

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 Section 1198 of the vehicle and traffic law is REPEALED and a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.

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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.