STATE OF NEW YORK

3901

2021-2022 Regular Sessions

IN SENATE

February 1, 2021

Introduced by Sen. KENNEDY -- 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 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:

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 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 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 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,

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

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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. **In addition, any surcharges imposed pursuant to sections eighteen hundred nine-c and eighteen hundred nine-e of this chapter shall be paid to such county in such manner and for such purposes as provided for in such sections.** 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.

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

9. 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)** 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 **(d)** civil penalties imposed pursuant to subdivision two of section eleven hundred ninety-four-a of this chapter, shall be paid to such county. **In addition, any surcharges imposed pursuant to sections eighteen hundred nine-c and eighteen hundred nine-e of this chapter shall be paid to such county in such manner and for such purposes as provided for in such sections.**

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

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

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

§ 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:

1. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter **or 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**, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of twenty-five dollars.

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 one hundred twenty-one of the state finance law to the credit of the general fund**; provided, however, commencing on April first, two thousand twenty-two, all such moneys shall be paid to counties pursuant to subdivision one of section eleven hundred ninety-seven of this chapter and shall be used by each such county for programs and initiatives specifically designed and established to reduce the incidence of drug-impaired driving**.

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

b. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter **or 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**, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of one hundred seventy dollars.

2. The additional surcharges provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of such surcharges, the collecting authority shall pay such money to the state comptroller to be deposited to the general fund**; provided, however, commencing on April first, two thousand twenty-three, fifty percent of such surcharge shall be paid to the state comptroller to be deposited to the general fund and fifty percent of such surcharge shall be paid to counties pursuant to subdivision one of section eleven hundred ninety-seven of this chapter and shall be used by each such county for programs and initiatives specifically designed and established to reduce the incidence of drug-impaired driving; and provided further, commencing April first, two thousand twenty-four and every fiscal year thereafter, one hundred percent of such surcharge shall be paid to counties pursuant to subdivision one of section eleven hundred ninety-seven of this chapter and shall be used by each such county for programs and initiatives specifically designed and established to reduce the incidence of drug-impaired driving**.

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

traffic options program for driving while intoxicated, the rules promulgated pursuant to 15 NYCRR 172 relating to such program and the provisions of this act.

§ 6. This act shall take effect April 1, 2022.