

3432--B

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 22, 2015

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Introduced by M. of A. LUPARDO -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to distribution of certain mandatory surcharges imposed for alcohol-related traffic convictions; and to amend the state finance law, in relation to establishing an impaired driving safety fund

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 vehi-  
2     cle and traffic law, as separately amended by chapters 196 and 688 of  
3     the laws of 1996 and subparagraph 3 as amended by chapter 345 of the  
4     laws of 2007, is amended to read as follows:  
5     (a) Where a county establishes a special traffic options program for  
6     driving while intoxicated, pursuant to this section, it shall receive  
7     fines and forfeitures collected by any court, judge, magistrate or other  
8     officer within that county, including, where appropriate, a hearing  
9     officer acting on behalf of the commissioner[,]: (1) imposed for  
10    violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivi-  
11    sion two or subparagraph (i) of paragraph (a) of subdivision three of  
12    section five hundred eleven of this chapter; (2) imposed in accordance  
13    with the provisions of section eleven hundred ninety-three, PARAGRAPH  
14    (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX, SUBDIVI-  
15    SION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT, and civil penalties  
16    imposed pursuant to subdivision two of section eleven hundred ninety-  
17    four-a of this article, including, where appropriate, a hearing officer  
18    acting on behalf of the commissioner, from violations of sections eleven  
19    hundred ninety-two, eleven hundred ninety-two-a and findings made under

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

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1 section eleven hundred ninety-four-a of this article; and (3) imposed  
2 upon a conviction for: aggravated vehicular assault, pursuant to section  
3 120.04-a of the penal law; vehicular assault in the first degree, pursu-  
4 ant to section 120.04 of the penal law; vehicular assault in the second  
5 degree, pursuant to section 120.03 of the penal law; aggravated vehicu-  
6 lar homicide, pursuant to section 125.14 of the penal law; vehicular  
7 manslaughter in the first degree, pursuant to section 125.13 of the  
8 penal law; and vehicular manslaughter in the second degree, pursuant to  
9 section 125.12 of the penal law, as provided in section eighteen hundred  
10 three of this chapter. Upon receipt of these moneys, the county shall  
11 deposit them in a separate account entitled "special traffic options  
12 program for driving while intoxicated," and they shall be under the  
13 exclusive care, custody, and control of the chief fiscal officer of each  
14 county participating in 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: (A) IMPOSED AND collected [from] FOR  
22 violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivi-  
23 sion two or subparagraph (i) of paragraph (a) of subdivision three of  
24 section five hundred eleven[, all fines, penalties and forfeitures] OF  
25 THIS CHAPTER; (B) imposed AND COLLECTED in accordance with section elev-  
26 en hundred ninety-three of this chapter [collected from] FOR violations  
27 of section eleven hundred ninety-two of this chapter; [and any fines or  
28 forfeitures] (C) IMPOSED AND COLLECTED FOR VIOLATIONS OF PARAGRAPH (F)  
29 OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAP-  
30 TER OR FOR VIOLATIONS OF SUBDIVISION NINE OF SECTION ELEVEN HUNDRED  
31 NINETY-EIGHT OF THIS CHAPTER; (D) collected by any court, judge, magis-  
32 trate or other officer imposed upon a conviction for: aggravated vehicu-  
33 lar assault, pursuant to section 120.04-a of the penal law; vehicular  
34 assault in the first degree, pursuant to section 120.04 of the penal  
35 law; vehicular assault in the second degree, pursuant to section 120.03  
36 of the penal law; aggravated vehicular homicide, pursuant to section  
37 125.14 of the penal law; vehicular manslaughter in the first degree,  
38 pursuant to section 125.13 of the penal law; and vehicular manslaughter  
39 in the second degree, pursuant to section 125.12 of the penal law; and  
40 (E) civil penalties imposed pursuant to subdivision two of section elev-  
41 en hundred ninety-four-a of this chapter, shall be paid to such county.

42 S 3. Subdivisions 1 and 2 of section 1809-c of the vehicle and traffic  
43 law, as added by section 37 of part J of chapter 62 of the laws of 2003,  
44 are amended to read as follows:

45 1. Notwithstanding any other provision of law, whenever proceedings in  
46 a court of this state result in a conviction pursuant to: (A) section  
47 eleven hundred ninety-two of this chapter; (B) SUBPARAGRAPHS (II) AND  
48 (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARA-  
49 GRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS  
50 CHAPTER; (C) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN  
51 HUNDRED NINETY-SIX OF THIS CHAPTER; OR (D) SUBDIVISION NINE OF SECTION  
52 ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in  
53 addition to any sentence or other surcharge required or permitted by  
54 law, an additional surcharge of twenty-five dollars.

