

NYS Vehicle and Traffic Law

§ 1197. Special traffic options program for driving while intoxicated. "The program", as used in this section, shall mean the special traffic options program for driving while intoxicated, a program established pursuant to this section, and approved by the commissioner of motor vehicles.

1. Program establishment.

(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: 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; 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.

(b) Expenditures from such account shall only be made pursuant to the approval of a county program by the commissioner of motor vehicles. The chief fiscal officer of each participating county shall, on a quarterly basis, forward to the commissioner a written certificate of moneys expended from such account.

2. Program organization. (a) Where a program is established by a county, it shall be organized by a coordinator for the special traffic options program for driving while intoxicated, who shall be designated by the chief executive officer of the county, if there be one, otherwise the chairman of the governing board of the county, or in the city of New York, a person designated by the mayor thereof. Where a coordinator is designated, the coordinator shall receive such salary and expenses as the board of legislators or other governing body of such county may fix and properly account for such expenses and shall serve at the pleasure of such appointing body or officer. (b) In counties having a county traffic safety board, the chief executive officer, if there be one, otherwise the chairman of the governing board of the county or the mayor of the city of New York, may designate the chairman of the board or a member thereof as coordinator of the program.

3. Purposes. (a) The program shall provide a plan for coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities.
(b) The program shall, where approved by the county board or other governing body, provide funding for such activities as the board or other body may approve, for the above-described purposes.

4. Duties of the coordinator; reports. (a) It shall be the duty of the coordinator to:

(1) Render annually or at the request of the county legislature or other governing body of the county, a verified account of all moneys received and expended by the coordinator or under the coordinator's direction and an account of other pertinent matters.

(2) Submit annually or upon request of the chief fiscal officer of each county participating in the program, in such manner as may be required by law, an estimate of the funds required to carry out the purposes of this section.

(3) Make an annual report to the commissioner, which shall be due on or before the first day of April of each year following the implementation of said program, and shall include the following:

a. the progress, problems and other matters related to the administration of said program; and

b. an assessment of the effectiveness of the program within the geographic area of the county participating therein and any and all recommendations for expanding and improving said program.

(b) Any annual report shall also contain the following, in a form prescribed by the commissioner:

(1) Number of arrests for violations of section eleven hundred ninety-two of this article and subdivision two of section five hundred eleven of this chapter;

(2) Number and description of dispositions resulting therefrom;

(3) Number of suspensions issued in the county for alleged refusals to submit to chemical tests;

(4) Total fine moneys returned to the participating county in connection with the program;

(5) Contemplated programs;

(6) Distribution of moneys in connection with program administration;

(7) Any other information required by the commissioner.

5. Functions of the coordinator. In addition to the duties of the coordinator as provided in subdivision four of this section, the coordinator shall perform the following functions:

- (a) Formulate a special traffic options program for driving while intoxicated and coordinate efforts of interested parties and agencies engaged in alcohol traffic safety, law enforcement, adjudication, rehabilitation and preventive education.
- (b) Receive proposals from county, town, city or village agencies or non-governmental groups for activities related to alcohol traffic safety and to submit them to the county board of legislators or other such governing body, together with a recommendation for funding of the activity if deemed appropriate.
- (c) Cooperate with and assist local officials within the county in the formulation and execution of alcohol traffic safety programs including enforcement, adjudication, rehabilitation and education.
- (d) Study alcohol traffic safety problems with the county and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders, regulations and existing law as the coordinator may deem advisable.
- (e) Promote alcohol and drug-related traffic safety education for drivers.
- (f) Obtain and assemble data on alcohol-related accident arrests, convictions and accidents and to analyze, study, and consolidate such data for educational, research and informational purposes.

6. County purpose and charge. The provisions of this section and expenditures made hereunder shall be deemed a county purpose and charge.

7. The program, including a proposed operational budget, shall be submitted by each county coordinator to the commissioner for approval. The commissioner shall consider the following before approving said program:

- (a) The interrelationship of such program with existing drunk driving related programs in areas including, but not limited to, law enforcement, prosecution, adjudication and education.
- (b) Avoidance of duplication of existing programs funded or operated by either the state or any municipality including, but not limited to, the alcohol and drug rehabilitation program, established under section eleven hundred ninety-six of this article.
- (c) All other factors which the commissioner shall deem necessary.

