S T A T E O F N E W Y O R K

2092

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. SCHROEDER -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to requiring breathalyzer tests of drivers involved in accidents causing serious physical injury or death

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 603-a of the vehicle and traffic law, as added by chapter 408 of the laws of 2001, is amended to read as follows:

1. In addition to the requirements of section six hundred three of this article, whenever a motor vehicle accident results in serious physical injury or death to a person, and such accident either is discovered by a police officer, or reported to a police officer within five days after such accident occurred, the police shall conduct an investigation of such accident.

(A) Such investigation shall be conducted for the purposes of making a determination of the following: the facts and circumstances of the accident; the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, and/or bicycles; whether pedestrians were involved; the contributing factor or factors; whether it can be determined if a violation or violations of this chapter occurred, and if so, the specific provisions of this chapter which were violated and by whom; and, the cause of such accident, where such cause can be determined.

(B) SUCH INVESTIGATION OF AN ACCIDENT SCENE SHALL ALSO INCLUDE THE ADMINISTRATION OF FIELD SOBRIETY AND A CHEMICAL TEST OF BLOOD ALCOHOL LEVEL TO ALL MOTOR VEHICLE DRIVERS INVOLVED IN SUCH ACCIDENT. THE INVESTIGATING POLICE OFFICERS MUST INFORM THE DRIVERS OF SUCH TESTING REQUIREMENTS AND CONDUCT THEM IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER. THE REFUSAL TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SUBMIT TO SUCH TESTING SHALL CONSTITUTE A REBUTTABLE PRESUMPTION OF GUILT AND SUCH REFUSAL SHALL BE DOCUMENTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER. IF PHYSICAL INJURIES DO NOT PERMIT SUCH CHEMICAL TESTING AT THE ACCIDENT SCENE, SUCH TESTS MUST BE ADMINISTERED AT THE HOSPITAL. THE RESULTS OF SUCH FIELD SOBRIETY AND CHEMICAL TESTS OR REFUSALS OF SUCH TESTS SHALL BE INCLUDED IN THE POLICE INVESTIGATION REPORT.

(C) The police shall forward a copy of the investigation report to the commissioner within five business days of the completion of such report.

S 2. Paragraphs (a) and (b) of subdivision 2 of section 603-a of the vehicle and traffic law, as added by chapter 408 of the laws of 2001, are amended, and two new paragraphs (c) and (d) are added to read as follows:

(a) "commercial motor vehicle" shall have the same meaning as such term is defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter; [and]

(b) "serious physical injury" shall have the same meaning as such term is defined in section 10.00 of the penal law[.];

(C) "FIELD SOBRIETY TESTING" SHALL HAVE THE SAME MEANING AS "FIELD TEST" OR "BREATH TEST" PURSUANT TO SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER; AND

(D) "CHEMICAL TEST" OF BLOOD ALCOHOL LEVEL SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER.

S 3. This act shall take effect on the thirtieth day after it shall have become a law.