



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Senate Approves Senator Fuschillo's Legislation to Prevent Intoxicated Drivers From Avoiding Prosecution

CHARLES J. FUSCHILLO JR. June 11, 2013

| ISSUE: **DRUNK DRIVING**

Senator Charles J. Fuschillo, Jr. (R-Merrick) announced that the New York State Senate passed legislation he sponsored to prevent drunk and drugged drivers from evading prosecution. The legislation would allow law enforcement to seek court orders to compel whenever suspected drunk or drugged drivers refuse to submit to a chemical intoxication test.

“Current law makes it far too easy for an intoxicated driver to stonewall law enforcement, refuse to cooperate, and ultimately avoid prosecution for driving under the influence of alcohol or drugs. Allowing law enforcement to seek a court order compelling DWI suspects to submit to a chemical test will 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 breath, blood and urine tests, determine a suspected drunk or drugged driver's level of intoxication. Chemical tests are a critical 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 intoxicated driver to submit to a chemical test, but only in cases where someone has been killed or seriously injured. In any other instance, they cannot petition the court for an order to compel. As a result, intoxicated drivers are able to avoid prosecution for a DWI.

Senator Fuschillo's legislation (S757) would give law enforcement the authority to seek an order to compel in any instance where reasonable cause exists that a driver is driving under the influence and that driver refuses to submit to a chemical test. This would prevent an intoxicated driver from avoiding prosecution for DWI by refusing to cooperate with law enforcement.

National Transportation Safety Board (NTSB) Chairman Deborah Hersman, in a letter of support for the legislation, noted that the lack of a valid test result "denies the state valuable information in identifying those most in need of significant intervention and substantially weakens the system for preventing alcohol-impaired-driver-related fatalities." Chairman Hersman also expressed her thanks to Senator Fuschillo "for [his] leadership on this issue."

"Search warrants are essential to obtaining the necessary evidence to effectively prosecute dangerous criminals, yet drunk and drugged drivers are given an exception until they seriously injure or kill another person," said Nassau County District Attorney Kathleen Rice. "This double standard is unacceptable. This legislation gives law enforcement the means to prosecute these dangerous drivers before they have the chance to injure or kill, and it has my full support."