

**HOUSE . . . . . No. 3038**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Tackey Chan***

*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 drug driving.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Michael Morrissey</i>	<i>Office of the Norfolk District Attorney 45 Shawmut Road Canton, MA 02021</i>
<i>William C. Galvin</i>	<i>6th Norfolk</i>
<i>James R. Miceli</i>	<i>19th Middlesex</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>

**HOUSE . . . . . No. 3038**

By Mr. Chan of Quincy, a petition (accompanied by bill, House, No. 3038) of Tackey Chan and others relative to operating a motor vehicle while under the influence of intoxicating liquor or drugs. The Judiciary.

**The Commonwealth of Massachusetts**

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

An Act relative to drug 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. The first paragraph of subsection (f)(1) of section 24 of chapter 90 of the  
2 General Laws is hereby struck out and replaced with the following paragraph:- (f) (1) Whoever  
3 operates a motor vehicle upon any way or in any place to which the public has right to access, or  
4 upon any way or in any place to which the public has access as invitees or licensees, shall be  
5 deemed to have consented to submit to a chemical test or analysis of his breath or blood or a test  
6 performed by a certified Drug Recognition Expert in the event that he is arrested for operating a  
7 motor vehicle while under the influence of intoxicating liquor or drugs defined in section 31  
8 Chapter 94C; provided, however, that no such person shall be deemed to have consented to a  
9 blood test unless such person has been brought for treatment to a medical facility licensed under  
10 the provisions of section 51 of chapter 111; and provided, further, that no person who is afflicted  
11 with hemophilia, diabetes or any other condition requiring the use of anticoagulants shall be  
12 deemed to have consented to a withdrawal of blood. Such test shall be administered at the  
13 direction of a police officer or certified Drug Recognition Expert, as defined in section 1 of

14 chapter 90C, having reasonable grounds to believe that the person arrested has been operating a  
15 motor vehicle upon such way or place while under the influence of intoxicating liquor or drugs.  
16 If the person arrested refuses to submit to such test or analysis, after having been informed that  
17 his license or permit to operate motor vehicles or right to operate motor vehicles in the  
18 commonwealth shall be suspended for a period of at least 180 days and up to a lifetime loss, for  
19 such refusal, no such test or analysis shall be made and he shall have his license or right to  
20 operate suspended in accordance with this paragraph for a period of 180 days; provided,  
21 however, that any person who is under the age of 21 years or who has been previously convicted  
22 of a violation under this section, subsection (a) of section 24G, operating a motor vehicle with a  
23 percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the  
24 influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L or  
25 subsection (a) of section 8 of chapter 90B, section 8A or 8B of said chapter 90B, or section 131/2  
26 of chapter 265 or a like violation by a court of any other jurisdiction or assigned to an alcohol or  
27 controlled substance education, treatment or rehabilitation program by a court of the  
28 commonwealth or any other jurisdiction for a like offense including operating under the  
29 influence of drugs defined in section 31 of Chapter 94C shall have his license or right to operate  
30 suspended forthwith for a period of 3 years for such refusal; provided, further, that any person  
31 previously convicted of, or assigned to a program for, 2 such violations shall have the person's  
32 license or right to operate suspended forthwith for a period of 5 years for such refusal; and  
33 provided, further, that a person previously convicted of, or assigned to a program for, 3 or more  
34 such violations shall have the person's license or right to operate suspended forthwith for life  
35 based upon such refusal. If a person refuses to submit to any such test or analysis after having  
36 been convicted of a violation of section 24L, the registrar shall suspend his license or right to

37 operate for 10 years. If a person refuses to submit to any such test or analysis after having been  
38 convicted of a violation of subsection (a) of section 24G, operating a motor vehicle with a  
39 percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the  
40 influence of intoxicating liquor in violation of subsection (b) of said section 24G, or section  
41 131/2 of chapter 265, the registrar shall revoke his license or right to operate for life. If a person  
42 refuses to take a test under this paragraph, the police officer shall:

43 SECTION 2. Section 1 of Chapter 90C of the General Laws is hereby amended by  
44 inserting after the words "Division", a division of the district court department or juvenile court  
45 department or a division of the Boston municipal court department." the following: - ""Drug  
46 Recognition Expert (DRE)", any police officer defined in this section who has completed the  
47 training requirement for a certification or accreditation by any state or maternal organization."