

# STATE OF NEW YORK

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909--A

2017-2018 Regular Sessions

## IN ASSEMBLY

January 9, 2017

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Introduced by M. of A. LUPARDO, SKOUFIS -- 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, 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 vehicle and traffic law, as separately amended by chapters 196 and 688 of  
2 the laws of 1996 and subparagraph 3 as amended by chapter 345 of the  
3 laws of 2007, is amended to read as follows:  
4 (a) Where a county establishes a special traffic options program for  
5 driving while intoxicated, pursuant to this section, it shall receive  
6 fines and forfeitures collected by any court, judge, magistrate or other  
7 officer within that county, including, where appropriate, a hearing  
8 officer acting on behalf of the commissioner~~[-]~~: (1) imposed for  
9 violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivision  
10 two or subparagraph (i) of paragraph (a) of subdivision three of  
11 section five hundred eleven of this chapter; (2) imposed in accordance  
12 with the provisions of section eleven hundred ninety-three, paragraph  
13 (f) of subdivision seven of section eleven hundred ninety-six, subdivision  
14 nine of section eleven hundred ninety-eight, and civil penalties  
15 imposed pursuant to subdivision two of section eleven hundred ninety-  
16 four-a of this article, including, where appropriate, a hearing officer  
17 acting on behalf of the commissioner, from violations of sections eleven  
18 hundred ninety-two, eleven hundred ninety-two-a and findings made under  
19 section eleven hundred ninety-four-a of this article; and (3) imposed  
20

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

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1 upon a conviction for: aggravated vehicular assault, pursuant to section  
2 120.04-a of the penal law; vehicular assault in the first degree, pursu-  
3 ant to section 120.04 of the penal law; vehicular assault in the second  
4 degree, pursuant to section 120.03 of the penal law; aggravated vehicu-  
5 lar homicide, pursuant to section 125.14 of the penal law; vehicular  
6 manslaughter in the first degree, pursuant to section 125.13 of the  
7 penal law; and vehicular manslaughter in the second degree, pursuant to  
8 section 125.12 of the penal law, as provided in section eighteen hundred  
9 three of this chapter. Upon receipt of these moneys, the county shall  
10 deposit them in a separate account entitled "special traffic options  
11 program for driving while intoxicated," and they shall be under the  
12 exclusive care, custody, and control of the chief fiscal officer of each  
13 county participating in the program.

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

17 Where a county establishes a special traffic options program for driv-  
18 ing while intoxicated, approved by the commissioner ~~[of motor vehicles]~~,  
19 pursuant to section eleven hundred ninety-seven of this chapter, all  
20 fines, penalties and forfeitures: (a) imposed and collected [from] for  
21 violations of subparagraphs (ii) and (iii) of paragraph (a) of subdivi-  
22 sion two or subparagraph (i) of paragraph (a) of subdivision three of  
23 section five hundred eleven[, all fines, penalties and forfeitures] of  
24 this chapter; (b) imposed and collected in accordance with section elev-  
25 en hundred ninety-three of this chapter [collected from] for violations  
26 of section eleven hundred ninety-two of this chapter; [and any fines or  
27 forfeitures] (c) imposed and collected for violations of paragraph (f)  
28 of subdivision seven of section eleven hundred ninety-six of this chap-  
29 ter or for violations of subdivision nine of section eleven hundred  
30 ninety-eight of this chapter; (d) collected by any court, judge, magis-  
31 trate or other officer imposed upon a conviction for: aggravated vehicu-  
32 lar assault, pursuant to section 120.04-a of the penal law; vehicular  
33 assault in the first degree, pursuant to section 120.04 of the penal  
34 law; vehicular assault in the second degree, pursuant to section 120.03  
35 of the penal law; aggravated vehicular homicide, pursuant to section  
36 125.14 of the penal law; vehicular manslaughter in the first degree,  
37 pursuant to section 125.13 of the penal law; and vehicular manslaughter  
38 in the second degree, pursuant to section 125.12 of the penal law; and  
39 (e) civil penalties imposed pursuant to subdivision two of section elev-  
40 en hundred ninety-four-a of this chapter, shall be paid to such county.

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

44 1. Notwithstanding any other provision of law, whenever proceedings in  
45 a court of this state result in a conviction pursuant to: (a) section  
46 eleven hundred ninety-two of this chapter; (b) subparagraphs (ii) and  
47 (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-  
48 graph (a) of subdivision three of section five hundred eleven of this  
49 chapter; (c) paragraph (f) of subdivision seven of section eleven  
50 hundred ninety-six of this chapter; or (d) subdivision nine of section  
51 eleven hundred ninety-eight of this chapter, there shall be levied, in  
52 addition to any sentence or other surcharge required or permitted by  
53 law, an additional surcharge of twenty-five dollars.

