

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Robert L. Hedlund

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 enhancing Melanie's Law.

PETITION OF:

NAME:

Robert L. Hedlund

DISTRICT/ADDRESS:

Plymouth and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ENHANCING MELANIE'S LAW.

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 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting at the end of the first paragraph the following
3 sentence:---

4 Any sentence imposed for the above offense shall not run concurrent with a sentence for
5 any prior or subsequent conviction or assignment to an alcohol or controlled substance
6 education program for any like offense in this Commonwealth or any other jurisdiction.

7 SECTION 2. Section 24 (1)(a)(1) of chapter 90 of the General Laws, as appearing in the 2008
8 Official Edition, is hereby amended by deleting the fourth, fifth, sixth and seventh paragraphs
9 and inserting the following paragraphs in their place:---

10 If the defendant has been previously convicted or assigned to an alcohol or controlled
11 substance education, treatment, or rehabilitation program by a court of the
12 commonwealth or any other jurisdiction because of a like violation preceding the date of

13 conviction or assignment in the instant case, the defendant shall be punished by a fine of
14 not less than six hundred nor more than ten thousand dollars and by imprisonment for not
15 less than sixty days nor more than two and one-half years; provided, however, that the
16 sentence imposed upon such person shall not be reduced to less than thirty days, nor
17 suspended, nor shall any sentence run concurrent with a sentence for any prior or
18 subsequent conviction for any like offense in this Commonwealth or any other
19 jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or
20 receive any deduction from his sentence for good conduct until such person has served
21 thirty days of such sentence; provided, further, that the commissioner of correction may,
22 on the recommendation of the warden, superintendent, or other person in charge of a
23 correctional institution, or the administrator of a county correctional institution, grant to
24 an offender committed under this subdivision a temporary release in the custody of an
25 officer of such institution for the following purposes only: to attend the funeral of a
26 relative; to visit a critically ill relative; to obtain emergency medical or psychiatric
27 services unavailable at said institution; to engage in employment pursuant to a work
28 release program; or for the purposes of an aftercare program designed to support the
29 recovery of an offender who has completed an alcohol or controlled substance education,
30 treatment or rehabilitation program operated by the department of correction; and
31 provided, further, that the defendant may serve all or part of such thirty day sentence to
32 the extent such resources are available in a correctional facility specifically designated by
33 the department of correction for the incarceration and rehabilitation of drinking drivers.

34
35 If the defendant has been previously convicted or assigned to an alcohol or controlled

36 substance education, treatment, or rehabilitation program by a court of the
37 commonwealth, or any other jurisdiction because of a like offense two times preceding
38 the date of conviction or assignment in the instant case, the defendant shall be punished
39 by a fine of not less than one thousand nor more than fifteen thousand dollars and by
40 imprisonment for not less than one hundred and eighty days nor more than two and one-
41 half years or by a fine of not less than one thousand nor more than fifteen thousand
42 dollars and by imprisonment in the state prison for not less than two and one-half years
43 nor more than five years; provided, however, that the sentence imposed upon such person
44 shall not be reduced to less than one hundred and fifty days, nor shall any sentence run
45 concurrent with a sentence for any prior or subsequent conviction for any like offense in
46 this Commonwealth or any other jurisdiction, nor suspended, nor shall any such person
47 be eligible for probation, parole, or furlough or receive any deduction from his sentence
48 for good conduct until he shall have served one hundred and fifty days of such sentence;
49 provided, further, that the commissioner of correction may, on the recommendation of the
50 warden, superintendent, or other person in charge of a correctional institution, or the
51 administrator of a county correctional institution, grant to an offender committed under
52 this subdivision a temporary release in the custody of an officer of such institution for the
53 following purposes only: to attend the funeral of a relative, to visit a critically ill relative;
54 to obtain emergency medical or psychiatric services unavailable at said institution; to
55 engage in employment pursuant to a work release program; or for the purposes of an
56 aftercare program designed to support the recovery of an offender who has completed an
57 alcohol or controlled substance education, treatment or rehabilitation program operated
58 by the department of correction; and provided, further, that the defendant may serve all or

59 part of such one hundred and fifty days sentence to the extent such resources are
60 available in a correctional facility specifically designated by the department of correction
61 for the incarceration and rehabilitation of drinking drivers.

62
63 If the defendant has been previously convicted or assigned to an alcohol or controlled
64 substance education, treatment, or rehabilitation program by a court of the
65 commonwealth or any other jurisdiction because of a like offense three times preceding
66 the date of conviction or assignment in the instant case, the defendant shall be punished
67 by a fine of not less than one thousand five hundred nor more than twenty-five thousand
68 dollars and by imprisonment for not less than two years nor more than two and one-half
69 years, or by a fine of not less than one thousand five hundred nor more than twenty-five
70 thousand dollars and by imprisonment in the state prison for not less than two and one-
71 half years nor more than five years; provided, however, that the sentence imposed upon
72 such person shall not be reduced to less than twelve months, nor suspended, nor shall any
73 sentence run concurrent with a sentence for any prior or subsequent conviction for any
74 like offense in this Commonwealth or any other jurisdiction, nor shall any such person be
75 eligible for probation, parole, or furlough or receive any deduction from his sentence for
76 good conduct until such person has served twelve months of such sentence; provided,
77 further, that the commission of correction may, on the recommendation of the warden,
78 superintendent, or other person in charge of a correctional institution, or the administrator
79 of a county correctional institution, grant to an offender committed under this subdivision
80 a temporary release in the custody of an officer of such institution for the following
81 purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain

82 emergency medical or psychiatric services unavailable at said institution; to engage in
83 employment pursuant to a work release program; or for the purposes of an aftercare
84 program designed to support the recovery of an offender who has completed an alcohol
85 or controlled substance education, treatment or rehabilitation program operated by the
86 department of correction; and provided, further, that the defendant may serve all or part
87 of such twelve months sentence to the extent that resources are available in a correctional
88 facility specifically designated by the department of correction for the incarceration and
89 rehabilitation of drinking drivers.

