

WITHDRAWN AS OF 5/7/2009

Home Rule Message No. 4 -2009
Introduced by Legislator Horsley

LOT 3/24/2009

HOME RULE MESSAGE REQUESTING THE STATE OF NEW YORK AMEND THE VEHICLE AND TRAFFIC LAW AND STATE FINANCE LAW, IN RELATION TO THE CREATION OF THE IGNITION INTERLOCK AND MANDATORY PROBATION PILOT PROGRAM FOR ALL PERSONS CONVICTED OF DRIVING WHILE INTOXICATED; MAKING AN APPROPRIATION THEREFOR; AND PROVIDING FOR THE REPEAL OF SUCH PROVISIONS UPON EXPIRATION THEREOF (SENATE BILL S.27)

WHEREAS, the crime of driving while intoxicated ("DWI") is a serious issue in Suffolk County, as well as across the State of New York and the United States, that threatens the health and safety of the public; and

WHEREAS, while current measures taken by law enforcement have decreased the instances of DWI, a significant number of fatalities and injuries still occur each year that are directly related to this crime; and

WHEREAS, an ignition interlock device is a breathalyzer machine attached to the ignition of a motor vehicle; when the device is installed in a motor vehicle, the operator to pass the breathalyzer test in order to turn the vehicle on, and pass subsequent breathalyzer tests to keep the vehicle operating; and

WHEREAS, ignition interlock devices are approved for use in the New York State Vehicle and Traffic Law as well as the New York State Penal Law as a probationary condition for some offenders who have committed DWI offenses; and

WHEREAS, the implementation of ignition interlock devices as a condition of probation has decreased recidivism rates among those offenders who are required to use them; and

WHEREAS, due to the success of ignition interlock devices in decreasing recidivism rates among DWI offenders, a pilot program should be initiated requiring these devices as a probationary condition for all individuals convicted of DWI; now, therefore, be it

1st **RESOLVED**, that this Legislature hereby supports New York State Senate Bill S.27 which would authorize a pilot program mandating ignition

interlock devices and probation for all individuals convicted of driving while intoxicated in Suffolk County, as well as six other counties; and be it further

2nd **RESOLVED**, that the Clerk of this Legislature is hereby directed to forward copies of this Resolution to Governor David A. Paterson; to the Majority Leader of the New York State Senate Malcolm Smith; to the Speaker of the New York State Assembly Sheldon Silver; to the Minority Leaders of the New York State Senate and the New York State Assembly; and to each member of the Long Island delegation to the New York State Legislature.

DATED:

s:\memres\hr-ignition interlock device pilot program 2009



Wednesday, May 6, 2009

Text - S00027

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S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sens. FUSCHILLO, DILAN, MORAHAN, RANZENHOFER, HANNON, LAVALLE, LARKIN, DIAZ, LANZA, OPPENHEIMER, ROBACH, MAZIARZ, WINNER, McDONALD, LITTLE, O. JOHNSON, FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the state finance law, in relation to the creation of the mandatory ignition interlock program for all persons convicted of driving while intoxicated; and to repeal section 1198 of the vehicle and traffic law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature hereby finds and
 2 declares that ignition interlock devices are highly successful law
 3 enforcement tools for preventing driving while intoxicated recidivism.
 4 Current law does not mandate ignition interlock devices for all offen-
 5 ders, just for those who have been convicted of the offense of aggra-
 6 vated driving while intoxicated or a second violation of subdivision 2
 7 or 3 of section 1192 of the vehicle and traffic law within five years
 8 pursuant to paragraph (c) of subdivision 1-a of section 1193 of the
 9 vehicle and traffic law, who have also been given probation as a condi-
 10 tion of their sentencing. National studies have conclusively shown that
 11 first time offenders who had mandatory ignition interlock devices
 12 installed in their vehicles were sixty percent less likely to commit the
 13 offense of driving while intoxicated again. These studies have also
 14 found a correlating economic benefit in reducing the expenditure of

15 court resources and damages created by repeat offenders. For every one

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

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1 dollar spent in enforcing and monitoring such a program a three dollar
2 savings is expected.

3 S 2. Section 1198 of the vehicle and traffic law is REPEALED and a
4 new section 1198 is added to read as follows:

5 S 1198. MANDATORY IGNITION INTERLOCK PROGRAM FOR DRIVING WHILE INTOXI-
6 CATED OFFENDERS. 1. THERE IS HEREBY ESTABLISHED A MANDATORY IGNITION
7 INTERLOCK PROGRAM FOR ALL DRIVING WHILE INTOXICATED OFFENDERS.