8. Duties of the commissioner.

- (a) The commissioner shall compile the reports submitted by the county coordinators and shall issue a comprehensive report on such programs to the governor and to the legislature.
- (b) The commissioner shall monitor all programs to ensure satisfactory implementation in conjunction with the established program application goals.

9. Program cessation. When a participating county wishes to cease its program, the coordinator shall notify the commissioner in writing of the date of termination and all money remaining in the fund established by that county pursuant to subdivision one of this section on such date shall be transferred to the general fund of the state treasury. All fines and forfeitures collected

pursuant to the provisions of this section on and after the termination date shall be disposed of in accordance with subdivision one of section eighteen hundred three of this chapter.

10. Program audit. The comptroller is authorized to conduct audits of any program established pursuant to this section for the purposes of determining compliance with the provisions of this section and with generally accepted accounting principles.

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Commissioner Regulations

172.1 Introduction. (a) Chapters 910 and 913 of the Laws of 1981 added Article 43-A to the Vehicle and Traffic Law, authorizing the establishment of county special traffic options programs for driving while intoxicated (STOP-DWI). Such programs are funded by fines and forfeitures resulting from violations of Sections 1192 and 511-2 of the Vehicle and Traffic Law. The stated purpose of the STOP-DWI program is to provide a plan for coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities. Each such program is organized by a coordinator who is responsible for the general administration of the program, including the annual submission of a program plan to the Commissioner of Motor Vehicles. Expenditures from STOP-DWI accounts may only be made upon the approval of that plan.

(b) The City of New York shall be considered a "county" for the purposes of this Part.

172.2 Coordinators; designation and replacement. (a) Where the position is funded by STOP-DWI, the coordinator shall be identified in the plan by a specific separate budget item. The plan shall also clearly specify whether the position of coordinator is a full-time or part-time position and, if part-time, shall specify what percentage of the position is devoted to STOP-DWI.

(b) When a vacancy or a change in the position of coordinator occurs, the designating authority specified in section sixteen hundred seventy-eight-b of the Vehicle and Traffic Law shall, within 10 days, notify the Commissioner, in writing, of such vacancy or change. A replacement coordinator must be designated within 60 days from the date of any notice of vacancy.

172.3 Plan development and submission; approval. (a) The plan shall be submitted annually and shall include revenue estimates and proposed expenditures for a local government's fiscal year. In accordance with Article 43-A of the Vehicle and Traffic Law, plans should avoid the duplication of existing programs funded or operated by either the state or any municipality. Therefore, plans which propose expenditures for activities previously funded by state or municipal funds other than STOP-DWI funds will not be eligible for approval.

(b) The plan shall be submitted, in a form prescribed by the commissioner, no later than 90 days prior to the beginning of the local fiscal year. The coordinator may request an extension to allow for submission at a later date. No such extension shall be deemed granted except in writing by the commissioner. (Amended 12/2/92)

(c) Approval of a plan by the commissioner will be made only after prior approval and

documented endorsement of the plan by the local governing body. Documentation of endorsement is to be in the form of a copy of the local resolution adopting the plan and authorizing expenditures after approval of the plan by the commissioner.

(d) Expenditures in a given fiscal year may only be made prior to the approval of a plan by the commissioner when:

(1) the county has been granted an extension of the prior year's plan by the commissioner, in writing; or

(2) the county has submitted a plan as required by subdivision (b) of this section, and such expenditures of the plan are not disapproved by the commissioner within 90 days of plan submission. (Amended 12/2/92)

(e) Written notification of all plan amendments and budget modifications which propose either expenditures in previously unfunded areas or items or increased expenditures in previously funded areas or items must be sent to the commissioner. In the case of previously unfunded areas or items, such notification must be sent at least 15 days prior to the expenditure. Written approval by the commissioner is required of such budget modifications only if the sum total of all budget modifications within a fiscal year exceeds 10% of the originally approved budget.

(f) The coordinator must maintain a separate file of all contracts made a part of the plan, and the plan must include a summary description of each such contract.

(g) Programs which are funded by both STOP-DWI and other sources shall clearly identify the cost components to be financed by STOP-DWI.

172.4 Program monitoring. (a) Coordinators shall insure that access is provided to representatives of the commissioner to all records, fiscal and program data and public meetings, sufficient to exercise the functions described in Article 43-A of the Vehicle and Traffic Law and these regulations.

