

7196

2009-2010 Regular Sessions

I N A S S E M B L Y

March 25, 2009

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

AN ACT to amend the vehicle and traffic law and the state finance law,  
in relation to the creation of the mandatory ignition interlock  
program for all persons convicted of driving while intoxicated; and to  
repeal section 1198 of the vehicle and traffic law relating thereto

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

1 Section 1. Legislative intent. The legislature hereby finds and  
2 declares that ignition interlock devices are highly successful law  
3 enforcement tools for preventing driving while intoxicated recidivism.  
4 Current law does not mandate ignition interlock devices for all offen-  
5 ders, just for those who have been convicted of the offense of aggra-  
6 vated driving while intoxicated or a second violation of subdivision 2  
7 or 3 of section 1192 of the vehicle and traffic law within five years  
8 pursuant to paragraph (c) of subdivision 1-a of section 1193 of the  
9 vehicle and traffic law, who have also been given probation as a condi-  
10 tion of their sentencing. National studies have conclusively shown that  
11 first time offenders who had mandatory ignition interlock devices  
12 installed in their vehicles were sixty percent less likely to commit the  
13 offense of driving while intoxicated again. These studies have also  
14 found a correlating economic benefit in reducing the expenditure of  
15 court resources and damages created by repeat offenders. For every one  
16 dollar spent in enforcing and monitoring such a program a three dollar  
17 savings is expected.

18 S 2. Section 1198 of the vehicle and traffic law is REPEALED and a  
19 new section 1198 is added to read as follows:

20 S 1198. MANDATORY IGNITION INTERLOCK PROGRAM FOR DRIVING WHILE INTOXI-  
21 CATED OFFENDERS. 1. THERE IS HEREBY ESTABLISHED A MANDATORY IGNITION  
22 INTERLOCK PROGRAM FOR ALL DRIVING WHILE INTOXICATED OFFENDERS.

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

LBD03487-05-9

1 2. (A) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW, THE COURT  
2 SHALL REQUIRE THAT ANY PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF  
3 SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS INVOLVED), FIVE  
4 OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR ANY  
5 CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH AN ALCOHOL-RE-  
6 LATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF  
7 THIS ARTICLE IS AN ESSENTIAL ELEMENT SHALL INSTALL AND MAINTAIN, AS A  
8 CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE OR PROBATION, OR AS A  
9 MANDATORY ADDITIONAL CONDITION OF ANY CONDITIONAL LICENSE ISSUED BY THE  
10 COMMISSIONER PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTI-  
11 CLE AND RESULTING FROM ANY ALCOHOL RELATED DRIVING OFFENSE, A FUNCTION-  
12 ING IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS  
13 SECTION AND MAY NOT OPERATE ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH  
14 AN IGNITION INTERLOCK DEVICE PROVIDED, HOWEVER, THE COURT MAY NOT  
15 AUTHORIZE THE OPERATION OF A MOTOR VEHICLE BY ANY PERSON WHOSE LICENSE  
16 OR PRIVILEGE TO OPERATE A MOTOR VEHICLE HAS BEEN REVOKED EXCEPT AS  
17 PROVIDED IN THIS SECTION.

18 (B) THIS SECTION SHALL NOT APPLY TO THOSE CONVICTED OF THE OFFENSE OF  
19 DRIVING WHILE ABILITY IMPAIRED BY ALCOHOL PURSUANT TO SUBDIVISION ONE OF  
20 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, IT SHALL BE IN THE  
21 DISCRETION OF THE SENTENCING COURT WHETHER TO MANDATE AN IGNITION INTER-  
22 LOCK AS A CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE FOR THE  
23 CONVICTION OF SUCH AN OFFENSE.

24 (C) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS PROHIBITING A  
25 SENTENCE OF INCARCERATION PURSUANT TO ARTICLE SEVENTY OF THE PENAL LAW  
26 OR THE APPLICATION OF ANY OTHER FINES, PENALTIES, PROGRAMS, RESTITUTION,  
27 CONDITIONS OF PROBATION OR CONDITIONAL DISCHARGE, COMMUNITY SERVICE OR  
28 OTHER SANCTIONS.

