



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Senate Passes Fuschillo Bill Requiring Mandatory Jail Time for Repeat Dwi Offenders

CHARLES J. FUSCHILLO JR. June 16, 2011

| ISSUE: **DRUNK DRIVING**

Senator Charles J. Fuschillo, Jr. (R-Merrick) today announced that the New York State Senate has passed legislation he sponsors requiring mandatory jail time for repeat DWI offenders.

“Someone who repeatedly endangers innocent lives by driving drunk needs to go to jail; period. It’s unconscionable that current law enables repeat DWI offenders to avoid jail and get away with only paying a fine and possibly performing community service. The only appropriate community service is getting these drunk drivers behind bars and off the roads. Mandatory jail sentences would make DWI offenders think twice before driving drunk again and send a strong, but simple message; if you continually drink and drive in New York State, then you are going to jail,” said Senator Fuschillo, Chairman of the Senate’s Transportation Committee.

Repeat DWI offenders are not required to spend any time in prison under current law. Currently, individuals arrested for a repeat DWI offense face class E or D felony charges punishable by up to four or seven years in jail and/or a fine between \$1,000-\$5,000 or \$2,000-\$10,000. However, judges have the discretion to sentence repeat DWI offenders to only a fine or a fine and community service under the law.

Senator Fuschillo’s legislation (S2597) would change the law to require these drunk drivers serve time in jail. Under the proposed law:

- * Drunk drivers convicted of two DWI crimes within ten years would be guilty of a Class E felony, face up to four years in jail and/or a fine between \$1,000-\$5,000, and receive a mandatory minimum jail sentence of 30 days.

- * Drunk drivers with three or more DWI convictions within ten years would be guilty of a class D felony, face up to seven years in jail and/or a fine between \$2,000-\$10,000, and receive a mandatory minimum 90 day jail sentence.

- * Drunk drivers convicted of two aggravated DWI crimes (.18 BAC or higher or DWI with a child in the car) within ten years would be guilty of a Class E felony, face up to four years in jail and/or a fine between \$1,000-\$5,000, and receive a mandatory minimum jail sentence of 180 days.

- * Drunk drivers convicted of three or more aggravated DWI crimes (.18 BAC or higher or DWI with a child in the car) within ten years would be guilty of a class D felony, face up to seven years in jail and/or a fine between \$2,000-\$10,000, and receive a mandatory minimum 1 year jail sentence.

According to research conducted by the Institute for Traffic Safety Management and Research (ITSMR), which is part of SUNY Albany’s Rockefeller College of Public Affairs and Policy, approximately 21 percent of convicted drunk drivers in New York State will be convicted again. In addition, ITSMR estimates that there are 481 incidents of DWI for every one arrest in New York State.

The legislation has been sent to the Assembly for consideration.

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