

The Commonwealth of Massachusetts



In the Year Two Thousand and Five.

AN ACT RELATIVE TO DROWSY DRIVING

(Massachusetts Senate #2124)

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1

Title of the Act.

This act shall be known as the “Drowsy Driving Act of 2005,” and may also be referred to as “Rob’s Law,” in memory of Major Robert Raneri, United States Army Reserve, who was killed by an admitted drowsy driver on June 26, 2002 while Major Raneri was on his way to work at Fort Devens, where he served as Provost Marshal of the 655th Area Support Group’s Military Police.

SECTION 2. Including Sleep Issues in Driver’s License Examination

Section 8 of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting in the second sentence of the first paragraph, after the words, “shall require,” the following: “provided, however that said examination shall include questions relative to the importance of obtaining adequate

sleep and about recognizing the signs of driver impairment associated with drowsiness and sleep disorders, and about appropriate countermeasures to drowsiness.”

SECTION 3. Including Sleep Issues in School Bus Driver’s License Examination

Section 8A of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting at the end of second sentence in the second paragraph, the following, “provided, however, that said course shall include education about obtaining adequate sleep and about recognizing the signs of driver impairment associated with drowsiness and sleep disorders, and about appropriate countermeasures to drowsiness..”

SECTION 4. Expert in Sleep Disorders to Serve on Registry’s Medical Advisory Board

Section 8C of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting at the end of the first sentence, after the word “optometrist,” the following, “and provided, further, that at least one of the physicians shall have expertise in sleep disorders and/or the effects of sleep deprivation.”

SECTION 5. Inclusion of Drowsy Driving as a Factor in Determining Habitual Traffic Offenders

Section 22F of chapter 90 of the general laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting in the first paragraph after the words “operating a motor vehicle recklessly or negligently so that the lives and safety of the

public might be endangered,” the following: “, including falling asleep while operating a motor vehicle, impairment by drowsiness or sleep deprivation,” and further amended in the same paragraph, by inserting after the words, “application for registration of a motor vehicle,” the following: “or fails to provide truthful information on an accident report.”

SECTION 6. Establishing Crime of Falling Asleep or Being Impaired by Drowsiness or Sleep Deprivation While Operating a Motor Vehicle

Section 24 of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended in subsection 1 (a) 1, by inserting after the words “vapors of glue,” the following: “or who has fallen asleep while operating a motor vehicle, or who was impaired by drowsiness of which the person was aware or could reasonably be expected to be aware, or was impaired by sleep deprivation while operating a motor vehicle.” and by inserting after the words “such fine and imprisonment” the following: “;Proof [or “Evidence” depending on which is more appropriate legally] that the operator of a motor vehicle was awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at least 140 hours of the 168 hours prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude that said motor vehicle operator was impaired by sleep deprivation [or the phrase “by sleep deprivation” could be eliminated here if that were preferable legally].”

SECTION 7. Motor Vehicle Homicide Resulting from Sleeping or Being Impaired by Drowsiness or Sleep Deprivation

Section 24G of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting after the words “vapors of glue,” the following: “or who was impaired by drowsiness or sleep deprivation, or has fallen asleep while operating a motor vehicle.” and by inserting after the words “fine of not more than five thousand dollars” the following: “; Proof that the operator of a motor vehicle was awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at least 140 hours of the 168 hours prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude that said motor vehicle operator was impaired by drowsiness.”

SECTION 8. Training for Police in Recognition of Sleep Deprivation

Section 24M of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting after the words “alcohol education” in clause (1), the words “and education to recognize signs of drowsiness associated with sleep deprivation or sleep disorders.”

SECTION 9. Training for Police in Recognition of Sleep Deprivation

Section 24M of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting after the words “alcohol education” in clause (2), the words “and education to recognize signs of drowsiness from sleep deprivation or sleep disorders.”

SECTION 10. Establishment of Enforcement Programs in Sleep Deprivation

Section 24M of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting after the words “alcohol sensitive” in clause (4), the words “and drowsiness sensitive.”

SECTION 11. Requirement to Report and Collect Information on Drowsy Driving Accidents

Section 26 of chapter 90 of the general laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting in the first paragraph after the words, “the registrar on a form approved by him,” the following, “including provisions for the collection of information relative to whether drowsiness or impairment by sleep deprivation caused or contributed to said accident. This shall include collection of information regarding the amount and timing of sleep that the operator of the motor vehicle obtained in the 48 hours prior to the accident.”