29 (D) ANY SENTENCED OFFENDER WHO DECLINES TO OBTAIN A LICENSE, CONDI-  
30 TIONAL LICENSE OR TO EXERCISE ANY DRIVING PRIVILEGE IN THE STATE OF NEW  
31 YORK MUST OBTAIN A MOTORIST IDENTIFICATION CARD FROM THE DEPARTMENT AND  
32 THE COMMISSIONER SHALL NOTE ON THE MOTORIST'S IDENTIFICATION RECORD OF  
33 ANY PERSON RESTRICTED PURSUANT TO THIS SECTION THAT SUCH PERSON, WOULD  
34 BE OTHERWISE REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN  
35 IGNITION INTERLOCK DEVICE. OPERATION OF A MOTOR VEHICLE IN VIOLATION OF  
36 THIS SECTION IS A CLASS E FELONY.

37 (E) PERIODS OF MANDATORY IGNITION INTERLOCK USE BY THOSE CONVICTED OF  
38 A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS  
39 INVOLVED), FIVE OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS  
40 ARTICLE, OR ANY CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH  
41 AN ALCOHOL-RELATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED  
42 NINETY-TWO OF THIS ARTICLE IS AN ESSENTIAL ELEMENT:

43 (1) ANY PERSON CONVICTED OF A FIRST VIOLATION OF ANY OF THE STATUTORY  
44 PROVISIONS IN THIS PARAGRAPH AND OTHERWISE ELIGIBLE SHALL BE SENTENCED  
45 TO A CONDITIONAL DISCHARGE, SHALL SERVE A TERM OF PROBATION AND AS A  
46 CONDITION OF SUCH DISCHARGE OR PROBATION MAINTAIN AN IGNITION INTERLOCK  
47 SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR  
48 VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A  
49 PERIOD OF AT LEAST ONE YEAR FROM THE DATE OF SENTENCING, OR THE DATE OF  
50 THE ISSUANCE OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY  
51 RESTORED LICENSE IF NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS  
52 LONGER;

53 (2) ANY PERSON CONVICTED OF A VIOLATION OF ANY OF THE OFFENSES IN THIS  
54 PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A SECOND OFFENSE SHALL NOT  
55 RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE SERVE A TERM  
56 OF PROBATION AND BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTER-

1 LOCK SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY  
2 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE,  
3 FOR THE FULL PERIOD OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF  
4 THREE YEARS, WHICHEVER IS LONGER;

5 (3) ANY PERSON CONVICTED OF A SECOND VIOLATION OF ANY OF THE OFFENSES  
6 IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A THIRD OFFENSE  
7 SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE  
8 SERVE A TERM OF PROBATION AND MAINTAIN AN IGNITION INTERLOCK SYSTEM, AT  
9 THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT  
10 IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR THE FULL PERIOD  
11 OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF FIVE YEARS, WHICHEV-  
12 ER IS LONGER;

13 (4) ANY PERSON CONVICTED OF A THIRD VIOLATION OF ANY OF THE OFFENSES  
14 IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A FOURTH OFFENSE  
15 SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND SHALL BE REQUIRED TO  
16 INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM AT THEIR OWN COST, AND  
17 IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH  
18 AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM PERIOD OF TEN YEARS UP TO  
19 LIFE IN THE DISCRETION OF THE COURT AT THE TIME OF SENTENCING;

20 (5) ANY PERSON SENTENCED TO A PERIOD OF INCARCERATION OR WHO IS OTHER-  
21 WISE NOT SUBJECT TO A CONDITIONAL DISCHARGE OR PERIOD OF PROBATION,  
22 SHALL BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM,  
23 AT THEIR OWN COST AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE  
24 THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM  
25 PERIOD OF THREE YEARS FROM THE DATE OF THEIR SENTENCE, RELEASE FROM  
26 INCARCERATION, OR UPON APPROVAL OF A RE-APPLICATION TO THE DEPARTMENT  
27 FOR A LICENSE OR DRIVING PRIVILEGE, WHICHEVER IS LONGER.

