

# STATE OF NEW YORK

7810--A

## IN SENATE

February 24, 2020

Introduced by Sens. KENNEDY, FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- 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 paying drug-impaired driving surcharges to counties to reduce drug-impaired driving incidences

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[~~7~~]: (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 and civil  
14 penalties imposed pursuant to subdivision two of section eleven hundred  
15 ninety-four-a of this article, including, where appropriate, a hearing  
16 officer acting on behalf of the commissioner, from violations of  
17 sections eleven hundred ninety-two, eleven hundred ninety-two-a and  
18 findings made under section eleven hundred ninety-four-a of this arti-  
19 cle; and (3) imposed upon a conviction for: aggravated vehicular  
20 assault, pursuant to section 120.04-a of the penal law; vehicular  
21 assault in the first degree, pursuant to section 120.04 of the penal  
22 law; vehicular assault in the second degree, pursuant to section 120.03  
23 of the penal law; aggravated vehicular homicide, pursuant to section  
24 125.14 of the penal law; vehicular manslaughter in the first degree,  
25 pursuant to section 125.13 of the penal law; and vehicular manslaughter

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

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1 in the second degree, pursuant to section 125.12 of the penal law, as  
2 provided in section eighteen hundred three of this chapter. In addition,  
3 any surcharges imposed pursuant to sections eighteen hundred nine-c and  
4 eighteen hundred nine-e of this chapter shall be paid to such county in  
5 such manner and for such purposes as provided for in such sections. Upon  
6 receipt of these moneys, the county shall deposit them in a separate  
7 account entitled "special traffic options program for driving while  
8 intoxicated" and they shall be under the exclusive care, custody and  
9 control of the chief fiscal officer of each county participating in the  
10 program.

11 § 2. Subdivision 9 of section 1803 of the vehicle and traffic law, as  
12 amended by chapter 196 of the laws of 1996 and the opening paragraph as  
13 amended by chapter 345 of the laws of 2007, is amended to read as  
14 follows:

15 9. Where a county establishes a special traffic options program for  
16 driving while intoxicated, approved by the commissioner [~~of motor vehi-~~  
17 ~~cles~~], pursuant to section eleven hundred ninety-seven of this chapter,  
18 all fines, penalties and forfeitures: (a) imposed and collected [~~from~~]  
19 for violations of subparagraphs (ii) and (iii) of paragraph (a) of  
20 subdivision two or subparagraph (i) of paragraph (a) of subdivision  
21 three of section five hundred eleven[~~, all fines, penalties and forfei-~~  
22 ~~tures~~] of this chapter; (b) imposed and collected in accordance with  
23 section eleven hundred ninety-three of this chapter [~~collected from~~] for  
24 violations of section eleven hundred ninety-two of this chapter; [~~and~~  
25 ~~any fines or forfeitures~~] (c) collected by any court, judge, magistrate  
26 or other officer imposed upon a conviction for: aggravated vehicular  
27 assault, pursuant to section 120.04-a of the penal law; vehicular  
28 assault in the first degree, pursuant to section 120.04 of the penal  
29 law; vehicular assault in the second degree, pursuant to section 120.03  
30 of the penal law; aggravated vehicular homicide, pursuant to section  
31 125.14 of the penal law; vehicular manslaughter in the first degree,  
32 pursuant to section 125.13 of the penal law; and vehicular manslaughter  
33 in the second degree, pursuant to section 125.12 of the penal law; and  
34 (d) civil penalties imposed pursuant to subdivision two of section eleven  
35 hundred ninety-four-a of this chapter, shall be paid to such county.  
36 In addition, any surcharges imposed pursuant to sections eighteen  
37 hundred nine-c and eighteen hundred nine-e of this chapter shall be paid  
38 to such county in such manner and for such purposes as provided for in  
39 such sections.

