

STATE OF NEW YORK

909

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to distribution of certain mandatory surcharges imposed for alcohol-related traffic convictions; and to amend the state finance law, in relation to establishing an impaired driving safety fund

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 vehicle and traffic law, as separately amended by chapters 196 and 688 of
2 the laws of 1996 and subparagraph 3 as amended by chapter 345 of the
3 laws of 2007, is amended to read as follows:
4
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 collected by any court, judge, magistrate or other
8 officer within that county, including, where appropriate, a hearing
9 officer acting on behalf of the commissioner[-]: (1) imposed for
10 violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivision
11 two or subparagraph (i) of paragraph (a) of subdivision three of
12 section five hundred eleven of this chapter; (2) imposed in accordance
13 with the provisions of section eleven hundred ninety-three, paragraph
14 (f) of subdivision seven of section eleven hundred ninety-six, subdivision
15 nine of section eleven hundred ninety-eight, and civil penalties
16 imposed pursuant to subdivision two of section eleven hundred ninety-
17 four-a of this article, including, where appropriate, a hearing officer
18 acting on behalf of the commissioner, from violations of sections eleven
19 hundred ninety-two, eleven hundred ninety-two-a and findings made under
20 section eleven hundred ninety-four-a of this article; and (3) imposed
21 upon a conviction for: aggravated vehicular assault, pursuant to section
22 120.04-a of the penal law; vehicular assault in the first degree, pursuant
23 to section 120.04 of the penal law; vehicular assault in the second

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

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degree, pursuant to section 120.03 of the penal law; aggravated vehicular 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, as provided in section eighteen hundred three of this chapter. Upon receipt of these moneys, the county shall deposit them in a separate account entitled "special traffic options program for driving while intoxicated," and they shall be under the exclusive care, custody, and control of the chief fiscal officer of each county participating in the program.

§ 2. The opening paragraph of subdivision 9 of section 1803 of the vehicle and traffic law, as amended by chapter 345 of the laws of 2007, is amended to read as follows:

Where a county establishes a special traffic options program for driving while intoxicated, approved by the commissioner ~~[of motor vehicles]~~, pursuant to section eleven hundred ninety-seven of this chapter, all fines, penalties and forfeitures: (a) imposed and collected [from] for violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven[, all fines, penalties and forfeitures] of this chapter; (b) imposed and collected in accordance with section eleven hundred ninety-three of this chapter [collected from] for violations of section eleven hundred ninety-two of this chapter; [and any fines or forfeitures] (c) imposed and collected for violations of paragraph (f) of subdivision seven of section eleven hundred ninety-six of this chapter or for violations of subdivision nine of section eleven hundred ninety-eight of this chapter; (d) collected by any court, judge, magistrate or other officer imposed upon a conviction for: aggravated vehicular assault, pursuant to section 120.04-a of the penal law; vehicular assault in the first degree, pursuant to section 120.04 of the penal law; vehicular assault in the second degree, pursuant to section 120.03 of the penal law; aggravated vehicular 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.

§ 3. 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, commencing on the first day of April, two thousand eighteen and every fiscal year thereafter, the state comptroller shall deposit such money to the credit of the impaired driving safety fund pursuant to section eighty-nine-i of the state finance law and such money shall be distributed in accordance with the provisions of such section.

§ 4. 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 the general fund; provided, however, commencing on the first day of April, two thousand eighteen and every fiscal year thereafter, the state comptroller shall deposit such money to the credit of the impaired driving safety fund pursuant to section eighty-nine-i of the state finance law and such money shall be distributed in accordance with the provisions of such section.

§ 5. The state finance law is amended by adding a new section 89-i to read as follows:

§ 89-i. Impaired driving safety fund. 1. There is hereby established in the custody of the comptroller, a special fund to be known as the "impaired driving safety fund".

2. Such fund shall consist of all moneys received by the state for the collection of surcharges imposed pursuant to sections eighteen hundred nine-c and eighteen hundred nine-e of the vehicle and traffic law and all other grants, bequests or other moneys appropriated, credited or transferred thereto from any other fund or source pursuant to law.

3. Moneys in the impaired driving safety fund shall be made available to the department of motor vehicles only for the costs associated with monitoring persons subject to the ignition interlock program as set forth in section eleven hundred ninety-eight of the vehicle and traffic law, and for the distribution of annual grants to eligible programs established pursuant to section eleven hundred ninety-seven of the vehicle and traffic law exclusively for the purposes, functions and duties set forth in section eleven hundred ninety-seven of the vehicle and traffic law.

4. The moneys of the fund shall be paid out on the audit and warrant of the comptroller on vouchers certified or approved by the commissioner of motor vehicles, including advance of funds, if necessary, for costs incurred by a county for monitoring persons subject to the ignition interlock program. At the end of each year any moneys remaining in the fund shall be retained in the fund exclusively for the purposes set

1 forth herein and shall not revert to the general fund. The interest and
2 income earned on moneys in the fund after deducting applicable charges
3 shall be credited to the fund.

4 § 6. This act shall take effect on the first of November next succeed-
5 ing the date on which it shall have become a law.