28 3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER  
29 MAY GRANT A POST-REVOCATION CONDITIONAL LICENSE, AS SET FORTH IN PARA-  
30 GRAPH (C) OF THIS SUBDIVISION, TO A PERSON WHO HAS BEEN CONVICTED OF A  
31 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, OR FOUR-A (WHERE ALCOHOL IS  
32 INVOLVED), OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,  
33 PROVIDED THE PERSON HAS SATISFIED ANY MANDATORY MINIMUM PERIOD OF  
34 LICENSE REVOCATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN  
35 NOTIFIED THAT SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH  
36 A FUNCTIONING IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE  
37 NOR SHALL SUCH A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN  
38 ARRESTED FOR A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER  
39 DURING THE LICENSE REVOCATION PERIOD OR DEEMED BY A COURT TO HAVE  
40 VIOLATED ANY CONDITION OF PROBATION SET FORTH BY THE COURT RELATING TO  
41 THE OPERATION OF A MOTOR VEHICLE OR THE CONSUMPTION OF ALCOHOL.

42 (B) UPON THE TERMINATION OF THE PERIOD OF REQUIRED IGNITION INTERLOCK  
43 USE SET BY THE COURT, THE PERSON MAY APPLY TO THE COMMISSIONER FOR  
44 RESTORATION OF A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE WITHOUT  
45 AN IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THIS CHAPTER.

46 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER, A  
47 POST-REVOCATION CONDITIONAL LICENSE GRANTED PURSUANT TO PARAGRAPH (A) OF  
48 THIS SUBDIVISION SHALL BE VALID ONLY FOR THE USES PRESCRIBED IN PARA-  
49 GRAPH (A) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF  
50 THIS ARTICLE AND APPLICABLE TO ALL OTHER CONDITIONAL LICENSES BY THE  
51 HOLDER THEREOF.

52 (D) THE POST-REVOCATION CONDITIONAL LICENSE DESCRIBED IN THIS SUBDIVI-  
53 SION MAY BE REVOKED BY THE COMMISSIONER FOR SUFFICIENT CAUSE INCLUDING  
54 BUT NOT LIMITED TO, FAILURE TO COMPLY WITH THE TERMS OF THE CONDITIONS  
55 OF PROBATION SET FORTH BY THE COURT, CONVICTION OF ANY TRAFFIC OFFENSE  
56 OTHER THAN ONE INVOLVING PARKING, STOPPING OR STANDING OR AN ARREST FOR

1 ANY ALCOHOL OR DRUG RELATED OFFENSE, MISDEMEANOR OR FELONY, A VIOLATION  
2 OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-  
3 SIX OF THIS ARTICLE, OR A VIOLATION OF ANY SUBDIVISION OF SECTION FIVE  
4 HUNDRED ELEVEN OF THIS CHAPTER.

5 4. (A) IF THE COURT IMPOSED THE USE OF AN IGNITION INTERLOCK DEVICE AS  
6 A CONDITION OF THE SENTENCE THE COURT SHALL REQUIRE THE PERSON TO  
7 PROVIDE PROOF OF COMPLIANCE WITH THIS SECTION TO THE COURT AND THE  
8 PROBATION DEPARTMENT WHERE SUCH PERSON IS EITHER UNDER PROBATION SUPER-  
9 VISION OR UNDER COMPLIANCE MONITORING FOR THE PURPOSE OF THIS MANDATORY  
10 IGNITION INTERLOCK PROGRAM. IF THE PERSON FAILS TO PROVIDE FOR SUCH  
11 PROOF OF INSTALLATION, ABSENT A FINDING BY THE COURT OF GOOD CAUSE FOR  
12 THAT FAILURE WHICH IS ENTERED IN THE RECORD, THE COURT MAY REVOKE, MODI-  
13 FY, OR TERMINATE THE PERSON'S SENTENCE AS PROVIDED UNDER LAW.