40 [~~(a)~~] (e) Any such fine, penalty, or forfeiture collected by any  
41 court, judge, magistrate or other officer referred to in subdivision one  
42 of section thirty-nine of the judiciary law, establishing a unified  
43 court budget, shall be paid to that county within the first ten days of  
44 the month following collection.

45 [~~(b)~~] (f) Any such fine, penalty, or forfeiture collected by any other  
46 court, judge, magistrate or other officer, including, where appropriate,  
47 a hearing officer acting on behalf of the commissioner, shall be paid to  
48 the state comptroller within the first ten days of the month following  
49 collection. Every such payment to the comptroller shall be accompanied  
50 by a statement in such form and detail as the comptroller shall provide.  
51 The comptroller shall pay these funds to the county in which the  
52 violation occurs.

53 [~~(c)~~] (g) Upon receipt of any monies referred to in this section, the  
54 county shall deposit them in a separate account entitled "special traf-  
55 fic options program for driving while intoxicated".

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

4 1. Notwithstanding any other provision of law, whenever proceedings in  
5 a court of this state result in a conviction pursuant to section eleven  
6 hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of  
7 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of  
8 subdivision three of section five hundred eleven of this chapter, there  
9 shall be levied, in addition to any sentence or other surcharge required  
10 or permitted by law, an additional surcharge of twenty-five dollars.

11 2. The additional surcharge provided for in subdivision one of this  
12 section shall be paid to the clerk of the court that rendered the  
13 conviction. Within the first ten days of the month following collection  
14 of the surcharge the collecting authority shall determine the amount of  
15 surcharge collected and it shall pay such money to the state comptroller  
16 who shall deposit such money in the state treasury pursuant to section  
17 one hundred twenty-one of the state finance law to the credit of the  
18 general fund; provided, however, commencing on April first, two thousand  
19 twenty-one, all such moneys shall be paid to counties pursuant to subdi-  
20 vision one of section eleven hundred ninety-seven of this chapter and  
21 shall be used by each such county for programs and initiatives specif-  
22 ically designed and established to reduce the incidence of drug-impaired  
23 driving.

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

27 b. Notwithstanding any other provision of law, whenever proceedings in  
28 a court of this state result in a conviction pursuant to section eleven  
29 hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of  
30 paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of  
31 subdivision three of section five hundred eleven of this chapter, there  
32 shall be levied, in addition to any sentence or other surcharge required  
33 or permitted by law, an additional surcharge of one hundred seventy  
34 dollars.

35 2. The additional surcharges provided for in subdivision one of this  
36 section shall be paid to the clerk of the court or administrative tribu-  
37 nal that rendered the conviction. Within the first ten days of the month  
38 following collection of such surcharges, the collecting authority shall  
39 pay such money to the state comptroller to be deposited to the general  
40 fund; provided, however, commencing on April first, two thousand twen-  
41 ty-two, fifty percent of such surcharge shall be paid to the state comp-  
42 troller to be deposited to the general fund and fifty percent of such  
43 surcharge shall be paid to counties pursuant to subdivision one of  
44 section eleven hundred ninety-seven of this chapter and shall be used by  
45 each such county for programs and initiatives specifically designed and  
46 established to reduce the incidence of drug-impaired driving; and  
47 provided further, commencing April first, two thousand twenty-three and  
48 every fiscal year thereafter, one hundred percent of such surcharge  
49 shall be paid to counties pursuant to subdivision one of section eleven  
50 hundred ninety-seven of this chapter and shall be used by each such  
51 county for programs and initiatives specifically designed and estab-  
52 lished to reduce the incidence of drug-impaired driving.

53 § 5. The commissioner of motor vehicles shall annually certify to the  
54 division of the budget that all program plans eligible for funding  
55 pursuant to this act are in full compliance with the provisions of  
56 section 1197 of the vehicle and traffic law establishing the special

1 traffic options program for driving while intoxicated, the rules promul-  
2 gated pursuant to 15 NYCRR 172 relating to such program and the  
3 provisions of this act.  
4 § 6. This act shall take effect April 1, 2021.