



ING OR CONTRIBUTING TO SUCH ACCIDENTS WHEN USING ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES SHOULD NOT SUFFER THE ECONOMIC BURDEN CREATED BY ANY SUCH ACCIDENT AND THE ADDITIONAL ECONOMIC BURDEN OF RECOVERING THE COSTS AND EXPENSES INCIDENT THERETO, IT IS THE DETERMINATION OF THIS LEGISLATURE THAT THE PASSAGE OF THIS ARTICLE IS REQUIRED IN ORDER TO ALLOW THE MORE EQUITABLE DISTRIBUTION OF THE COST AND EXPENSE IMPOSED BY SUCH ANTISOCIAL CONDUCT.

S 796-A. DEFINITIONS. THE FOLLOWING TERMS SHALL HAVE THE MEANINGS HEREINAFTER SET FORTH, RESPECTIVELY:

1. "CONTROLLED SUBSTANCES" SHALL MEAN AND INCLUDE ANY SUBSTANCE NAMED OR DESCRIBED AS SUCH IN TITLE ONE OF ARTICLE THIRTY-THREE OF THE PUBLIC HEALTH LAW.

2. "COSTS AND EXPENSES OF EMERGENCY RESPONSES" SHALL MEAN AND INCLUDE, BUT NOT BE LIMITED TO, ALL COSTS OF LABOR, MEDICAL MATERIALS, MEDICAL EQUIPMENT, POLICE EQUIPMENT, FIRE EQUIPMENT, AND ADMINISTRATIVE EXPENSES ASSOCIATED THEREWITH, WHICH SHALL BE EXPENDED, USED, ASSOCIATED WITH, OCCASIONED BY OR CONNECTED WITH ANY EMERGENCY MEDICAL, FIRE OR POLICE RESPONSE AND, FOR THE PURPOSES HEREOF, THE COSTS OF EMERGENCY MEDICAL, FIRE AND POLICE MANPOWER SERVICES SHALL BE AS SET FORTH ON SUCH SCHEDULES AS A MUNICIPALITY MAY ADOPT, FROM TIME TO TIME, BY RESOLUTION PURSUANT TO THIS ARTICLE.

S 796-B. LOCAL LAWS AND ORDINANCES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY AND SUBJECT TO THE PROVISIONS OF THIS ARTICLE, ANY CITY, COUNTY, TOWN OR VILLAGE IN THIS STATE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND EITHER A LOCAL LAW OR AN ORDINANCE PROVIDING FOR THE RECOVERY BY SUCH MUNICIPALITY OF ANY COST OR EXPENSE INCURRED OR EXPENDED BY IT AS THE RESULT OF THE OPERATION OF A MOTOR VEHICLE WITHIN SUCH MUNICIPALITY BY AN INDIVIDUAL WHILE UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES OR A COMBINATION OF ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES ARE IMPAIRED OR TO THE EXTENT THAT HE OR SHE IS DEPRIVED OF FULL POSSESSION OF HIS OR HER NORMAL FACULTIES AND, IF SUCH PERSON SHALL PROXIMATELY CAUSE AN ACCIDENT OR IS A SUBSTANTIAL CAUSATIVE FACTOR OF AN ACCIDENT RESULTING IN THE NEED FOR SUCH MUNICIPALITY TO PROVIDE EMERGENCY MEDICAL, FIRE OR POLICE RESPONSES OR SERVICES, SUCH PERSON SHALL BE LIABLE TO SUCH MUNICIPALITY FOR ALL COSTS AND EXPENSES OF SUCH EMERGENCY RESPONSES AND SERVICES.

