



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Fuschillo Legislation to Help Stop Drunk & Drugged Drivers From Evading Prosecution Passed by Senate

CHARLES J. FUSCHILLO JR. January 24, 2012

| ISSUE: **DRUNK DRIVING**

Senator Charles J. Fuschillo, Jr. (R-Merrick) today announced that legislation to prevent drunk or drugged drivers from evading prosecution has been passed by the New York State Senate.

The legislation (S3768B) would allow law enforcement to seek court orders to compel when individuals suspected of DUI refuse to submit to chemical intoxication tests.

“Drunk or drugged drivers should not be rewarded for obstructing justice and refusing to cooperate with law enforcement by escaping prosecution. Unfortunately, that’s exactly what can happen under current law. Permitting law enforcement to seek a court order compelling DUI suspects to submit to a chemical test would help ensure that these individuals do not avoid prosecution for endangering the lives of others,” said Senator Fuschillo, Chairman of the Senate’s Transportation Committee.

Chemical tests, such as blood, breath, and urine tests, are used to determine a suspected drunk or drugged driver’s level of intoxication. Chemical tests are a crucial piece of evidence used in a trial to prosecute a drunk or drugged driver for their crimes.

Under current law, drivers who refuse to submit to a chemical test face an automatic license revocation period and a fine. Law enforcement can petition a judge to order a suspected drunk or drugged driver to submit to a chemical test, but only in cases where someone has been killed or seriously injured. They are prohibited from seeking orders to compel in all other circumstances.

This results in many drivers refusing to submit to the chemical test, knowing that it is often the sole, objective piece of evidence that could establish their guilt. As a result, they face only a temporary license revocation and a fine instead of a criminal DUI charge. Law enforcement's inability to request orders to compel in all DUI cases is enabling these drivers to escape prosecution for a DUI crime.

Senator Fuschillo's legislation would close this loophole by giving law enforcement the authority to seek an order to compel where reasonable cause exists that the suspect is driving under the influence and where the suspect refuses to submit to a chemical test.

"Chemical evidence in drunk and drugged driving cases is essential to effective prosecutions, and needs to be collected as quickly as possible," said Nassau County District Attorney Kathleen Rice. "This legislation will give law enforcement the tools necessary to obtain this evidence in a timely fashion and insure that intoxicated drivers are held accountable for the danger they pose on the road."

"MADD supports this life saving legislation," said Tom McCoy, MADD Long Island Executive Director. "Beating a DWI/DUI conviction does not help the offender face the reality of what he or she has done. It prevents them from getting the help they need. The lives saved by this legislation are those of potential innocent victims as well as those of the offenders. "

"These laws are needed to prevent innocent people from being injured and killed. Too often Drunk and Drugged Drivers simply refuse testing to avoid being properly charged. They beat the system and never learn the important lesson a DWI/DUI brings with it. They go on endangering all of us and themselves." said Margaret Rebholz, MADD Long Island Victim Advocate and Chair of MADD's Law Enforcement Committee.

The legislation has been sent to the Assembly.