

# STATE OF NEW YORK

1942

2021-2022 Regular Sessions

## IN SENATE

January 16, 2021

Introduced by Sen. AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

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  
20 section eleven hundred ninety-four-a of this article; and (3) imposed  
21 upon a conviction for: aggravated vehicular assault, pursuant to section  
22 120.04-a of the penal law; vehicular assault in the first degree, pursu-  
23 ant to section 120.04 of the penal law; vehicular assault in the second

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

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1 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.

11 § 2. 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:

14 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: (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.

38 § 3. 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:

41 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.

51 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

1 one hundred twenty-one of the state finance law to the credit of the  
2 general fund; provided, however, commencing on the first day of April,  
3 two thousand twenty-two, the state comptroller shall deposit fifty  
4 percent of such money to the credit of the impaired driving safety fund  
5 pursuant to section eighty-nine-j of the state finance law and such  
6 money shall be distributed in accordance with the provisions of such  
7 section; and commencing on the first day of April, two thousand twenty-  
8 three and every fiscal year thereafter, the state comptroller shall  
9 deposit all such money to the credit of the impaired driving safety fund  
10 pursuant to section eighty-nine-j of the state finance law and such  
11 money shall be distributed in accordance with the provisions of such  
12 section.

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

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

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

41 § 5. The state finance law is amended by adding a new section 89-j to  
42 read as follows:

43 § 89-j. Impaired driving safety fund. 1. There is hereby established  
44 in the custody of the comptroller, a special fund to be known as the  
45 "impaired driving safety fund".

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

51 3. Thirty-three percent, but not more than three million dollars of  
52 moneys in the impaired driving safety fund shall be made available to  
53 the office of probation and correctional alternatives for the costs  
54 associated with monitoring persons subject to the ignition interlock  
55 program as set forth in section eleven hundred ninety-eight of the vehi-  
56 cle and traffic law, and sixty-seven percent of such money in such fund

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

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

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