



## Legislation Text

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**File #:** Res 1332-2012, **Version:** A

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### Res. No.1332-A

Resolution calling on the New York State Legislature to enact S3644/A2012, and for the Governor to sign the legislation into law. The legislation gives authority to the New York Police Department to enforce Vehicle and Traffic Law Section 1146, even if the police officer was not present at the time of the crash, as long as the officer has reasonable cause to believe the violation was committed by the driver.

By Council Members Vallone, Vacca, Comrie, Jackson, Koo, Lander, Rodriguez, Brewer, Lappin, Richards and Ulrich

Whereas, Under section 1146 of the Vehicle and Traffic law drivers are required to exercise due care to avoid collision with bicyclists, pedestrians, or domestic animals; and

Whereas, Failure to exercise due care can result in civil fine of no more than \$750 or imprisonment of no more than fifteen days; and

Whereas, In 2010, the State Legislature amended Article 26 of the Vehicle and Traffic law by passing section 1146, commonly known as Hayley and Diego's Law to create an infraction for failure to exercise due care in operating a motor vehicle; and

Whereas, However, current implementation of section 1146 has been narrow because of the requirement that a police officer witness the actual collision in order to issue a violation; and

Whereas, The New York State Attorney General has issued an opinion contradicting the requirement that a violation has to be witnessed by a police officer; and

Whereas, There have been a number of high profile incidences recently where the driver was suspected of not exercising due care, but no violation was issued because a police officer did not witness the collision; and

Whereas, Erika Lefevre testified before a joint Public Safety Committee and Transportation Committee

hearing on February 15 about the death of her son Mathieu Lefevre; and

Whereas, Mathieu Lefevre was dragged 171 feet before the car finally stopped. There is strong suspicion that Mr. Lefevre was killed because the driver failed to exercise due care, however no arrest was made and no violation was issued to the driver; and

Whereas, The current legislation pending in the New York Legislature (A.2012 Sponsored by Assemblyman Brian Kavanagh and S.3644 sponsored by Senator Dan Squadron) will allow police officers to issue a violation or make an arrest under section 1146, if there is reasonable cause to believe that the driver did not exercise due care ; and

Whereas, Passage of A.2012/S.3644 will close a loophole in the current law and will contribute to saving lives; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to enact A.2012/S.3644, and for the Governor to sign the legislation into law. The legislation gives authority to the New York Police Department to enforce Vehicle and Traffic Law Section 1146, even if the police officer was not present at the time of the crash, as long as the officer has reasonable cause to believe the violation was committed by the driver.

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3/14/2013  
GZ