



DAVID J. SWARTS
Commissioner

STATE OF NEW YORK DEPARTMENT OF MOTOR VEHICLES

6 EMPIRE STATE PLAZA, ALBANY, NY 12228

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TO: All Enforcement Agencies

SUBJECT: Fatal Motor Vehicle Accident Reports Regarding Blood Alcohol
Concentration (BAC) Reporting

Background

On February 24, 2010 we issued memo P5 to inform you that the National Highway Traffic Safety Administration (NHTSA) ties New York State's NHTSA funding to Police Accident Reports (MV-104A/MV-104AN) on surviving driver BAC for fatal accidents. The federal funding that is received by NYS from NHTSA is distributed to local and state agencies to support ongoing enforcement and safety efforts. In order to maintain this funding, we must demonstrate to NHTSA that law enforcement reporting of BAC levels for drivers who survive fatal accidents is increasing significantly every year. So far this year, we have not seen the increase in reporting that we need in order for New York to maintain this critical funding stream. You can help us maintain this important funding stream!

Every Officer's Fatal Accident Reports Help

The information that you provide for BAC levels of drivers who survive fatal accidents is a key piece in New York State's safety plan to eliminate fatalities as a result of alcohol related crashes. Section **1194(1)(b)** of the New York State Vehicle and Traffic Law (see side 2 of this sheet) allows police officers to administer a field test to drivers involved in an accident. **If a test is administered to a driver involved in a fatal accident, please indicate in the narrative section of the accident report whether or not the driver was tested for alcohol. If there was a test performed, indicate the results of that test, even if the results were negative.** This information that you provide on the Police Accident Report is entered into DMV's Fatality Analysis Reporting System (FARS) and sent directly to NHTSA. Every law enforcement officer's fatal accident report is crucial for ensuring that FARS and NHTSA have complete and accurate data on the BAC of surviving drivers.

With your assistance and support we can:

- increase the BAC reporting data on surviving drivers in fatal accidents;

- develop better, more effective programs on alcohol-impaired driving;
- ensure continued federal highway traffic safety funding for New York State; and, most important,
- save lives.

Please share this information with appropriate staff. Any questions can be directed to the **DMV Accident Records Bureau at (518) 474-0646**.

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NYS Department of Motor Vehicles Vehicle and Traffic Law
Section 1194: Arrest and testing

1. Arrest and field testing.
 - b. Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section.