



Senate Bill 2124

An Act Relative to Drowsy Driving

Testimony and background information submitted
to the Joint Committee on Transportation

by
Senator Richard T. Moore
Worcester and Norfolk District

September 29, 2005

**Testimony of Senator Richard T. Moore lead sponsor of
Senate Bill No. 2124 - An Act Relative to Drowsy Driving
“Rob’s Law”**

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Most of us can remember the excitement and elation of the 1980 Winter Olympics at Lake Placid where we witnessed a “Miracle on Ice” as the U. S. Olympic Hockey team won a gold medal. As radio personality, Paul Harvey, would say, “now, the rest of the story...”

Falling asleep at the wheel killed 66 year-old Herb Brooks, who coached that “Miracle” hockey team, in August of 2003. Just last year, Jeopardy! host Alex Trebek fell asleep and ran off the road in California, escaping with minor injuries.

Closer to home, on the morning of June 26, 2002, Robert Raneri was riding his motorcycle to work at the Devens Reserve Forces Training Area in Ayer when he was struck and killed by a 19-year-old driver who told police he hadn't slept in about 24 hours because he was up all night playing computer games. Major Rob Raneri, at the time Provost Marshal of Fort Devens, left a fiancé – Amy Huther – who, a week later, learned she was carrying his child. You will hear from Ms. Huther in a few moments, and I’m honored that she was able to fly in from the Nation’s Capital to be with us today to tell us about the tragedy that she suffered, and why it’s so important that we work to prevent many more tragedies

Drowsy driving has been called “a silent tragedy.” We can no longer, as a society, remain silent! It causes too many preventable deaths and injuries, and costs millions of dollars in property damage and loss. Those who complain about the high cost of auto insurance need to focus on the causes, and drowsy driving is a significant cause.

The best estimates are that 100,000 auto crashes each year are the result of driver fatigue, with at least 71,000 people injured and 1500 killed. But most experts believe those figures are far too low. In Europe—which does measure incidents of drowsy driving—up to 20% of highway crashes are caused by driver fatigue.

The **National Sleep Foundation**, in reporting the results of the 2005 “Sleep in America” poll, indicates that 60% of America’s adults who drive or have a license report that “within the past year, they have driven a car or motor vehicle when feeling drowsy. This represents a significant increase from reports in 2000, 2001, and 2002 when the percentage ranged between 51% - 53%. Among the respondents to the 2005 survey, 29% reported having had an accident or near accident at least once a month in the past year.

Once sleep periods drop below seven hours, most of us become impaired—often as impaired as someone who is drunk.

No one is immune. Surveys by the **National Sleep Foundation** show that nearly 100 million drivers say they have driven while drowsy in just the last year alone; 32 million drivers admit to falling asleep behind the wheel.

What makes drowsy driving so deadly is that people are poor judges of how impaired they are by exhaustion.

Cumulative sleep loss—routinely sleeping fewer than six hours a night or having interrupted sleep—can have equally deadly consequences.

Even simple tasks are made much more difficult by exhaustion. An alert person can respond to a visual cue, such as a light turning on, in about a quarter of a second. But it takes anywhere from two to 120 times longer for a tired person. Consider this: At 60 mph, drifting just 4 degrees in your lane can cause a crash in 2 seconds. Sleep experts tell us that many of these crashes are catastrophic because a driver who falls asleep even for a few seconds doesn't swerve or hit the brakes.

Preventing drowsy driving is a challenge. Educating drivers, especially younger ones, is tough. Technology may offer some promise in a system that can monitor erratic driving and warn drivers before crashes. A third avenue is the legal system —by making fatigued driving a criminal offense. Senate Bill No. 2124 attempts to address all of these challenges.

New Jersey is, to date, the only state with such a law. The crusade for that law was led by Carole McDonnell, whose daughter Maggie, 20, was killed in 1997 by a man who fell asleep at the wheel, crossed three lanes and hit her head-on. He was cited for reckless driving and fined \$200. Today, being awake for more than 24 hours and causing a fatal crash in New Jersey can result in up to 10 years in jail and a \$100,000 fine under "Maggie's Law."

