

5896

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 23, 2009

---

Introduced by M. of A. MILLER, SCOZZAFAVA, HAWLEY, FINCH, CROUCH,  
BARCLAY -- Multi-Sponsored by -- M. of A. ALFANO, BACALLES, BALL,  
BURLING, BUTLER, CONTE, DUPREY, ERRIGO, KOLB, McKEVITT, OAKS, O'MARA,  
RAIA, REILICH, TEDISCO, TOWNSEND, WALKER -- read once and referred to  
the Committee on Transportation

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

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

1     Section 1. Subdivision 3 of section 1809 of the vehicle and traffic  
2     law, as amended by chapter 309 of the laws of 1996, is amended to read  
3     as follows:  
4     3. (A) The mandatory surcharge provided for in subdivision one of this  
5     section shall be paid to the clerk of the court or administrative tribu-  
6     nal that rendered the conviction. Within the first ten days of the month  
7     following collection of the mandatory surcharge, the collecting authori-  
8     ty shall determine the amount of mandatory surcharge collected [and, if  
9     it]. IF THE COLLECTING AUTHORITY is an administrative tribunal or a town  
10    or village justice court, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS  
11    SUBDIVISION, it shall pay such money to the state comptroller, who shall  
12    deposit such money in the state treasury pursuant to section one hundred  
13    twenty-one of the state finance law to the credit of the general fund.  
14    If such collecting authority is any other court of the unified court  
15    system, it shall, within such period, EXCEPT AS PROVIDED IN PARAGRAPH  
16    (B) OF THIS SUBDIVISION, pay such money to the state commissioner of  
17    taxation and finance to the credit of the criminal justice improvement  
18    account established by section ninety-seven-bb of the state finance law.  
19    The crime victim assistance fee provided for in subdivision one of this  
20    section shall be paid to the clerk of the court or administrative tribu-  
21    nal that rendered the conviction. Within the first ten days of the month

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

LBD08292-01-9

1 following collection of the crime victim assistance fee, the collecting  
2 authority shall determine the amount of crime victim assistance fee  
3 collected and, if it is an administrative tribunal or a town or village  
4 justice court, it shall pay such money to the state comptroller, who  
5 shall deposit such money in the state treasury pursuant to section one  
6 hundred twenty-one of the state finance law to the credit of the criminal  
7 justice improvement account established by section ninety-seven-bb  
8 of the state finance law.

9 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
10 SION AND SUBDIVISION THREE OF SECTION 60.35 OF THE PENAL LAW, WHERE A  
11 COUNTY HAS ESTABLISHED A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING  
12 WHILE INTOXICATED PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED  
13 NINETY-SEVEN OF THIS CHAPTER, ALL MANDATORY SURCHARGES COLLECTED PURSU-  
14 ANT TO THIS SECTION FOR VIOLATIONS OF SUBPARAGRAPHS (II) AND (III) OF  
15 PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARAGRAPH (A) OF  
16 SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER,  
17 VIOLATIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER; AND  
18 UPON A CONVICTION FOR VEHICULAR ASSAULT IN THE FIRST DEGREE, PURSUANT TO  
19 SECTION 120.04 OF THE PENAL LAW, VEHICULAR ASSAULT IN THE SECOND DEGREE,  
20 PURSUANT TO SECTION 120.03 OF THE PENAL LAW, VEHICULAR MANSLAUGHTER IN  
21 THE FIRST DEGREE, PURSUANT TO SECTION 125.13 OF THE PENAL LAW, AND  
22 VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE, PURSUANT TO SECTION 125.12  
23 OF THE PENAL LAW, SHALL BE PAID TO SUCH COUNTY WHERE THE VIOLATION UPON  
24 WHICH THE CONVICTION WAS BASED OCCURRED.

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

28 Where a county establishes a special traffic options program for driv-  
29 ing while intoxicated, approved by the commissioner of motor vehicles,  
30 pursuant to section eleven hundred ninety-seven of this chapter, all  
31 fines, penalties [and], forfeitures, AND MANDATORY SURCHARGES, WHERE  
32 APPLICABLE collected from violations of subparagraphs (ii) and (iii) of  
33 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of  
34 subdivision three of section five hundred eleven[, ] OF THIS CHAPTER; all  
35 fines, penalties and forfeitures imposed in accordance with section  
36 eleven hundred ninety-three of this chapter collected from violations of  
37 section eleven hundred ninety-two of this chapter; and any fines or  
38 forfeitures collected by any court, judge, magistrate or other officer  
39 imposed upon a conviction for: aggravated vehicular assault, pursuant to  
40 section 120.04-a of the penal law; vehicular assault in the first  
41 degree, pursuant to section 120.04 of the penal law; vehicular assault  
42 in the second degree, pursuant to section 120.03 of the penal law;  
43 aggravated vehicular homicide, pursuant to section 125.14 of the penal  
44 law; vehicular manslaughter in the first degree, pursuant to section  
45 125.13 of the penal law; and vehicular manslaughter in the second  
46 degree, pursuant to section 125.12 of the penal law and civil penalties  
47 imposed pursuant to subdivision two of section eleven hundred ninety-  
48 four-a of this chapter, shall be paid to such county.

