

Massachusetts Gov. Baker's administration refiles legislation to improve roadway safety, combat impaired driving

"Trooper Thomas Clardy Law" advances proven measures to prevent the senseless tragedies caused by drug-impaired driving.

The Baker-Polito Administration today refiled legislation to improve safety on the Commonwealth's roadways and combat drug-impaired driving. This proposal would update road safety laws by implementing uniform standards and promoting proven strategies to reduce motor vehicle crashes, and will implement recommendations made by the Special Commission on Operating Under the Influence and Impaired Driving.

The bill, refiled by the Administration as the "Trooper Thomas Clardy Law," honors Massachusetts State Trooper Thomas L. Clardy. On March 16, 2016, Trooper Clardy was conducting a traffic stop on the Massachusetts Turnpike in Charlton when his parked cruiser was hit by a speeding motorist who swerved across three lanes of traffic. THC, the psychoactive ingredient in marijuana, was detected in the motorist's blood. This preventable crime resulted in the tragic and untimely death of 44-year-old Trooper Clardy, an 11-year member of the state police and a United States Marine Corps veteran. He is survived by his wife and six children. The bill's refiling this week coincides with the two-year mark since the conviction of the driver in the case.

"This legislation aims to make the Commonwealth's roads safer

and save lives, and we are grateful to the Clardy family for offering their family's name and support for this legislation, which will help us avoid impaired driving incidents in the future," said Governor Charlie Baker. "This bill will provide law enforcement officers with more rigorous drug detection training and will strengthen the legal process by authorizing the courts to acknowledge that the active ingredient in marijuana can and does impair motorists. The bill draws on thoughtful recommendations from a broad cross-section of stakeholders, and we look forward to working with our legislative colleagues to pass this bill and make our roads safer."

"Our administration is refiling this legislation as part of our steadfast commitment to safeguarding our roadways and protecting the people of the Commonwealth from preventable crimes," said Lt. Governor Karyn Polito. "With the continued implementation of adult-use marijuana in the Commonwealth, it is vital that we continue to focus on efforts to both combat drugged driving and raise awareness about the dangers of operating while under the influence."

First filed in 2019, this legislation is based on recommendations issued by a Special Commission on Operating Under the Influence and Impaired Driving, which was created as part of the 2017 law legalizing adult-use marijuana, to develop a series of recommendations to mitigate the negative impacts of increased marijuana use in Massachusetts, including the anticipated increase of impaired driving. The Special Commission included a diverse cadre of experts in policing, prosecution, the criminal defense bar, medicine and toxicology, and civil liberties. The Special Commission's report outlined recommendations that require legislative changes and promote consistency with state law on alcohol use and driving.

"Our family has been profoundly impacted by the tragic loss of my loving husband. Our children lost their hero, a man who had

love for his family and an unquenchable love for life,” said Reisa Clardy, widow of Trooper Clardy. “We wholeheartedly support the implementation of these critical measures to improve public safety in the hope of sparing other families from our sorrow and preventing the heartbreak caused by a driver’s decision to get behind the wheel when under the influence of drugs.”

“It’s simple: you can’t drive safely when you are impaired. This legislation will improve community safety and advance good criminal justice policy by ensuring our ability to offer the public the same protections whether a driver is under the influence of alcohol or drugs,” said Secretary of Public Safety and Security Terrence Reidy.

“The provisions of this legislation will be important tools to law enforcement officers to enhance interdiction of drugged drivers and reflect a necessary evolution in our criminal laws to recognize and address the significant dangers of drivers who are under the influence of narcotics,” said Colonel Christopher Mason, Superintendent, Massachusetts State Police.

“It is imperative that police have the training and tools necessary to effectively combat drugged driving,” said Brian Kyes, Chelsea Police Chief and President of the Massachusetts Major City Chiefs Association. “This legislation will equip law enforcement with drug recognition experts to address the dangers of impaired driving and to improve road safety across Massachusetts.”

“Life can change in the blink of an eye and, because of impaired drivers, it often tragically does. To prevent these tragedies, we must do everything we can to keep impaired drivers off the roads,” said Worcester County District Attorney Joseph D. Early, Jr. “This legislation is a great step to making our roads safer for all our loved ones who use them. It will better address the issue of impairment in the courtroom and, ideally, avert a tragedy before it happens.”

“AAA Northeast applauds the Baker-Polito Administration for filing this legislation, which would make the roadways of the Commonwealth much safer. Impaired driving accounts for roughly a third of roadway deaths across the county, and the numbers are climbing. We also welcome the opportunity to honor Trooper Thomas Clardy and his family in the naming of this bill.” said Mary Maguire, Director of Public and Government Affairs for AAA Northeast.

“The work of the Special Commission on Operating Under the Influence and Impaired Driving started with the basic premise that you don’t, under any circumstances, drive better when you are impaired,” said Shawn Collins, Executive Director of the Cannabis Control Commission and Chair of the Special Commission. “The Baker-Polito Administration’s legislation seeks safer roadways throughout the Commonwealth by implementing the Special Commission’s findings and empowering the public with expanded resources to prevent the risks of driving under the influence of any intoxicating substance.”

The Special Commission’s 2019 report contained a series of recommendations, many of them unanimous among the experts and stakeholders, to improve how Massachusetts combats operating under the influence. The proposed adjustments encompass the entire process leading up to, during and following a motor vehicle stop for suspected driving under the influence. Many of the Special Commission’s 19 recommendations require legislative changes, which are reflected in “An Act Implementing the Recommendations of the Special Commission on Operating under the Influence and Impaired Driving” otherwise known as the “Trooper Thomas Clardy Law.”

The proposed legislative changes in this refiled bill include:

- Adopting implied consent laws to suspend the driver’s licenses of arrested motorists who refuse to cooperate in chemical testing for drugs, as existing law has long required for arrested motorists who refuse breath testing for alcohol;

- Adopting a statute authorizing courts to take judicial notice that ingesting THC, the active chemical in marijuana, can and does impair motorists;
- Directing the Municipal Police Training Committee (MPTC) to expand the training of drug recognition experts, and allowing them to testify as expert witnesses in civil and criminal cases;
- Prohibiting drivers from having loose or unsealed packages of marijuana in the driver's compartment of a vehicle, under the same provision of the motor vehicle code that has long prohibited driving with open containers of alcohol;
- Recognizing the effectiveness of the horizontal gaze nystagmus test, shown through scientific research to be the single most reliable field sobriety test;
- Empowering police officers to seek electronic search warrants for evidence of chemical intoxication, as is the practice in over thirty other states. Any blood draw would have to be authorized by a neutral magistrate after a showing of probable cause, and would be performed by a doctor, nurse or other appropriate medical staff at a health care facility;
- Developing educational materials and programming on drug impairment to share with trial court judges.

Recent data released by the National Highway Traffic Safety Administration (NHTSA) showed that traffic fatalities have reached a 15-year high in the first six months of 2021. More than 20,000 people have died in motor vehicle crashes so far this year. The NHTSA attributes this alarming trend to an increase in risky behavior, including driving under the influence of drugs and alcohol. Indeed, NHTSA's recent review of five trauma centers, including one in Worcester, Massachusetts, found a significant increase in the prevalence of drugs detected in seriously and fatally injured drivers with 56% testing positive for at least one impairing substance, up from 50.8% before the public health emergency.

According to the Centers for Disease Control and Prevention,

THC, marijuana's principal active ingredient, impairs coordination, judgment, and balance – the skills every operator needs to drive safely. A February 2020 survey conducted by Mothers Against Drunk Driving found that 1 in 8 (12%) of adults admitted to driving within two hours of consuming marijuana.