



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Senate Passes Fuschillo Legislation Creating Felony Charges for Those Caught Driving Under the Influence WITH a Conditional License

CHARLES J. FUSCHILLO JR. January 24, 2012

| ISSUE: **DRUNK DRIVING**

Legislation Would Close Legal Loophole Allowing These Drivers to Face Only a Traffic Infraction

Senator Charles J. Fuschillo, Jr. (R-Merrick) today announced that the New York State Senate has passed legislation he sponsors to close a loophole which allows someone arrested for DUI while driving with a conditional license to face only a traffic infraction.

“Someone with a conditional license has already endangered lives by driving under the influence. A conditionally licensed driver who drives under the influence again clearly has not learned their lesson; they need to face a stronger penalty than just a traffic infraction. We need to close the loopholes and ensure that those who continually put other drivers’ safety at risk face felony charges,” said Senator Fuschillo.

Conditional licenses permit driving in certain instances, including: driving to and from work, school, doctors’ offices, child care, the DMV, the probation department, and DUI 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. Someone who is arrested for, or convicted of, a DUI offense can currently apply for a conditional license from the

Department of Motor Vehicles (DMV), provided they have not been enrolled in a DMV sanctioned alcohol or drug program within the last five years.

However, a loophole in the current law allows these individuals to face only a traffic infraction if they drive under the influence again while holding a conditional license. Had they been driving with a suspended or revoked license, they would face a class E felony charge.

Senator Fuschillo's legislation (S4177) would close this loophole by creating class E felony charges for those caught driving under the influence with a conditional license. This would create consistency with the existing penalty for driving under the influence with a suspended or revoked license.

"New York State has been a national leader in the fight against drunk driving by strengthening laws, seeking stronger punishments, and through rigorous enforcement," said Nassau County District Attorney Kathleen Rice. "Closing this loophole is essential to maintaining that stance, and I applaud the Senate for passing this bill."

Mothers Against Drunk Driving (MADD) in a memo supporting the legislation, "urges" passage of the legislation to "close this loophole in New York's DWI law."

The legislation is also "strongly supported" by the District Attorneys Association of the State of New York. The Association noted in a memo of support that the legislation would "assist us in the prosecution of drunk drivers who continue to drive drunk or impaired."

The legislation has been sent to the Assembly for consideration.