S 796-C. STANDARD OF IMPAIRMENT; TESTING METHODS. 1. IN ANY TRIAL OF ANY CIVIL ACTION OR PROCEEDING WITH RESPECT TO THE ENFORCEMENT OF ANY LOCAL LAW OR ORDINANCE PASSED PURSUANT HERETO ALLEGING THAT ANY PERSON IS LIABLE TO SUCH MUNICIPALITY BECAUSE SUCH PERSON WAS THE CAUSE OF OR WAS A SUBSTANTIAL CAUSATIVE FACTOR OF AN ACCIDENT REQUIRING EMERGENCY MEDICAL, FIRE OR POLICE RESPONSES WHILE SUCH PERSON WAS DRIVING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES, OR A COMBINATION OF ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES, TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES WERE IMPAIRED, OR TO THE EXTENT THAT HE OR SHE WAS DEPRIVED OF FULL POSSESSION OF HIS OR HER NORMAL FACULTIES, THE RESULTS OF ANY TEST ADMINISTERED IN ACCORDANCE WITH ARTICLE THIRTY-ONE OF THE VEHICLE AND TRAFFIC LAW SHALL BE ADMISSIBLE INTO EVIDENCE WHEN OTHERWISE ADMISSIBLE, AND THE AMOUNT OF ALCOHOL OR CONTROLLED SUBSTANCE IN THE PERSON'S BLOOD AT THE TIME ALLEGED, AS SHOWN BY CHEMICAL ANALYSIS OF THE PERSON'S BLOOD OR BREATH OR URINE, SHALL GIVE RISE TO THE FOLLOWING PRESUMPTIONS:

1 A. IF THERE WAS, AT THE TIME, 0.05 PERCENT OR LESS BY WEIGHT OF ALCO-  
2 HOL IN THE PERSON'S BLOOD, AND IF THERE WAS NO EVIDENCE OF A CONTROLLED  
3 SUBSTANCE IN SUCH PERSON'S BLOOD, IT SHALL BE PRESUMED THAT THE PERSON  
4 WAS NOT UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES OR CONTROLLED  
5 SUBSTANCES OR ANY COMBINATION THEREOF TO THE EXTENT THAT HIS OR HER  
6 NORMAL FACULTIES WERE IMPAIRED.

7 B. IF THERE WAS, AT THE TIME, IN EXCESS OF 0.05 PERCENT BUT LESS THAN  
8 0.08 PERCENT BY WEIGHT OF ALCOHOL IN THE PERSON'S BLOOD SUCH FACTS SHALL  
9 NOT GIVE RISE TO ANY PRESUMPTION THAT THE PERSON WAS OR WAS NOT UNDER  
10 THE INFLUENCE OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES OR A  
11 COMBINATION THEREOF TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES WERE  
12 IMPAIRED, BUT SUCH FACT MAY BE CONSIDERED WITH OTHER COMPETENT EVIDENCE  
13 IN DETERMINING WHETHER THE PERSON WAS UNDER THE INFLUENCE OF ALCOHOLIC  
14 BEVERAGES OR CONTROLLED SUBSTANCES OR ANY COMBINATION THEREOF TO THE  
15 EXTENT THAT HIS OR HER NORMAL FACULTIES WERE IMPAIRED.

16 C. IF THERE WAS, AT THE TIME, 0.08 PERCENT OR MORE BY WEIGHT OF ALCO-  
17 HOL IN THE PERSON'S BLOOD, EVEN IF THERE WAS NO EVIDENCE OF A CONTROLLED  
18 SUBSTANCE IN SUCH PERSON'S BLOOD, SUCH FACT SHALL BE PRIMA FACIE  
19 EVIDENCE THAT THE PERSON WAS UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES  
20 TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES WERE IMPAIRED.

21 D. IF THERE WAS, AT THE TIME, IN EXCESS OF 0.05 PERCENT BY WEIGHT OF  
22 ALCOHOL IN THE PERSON'S BLOOD AND EVIDENCE OF A CONTROLLED SUBSTANCE IN  
23 THE PERSON'S BLOOD, SUCH FACTS SHALL BE PRIMA FACIE EVIDENCE THAT THE  
24 PERSON WAS UNDER THE INFLUENCE OF A COMBINATION OF ALCOHOLIC BEVERAGES  
25 AND CONTROLLED SUBSTANCES TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES  
26 WERE IMPAIRED.

27 2. THE PERCENT BY WEIGHT OF ALCOHOL IN THE BLOOD SHALL BE BASED UPON  
28 GRAMS OF ALCOHOL PER 100 MILLILITERS OF BLOOD.

29 3. THE FOREGOING PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED AS  
30 LIMITING THE INTRODUCTION OF OTHER COMPETENT EVIDENCE BEARING UPON THE  
31 QUESTION OF WHETHER THE PERSON WAS UNDER THE INFLUENCE OF ALCOHOLIC  
32 BEVERAGES OR CONTROLLED SUBSTANCES, OR A COMBINATION OF ALCOHOLIC BEVER-  
33 AGES AND CONTROLLED SUBSTANCES, EITHER TO THE EXTENT THAT HIS OR HER  
34 NORMAL FACULTIES WERE IMPAIRED OR TO THE EXTENT THAT HE OR SHE WAS  
35 DEPRIVED OF FULL POSSESSION OF HIS OR HER NORMAL FACULTIES, OR THAT SUCH  
36 IMPAIRMENT WAS THE PROXIMATE CAUSE OR SUBSTANTIALLY CAUSATIVE OF THE  
37 ACCIDENT GIVING RISE TO THE NEED FOR EMERGENCY MEDICAL, POLICE OR FIRE  
38 SERVICES.