8 2. (A) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED BY LAW, THE COURT
9 SHALL REQUIRE THAT ANY PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF
10 SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS INVOLVED), FIVE
11 OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, OR ANY
12 CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH AN ALCOHOL-RE-
13 LATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED NINETY-TWO OF
14 THIS ARTICLE IS AN ESSENTIAL ELEMENT SHALL INSTALL AND MAINTAIN, AS A
15 CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE OR PROBATION, OR AS A
16 MANDATORY ADDITIONAL CONDITION OF ANY CONDITIONAL LICENSE ISSUED BY THE
17 COMMISSIONER PURSUANT TO SECTION ELEVEN HUNDRED NINETY-SIX OF THIS ARTI-
18 CLE AND RESULTING FROM ANY ALCOHOL RELATED DRIVING OFFENSE, A FUNCTION-
19 ING IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THE PROVISIONS OF THIS
20 SECTION AND MAY NOT OPERATE ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH
21 AN IGNITION INTERLOCK DEVICE PROVIDED, HOWEVER, THE COURT MAY NOT
22 AUTHORIZE THE OPERATION OF A MOTOR VEHICLE BY ANY PERSON WHOSE LICENSE
23 OR PRIVILEGE TO OPERATE A MOTOR VEHICLE HAS BEEN REVOKED EXCEPT AS
24 PROVIDED IN THIS SECTION.

25 (B) THIS SECTION SHALL NOT APPLY TO THOSE CONVICTED OF THE OFFENSE OF
26 DRIVING WHILE ABILITY IMPAIRED BY ALCOHOL PURSUANT TO SUBDIVISION ONE OF
27 SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE, IT SHALL BE IN THE
28 DISCRETION OF THE SENTENCING COURT WHETHER TO MANDATE AN IGNITION INTER-
29 LOCK AS A CONDITION OF A SENTENCE OF A CONDITIONAL DISCHARGE FOR THE
30 CONVICTION OF SUCH AN OFFENSE.

31 (C) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED AS PROHIBITING A
32 SENTENCE OF INCARCERATION PURSUANT TO ARTICLE SEVENTY OF THE PENAL LAW
33 OR THE APPLICATION OF ANY OTHER FINES, PENALTIES, PROGRAMS, RESTITUTION,
34 CONDITIONS OF PROBATION OR CONDITIONAL DISCHARGE, COMMUNITY SERVICE OR
35 OTHER SANCTIONS.

36 (D) ANY SENTENCED OFFENDER WHO DECLINES TO OBTAIN A LICENSE, CONDI-
37 TIONAL LICENSE OR TO EXERCISE ANY DRIVING PRIVILEGE IN THE STATE OF NEW
38 YORK MUST OBTAIN A MOTORIST IDENTIFICATION CARD FROM THE DEPARTMENT AND
39 THE COMMISSIONER SHALL NOTE ON THE MOTORIST'S IDENTIFICATION RECORD OF
40 ANY PERSON RESTRICTED PURSUANT TO THIS SECTION THAT SUCH PERSON, WOULD
41 BE OTHERWISE REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN
42 IGNITION INTERLOCK DEVICE. OPERATION OF A MOTOR VEHICLE IN VIOLATION OF
43 THIS SECTION IS A CLASS E FELONY.

44 (E) PERIODS OF MANDATORY IGNITION INTERLOCK USE BY THOSE CONVICTED OF
45 A VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, FOUR-A (WHERE ALCOHOL IS
46 INVOLVED), FIVE OR SIX OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS
47 ARTICLE, OR ANY CRIME DEFINED BY THIS CHAPTER OR THE PENAL LAW OF WHICH
48 AN ALCOHOL-RELATED VIOLATION OF ANY PROVISION OF SECTION ELEVEN HUNDRED
49 NINETY-TWO OF THIS ARTICLE IS AN ESSENTIAL ELEMENT:

50 (1) ANY PERSON CONVICTED OF A FIRST VIOLATION OF ANY OF THE STATUTORY
51 PROVISIONS IN THIS PARAGRAPH AND OTHERWISE ELIGIBLE SHALL BE SENTENCED
52 TO A CONDITIONAL DISCHARGE, SHALL SERVE A TERM OF PROBATION AND AS A

