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

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2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sens. FUSCHILLO, DILAN, MORAHAN, RANZENHOFER, HANNON, LAVALLE, LARKIN, DIAZ, LANZA, OPPENHEIMER, ROBACH, MAZIARZ, WINNER, McDONALD, LITTLE, O. JOHNSON, FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds and declares that ignition interlock devices are highly successful law enforcement tools for preventing driving while intoxicated recidivism. Current law does not mandate ignition interlock devices for all offenders, just for those who have been convicted of the offense of aggravated driving while intoxicated or a second violation of subdivision 2 or 3 of section 1192 of the vehicle and traffic law within five years pursuant to paragraph (c) of subdivision 1-a of section 1193 of the vehicle and traffic law, who have also been given probation as a condition of their sentencing. National studies have conclusively shown that first time offenders who had mandatory ignition interlock devices installed in their vehicles were sixty percent less likely to commit the offense of driving while intoxicated again. These studies have also found a correlating economic benefit in reducing the expenditure of court resources and damages created by repeat offenders. For every one

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

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dollar spent in enforcing and monitoring such a program a three dollar savings is expected.

S 2. Section 1198 of the vehicle and traffic law is REPEALED and a new section 1198 is added to read as follows:

S 1198. MANDATORY IGNITION INTERLOCK PROGRAM FOR DRIVING WHILE INTOXICATED OFFENDERS. 1. THERE IS HEREBY ESTABLISHED A MANDATORY IGNITION INTERLOCK PROGRAM FOR ALL DRIVING WHILE INTOXICATED OFFENDERS.

2. (A) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW, THE COURT SHALL REQUIRE THAT ANY PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS INVOLVED), FIVE OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR ANY CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH AN ALCOHOL-RELATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE IS AN ESSENTIAL ELEMENT SHALL INSTALL AND MAINTAIN, AS A CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE OR PROBATION, OR AS A MANDATORY ADDITIONAL CONDITION OF ANY CONDITIONAL LICENSE ISSUED BY THE COMMISSIONER PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE AND RESULTING FROM ANY ALCOHOL RELATED DRIVING OFFENSE, A FUNCTIONING IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AND MAY NOT OPERATE ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE PROVIDED, HOWEVER, THE COURT MAY NOT AUTHORIZE THE OPERATION OF A MOTOR VEHICLE BY ANY PERSON WHOSE LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE HAS BEEN REVOKED EXCEPT AS PROVIDED IN THIS SECTION.

(B) THIS SECTION SHALL NOT APPLY TO THOSE CONVICTED OF THE OFFENSE OF DRIVING WHILE ABILITY IMPAIRED BY ALCOHOL PURSUANT TO SUBDIVISION ONE OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, IT SHALL BE IN THE DISCRETION OF THE SENTENCING COURT WHETHER TO MANDATE AN IGNITION INTERLOCK AS A CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE FOR THE CONVICTION OF SUCH AN OFFENSE.

(C) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS PROHIBITING A SENTENCE OF INCARCERATION PURSUANT TO ARTICLE SEVENTY OF THE PENAL LAW OR THE APPLICATION OF ANY OTHER FINES, PENALTIES, PROGRAMS, RESTITUTION, CONDITIONS OF PROBATION OR CONDITIONAL DISCHARGE, COMMUNITY SERVICE OR OTHER SANCTIONS.

(D) ANY SENTENCED OFFENDER WHO DECLINES TO OBTAIN A LICENSE, CONDITIONAL LICENSE OR TO EXERCISE ANY DRIVING PRIVILEGE IN THE STATE OF NEW YORK MUST OBTAIN A MOTORIST IDENTIFICATION CARD FROM THE DEPARTMENT AND THE COMMISSIONER SHALL NOTE ON THE MOTORIST'S IDENTIFICATION RECORD OF ANY PERSON RESTRICTED PURSUANT TO THIS SECTION THAT SUCH PERSON, WOULD BE OTHERWISE REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE. OPERATION OF A MOTOR VEHICLE IN VIOLATION OF THIS SECTION IS A CLASS E FELONY.

