

# HOUSE . . . . . No. 1438

## The Commonwealth of Massachusetts

PRESENTED BY:

**Bradley H. Jones, Jr.**

*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 repeat offenders.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol
F. Jay Barrows	1st Bristol
Paul K. Frost	7th Worcester
Susan Williams Gifford	2nd Plymouth
Bradford R. Hill	4th Essex
Jeffrey Davis Perry	5th Barnstable
Richard J. Ross	9th Norfolk
Todd M. Smola	1st Hampden
Robert S. Hargraves	1st Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1520 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT RELATIVE TO REPEAT OFFENDERS.

*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. Section 24 of chapter 90 of the General Laws, as most recently amended by chapter  
2 302 of the acts of 2008, is hereby amended by inserting in the fourth paragraph after the words  
3 “has served thirty days of such sentence” the following words:- provided, further, that any such  
4 probation, parole, or furlough shall consist of not less than 30 days of community service.

5 SECTION 2. Said section 24 of said chapter 90, as so amended, is hereby further amended by  
6 inserting after the word “drivers” at the end of the fourth paragraph the following paragraph:-

7 A mandatory condition of any probation or parole that may be ordered as a result of this  
8 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
9 public health. The assessment shall include, but need not be limited to, an assessment of the level  
10 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of  
11 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
12 recommendations contained therein shall become a mandatory condition of his probation or  
13 parole. No person shall be excluded from an assessment or recommended course of treatment for  
14 inability to pay, if the offender files an affidavit of indigency or inability to pay with the court,  
15 investigation by the probation or parole officer confirms such indigency or establishes that such  
16 payment would cause a grave and serious hardship to the offender or his family, and the court  
17 enters written findings thereof. The department of public health may make such rules and  
18 regulations as are necessary to accomplish the intent of this assessment.

19 SECTION 3. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting  
20 in the fifth paragraph after the words “he shall have served one hundred and fifty days of such

21 sentence” the following words:- provided, further, that any such probation, parole, or furlough  
22 shall consist of not less than 60 days of community service.

23 SECTION 4. Said section 24 of said chapter 90, as so amended, is hereby further amended by  
24 inserting after the word “drivers” at the end of the fifth paragraph the following paragraph:-

25 A mandatory condition of any probation or parole that may be ordered as a result of this  
26 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
27 public health. The assessment shall include, but need not be limited to, an assessment of the level  
28 of the offender’s addiction to alcohol or drugs, and the department’s recommended course of  
29 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
30 recommendations contained therein shall become a mandatory condition of his probation or  
31 parole. No person shall be excluded from said assessment or recommended course of treatment  
32 for inability to pay, if the offender files an affidavit of indigency or inability to pay with the  
33 court, the investigation by the probation or parole officer confirms such indigency or establishes  
34 that such payment would cause a grave and serious hardship to the offender or his family, and  
35 the court enters written findings thereof. The department of public health may make such rules  
36 and regulations as are necessary to accomplish the intent of this assessment.

37 SECTION 5. Said section 24 of said chapter 90, as so amended, is hereby further amended in  
38 the sixth paragraph by striking out “nor more than five years;” and inserting in place thereof:-  
39 nor more than seven years;

40 SECTION 6. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting  
41 in the sixth paragraph after the words “has served twelve months of such sentence” the following  
42 words:- provided, further, that any such probation, parole, or furlough shall consist of not less  
43 than 60 days of community service.

44 SECTION 7. Said section 24 of said chapter 90, as so amended, is hereby further amended by  
45 inserting after the word “drivers” at the end of the sixth paragraph the following paragraph:-

46 A mandatory condition of any probation or parole that may be ordered as a result of this  
47 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
48 public health. The assessment will include, but need not be limited to, an assessment of the level  
49 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of  
50 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
51 recommendations contained therein shall become a mandatory condition of his probation or  
52 parole. No person shall be excluded from said assessment or recommended course of treatment  
53 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay  
54 with the court, that investigation by the probation or parole officer confirms such indigency or  
55 establishes that such payment would cause a grave and serious hardship to the offender or his  
56 family, and that the court enters written findings thereof. The department of public health may  
57 make rules and regulations as are necessary to accomplish the intent of this assessment.