53 CONDITION OF SUCH DISCHARGE OR PROBATION MAINTAIN AN IGNITION INTERLOCK
54 SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR
55 VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A
56 PERIOD OF THREE MONTHS FOR A BLOOD ALCOHOL CONTENT OF BETWEEN .08 AND
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1 .11 OF ONE PER CENTUM FROM THE DATE OF SENTENCING, OR THE DATE OF THE
2 ISSUANCE OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED
3 LICENSE IF NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER; SIX
4 MONTHS FOR A BLOOD ALCOHOL CONTENT OF .12 BUT NOT MORE THAN .17 OF ONE
5 PER CENTUM FROM THE DATE OF SENTENCING, OR THE DATE OF THE ISSUANCE OF
6 ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED LICENSE IF NO
7 CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER; AND FOR A BLOOD
8 ALCOHOL CONTENT OF .18 OF ONE PER CENTUM AND ABOVE FOR A PERIOD OF AT
9 LEAST ONE YEAR FROM THE DATE OF SENTENCING, OR THE DATE OF THE ISSUANCE
10 OF ANY POST CONVICTION CONDITIONAL LICENSE OR FULLY RESTORED LICENSE IF
11 NO CONDITIONAL LICENSE WAS ISSUED, WHICHEVER IS LONGER;

12 (2) ANY PERSON CONVICTED OF A VIOLATION OF ANY OF THE OFFENSES IN THIS
13 PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A SECOND OFFENSE SHALL NOT
14 RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE SERVE A TERM
15 OF PROBATION AND BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTER-
16 LOCK SYSTEM, AT THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY
17 MOTOR VEHICLE THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE,
18 FOR THE FULL PERIOD OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF
19 THREE YEARS, WHICHEVER IS LONGER;

20 (3) ANY PERSON CONVICTED OF A SECOND VIOLATION OF ANY OF THE OFFENSES
21 IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A THIRD OFFENSE
22 SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND IF OTHERWISE ELIGIBLE
23 SERVE A TERM OF PROBATION AND MAINTAIN AN IGNITION INTERLOCK SYSTEM, AT
24 THEIR OWN COST, AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT
25 IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR THE FULL PERIOD
26 OF THE SENTENCE OF PROBATION OR A MINIMUM PERIOD OF FIVE YEARS, WHICHEV-
27 ER IS LONGER;

28 (4) ANY PERSON CONVICTED OF A THIRD VIOLATION OF ANY OF THE OFFENSES
29 IN THIS PARAGRAPH AND WHO IS THEREAFTER CONVICTED OF A FOURTH OFFENSE
30 SHALL NOT RECEIVE A CONDITIONAL DISCHARGE AND SHALL BE REQUIRED TO
31 INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM AT THEIR OWN COST, AND
32 IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE THAT IS NOT EQUIPPED WITH
33 AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM PERIOD OF TEN YEARS UP TO
34 LIFE IN THE DISCRETION OF THE COURT AT THE TIME OF SENTENCING;

35 (5) ANY PERSON SENTENCED TO A PERIOD OF INCARCERATION OR WHO IS OTHER-
36 WISE NOT SUBJECT TO A CONDITIONAL DISCHARGE OR PERIOD OF PROBATION,
37 SHALL BE REQUIRED TO INSTALL AND MAINTAIN AN IGNITION INTERLOCK SYSTEM,
38 AT THEIR OWN COST AND IS PROHIBITED FROM OPERATING ANY MOTOR VEHICLE
39 THAT IS NOT EQUIPPED WITH AN IGNITION INTERLOCK DEVICE, FOR A MINIMUM
40 PERIOD OF THREE YEARS FROM THE DATE OF THEIR SENTENCE, RELEASE FROM
41 INCARCERATION, OR UPON APPROVAL OF A RE-APPLICATION TO THE DEPARTMENT
42 FOR A LICENSE OR DRIVING PRIVILEGE, WHICHEVER IS LONGER.