14 (B) WHEN A COURT IMPOSES ANY OF THE INTERLOCK OR LICENSE CONDITIONS  
15 SPECIFIED IN THIS CHAPTER, THE COURT SHALL NOTIFY THE COMMISSIONER IN  
16 SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE, AND THE COMMISSIONER  
17 SHALL NOTE SUCH CONDITION ON THE OPERATING RECORD OF ANY PERSON SO  
18 RESTRICTED THAT, IN ADDITION TO ANY OTHER RESTRICTIONS, CONDITIONS OR  
19 LIMITATIONS, SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH  
20 AN IGNITION INTERLOCK DEVICE.

21 5. (A) THE COST OF INSTALLING AND MAINTAINING THE IGNITION INTERLOCK  
22 DEVICE SHALL BE BORNE BY THE PERSON SUBJECT TO SUCH CONDITION. SUCH COST  
23 SHALL BE CONSIDERED A FINE FOR THE PURPOSES OF SUBDIVISION FIVE OF  
24 SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW. SUCH COST SHALL NOT  
25 REPLACE, BUT SHALL INSTEAD BE IN ADDITION TO, ANY FINES, SURCHARGES, OR  
26 OTHER COSTS IMPOSED PURSUANT TO THIS CHAPTER OR OTHER APPLICABLE LAWS.

27 (B) THE SUBJECT OF THE CONDITION SHALL BE RESPONSIBLE TO BRING ANY  
28 VEHICLES DRIVEN BY THE SUBJECT TO THE INSTALLATION AND SERVICE PROVIDER  
29 OF THE IGNITION INTERLOCK DEVICE FOR THE INSTALLATION, CALIBRATION, AND  
30 MAINTENANCE OF SUCH DEVICE.

31 (C) THOSE CONVICTED OF ANY OF THE ABOVE OFFENSES WHO CAN NOT AFFORD TO  
32 MAINTAIN AND OPERATE AN IGNITION INTERLOCK SYSTEM SHALL HAVE ONE  
33 PROVIDED FOR THEM BY THE COUNTY PROBATION AND CORRECTIONAL ALTERNATIVES  
34 DEPARTMENT OR A PARTICIPATING INTERLOCK DEVICE PROVIDER AND WILL BE  
35 ENROLLED IN A PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES  
36 MAY BE PAID BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE  
37 IGNITION INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR  
38 THE OPERATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED  
39 TO OFFER SUCH A REPAYMENT PLAN.

40 6. THE COMMISSIONER OF HEALTH SHALL APPROVE IGNITION INTERLOCK DEVICES  
41 AND SHALL PUBLISH A LIST OF APPROVED DEVICES. SUCH COMMISSIONER SHALL  
42 PROMULGATE RULES AND REGULATIONS FOR IGNITION INTERLOCK DEVICES IN PART  
43 59 OF TITLE 10 OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGU-  
44 LATIONS.

45 7. (A) ANY REQUIREMENT OF THIS SECTION OR OF THE PENAL LAW, THAT A  
46 PERSON OPERATE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION INTER-  
47 LOCK DEVICE, SHALL APPLY TO EVERY MOTOR VEHICLE OPERATED BY THAT PERSON  
48 INCLUDING, BUT NOT LIMITED TO, VEHICLES THAT ARE LEASED, RENTED OR  
49 LOANED.

50 (B) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO  
51 A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO  
52 VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE  
53 IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED  
54 SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHI-  
55 CLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

1 (C) A VIOLATION OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE A MISDE-  
2 MEANOR AND SHALL RESULT IN THE IMMEDIATE REVOCATION OF ANY LICENSE,  
3 CONDITIONAL LICENSE OR OPERATING PRIVILEGE FOR A MINIMUM ONE YEAR PERIOD  
4 UPON ARREST.

5 (D) A VIOLATION OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE A MISDE-  
6 MEANOR.

