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I N A S S E M B L Y

January 22, 2014

Introduced by M. of A. BENEDETTO, MAYER, CLARK, JAFFEE, CROUCH, WALTER, CERETTO, RAI, KEARNS, GOODELL, GALEF -- Multi-Sponsored by -- M. of A. DUPREY, McDONOUGH, McKEVITT, McLAUGHLIN, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to mandatory testing in the event of a motor vehicle collision resulting in injury or death

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

- 1 Section 1. This act shall be known and may be cited as "Ruby's Law."
2 S 2. Subdivision 1 of section 603-a of the vehicle and traffic law, as
3 added by chapter 408 of the laws of 2001, is amended to read as 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) WHEN PRESENT AT THE SCENE OF SUCH ACCIDENT, THE INVESTIGATING
20 OFFICER SHALL ALSO REQUEST THAT ALL OPERATORS OF MOTOR VEHICLES INVOLVED
21 IN SUCH ACCIDENT SUBMIT TO A FIELD SOBRIETY TEST AS DEFINED IN SECTION
22 ELEVEN HUNDRED NINETY-FOUR OF THIS CHAPTER PROVIDED THERE ARE REASONABLE
23 GROUNDS TO BELIEVE SUCH MOTOR VEHICLE OPERATOR COMMITTED A SERIOUS TRAF-

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

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1 FIC VIOLATION IN THE SAME ACCIDENT. UPON REFUSAL TO SUBMIT TO SUCH TEST-
2 ING, SUCH PERSON SHALL BE SUBJECT TO THE PROVISIONS OF SECTION ELEVEN
3 HUNDRED NINETY-FOUR OF THIS CHAPTER. THE RESULTS OF SUCH FIELD SOBRIETY
4 AND CHEMICAL TESTS OR REFUSALS OF SUCH TESTS SHALL BE INCLUDED IN THE
5 POLICE INVESTIGATION REPORT. FOR THE PURPOSES OF THIS SECTION, "SERIOUS
6 TRAFFIC VIOLATION" SHALL MEAN OPERATING A MOTOR VEHICLE IN VIOLATION OF
7 ANY OF THE FOLLOWING PROVISIONS OF THIS CHAPTER: ARTICLES TWENTY-THREE,
8 TWENTY-FOUR, TWENTY-FIVE, TWENTY-SIX, TWENTY-EIGHT, TWENTY-NINE AND
9 THIRTY AND SECTIONS FIVE HUNDRED ELEVEN, SIX HUNDRED AND TWELVE HUNDRED
10 TWELVE.

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

13 S 3. Paragraphs (b) and (c) of subdivision 2 of section 1194 of the
14 vehicle and traffic law, paragraph (b) as amended by chapter 196 of the
15 laws of 1996 and paragraph (c) as added by chapter 47 of the laws of
16 1988, are amended to read as follows:

17 (b) Report of refusal. (1) If: (A) such person having been placed
18 under arrest OR HAVING DRIVEN A VEHICLE INVOLVED IN AN ACCIDENT RESULT-
19 ING IN SERIOUS PHYSICAL INJURY TO, OR THE DEATH OF, ANOTHER PERSON AND,
20 PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION SIX HUNDRED
21 THREE-A OF THIS CHAPTER, THERE ARE REASONABLE GROUNDS TO BELIEVE SUCH
22 PERSON HAS COMMITTED A SERIOUS TRAFFIC VIOLATION AS DEFINED BY SUCH
23 PARAGRAPH; or (B) after a breath test indicates the presence of alcohol
24 in the person's system; or (C) with regard to a person under the age of
25 twenty-one, there are reasonable grounds to believe that such person has
26 been operating a motor vehicle after having consumed alcohol in
27 violation of section eleven hundred ninety-two-a of this article; and
28 having thereafter been requested to submit to such chemical test and
29 having been informed that the person's license or permit to drive and
30 any non-resident operating privilege shall be immediately suspended and
31 subsequently revoked, or, for operators under the age of twenty-one for
32 whom there are reasonable grounds to believe that such operator has been
33 operating a motor vehicle after having consumed alcohol in violation of
34 section eleven hundred ninety-two-a of this article, shall be revoked
35 for refusal to submit to such chemical test or any portion thereof,
36 whether or not the person is found guilty of the charge for which such
37 person is arrested or detained, refuses to submit to such chemical test
38 or any portion thereof, unless a court order has been granted pursuant
39 to subdivision three of this section, the test shall not be given and a
40 written report of such refusal shall be immediately made by the police
41 officer before whom such refusal was made. Such report may be verified
42 by having the report sworn to, or by affixing to such report a form
43 notice that false statements made therein are punishable as a class A
44 misdemeanor pursuant to section 210.45 of the penal law and such form
45 notice together with the subscription of the deponent shall constitute a
46 verification of the report.

