

# Hit and Run Bill: A Positive Step, But Misses the Mark

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The proposed "hit-and-run" bill approved by the New York State Senate and Assembly, awaiting signature by Gov. Andrew Cuomo, does not go far enough to accomplish its intended purpose. The measure was proposed to fill a gaping hole that exists in the law. The law as written creates an incentive for motorists who are involved in accidents to flee the scene to avoid criminal liability for more serious crimes. This in turn makes it less likely that injured persons will receive life-saving medical treatment.

New York Vehicle and Traffic Law §600 requires any person operating a motor vehicle who is involved in an accident to stop and exchange information. This in turn encourages the rendering of medical assistance to the injured person. Failing to comply when there is no injury is a simple traffic infraction. Leaving the scene of an accident resulting in physical injury is a misdemeanor. Leaving the scene of an accident resulting in serious physical injury is a class E felony and should such accident result in death it is punishable as a class D felony.

Currently, drivers who are criminally responsible for an accident due to a number of aggravating factors such as reckless driving, intoxication or driving with a revoked license, have an incentive to flee the scene rather than subject themselves to the more serious felony offenses they have committed, many of which require lengthy jail sentences. Often this results in the disgust of the victim's family members who watch as individuals are given lenient sentences for the lesser offense of leaving the scene of an accident rather than being prosecuted for what many perceive the driver was actually guilty of such as DWI, but which cannot be proven because they fled the scene.

If an intoxicated driver leaves the scene of an accident, proving such intoxication without toxicological proof such as a blood alcohol concentration is extremely difficult.

The proposed bill creates a class C felony offense which makes the punishment more severe, but it is only applicable to a very limited set of circumstances and does not go far enough to accomplish its goal of encouraging criminally responsible drivers to stay at the scene of an accident.

The new offense, aggravated leaving the scene of an accident without reporting, is committed only when a person leaves the scene of an accident which resulted in the serious physical injury or death of more than one person and such accident was caused by reckless driving. In addition, for this offense to be established, one of a number of aggravating circumstances must be present: the motorist either was driving with a suspended license due to a prior DWI, or leaving the scene of an accident involving physical injury, or the motorist was convicted of leaving the scene of an accident resulting in physical injury or a DWI offense within the preceding 10 years.

Not only does the wording of the statute make it applicable to a limited set of circumstances, but it also misses the mark on deterring other types of dangerous driving.

If the true intent of the bill is to encourage motorists to remain on the scene and help render aid, then one must wonder why the bill does nothing to encourage motorists to remain on the scene when their conduct was not reckless or when only one person is injured.

According to the National Highway Traffic Safety Administration, driving a vehicle while texting is six times more dangerous than driving while intoxicated, yet the bill does nothing to address the incentive for people to leave the scene under those circumstances. While the legislation is a step in the right direction, that step is not large enough to make the difference needed to close the gaping hole in the law which encourages motorists to flee the scene of an accident.

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