(E) PERIODS OF MANDATORY IGNITION INTERLOCK USE BY THOSE CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS INVOLVED), FIVE OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR ANY CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH AN ALCOHOL-RELATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE IS AN ESSENTIAL ELEMENT:

(1) ANY PERSON CONVICTED OF A FIRST VIOLATION OF ANY OF THE STATUTORY PROVISIONS IN THIS PARAGRAPH AND OTHERWISE ELIGIBLE SHALL BE SENTENCED TO A CONDITIONAL DISCHARGE, SHALL SERVE A TERM OF PROBATION AND AS A CONDITION OF SUCH DISCHARGE OR PROBATION MAINTAIN AN IGNITION INTERLOCK SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A PERIOD OF THREE MONTHS FOR A BLOOD ALCOHOL CONTENT OF BETWEEN .08 AND

.11 OF ONE PER CENTUM FROM THE DATE OF SENTENCING, OR THE DATE OF THE ISSUANCE OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED LICENSE IF NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER; SIX MONTHS FOR A BLOOD ALCOHOL CONTENT OF .12 BUT NOT MORE THAN .17 OF ONE PER CENTUM FROM THE DATE OF SENTENCING, OR THE DATE OF THE ISSUANCE OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED LICENSE IF NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER; AND FOR A BLOOD ALCOHOL CONTENT OF .18 OF ONE PER CENTUM AND ABOVE FOR A PERIOD OF AT LEAST ONE YEAR FROM THE DATE OF SENTENCING, OR THE DATE OF THE ISSUANCE OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED LICENSE IF NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER;

(2) ANY PERSON CONVICTED OF A VIOLATION OF ANY OF THE OFFENSES IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A SECOND OFFENSE SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE SERVE A TERM OF PROBATION AND BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTER-LOCK SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR THE FULL PERIOD OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF THREE YEARS, WHICHEVER IS LONGER;

(3) ANY PERSON CONVICTED OF A SECOND VIOLATION OF ANY OF THE OFFENSES IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A THIRD OFFENSE SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE SERVE A TERM OF PROBATION AND MAINTAIN AN IGNITION INTERLOCK SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR THE FULL PERIOD OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF FIVE YEARS, WHICHEV-ER IS LONGER;

(4) ANY PERSON CONVICTED OF A THIRD VIOLATION OF ANY OF THE OFFENSES IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A FOURTH OFFENSE SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND SHALL BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM PERIOD OF TEN YEARS UP TO LIFE IN THE DISCRETION OF THE COURT AT THE TIME OF SENTENCING;

(5) ANY PERSON SENTENCED TO A PERIOD OF INCARCERATION OR WHO IS OTHER-WISE NOT SUBJECT TO A CONDITIONAL DISCHARGE OR PERIOD OF PROBATION, SHALL BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM, AT THEIR OWN COST AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM PERIOD OF THREE YEARS FROM THE DATE OF THEIR SENTENCE, RELEASE FROM INCARCERATION, OR UPON APPROVAL OF A RE-APPLICATION TO THE DEPARTMENT FOR A LICENSE OR DRIVING PRIVILEGE, WHICHEVER IS LONGER.

3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER MAY GRANT A POST-REVOCATION CONDITIONAL LICENSE, AS SET FORTH IN PARA-GRAPH (C) OF THIS SUBDIVISION, TO A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, OR FOUR-A (WHERE ALCOHOL IS INVOLVED), OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, PROVIDED THE PERSON HAS SATISFIED ANY MANDATORY MINIMUM PERIOD OF LICENSE REVOCATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN NOTIFIED THAT SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH A FUNCTIONING IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE NOR SHALL SUCH A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN ARRESTED FOR A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER DURING THE LICENSE REVOCATION PERIOD OR DEEMED BY A COURT TO HAVE VIOLATED ANY CONDITION OF PROBATION SET FORTH BY THE COURT RELATING TO THE OPERATION OF A MOTOR VEHICLE OR THE CONSUMPTION OF ALCOHOL.

