



NEW YORK STATE SENATOR

Martin J. Golden

Senate Passes Mandatory Dwi Testing After Serious Accidents

MARTIN J. GOLDEN March 26, 2014

Chemical Tests Would Be Required If Injury or Death Occurs

The New York State Senate today passed legislation that would help convict dangerous drivers under the influence of alcohol or drugs. The bill (S1446), sponsored by Senator John Flanagan (R-C-I, East Northport), would require testing drivers suspected of being under the influence when an accident occurs and results in serious injury or death.

“Every driver who makes the choice to drive under the influence of drugs or alcohol must be fully held accountable for their actions,” Senator Flanagan said. “There is no logical reason to continue to provide these drivers with the ability to escape appropriate punishment when they injure or kill by allowing them to hide behind outdated laws. This bill provides police and prosecutors with the tools they need to better safeguard our roadways and help save innocent lives throughout our state.”

In August of 2004, the National Highway Traffic Safety Administration's Final Report on State Laws and Practices for BAC Testing and Reporting Drivers Involved in Fatal Crashes, found that New York State reported testing the blood alcohol levels of only 3.9 percent of surviving drivers who were involved in fatal crashes. Only two states reported testing a smaller percentage of surviving drivers involved in fatal crashes.

After an accident, current state law allows for chemical testing, but it is not required. The decision is left to law enforcement. Law enforcement also needs to establish reasonable cause to order a chemical test.

This bill requires chemical tests to be performed on a driver when there is serious personal injury or death as a result of a motor vehicle accident and where it is reasonably believed that the driver was under the influence. It would also expand the tools available to law enforcement in requesting the chemical test by allowing the accident's occurrence to be sufficient for establishing reasonable cause. Law enforcement can then immediately administer the test if the driver consents, or upon obtaining a warrant or court order if the driver refuses or is unable to consent.

The bill will be sent to the Assembly.

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