7 8. (A) NO PERSON WHOSE DRIVING PRIVILEGE IS RESTRICTED PURSUANT TO  
8 THIS SECTION OR THE PENAL LAW SHALL REQUEST, SOLICIT OR ALLOW ANY OTHER  
9 PERSON TO BLOW INTO AN IGNITION INTERLOCK DEVICE, OR TO START A MOTOR  
10 VEHICLE EQUIPPED WITH THE DEVICE, FOR THE PURPOSE OF PROVIDING THE  
11 PERSON SO RESTRICTED WITH AN OPERABLE MOTOR VEHICLE.

12 (B) NO PERSON SHALL BLOW INTO AN IGNITION INTERLOCK DEVICE OR START A  
13 MOTOR VEHICLE EQUIPPED WITH THE DEVICE FOR THE PURPOSE OF PROVIDING AN  
14 OPERABLE MOTOR VEHICLE TO A PERSON WHOSE DRIVING PRIVILEGE IS SO  
15 RESTRICTED.

16 (C) NO PERSON SHALL TAMPER WITH OR CIRCUMVENT AN OTHERWISE OPERABLE  
17 IGNITION INTERLOCK DEVICE.

18 (D) IN ADDITION TO ANY OTHER PROVISIONS OF LAW, ANY PERSON CONVICTED  
19 OF A VIOLATION OF PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION SHALL BE  
20 GUILTY OF AN UNCLASSIFIED MISDEMEANOR AND SHALL BE PUNISHABLE BY A FINE  
21 OF NOT LESS THAN ONE THOUSAND DOLLARS OR BY IMPRISONMENT IN A COUNTY  
22 JAIL OR A PENITENTIARY FOR NOT MORE THAN ONE YEAR.

23 (E) IN ADDITION TO ANY OTHER PENALTIES, IF THE PERSON ARRESTED FOR A  
24 VIOLATION OF PARAGRAPH (A) OR (C) OF THIS SUBDIVISION IS THE DRIVER  
25 REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN IGNITION  
26 INTERLOCK DEVICE, THE DRIVER'S ARREST SHALL RESULT IN THE IMMEDIATE  
27 REVOCATION OF ANY LICENSE, CONDITIONAL LICENSE OR DRIVING PRIVILEGE FOR  
28 A MINIMUM PERIOD OF ONE YEAR, SUBJECT TO THE PROVISIONS OF SUBDIVISION  
29 NINE OF THIS SECTION.

30 9. ANY LICENSE, CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN THIS  
31 CHAPTER MAY BE REVOKED BY THE COMMISSIONER, FOR SUFFICIENT CAUSE INCLUD-  
32 ING, BUT NOT LIMITED TO, CONVICTION OF ANY TRAFFIC INFRACTION OTHER THAN  
33 ONE INVOLVING PARKING, STOPPING OR STANDING; OR ARREST UPON REASONABLE  
34 CAUSE OF ANY ALCOHOL OR DRUG-RELATED TRAFFIC OFFENSE, MISDEMEANOR OR  
35 FELONY; OR AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR A  
36 VIOLATION OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN  
37 HUNDRED NINETY-SIX OF THIS CHAPTER. IN ADDITION ANY LICENSE, CONDI-  
38 TIONAL LICENSE OR PRIVILEGES MAY BE REVOKED BY THE COMMISSIONER WHEN A  
39 PERSON IS REQUIRED UNDER ANY LAW TO OPERATE ONLY A MOTOR VEHICLE WITH AN  
40 IGNITION INTERLOCK DEVICE, AN ARREST UPON REASONABLE CAUSE FOR OPERATING  
41 A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, OR SOLICITING,  
42 REQUESTING OR ALLOWING ANY OTHER PERSON TO BLOW INTO AN IGNITION INTER-  
43 LOCK DEVICE, OR TAMPERING OR CIRCUMVENTING SUCH DEVICE.

44 S 3. The state finance law is amended by adding a new section 99-q to  
45 read as follows:

46 S 99-Q. MANDATORY IGNITION INTERLOCK FUND. 1. THERE IS HEREBY ESTAB-  
47 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE NEW YORK  
48 STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES A SPECIAL FUND  
49 TO BE KNOWN AS THE "MANDATORY IGNITION INTERLOCK FUND".

