STATE OF NEW YORK

7306

IN SENATE

January 5, 2018

Introduced by Sen. HELMING -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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; and to amend a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S. 5562-A and A. 7572, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 1 of section 603-a of the vehicle and traffic law, as added by a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S. 5562-A and A. 7572, is amended to read as follows:

(b) When present at the scene of such accident, the investigating officer shall also request that all operators of motor vehicles involved in such accident submit to [~~a~~] field [~~sobriety test~~] **testing** as defined in section eleven hundred ninety-four of this chapter provided there are reasonable grounds to believe such motor vehicle operator committed a serious traffic violation in the same accident. [~~Upon refusal to submit to such testing, such person shall be subject to the provisions of section eleven hundred ninety-four of this chapter.~~] The results of such field [~~sobriety and chemical tests~~] **testing** or [~~refusals~~] **refusal** of such [~~tests~~] **testing** shall be included in the police investigation report. For the purposes of this section, "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-three, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine and thirty and sections five hundred eleven, six hundred and twelve hundred twelve.

§ 2. Clause (A) of paragraph (b) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by a chapter of the laws of

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

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2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S. 5562-A and A. 7572, is amended to read as follows:

(A) such person having been placed under arrest [~~or having driven a vehicle involved in an accident resulting in serious physical injury to, or the death of, another person and, pursuant to paragraph (b) of subdivision one of section six hundred three-a of this chapter, there are reasonable grounds to believe such person has committed a serious traffic violation as defined by such paragraph~~]; or

§ 3. Subparagraphs 2 and 3 of paragraph (b) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S. 5562-A and A. 7572, are amended to read as follows:

(2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test, and that no chemical test was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person [~~or a person arrested or issued an appearance ticket for a serious traffic violation committed in the same accident being investigated pursuant to paragraph (b) of subdivision one of section six hundred three-a of this chapter~~], provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article.

(3) For persons placed under arrest for a violation of any subdivision of section eleven hundred ninety-two of this article [~~or placed under arrest or issued an appearance ticket for a serious traffic violation committed in the same accident being investigated pursuant to paragraph (b) of subdivision one of section six hundred three-a of this chapter~~], the license or permit to drive and any non-resident operating privilege shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided in paragraph (c) of this subdivision. Copies of such report must be transmitted by the court to the commissioner and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner within forty-eight hours of such arraignment.

§ 4. Subparagraphs 1, 2 and 3 of paragraph (c) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S.5562-A and A.7572, are amended to read as follows:

(1) did the police officer have reasonable grounds to believe that such person had been driving in violation of any subdivision of section eleven hundred ninety-two of this article [~~or was driving a vehicle involved in an accident being investigated pursuant to paragraph (b) of subdivision one of section six hundred three-a of this chapter~~]; (2) did the police officer make a lawful arrest of such person [~~or issue a lawful appearance ticket to, or make a lawful arrest of, such person for a serious traffic violation committed in the same accident being investigated pursuant to paragraph (b) of subdivision one of section six hundred three-a of this chapter~~]; (3) was such person given sufficient warning, in clear or unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the immediate suspension and subsequent revocation of such person's license or operating privilege whether or not such person is found guilty of the charge for which the arrest was made [~~or the appearance ticket was issued~~]; and

§ 5. Section 3 of a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S.5562-A and A.7572, is amended to read as follows:

§ 3. This act shall take effect on the [~~thirtieth~~] **ninetieth** day after it shall have become a law.

§ 6. This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2017, amending the vehicle and traffic law relating to mandatory testing in the event of a motor vehicle collision resulting in injury or death, as proposed in legislative bills numbers S.5562-A and A.7572, takes effect.