39 4. A CHEMICAL ANALYSIS OF A PERSON'S BLOOD TO DETERMINE ALCOHOLIC  
40 CONTENT, A CHEMICAL ANALYSIS OF A PERSON'S BREATH OR A CHEMICAL ANALYSIS  
41 OF A PERSON'S URINE, IN ORDER TO BE CONSIDERED VALID UNDER THE  
42 PROVISIONS OF THIS SECTION, MUST HAVE BEEN PERFORMED SUBSTANTIALLY IN  
43 ACCORDANCE WITH THE METHOD SET FORTH IN ARTICLE THIRTY-ONE OF THE VEHI-  
44 CLE AND TRAFFIC LAW. ANY INSUBSTANTIAL DIFFERENCES BETWEEN APPROVED  
45 TECHNIQUES AND ACTUAL TESTING PROCEDURES IN ANY INDIVIDUAL CASE SHALL  
46 NOT RENDER THE TEST OR TEST RESULTS INVALID. ANY TECHNIQUE OR METHOD  
47 APPROVED BY THE DEPARTMENT OF HEALTH WITH RESPECT TO SUCH ANALYSIS SHALL  
48 BE DEEMED ACCEPTABLE. ANY PERSON WHO SHALL BE DEEMED QUALIFIED AND  
49 COMPETENT TO CONDUCT SUCH ANALYSIS BY THE DEPARTMENT OF HEALTH SHALL BE  
50 DEEMED COMPETENT TO CONDUCT SUCH ANALYSIS.

51 S 796-D. PRESUMPTION WITH RESPECT TO CAUSAL CONNECTION. IN ANY TRIAL  
52 OF ANY CIVIL ACTION OR PROCEEDING WITH RESPECT TO THE ENFORCEMENT HEREOF  
53 ALLEGING THAT ANY PERSON IS LIABLE HEREUNDER BECAUSE SUCH PERSON WAS THE  
54 CAUSE OF OR WAS A SUBSTANTIAL CAUSATIVE FACTOR OF AN ACCIDENT REQUIRING  
55 EMERGENCY MEDICAL, FIRE OR POLICE RESPONSES WHILE SUCH PERSON WAS DRIV-  
56 ING OR IN ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE

1 OF ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES, OR A COMBINATION OF  
2 ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES, TO THE EXTENT THAT HIS OR  
3 HER NORMAL FACULTIES WERE IMPAIRED OR THAT HE OR SHE WAS DEPRIVED OF  
4 FULL POSSESSION OF HIS OR HER NORMAL FACULTIES, IT SHALL BE PRESUMED  
5 THAT A PERSON UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES AND/OR  
6 CONTROLLED SUBSTANCES TO THE EXTENT THAT HIS OR HER NORMAL FACULTIES  
7 WERE IMPAIRED, OR TO THE EXTENT THAT HE OR SHE WAS DEPRIVED OF FULL  
8 POSSESSION OF HIS OR HER NORMAL FACULTIES, WAS THE PROXIMATE CAUSE OR  
9 WAS A SUBSTANTIAL CAUSATIVE FACTOR OF THE ACCIDENT GIVING RISE TO THE  
10 NEED FOR EMERGENCY MEDICAL, POLICE AND FIRE SERVICES.

