

1348--A

2011-2012 Regular Sessions

I N   S E N A T E

January 6, 2011

---

Introduced by Sens. DILAN, AVELLA, DIAZ, HASSELL-THOMPSON, PARKER, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the penal law, in relation to distribution of certain mandatory surcharges imposed for alcohol-related traffic convictions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 1 of section 1197 of the vehi-  
2     cle and traffic law, as separately amended by chapters 196 and 688 of  
3     the laws of 1996 and subparagraph 3 as amended by chapter 345 of the  
4     laws of 2007, is amended to read as follows:  
5     (a) Where a county establishes a special traffic options program for  
6     driving while intoxicated, pursuant to this section, it shall receive  
7     fines [and], forfeitures, AND ON AND AFTER THE FIRST DAY OF APRIL, TWO  
8     THOUSAND THIRTEEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS EIGHTEEN  
9     HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E OF THIS CHAPTER, collected by  
10    any court, judge, magistrate or other officer within that county,  
11    including, where appropriate, a hearing officer acting on behalf of the  
12    commissioner[,]: (1) imposed for violations of subparagraphs (ii) and  
13    (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-  
14    graph (a) of subdivision three of section five hundred eleven of this  
15    chapter; (2) imposed in accordance with the provisions of section eleven  
16    hundred ninety-three, PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION  
17    ELEVEN HUNDRED NINETY-SIX, SUBDIVISION NINE OF SECTION ELEVEN HUNDRED  
18    NINETY-EIGHT, and civil penalties imposed pursuant to subdivision two of  
19    section eleven hundred ninety-four-a of this article, including, where  
20    appropriate, a hearing officer acting on behalf of the commissioner,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03021-02-2

1 from violations of sections eleven hundred ninety-two, eleven hundred  
2 ninety-two-a and findings made under section eleven hundred  
3 ninety-four-a of this article; and (3) imposed upon a conviction for:  
4 aggravated vehicular assault, pursuant to section 120.04-a of the penal  
5 law; vehicular assault in the first degree, pursuant to section 120.04  
6 of the penal law; vehicular assault in the second degree, pursuant to  
7 section 120.03 of the penal law; aggravated vehicular homicide, pursuant  
8 to section 125.14 of the penal law; vehicular manslaughter in the first  
9 degree, pursuant to section 125.13 of the penal law; and vehicular  
10 manslaughter in the second degree, pursuant to section 125.12 of the  
11 penal law, as provided in section eighteen hundred three of this chap-  
12 ter. Upon receipt of these moneys, the county shall deposit them in a  
13 separate account entitled "special traffic options program for driving  
14 while intoxicated," and they shall be under the exclusive care, custody,  
15 and control of the chief fiscal officer of each county participating in  
16 the program.

17 S 2. Paragraphs (b) and (c) of subdivision 5 of section 1197 of the  
18 vehicle and traffic law, as added by chapter 47 of the laws of 1988, are  
19 amended to read as follows:

20 (b) Receive proposals from county, town, city or village agencies or  
21 non-governmental groups for activities related to alcohol traffic  
22 safety, INCLUDING THE IMPLEMENTATION OF THE IGNITION INTERLOCK PROGRAM  
23 AS SET FORTH IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, and  
24 to submit them to the county board of legislators or other such govern-  
25 ing body, together with a recommendation for funding of the activity if  
26 deemed appropriate.

27 (c) Cooperate with and assist local officials within the county in the  
28 formulation and execution of alcohol traffic safety programs including  
29 enforcement, adjudication, rehabilitation [and], education AND IMPLEMEN-  
30 TATION OF THE IGNITION INTERLOCK PROGRAM AS SET FORTH IN SECTION ELEVEN  
31 HUNDRED NINETY-EIGHT OF THIS ARTICLE.

32 S 3. The opening paragraph of subdivision 9 of section 1803 of the  
33 vehicle and traffic law, as amended by chapter 345 of the laws of 2007,  
34 is amended to read as follows:

35 Where a county establishes a special traffic options program for driv-  
36 ing while intoxicated, approved by the commissioner [of motor vehicles],  
37 pursuant to section eleven hundred ninety-seven of this chapter, all  
38 fines, penalties [and], forfeitures, AND ON AND AFTER THE FIRST DAY OF  
39 APRIL, TWO THOUSAND THIRTEEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS  
40 EIGHTEEN HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E OF THIS ARTICLE:  
41 (A) IMPOSED AND collected [from] FOR violations of subparagraphs (ii)  
42 and (iii) of paragraph (a) of subdivision two or subparagraph (i) of  
43 paragraph (a) of subdivision three of section five hundred eleven[, all  
44 fines, penalties and forfeitures] OF THIS CHAPTER; (B) imposed AND  
45 COLLECTED in accordance with section eleven hundred ninety-three of this  
46 chapter [collected from] FOR violations of section eleven hundred nine-  
47 ty-two of this chapter; [and any fines or forfeitures] (C) IMPOSED AND  
48 COLLECTED FOR VIOLATIONS OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF  
49 SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER OR FOR VIOLATIONS OF  
50 SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER;  
51 (D) collected by any court, judge, magistrate or other officer imposed  
52 upon a conviction for: aggravated vehicular assault, pursuant to section  
53 120.04-a of the penal law; vehicular assault in the first degree, pursu-  
54 ant to section 120.04 of the penal law; vehicular assault in the second  
55 degree, pursuant to section 120.03 of the penal law; aggravated vehicu-  
56 lar homicide, pursuant to section 125.14 of the penal law; vehicular

manslaughter in the first degree, pursuant to section 125.13 of the penal law; and vehicular manslaughter in the second degree, pursuant to section 125.12 of the penal law; and (E) civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this chapter, shall be paid to such county.

