

2853

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. PRETLOW, CLARK, GALEF -- Multi-Sponsored by -- M.  
of A. ENGLEBRIGHT, MAYERSOHN -- read once and referred to the Commit-  
tee on Transportation

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

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

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

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

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

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

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

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

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