



NEW YORK STATE SENATOR

Jack M. Martins

## Senate Passes Mandatory Dwi Testing After Serious Accidents

JACK M. MARTINS March 26, 2014

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### *Chemical Tests Would Be Required If Injury or Death Occurs*

The New York State Senate passed legislation, co-sponsored by Senator Jack M. Martins (R-Mineola), that would help convict dangerous drivers under the influence of alcohol or drugs. The legislation requires testing drivers suspected of being under the influence when an accident occurs and results in serious injury or death.

“This measure is another step in holding those who choose to drive under the influence of drugs or alcohol accountable for putting innocent lives at risk,” Senator Martins said. “This will provide law enforcement with more effective means to make our roads safer and save lives.”

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.