

Albany County DA Pressures Drivers into Taking Breathalyzer Tests

By Thomas J. Carr

The stakes for saying no to breathalyzer tests in Albany County are being raised with Country District Attorney David Soares saying his office will cease entering plea bargains for drivers who refuse to submit to the chemical breath tests.

The blanket plea bargaining ban for drivers who refuse breathalyzer tests took effect June 1. To call attention to this directive, Soares has launched a “You’re Blowing It” advertising campaign to convey the message that drivers should blow into breathalyzers that test for drivers’ blood-alcohol content or blow their chances of getting a DWI charge plead down to the less harsh driving while ability-impaired (DWAI) charge.

According to a CBS 6 report

, the Albany County district attorney’s office is pursuing this blanket plea bargaining ban because many drivers are opting to incur the penalties of refusing a breathalyzer test rather than face those for a DWI conviction. Such a refusal will result in an automatic suspension of the driver’s license for one year and an administrative fee, though these penalties are greater for drivers with prior DWI-related charges or who are found to be under the influence after refusing a chemical breath test.

The message this “Don’t Blow It” campaign sends to me is that more DWI cases will end up going to trial. Drivers who refused a breathalyzer and who are facing DWI-related charges will have fewer alternatives to fighting prosecutors in court. Having worked in the Office of the District Attorney in Brooklyn, I was brought to believe each case is unique and needs to be evaluated on its own merits. Any type of blanket ban works against this approach. Also, this new policy discriminates against those who assert their Fifth Amendment rights against self-incrimination.

People hit with DWI or DWAI charges should contact a criminal defense attorney to ensure the unique circumstances and evidence of their case is fully considered.