

1091

2009-2010 Regular Sessions

I N   S E N A T E

January 26, 2009

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Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed 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:

1     Section 1. Subdivision 1 of section 603-a of the vehicle and traffic  
2     law, as added by chapter 408 of the laws of 2001, is amended to read as  
3     follows:  
4     1. In addition to the requirements of section six hundred three of  
5     this article, whenever a motor vehicle accident results in serious phys-  
6     ical injury or death to a person, and such accident either is discovered  
7     by a police officer, or reported to a police officer within five days  
8     after such accident occurred, the police shall conduct an investigation  
9     of such accident.  
10    (A) Such investigation shall be conducted for the purposes of making a  
11    determination of the following: the facts and circumstances of the acci-  
12    dent; the type or types of vehicles involved, including passenger motor  
13    vehicles, commercial motor vehicles, motorcycles, limited use motorcy-  
14    cles, off-highway motorcycles, and/or bicycles; whether pedestrians were  
15    involved; the contributing factor or factors; whether it can be deter-  
16    mined if a violation or violations of this chapter occurred, and if so,  
17    the specific provisions of this chapter which were violated and by whom;  
18    and, the cause of such accident, where such cause can be determined.  
19    (B) SUCH INVESTIGATION OF AN ACCIDENT SCENE SHALL ALSO INCLUDE THE  
20    ADMINISTRATION OF FIELD SOBRIETY AND A CHEMICAL TEST OF BLOOD ALCOHOL  
21    LEVEL TO ALL MOTOR VEHICLE DRIVERS INVOLVED IN SUCH ACCIDENT. THE INVE-  
22    TIGATING POLICE OFFICERS MUST INFORM THE DRIVERS OF SUCH TESTING  
23    REQUIREMENTS AND CONDUCT THEM IN ACCORDANCE WITH THE PROVISIONS OF  
24    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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1 SUBMIT TO SUCH TESTING SHALL CONSTITUTE A REBUTTABLE PRESUMPTION OF  
2 GUILT AND SUCH REFUSAL SHALL BE DOCUMENTED IN ACCORDANCE WITH THE  
3 PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER. IF  
4 PHYSICAL INJURIES DO NOT PERMIT SUCH CHEMICAL TESTING AT THE ACCIDENT  
5 SCENE, SUCH TESTS MUST BE ADMINISTERED AT THE HOSPITAL. THE RESULTS OF  
6 SUCH FIELD SOBRIETY AND CHEMICAL TESTS OR REFUSALS OF SUCH TESTS SHALL  
7 BE INCLUDED IN THE POLICE INVESTIGATION REPORT.

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

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

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

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

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

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

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