



Legislation Text

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Res. No. 18

Resolution calling on the State Legislature to remedy several deficiencies in the law regarding leaving the scene of an accident.

By Council Members Vallone Jr., Brewer, Gennaro, Gentile, Liu, Nelson, Palma, and Recchia Jr.

Whereas, In May 2005 the State Legislature amended provisions of Vehicle and Traffic Law §600 to remedy gaps in the law that gave intoxicated and reckless drivers an incentive to leave the scene of an accident when serious physical injury or death resulted; and

Whereas, Under the old law, a driver who was intoxicated and caused a death could, depending on the circumstances, be charged with vehicular manslaughter in the second degree, a Class D felony, subject to up to 7 years imprisonment, yet if the driver fled the scene and sobered up, the most with which he could be charged was criminally negligent homicide, an E felony, subject to up to 4 years imprisonment; and

Whereas, The State Legislature closed this gap by making it a Class D felony for a person to leave the scene of an accident when death results from the accident; the Legislature also increased the penalty for those who leave the scene of an accident when personal injury results, from a B misdemeanor to an A misdemeanor; and

Whereas, Despite these welcome amendments, the State Legislature failed to address the burden of proof problems in prosecuting these cases; and

Whereas, The law still requires that in order to secure a conviction, the prosecutor must prove that a driver knew or had cause to know that physical injury, serious physical injury or death resulted from the accident; and

Whereas, There are often substantial problems attempting to prove that a person fleeing the scene of an

accident knew or should have known of the injury or death, particularly when a person is intoxicated; and

Whereas, Driving a car is a privilege, not a right, and with this privilege comes the responsibility to drive safely and to remain at the scene of an accident until all documents have been exchanged and/or the police arrive; and

Whereas, In cases where a serious physical injury or death results, a driver who leaves the scene of an accident should be strictly liable and charged with leaving the scene without the prosecutor being required to demonstrate that the driver knew of or had cause to know of the injury or death; and

Whereas, In addition, to underscore the seriousness of leaving the scene of an accident when an injury takes place, this offense should be charged as an E felony, not an A misdemeanor; furthermore, it should be a D felony if a driver leaves the scene and serious physical injury results, a C felony if death is caused, and an A misdemeanor if real or personal property is damaged; and

Whereas, The importance of making these changes was recently highlighted by the death of a college student in Manhattan by a drunk driver who fled the scene, only to be apprehended hours later; and

Whereas, Such irresponsible and callous behavior should be penalized appropriately, and drivers who seriously main and kill others, then flee the scene, should be strictly liable for such actions; now, therefore, be it

Resolved, That the Council of the city of New York calls on the State Legislature to remedy several deficiencies in the law regarding leaving the scene of an accident.

TB
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