

8299

2009-2010 Regular Sessions

I N A S S E M B L Y

May 13, 2009

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

AN ACT to amend the vehicle and traffic law, in relation to the disposition of fine money imposed for infractions relating to the operation of a motor vehicle by the holder of a conditional license; and 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 ASSEMBLY, DO ENACT AS FOLLOWS:

1 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, is amended to read as follows:
2
3 (a) Where a county establishes a special traffic options program for driving while intoxicated, pursuant to this section, it shall receive fines [and], forfeitures, AND MANDATORY SURCHARGES SET FORTH IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED NINE AND SECTION EIGHTEEN HUNDRED NINE-C OF THIS CHAPTER collected by any court, judge, magistrate, or other officer within that county, including, where appropriate, a hearing officer acting on behalf of the commissioner[,]: (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, PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX 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

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

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1 assault, pursuant to section 120.04-a of the penal law; vehicular
2 assault in the first degree, pursuant to section 120.04 of the penal
3 law; vehicular assault in the second degree, pursuant to section 120.03
4 of the penal law; aggravated vehicular homicide, pursuant to section
5 125.14 of the penal law; vehicular manslaughter in the first degree,
6 pursuant to section 125.13 of the penal law; and vehicular manslaughter
7 in the second degree, pursuant to section 125.12 of the penal law, as
8 provided in section eighteen hundred three of this chapter. Upon receipt
9 of these moneys, the county shall deposit them in a separate account
10 entitled "special traffic options program for driving while
11 intoxicated", and they shall be under the exclusive care, custody, and
12 control of the chief fiscal officer of each county participating in the
13 program.

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

17 Where a county establishes a special traffic options program for driv-
18 ing while intoxicated, approved by the commissioner [of motor vehicles],
19 pursuant to section eleven hundred ninety-seven of this chapter, all
20 fines, penalties [and], forfeitures, AND MANDATORY SURCHARGES SET FORTH
21 IN SUBDIVISION ONE OF SECTION EIGHTEEN HUNDRED NINE AND SECTION EIGHTEEN
22 HUNDRED NINE-C OF THIS CHAPTER: (1) IMPOSED AND collected [from] FOR
23 violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivi-
24 sion two or subparagraph (i) of paragraph (a) of subdivision three of
25 section five hundred eleven[, all fines, penalties and forfeitures] OF
26 THIS CHAPTER; (2) imposed AND COLLECTED in accordance with section elev-
27 en hundred ninety-three of this chapter [collected from] FOR violations
28 of section eleven hundred ninety-two of this chapter; [and any fines or
29 forfeitures] (3) IMPOSED AND COLLECTED FOR VIOLATIONS OF PARAGRAPH (F)
30 OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAP-
31 TER; (4) collected by any court, judge, magistrate or other officer
32 imposed upon a conviction for: aggravated vehicular assault, pursuant to
33 section 120.04-a of the penal law; vehicular assault in the first
34 degree, pursuant to section 120.04 of the penal law; vehicular assault
35 in the second degree, pursuant to section 120.03 of the penal law;
36 aggravated vehicular homicide, pursuant to section 125.14 of the penal
37 law; vehicular manslaughter in the first degree, pursuant to section
38 125.13 of the penal law; and vehicular manslaughter in the second
39 degree, pursuant to section 125.12 of the penal law; and (5) civil
40 penalties imposed pursuant to subdivision two of section eleven hundred
41 ninety-four-a of this chapter, shall be paid to such county.

42 S 3. Subdivision 3 of section 1809 of the vehicle and traffic law, as
43 amended by chapter 309 of the laws of 1996, is amended to read as
44 follows:

45 3. (A) The mandatory surcharge provided for in subdivision one of this
46 section shall be paid to the clerk of the court or administrative tribu-
47 nal that rendered the conviction. Within the first ten days of the month
48 following collection of the mandatory surcharge, the collecting authori-
49 ty shall determine the amount of mandatory surcharge collected [and, if
50 it]. IF THE COLLECTING AUTHORITY is an administrative tribunal or a town
51 or village justice court, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS
52 SUBDIVISION, it shall pay such money to the state comptroller, who shall
53 deposit such money in the state treasury pursuant to section one hundred
54 twenty-one of the state finance law to the credit of the general fund.
55 If such collecting authority is any other court of the unified court
56 system, it shall, within such period, EXCEPT AS PROVIDED IN PARAGRAPH

1 (B) OF THIS SUBDIVISION, pay such money to the state commissioner of
2 taxation and finance to the credit of the criminal justice improvement
3 account established by section ninety-seven-bb of the state finance law.
4 The crime victim assistance fee 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 crime victim assistance fee, the collecting
8 authority shall determine the amount of crime victim assistance fee
9 collected and, if it is an administrative tribunal or a town or village
10 justice court, it shall pay such money to the state comptroller who
11 shall deposit such money in the state treasury pursuant to section one
12 hundred twenty-one of the state finance law to the credit of the crimi-
13 nal justice improvement account established by section ninety-seven-bb
14 of the state finance law.

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

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

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

1 of the state finance law to the credit of the general fund. If such
2 collecting authority is any other court of the unified court system, it
3 shall, within such period, pay such money attributable to the mandatory
4 surcharge or crime victim assistance fee to the state commissioner of
5 taxation and finance to the credit of the criminal justice improvement
6 account established by section ninety-seven-bb of the state finance law.
7 If such collecting authority is any other court of the unified court
8 system, EXCEPT WITH REGARD TO MANDATORY SURCHARGES IMPOSED UPON
9 CONVICTIONS FOR THOSE OFFENSES ENUMERATED IN PARAGRAPH (B) OF SUBDIVI-
10 SION THREE OF SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC
11 LAW, it shall, within such period, pay such money attributable to the
12 sex offender registration fee and the DNA databank fee to the state
13 commissioner of taxation and finance to the credit of the general fund.
14 S 5. This act shall take effect April 1, 2010.