

STATE OF NEW YORK

7810

IN SENATE

February 24, 2020

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to paying drug-impaired driving surcharges to counties to reduce drug-impaired driving incidences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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 the laws of 1996 and subparagraph 3 as amended by chapter 345 of the laws of 2007, is amended to read as follows:

(a) Where a county establishes a special traffic options program for driving while intoxicated, pursuant to this section, it shall receive fines and forfeitures collected by any court, judge, magistrate or other officer within that county, including, where appropriate, a hearing officer acting on behalf of the commissioner^[7]: (1) imposed 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 of this chapter; (2) imposed in accordance with the provisions of section eleven hundred ninety-three and civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this article, including, where appropriate, a hearing officer acting on behalf of the commissioner, from violations of sections eleven hundred ninety-two, eleven hundred ninety-two-a and findings made under section eleven hundred ninety-four-a of this article; and (3) 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, as provided in section eighteen hundred three of this chapter. In addition, any surcharges imposed pursuant to sections eighteen hundred nine-c and eighteen hundred nine-e of this chapter shall be paid to such county in such manner and for such purposes as provided for in such sections. Upon

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ^[7] is old law to be omitted.

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1 receipt of these moneys, the county shall deposit them in a separate
2 account entitled "special traffic options program for driving while
3 intoxicated" and they shall be under the exclusive care, custody and
4 control of the chief fiscal officer of each county participating in the
5 program.

6 § 2. Subdivision 9 of section 1803 of the vehicle and traffic law, as
7 amended by chapter 196 of the laws of 1996 and the opening paragraph as
8 amended by chapter 345 of the laws of 2007, is amended to read as
9 follows:

10 9. Where a county establishes a special traffic options program for
11 driving while intoxicated, approved by the commissioner [~~of motor vehi-~~
12 ~~cles~~], pursuant to section eleven hundred ninety-seven of this chapter,
13 all fines, penalties and forfeitures: (a) imposed and collected [from]
14 for violations of subparagraphs (ii) and (iii) of paragraph (a) of
15 subdivision two or subparagraph (i) of paragraph (a) of subdivision
16 three of section five hundred eleven[, ~~all fines, penalties and forfei-~~
17 ~~tures~~] of this chapter; (b) imposed and collected in accordance with
18 section eleven hundred ninety-three of this chapter [~~collected from~~] for
19 violations of section eleven hundred ninety-two of this chapter; [~~and~~
20 ~~any fines or forfeitures~~] (c) collected by any court, judge, magistrate
21 or other officer imposed upon a conviction for: aggravated vehicular
22 assault, pursuant to section 120.04-a of the penal law; vehicular
23 assault in the first degree, pursuant to section 120.04 of the penal
24 law; vehicular assault in the second degree, pursuant to section 120.03
25 of the penal law; aggravated vehicular homicide, pursuant to section
26 125.14 of the penal law; vehicular manslaughter in the first degree,
27 pursuant to section 125.13 of the penal law; and vehicular manslaughter
28 in the second degree, pursuant to section 125.12 of the penal law; and
29 (d) civil penalties imposed pursuant to subdivision two of section elev-
30 en hundred ninety-four-a of this chapter, shall be paid to such county.
31 In addition, any surcharges imposed pursuant to sections eighteen
32 hundred nine-c and eighteen hundred nine-e of this chapter shall be paid
33 to such county in such manner and for such purposes as provided for in
34 such sections.

35 [~~(a)~~] (e) Any such fine, penalty, or forfeiture collected by any
36 court, judge, magistrate or other officer referred to in subdivision one
37 of section thirty-nine of the judiciary law, establishing a unified
38 court budget, shall be paid to that county within the first ten days of
39 the month following collection.

40 [~~(b)~~] (f) Any such fine, penalty, or forfeiture collected by any other
41 court, judge, magistrate or other officer, including, where appropriate,
42 a hearing officer acting on behalf of the commissioner, shall be paid to
43 the state comptroller within the first ten days of the month following
44 collection. Every such payment to the comptroller shall be accompanied
45 by a statement in such form and detail as the comptroller shall provide.
46 The comptroller shall pay these funds to the county in which the
47 violation occurs.

48 [~~(c)~~] (g) Upon receipt of any monies referred to in this section, the
49 county shall deposit them in a separate account entitled "special traf-
50 fic options program for driving while intoxicated".

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

54 1. Notwithstanding any other provision of law, whenever proceedings in
55 a court of this state result in a conviction pursuant to section eleven
56 hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of

1 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of
2 subdivision three of section five hundred eleven of this chapter, there
3 shall be levied, in addition to any sentence or other surcharge required
4 or permitted by law, an additional surcharge of twenty-five dollars.

5 2. The additional surcharge provided for in subdivision one of this
6 section shall be paid to the clerk of the court that rendered the
7 conviction. Within the first ten days of the month following collection
8 of the surcharge the collecting authority shall determine the amount of
9 surcharge collected and it shall pay such money to the state comptroller
10 who shall deposit such money in the state treasury pursuant to section
11 one hundred twenty-one of the state finance law to the credit of the
12 general fund; provided, however, commencing on April first, two thousand
13 twenty, all such moneys shall be paid to counties pursuant to subdivi-
14 sion one of section eleven hundred ninety-seven of this chapter and
15 shall be used by each such county for programs and initiatives specif-
16 ically designed and established to reduce the incidence of drug-impaired
17 driving.

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

21 b. Notwithstanding any other provision of law, whenever proceedings in
22 a court of this state result in a conviction pursuant to section eleven
23 hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of
24 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of
25 subdivision three of section five hundred eleven of this chapter, there
26 shall be levied, in addition to any sentence or other surcharge required
27 or permitted by law, an additional surcharge of one hundred seventy
28 dollars.

29 2. The additional surcharges provided for in subdivision one of this
30 section shall be paid to the clerk of the court or administrative tribu-
31 nal that rendered the conviction. Within the first ten days of the month
32 following collection of such surcharges, the collecting authority shall
33 pay such money to the state comptroller to be deposited to the general
34 fund; provided, however, commencing on April first, two thousand twen-
35 ty-one, fifty percent of such surcharge shall be paid to the state comp-
36 troller to be deposited to the general fund and fifty percent of such
37 surcharge shall be paid to counties pursuant to subdivision one of
38 section eleven hundred ninety-seven of this chapter and shall be used by
39 each such county for programs and initiatives specifically designed and
40 established to reduce the incidence of drug-impaired driving; and
41 provided further, commencing April first, two thousand twenty-two and
42 every fiscal year thereafter, one hundred percent of such surcharge
43 shall be paid to counties pursuant to subdivision one of section eleven
44 hundred ninety-seven of this chapter and shall be used by each such
45 county for programs and initiatives specifically designed and estab-
46 lished to reduce the incidence of drug-impaired driving.

47 § 5. The commissioner of motor vehicles shall annually certify to the
48 division of the budget that all program plans eligible for funding
49 pursuant to this act are in full compliance with the provisions of
50 section 1197 of the vehicle and traffic law establishing the special
51 traffic options program for driving while intoxicated, the rules promul-
52 gated pursuant to 15 NYCRR 172 relating to such program and the
53 provisions of this act.

54 § 6. This act shall take effect April 1, 2020.