Senate Bill No. 2124 is intended to approach the problem of drowsy driving in more than just a punitive way. Yes, there are penalties proposed, but that's primarily to help us all to understand that this is a serious matter, and without penalties, we would not take the issue of drowsy driving seriously. Furthermore, we cannot continue to let drowsy drivers get away with murder! A legal slap on the wrist doesn't bring justice to the victims nor does it serve as a lesson to others that falling asleep at the wheel is criminal negligence.

However, the primary focus of Senate Bill No. 2124 is to begin to educate new drivers, driving instructors and law enforcement about the problem of drowsy driving and the steps that can be taken to prevent serious, even fatal, accidents. In fact, it's because there is a need for education that "Rob's Law" provides for the penalties to become effective after there is an opportunity to educate the public about drowsy driving.

Senate Bill No. 2124 would include education and information about sleep deprivation to driver education instructors and new drivers, to school bus drivers, and to law enforcement. It would place an expert in sleep disorders on the Registry's Medical

Advisory Board, it would include drowsy driving in the causes for listing as an “Habitual Traffic Offender,” establish the crime of driving while impaired by drowsiness, and include it among the factors in vehicular homicide, when that impairment leads to the death of another person. Of special importance is the provision that the bill will provide for the collection of statistics on drowsy driving so that we can better understand the magnitude and seriousness of this problem and help to better educate the public on its often horrific consequences. These recommendations that are based on the work of the Sleep Research Society’s Task Force are supported by studies conducted in recent years by other national organizations.

The **National Highway Traffic Safety Administration**, in an extensive study entitled “Drowsy Driving and Automobile Crashes,” has recommended drowsy driving education aimed at new drivers and those who work on shifts as well as the use of rumble strips on highways.

The **American Automobile Association Foundation** conducted a study in North Carolina that recommended “drivers be educated to recognize the symptoms of drowsiness and the necessity of stopping driving once they recognize these symptoms in themselves. They must be convinced,” the report goes on, “that drowsy driving is as dangerous and “wrong” as driving drunk. While certain segments of the population – shift workers, persons with sleep disorders, persons taking certain medications – are at increased risk of a sleep-related crash, the results of the study clearly show that the majority of drivers in sleep-related crashes simply receive too little sleep.”

I want to particularly thank Dr. Charles Czeisler of Harvard Medical School and Brigham and Women’s Hospital for his leadership of the Sleep Research Society’s Task Force on Sleep and Public Policy who have worked for the past six months to improve the legislation. You will hear from Dr. Czeisler following Ms. Huther’s testimony.

Thank you for the courtesy of taking me out of turn and listening to the testimony of the next two witnesses.

**Testimony of Amy Huther before the
Joint Committee on Transportation in support
of SB 2124, An Act Relative to Drowsy Driving**

September 29, 2005

Good morning.

My name is Amy Huther from Milford , Mass..

I came here today to share with the committee the story of how a drowsy driver cut short the life of Major Robert Raneri, an Army Reserve Soldier who, on June 26, 2002, was serving his country in support of Operation Noble Eagle when he was killed by a 19-year old man who admittedly was awake for over 24 hours.

Major Raneri was a great Soldier and leader and he is sorely missed. I will always remember the volumes of Soldiers; junior enlisted to general officers, who stood in line to pay their final respects to their fallen comrade at the wake, the standing room only crowd of mourners at the funeral and the procession to the Massachusetts National Cemetery in Bourne which stretched for miles down 495 to Cape Cod.

In an instant, a drowsy driver took the life of Major Raneri, an officer who many thought was destined to be a general in the Army Reserve, an officer who, as a Captain, commanded the 94th Military Police Company for 5 years, culminating in a 9-month deployment to Bosnia, an officer who, when he returned from that deployment, was determined to commit his life to serving his country.

Prior to his death, he had been selected to serve full time as an Active Reserve Soldier, and offered positions in force protection for the US Army. At the time of his death, he was serving as the Provost Marshal and Acting Director of Plans and Training at Devens Reserve Forces Training Area.

The day he died, he was driving to Devens for what should have been his last day of work prior to his wedding, which was to be on July 3, 2002. One can only imagine the happiness, joy and excitement he was feeling that morning as he left his house.

I know what he was feeling that morning because the house he left was our home. I'll never forget hearing his motorcycle drive out of our driveway and the smile it brought to my face knowing that he was happier than he had ever been in his life and anticipating our wedding, just seven days away. A wedding we had planned for over a year, our dream wedding that would unite our family and our destiny, everything was going to be perfect and we both couldn't wait to share our lives together and to start a family.

