

# Association of Erie County Governments

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## CERTIFIED RESOLUTION

At our monthly meeting of the Association of Erie County Governments held in the Town of Hamburg on February 23, 2012, the following resolution was moved by Town of Tonawanda – Supervisor Anthony Caruana and Town of Cheektowaga Supervisor Mary Holtz unanimously approved by all,

"WHEREAS, in the recent decision of Kabir v. County of Monroe, the Court of Appeals of the State of New York has by its construction of Vehicle & Traffic Law §1104, restricted the "reckless disregard" standard of care applicable to emergency vehicle operators while responding to an emergency to the four criteria expressed at §1104(b); and

WHEREAS, the effect of such a construction is inconsistent with public policy, imposes upon emergency responders the duty to exercise the utmost care during emergency operations, imposes upon emergency responders and municipalities the threat of civil liability for what amounts to a mere failure of judgment, deters emergency personnel from acting decisively and taking calculated risks in order to save life or property or to apprehend miscreants and gives rise to practical problems as to when, how and under what circumstances the reckless disregard standard or the negligence standard is to be applied when an accident is or is purportedly attributable to multiple causes, some involving privileged acts and some not.

IT IS THEREFORE RESOLVED, that the Association of Erie County Governments urges the New York State Legislature to amend the New York State Vehicle & Traffic Law, particularly §1104 to clearly articulate that if an authorized driver involved in a motor vehicle accident is operating an "authorized emergency vehicle" while involved in an "emergency operation" as those terms are defined within the Vehicle & Traffic Law, the driver is entitled to the application of the "reckless disregard" standard of care, and

IT IS FURTHER RESOLVED that to that effect, §§1104 of the Vehicle & Traffic Law should be amended as follows:

The language of §1104(a) and (b) shall be stricken and replaced with the following language:

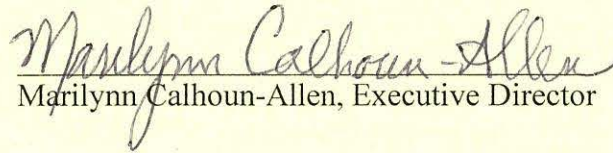
"Unless otherwise made specifically applicable, the provisions of this title (Title VII-"rules of the road") shall not apply to the driver of an authorized emergency vehicle when involved in an emergency operation." and

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IT IS FURTHER RESOLVED that this resolution shall be submitted forthwith to the New York Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos and Minority Leader John Sampson, Assembly Speaker Sheldon Silver and Majority Leader Ron Canestrari and Minority Leader Brian Kolb and The Western New York Delegation and Erie County Legislators

I, Marilynn Calhoun-Allen, Executive Director of the Association of Erie County Governments, do hereby certify that the foregoing is a full and true transcript of the resolution passed at the meeting of the Associations of Erie County Governments, as held in the Town of Orchard Park on the February 23, 2012, and that said meeting was duly called and duly constituted and that a quorum was present.

WITNESS my hand and the seal of the Association of Erie County Governments this February 29, 2012

  
Marilynn Calhoun-Allen, Executive Director