47 (2) The report of the police officer shall set forth reasonable
48 grounds to believe such arrested person or such detained person under
49 the age of twenty-one had been driving in violation of any subdivision
50 of section eleven hundred ninety-two or eleven hundred ninety-two-a of
51 this article, that said person had refused to submit to such chemical
52 test, and that no chemical test was administered pursuant to the
53 requirements of subdivision three of this section. The report shall be
54 presented to the court upon arraignment of an arrested person OR A
55 PERSON ARRESTED OR ISSUED AN APPEARANCE TICKET FOR A SERIOUS TRAFFIC
56 VIOLATION COMMITTED IN THE SAME ACCIDENT BEING INVESTIGATED PURSUANT TO

1 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION SIX HUNDRED THREE-A OF THIS
2 CHAPTER, provided, however, in the case of a person under the age of
3 twenty-one, for whom a test was authorized pursuant to the provisions of
4 subparagraph two or three of paragraph (a) of this subdivision, and who
5 has not been placed under arrest for a violation of any of the
6 provisions of section eleven hundred ninety-two of this article, such
7 report shall be forwarded to the commissioner within forty-eight hours
8 in a manner to be prescribed by the commissioner, and all subsequent
9 proceedings with regard to refusal to submit to such chemical test by
10 such person shall be as set forth in subdivision three of section eleven
11 hundred ninety-four-a of this article.

12 (3) For persons placed under arrest for a violation of any subdivision
13 of section eleven hundred ninety-two of this article OR PLACED UNDER
14 ARREST OR ISSUED AN APPEARANCE TICKET FOR A SERIOUS TRAFFIC VIOLATION
15 COMMITTED IN THE SAME ACCIDENT BEING INVESTIGATED PURSUANT TO PARAGRAPH
16 (B) OF SUBDIVISION ONE OF SECTION SIX HUNDRED THREE-A OF THIS CHAPTER,
17 the license or permit to drive and any non-resident operating privilege
18 shall, upon the basis of such written report, be temporarily suspended
19 by the court without notice pending the determination of a hearing as
20 provided in paragraph (c) of this subdivision. Copies of such report
21 must be transmitted by the court to the commissioner and such transmit-
22 tal may not be waived even with the consent of all the parties. Such
23 report shall be forwarded to the commissioner within forty-eight hours
24 of such arraignment.

25 (4) The court or the police officer, in the case of a person under the
26 age of twenty-one alleged to be driving after having consumed alcohol,
27 shall provide such person with a scheduled hearing date, a waiver form,
28 and such other information as may be required by the commissioner. If a
29 hearing, as provided for in paragraph (c) of this subdivision, or subdi-
30 vision three of section eleven hundred ninety-four-a of this article, is
31 waived by such person, the commissioner shall immediately revoke the
32 license, permit, or non-resident operating privilege, as of the date of
33 receipt of such waiver in accordance with the provisions of paragraph
34 (d) of this subdivision.

35 (c) Hearings. Any person whose license or permit to drive or any non-
36 resident driving privilege has been suspended pursuant to paragraph (b)
37 of this subdivision is entitled to a hearing in accordance with a hear-
38 ing schedule to be promulgated by the commissioner. If the department
39 fails to provide for such hearing fifteen days after the date of the
40 arraignment of the arrested person, the license, permit to drive or
41 non-resident operating privilege of such person shall be reinstated
42 pending a hearing pursuant to this section. The hearing shall be limited
43 to the following issues: (1) did the police officer have reasonable
44 grounds to believe that such person had been driving in violation of any
45 subdivision of section eleven hundred ninety-two of this article OR WAS
46 DRIVING A VEHICLE INVOLVED IN AN ACCIDENT BEING INVESTIGATED PURSUANT TO
47 PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION SIX HUNDRED THREE-A OF THIS
48 CHAPTER; (2) did the police officer make a lawful arrest of such person
49 OR ISSUE A LAWFUL APPEARANCE TICKET TO, OR MAKE A LAWFUL ARREST OF, SUCH
50 PERSON FOR A SERIOUS TRAFFIC VIOLATION COMMITTED IN THE SAME ACCIDENT
51 BEING INVESTIGATED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION ONE OF
52 SECTION SIX HUNDRED THREE-A OF THIS CHAPTER; (3) was such person given
53 sufficient warning, in clear or unequivocal language, prior to such
54 refusal that such refusal to submit to such chemical test or any portion
55 thereof, would result in the immediate suspension and subsequent revoca-
56 tion of such person's license or operating privilege whether or not such

1 person is found guilty of the charge for which the arrest was made OR
2 THE APPEARANCE TICKET WAS ISSUED; and (4) did such person refuse to
3 submit to such chemical test or any portion thereof. If, after such
4 hearing, the hearing officer, acting on behalf of the commissioner,
5 finds on any one of said issues in the negative, the hearing officer
6 shall immediately terminate any suspension arising from such refusal.
7 If, after such hearing, the hearing officer, acting on behalf of the
8 commissioner finds all of the issues in the affirmative, such officer
9 shall immediately revoke the license or permit to drive or any non-resi-
10 dent operating privilege in accordance with the provisions of paragraph
11 (d) of this subdivision. A person who has had a license or permit to
12 drive or non-resident operating privilege suspended or revoked pursuant
13 to this subdivision may appeal the findings of the hearing officer in
14 accordance with the provisions of article three-A of this chapter. Any
15 person may waive the right to a hearing under this section. Failure by
16 such person to appear for the scheduled hearing shall constitute a waiv-
17 er of such hearing, provided, however, that such person may petition the
18 commissioner for a new hearing which shall be held as soon as practica-
19 ble.

20 S 4. This act shall take effect on the thirtieth day after it shall
21 have become a law.