Because of a drowsy driver, our wedding plans changed to funeral plans. Groomsmen became pall bearers and instead of walking down the aisle on the arm of my father in a white gown, I wore a black dress and was assisted down the aisle by Command Sergeant Major Joseph Scunziano, Rob's best friend and best man. Instead of a proud and happy groom waiting at the altar with open arms, I was met by a flag draped coffin. Two days before our wedding, I buried my groom in the uniform that he purchased to wear at our wedding and the wedding ring that he chose to represent our love. Eight and a half months before her birth, I buried my daughter's father.

What killed Rob was not an accident. It was a crash caused by a driver who admittedly was awake for over 24 hours and made a conscious choice to get behind the wheel of a vehicle – a vehicle that quickly turned into a weapon resulting in the death of an innocent victim.

The National Sleep Foundation has a website dedicated to the prevention of Drowsy Driving. On that website, you will learn that 18 hours without sleep has the same physiological effect on the body as a .05% Blood Alcohol Concentration, and 24 hours without sleep is equivalent to a 0.1% Blood Alcohol Concentration or the level of legal intoxication in most states.

On June 23, 2003, the state of New Jersey passed a bill, known as "Maggie's Law." The law establishes fatigued driving as recklessness under the existing vehicular homicide statute. This is the first law in the nation, which specifically addresses the issue of driving while fatigued. "Fatigue," under this law is defined as being without sleep for a period in excess of 24 consecutive hours.

The public needs to be educated on the effects of drowsy driving. I believe that we need to enact stricter laws and penalties, which punish people who drive drowsy and cause a crash, or worse, kill other innocent motorists and/or pedestrians. I believe that such laws will encourage education and prevent individuals from making the choice to put peoples' lives at risk by operating a motor vehicle when they are knowingly impaired due to sleep deprivation. If passing this bill saves just one life; allows one daughter to know and love her father; allows one bride to marry her groom; allows brothers to share in each other's lives; allows a mother and father to watch their son grow into an adult and raise his own family, then doesn't it make sense?

Section By Section Analysis of Senate Bill No. 2124 An Act Relative to Drowsy Driving

Section 1

Title of the Act

The “Drowsy Driving Act of 2005” is also known as “Rob’s Law” in memory of Major Robert M. Raneri, US Army Reserve, who was killed June 26, 2002 by a “drowsy driver”. At age 37, Major Raneri was one week away from his much anticipated wedding to his fiancée, Major Amy Huther. They both served our country as Majors in the U.S. Army Reserve, and Rob was killed at 6:15 AM on his way to his job as Provost Marshall at Devens. He was dedicated to his country and took great pride in what he was doing. He had led a command of 180 men in Bosnia in 2001 and brought all of them back safely. One of his chief concerns was for the young men serving under him.

Major Raneri was killed by a 19 year old male who confessed to police that he had been out all night playing video games. The death was treated as a misdemeanor because no drugs or alcohol was involved. He was sentenced to five years probation and loss of license for ten years. Both penalties could be reduced in half if there are no further problems. The victim is dead. His fiancée was denied the wonderful life she would have had with him and his daughter, Isabella, will never know her father except by what she is told by her family. Unfortunately, Major Raneri, who was looking forward to starting a family, never knew he was to be a father as his fiancée didn’t know she was pregnant until 3 weeks after he was gone. Two days before he was to be married, he was buried at Bourne National Cemetery in the new uniform he had bought for his wedding.

Section 2.

Including Sleep Issue in Driver’s License Exam

This section provides that the Massachusetts Driver’s Exam will include questions relative to the importance of obtaining adequate sleep and how to recognize the signs of reduced sleep alertness and sleep disorders. Every new driver needs to be made aware of the hazards of drowsy driving. Making the information part of the study materials and exam will raise the level of awareness especially among the young drivers who are especially prone to drowsy driving accidents.

Section 3.

Including Sleep Issues in School Bus Driver’s Exam

This section provides that the examination for school bus drivers will include questions relative to the importance of adequate sleep and how to recognize the signs of reduced sleep alertness and sleep disorders. It is critical that those who transport our children to and from school and on sponsored trips be aware of the serious issue of drowsy driving and that they take steps to protect those they are charged with transporting.

Section 4.

