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

2950--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 21, 2011

Introduced by M. of A. LUPARDO, MAGEE, GUNTHER, KELLNER, MILLMAN, MAISEL, JAFFEE, RUSSELL, CLARK, LATIMER, LIFTON, SAYWARD -- read once and referred to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the penal law, in relation to distribution of certain mandatory surcharges imposed for alcohol-related traffic convictions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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 and 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 ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS EIGHTEEN HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E 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, SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT, 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,

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

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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 2. Paragraphs (b) and (c) of subdivision 5 of section 1197 of the vehicle and traffic law, as added by chapter 47 of the laws of 1988, are amended to read as follows:

(b) Receive proposals from county, town, city or village agencies or non-governmental groups for activities related to alcohol traffic safety, INCLUDING THE IMPLEMENTATION OF THE IGNITION INTERLOCK PROGRAM AS SET FORTH IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, and to submit them to the county board of legislators or other such governing body, together with a recommendation for funding of the activity if deemed appropriate.

(c) Cooperate with and assist local officials within the county in the formulation and execution of alcohol traffic safety programs including enforcement, adjudication, rehabilitation [and], education AND IMPLEMENTATION OF THE IGNITION INTERLOCK PROGRAM AS SET FORTH IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE.

S 3. 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 ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS EIGHTEEN HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E OF THIS ARTICLE: (A) IMPOSED AND collected [from] 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[, all fines, penalties and forfeitures] OF THIS CHAPTER; (B) imposed AND COLLECTED in accordance with section eleven hundred ninety-three of this chapter [collected from] FOR violations of section eleven hundred ninety-two of this chapter; [and any fines or forfeitures] (C) IMPOSED AND COLLECTED FOR VIOLATIONS OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER OR FOR VIOLATIONS OF SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER; (D) 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 (E) civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this chapter, shall be paid to such county.

S 4. Subdivisions 1 and 2 of section 1809-c of the vehicle and traffic law, as added by section 37 of part J of chapter 62 of the laws of 2003, are amended to read as follows:

1. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to: (A) section eleven hundred ninety-two of this chapter; (B) 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; (C) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER; OR (D) SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of twenty-five dollars.

2. The additional surcharge provided for in subdivision one of this section shall be paid to the clerk of the court that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall determine the amount of surcharge collected and 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; PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, SUCH SURCHARGE SHALL BE PAID TO THE COUNTY WHERE THE CONVICTION WAS RENDERED.

S 5. Paragraph b of subdivision 1 and subdivision 2 of section 1809-e of the vehicle and traffic law, as added by section 1 of part EE of chapter 56 of the laws of 2008, are amended to read as follows:

b. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to: (1) section eleven hundred ninety-two of this chapter; (2) 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; (3) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER; OR (4) SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of one hundred seventy dollars.

2. The additional surcharges 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 such surcharges, the collecting authority shall pay such money to the state comptroller [to be deposited to] 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; PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE FIRST DAY OF APRIL, TWO THOUSAND THIRTEEN, ANY SUCH SURCHARGE COLLECTED PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION SHALL BE PAID TO THE COUNTY WHERE THE CONVICTION WAS RENDERED.

S 6. 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] THE COLLECTING AUTHORITY is an administrative tribunal[,] or a town or village justice court, it shall then pay such money to the state comptroller who, UNLESS OTHERWISE AUTHORIZED PURSUANT TO THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION EIGHTEEN HUNDRED THREE OF THE VEHICLE AND TRAFFIC LAW, 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, it shall, within such period, UNLESS OTHERWISE AUTHORIZED PURSUANT TO THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION EIGHTEEN HUNDRED THREE OF THE VEHICLE AND TRAFFIC LAW, 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 7. This act shall take effect immediately, provided, however, the provisions of sections one, three, four and five of this act shall take effect on the sixtieth day after it shall have become a law, and provided further, however, that section six of this act shall take effect on the first of April, 2013.