

2060

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

Introduced by Sen. KRUGER -- 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 and the penal law, in relation to the sentence for leaving scene of a vehicular incident with knowledge that serious physical injury or death is likely to result therefrom

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

1 Section 1. Subdivision 2 of section 600 of the vehicle and traffic
2 law, as amended by chapter 49 of the laws of 2005, is amended to read as
3 follows:
4 2. Personal injury. a. Any person operating a motor vehicle who,
5 knowing or having cause to know that personal injury has been caused to
6 another person, due to an incident involving the motor vehicle operated
7 by such person shall, before leaving the place where the said personal
8 injury occurred, stop, exhibit his or her license and insurance iden-
9 tification card for such vehicle, when such card is required pursuant to
10 articles six and eight of this chapter, and give his or her name, resi-
11 dence, including street and street number, insurance carrier and insur-
12 ance identification information including but not limited to the number
13 and effective dates of said individual's insurance policy and license
14 number, to the injured party, if practical, and also to a police offi-
15 cer, or in the event that no police officer is in the vicinity of the
16 place of said injury, then, he or she shall report said incident as soon
17 as physically able to the nearest police station or judicial officer.
18 b. It shall be the duty of any member of a law enforcement agency who
19 is at the scene of the accident to request the said operator or opera-
20 tors of the motor vehicles, when physically capable of doing so, to
21 exchange the information required hereinabove and such member of a law
22 enforcement agency shall assist such operator or operators in making
23 such exchange of information in a reasonable and harmonious manner.

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

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1 c. A violation of the provisions of paragraph a of this subdivision
2 resulting solely from the failure of an operator to exhibit his or her
3 license and insurance identification card for the vehicle or exchange
4 the information required in such paragraph shall constitute a class B
5 misdemeanor punishable by a fine of not less than two hundred fifty nor
6 more than five hundred dollars in addition to any other penalties
7 provided by law. Any subsequent such violation shall constitute a class
8 A misdemeanor punishable by a fine of not less than five hundred nor
9 more than one thousand dollars in addition to any other penalties
10 provided by law. Any violation of the provisions of paragraph a of this
11 subdivision, other than for the mere failure of an operator to exhibit
12 his or her license and insurance identification card for such vehicle or
13 exchange the information required in such paragraph, shall constitute a
14 class A misdemeanor, punishable by a fine of not less than five hundred
15 dollars nor more than one thousand dollars in addition to any other
16 penalties provided by law. Any such violation committed by a person
17 after such person has previously been convicted of such a violation
18 shall constitute a class E felony, punishable by a fine of not less than
19 one thousand nor more than two thousand five hundred dollars in addition
20 to any other penalties provided by law. Any violation of the provisions
21 of paragraph a of this subdivision, other than for the mere failure of
22 an operator to exhibit his or her license and insurance identification
23 card for such vehicle or exchange the information required in such para-
24 graph, where the personal injury involved [(i)] results in serious phys-
25 ical injury, as defined in section 10.00 of the penal law, [shall
26 constitute a class E felony, punishable by a fine of not less than one
27 thousand nor more than five thousand dollars in addition to any other
28 penalties provided by law,] or [(ii)] results in death shall constitute
29 a class D felony punishable by a fine of not less than two thousand nor
30 more than five thousand dollars in addition to any other penalties
31 provided by law.

32 S 2. Subdivision 5 of section 60.05 of the penal law, as amended by
33 chapter 405 of the laws of 2010, is amended to read as follows:

34 5. Certain class D felonies. Except as provided in subdivision six of
35 this section, every person convicted of the class D [felonies of assault
36 in the second degree as defined in section 120.05, strangulation in the
37 second degree as defined in section 121.12] FELONY or attempt to commit
38 a class C felony as defined in section 230.30 of this chapter[,] must be
39 sentenced in accordance with section 70.00 or 85.00 of this title.

40 S 3. Paragraph (b) of subdivision 3 of section 70.00 of the penal law,
41 as amended by chapter 746 of the laws of 2006, is amended to read as
42 follows:

43 (b) [For any other] IN THE CASE OF A felony OTHER THAN A CLASS A FELO-
44 NY:

45 (I) WHERE THE SENTENCE IS FOR A CLASS B FELONY, the minimum period
46 shall be fixed by the court and specified in the sentence and shall be
47 not less than one year nor more than one-third of the maximum term
48 imposed[.]; AND

49 (II) WHERE THE SENTENCE IS FOR ANY OTHER FELONY, THE MINIMUM PERIOD
50 SHALL BE FIXED BY THE COURT AND SPECIFIED IN THE SENTENCE AND SHALL BE
51 NOT LESS THAN ONE YEAR NOR MORE THAN ONE-THIRD OF THE MAXIMUM TERM
52 IMPOSED.

53 S 4. Subdivision 4 of section 70.00 of the penal law, as amended by
54 chapter 738 of the laws of 2004, is amended to read as follows:

55 4. Alternative definite sentence for class [D and] E AND CERTAIN CLASS
56 D AND C felonies. When a person, other than a second or persistent felo-

1 ny offender, is sentenced for a class D or class E felony, OR FOR A
2 CLASS C FELONY SPECIFIED IN ARTICLE TWO HUNDRED TWENTY OR ARTICLE TWO
3 HUNDRED TWENTY-ONE OF THIS CHAPTER and the court, having regard to the
4 nature and circumstances of the crime and to the history and character
5 of the defendant, is of the opinion that a sentence of imprisonment is
6 necessary but that it would be unduly harsh to impose an indeterminate
7 or determinate sentence, the court may impose a definite sentence of
8 imprisonment and fix a term of one year or less.
9 S 5. This act shall take effect on the first of November next succeed-
10 ing the date on which it shall have become a law.