

# STATE OF NEW YORK

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2712

2019-2020 Regular Sessions

## IN ASSEMBLY

January 25, 2019

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Introduced by M. of A. GANTT -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to the disposition of fine money imposed for infractions relating to the operation of a motor vehicle by the holder of a conditional license; and 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. 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 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, paragraph (f) of subdivision seven of section eleven hundred ninety-six 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

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

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

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

16 Where a county establishes a special traffic options program for driv-  
17 ing while intoxicated, approved by the commissioner [~~of motor vehicles~~],  
18 pursuant to section eleven hundred ninety-seven of this chapter, all  
19 fines, penalties [~~and~~], forfeitures and mandatory surcharges, where  
20 applicable, collected from violations of subparagraphs (ii) and (iii) of  
21 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of  
22 subdivision three of section five hundred eleven[~~7~~] of this chapter; all  
23 fines, penalties and forfeitures imposed in accordance with section  
24 eleven hundred ninety-three of this chapter collected from violations of  
25 section eleven hundred ninety-two of this chapter; all fines, penalties,  
26 and forfeitures imposed in accordance with paragraph (f) of subdivision  
27 seven of section eleven hundred ninety-six of this chapter; and any  
28 fines or forfeitures collected by any court, judge, magistrate or other  
29 officer imposed upon a conviction for: aggravated vehicular assault,  
30 pursuant to section 120.04-a of the penal law; vehicular assault in the  
31 first degree, pursuant to section 120.04 of the penal law; vehicular  
32 assault in the second degree, pursuant to section 120.03 of the penal  
33 law; aggravated vehicular homicide, pursuant to section 125.14 of the  
34 penal law; vehicular manslaughter in the first degree, pursuant to  
35 section 125.13 of the penal law; and vehicular manslaughter in the  
36 second degree, pursuant to section 125.12 of the penal law and civil  
37 penalties imposed pursuant to subdivision two of section eleven hundred  
38 ninety-four-a of this chapter, shall be paid to such county.

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

42 3. (a) The mandatory surcharge provided for in subdivision one of this  
43 section shall be paid to the clerk of the court or administrative tribu-  
44 nal that rendered the conviction. Within the first ten days of the month  
45 following collection of the mandatory surcharge, the collecting authori-  
46 ty shall determine the amount of mandatory surcharge collected [~~and, if~~  
47 ~~it~~]. If the collecting authority is an administrative tribunal or a town  
48 or village justice court, except as provided in paragraph (b) of this  
49 subdivision, it shall pay such money to the state comptroller, who shall  
50 deposit such money in the state treasury pursuant to section one hundred  
51 twenty-one of the state finance law to the credit of the general fund.  
52 If such collecting authority is any other court of the unified court  
53 system, it shall, within such period, except as provided in paragraph  
54 (b) of this subdivision, pay such money to the state commissioner of  
55 taxation and finance to the credit of the criminal justice improvement  
56 account established by section ninety-seven-bb of the state finance law.

1 The crime victim assistance fee provided for in subdivision one of this  
2 section shall be paid to the clerk of the court or administrative tribu-  
3 nal that rendered the conviction. Within the first ten days of the month  
4 following collection of the crime victim assistance fee, the collecting  
5 authority shall determine the amount of crime victim assistance fee  
6 collected and, if it is an administrative tribunal or a town or village  
7 justice court, it shall pay such money to the state comptroller, who  
8 shall deposit such money in the state treasury pursuant to section one  
9 hundred twenty-one of the state finance law to the credit of the crimi-  
10 nal justice improvement account established by section ninety-seven-bb  
11 of the state finance law.

12 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
13 sion and subdivision three of section 60.35 of the penal law, where a  
14 county has established a special traffic options program for driving  
15 while intoxicated pursuant to the provisions of section eleven hundred  
16 ninety-seven of this chapter, all mandatory surcharges collected pursu-  
17 ant to this section for violations of subparagraphs (ii) and (iii) of  
18 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of  
19 subdivision three of section five hundred eleven of this chapter,  
20 violations of section eleven hundred ninety-two of this chapter; and  
21 upon a conviction for vehicular assault in the first degree, pursuant to  
22 section 120.04 of the penal law, vehicular assault in the second degree,  
23 pursuant to section 120.03 of the penal law, vehicular manslaughter in  
24 the first degree, pursuant to section 125.13 of the penal law, and  
25 vehicular manslaughter in the second degree, pursuant to section 125.12  
26 of the penal law, shall be paid to such county where the violation upon  
27 which the conviction was based occurred.

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

31 3. The mandatory surcharge, sex offender registration fee, DNA data-  
32 bank fee, crime victim assistance fee, and supplemental sex offender  
33 victim fee provided for in subdivision one of this section shall be paid  
34 to the clerk of the court or administrative tribunal that rendered the  
35 conviction. Within the first ten days of the month following collection  
36 of the mandatory surcharge, crime victim assistance fee, and supple-  
37 mental sex offender victim fee, the collecting authority shall determine  
38 the amount of mandatory surcharge, crime victim assistance fee, and  
39 supplemental sex offender victim fee collected ~~[and, if it]~~. If the  
40 collecting authority is an administrative tribunal<sup>[7]</sup> or a town or  
41 village justice court, except with regard to mandatory surcharges  
42 imposed upon convictions for those offenses enumerated in paragraph (b)  
43 of subdivision three of section eighteen hundred nine of the vehicle and  
44 traffic law, it shall then pay such money to the state comptroller who  
45 shall deposit such money in the state treasury pursuant to section one  
46 hundred twenty-one of the state finance law to the credit of the crimi-  
47 nal justice improvement account established by section ninety-seven-bb  
48 of the state finance law. Within the first ten days of the month follow-  
49 ing collection of the sex offender registration fee and DNA databank  
50 fee, the collecting authority shall determine the amount of the sex  
51 offender registration fee and DNA databank fee collected and, if it is  
52 an administrative tribunal, or a town or village justice court, it shall  
53 then pay such money to the state comptroller who shall deposit such  
54 money in the state treasury pursuant to section one hundred twenty-one  
55 of the state finance law to the credit of the general fund. If such  
56 collecting authority is any other court of the unified court system,

1 except with regard to mandatory surcharges imposed upon convictions for  
2 those offenses enumerated in paragraph (b) of subdivision three of  
3 section eighteen hundred nine of the vehicle and traffic law, it shall,  
4 within such period, pay such money attributable to the mandatory  
5 surcharge or crime victim assistance fee to the state commissioner of  
6 taxation and finance to the credit of the criminal justice improvement  
7 account established by section ninety-seven-bb of the state finance law.  
8 If such collecting authority is any other court of the unified court  
9 system, it shall, within such period, pay such money attributable to the  
10 sex offender registration fee and the DNA databank fee to the state  
11 commissioner of taxation and finance to the credit of the general fund.  
12 § 5. This act shall take effect on the first of April next succeeding  
13 the date on which it shall have become a law.