(B) UPON THE TERMINATION OF THE PERIOD OF REQUIRED IGNITION INTERLOCK USE SET BY THE COURT, THE PERSON MAY APPLY TO THE COMMISSIONER FOR RESTORATION OF A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THIS CHAPTER.

(C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER, A POST-REVOCATION CONDITIONAL LICENSE GRANTED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE VALID ONLY FOR THE USES PRESCRIBED IN PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE AND APPLICABLE TO ALL OTHER CONDITIONAL LICENSES BY THE HOLDER THEREOF.

(D) THE POST-REVOCATION CONDITIONAL LICENSE DESCRIBED IN THIS SUBDIVISION MAY BE REVOKED BY THE COMMISSIONER FOR SUFFICIENT CAUSE INCLUDING BUT NOT LIMITED TO, FAILURE TO COMPLY WITH THE TERMS OF THE CONDITIONS OF PROBATION SET FORTH BY THE COURT, CONVICTION OF ANY TRAFFIC OFFENSE OTHER THAN ONE INVOLVING PARKING, STOPPING OR STANDING OR AN ARREST FOR ANY ALCOHOL OR DRUG RELATED OFFENSE, MISDEMEANOR OR FELONY, A VIOLATION OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTICLE, OR A VIOLATION OF ANY SUBDIVISION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER.

4. (A) IF THE COURT IMPOSED THE USE OF AN IGNITION INTERLOCK DEVICE AS A CONDITION OF THE SENTENCE THE COURT SHALL REQUIRE THE PERSON TO PROVIDE PROOF OF COMPLIANCE WITH THIS SECTION TO THE COURT AND THE PROBATION DEPARTMENT WHERE SUCH PERSON IS EITHER UNDER PROBATION SUPERVISION OR UNDER COMPLIANCE MONITORING FOR THE PURPOSE OF THIS MANDATORY IGNITION INTERLOCK PROGRAM. IF THE PERSON FAILS TO PROVIDE FOR SUCH PROOF OF INSTALLATION, ABSENT A FINDING BY THE COURT OF GOOD CAUSE FOR THAT FAILURE WHICH IS ENTERED IN THE RECORD, THE COURT MAY REVOKE, MODIFY, OR TERMINATE THE PERSON'S SENTENCE AS PROVIDED UNDER LAW.

(B) WHEN A COURT IMPOSES ANY OF THE INTERLOCK OR LICENSE CONDITIONS SPECIFIED IN THIS CHAPTER, THE COURT SHALL NOTIFY THE COMMISSIONER IN SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE, AND THE COMMISSIONER SHALL NOTE SUCH CONDITION ON THE OPERATING RECORD OF ANY PERSON SO RESTRICTED THAT, IN ADDITION TO ANY OTHER RESTRICTIONS, CONDITIONS OR LIMITATIONS, SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE.

5. (A) THE COST OF INSTALLING AND MAINTAINING THE IGNITION INTERLOCK DEVICE SHALL BE BORNE BY THE PERSON SUBJECT TO SUCH CONDITION. SUCH COST SHALL BE CONSIDERED A FINE FOR THE PURPOSES OF SUBDIVISION FIVE OF SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW. SUCH COST SHALL NOT REPLACE, BUT SHALL INSTEAD BE IN ADDITION TO, ANY FINES, SURCHARGES, OR OTHER COSTS IMPOSED PURSUANT TO THIS CHAPTER OR OTHER APPLICABLE LAWS.

(B) THE SUBJECT OF THE CONDITION SHALL BE RESPONSIBLE TO BRING ANY VEHICLES DRIVEN BY THE SUBJECT TO THE INSTALLATION AND SERVICE PROVIDER OF THE IGNITION INTERLOCK DEVICE FOR THE INSTALLATION, CALIBRATION, AND MAINTENANCE OF SUCH DEVICE.

