

972

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GANTT, WEISENBERG -- Multi-Sponsored by -- M. of A. SWEENEY -- 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
2 the laws of 1996 and subparagraph 3 as amended by chapter 345 of the
3 laws of 2007, is amended to read as follows:
4 (a) Where a county establishes a special traffic options program for
5 driving while intoxicated, pursuant to this section, it shall receive
6 fines [and], forfeitures, AND MANDATORY SURCHARGES collected by any
7 court, judge, magistrate, or other officer within that county, including,
8 where appropriate, a hearing officer acting on behalf of the
9 commissioner[,]: (1) imposed for violations of subparagraphs (ii) and
10 (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph
11 (a) of subdivision three of section five hundred eleven of this
12 chapter; (2) imposed in accordance with the provisions of section eleven
13 hundred ninety-three, PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION
14 ELEVEN HUNDRED NINETY-SIX and civil penalties imposed pursuant to subdivision
15 two of section eleven hundred ninety-four-a of this article,
16 including, where appropriate, a hearing officer acting on behalf of the
17 commissioner, from violations of sections eleven hundred ninety-two,
18 eleven hundred ninety-two-a and findings made under section eleven
19

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

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

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

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

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

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

1 taxation and finance to the credit of the criminal justice improvement
2 account established by section ninety-seven-bb of the state finance law.
3 The crime victim assistance fee provided for in subdivision one of this
4 section shall be paid to the clerk of the court or administrative tribu-
5 nal that rendered the conviction. Within the first ten days of the month
6 following collection of the crime victim assistance fee, the collecting
7 authority shall determine the amount of crime victim assistance fee
8 collected and, if it is an administrative tribunal or a town or village
9 justice court, it shall pay such money to the state comptroller, who
10 shall deposit such money in the state treasury pursuant to section one
11 hundred twenty-one of the state finance law to the credit of the crimi-
12 nal justice improvement account established by section ninety-seven-bb
13 of the state finance law.

14 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
15 SION AND SUBDIVISION THREE OF SECTION 60.35 OF THE PENAL LAW, WHERE A
16 COUNTY HAS ESTABLISHED A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING
17 WHILE INTOXICATED PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED
18 NINETY-SEVEN OF THIS CHAPTER, ALL MANDATORY SURCHARGES COLLECTED PURSU-
19 ANT TO THIS SECTION FOR VIOLATIONS OF SUBPARAGRAPHS (II) AND (III) OF
20 PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARAGRAPH (A) OF
21 SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER,
22 VIOLATIONS OF SECTION ELEVEN HUNDRED NINETY-TWO 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,
3 EXCEPT WITH REGARD TO MANDATORY SURCHARGES IMPOSED UPON CONVICTIONS FOR
4 THOSE OFFENSES ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION THREE OF
5 SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW, it shall,
6 within such period, pay such money attributable to the mandatory
7 surcharge or crime victim assistance fee to the state commissioner of
8 taxation and finance to the credit of the criminal justice improvement
9 account established by section ninety-seven-bb of the state finance law.
10 If such collecting authority is any other court of the unified court
11 system, 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 on the first of April next succeeding
15 the date on which it shall have become a law.