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

2573

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. PRETLOW, CLARK, CARROZZA, GALEF -- Multi-Sponsored by -- M. of A. DIAZ, ENGLEBRIGHT, JOHN, MAYERSOHN -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the application for court orders for compulsory chemical tests to determine blood alcohol content

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

Section 1. The opening paragraph of paragraph (b) of subdivision 3 of section 1194 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, is amended to read as follows:

Upon refusal by any person to submit to a chemical test or any portion thereof as described above, [the test shall not be given unless] a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, [requests and obtains] SHALL REQUEST a court order to compel a person to submit to a chemical test to determine the alcoholic or drug content of the person's blood [upon a finding of] IF SUCH POLICE OFFICER OR DISTRICT ATTORNEY FINDS THAT THERE EXISTS reasonable cause to believe that:

S 2. Subdivision 3 of section 1194 of the vehicle and traffic law is amended by adding a new paragraph (f) to read as follows:

(F) EXCEPTION. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION, A POLICE OFFICER SHALL NOT BE REQUIRED TO REQUEST A COURT ORDER TO COMPEL SUBMISSION TO A CHEMICAL TEST WHERE SUCH REQUEST WOULD IMPAIR THE ABILITY TO ADDRESS MEDICAL NEEDS OR OTHER EXIGENT CIRCUMSTANCES AT THE SCENE OF AN INCIDENT.

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

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

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