

HOUSE No. 2307

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka

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 relative to offenses while driving on a suspended license.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---------------------------------|----------------------------------|
| <i>Louis L. Kafka</i> | <i>8th Norfolk</i> |
| <i>Claire D. Cronin</i> | <i>11th Plymouth</i> |
| <i>James E. Timilty</i> | <i>Bristol and Norfolk</i> |
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> |
| <i>David M. Nangle</i> | <i>17th Middlesex</i> |
| <i>Elizabeth A. Poirier</i> | <i>14th Bristol</i> |
| <i>F. Jay Barrows</i> | <i>1st Bristol</i> |
| <i>Donald H. Wong</i> | <i>9th Essex</i> |
| <i>James J. Dwyer</i> | <i>30th Middlesex</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> |
| <i>Kimberly N. Ferguson</i> | <i>1st Worcester</i> |
| <i>Chris Walsh</i> | <i>6th Middlesex</i> |
| <i>Linda Dean Campbell</i> | <i>15th Essex</i> |
| <i>Timothy R. Whelan</i> | <i>1st Barnstable</i> |
| <i>Josh S. Cutler</i> | <i>6th Plymouth</i> |
| <i>Shawn Dooley</i> | <i>9th Norfolk</i> |
| <i>Tackey Chan</i> | <i>2nd Norfolk</i> |
| <i>Joseph W. McGonagle, Jr.</i> | <i>28th Middlesex</i> |

HOUSE No. 2307

By Mr. Kafka of Stoughton, a petition (accompanied by bill, House, No. 2307) of Louis L. Kafka and others relative to the penalties for operating motor vehicles after license suspension or revocation. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to offenses while driving on a suspended license.

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 23 of Chapter 90 of the Massachusetts General Laws, as appearing
2 in the 2014 Official Edition, is hereby amended by inserting after the fourth paragraph the
3 following 3 paragraphs:-

4 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
5 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;
6 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
7 after notice of the suspension or revocation of his right to operate a motor vehicle without a
8 license has been issued by the registrar and received by such person or by his agent or employer,
9 and prior to the restoration of such license or right to operate or to the issuance to him of a new
10 license to operate, and so operates a motor vehicle recklessly or negligently so that the lives or
11 safety of the public might be endangered, and by such operation causes injury to another person
12 shall be punished by a fine of not more than \$5,000 and by imprisonment in a house of

13 correction for not more than 2 ½ years. Prosecutions commenced under this paragraph shall only
14 apply to a person whose license or right to operate has been suspended or revoked due to a
15 conviction or continuance without a finding under this or any other chapter, due to an
16 outstanding default or arrest warrant, or due to offenses which are required by any provision of
17 law to be reported to the registrar and for which the registrar is authorized or required to suspend
18 or revoke the person's license or right to operate motor vehicles for a period of 30 days or more.
19 If the person has been previously convicted of a violation of sections 10 or 23 of chapter 90 by a
20 court of the commonwealth or by a court of any other jurisdiction because of a like violation
21 preceding the date of the commission of the offense for which he has been convicted, the person
22 shall be punished by a fine of not more than \$5,000 and by imprisonment in a house of
23 correction for not less than 6 months and not more than 2 ½ years. Section 87 of chapter 276
24 shall not apply to any person charged with a violation of this paragraph. Prosecutions
25 commenced under this paragraph shall not be placed on file or continued without a finding.

26 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
27 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;
28 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
29 after notice of the suspension or revocation of his right to operate a motor vehicle without a
30 license has been issued by the registrar and received by such person or by his agent or employer,
31 and prior to the restoration of such license or right to operate or to the issuance to him of a new
32 license to operate, and so operates a motor vehicle recklessly or negligently so that the lives or
33 safety of the public might be endangered, and by such operation causes serious bodily injury to
34 another person shall be punished by a fine of not more than \$10,000 and by imprisonment in a
35 house of correction for not more than 2 ½ years or imprisonment in the state prison for not more

