

6242

2009-2010 Regular Sessions

I N S E N A T E

October 23, 2009

Introduced by Sen. ESPADA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the vehicle and traffic law, in relation to requiring that any persons operating a motor vehicle involved in an accident be subjected to mandatory breath and chemical testing

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

1 Section 1. This act shall be known and may be cited as "Marky's Law".
2 S 2. Paragraph (b) of subdivision 1 and subparagraphs 1 and 2 of para-
3 graph (a) of subdivision 2 of section 1194 of the vehicle and traffic
4 law, paragraph (b) of subdivision 1 as added by chapter 47 of the laws
5 of 1988 and subparagraphs 1 and 2 of paragraph (a) of subdivision 2 as
6 amended by chapter 196 of the laws of 1996, are amended to read as
7 follows:
8 (b) Field testing. Every person operating a motor vehicle which has
9 been involved in an accident or which is operated in violation of any of
10 the provisions of this chapter shall, at the request of a police offi-
11 cer, submit to a breath test to be administered by the police officer AT
12 THE SCENE OF SUCH ACCIDENT OR COLLISION. If such test indicates that
13 such operator has consumed alcohol, the police officer [may] SHALL
14 request such operator to submit to a chemical test in the manner set
15 forth in subdivision two of this section.
16 (1) having reasonable grounds to believe such person to have been
17 operating in violation of any subdivision of section eleven hundred
18 ninety-two of this article and within [two hours] ONE HOUR after such
19 person has been placed under arrest for any such violation; or having
20 reasonable grounds to believe such person to have been operating in
21 violation of section eleven hundred ninety-two-a of this article and
22 within [two hours] ONE HOUR after the stop of such person for any such
23 violation,

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

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1 (2) within [two hours] ONE HOUR after a breath test, as provided in
2 paragraph (b) of subdivision one of this section, indicates that alcohol
3 has been consumed by such person and in accordance with the rules and
4 regulations established by the police force of which the officer is a
5 member;
6 S 3. This act shall take effect immediately.