



Legislation Details (With Text)

**File #:** Res 0802-2005      **Version:** \*      **Name:** State Legislature to address the legal loopholes that allow dangerous and deadly drivers to drive without facing adequate punishment.

**Type:** Resolution      **Status:** Filed

**In control:** Committee on Public Safety

**On agenda:** 2/2/2005

**Enactment date:**      **Enactment #:**

**Title:** Resolution calling upon the State Legislature to address the legal loopholes that allow dangerous and deadly drivers to drive under the influence of drugs, drive with a suspended or revoked license, or leave the scene of an accident without facing adequate punishment.

**Sponsors:** Peter F. Vallone, Jr., Yvette D. Clarke, Leroy G. Comrie, Jr., Lewis A. Fidler, Helen D. Foster, James F. Gennaro, Vincent J. Gentile, Alan J. Gerson, Sara M. Gonzalez, G. Oliver Koppell, John C. Liu, Michael E. McMahon, Michael C. Nelson, Domenic M. Recchia, Jr., Philip Reed, James Sanders, Jr., Helen Sears, David I. Weprin

**Indexes:**

**Attachments:**

Date	Ver.	Action By	Action	Result
2/2/2005	*	City Council	Introduced by Council	
2/2/2005	*	City Council	Referred to Comm by Council	
12/31/2005	*	City Council	Filed (End of Session)	

Res. No. 802

Resolution calling upon the State Legislature to address the legal loopholes that allow dangerous and deadly drivers to drive under the influence of drugs, drive with a suspended or revoked license, or leave the scene of an accident without facing adequate punishment.

By Council Members Vallone Jr., Clarke, Comrie, Fidler, Foster, Gennaro, Gentile, Gerson, Gonzalez, Koppell, Liu, McMahon, Nelson, Recchia Jr., Reed, Sanders Jr., Sears and Weprin

Whereas, Dangerous drivers whose reckless behavior results in serious injuries and fatalities have become a serious concern in the nation, the state and in New York City; and

Whereas, A recent Public Safety Committee hearing focused on Driving While Intoxicated (DWI) laws that allow those who drive while intoxicated to be charged with only a misdemeanor when they injure or kill another person; and

Whereas, One particular problem is that of drug-related DWI offenses; a National Highway Traffic

Safety Administration study of fatally injured drivers found that nearly 20% had drugs or a combination of drugs and alcohol in their system at the time of the crash; and

Whereas, If the impairment was due to drug use, charges and penalties are only applicable if that specific drug is listed under New York State's Public Health Law as a controlled substance, thus exempting some offenders from any punishment at all, particularly those who abuse prescription medication; and

Whereas, In order to address the inadequacies of existing law, state lawmakers must ensure that DWI drug offenders are not excused from prosecution by mandating that those who are impaired by any substance, and thus incapable of employing the physical and mental abilities of a reasonable and prudent driver, will be appropriately punished; and

Whereas, Another group of drivers that are especially of concern are repeat-offenders who continue to put others at risk, even with multiple license suspensions and/or revocations on their driving record; and

Whereas, According to the AAA Foundation for Traffic Safety, Driving While Suspended (DWS)/Driving While Revoked (DWR) drivers are 3.7 times more likely to be involved in a fatal crash than are validly licensed drivers while unlicensed drivers are 4.9 times more likely to be involved in a fatal accident; and

Whereas, One tragic story, as discussed by Richmond County District Attorney Daniel Donovan, involves eleven year old Michael Vasquez-Moore, struck by a driver who did not have a valid driver's license and whose license to drive had been suspended 15 times and revoked twice prior to the incident; and

Whereas, Under New York State law, however, this driver could only be charged with a misdemeanor charge of driving without a license; additionally, in this case, the charges were dismissed because the judge could not determine whether or not the defendant was properly notified that her license was suspended by the DMV; and

Whereas, Although it is written in the NYDMV Driving Manual that failure to respond to a traffic infraction may result in a license suspension and that it is illegal to drive with a suspended or revoked license,

many drivers are not aware of the consequences and plead ignorance; and

Whereas, In order to further address the inadequacies of existing law, state lawmakers must ensure that drivers are aware that their license will be suspended indefinitely if they do not respond to the traffic violation through a written warning on the ticket itself; and

Whereas, Although the state law does penalize repeat-offenders with car forfeitures for more than 10 non-DWI traffic infractions, these violations must occur on 10 separate occasions, exempting this particular offender from being appropriately punished, thus state lawmakers must reduce the number of incidents in which suspensions and/or revocations are accrued in order to be subject to car forfeitures; and

Whereas, Another legal loophole involves those who leave the scene of an accident; the problem was demonstrated in January 2004 when 26-year-old Peter Hornbeck was killed in a hit-and-run crash on Park Avenue in Manhattan, where the offender, with a suspended license, left the scene of the accident; and

Whereas, Under state law, however, the offender could only be charged with leaving the scene of a fatal accident, a Class-E felony, carrying a maximum penalty of 1 1/3 to 4 years in jail; and

Whereas, In cases of intoxicated drivers, there is an additional incentive to leave the scene of an accident in order to avoid a breathalyzer test because seriously injuring or killing someone in an alcohol or drug-related accident may lead to a charge of vehicular manslaughter which carries a penalty of seven years in jail; and

Whereas, State lawmakers must increase penalties for leaving the scene of accident, especially where the accident resulted in a serious injury or fatality to create a disincentive for drunk drivers leaving the scene of an accident to sober up and be convicted of a lesser charge; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to address the legal loopholes that allow dangerous and deadly drivers to drive under the influence of drugs, drive with a suspended or revoked license, or leave the scene of an accident without facing adequate punishment.

NK

01-24-05