(C) THOSE CONVICTED OF ANY OF THE ABOVE OFFENSES WHO CAN NOT AFFORD TO MAINTAIN AND OPERATE AN IGNITION INTERLOCK SYSTEM SHALL HAVE ONE PROVIDED FOR THEM BY THE COUNTY PROBATION AND CORRECTIONAL ALTERNATIVES DEPARTMENT OR A PARTICIPATING INTERLOCK DEVICE PROVIDER AND WILL BE ENROLLED IN A PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES MAY BE PAID BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE IGNITION INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR THE OPERATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED TO OFFER SUCH A REPAYMENT PLAN.

6. THE COMMISSIONER OF HEALTH SHALL APPROVE IGNITION INTERLOCK DEVICES AND SHALL PUBLISH A LIST OF APPROVED DEVICES. SUCH COMMISSIONER SHALL

PROMULGATE RULES AND REGULATIONS FOR IGNITION INTERLOCK DEVICES IN PART 59 OF TITLE 10 OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS.

7. (A) ANY REQUIREMENT OF THIS SECTION OR OF THE PENAL LAW, THAT A PERSON OPERATE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, SHALL APPLY TO EVERY MOTOR VEHICLE OPERATED BY THAT PERSON INCLUDING, BUT NOT LIMITED TO, VEHICLES THAT ARE LEASED, RENTED OR LOANED.

(B) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHICLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

(C) A VIOLATION OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE A MISDEMEANOR AND SHALL RESULT IN THE IMMEDIATE REVOCATION OF ANY LICENSE, CONDITIONAL LICENSE OR OPERATING PRIVILEGE FOR A MINIMUM ONE YEAR PERIOD UPON ARREST.

(D) A VIOLATION OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE A MISDEMEANOR.

8. (A) NO PERSON WHOSE DRIVING PRIVILEGE IS RESTRICTED PURSUANT TO THIS SECTION OR THE PENAL LAW SHALL REQUEST, SOLICIT OR ALLOW ANY OTHER PERSON TO BLOW INTO AN IGNITION INTERLOCK DEVICE, OR TO START A MOTOR VEHICLE EQUIPPED WITH THE DEVICE, FOR THE PURPOSE OF PROVIDING THE PERSON SO RESTRICTED WITH AN OPERABLE MOTOR VEHICLE.

(B) NO PERSON SHALL BLOW INTO AN IGNITION INTERLOCK DEVICE OR START A MOTOR VEHICLE EQUIPPED WITH THE DEVICE FOR THE PURPOSE OF PROVIDING AN OPERABLE MOTOR VEHICLE TO A PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED.

(C) NO PERSON SHALL TAMPER WITH OR CIRCUMVENT AN OTHERWISE OPERABLE IGNITION INTERLOCK DEVICE.

(D) IN ADDITION TO ANY OTHER PROVISIONS OF LAW, ANY PERSON CONVICTED OF A VIOLATION OF PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION SHALL BE GUILTY OF AN UNCLASSIFIED MISDEMEANOR AND SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS OR BY IMPRISONMENT IN A COUNTY JAIL OR A PENITENTIARY FOR NOT MORE THAN ONE YEAR.

(E) IN ADDITION TO ANY OTHER PENALTIES, IF THE PERSON ARRESTED FOR A VIOLATION OF PARAGRAPH (A) OR (C) OF THIS SUBDIVISION IS THE DRIVER REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, THE DRIVER'S ARREST SHALL RESULT IN THE IMMEDIATE REVOCATION OF ANY LICENSE, CONDITIONAL LICENSE OR DRIVING PRIVILEGE FOR A MINIMUM PERIOD OF ONE YEAR, SUBJECT TO THE PROVISIONS OF SUBDIVISION NINE OF THIS SECTION.

