



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Fuschillo Legislation Requiring Mandatory Jail Time for Repeat Dwi Offenders Passed by Senate

CHARLES J. FUSCHILLO JR. February 6, 2012

| ISSUE: **DRUNK DRIVING**

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

"Drunk drivers who repeatedly jeopardize innocent lives should not be able to get off with just community service; the only appropriate community service is to ensure these criminals spend time behind bars. Requiring mandatory jail sentences for repeat offenders would make people think twice before getting behind the wheel drunk again. New York State needs to send a strong message that if you continually drink and drive, then you are going to jail. The Senate did that today by approving this legislation, and I hope the Assembly will do the same," said Senator Fuschillo.

"Repeat drunk drivers have proven that treatment, fines, license suspension, and probation are not enough to deter them from endangering the lives of innocent motorists and pedestrians," said Nassau County District Attorney Kathleen Rice. "They may think twice, however, with a mandatory jail sentence hanging over their heads. I want to thank Senator Fuschillo for his unwavering commitment to strengthening DWI laws in New York State, and the rest of the Senate for approving this legislation."

Repeat DWI offenders are not required to spend any time in prison under current law. Right now, repeat DWI offenders 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 these offenders to only a fine or a fine and community service under the law.

Senator Fuschillo's legislation (S2597) would require drunk drivers with multiple DWI convictions to serve a jail sentence. 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.

These sentences would be in addition to any other applicable penalties.

According to a June 2011 study 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 all drunk drivers in New York State convicted in 2009 were repeat offenders. However, only 10 percent of recidivist drivers were sentenced to jail time.

"Our police officers are vigilant in making arrests, taking these potential killers off the roads, often risking their own lives in the process. However, our judges too often have the latitude to put them right back on the street. This has to stop. A mandatory jail provision for repeat offenders is just what is needed to get them to change their behavior while keeping the rest of us safe," said MADD Volunteer Victim Advocate Margaret Rebholz.

"When my husband was killed by a drunk driver in February of 2009 it was very hard to accept." said MADD Volunteer Sue Ciano, widow of Suffolk County Police Officer Glen Ciano. "Drunk drivers need to get the message that it is unacceptable to drive drunk or drugged, putting all of our lives at risk. Repeat offenders absolutely need to be incarcerated as they have already been given the opportunity to do the right thing and they have proven by their actions that they are not capable of making the right decisions. I wish to thank Senator Fuschillo for his continued support in strengthening the laws so they become stronger deterrents against drunk driving."

The legislation has been sent to the Assembly for consideration.