SECTION 12. Presumption of Impairment by Sleep Deprivation

Section 29 of chapter 90 of the General Laws as most recently appearing in the 2002 Official Edition is hereby amended by inserting after said section the following new section:

Section 29 ½. Impairment By Sleep Deprivation. Proof that the operator of a motor vehicle has been awake for at least 22 of the 24 hours prior to said operation of a motor vehicle or at least 140 hours of the 168 hours prior to said operation of a motor vehicle shall constitute sufficient evidence to conclude that said motor vehicle operator was impaired by drowsiness. Assistance or protective custody. Any person who is

impaired from sleep deprivation may be assisted by a police officer with or without his consent to his residence, to a facility or to a police station. To determine for purposes of this chapter only, whether or not such person is impaired by reason of sleep deprivation or sleep disorder, the police officer may request the person to submit to reasonable tests or other evidence as established by regulation by the registrar to determine if the person is impaired by reason of sleep deprivation or disorder.

Any person who fails such test or is unable to produce such evidence as may be required shall be presumed impaired and shall be placed in protective custody at a police station or transferred to a facility. Any person who successfully passes a test or produces evidence, under this section, shall be presumed not to be impaired and shall be released from custody forthwith.

Any person presumed impaired and to be held in protective custody at a police station shall, immediately after such presumption, have the right and be informed of said right to make one phone call at his own expense and on his own behalf. Any person assisted by a police officer to a facility under this section shall have the right to make one phone call at his own expense on his own behalf and shall be informed forthwith upon arriving at the facility of said right. The parent or guardian of any person, under the age of eighteen, to be held in protective custody at a police station shall be notified forthwith upon his arrival at said station or as soon as possible thereafter.

No person assisted to a police station pursuant to this section shall be held in protective custody against his will; provided, however, that an impaired person may be held in protective custody at a police station until he is no longer impaired or for a period of not longer than twelve hours, whichever is shorter.

A police officer acting in accordance with the provisions of this section may use such force as is reasonably necessary to carry out his authorized responsibilities. If the police officer reasonably believes that his safety or the safety of other persons present so requires, he may search such person and his immediate surroundings, but only to the extent necessary to discover and seize any dangerous weapons which may on that occasion be used against the officer or other person present; provided, however, that if such person is held in protective custody at a police station all valuables and all articles which may pose a danger to such person or to others may be taken from him for safekeeping and if so taken shall be inventoried.

A person held in protective custody by the police pursuant to the provisions of this section, shall not be considered to have been arrested or to have been charged with any crime. An entry of custody shall be made indicating the date, time, place of custody, the name of the assisting officer, the name of the officer in charge, whether the person held in custody exercised his right to make a phone call, which entry shall not be treated for any purposes, as an arrest or criminal record.

SECTION 13. Special Commission to Recommend Additional Penalties, Means to Measure Drivers Impaired by Lack of Sleep, or Sleep Disorders and Training Programs for Drivers and Law Enforcement Personnel, and Evaluation of Highway Rest Areas

Notwithstanding any other general or special law to the contrary, there shall be a special commission to study the impact of drowsy driving and sleep disorders on the safety of the

highways of the Commonwealth and the effects of sleep deprivation on drivers operating on said highways, adjacent parking areas, or any other places. The commission shall consist of 5 members appointed by the speaker of the house, including the house chair of the joint committee on public health, the house chair of the joint committee on the judiciary, and the house chair of the joint committee on public safety; 5 members appointed by the senate president, including the senate chair of the joint committee on public health, the senate chair of the joint committee on the judiciary and the senate chair of the joint committee on public safety; the secretary of the executive office of public safety or his designee, the registrar of motor vehicles or his designee, the commissioner of public health or his designee; the president of the Massachusetts district attorneys association or his designee; the president of the Massachusetts Association of Chiefs of Police or his designee and 5 persons to be appointed by the governor, three of whom shall be members of the medical or academic community with specialty experience in sleep deprivation ; one of whom shall be a representative of the Massachusetts trial lawyers association; and one of whom shall represent victims who have been injured or killed by a drowsy driver. The commission shall study the impact of drowsy driving on the safety of the highways of the Commonwealth with respect to determining scientific or other evidence that should be used by police officers in determining scientific or other evidence that should be used by police officers in determining the effects of sleep deprivation on drivers, the appropriate sanctions for operating under the influence of sleep deprivation, the training requirements that shall be followed by driver education programs licensed in the Commonwealth and police training programs with respect to recognition of the causes, symptoms and effects of drowsiness on drivers and with respect to

countermeasures to reduce the safety hazards associated with sleep deprivation and sleep disorders, and an evaluation of the adequacy and safety of highway rest areas and the possible need for improvements to rest area policies, planning, and operations, and shall submit a report, including legislative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on health care, the joint committee on criminal justice, the joint committee on public safety, and the house and senate committee on ways and means, and to the registrar of motor vehicles, including administrative recommendations, if any, on or before December 1, 2006.

SECTION 14. Effective Dates.

Sections 6 and 7 of this act shall take effect on January 1, 2008. The balance of the act shall take effect upon passage.