11 S 796-E. ADDITIONAL PRESUMPTION OF IMPAIRMENT. IN ANY TRIAL OF ANY  
12 CIVIL ACTION OR PROCEEDING WITH RESPECT TO THE ENFORCEMENT OF ANY LOCAL  
13 LAW OR ORDINANCE PASSED PURSUANT HERETO ALLEGING THAT ANY PERSON IS  
14 LIABLE TO SUCH MUNICIPALITY BECAUSE SUCH PERSON WAS THE CAUSE OF OR WAS  
15 A SUBSTANTIAL CAUSATIVE FACTOR OF AN ACCIDENT REQUIRING EMERGENCY  
16 MEDICAL, FIRE OR POLICE RESPONSES WHILE SUCH PERSON WAS DRIVING OR IN  
17 ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE OF ALCO-  
18 HOLIC BEVERAGES OR CONTROLLED SUBSTANCES, OR A COMBINATION OF ALCOHOLIC  
19 BEVERAGES AND CONTROLLED SUBSTANCES, TO THE EXTENT THAT HIS OR HER  
20 NORMAL FACULTIES WERE IMPAIRED OR THAT HE OR SHE WAS DEPRIVED OF FULL  
21 POSSESSION OF HIS OR HER NORMAL FACULTIES, IT SHALL BE PRESUMED THAT  
22 SUCH PERSON'S NORMAL FACULTIES WERE IMPAIRED OR THAT SUCH PERSON WAS  
23 DEPRIVED OF FULL POSSESSION OF HIS OR HER NORMAL FACULTIES IF SUCH  
24 PERSON SHALL PLEAD GUILTY TO OR SHALL HAVE BEEN FOUND GUILTY AFTER TRIAL  
25 OF A VIOLATION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND  
26 TRAFFIC LAW OR IF SUCH PERSON REFUSES AN OFFICER'S REQUEST TO SUBMIT TO  
27 ANY BREATH, BLOOD OR URINE TEST PROVIDED IN SECTION ELEVEN HUNDRED NINE-  
28 TY-FOUR OF THE VEHICLE AND TRAFFIC LAW AND SUCH OFFICER SHALL HAVE  
29 SUBMITTED A SWORN STATEMENT THAT HE HAD REASONABLE CAUSE TO BELIEVE THE  
30 PERSON HAD BEEN DRIVING OR HAD BEEN IN ACTUAL PHYSICAL CONTROL OF A  
31 MOTOR VEHICLE WITHIN SUCH MUNICIPALITY WHILE UNDER THE INFLUENCE OF  
32 ALCOHOLIC BEVERAGES OR CONTROLLED SUBSTANCES, OR A COMBINATION OF ALCO-  
33 HOLIC BEVERAGES AND CONTROLLED SUBSTANCES, AND THAT SUCH PERSON HAD  
34 REFUSED TO SUBMIT TO THE TEST OR TESTS AFTER BEING REQUESTED TO DO SO BY  
35 THE OFFICER.

36 S 796-F. DAMAGES. EVERY MUNICIPALITY ADOPTING A LOCAL LAW OR ORDINANCE  
37 PURSUANT TO THIS ARTICLE SHALL DEVELOP AND KEEP CURRENT A SCHEDULE OF  
38 SUCH EMERGENCY COSTS AND EXPENSES LIKELY TO BE INCURRED OR EXPENDED AS A  
39 RESULT OF SUCH AN ALCOHOL OR CONTROLLED SUBSTANCE RELATED ACCIDENT  
40 SETTING FORTH THE COST AND VALUE OF TIME AND SERVICES, AS WELL AS MATE-  
41 RIALS, PROVIDED IN EMERGENCY SITUATIONS AS CONTEMPLATED BY THIS ARTICLE.

42 S 796-G. ATTORNEY'S FEES, COURT COSTS AND EXPENSES; RECOVERY. IN ANY  
43 TRIAL OR ANY CIVIL ACTION OR PROCEEDING ARISING IN THE ENFORCEMENT OF  
44 ANY LOCAL LAW OR ORDINANCE PASSED PURSUANT HERETO, THE MUNICIPALITY  
45 INVOLVED SHALL BE ENTITLED TO RECOVER ALL COURT COSTS, EXPENSES AND  
46 ATTORNEY'S FEES INCURRED BY SUCH MUNICIPALITY IN SUCH DISPUTE AND SUCH  
47 RIGHT SHALL INCLUDE ALL OF SUCH COSTS, EXPENSES AND ATTORNEY'S FEES  
48 THROUGH ALL APPEALS OR OTHER ACTIONS.

49 S 796-H. SEVERABILITY. IF ANY SECTION, SUBDIVISION, PARAGRAPH,  
50 SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ARTICLE IS FOR ANY REASON  
51 HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION,  
52 SUCH PORTION SHALL BE DEEMED A SEPARATE, DISTINCT AND INDEPENDENT  
53 PROVISION AND SUCH HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAIN-  
54 ING PORTIONS OF THIS ARTICLE.

55 S 2. This act shall take effect immediately.