43 3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER
44 MAY GRANT A POST-REVOCAION CONDITIONAL LICENSE, AS SET FORTH IN PARA-
45 GRAPH (C) OF THIS SUBDIVISION, TO A PERSON WHO HAS BEEN CONVICTED OF A
46 VIOLATION OF SUBDIVISION TWO, TWO-A, THREE, OR FOUR-A (WHERE ALCOHOL IS
47 INVOLVED), OF SECTION ELEVEN HUNDRED NINETY-TWO OF THIS ARTICLE,
48 PROVIDED THE PERSON HAS SATISFIED ANY MANDATORY MINIMUM PERIOD OF
49 LICENSE REVOCATION ESTABLISHED BY LAW AND THE COMMISSIONER HAS BEEN
50 NOTIFIED THAT SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH
51 A FUNCTIONING IGNITION INTERLOCK DEVICE. NO SUCH REQUEST SHALL BE MADE
52 NOR SHALL SUCH A LICENSE BE GRANTED, HOWEVER, IF SUCH PERSON HAS BEEN
53 ARRESTED FOR A VIOLATION OF SECTION FIVE HUNDRED ELEVEN OF THIS CHAPTER

54 DURING THE LICENSE REVOCATION PERIOD OR DEEMED BY A COURT TO HAVE
55 VIOLATED ANY CONDITION OF PROBATION SET FORTH BY THE COURT RELATING TO
56 THE OPERATION OF A MOTOR VEHICLE OR THE CONSUMPTION OF ALCOHOL.

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1 (B) UPON THE TERMINATION OF THE PERIOD OF REQUIRED IGNITION INTERLOCK
2 USE SET BY THE COURT, THE PERSON MAY APPLY TO THE COMMISSIONER FOR
3 RESTORATION OF A LICENSE OR PRIVILEGE TO OPERATE A MOTOR VEHICLE WITHOUT
4 AN IGNITION INTERLOCK DEVICE IN ACCORDANCE WITH THIS CHAPTER.

5 (C) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER, A
6 POST-REVOCATION CONDITIONAL LICENSE GRANTED PURSUANT TO PARAGRAPH (A) OF
7 THIS SUBDIVISION SHALL BE VALID ONLY FOR THE USES PRESCRIBED IN PARA-
8 GRAPH (A) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-SIX OF
9 THIS ARTICLE AND APPLICABLE TO ALL OTHER CONDITIONAL LICENSES BY THE
10 HOLDER THEREOF.

11 (D) THE POST-REVOCATION CONDITIONAL LICENSE DESCRIBED IN THIS SUBDIVI-
12 SION MAY BE REVOKED BY THE COMMISSIONER FOR SUFFICIENT CAUSE INCLUDING
13 BUT NOT LIMITED TO, FAILURE TO COMPLY WITH THE TERMS OF THE CONDITIONS
14 OF PROBATION SET FORTH BY THE COURT, CONVICTION OF ANY TRAFFIC OFFENSE
15 OTHER THAN ONE INVOLVING PARKING, STOPPING OR STANDING OR AN ARREST FOR
16 ANY ALCOHOL OR DRUG RELATED OFFENSE, MISDEMEANOR OR FELONY, A VIOLATION
17 OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN HUNDRED NINETY-
18 SIX OF THIS ARTICLE, OR A VIOLATION OF ANY SUBDIVISION OF SECTION FIVE
19 HUNDRED ELEVEN OF THIS CHAPTER.

20 4. (A) IF THE COURT IMPOSED THE USE OF AN IGNITION INTERLOCK DEVICE AS
21 A CONDITION OF THE SENTENCE THE COURT SHALL REQUIRE THE PERSON TO
22 PROVIDE PROOF OF COMPLIANCE WITH THIS SECTION TO THE COURT AND THE
23 PROBATION DEPARTMENT WHERE SUCH PERSON IS EITHER UNDER PROBATION SUPER-
24 VISION OR UNDER COMPLIANCE MONITORING FOR THE PURPOSE OF THIS MANDATORY
25 IGNITION INTERLOCK PROGRAM. IF THE PERSON FAILS TO PROVIDE FOR SUCH
26 PROOF OF INSTALLATION, ABSENT A FINDING BY THE COURT OF GOOD CAUSE FOR
27 THAT FAILURE WHICH IS ENTERED IN THE RECORD, THE COURT MAY REVOKE, MODI-
28 FY, OR TERMINATE THE PERSON'S SENTENCE AS PROVIDED UNDER LAW.