S 4. Subdivisions 1 and 2 of section 1809-c of the vehicle and traffic law, as added by section 37 of part J of chapter 62 of the laws of 2003, are amended to read as follows:

1. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to: (A) section eleven hundred ninety-two of this chapter; (B) SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER; (C) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER; OR (D) SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of twenty-five dollars.

2. The additional surcharge provided for in subdivision one of this section shall be paid to the clerk of the court that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall determine the amount of surcharge collected and it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund; PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, SUCH SURCHARGE SHALL BE PAID TO THE COUNTY WHERE THE CONVICTION WAS RENDERED.

S 5. Paragraph b of subdivision 1 and subdivision 2 of section 1809-e of the vehicle and traffic law, as added by section 1 of part EE of chapter 56 of the laws of 2008, are amended to read as follows:

b. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to: (1) section eleven hundred ninety-two of this chapter; (2) SUBPARAGRAPHS (II) AND (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER; (3) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER; OR (4) SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of one hundred seventy dollars.

2. The additional surcharges provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of such surcharges, the collecting authority shall pay such money to the state comptroller [to be deposited to] WHO SHALL DEPOSIT SUCH MONEY IN THE STATE TREASURY PURSUANT TO SECTION ONE HUNDRED TWENTY-ONE OF THE STATE FINANCE LAW TO THE CREDIT OF the general fund; PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, ANY SUCH SURCHARGE COLLECTED PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION SHALL BE PAID TO THE COUNTY WHERE THE CONVICTION WAS RENDERED.

1 S 6. Subdivision 3 of section 60.35 of the penal law, as amended by  
2 section 1 of part E of chapter 56 of the laws of 2004, is amended to  
3 read as follows:

4 3. The mandatory surcharge, sex offender registration fee, DNA data-  
5 bank fee, crime victim assistance fee, and supplemental sex offender  
6 victim fee provided for in subdivision one of this section shall be paid  
7 to the clerk of the court or administrative tribunal that rendered the  
8 conviction. Within the first ten days of the month following collection  
9 of the mandatory surcharge, crime victim assistance fee, and supple-  
10 mental sex offender victim fee, the collecting authority shall determine  
11 the amount of mandatory surcharge, crime victim assistance fee, and  
12 supplemental sex offender victim fee collected and, if [it] THE COLLECT-  
13 ING AUTHORITY is an administrative tribunal[,] or a town or village  
14 justice court, it shall then pay such money to the state comptroller  
15 who, UNLESS OTHERWISE AUTHORIZED PURSUANT TO THE OPENING PARAGRAPH OF  
16 SUBDIVISION NINE OF SECTION EIGHTEEN HUNDRED THREE OF THE VEHICLE AND  
17 TRAFFIC LAW, shall deposit such money in the state treasury pursuant to  
18 section one hundred twenty-one of the state finance law to the credit of  
19 the criminal justice improvement account established by section ninety-  
20 seven-bb of the state finance law. Within the first ten days of the  
21 month following collection of the sex offender registration fee and DNA  
22 databank fee, the collecting authority shall determine the amount of the  
23 sex offender registration fee and DNA databank fee collected and, if it  
24 is an administrative tribunal, or a town or village justice court, it  
25 shall then pay such money to the state comptroller who shall deposit  
26 such money in the state treasury pursuant to section one hundred twen-  
27 ty-one of the state finance law to the credit of the general fund. If  
28 such collecting authority is any other court of the unified court  
29 system, it shall, within such period, UNLESS OTHERWISE AUTHORIZED PURSU-  
30 ANT TO THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION EIGHTEEN  
31 HUNDRED THREE OF THE VEHICLE AND TRAFFIC LAW, pay such money attribut-  
32 able to the mandatory surcharge or crime victim assistance fee to the  
33 state commissioner of taxation and finance to the credit of the criminal  
34 justice improvement account established by section ninety-seven-bb of  
35 the state finance law. If such collecting authority is any other court  
36 of the unified court system, it shall, within such period, pay such  
37 money attributable to the sex offender registration fee and the DNA  
38 databank fee to the state commissioner of taxation and finance to the  
39 credit of the general fund.

40 S 7. This act shall take effect immediately, provided, however, the  
41 provisions of sections one, three, four and five of this act shall take  
42 effect on the sixtieth day after it shall have become a law, and  
43 provided further, however, that section six of this act shall take  
44 effect on the first of April, 2013.