55 2. The additional surcharge provided for in subdivision one of this  
56 section shall be paid to the clerk of the court that rendered the

1 conviction. Within the first ten days of the month following collection  
2 of the surcharge the collecting authority shall determine the amount of  
3 surcharge collected and it shall pay such money to the state comptroller  
4 who shall deposit such money in the state treasury pursuant to section  
5 one hundred twenty-one of the state finance law to the credit of the  
6 general fund; PROVIDED, HOWEVER, COMMENCING ON THE FIRST DAY OF APRIL,  
7 TWO THOUSAND SEVENTEEN AND EVERY FISCAL YEAR THEREAFTER, THE STATE COMP-  
8 TROLLER SHALL DEPOSIT SUCH MONEY TO THE CREDIT OF THE IMPAIRED DRIVING  
9 SAFETY FUND PURSUANT TO SECTION EIGHTY-NINE-I OF THE STATE FINANCE LAW  
10 AND SUCH MONEY SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF  
11 SUCH SECTION.

12 S 4. Paragraph b of subdivision 1 and subdivision 2 of section 1809-e  
13 of the vehicle and traffic law, as added by section 1 of part EE of  
14 chapter 56 of the laws of 2008, are amended to read as follows:

15 b. Notwithstanding any other provision of law, whenever proceedings in  
16 a court of this state result in a conviction pursuant to: (1) section  
17 eleven hundred ninety-two of this chapter; (2) SUBPARAGRAPHS (II) AND  
18 (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARA-  
19 GRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS  
20 CHAPTER; (3) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN  
21 HUNDRED NINETY-SIX OF THIS CHAPTER; OR (4) SUBDIVISION NINE OF SECTION  
22 ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in  
23 addition to any sentence or other surcharge required or permitted by  
24 law, an additional surcharge of one hundred seventy dollars.

25 2. The additional surcharges provided for in subdivision one of this  
26 section shall be paid to the clerk of the court or administrative tribu-  
27 nal that rendered the conviction. Within the first ten days of the month  
28 following collection of such surcharges, the collecting authority shall  
29 pay such money to the state comptroller to be deposited to the general  
30 fund; PROVIDED, HOWEVER, COMMENCING ON THE FIRST DAY OF APRIL, TWO THOU-  
31 SAND SEVENTEEN AND EVERY FISCAL YEAR THEREAFTER, THE STATE COMPTROLLER  
32 SHALL DEPOSIT SUCH MONEY TO THE CREDIT OF THE IMPAIRED DRIVING SAFETY  
33 FUND PURSUANT TO SECTION EIGHTY-NINE-I OF THE STATE FINANCE LAW AND SUCH  
34 MONEY SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF SUCH  
35 SECTION.

36 S 5. The state finance law is amended by adding a new section 89-i to  
37 read as follows:

38 S 89-I. IMPAIRED DRIVING SAFETY FUND. 1. THERE IS HEREBY ESTABLISHED  
39 IN THE CUSTODY OF THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE  
40 "IMPAIRED DRIVING SAFETY FUND".

41 2. SUCH FUND SHALL CONSIST OF ALL MONEYS RECEIVED BY THE STATE FOR THE  
42 COLLECTION OF SURCHARGES IMPOSED PURSUANT TO SECTIONS EIGHTEEN HUNDRED  
43 NINE-C AND EIGHTEEN HUNDRED NINE-E OF THE VEHICLE AND TRAFFIC LAW AND  
44 ALL OTHER GRANTS, BEQUESTS OR OTHER MONEYS APPROPRIATED, CREDITED OR  
45 TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

46 3. MONEYS IN THE IMPAIRED DRIVING SAFETY FUND SHALL BE MADE AVAILABLE  
47 TO THE DEPARTMENT OF MOTOR VEHICLES ONLY FOR THE COSTS ASSOCIATED WITH  
48 MONITORING PERSONS SUBJECT TO THE IGNITION INTERLOCK PROGRAM AS SET  
49 FORTH IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THE VEHICLE AND TRAFFIC  
50 LAW, AND FOR THE DISTRIBUTION OF ANNUAL GRANTS TO ELIGIBLE PROGRAMS  
51 ESTABLISHED PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SEVEN OF THE VEHI-  
52 CLE AND TRAFFIC LAW EXCLUSIVELY FOR THE PURPOSES, FUNCTIONS AND DUTIES  
53 SET FORTH IN SECTION ELEVEN HUNDRED NINETY-SEVEN OF THE VEHICLE AND  
54 TRAFFIC LAW.

55 4. THE MONEYS OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT  
56 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER

1 OF MOTOR VEHICLES, INCLUDING ADVANCE OF FUNDS, IF NECESSARY, FOR COSTS  
2 INCURRED BY A COUNTY FOR MONITORING PERSONS SUBJECT TO THE IGNITION  
3 INTERLOCK PROGRAM. AT THE END OF EACH YEAR ANY MONEYS REMAINING IN THE  
4 FUND SHALL BE RETAINED IN THE FUND EXCLUSIVELY FOR THE PURPOSES SET  
5 FORTH HEREIN AND SHALL NOT REVERT TO THE GENERAL FUND. THE INTEREST AND  
6 INCOME EARNED ON MONEYS IN THE FUND AFTER DEDUCTING APPLICABLE CHARGES  
7 SHALL BE CREDITED TO THE FUND.

8 S 6. This act shall take effect on the first of November next succeed-  
9 ing the date on which it shall have become a law.