



NEW YORK STATE SENATOR

John J. Flanagan

Senator Flanagan's Legislation Mandating DWI Testing After Serious Accidents Passes Senate

JOHN J. FLANAGAN March 26, 2014

| ISSUE: **DRUNK DRIVING**

Senator John Flanagan (2nd Senate District) announced today that the New York State Senate has passed legislation he sponsored that would help increase prosecution of drivers who are under the influence of alcohol and/or drugs. The bill (S1446) would require chemical testing of drivers suspected of being impaired when an accident occurs and results in serious injury or death.

Under current law, chemical testing is permitted at the discretion of law enforcement following an accident but it is not required. Additionally, law enforcement needs to establish reasonable cause to order a chemical test.

Senator Flanagan's legislation would require chemical tests to be performed on a driver when there is serious physical injury or death as a result of a motor vehicle accident and where it is reasonably believed that the driver was under the influence of alcohol and/or drugs. It would also expand the ability of law enforcement to administer chemical tests by allowing the accident's occurrence to be sufficient for establishing reasonable cause.

Law enforcement can 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.

In August of 2012, 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 only 6 percent of surviving drivers who were involved in fatal crashes for their Blood Alcohol Concentration. Only four states in the nation reported testing a smaller percentage of surviving drivers involved in fatal crashes.

“Each and every driver who gets behind the wheel while under the influence of drugs or alcohol must know that they will be held fully accountable for their actions. To accomplish this, our state needs to constantly update the tools our law enforcement officials have at their disposal to protect our roadways and our residents from these reckless and irresponsible drivers. The legislation we passed this week will help do that and that will help save innocent lives throughout our state,” stated Senator Flanagan.

The bill was sent to the Assembly for further action.