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

10497

I N A S S E M B L Y

May 29, 2012

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

AN ACT to amend the vehicle and traffic law, in relation to implementing impairment testing in traffic accidents where serious bodily injury or death has occurred

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

Section 1. The vehicle and traffic law is amended by adding a new section 1194-b to read as follows:

S 1194-B. IMPAIRMENT TESTING IN FATAL OR SERIOUS COLLISIONS. 1. IF A LAW ENFORCEMENT OFFICER HAS REASONABLE CAUSE, AS DEFINED IN SECTION 70.10 OF THE CRIMINAL PROCEDURE LAW, TO BELIEVE THAT AN INDIVIDUAL OPERATED A MOTOR VEHICLE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL AND CAUSED OR CONTRIBUTED TO AN ACCIDENT WHICH RESULTED IN THE DEATH OR SERIOUS BODILY INJURY TO ANOTHER INDIVIDUAL, THE LAW ENFORCEMENT OFFICER SHALL REQUEST SUCH INDIVIDUAL SUBMIT TO DRUG AND ALCOHOL SUBSTANCE TESTING. SUCH TESTING SHALL BE FOR THE SOLE PURPOSE OF DETERMINING THE PRESENCE OF ANY IMPAIRING SUBSTANCES AT THE TIME OF THE ACCIDENT.

2. SUCH TESTING SHALL BE CONDUCTED AND PERFORMED IN A REASONABLE MANNER UTILIZING THE STANDARD PROTOCOLS UNDER THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION MANUAL, SECTION ELEVEN HUNDRED NINETY-FOUR OF THIS ARTICLE AND ANY OTHER APPLICABLE STATE LAWS AND REGULATIONS.

3. ANY INDIVIDUAL REFUSING TO SUBMIT TO DRUG AND ALCOHOL SUBSTANCE TESTING IF REQUESTED SHALL HAVE THEIR LICENSE SUSPENDED FOR A MINIMUM OF SIX MONTHS PRIOR TO A DEPARTMENT OF MOTOR VEHICLES REFUSAL HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE.

4. REFUSAL TO SUBMIT TO DRUG AND ALCOHOL SUBSTANCE TESTING WHEN REQUESTED MAY BE USED AS EVIDENCE AGAINST AN INDIVIDUAL AT TRIAL.

S 2. This act shall take effect on the ninetieth 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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