9. ANY LICENSE, CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN THIS CHAPTER MAY BE REVOKED BY THE COMMISSIONER, FOR SUFFICIENT CAUSE INCLUDING, BUT NOT LIMITED TO, CONVICTION OF ANY TRAFFIC INFRACTION OTHER THAN ONE INVOLVING PARKING, STOPPING OR STANDING; OR ARREST UPON REASONABLE CAUSE OF ANY ALCOHOL OR DRUG-RELATED TRAFFIC OFFENSE, MISDEMEANOR OR FELONY; OR AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR A VIOLATION OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER. IN ADDITION ANY LICENSE, CONDITIONAL LICENSE OR PRIVILEGES MAY BE REVOKED BY THE COMMISSIONER WHEN A PERSON IS REQUIRED UNDER ANY LAW TO OPERATE ONLY A MOTOR VEHICLE WITH AN IGNITION INTERLOCK DEVICE, AN ARREST UPON REASONABLE CAUSE FOR OPERATING A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, OR SOLICITING,

REQUESTING OR ALLOWING ANY OTHER PERSON TO BLOW INTO AN IGNITION INTERLOCK DEVICE, OR TAMPERING OR CIRCUMVENTING SUCH DEVICE.

S 3. The state finance law is amended by adding a new section 99-q to read as follows:

S 99-Q. MANDATORY IGNITION INTERLOCK FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE NEW YORK STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES A SPECIAL FUND TO BE KNOWN AS THE "MANDATORY IGNITION INTERLOCK FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE COURTS FROM A COURT FEE OF FIFTY DOLLARS IMPOSED ON ANYONE CONVICTED OF A VIOLATION OF ANY OF THE SUBDIVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW.

3. MONEYS OF THE FUND SHALL BE EXPENDED BY THE NEW YORK STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES ON AN AS-NEED BASIS FOR THE CONTINUED OPERATION AND MAINTENANCE OF THE MANDATORY IGNITION INTERLOCK PROGRAM ESTABLISHED IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THE VEHICLE AND TRAFFIC LAW, TO INCLUDE THE COST OF:

(A) ADDITIONAL PROBATION AND COMPLIANCE OFFICERS TO MANAGE THE PROGRAM AT A COUNTY OR REGIONAL LEVEL IN THE DISCRETION OF THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES;

(B) DEFRAYING THE COST TO THOSE DETERMINED BY THE COURT TO BE INCAPABLE OF BEARING THE INITIAL OR ENTIRE EXPENSE OF INSTALLING AND MAINTAINING AN IGNITION INTERLOCK DEVICE PURSUANT TO THIS SECTION. NOTHING IN THIS PROVISION SHALL PREVENT A PERSON MANDATED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK PURSUANT TO THIS SECTION FROM BEING ENROLLED IN A PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES MAY BE PAID BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE IGNITION INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR THE OPERATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED TO OFFER SUCH A REPAYMENT PLAN;

(C) ADDITIONAL OR ENHANCED EQUIPMENT FOR THE MONITORING OF PROBATIONERS; AND

(D) ANY OTHER COSTS ASSOCIATED WITH THE INCREASED DUTIES OR EXPENSES ASSOCIATED WITH OPERATING AND MANAGING THE PROGRAM TO INCLUDE BUT NOT BE LIMITED TO HEALTHCARE, RETIREMENT OR OTHER BENEFIT COSTS DUE TO INCREASED STAFF.

S 4. 1. The New York state division of probation and correctional alternatives is hereby authorized and directed to create, amend and/or repeal any and all rules or regulations necessary for the implementation of this act on or before its effective date for the purpose of:

(a) creation of the ignition interlock fund and the management, operation and investment thereof;

(b) creation of a grant process as prescribed by subdivision 3 of section 99-q of the state finance law, as added by section three of this act; and

(c) creation of any other rules or regulations for the efficient operation of this act.

2. The New York state division of probation and correctional alternatives is hereby directed to audit each county's mandatory ignition interlock program at least once every two years. The division of probation and correctional alternatives shall compile and submit to the governor, legislature, attorney general and comptroller a yearly report detailing the progress and effectiveness of each county's program.

S 5. Severability. If any clause, sentence, paragraph, section or part of this article be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the

remainder hereof but shall be applied in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which such judgment shall have been rendered.

S 6. This act shall take effect April 1, 2010. All departments or divisions of the state mentioned in this act are hereby authorized and directed to create, amend and/or repeal any and all rules or regulations necessary for the implementation of this act on or before its effective date.