 , education to recognize signs of reduced alertness from drowsiness, sleep deprivation or sleep
90 disorders.

91 SECTION 13. Said section 24M of said chapter 90, as so appearing, is hereby further amended
92 by inserting after the word “sensitive”, in line 18, the words:- and sleep deprivation sensitive.

93 SECTION 14. Section 26 of said chapter 90, as so appearing, is hereby amended by inserting
94 after the word “him”, in line 5, the following words:- including provisions for the collection of
95 information relative to whether drowsiness or sleep caused or contributed to said accident;
96 provided, that, this shall include collection of information regarding the amount and timing of
97 sleep that the operator of the motor vehicle obtained in the 168 hours prior to the accident.

98 SECTION 15. Said chapter 90 is hereby amended by inserting after section 29 the following
99 section:-

100 Section 29 ½. Proof that an operator of a motor vehicle has been awake for at least 22 of
101 the 24 hours prior to said operation of the motor vehicle or at least 140 hours of the 168 hours
102 prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude that
103 said motor vehicle operator was impaired by drowsiness.

104 SECTION 16. Notwithstanding any general or special law to the contrary, there shall be a
105 special commission to study the impact drowsy driving on the safety of the highways of the
106 Commonwealth and the effects of sleep deprivation on drivers operating on said highways,
107 adjacent parking areas, or any other places. The commission shall consist of: 5 members of the
108 house of representatives, including the house chair of the joint committee on public health, the
109 house chair of the joint committee on the judiciary and the house chair of the joint committee on
110 public safety; 5 members of the senate, including the senate chair of the joint committee on
111 public health, the senate chair of the joint committee on the judiciary and the senate chair of the
112 joint committee on public safety; the secretary of the executive office of public safety or his
113 designee; the registrar of motor vehicles or his designee; the commissioner of public health or his
114 designee; the president of the Massachusetts District Attorney's Association or his designee; the
115 president of the Massachusetts Association of Chiefs of Police or his designee; and 5 persons to
116 be appointed by the governor, 3 of whom shall be members of the medical or academic
117 community with specialty experience in sleep deprivation research, 1 of whom shall be a
118 representative of the Massachusetts trial lawyers association, and 1 of whom shall represent
119 victims who have been injured or killed by a drowsy driver . The commission shall study the
120 impact of drowsy driving on the safety of the highways of the commonwealth with respect to
121 determining scientific or other evidence that should be used by police officers in determining the
122 effects of sleep deprivation on drivers, the appropriate sanctions for operating under the

123 influence of sleep deprivation, the training requirements that shall be followed by driver
124 education programs licensed in the commonwealth and police training programs with respect to
125 recognition of the causes, symptoms and effects of drowsiness on drivers and with respect to
126 countermeasures to reduce the safety hazards associated with sleep deprivation and sleep
127 disorders, and an evaluation of the adequacy and safety of highway rest areas and the possible
128 need for improvements to rest area policies, planning, and operations, and shall submit a report,
129 including legislative recommendations, if any, to the clerks of the senate and house of
130 representatives who shall forward the same to the joint committee on health care, the joint
131 committee on criminal justice, the joint committee on public safety, and the house and senate
132 committee on ways and means and to the registrar of motor vehicles, including administrative
133 recommendations, if any, by December 1, 2010.

134 SECTION 17. Sections 8 and 9 of this act shall take effect on January 1, 2010.