90
91 If the defendant has been previously convicted or assigned to an alcohol or controlled
92 substance education, treatment or rehabilitation program by a court of the commonwealth
93 or any other jurisdiction because of a like offense four or more times preceding the date
94 of conviction or assignment in the instant case, the defendant shall be punished by a fine
95 of not less than two thousand nor more than fifty thousand dollars and by imprisonment
96 for not less than two and one-half years or by a fine of not less than two thousand nor
97 more than fifty thousand dollars and by imprisonment in the state prison for not less than
98 two and one-half years nor more than twenty years; provided, however, that the sentence
99 imposed upon such person shall not be reduced to less than twenty-four months, nor
100 suspended, nor shall any sentence run concurrent with a sentence for any prior or
101 subsequent conviction for any like offense in this Commonwealth or any other
102 jurisdiction, nor shall any such person be eligible for probation, parole, or furlough or
103 receive any deduction from his sentence for good conduct until he shall have served
104 twenty-four months of such sentence; provided, further, that the commissioner of

105 correction may, on the recommendation of the warden, superintendent, or other person in
106 charge of a correctional institution, or the administrator of a county correctional
107 institution, grant to an offender committed under this subdivision a temporary release in
108 the custody of an officer of such institution for the following purposes only: to attend the
109 funeral of a relative; to visit a critically ill relative; to obtain emergency medical or
110 psychiatric services unavailable at said institution; to engage in employment pursuant to a
111 work release program; or for the purposes of an aftercare program designed to support the
112 recovery of an offender who has completed an alcohol or controlled substance education,
113 treatment or rehabilitation program operated by the department of correction; and
114 provided, further, that the defendant may serve all or part of such twenty-four months
115 sentence to the extent that resources are available in a correctional facility specifically
116 designated by the department of correction for the incarceration and rehabilitation of
117 drinking drivers.

118

119 SECTION 3. Section 24 (1)(c)(1) of chapter 90 of the General Laws, as appearing in the 2008
120 Official Edition, is hereby amended by replacing the words “preceding the date of the
121 commission of the offense for which he has been convicted,” in line 5 with the following words:-

122 --

123 “at any time,”.

124 SECTION 4. Section 24 (1)(c)(2) of chapter 90 of the General Laws, as appearing in the 2008
125 Official Edition, is hereby amended by replacing the words “preceding the date of the

126 commission of the offense for which he has been convicted,” in line 4 with the following words:-

127 --

128 “at any time,”.

129 SECTION 5. Section 24 (1)(c)(3) of chapter 90 of the General Laws, as appearing in the 2008

130 Official Edition, is hereby amended by replacing the words “preceding the date of the

131 commission of the offense for which he has been convicted,” in line 4 with the following words:-

132 --

133 “, at any time,”.

134 SECTION 6. Section 24 (1)(c)(3½) of chapter 90 of the General Laws, as appearing in the 2008

135 Official Edition, is hereby amended by replacing the words “preceding the date of the

136 commission of the offense for which he has been convicted,” in line 4 with the following words:-

137 --

138 “, at any time,”.

139 SECTION 7. Section 24 (1)(c)(3¾) of chapter 90 of the General Laws, as appearing in the 2008

140 Official Edition, is hereby amended by replacing the words “preceding the date of the

141 commission of the offense for which he has been convicted,” in lines 4 and 5 with the following

142 words:---

143 “, at any time,”.

144 SECTION 8. Section 24 (1)(c)(4) of chapter 90 of the General Laws, as appearing in the 2008
145 Official Edition, is hereby amended by replacing the word, “corroborating” in the second to last
146 line with the following word:---

147 “corroborating”.

148 SECTION 9. Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the 2008
149 Official Edition, is hereby amended by replacing the word, “restistrar” in line 29 with the
150 following word:---

151 “registrar”.

152 SECTION 9. Section 24 (1)(f)(1) of chapter 90 of the General Laws, as appearing in the 2008
153 Official Edition, is hereby amended by deleting the last paragraph containing the following
154 language:

155 No license or right to operate shall be restored under any circumstances and no restricted or
156 hardship permits shall be issued during the suspension period imposed by this paragraph;
157 provided, however, that the defendant may immediately, upon the entry of a not guilty finding or
158 dismissal of all charges under this section, section 24G, section 24L, or section 13½ of chapter
159 265, and in the absence of any other alcohol related charges pending against said defendant,
160 apply for and be immediately granted a hearing before the court which took final action on the
161 charges for the purpose of requesting the restoration of said license. At said hearing, there shall
162 be a rebuttable presumption that said license be restored, unless the commonwealth shall
163 establish, by a fair preponderance of the evidence, that restoration of said license would likely
164 endanger the public safety. In all such instances, the court shall issue written findings of fact with
165 its decision.