



Legislation Details (With Text)

**File #:** Res 0338-2004      **Version:** A      **Name:** Punishing dangerous and deadly drivers, particularly in relation to drivers who cause death or serious injury due to intoxication or criminal negligence.

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**Title:** Resolution calling on the State Legislature to adopt more stringent legislation for punishing dangerous and deadly drivers, particularly in relation to drivers who cause death or serious injury due to intoxication or criminal negligence.

**Sponsors:** Peter F. Vallone, Jr., John C. Liu, Joseph P. Addabbo, Jr., Tony Avella, Yvette D. Clarke, Lewis A. Fidler, Alan J. Gerson, Michael C. Nelson, James Sanders, Jr., Helen Sears, David I. Weprin, James F. Gennaro, Robert Jackson, Philip Reed, Helen D. Foster, Gale A. Brewer, Leroy G. Comrie, Jr., Betsy Gotbaum, James S. Oddo

**Indexes:**

**Attachments:** 1. Committee Report 1/10/05, 2. Committee Report 2/3/05, 3. Hearing Transcript 1/10/05, 4. Hearing Transcript 2/3/05, 5. Hearing Transcript - Stated Meeting 2/16/05

Date	Ver.	Action By	Action	Result
5/5/2004	*	City Council	Introduced by Council	
5/5/2004	*	City Council	Referred to Comm by Council	
1/10/2005	*	Committee on Public Safety	Hearing Held by Committee	
1/10/2005	*	Committee on Public Safety	Laid Over by Committee	
2/3/2005	*	Committee on Public Safety	Hearing Held by Committee	
2/3/2005	*	Committee on Public Safety	Amendment Proposed by Comm	
2/3/2005	*	Committee on Public Safety	Amended by Committee	
2/3/2005	A	Committee on Public Safety	Approved by Committee	Pass
2/16/2005	A	City Council	Approved, by Council	Pass

Res. No. 338-A

Resolution calling on the State Legislature to adopt more stringent legislation for punishing dangerous and deadly drivers, particularly in relation to drivers who cause death or serious injury due to intoxication or criminal negligence.

By Council Members Vallone Jr., Liu, Addabbo, Avella, Clarke, Fidler, Gerson, Nelson, Sanders, Sears, Weprin, Gennaro, Jackson, Reed, Foster, Brewer, Comrie, The Public Advocate (Ms. Gotbaum) and Oddo

Whereas, An unacceptably and unnecessarily high rate of negligent and reckless traffic accidents

continue to endanger the lives and property of law-abiding drivers and pedestrians in New York, despite recent successful efforts by the New York City Police Department to reduce the number of such accidents; and

Whereas, Adding to the difficulties encountered by law enforcement officials and prosecutors in effectively dealing with this problem, current New York state law categorizes many of these egregious offenses, including criminally negligent homicide, as class E felonies, which carry the lowest possible felony punishments; and

Whereas, The absence of appropriate penalties for harm caused by dangerous and deadly driving habits creates insufficient disincentive to deter would-be offenders; and

Whereas, In a recent tragic incident, a Queens driver who was Driving While Intoxicated (DWI) struck two underage boys, Angel Reyes and Vasean Alleyne, resulting in the death of the 11-year old boy and leaving the 12-year old boy hospitalized in critical condition; and

Whereas, Under the existing law proof of criminal negligence is required for a prosecution for vehicular assault or manslaughter, which means that intoxication alone is not sufficient to sustain a prosecution for these charges; additional factors, such as speeding or running a red light, are needed to demonstrate that an individual was negligent or reckless while operating a vehicle; and

Whereas, The effect of the current law is that a person can fatally injure or kill someone, and yet if the evidence does not appear to show negligence beyond DWI, the driver cannot be charged with a felony offense; and

Whereas, The existing law failed to hold responsible the Queens driver, John Wirta, for striking the young boys and killing one of them; Mr. Wirta, a 56-year-old repairman, was legally intoxicated, based upon a blood alcohol level of .13%, .05% above the legal limit to safely operate a vehicle; and

Whereas, Commonsense legislation must be adopted that removes criminal negligence as a requirement for prosecution and thus permits a District Attorney to charge an individual with these crimes, thereby making drivers eligible for enhanced penalties, if serious injury or death results from the driver's intoxication; and

Whereas, These amendments to current law are vital to protect the safety of our streets; a person who injures or kills while intoxicated should face the full impact of the law; and

Whereas, An amendment to current law would create a vastly improved deterrent effect on potential dangerous or deadly drivers, while ensuring that those drivers who violate the Vehicle and Traffic Law will be kept off the roads for a sufficient and appropriate amount of time; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York State Legislature to adopt more stringent legislation for punishing dangerous and deadly drivers, particularly in relation to drivers who cause death or serious injury due to intoxication or criminal negligence.