S T A T E O F N E W Y O R K

5759

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. PRETLOW, COLTON, DIAZ, HOOPER -- 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 a statewide hotline to the state police and a reward for reporting the conduct of a driver subsequently convicted of a crime for driving while under the influence of drugs or alcohol as a result of such report, to be funded by an additional surcharge upon drivers convicted of such offenses

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

Section 1. Subdivision 1 of section 1193 of the vehicle and traffic law is amended by adding a new paragraph (g) to read as follows:

(G) THE DIVISION OF STATE POLICE SHALL ESTABLISH, MAINTAIN AND OPERATE A TOLL FREE STATEWIDE TELEPHONE HOTLINE FOR THE REPORTING BY MOTORISTS AND OTHERS OF PERSONS WHO ARE DRIVING UNDER THE INFLUENCE OF DRUGS AND ALCOHOL AND THUS COMMITTING ANY OF THE CRIMES DESCRIBED IN THIS SUBDIVISION. SUBSEQUENT TO RECEIVING SUCH REPORT ON THE HOTLINE OR IN ANY OTHER MANNER, THE STATE POLICE SHALL NOTIFY THE APPROPRIATE LOCAL OR DIVISIONAL AUTHORITY TO APPREHEND ANY SUCH PERSON AND MAKE AN ARREST IF NECESSARY. UPON CONVICTION OF ANY SUCH PERSON FOR DRIVING IN VIOLATION OF ONE OF THE CRIMES SET FORTH IN THIS SUBDIVISION, A REWARD OF ONE HUNDRED DOLLARS SHALL BE PAID OUT OF THE CRIMINAL JUSTICE IMPROVEMENT ACCOUNT ESTABLISHED BY SECTION NINETY-SEVEN-BB OF THE STATE FINANCE LAW TO ANY PERSON WHO HAS PROPERLY IDENTIFIED HIMSELF OR HERSELF WHEN REPORTING SUCH INCIDENT PURSUANT TO THIS PARAGRAPH AND WHOSE REPORT LED TO SUCH APPREHENSION AND SUBSEQUENT CONVICTION.

S 2. The vehicle and traffic law is amended by adding a new section 1809-f to read as follows:

S 1809-F. ADDITIONAL MANDATORY SURCHARGE REQUIRED FOR CRIMINAL VIOLATIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER. 1. WHENEVER PROCEEDINGS IN A COURT OF THIS STATE RESULT IN A CONVICTION FOR

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

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A MISDEMEANOR OR FELONY PURSUANT TO SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER, THERE SHALL BE LEVIED A MANDATORY SURCHARGE, IN ADDITION TO ANY SENTENCE REQUIRED OR PERMITTED BY LAW, IN THE AMOUNT OF ONE HUNDRED DOLLARS.

2. WHERE A PERSON IS CONVICTED OF TWO OR MORE SUCH CRIMES COMMITTED THROUGH A SINGLE ACT OR OMISSION, OR THROUGH AN ACT OR OMISSION WHICH IN ITSELF CONSTITUTED ONE OF THE CRIMES AND ALSO WAS A MATERIAL ELEMENT OF THE OTHER, THE COURT SHALL IMPOSE ONLY ONE MANDATORY SURCHARGE MANDATED BY SUBDIVISION ONE OF THIS SECTION.

3. THE MANDATORY 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 MANDATORY SURCHARGE THE COLLECTING AUTHORITY SHALL DETERMINE THE AMOUNT OF MANDATORY SURCHARGE COLLECTED AND, IF IT IS A TOWN OR VILLAGE JUSTICE COURT, 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 CRIMINAL JUSTICE IMPROVEMENT ACCOUNT ESTABLISHED BY SECTION NINETY-SEVEN-BB OF THE STATE FINANCE LAW. IF SUCH COLLECTING AUTHORITY IS ANY OTHER COURT OF THE UNIFIED COURT SYSTEM, IT SHALL, WITHIN SUCH PERIOD, PAY SUCH MONEY TO THE STATE COMMISSIONER OF TAXATION AND FINANCE TO THE CREDIT OF THE CRIMINAL JUSTICE IMPROVEMENT ACCOUNT ESTABLISHED BY SECTION NINETY-SEVEN-BB OF THE STATE FINANCE LAW.

