



NEW YORK STATE SENATOR

Kenneth P. LaValle

New Law Closes Dwi Loophole

KENNETH P. LAVALLE July 14, 2010

| ISSUE: **DRUNK DRIVING**



Senator Kenneth P. LaValle today announced that the Governor has signed a measure to close a loophole in the state's DWI laws that has allowed drunk drivers to escape justice, even if an innocent person was killed. "Jack Shea's" law immediately permits certain medical personnel to draw blood at the request of a police officer, without a physician being present.

The bill was named for Jack Shea, a 91-year-old patriarch of a three-generation Olympic family. He was killed by a drunk driver whose blood alcohol content measured .15. Despite that fact, the driver escaped prosecution because the judge ruled that the blood alcohol test was not legally administered as the blood was drawn by a medical technician who was not supervised by a physician.

Prior to “Jack Shea’s” law, trained medical personnel such as advanced EMTs, phlebotomists, nurse practitioners, and LPNs, were restricted from drawing blood to determine alcohol or drug content without having a physician present. The new law establishes a list of medical personnel authorized to withdraw blood and eliminates this unnecessary restriction in the law.

“It is critical to the safety of motorists that we do our best to ensure that those who would endanger the lives of others are kept off the road,” said Senator LaValle. “This measure will protect the public from drunk drivers by giving law enforcement the evidence it needs to effectively prosecute those charged with driving while intoxicated or doing drugs.”

Senator LaValle has repeatedly supported legislation to combat driving while alcohol or drug impaired. Once such measure is Leandra’s Law, which makes it a felony to drive drunk in the State of New York with a child under the age of 16 in the car. The law took effect on December 18, 2009 and, since that time, there have been 248 DWI arrests statewide, with Suffolk County recording the most.

“We need to continually strengthen New York’s DWI laws to help make our roadways safer and ensure that drunk drivers are held responsible for their careless actions,” concluded Senator LaValle.