



NEW YORK STATE SENATOR

Timothy M. Kennedy

## Senator Kennedy: April 30 is Final Day NYSDOT Shielded from Accountability for Pothole Damage; Outdated Law Must be Changed

TIMOTHY M. KENNEDY April 30, 2014

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*Under Current Law, State Exempts Itself from Liability for Vehicle Damage Caused by Potholes on State Roads from November 15 to April 30. Kennedy is Leading Fight to Change that Law.*

*Kennedy Pushing Legislation in State Capitol to Protect Drivers from Massive Potholes During Winter Months.*

BUFFALO, N.Y. – Today, on the final day the state Department of Transportation is shielded from liability for pothole damage, Senator Tim Kennedy, D-Buffalo, renewed his push to protect drivers from massive potholes on state roads and called for action on his proposed legislation that will hold the DOT accountable for conditions of their highways throughout the entire year. Under current law, the state is exempted from liability for vehicle damages caused by potholes on state roads from November 15 to April 30. Kennedy is leading the fight to change that antiquated law.. The Senator also urged Albany to act on a bill he’s sponsoring to update the state’s 1-800-POTHOLE hotline with modern technology.

“New York State shields itself from responsibility for car damage caused by state roads during the winter months, but drivers have no protection from the massive potholes – reminders of the severity of this winter – that are scattered all across our roadways, waiting to wreak havoc on their vehicles. It’s simply not fair for hardworking Western New Yorkers who pay their taxes to cover the costs of road maintenance yet still have to pay out-of-pocket for car repairs when those roads aren’t maintained,” said Senator Kennedy. “Our legislation will allow drivers to hold the Department of Transportation accountable when state roads have fallen so deeply into disrepair that they become a danger for drivers and their vehicles.

“My office has fielded several calls from constituents in Buffalo and Western New York whose vehicles were damaged on state roads this winter, and we believe it’s time the state DOT steps up to help these drivers out,” Kennedy added.

When Kennedy pressed the DOT to do something to help the constituents who contacted his office, they said that the current law governing the state’s liability exempted them from covering repair costs for damages caused on state roads during winter months. State law currently says that any damage suffered by any vehicle between November 15 and April 30 will not be covered by the state – no matter how unreasonable or egregious the road

conditions.

Senator Kennedy's proposed legislation would provide drivers with fundamental protections from massive potholes, dislodged concrete and other deplorable road conditions on state highways. Essentially, if a car is damaged by unreasonable road conditions any time throughout the year, the driver will now have the opportunity to have the repairs covered by the state, under Kennedy's legislation. This will mean basic fairness for local drivers on state roads. The legislation will ensure New York State taxpayers do not have to pay out of pocket for damages caused by an affirmative act of negligence by the state or similarly unreasonable defect on a state highway.

Melissa Vaccaro, a Cheektowaga resident, was driving home from her office in Buffalo when she hit a large pothole on Route 33 east. The pothole took out both of her passenger-side tires and bent the rims. Repairs have cost her close to \$4,000, but DOT still told her they're exempt from liability in the winter. Kennedy's bill would change this, and give drivers – who suffer similar damage in the future – an opportunity to pursue damages from the state.

"After hitting a crater-sized pothole on a state road, it has cost me about \$4,000," said Melissa Vaccaro. "When the DOT told me there was nothing they could do, I called Senator Kennedy's office for help. I am so happy Senator Kennedy is taking action to try to help drivers from suffering a similar fate in the future. With his new legislation, drivers will have the chance to hold the DOT accountable for the deplorable conditions on some of their roads, instead of just being told, 'There's nothing we can do about it.' This will make a big difference for drivers, especially if we have to endure another harsh winter like this."

Senator Kennedy is also pushing for legislation to require New York State to take advantage of the latest technologies to complete their pothole repairs as efficiently and quickly as possible. NYSDOT has a pothole hotline at 1-800-POTHOLE, or 1-800-768-4653, where drivers

can call with reports of potholes on state highways and the Thruway. Kennedy is working to advance legislation that will require the DOT to develop an online portal where drivers can report potholes they've encountered, monitor the status of their repairs and stay informed of the locations of significant potholes that should be avoided. With this new online tool, drivers will be empowered to help the DOT set their priorities for road repairs. For instance, it's expected massive potholes reported by multiple drivers will likely be given higher priority. Kennedy also wants the online program to be built in a way to allow drivers to view accurate maps of where potholes have been reported and when they have been repaired.

"This legislation will bring the 1-800-POTHOLE hotline into the 21st century and keep the public engaged in the road repair process," Kennedy said.

In early March, Kennedy called for an increase in state funding for local roads and bridges through the state's Consolidated Highway Improvement Program (CHIPS). Kennedy cited the devastation caused to local roads after this year's harsh winter during his push, and \$40 million was secured in the state budget as an "Extreme Winter Recovery" fund, which is being distributed to towns, cities and counties to help fix potholes and rebuild roads. This increased funding for the CHIPS program will ensure communities have sufficient resources to combat the effects of the destructive winter and enhance their road-improvement plans to reconstruct and strengthen local highways and bridges.

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*Senator Timothy M. Kennedy represents the New York State Senate's 63rd District, which is comprised of the town of Cheektowaga, the city of Lackawanna and nearly all of the city of Buffalo. More information is available at <http://kennedy.nysenate.gov>.*