4. ANY PERSON WHO HAS PAID A MANDATORY SURCHARGE UNDER THE AUTHORITY OF THIS SECTION WHICH IS ULTIMATELY DETERMINED NOT TO BE REQUIRED BY THIS SECTION SHALL BE ENTITLED TO A REFUND OF SUCH MANDATORY SURCHARGE UPON APPLICATION TO THE STATE COMPTROLLER. THE STATE COMPTROLLER SHALL REQUIRE SUCH PROOF AS IT IS NECESSARY IN ORDER TO DETERMINE WHETHER A REFUND IS REQUIRED BY LAW.

5. WHEN A PERSON WHO IS CONVICTED OF A CRIME AND SENTENCED TO A TERM OF IMPRISONMENT HAS FAILED TO PAY THE MANDATORY SURCHARGE REQUIRED BY THIS SECTION, THE CLERK OF THE COURT THAT RENDERED THE CONVICTION SHALL NOTIFY THE SUPERINTENDENT OR THE MUNICIPAL OFFICIAL OF THE FACILITY WHERE THE PERSON IS CONFINED. THE SUPERINTENDENT OR THE MUNICIPAL OFFICIAL SHALL CAUSE ANY AMOUNT OWING TO BE COLLECTED FROM SUCH PERSON DURING HIS TERM OF IMPRISONMENT FROM THE MONEYS TO THE CREDIT OF AN INMATES' FUND OR SUCH MONEYS AS MAY BE EARNED BY A PERSON IN A WORK RELEASE PROGRAM PURSUANT TO SECTION EIGHT HUNDRED SIXTY OF THE CORRECTION LAW. SUCH MONEYS SHALL BE PAID OVER TO THE STATE COMPTROLLER TO THE CREDIT OF THE CRIMINAL JUSTICE IMPROVEMENT ACCOUNT ESTABLISHED BY SECTION NINETY-SEVEN-BB OF THE STATE FINANCE LAW. FOR THE PURPOSES OF COLLECTING SUCH MANDATORY SURCHARGE, THE STATE SHALL BE LEGALLY ENTITLED TO THE MONEY TO THE CREDIT OF AN INMATES' FUND OR MONEY WHICH IS EARNED BY AN INMATE IN A WORK RELEASE PROGRAM. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "INMATES' FUND" SHALL MEAN MONEYS IN THE POSSESSION OF AN INMATE AT THE TIME OF HIS ADMISSION INTO SUCH FACILITY, FUNDS EARNED BY HIM AS PROVIDED FOR IN SECTION ONE HUNDRED EIGHTY-SEVEN OF THE CORRECTION LAW AND ANY OTHER FUNDS RECEIVED BY HIM OR HER OR ON HIS OR HER BEHALF AND DEPOSITED WITH SUCH SUPERINTENDENT OR MUNICIPAL OFFICIAL.

6. THE PROVISIONS OF SUBDIVISION FOUR-A OF SECTION FIVE HUNDRED TEN AND SECTION FIVE HUNDRED OF THIS CHAPTER GOVERNING ACTIONS WHICH MAY BE TAKEN FOR FAILURE TO PAY A FINE OR PENALTY SHALL BE APPLICABLE TO A MANDATORY SURCHARGE IMPOSED PURSUANT TO THIS SECTION.

S 3. Subdivisions 2 and 3 of section 97-bb of the state finance law, subdivision 2 as amended by chapter 67 of the laws of 2008 and subdivi-

sion 3 as added by chapter 309 of the laws of 1996, are amended to read as follows:

2. The criminal justice improvement account shall consist of monies received by the state pursuant to section 60.35 of the penal law [and], monies received by the state pursuant to section eighteen hundred nine of the vehicle and traffic law from any court of the unified court system other than town or village courts, MONIES RECEIVED BY THE STATE PURSUANT TO SECTION EIGHTEEN HUNDRED NINE-F OF THE VEHICLE AND TRAFFIC LAW and all other fees, fines, grants, bequests or other monies credited, appropriated or transferred thereto from any other fund or source. Such account shall also consist of all monies received by the division of criminal justice services pursuant to subdivision ten of section one hundred sixty-eight-b of the correction law.

3. Monies of the criminal justice improvement account, following appropriation by the legislature and allocation by the director of the budget shall be made available for THE STATEWIDE HOTLINE, EXPENSES AND REWARDS REQUIRED BY SECTION ELEVEN HUNDRED NINETY-THREE OF THE VEHICLE AND TRAFFIC LAW, local assistance services and expenses of programs to provide services to crime victims and witnesses, and for payments to victims in accordance with the federal crime control act of 1984, as administered pursuant to article twenty-two of the executive law.

S 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.