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Charles J. Fuschillo Jr.

Senator Fuschillo, Assemblyman Weisenberg, D.a. Rice & Father of Leandra Rosado Call for Stronger Leandra's Law

CHARLES J. FUSCHILLO JR. October 16, 2011

| ISSUE: **DRUNK DRIVING**



Legislation Would Help Stop Convicted Drunk Drivers from Avoiding Ignition Interlock Requirement

Senator Charles J. Fuschillo, Jr. (R-Merrick), Assemblyman Harvey Weisenberg (D-Long Beach), Nassau County District Attorney Kathleen Rice, and the father of Leandra Rosado today announced new legislation to strengthen Leandra’s Law. The legislation would make it harder for convicted drunk drivers to avoid the law’s mandatory ignition interlock requirement.

“Ignition interlocks help prevent drunk drivers from even getting behind the wheel, which is why we made them mandatory as part of Leandra’s Law. However, far too many offenders are avoiding using them. There’s only one reason why a convicted drunk driver would try to avoid an interlock, and that’s to drive drunk again. Strengthening Leandra’s Law will help stop drunk drivers from getting around the interlock requirement and make it harder to escape a device that prevents them from driving drunk again,”

said Senator Fuschillo, Chairman of the Senate's Transportation Committee and a sponsor of Leandra's Law.

"I have spent a lifetime trying to improve public safety and people's lives through legislation. We passed Leandra's Law in 2009 as a groundbreaking effort to make our roads safer for everyone who uses them. I am proud to join with Lenny Rosado, Senator Fuschillo, and DA Rice to strengthen that law so all drunk drivers get ignition interlock devices. That's what Leandra's Law was intended to do. It will save lives and change the behavior of the drunk driver," said Assemblyman Weisenberg.

"We have over a year's worth of experience with the mandatory interlock provision. We have seen firsthand how easy it is for the drunk driver to avoid installing an interlock and in order for this groundbreaking legislation to work the way it was intended, the loopholes must be closed. These tighter restrictions would close those loopholes and sharpen the teeth of a law intended to save lives, protect motorists, and keep dangerous drunk drivers from getting behind the wheel again," said District Attorney Rice. "Ignition interlocks are a powerful and potentially life-saving tool in the fight against drunk driving, and I am proud to stand with Senator Fuschillo, Assemblyman Weisenberg, and Lenny Rosado in support of this legislation."

"We fought so hard for Leandra's Law because far too many families know the pain of losing loved one to a drunk driver, something which I will feel everyday for the rest of my life. Drunk drivers shouldn't be able to escape this law. Making it harder for them to do that will help save lives and prevent more drunk driving crashes. That's why we need a stronger Leandra's Law," said Lenny Rosado.

Leandra's Law was passed in 2009 following the tragic death of 11 year old Leandra Rosado, who was killed while riding in a car driven by her friend's intoxicated mother. As part of Leandra's Law, all convicted DWI offenders must install and use an ignition interlock in all vehicles they own or operate for a period of at least six months after their DWI conviction. Ignition interlocks are breath test devices linked to a vehicle's ignition system which prevent the car from starting if alcohol is detected in the driver's breath.

However, many drunk drivers try to avoid the ignition interlock requirement by claiming they do not own or operate a vehicle, waiting for the interlock period to run out, and then reapplying for a license without ever having to use the interlock. Some of these drivers temporarily transfer ownership of the car to a relative or friend, who then allows that person to drive it without an interlock. 20 convicted drunk drivers were rearrested this past August for driving without an interlock under a sting operation conducted by the Nassau County District Attorney's office.

The comprehensive legislation proposed by Senator Fuschillo, Assemblyman Weisenberg, and D.A. Rice incorporates the experiences of prosecutors, probation departments, and interlock monitors across the state who have contributed suggestions for making Leandra's Law work the way it was intended. This legislation would prevent drunk drivers from avoiding monitoring by claiming they don't have a car and "waiting out" the interlock period. The legislation would:

- Make it harder for offenders to claim they don't own or operate a vehicle. Under the legislation, ignition interlocks would have to be installed in any vehicle the offender owns or operates, or, if the offender does not own a car, it must be installed in at least one car registered to their household, or in the car they used while committing the DWI offense.
- Require the court to determine whether the offender has good cause for not installing an ignition interlock. Offenders would have to submit a sworn, signed affidavit to the court stating what cars they owned and operated at the time of their DWI and that they have not transferred ownership of those cars to evade installation of an ignition interlock device. The offender would have to provide the location of their employment and how they plan on getting there without a car. If the offender does not own a car, he or she must also attest that the car they used in the DWI is not available to them and/or no member of the offender's household will permit interlock installation to avoid installing an interlock in those cars. This would make it harder for an offender to temporarily transfer ownership of their car in order to avoid an interlock. A judge would have to determine on the record whether the offender has demonstrated good cause. If the offender lies in the sworn

affidavit filed with the court, he or she would be subject to additional criminal charges.

- Remove the incentives for evading the interlock requirement. The interlock restriction would be extended from six months to the full period of probation or conditional discharge when an offender is excused from installing an interlock. The offender would also be required to wear a Secure Continuous Remote Alcohol Monitoring (SCRAM) bracelet for a period of six months. SCRAM bracelets detect the presence of alcohol in a person's sweat. Where an offender must obtain treatment as part of the sentence, SCRAM bracelet results would be sent to the offender's treatment provider to help monitor the progress of that treatment. The results would also be transmitted to the DMV for consideration when the offender reapplies for a driver's license. As with an interlock, the costs for installing and maintaining the SCRAM bracelet would be borne by the offender. Offenders seeking to obtain a license while on probation would still have to use an ignition interlock, even if they completed the SCRAM requirement.
- Prevent offenders from getting their licenses back without having fulfilled either the interlock or SCRAM bracelet requirement. This would ensure that offenders cannot avoid alcohol monitoring, eliminating a major incentive for offenders to try and evade the interlock requirement.
- Create felony charges for convicted DWI offenders who drive drunk again while holding a conditional license.

Representatives from MADD offered their support for the proposed law.

"We need to tighten this life saving law so that all offenders who have the ability to drive a car drive one with an interlock," said Thomas McCoy, Executive Director of MADD Long Island.

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