49 S 3. Paragraph (a) of subdivision 1 of section 1197 of the vehicle and  
50 traffic law, as separately amended by chapters 196 and 688 of the laws  
51 of 1996, subparagraph 3 as amended by chapter 345 of the laws of 2007,  
52 is amended to read as follows:

53 (a) Where a county establishes a special traffic options program for  
54 driving while intoxicated, pursuant to this section, it shall receive  
55 fines [and], forfeitures, AND MANDATORY SURCHARGES collected by any  
56 court, judge, magistrate, or other officer within that county, includ-

1 ing, where appropriate, a hearing officer acting on behalf of the  
2 commissioner[,]: (1) imposed for violations of subparagraphs (ii) and  
3 (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-  
4 graph (a) of subdivision three of section five hundred eleven of this  
5 chapter; (2) imposed in accordance with the provisions of section eleven  
6 hundred ninety-three and civil penalties imposed pursuant to subdivision  
7 two of section eleven hundred ninety-four-a of this article, including,  
8 where appropriate, a hearing officer acting on behalf of the commission-  
9 er, from violations of sections eleven hundred ninety-two, eleven  
10 hundred ninety-two-a, and findings made under section eleven hundred  
11 ninety-four-a of this article; and (3) imposed upon a conviction for:  
12 aggravated vehicular assault, pursuant to section 120.04-a of the penal  
13 law; vehicular assault in the first degree, pursuant to section 120.04  
14 of the penal law; vehicular assault in the second degree, pursuant to  
15 section 120.03 of the penal law; aggravated vehicular homicide, pursuant  
16 to section 125.14 of the penal law; vehicular manslaughter in the first  
17 degree, pursuant to section 125.13 of the penal law; and vehicular  
18 manslaughter in the second degree, pursuant to section 125.12 of the  
19 penal law, as provided in section eighteen hundred three of this chap-  
20 ter. Upon receipt of these moneys, the county shall deposit them in a  
21 separate account entitled "special traffic options program for driving  
22 while intoxicated", and they shall be under the exclusive care, custody,  
23 and control of the chief fiscal officer of each county participating in  
24 the program.

25 S 4. Subdivision 3 of section 60.35 of the penal law, as amended by  
26 section 1 of part E of chapter 56 of the laws of 2004, is amended to  
27 read as follows:

28 3. The mandatory surcharge, sex offender registration fee, DNA data-  
29 bank fee, crime victim assistance fee, and supplemental sex offender  
30 victim fee provided for in subdivision one of this section shall be paid  
31 to the clerk of the court or administrative tribunal that rendered the  
32 conviction. Within the first ten days of the month following collection  
33 of the mandatory surcharge, crime victim assistance fee, and supple-  
34 mental sex offender victim fee, the collecting authority shall determine  
35 the amount of mandatory surcharge, crime victim assistance fee, and  
36 supplemental sex offender victim fee collected [and, if it]. IF THE  
37 COLLECTING AUTHORITY is an administrative tribunal[,], or a town or  
38 village justice court, EXCEPT WITH REGARD TO MANDATORY SURCHARGES  
39 IMPOSED UPON CONVICTIONS FOR THOSE OFFENSES ENUMERATED IN PARAGRAPH (B)  
40 OF SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND  
41 TRAFFIC LAW, it shall then pay such money to the state comptroller who  
42 shall deposit such money in the state treasury pursuant to section one  
43 hundred twenty-one of the state finance law to the credit of the crimi-  
44 nal justice improvement account established by section ninety-seven-bb  
45 of the state finance law. Within the first ten days of the month follow-  
46 ing collection of the sex offender registration fee and DNA databank  
47 fee, the collecting authority shall determine the amount of the sex  
48 offender registration fee and DNA databank fee collected and, if it is  
49 an administrative tribunal, or a town or village justice court, it shall  
50 then pay such money to the state comptroller who shall deposit such  
51 money in the state treasury pursuant to section one hundred twenty-one  
52 of the state finance law to the credit of the general fund. If such  
53 collecting authority is any other court of the unified court system,  
54 EXCEPT WITH REGARD TO MANDATORY SURCHARGES IMPOSED UPON CONVICTIONS FOR  
55 THOSE OFFENSES ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION THREE OF  
56 SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW, it shall,

1 within such period, pay such money attributable to the mandatory  
2 surcharge or crime victim assistance fee to the state commissioner of  
3 taxation and finance to the credit of the criminal justice improvement  
4 account established by section ninety-seven-bb of the state finance law.  
5 If such collecting authority is any other court of the unified court  
6 system, it shall, within such period, pay such money attributable to the  
7 sex offender registration fee and the DNA databank fee to the state  
8 commissioner of taxation and finance to the credit of the general fund.  
9 S 5. This act shall take effect April 1, 2011.