



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Transportation Committee Approves Fuschillo Bill to Require Judicial Review and Approval of Conditional Licenses for Those Arrested for Dwi

CHARLES J. FUSCHILLO JR. January 19, 2011

| ISSUE: **TRANSPORTATION**

Senator Charles J. Fuschillo, Jr. (R-Merrick), Chairman of the Senate's Transportation Committee, today announced that the committee has approved legislation he sponsored to stop those arrested for drunk driving from being approved for a conditional license to go back on the roads without a judge's approval. "Driving is a privilege, not a right. Requiring a judicial review and approval before granting a conditional license to someone who has been arrested for drunk driving would provide an additional level of protection for the other drivers on our roads. I'm pleased that this legislation has been approved by the Senate Transportation Committee and am hopeful that it will soon be passed by the full Senate," said Senator Fuschillo.

Under current law, those arrested for DWI can apply for a conditional license from the Department of Motor Vehicles (DMV) after an initial 30 day license suspension. Conditional licenses allow individuals to drive in certain circumstances, including: driving to and from work, school, doctors offices, child care, the DMV, the probation department, and DWI programs. Licensees are also allowed to drive as part of their job (if need be) and also for three hours a week to run errands and handle personal business. Arraigned drunk drivers are virtually approved automatically for a conditional license by DMV, as long as they have not been enrolled in a DWI program in the prior five years.

Additionally, these individuals can forgo the 30 day license suspension by applying for a hardship license. These licenses, which must be approved by a judge, allow individuals to drive to work, school, and doctors offices.

Under Senator Fuschillo's legislation (S526), before DMV could issue a conditional license to someone arrested for drunk driving, the judge handling that person's case would need to hold a hearing and give his or her consent. Additionally, Senator Fuschillo's legislation would require those who are issued a hardship license to install an ignition interlock in their vehicles

In one of the more telling examples of why the law needs to be changed, Jose Borbon was given a conditional license after being arrested in January 2009 for drunk driving, criminal possession of a weapon, holding more than one license, and failure to obey a traffic device. On February 22, 2009, while out on bail and driving with a conditional license, he drove drunk again, this time killing Suffolk County Police Officer Glen Ciano.

Nassau County District Attorney Kathleen Rice said, "There should be nothing 'automatic' about an accused drunk driver getting back on our roads. This legislation is a big step in the right direction to bring

individual scrutiny and accountability to the re-licensing process."

Additionally, the Committee approved legislation sponsored by Senator Fuschillo that closes a loophole in the State's intoxication laws.

Currently, individuals can be charged with a DWI offense only if they are intoxicated by alcohol or a by one of the drugs listed in the public health law. This means that drivers who become intoxicated by ingesting substances not in the law (such as inhaling aerosol cans) can escape prosecution.

Senator Fuschillo's legislation would amend the legal definitions of "impaired" and "intoxication" to mean willfully ingesting any substances or combination of substances to the extent that they do not possess the physical and mental abilities a driver is expected to possess to operate a motor vehicle.

"People who drive while intoxicated or impaired put lives at risk. It's wrong that people who get intoxicated or impaired off certain substances face criminal charges, while those who get intoxicated or impaired off others escape prosecution. This legislation expands the law to ensure that anyone who drives while intoxicated or impaired, no matter what substance they used, will face justice," said Senator Fuschillo.

"The law needs to reflect reality. Every day there are reports of new substances being used to get high. Limiting our prosecution of impaired drivers to alcohol and a list of drugs that will never keep up with real world practices is just foolish and endangers public safety. I am grateful to Senator Fuschillo for sponsoring this legislation at my request," District Attorney Rice said.

In other business, the Transportation Committee also approved a number of other bills, including:

S764 (Young): Allows two or more towns to jointly purchase and store highway equipment.

S957 (Marcellino): Prohibits the use of radar and laser blocking devices in vehicles.

S1208 (Johnson): Prohibits the operation of any vehicle, except an emergency vehicle, that is equipped with a device which affects the operation of a traffic control signal.

S1369 (Dilan): Authorizes county highway superintendents to rent road machinery from any city, town or village, and the authority of the town highway superintendent to contract with another municipality, district corporation, school district, community college or any unit of the state university to provide certain services and the use of town machinery, tools and equipment.

#####