29 (B) WHEN A COURT IMPOSES ANY OF THE INTERLOCK OR LICENSE CONDITIONS
30 SPECIFIED IN THIS CHAPTER, THE COURT SHALL NOTIFY THE COMMISSIONER IN
31 SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE, AND THE COMMISSIONER
32 SHALL NOTE SUCH CONDITION ON THE OPERATING RECORD OF ANY PERSON SO
33 RESTRICTED THAT, IN ADDITION TO ANY OTHER RESTRICTIONS, CONDITIONS OR
34 LIMITATIONS, SUCH PERSON MAY OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH
35 AN IGNITION INTERLOCK DEVICE.

36 5. (A) THE COST OF INSTALLING AND MAINTAINING THE IGNITION INTERLOCK
37 DEVICE SHALL BE BORNE BY THE PERSON SUBJECT TO SUCH CONDITION. SUCH COST
38 SHALL BE CONSIDERED A FINE FOR THE PURPOSES OF SUBDIVISION FIVE OF
39 SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW. SUCH COST SHALL NOT
40 REPLACE, BUT SHALL INSTEAD BE IN ADDITION TO, ANY FINES, SURCHARGES, OR
41 OTHER COSTS IMPOSED PURSUANT TO THIS CHAPTER OR OTHER APPLICABLE LAWS.

42 (B) THE SUBJECT OF THE CONDITION SHALL BE RESPONSIBLE TO BRING ANY
43 VEHICLES DRIVEN BY THE SUBJECT TO THE INSTALLATION AND SERVICE PROVIDER
44 OF THE IGNITION INTERLOCK DEVICE FOR THE INSTALLATION, CALIBRATION, AND
45 MAINTENANCE OF SUCH DEVICE.

46 (C) THOSE CONVICTED OF ANY OF THE ABOVE OFFENSES WHO CAN NOT AFFORD TO
47 MAINTAIN AND OPERATE AN IGNITION INTERLOCK SYSTEM SHALL HAVE ONE
48 PROVIDED FOR THEM BY THE COUNTY PROBATION AND CORRECTIONAL ALTERNATIVES
49 DEPARTMENT OR A PARTICIPATING INTERLOCK DEVICE PROVIDER AND WILL BE
50 ENROLLED IN A PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES
51 MAY BE PAID BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE
52 IGNITION INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR
53 THE OPERATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED
54 TO OFFER SUCH A REPAYMENT PLAN.

55 6. THE COMMISSIONER OF HEALTH SHALL APPROVE IGNITION INTERLOCK DEVICES
56 AND SHALL PUBLISH A LIST OF APPROVED DEVICES. SUCH COMMISSIONER SHALL
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1 PROMULGATE RULES AND REGULATIONS FOR IGNITION INTERLOCK DEVICES IN PART
2 59 OF TITLE 10 OF THE OFFICIAL COMPILATION OF CODES, RULES AND REGU-
3 LATIONS.

4 7. (A) ANY REQUIREMENT OF THIS SECTION OR OF THE PENAL LAW, THAT A
5 PERSON OPERATE A VEHICLE ONLY IF IT IS EQUIPPED WITH AN IGNITION INTER-
6 LOCK DEVICE, SHALL APPLY TO EVERY MOTOR VEHICLE OPERATED BY THAT PERSON
7 INCLUDING, BUT NOT LIMITED TO, VEHICLES THAT ARE LEASED, RENTED OR
8 LOANED.

9 (B) NO PERSON SHALL KNOWINGLY RENT, LEASE, OR LEND A MOTOR VEHICLE TO
10 A PERSON KNOWN TO HAVE HAD HIS OR HER DRIVING PRIVILEGE RESTRICTED TO
11 VEHICLES EQUIPPED WITH AN IGNITION INTERLOCK DEVICE UNLESS THE VEHICLE
12 IS SO EQUIPPED. ANY PERSON WHOSE DRIVING PRIVILEGE IS SO RESTRICTED
13 SHALL NOTIFY ANY OTHER PERSON WHO RENTS, LEASES, OR LOANS A MOTOR VEHI-
14 CLE TO HIM OR HER OF SUCH DRIVING RESTRICTION.

15 (C) A VIOLATION OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE A MISDE-
16 MEANOR AND SHALL RESULT IN THE IMMEDIATE REVOCATION OF ANY LICENSE,
17 CONDITIONAL LICENSE OR OPERATING PRIVILEGE FOR A MINIMUM ONE YEAR PERIOD
18 UPON ARREST.

19 (D) A VIOLATION OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE A MISDE-
20 MEANOR.

