



NEW YORK STATE SENATOR

Charles J. Fuschillo Jr.

Senate Passes Fuschillo Bill to Give Law Enforcement New Tool to Catch Suspected Drunk Drivers

CHARLES J. FUSCHILLO JR. June 23, 2011

| ISSUE: **DRUNK DRIVING**

Senator Charles J. Fuschillo, Jr. (R-Merrick) today announced that the New York State Senate has passed legislation he sponsors to better enable law enforcement to catch suspected drunk drivers. The legislation (S3768B) would help prevent drunk drivers from escaping prosecution for DWI crimes by allowing law enforcement to seek court orders to compel when suspected drunk drivers refuse to submit to chemical intoxication tests.

“Drunk drivers put people’s lives and safety at risk every time they get behind the wheel. They shouldn’t be allowed to obstruct justice and avoid prosecution by withholding the key piece of evidence which could prove their guilt. Unfortunately, that’s exactly what happens under current law. Permitting law enforcement to seek a court order compelling DWI suspects to submit to a chemical test would help stop these individuals from avoiding prosecution for their crimes,” said Senator Fuschillo, Chairman of the Senate’s Transportation Committee.

Chemical tests, such as blood, breath, and urine tests, are used to determine a suspected drunk driver’s level of intoxication. Chemical tests are a crucial piece of evidence used in a trial to prosecute a drunk 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 drunk driver to compel and submit to a chemical test, but only in cases where someone has been killed or seriously injured. They are prohibited from seeking orders to compel in all other circumstances. Current law also allows drivers who are compelled to submit to a chemical test to escape the mandatory license revocation penalty for initially refusing to submit.

However, since the chemical test is often the sole, objective piece of evidence in a DWI case, many drivers refuse to submit, preferring to have their license temporarily revoked and pay a fine instead of being convicted of a criminal DWI charge. Law enforcement’s inability to request orders to compel in all DWI cases is enabling these drivers to escape prosecution for a DWI crime.

Senator Fuschillo’s legislation would close this loophole by giving law enforcement the authority to seek an order to compel in all DWI cases where the suspect refuses to submit to a chemical test. In addition, Senator Fuschillo’s legislation would require an automatic license suspension for anyone who refuses a chemical test, regardless if they are eventually compelled to submit.

The legislation has been sent to the Assembly.

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