Expert in Sleep Disorders to Serve on the Registry's Medical Advisory Board.

This section requires that an expert in sleep disorders be among the physicians appointed to the Registry of Motor Vehicles medical advisory board. This will ensure that sleep disorders and the effects of drowsiness are included in the medical standards applied by the Registry. The registrar utilizes this board for advisory opinions on standards of fitness for applicants for learner's permits or licenses to operate motor vehicles, and, in addition, for advisory opinions on the applications of persons who apply for learner's permits or licenses to operate motor vehicles or whose right to operate has been suspended or revoked, or whenever the registrar has reason to believe that the operation of a motor vehicle would be a threat to the safety and the welfare of the public because of physical or mental disability.

Section 5.

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

Habitual traffic offenders are drivers with convictions or admissions of guilt for a certain number of major or minor offenses and, after notice and hearing, the individual may be determined to be a habitual traffic offender and the Registrar is then empowered to suspend or revoke the individual's license. This section adds drowsy driving among the offenses that could be counted toward a habitual traffic offender designation.

Section 6.

Establishes the Crime of Sleeping While Driving.

This section of the general laws provides that driving while intoxicated by liquor, drugs, vapors of glue, etc, reckless and unauthorized driving, failure to stop after a collision, are all criminal offenses punishable by fines and or jail. The bill would add driving while impaired by drowsiness or sleep deprivation while operating a motor vehicle as a criminal offense since it is another form of reckless driving. Currently, when a driver impaired by drowsiness or sleep deprivation causes a motor vehicle crash, the event is treated as an accident instead of recognizing the fact that the driver has been irresponsible in getting behind the wheel when drowsy.

Section 7.

Motor Vehicle Homicide Resulting from Sleeping.

At present, when someone who is impaired by drowsiness or sleep deprivation causes a motor vehicle crash which results in another's death, the crime has been considered in some cases a misdemeanor punishable, as in the case of Major Raneri, by probation and suspension of license for a fixed time. This section would add driver impairment associated with drowsiness and sleep disorders and causing the death of another as a factor in motor vehicle homicide with more serious penalties.

**Section 8.
Training for Police in Recognition of Sleep Deprivation.**

This section would require the police training council to include recognition of the symptoms of drowsy driving in their enforcement and in accident investigation. This is designed to help police understand what to look for when enforcing the law. For example, an accident scene investigation that shows no skid marks is a likely clue that the driver made not attempt to stop because he was asleep at the wheel.

**Section 9.
Training for Police Recognition of Sleep Deprivation.**

This section amends the clause directing the Chief Administrative Justice to require all court personnel, district attorneys, etc. to be training in recognizing the effects of sleep deprivation or sleep disorders. It is necessary so that the judiciary, probation, prosecutors and other understand the importance of drowsy driving.

**Section 10.
Establishment of Enforcement Programs in Sleep Deprivation**

The executive office of public safety is required to implement an alcohol sensitive selective traffic enforcement program. This section adds a requirement for a sleep deprivation sensitive traffic enforcement program.

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

This section requires that the form provided by the Registrar for reporting of accidents include provisions to collect information on whether sleep deprivation was a cause of contributing factor in accidents in order to build a better state data base on drowsy driving. Massachusetts is one of only six states that does not collect such data.

**Section 12.
Presumption of Sleep Deprivation.**

This section provides that a police officer may take a driver into protective custody and hold them until they are rested. It gives the officer the legal authority to take a dangerous drowsy driver off the road and to either hold them until they are rested or to let someone else take them home or to a place where they can rest.

**Section 13.
Special Commission Established.**

A special commission consisting of medical experts in sleep deprivation, law enforcement personnel, defense attorneys, legislators, a victim or relative of a victim of a drowsy driver and others to help determine the standards for determining when a driver is

guilty of drowsy driving and to review the severity of penalties that ought to be applied. The commission will also determine the education needed of drivers, law enforcement personnel, and the public to understand the issue of drowsy driving.

Section 14.
Effective Dates.

Since there is a need to educate the public and to develop clear standards for determining when a driver is sleep deprived, the most serious penalties of criminalizing the act of drowsy driving and including drowsy driving as a condition of motor vehicle homicide, the effective dates of Section 6 and 7 are made January 1, 2008 in order to give time to educate the public. The rest of the law would go into effect immediately.