

S 4307-A AKSHAR Same as [A 909-A](#) Lupardo
 ON FILE: 03/05/18 Vehicle and Traffic Law
 TITLE....Relates to the distribution of certain
 mandatory surcharges imposed for alcohol-related
 traffic convictions

Currently on Senate Committee Agenda

Senate Standing Committee on Rules

Senator John J. Flanagan, Chair

Monday, June 18, 2018

332 CAP

02/08/17 REFERRED TO TRANSPORTATION

06/05/17 COMMITTEE DISCHARGED AND
 COMMITTED TO RULES

06/05/17 ORDERED TO THIRD READING
 CAL.1466

06/05/17 PASSED SENATE

06/05/17 DELIVERED TO ASSEMBLY

06/05/17 referred to transportation

01/03/18 died in assembly

01/03/18 returned to senate

01/03/18 REFERRED TO TRANSPORTATION

03/05/18 AMEND AND RECOMMIT TO
 TRANSPORTATION

03/05/18 PRINT NUMBER 4307A

05/22/18 REPORTED AND COMMITTED TO
 FINANCE

06/05/18 REPORTED AND COMMITTED TO
 RULES

06/18/18 ORDERED TO THIRD READING
 CAL.1830

06/20/18 RECOMMITTED TO RULES

A909-A Lupardo Same as [S 4307-A](#)
 AKSHAR

Vehicle and Traffic Law

TITLE....Relates to the distribution of certain
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03/08/18amend and recommit to transportation

03/08/18print number 909a

STATE OF NEW YORK

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2017-2018 Regular Sessions

IN SENATE

February 8, 2017

Introduced by Sens. AKSHAR, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- 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 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, 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

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

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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

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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.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4307A

SPONSOR: AKSHAR

TITLE OF BILL: 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

PURPOSE:

To provide for the necessary direction and adequate funding for the successful implementation of the ignition interlock provisions of Chapter 496 of the Laws of 2009 ("Leandra's Law").

SUMMARY OF PROVISIONS:

(1) Amends subdivision 1 of § 1197 vehicle and Traffic Law (VTL) to direct fines imposed for the traffic offenses of "driving outside the terms of a conditional license" and "circumventing a required ignition interlock device" to the STOP-DWI Program in the county of the violation - making these offenses consistent with all other alcohol-related provisions of the law.

(2) Amends subdivision 5 of VTL, § 1 197 to add "implementation of the ignition interlock program as set forth in VT1, § 1198" to the functions and funding responsibilities of the County STOP-DWI coordinator.

(3) Amends subdivision 9 of VTL § 1303 to direct that mandatory surcharges be imposed for the traffic offenses listed including "driving outside the terms of a conditional license" and "circumventing a required ignition interlock device" be redirected to the county beginning April 1, 2019.

(4) Amends VTL, § 1809-c to direct that mandatory surcharges imposed and collected under this provision be directed to the STOP-DWI Program in the county where the offense occurred.

(5) Amends VTL § I309-c to direct that mandatory surcharges imposed and collected under this provision be directed to the STOP-DWI Program in the county where the offense occurred.

(6) Amends subdivision 3 of § 60,35 of the penal Law to conform the flow and surcharge collection process to be consistent with the intent of this legislation.

JUSTIFICATION:

This bill addresses two immediate and very real concerns that threaten the very core of New York's strategy to reduce the incidence of alcohol and other drug-related traffic crashes.

1. Ignition Interlock Monitoring

A pertinent provision of Chapter 496 of the Laws of 2009, ("Leandra's Law") requires that the sentence for all persons convicted of driving while intoxicated include a period of probation or conditional discharge, a condition of which shall include the installation of an ignition interlock device on all vehicles owned or operated by such person for not less than six months.

As a result, thousands of offenders are subject to this requirement each year. Pursuant to the procedures promulgated by the Office of Probation and Correctional Alternatives, counties have developed programs to implement the massive and recurring requirements associated with compliance, tracking and monitoring of this offender population. In support of the Leandra's Law initiative, the National Highway Traffic Safety Administration provided New York with grant money in the amount of \$3M annually as "start-up" money to pay for the local governments' cost of monitoring offenders. This past year (2016) NHTSA began to phase out the grant by reducing it by \$1.8M, and, by all indications, the federal money will not be forthcoming in 2017 and beyond. This leaves New York scrambling to find \$3M to cover the cost of the necessary monitoring of the targeted offender population.

2. STOP-DWI Program

When the historic STOP-DWI Program was first enacted by statute in 1981 the fines for alcohol-related driving offenses were shifted to the counties where the convictions occurred, provided each such county establish an office (and designate a coordinator) dedicated exclusively to reducing the incidence of alcohol and other drug-related crashes, injuries and fatalities. As a result, New York developed 58 self-sufficient programs (NYC has a single program) that, within 10 years had collectively reduced the likelihood of being involved in in alcohol-related crash by 69%. These incredible achievements were funded exclusively by the fines from convicted DWI and DWAI offenders and so impressed federal lawmakers that Congress provided incentive money to other states to adopt the New York model,

Commencing in 1983 a mandatory surcharge was imposed on all criminal and traffic convictions and the money therefrom was dedicated to a special fund under the control of the Division of Criminal Justice Services. Then, in 2003 and 2008 respectively, surcharges totaling \$195 were imposed on all persons convicted of drunk driving and the money was used for general budget relief- not only having no regard for sound criminal justice policy but actually having the unintended consequence of imperiling the financial stability of the county STOP-DWI programs. Today, the three surcharges can total as much as \$495. As a result, two things are happening: first - because of the financial burden associated with the mandatory surcharges, judges are imposing the minimum fines, regardless of circumstances and in contradiction of longstanding criminal justice policy that the punishment fit the parameters of the criminal behavior: and second because surcharges are collected first, when an offender pays over time, if he or she stops paying, it is the fine that is not collected. To date, tens of millions of dollars in unpaid fines have been identified. It follows, therefore, that the imposition and collection of these surcharges has had a financially deleterious impact on the fiscal viability of many of the programs. The data certainly

bears this out.

3. Joint Solution

This bill would address both issues. First, it would establish the Impaired Driving Safety Fund in the State Finance Law. Second, it would sweep the two surcharges that were imposed for budget relief into the Fund. Finally, up to the first \$3M would be dedicated to the monitoring program the remainder would be distributed to the county STOP-DWI programs. Although the money does not leave the State, the fiscal impact on the General Fund upon full implementation would be approximately \$6.8M. This proposal would take effect in FY 2019-2020 when 50% of the surcharge money would remain in the General Fund and the remainder would accrue to the credit of the Impaired Driving Safety Fund. In FY 2020-2021, the transfer to the special fund would be complete. Accordingly, there is no fiscal impact on the FY 2018-2019 fiscal plan.

Through this one collective initiative, two pillars of New York's national model for drunk driving enforcement - the STOP-DWI Program and "Leandra's Law" are secured with all funding derived from offenders and not taxpayers.

LEGISLATIVE HISTORY:

2010:S.795I/A.11374A FISCAL
 2011-12: S.1348A/A-2950A
 2013-14: A7876
 2015-16: A3432B

FISCAL IMPLICATIONS:

Approximately \$6.8M will be redirected from the General Fund to the Impaired Driving Safety Fund established in § 89-i of the State Finance Law.

EFFECTIVE DATE:

This act shall take effect immediately, provided, however, the provisions of section one, three, four and five shall take effect on the sixtieth day after it shall have become a law, and provided further, however, that section six shall take effect on the first day of November, next succeeding the date on which it shall have become law.