21 8. (A) NO PERSON WHOSE DRIVING PRIVILEGE IS RESTRICTED PURSUANT TO
22 THIS SECTION OR THE PENAL LAW SHALL REQUEST, SOLICIT OR ALLOW ANY OTHER
23 PERSON TO BLOW INTO AN IGNITION INTERLOCK DEVICE, OR TO START A MOTOR
24 VEHICLE EQUIPPED WITH THE DEVICE, FOR THE PURPOSE OF PROVIDING THE
25 PERSON SO RESTRICTED WITH AN OPERABLE MOTOR VEHICLE.

26 (B) NO PERSON SHALL BLOW INTO AN IGNITION INTERLOCK DEVICE OR START A
27 MOTOR VEHICLE EQUIPPED WITH THE DEVICE FOR THE PURPOSE OF PROVIDING AN
28 OPERABLE MOTOR VEHICLE TO A PERSON WHOSE DRIVING PRIVILEGE IS SO
29 RESTRICTED.

30 (C) NO PERSON SHALL TAMPER WITH OR CIRCUMVENT AN OTHERWISE OPERABLE
31 IGNITION INTERLOCK DEVICE.

32 (D) IN ADDITION TO ANY OTHER PROVISIONS OF LAW, ANY PERSON CONVICTED
33 OF A VIOLATION OF PARAGRAPH (A), (B) OR (C) OF THIS SUBDIVISION SHALL BE
34 GUILTY OF AN UNCLASSIFIED MISDEMEANOR AND SHALL BE PUNISHABLE BY A FINE
35 OF NOT LESS THAN ONE THOUSAND DOLLARS OR BY IMPRISONMENT IN A COUNTY
36 JAIL OR A PENITENTIARY FOR NOT MORE THAN ONE YEAR.

37 (E) IN ADDITION TO ANY OTHER PENALTIES, IF THE PERSON ARRESTED FOR A
38 VIOLATION OF PARAGRAPH (A) OR (C) OF THIS SUBDIVISION IS THE DRIVER
39 REQUIRED TO OPERATE ONLY A MOTOR VEHICLE EQUIPPED WITH AN IGNITION
40 INTERLOCK DEVICE, THE DRIVER'S ARREST SHALL RESULT IN THE IMMEDIATE
41 REVOCATION OF ANY LICENSE, CONDITIONAL LICENSE OR DRIVING PRIVILEGE FOR
42 A MINIMUM PERIOD OF ONE YEAR, SUBJECT TO THE PROVISIONS OF SUBDIVISION
43 NINE OF THIS SECTION.

44 9. ANY LICENSE, CONDITIONAL LICENSE OR PRIVILEGES DESCRIBED IN THIS
45 CHAPTER MAY BE REVOKED BY THE COMMISSIONER, FOR SUFFICIENT CAUSE INCLUD-
46 ING, BUT NOT LIMITED TO, CONVICTION OF ANY TRAFFIC INFRACTION OTHER THAN
47 ONE INVOLVING PARKING, STOPPING OR STANDING; OR ARREST UPON REASONABLE
48 CAUSE OF ANY ALCOHOL OR DRUG-RELATED TRAFFIC OFFENSE, MISDEMEANOR OR
49 FELONY; OR AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR A
50 VIOLATION OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN
51 HUNDRED NINETY-SIX OF THIS CHAPTER. IN ADDITION ANY LICENSE, CONDI-
52 TIONAL LICENSE OR PRIVILEGES MAY BE REVOKED BY THE COMMISSIONER WHEN A
53 PERSON IS REQUIRED UNDER ANY LAW TO OPERATE ONLY A MOTOR VEHICLE WITH AN
54 IGNITION INTERLOCK DEVICE, AN ARREST UPON REASONABLE CAUSE FOR OPERATING
55 A MOTOR VEHICLE WITHOUT AN IGNITION INTERLOCK DEVICE, OR SOLICITING,

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1 REQUESTING OR ALLOWING ANY OTHER PERSON TO BLOW INTO AN IGNITION INTER-
2 LOCK DEVICE, OR TAMPERING OR CIRCUMVENTING SUCH DEVICE.

3 S 3. The state finance law is amended by adding a new section 99-q to
4 read as follows:

5 S 99-Q. MANDATORY IGNITION INTERLOCK FUND. 1. THERE IS HEREBY ESTAB-
6 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE NEW YORK
7 STATE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES A SPECIAL FUND
8 TO BE KNOWN AS THE "MANDATORY IGNITION INTERLOCK FUND".