58 SECTION 8. Said section 24 of said chapter 90, as so amended, is hereby further amended in  
59 the seventh paragraph by striking out “nor more than five years;” and inserting in place thereof:-  
60 nor more than ten years.

61 SECTION 9. Said section 24 of said chapter 90, as so amended, is hereby amended by inserting  
62 in the seventh paragraph after the words “has served twenty-four months of such sentence” the  
63 following words:- provided, further, that any such probation, parole, or furlough shall consist of  
64 not less than 60 days of community service.

65 SECTION 10. Said section 24 of said chapter 90, as so amended, is hereby further amended by  
66 inserting after the word “drivers” at the end of the seventh paragraph the following paragraph:-

67 A mandatory condition of any probation or parole that may be ordered as a result of this  
68 paragraph is that the offender shall have an alcohol assessment conducted by the department of  
69 public health. The assessment will include, but need not be limited to, an assessment of the level  
70 of the offender’s addictions to alcohol or drugs, and the department’s recommended course of  
71 treatment. Such assessment shall be reported to the offender’s probation or parole officer, and the  
72 recommendations contained therein shall become a mandatory condition of his probation or  
73 parole. No person shall be excluded from said assessment or recommended course of treatment  
74 for inability to pay, provided that the offender files an affidavit of indigency or inability to pay  
75 with the court, that investigation by the probation or parole officer confirms such indigency or  
76 establishes that such payment would cause a grave and serious hardship to the offender or his  
77 family, and that the court enters written findings thereof. The department of public health may  
78 make rules and regulations as are necessary to accomplish the intent of this assessment.

79 SECTION 11. Said section 24 of said chapter 90, as so amended, is hereby amended by adding  
80 the following:-

81 Notwithstanding the provisions of any section of this chapter, any person who after being  
82 administered the chemical test set forth in this section and such evidence indicates that the  
83 percentage was fifteen one hundredths or more and the person is before the court for the first  
84 time for such offense, upon conviction the court shall order an alcohol assessment conducted by  
85 the department of public health. The assessment will include, but need not be limited to, an  
86 assessment of the level of the offender’s addictions to alcohol or drugs, and the department’s  
87 recommended course of treatment. No person shall be excluded from said assessment or  
88 recommended course of treatment for inability to pay, provided that the offender files an  
89 affidavit of indigency or inability to pay with the court, that investigation by the probation or  
90 parole officer confirms such indigency or establishes that such payment would cause a grave and  
91 serious hardship to offender or his family, and that the court enters written findings thereof. The  
92 department of public health may make such rules and regulations as are necessary to accomplish  
93 the intent of this assessment.

94 SECTION 12. Chapter 90, as so amended, is hereby amended by inserting after section 24X, the  
95 following section:-

96 Section 24Y. (a) Whoever, upon any way or in any place to which members of the public has a  
97 right to access, or upon any way or in any place to which members of the public have access as  
98 invitees or licensees, operates a motor vehicle with a percentage of weight, of alcohol in his  
99 blood of eight-one hundredths or greater, or while under the influence of intoxicating liquor, or  
100 of marijuana, narcotic drugs, depressants or stimulant substances or the vapors of glue, in  
101 violation of sections 24, 24G or 24L, while a child under the age of 14 is in the vehicle, shall be  
102 punished by imprisonment in the house of correction for not more than 6 months and a fine of  
103 not more than \$10,000.

104 (b) In accordance with section 8A of chapter 279, such sentence shall begin from and after the  
105 expiration of the sentence for violation of said sections 24, 24G or 24L.

106 (c) The registrar may extend, for an additional 2 months, any suspension or revocation of a  
107 license or right to operate imposed for violation of said sections 24, 24G or 24L, on any person  
108 that violates this section.