



NEW YORK STATE SENATOR

Patrick M. Gallivan

Gallivan, Senate Pass New Penalties for Aggravated Vehicular Homicide

PATRICK M. GALLIVAN June 13, 2013

| ISSUE: **CRIME, CONTROLLED SUBSTANCES, ALCOHOL, DRUGS, DRUNK DRIVING**

Legislation Responds To Tragically Similar Cases In Buffalo, Rochester Areas

Senator Patrick M. Gallivan (R-C-I, 59th District), Chair of the Senate's Crime Victims, Crime and Corrections Committee, announced today that the New York State Senate passed legislation ([S.4772](#)) to increase penalties for those who commit vehicular manslaughter and have a history of serially driving under the influence.

This new crime of aggravated vehicular homicide responds to a pair of recent incidents in western New York. Last November, in Amherst, NY, Jocelyn Elberson, 25, and Sheila Pelton, 81, were struck and killed while walking along a local recreation path after a man lost control of his motorcycle while driving under the influence. The man riding the motorcycle had four previous driving while intoxicated arrests in New York and one in Florida.

He was sentenced to four to 12 years in state prison, had his driver's license revoked and will serve five years of probation following his release. The court could have sentenced him to a maximum of five to 15 years.

In an eerily similar incident last July, a Rochester area woman, Heather Boyum, was struck and killed by a man driving a motorcycle while intoxicated. The man driving the motorcycle

in this incident had been previously arrested three times for driving while intoxicated.

“Innocent people are seeing their lives tragically cut short because of the poor decisions of a few individuals. What’s worse, had better laws been in place, we might have been able to keep these motorists and their utter disregard for the law or public safety off the road in the first place,” said Gallivan. “Those who have established through their own actions to have no respect for the law, even after repeated offenses, need to face the stiffest penalties.”

Under Gallivan’s legislation, the drivers in these incidents could have been charged with a Class B felony and potentially faced a maximum sentence of 25 years.

During the course of drafting this legislation, Gallivan met personally with the family of Jocelyn Elberson.

The bill was passed unanimously. It has been sent to the Assembly.

This legislation is part of Senator Gallivan's public safety legislative agenda, which includes “Alix’s Law”, named after an 18-year-old Alix Rice of Amherst, who was lost her life during a hit-and-run incident. The driver, who was intoxicated, argued that he was not aware he had hit a person and he was acquitted on the felony charge of leaving the scene of an accident. “Alix’s Law” would close that loophole by establishing a rebuttable presumption that intoxicated drivers know or have reason to know that they have been in an accident.

###