50 2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE COURTS FROM  
51 A COURT FEE OF FIFTY DOLLARS IMPOSED ON ANYONE CONVICTED OF A VIOLATION  
52 OF ANY OF THE SUBDIVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE  
53 VEHICLE AND TRAFFIC LAW.

54 3. MONEYS OF THE FUND SHALL BE EXPENDED BY THE NEW YORK STATE DIVISION  
55 OF PROBATION AND CORRECTIONAL ALTERNATIVES ON AN AS-NEED BASIS FOR THE  
56 CONTINUED OPERATION AND MAINTENANCE OF THE MANDATORY IGNITION INTERLOCK

1 PROGRAM ESTABLISHED IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THE VEHI-  
2 CLE AND TRAFFIC LAW, TO INCLUDE THE COST OF:

3 (A) ADDITIONAL PROBATION AND COMPLIANCE OFFICERS TO MANAGE THE PROGRAM  
4 AT A COUNTY OR REGIONAL LEVEL IN THE DISCRETION OF THE DIVISION OF  
5 PROBATION AND CORRECTIONAL ALTERNATIVES;

6 (B) DEFRAYING THE COST TO THOSE DETERMINED BY THE COURT TO BE INCAPA-  
7 BLE OF BEARING THE INITIAL OR ENTIRE EXPENSE OF INSTALLING AND MAINTAIN-  
8 ING AN IGNITION INTERLOCK DEVICE PURSUANT TO THIS SECTION. NOTHING IN  
9 THIS PROVISION SHALL PREVENT A PERSON MANDATED TO INSTALL AND MAINTAIN  
10 AN IGNITION INTERLOCK PURSUANT TO THIS SECTION FROM BEING ENROLLED IN A  
11 PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES MAY BE PAID  
12 BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE IGNITION  
13 INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR THE OPER-  
14 ATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED TO  
15 OFFER SUCH A REPAYMENT PLAN;

16 (C) ADDITIONAL OR ENHANCED EQUIPMENT FOR THE MONITORING OF PROBATION-  
17 ERS; AND

18 (D) ANY OTHER COSTS ASSOCIATED WITH THE INCREASED DUTIES OR EXPENSES  
19 ASSOCIATED WITH OPERATING AND MANAGING THE PROGRAM TO INCLUDE BUT NOT BE  
20 LIMITED TO HEALTHCARE, RETIREMENT OR OTHER BENEFIT COSTS DUE TO  
21 INCREASED STAFF.

22 S 4. 1. The New York state division of probation and correctional  
23 alternatives is hereby authorized and directed to create, amend and/or  
24 repeal any and all rules or regulations necessary for the implementation  
25 of this act on or before its effective date for the purpose of:

26 (a) creation of the ignition interlock fund and the management, opera-  
27 tion and investment thereof;

28 (b) creation of a grant process as prescribed by subdivision 3 of  
29 section 99-q of the state finance law, as added by section three of this  
30 act; and

31 (c) creation of any other rules or regulations for the efficient opera-  
32 tion of this act.

33 2. The New York state division of probation and correctional alterna-  
34 tives is hereby directed to audit each county's mandatory ignition  
35 interlock program at least once every two years. The division of  
36 probation and correctional alternatives shall compile and submit to the  
37 governor, legislature, attorney general and comptroller a yearly report  
38 detailing the progress and effectiveness of each county's program.

39 S 5. Severability. If any clause, sentence, paragraph, section or part  
40 of this article be adjudged by any court of competent jurisdiction to be  
41 invalid, such judgment shall not affect, impair or invalidate the  
42 remainder hereof but shall be applied in its operation to the clause,  
43 sentence, paragraph, section or part hereof directly involved in the  
44 controversy in which such judgment shall have been rendered.

45 S 6. This act shall take effect April 1, 2010. All departments or  
46 divisions of the state mentioned in this act are hereby authorized and  
47 directed to create, amend and/or repeal any and all rules or regulations  
48 necessary for the implementation of this act on or before its effective  
49 date.