

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 3 of section 1809 of the vehicle and traffic
2 law, as amended by chapter 309 of the laws of 1996, is amended to read
3 as follows:
4 3. (A) The mandatory surcharge 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 mandatory surcharge, the collecting authori-
8 ty shall determine the amount of mandatory surcharge collected [and, if
9 it]. IF THE COLLECTING AUTHORITY is an administrative tribunal or a town
10 or village justice court, EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS
11 SUBDIVISION, it shall pay such money to the state comptroller, who shall
12 deposit such money in the state treasury pursuant to section one hundred
13 twenty-one of the state finance law to the credit of the general fund.
14 If such collecting authority is any other court of the unified court
15 system, it shall, within such period, EXCEPT AS PROVIDED IN PARAGRAPH
16 (B) OF THIS SUBDIVISION, pay such money to the state commissioner of
17 taxation and finance to the credit of the criminal justice improvement
18 account established by section ninety-seven-bb of the state finance law.
19 The crime victim assistance fee provided for in subdivision one of this
20 section shall be paid to the clerk of the court or administrative tribu-
21 nal that rendered the conviction. Within the first ten days of the month
22 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.

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

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

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

27 Where a county establishes a special traffic options program for driv-
28 ing while intoxicated, approved by the commissioner of motor vehicles,
29 pursuant to section eleven hundred ninety-seven of this chapter, all
30 fines, penalties [and], forfeitures, AND MANDATORY SURCHARGES, WHERE
31 APPLICABLE collected from violations of subparagraphs (ii) and (iii) of
32 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of
33 subdivision three of section five hundred eleven[,] OF THIS CHAPTER; all
34 fines, penalties and forfeitures imposed in accordance with section
35 eleven hundred ninety-three of this chapter collected from violations of
36 section eleven hundred ninety-two of this chapter; and any fines or
37 forfeitures collected by any court, judge, magistrate or other officer
38 imposed upon a conviction for: aggravated vehicular assault, pursuant to
39 section 120.04-a of the penal law; vehicular assault in the first
40 degree, pursuant to section 120.04 of the penal law; vehicular assault
41 in the second degree, pursuant to section 120.03 of the penal law;
42 aggravated vehicular homicide, pursuant to section 125.14 of the penal
43 law; vehicular manslaughter in the first degree, pursuant to section
44 125.13 of the penal law; and vehicular manslaughter in the second
45 degree, pursuant to section 125.12 of the penal law and civil penalties
46 imposed pursuant to subdivision two of section eleven hundred ninety-
47 four-a of this chapter, shall be paid to such county.

48 S 3. Paragraph (a) of subdivision 1 of section 1197 of the vehicle and
49 traffic law, as separately amended by chapters 196 and 688 of the laws
50 of 1996, subparagraph 3 as amended by chapter 345 of the laws of 2007,
51 is amended to read as follows:

52 (a) Where a county establishes a special traffic options program for
53 driving while intoxicated, pursuant to this section, it shall receive
54 fines [and], forfeitures, AND MANDATORY SURCHARGES collected by any
55 court, judge, magistrate, or other officer within that county, includ-
56 ing, where appropriate, a hearing officer acting on behalf of the

1 commissioner[,]: (1) imposed for violations of subparagraphs (ii) and
2 (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-
3 graph (a) of subdivision three of section five hundred eleven of this
4 chapter; (2) imposed in accordance with the provisions of section eleven
5 hundred ninety-three and civil penalties imposed pursuant to subdivision
6 two of section eleven hundred ninety-four-a of this article, including,
7 where appropriate, a hearing officer acting on behalf of the commission-
8 er, from violations of sections eleven hundred ninety-two, eleven
9 hundred ninety-two-a, and findings made under section eleven hundred
10 ninety-four-a of this article; and (3) imposed upon a conviction for:
11 aggravated vehicular assault, pursuant to section 120.04-a of the penal
12 law; vehicular assault in the first degree, pursuant to section 120.04
13 of the penal law; vehicular assault in the second degree, pursuant to
14 section 120.03 of the penal law; aggravated vehicular homicide, pursuant
15 to section 125.14 of the penal law; vehicular manslaughter in the first
16 degree, pursuant to section 125.13 of the penal law; and vehicular
17 manslaughter in the second degree, pursuant to section 125.12 of the
18 penal law, as provided in section eighteen hundred three of this chap-
19 ter. Upon receipt of these moneys, the county shall deposit them in a
20 separate account entitled "special traffic options program for driving
21 while intoxicated", and they shall be under the exclusive care, custody,
22 and control of the chief fiscal officer of each county participating in
23 the program.

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

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

1 surcharge or crime victim assistance fee 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 If such collecting authority is any other court of the unified court
5 system, it shall, within such period, pay such money attributable to the
6 sex offender registration fee and the DNA databank fee to the state
7 commissioner of taxation and finance to the credit of the general fund.
8 S 5. This act shall take effect April 1, 2012.