9 2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE COURTS FROM
10 A COURT FEE OF FIFTY DOLLARS IMPOSED ON ANYONE CONVICTED OF A VIOLATION
11 OF ANY OF THE SUBDIVISIONS OF SECTION ELEVEN HUNDRED NINETY-TWO OF THE
12 VEHICLE AND TRAFFIC LAW.

13 3. MONEYS OF THE FUND SHALL BE EXPENDED BY THE NEW YORK STATE DIVISION
14 OF PROBATION AND CORRECTIONAL ALTERNATIVES ON AN AS-NEED BASIS FOR THE
15 CONTINUED OPERATION AND MAINTENANCE OF THE MANDATORY IGNITION INTERLOCK
16 PROGRAM ESTABLISHED IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THE VEHI-
17 CLE AND TRAFFIC LAW, TO INCLUDE THE COST OF:

18 (A) ADDITIONAL PROBATION AND COMPLIANCE OFFICERS TO MANAGE THE PROGRAM
19 AT A COUNTY OR REGIONAL LEVEL IN THE DISCRETION OF THE DIVISION OF
20 PROBATION AND CORRECTIONAL ALTERNATIVES;

21 (B) DEFRAYING THE COST TO THOSE DETERMINED BY THE COURT TO BE INCAPA-
22 BLE OF BEARING THE INITIAL OR ENTIRE EXPENSE OF INSTALLING AND MAINTAIN-
23 ING AN IGNITION INTERLOCK DEVICE PURSUANT TO THIS SECTION. NOTHING IN
24 THIS PROVISION SHALL PREVENT A PERSON MANDATED TO INSTALL AND MAINTAIN
25 AN IGNITION INTERLOCK PURSUANT TO THIS SECTION FROM BEING ENROLLED IN A
26 PAYMENT PLAN, BASED ON THEIR INCOME, SO THAT SAID EXPENSES MAY BE PAID
27 BACK TO THE COUNTY OVER A PERIOD OF TIME. HOWEVER, IF THE IGNITION
28 INTERLOCK PROVIDER OFFERS THE SAME OR SIMILAR PAYMENT PLAN FOR THE OPER-
29 ATION AND MAINTENANCE OF THE DEVICE, THE COUNTY IS NOT OBLIGATED TO
30 OFFER SUCH A REPAYMENT PLAN;

31 (C) ADDITIONAL OR ENHANCED EQUIPMENT FOR THE MONITORING OF PROBATION-
32 ERS; AND

33 (D) ANY OTHER COSTS ASSOCIATED WITH THE INCREASED DUTIES OR EXPENSES
34 ASSOCIATED WITH OPERATING AND MANAGING THE PROGRAM TO INCLUDE BUT NOT BE
35 LIMITED TO HEALTHCARE, RETIREMENT OR OTHER BENEFIT COSTS DUE TO
36 INCREASED STAFF.

37 S 4. 1. The New York state division of probation and correctional
38 alternatives is hereby authorized and directed to create, amend and/or
39 repeal any and all rules or regulations necessary for the implementation
40 of this act on or before its effective date for the purpose of:

41 (a) creation of the ignition interlock fund and the management, opera-
42 tion and investment thereof;

43 (b) creation of a grant process as prescribed by subdivision 3 of
44 section 99-q of the state finance law, as added by section three of this
45 act; and

46 (c) creation of any other rules or regulations for the efficient opera-
47 tion of this act.

48 2. The New York state division of probation and correctional alterna-
49 tives is hereby directed to audit each county's mandatory ignition
50 interlock program at least once every two years. The division of
51 probation and correctional alternatives shall compile and submit to the
52 governor, legislature, attorney general and comptroller a yearly report
53 detailing the progress and effectiveness of each county's program.

54 S 5. Severability. If any clause, sentence, paragraph, section or part
55 of this article be adjudged by any court of competent jurisdiction to be
56 invalid, such judgment shall not affect, impair or invalidate the

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1 remainder hereof but shall be applied in its operation to the clause,
2 sentence, paragraph, section or part hereof directly involved in the
3 controversy in which such judgment shall have been rendered.

4 S 6. This act shall take effect April 1, 2010. All departments or
5 divisions of the state mentioned in this act are hereby authorized and
6 directed to create, amend and/or repeal any and all rules or regulations
7 necessary for the implementation of this act on or before its effective
8 date.

Contact Webmaster

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