Jail proposed for repeat DWI

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SECTION: NEWS; Pg. A04

LENGTH: 389 words

Repeat drunken-driving convicts would face mandatory jail time under a state law to be proposed by a Republican lawmaker from Merrick.

The proposal, by state Sen. Charles J. Fuschillo, would take discretion away from judges who under current law decide whether defendants are fined, jailed, put on probation or given community service regardless of a first or repeated offense.

Under the proposal, a second drunken-driving conviction within a decade would mean a minimum of 30 days in jail; for every conviction after that within a decade, drunken drivers would face at least 90 more days in jail, said Fuschillo, who advocated for the change at a news conference yesterday with Nassau County District Attorney Kathleen Rice.

Fuschillo said he would work to introduce the proposal when the legislature reconvenes.

"There's going to be no more judicial discretion to say you won't go to jail," Fuschillo said.

Rice and Fuschillo said that those arrested more than once for drunken driving are more than likely repeatedly driving drunk and not getting caught.

For every 481 incidents of drunken driving, one driver is arrested, according to the Institute for Traffic Safety Management and Research, which is affiliated with Rockefeller College of Public Affairs and Policy at the University at Albany.

According to the institute, the recidivism rate of drunken drivers with a conviction in the previous decade had fallen to 21.6 percent in 2009 from 28.7 percent in 1999.

In New York State, 1,231 people died in alcohol-impaired crashes in 2008, compared to 2007, when 1,332 died, a decline of 7.58 percent, according to the National Highway Traffic Safety Administration.
Marc Gann, a criminal-defense attorney who's also president of the Nassau County Bar Association, said he doesn't support the proposal because judges already can and do sentence people to jail for repeated DWI offenses and because education and treatment are better ways to address drunken driving.

"Part of the issue is they are impaired in some way," Gann said. "They're not thinking, 'I'm wasted. I can't get behind the wheel of my car.' They're not thinking right."

Rice said changing the law could save lives.

"There is too much at stake - not only this holiday season but every single day here on Long Island and throughout New York State - to do anything less," she said.