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

7163

2011-2012 Regular Sessions

I N A S S E M B L Y

April 14, 2011

Introduced by M. of A. J. MILLER, HAWLEY, FINCH, CROUCH, BARCLAY -- Multi-Sponsored by -- M. of A. BURLING, BUTLER, CONTE, DUPREY, KOLB, McKEVITT, OAKS, RAIA, REILICH, TEDISCO -- 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 3 of section 1809 of the vehicle and traffic law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

3. (A) The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, the collecting authority shall determine the amount of mandatory surcharge collected [and, if it]. IF THE COLLECTING AUTHORITY is an administrative tribunal or a town or village justice court, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, it shall pay such money to the state comptroller, who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. If such collecting authority is any other court of the unified court system, it shall, within such period, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, pay such money to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. The crime victim assistance fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the crime victim assistance fee, the collecting

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

LBD08164-01-1

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

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION AND SUBDIVISION THREE OF SECTION 60.35 OF THE PENAL LAW, WHERE A COUNTY HAS ESTABLISHED A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ALL MANDATORY SURCHARGES COLLECTED PURSUANT TO THIS SECTION 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, VIOLATIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS CHAPTER; AND UPON A CONVICTION FOR VEHICULAR ASSAULT IN THE FIRST DEGREE, PURSUANT TO SECTION 120.04 OF THE PENAL LAW, VEHICULAR ASSAULT IN THE SECOND DEGREE, PURSUANT TO SECTION 120.03 OF THE PENAL LAW, VEHICULAR MANSLAUGHTER IN THE FIRST DEGREE, PURSUANT TO SECTION 125.13 OF THE PENAL LAW, AND VEHICULAR MANSLAUGHTER IN THE SECOND DEGREE, PURSUANT TO SECTION 125.12 OF THE PENAL LAW, SHALL BE PAID TO SUCH COUNTY WHERE THE VIOLATION UPON WHICH THE CONVICTION WAS BASED OCCURRED.

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

Where a county establishes a special traffic options program for driving while intoxicated, approved by the commissioner of motor vehicles, pursuant to section eleven hundred ninety-seven of this chapter, all fines, penalties [and], forfeitures, AND MANDATORY SURCHARGES, WHERE APPLICABLE collected from 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; all fines, penalties and forfeitures imposed in accordance with section eleven hundred ninety-three of this chapter collected from violations of section eleven hundred ninety-two of this chapter; and any fines or forfeitures collected by any court, judge, magistrate or other officer imposed upon a conviction for: aggravated vehicular assault, pursuant to section 120.04-a of the penal law; vehicular assault in the first degree, pursuant to section 120.04 of the penal law; vehicular assault in the second degree, pursuant to section 120.03 of the penal law; aggravated vehicular homicide, pursuant to section 125.14 of the penal law; vehicular manslaughter in the first degree, pursuant to section 125.13 of the penal law; and vehicular manslaughter in the second degree, pursuant to section 125.12 of the penal law and civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this chapter, shall be paid to such county.

S 3. 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, subparagraph 3 as amended by chapter 345 of the laws of 2007, is amended to read as follows:

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

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

3. The mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, and supplemental sex offender victim fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee, the collecting authority shall determine the amount of mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee collected [and, if it]. IF THE COLLECTING AUTHORITY is an administrative tribunal[,] or a town or village justice court, EXCEPT WITH REGARD TO MANDATORY SURCHARGES IMPOSED UPON CONVICTIONS FOR THOSE OFFENSES ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. Within the first ten days of the month following collection of the sex offender registration fee and DNA databank fee, the collecting authority shall determine the amount of the sex offender registration fee and DNA databank fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. If such collecting authority is any other court of the unified court system, EXCEPT WITH REGARD TO MANDATORY SURCHARGES IMPOSED UPON CONVICTIONS FOR THOSE OFFENSES ENUMERATED IN PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION EIGHTEEN HUNDRED NINE OF THE VEHICLE AND TRAFFIC LAW, it shall, within such period, pay such money attributable to the mandatory

surcharge or crime victim assistance fee to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the sex offender registration fee and the DNA databank fee to the state commissioner of taxation and finance to the credit of the general fund.

S 5. This act shall take effect April 1, 2012.