54 2. The additional surcharge provided for in subdivision one of this  
55 section shall be paid to the clerk of the court that rendered the  
56 conviction. Within the first ten days of the month following collection

1 of the surcharge the collecting authority shall determine the amount of  
2 surcharge collected and it shall pay such money to the state comptroller  
3 who shall deposit such money in the state treasury pursuant to section  
4 one hundred twenty-one of the state finance law to the credit of the  
5 general fund; provided, however, commencing on the first day of April,  
6 two thousand nineteen, the state comptroller shall deposit fifty percent  
7 of such money to the credit of the impaired driving safety fund pursuant  
8 to section eighty-nine-i of the state finance law and such money shall  
9 be distributed in accordance with the provisions of such section; and  
10 commencing on the first day of April, two thousand twenty and every  
11 fiscal year thereafter, the state comptroller shall deposit all such  
12 money to the credit of the impaired driving safety fund pursuant to  
13 section eighty-nine-i of the state finance law and such money shall be  
14 distributed in accordance with the provisions of such section.

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

18 b. Notwithstanding any other provision of law, whenever proceedings in  
19 a court of this state result in a conviction pursuant to: (1) section  
20 eleven hundred ninety-two of this chapter; (2) subparagraphs (ii) and  
21 (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-  
22 graph (a) of subdivision three of section five hundred eleven of this  
23 chapter; (3) paragraph (f) of subdivision seven of section eleven  
24 hundred ninety-six of this chapter; or (4) subdivision nine of section  
25 eleven hundred ninety-eight of this chapter, there shall be levied, in  
26 addition to any sentence or other surcharge required or permitted by  
27 law, an additional surcharge of one hundred seventy dollars.

28 2. The additional surcharges provided for in subdivision one of this  
29 section shall be paid to the clerk of the court or administrative tribu-  
30 nal that rendered the conviction. Within the first ten days of the month  
31 following collection of such surcharges, the collecting authority shall  
32 pay such money to the state comptroller to be deposited to the general  
33 fund; provided, however, commencing on the first day of April, two thou-  
34 sand nineteen, the state comptroller shall deposit fifty percent of such  
35 money to the credit of the impaired driving safety fund pursuant to  
36 section eighty-nine-i of the state finance law and such money shall be  
37 distributed in accordance with the provisions of such section; and  
38 commencing on the first day of April, two thousand twenty and every  
39 fiscal year thereafter, the state comptroller shall deposit all such  
40 money to the credit of the impaired driving safety fund pursuant to  
41 section eighty-nine-i of the state finance law and such money shall be  
42 distributed in accordance with the provisions of such section.

43 § 5. The state finance law is amended by adding a new section 89-i to  
44 read as follows:

45 § 89-i. Impaired driving safety fund. 1. There is hereby established  
46 in the custody of the comptroller, a special fund to be known as the  
47 "impaired driving safety fund".

48 2. Such fund shall consist of all moneys received by the state for the  
49 collection of surcharges imposed pursuant to sections eighteen hundred  
50 nine-c and eighteen hundred nine-e of the vehicle and traffic law and  
51 all other grants, bequests or other moneys appropriated, credited or  
52 transferred thereto from any other fund or source pursuant to law.

53 3. Thirty-three percent, but not more than three million dollars of  
54 moneys in the impaired driving safety fund shall be made available to  
55 the office of probation and correctional alternatives for the costs  
56 associated with monitoring persons subject to the ignition interlock

1 program as set forth in section eleven hundred ninety-eight of the vehi-  
2 cle and traffic law, and sixty-seven percent of such money in such fund  
3 shall be made available to the department of motor vehicles for distrib-  
4 ution for services and expenses related to county special traffic  
5 options programs for driving while intoxicated pursuant to section elev-  
6 en hundred ninety-seven of the vehicle and traffic law, and an allo-  
7 cation plan subject to the approval of the director of the budget. In  
8 the event that the thirty-three percent of such moneys exceeds three  
9 million dollars, the remainder shall accrue to the department of motor  
10 vehicles for distribution to county special traffic options programs for  
11 driving while intoxicated in accordance with the provisions of this  
12 subdivision.

13 4. The moneys of the fund shall be paid out on the audit and warrant  
14 of the comptroller on vouchers certified or approved by the commissioner  
15 of the division of criminal justice services or the commissioner of  
16 motor vehicles, as applicable, including advance of funds, if necessary,  
17 for costs incurred by a county for monitoring persons subject to the  
18 ignition interlock program. At the end of each year any moneys remaining  
19 in the fund shall be retained in the fund exclusively for the purposes  
20 set forth herein and shall not revert to the general fund. The interest  
21 and income earned on moneys in the fund after deducting applicable  
22 charges shall be credited to the fund.

23 § 6. This act shall take effect on the first of November next succeed-  
24 ing the date on which it shall have become a law.