36 than 5 years. Prosecutions commenced under this paragraph shall only apply to a person whose
37 license or right to operate has been suspended or revoked due to a conviction or continuance
38 without a finding under this or any other chapter, due to an outstanding default or arrest warrant,
39 or due to offenses which are required by any provision of law to be reported to the registrar and
40 for which the registrar is authorized or required to suspend or revoke the person's license or right
41 to operate motor vehicles for a period of 30 days or more. If the person has been previously
42 convicted of a violation of sections 10 or 23 of chapter 90 by a court of the commonwealth or by
43 a court of any other jurisdiction because of a like violation preceding the date of the commission
44 of the offense for which he has been convicted, the person shall be punished by a fine of not
45 more than \$10,000 and by imprisonment in a house of correction for a mandatory period of not
46 less than 1 year and not more than 2 ½ years, or state prison for not less than 1 year but no more
47 than 10 years with said sentence to be served consecutively to and not concurrent with any other
48 sentence or penalty. Such sentence shall not be suspended, nor shall any such person be eligible
49 for probation, parole, or furlough or receive any deduction from his sentence for good conduct
50 until he shall have served said 1 year of such sentence; provided, however, that the commissioner
51 of correction may, on the recommendation of the warden, superintendent or other person in
52 charge of a correctional institution, or of the administrator of a county correctional institution,
53 grant to an offender committed under this paragraph a temporary release in the custody of an
54 officer of such institution only to obtain emergency medical or psychiatric services unavailable
55 at said institution or to engage in employment pursuant to a work release program. Section 87 of
56 chapter 276 shall not apply to any person charged with a violation of this paragraph.
57 Prosecutions commenced under this paragraph shall not be placed on file or continued without a
58 finding.

59 Any person convicted of operating a motor vehicle in violation of section 10 of chapter
60 90 who on the date of operation was not eligible for issuance or renewal of a license to operate;
61 or of operating a motor vehicle after his license to operate has been suspended or revoked, or
62 after notice of the suspension or revocation of his right to operate a motor vehicle without a
63 license has been issued by the registrar and received by such person or by his agent or employer,
64 and prior to the restoration of such license or right to operate or to the issuance to him of a new
65 license to operate, and so operates a motor vehicle recklessly or negligently so that the lives or
66 safety of the public might be endangered, and by such operation causes the death of another
67 shall be punished by a fine of not more than \$15,000 and by imprisonment in a house of
68 correction for a mandatory period of not less than 2 years and not more than 2 ½ years, or state
69 prison for not less than 2 years but no more than 10 years with said sentence to be served
70 consecutively to and not concurrent with any other sentence or penalty. Such sentence shall not
71 be suspended, nor shall any such person be eligible for probation, parole, or furlough or receive
72 any deduction from his sentence for good conduct until he shall have served said 2 years of such
73 sentence; provided, however, that the commissioner of correction may, on the recommendation
74 of the warden, superintendent or other person in charge of a correctional institution, or of the
75 administrator of a county correctional institution, grant to an offender committed under this
76 paragraph a temporary release in the custody of an officer of such institution only to obtain
77 emergency medical or psychiatric services unavailable at said institution or to engage in
78 employment pursuant to a work release program. Prosecutions commenced under this paragraph
79 shall only apply to a person whose license or right to operate has been suspended or revoked due
80 to a conviction or continuance without a finding under this or any other chapter, due to an
81 outstanding default or arrest warrant, or due to offenses which are required by any provision of

82 law to be reported to the registrar and for which the registrar is authorized or required to suspend
83 or revoke the person's license or right to operate motor vehicles for a period of 30 days or more.
84 If the person has been previously convicted of a violation of sections 10 or 23 of chapter 90 by a
85 court of the commonwealth or by a court of any other jurisdiction because of a like violation
86 preceding the date of the commission of the offense for which he has been convicted, the person
87 shall be punished by a fine of not more than \$15,000 and by imprisonment in the state prison for
88 not less than 5 years but no more than 15 years with said sentence to be served consecutively to
89 and not concurrent with any other sentence or penalty. Such sentence shall not be suspended, nor
90 shall any such person be eligible for probation, parole, or furlough or receive any deduction from
91 his sentence for good conduct until he shall have served said 5 years of such sentence; provided,
92 however, that the commissioner of correction may, on the recommendation of the warden,
93 superintendent or other person in charge of a correctional institution, or of the administrator of a
94 county correctional institution, grant to an offender committed under this paragraph a temporary
95 release in the custody of an officer of such institution only to obtain emergency medical or
96 psychiatric services unavailable at said institution or to engage in employment pursuant to a
97 work release program. Section 87 of chapter 276 shall not apply to any person charged with a
98 violation of this paragraph. Prosecutions commenced under this paragraph shall not be placed on
99 file or continued without a finding.

100 SECTION 2. Said section 23 of said chapter 90, as so appearing, is hereby amended by
101 striking out the words "first or second", in line 148, and inserting in place thereof the following
102 words:- first, second, fifth, sixth or seventh.

103 SECTION 3. Section 26 of chapter 218 of the General Laws, as so appearing, is hereby
104 amended by inserting, in line 12, after the word “90B” the following words:- , sixth or seventh
105 paragraph of section 23 of chapter 90.