(b) Monitoring of the STOP-DWI program may include, but shall not be limited to:

(1) the financial operations of the program;

(2) certification that all financial statements are presented fairly;

(3) verification of compliance with the laws and regulations affecting the expenditure of program funds;

(4) a programmatic review to ensure that the program is being conducted in a manner designed to achieve its intended purposes; and

(5) the accuracy and reliability of reports to State and county governments.

172.5 Suspension or withdrawal of approval. (a) Counties must comply with the provisions of Article 43-A of the Vehicle and Traffic Law and these regulations. The Chief Executive Officer of those counties which do not so comply shall be notified of such failure with a written notice of non-compliance. Upon the county's failure to comply, the Commissioner may, in his or her discretion, issue either a notice of suspension of approval or a notice of withdrawal of approval.

(b) A notice of suspension of approval shall have the following effect:

(1) The county or municipality shall immediately cease making any and all expenditures from STOP-DWI accounts;

(2) The distribution of monies to county or municipal STOP-DWI accounts pursuant to Section 1678-a of the Vehicle and Traffic Law shall immediately cease. Such monies shall be retained until the Commissioner of Motor Vehicles either rescinds the notice of suspension of approval, or withdraws program approval;

(3) Such suspension of approval shall remain in effect until the Commissioner of Motor Vehicles either rescinds the notice of suspension of approval or withdraws program approval.

(4) Upon rescission of a notice of suspension of approval, all monies which have been retained pursuant to paragraph (2) of this subdivision shall be returned to the county STOP-DWI account.

(c) Notice of withdrawal of program approval shall mean that any program which is the subject of such notice shall be deemed to have ceased as of the date of such notice and shall be subject to the provisions of Section 172.8 of this Part.

(d) Copies of notices of suspension or withdrawal of program approval issued by the Commissioner pursuant to this section shall be forwarded to the Office of the State Comptroller and the Office of Court Administration.

172.6 Financial management systems. (a) Each county's financial management system shall provide for:

(1) accurate, current and complete disclosure of the financial operations of the program;

(2) records that adequately identify the source and application of funds for STOP-DWI activities;

(3) effective control over and accountability for STOP-DWI program funds, property and other assets. Counties shall adequately safeguard all such assets and shall assure that they are used for authorized purposes;

(4) procedures for determining the reasonableness, allowability and allocation of cost in accordance with the provisions of the law, Department regulations, and the approved plan and budget;

(5) accounting records that are supported by source documentation; and

(6) appropriate resolution of problems as discovered by monitoring and reviewing, or recommendations made as a result thereof.

(b) Any unspent monies must be retained in the STOP-DWI account.

(c) Projected unspent monies from any given year must be reported in such manner as the commissioner may prescribe.

(d) The county shall maintain records that identify STOP-DWI program revenues and

expenditures separately from the county's regular operations. This requires a system of accountability for all program expenditures in accordance with approved budgets.

(e) Financial records, supporting documents, statistical records, and all other records pertinent to the STOP-DWI Program shall be retained by the county for a period of seven years. If any litigation or audit is started before the expiration of the seven year period, the records shall be retained until all litigations or audit findings involving the records have been resolved.

172.7 Program and fiscal reporting requirements. (a) In accordance with requirements established by the Commissioner, each STOP-DWI Coordinator shall submit to the department data on activities funded by the STOP-DWI Program; data on arrests and convictions for drinking and driving; and any other data deemed necessary by the department to oversee and evaluate the STOP-DWI Program.

(b) Each county fiscal officer shall submit to the department data on the fiscal operations of the program.

(c) The Commissioner shall prescribe the form and schedule of program and fiscal reports, including the annual report as required by Section 1678-d of the Vehicle and Traffic Law.

172.8 Program cessation. (a) The cessation of a STOP-DWI program, whether voluntarily or by virtue of the issuance of a notice of withdrawal of approval pursuant to Section 172.5 of this Part, shall result in the following:

- (1) No further expenditures, other than those which accrued prior to the effective date of cessation, may be made from the STOP-DWI account; and
- (2) The distribution of monies to the county's STOP-DWI account, pursuant to Section 1678-a of the Vehicle and Traffic Law shall immediately cease.
- (3) All monies remaining in such account as of the effective date of cessation shall, in accordance with Section 1678-i of the Vehicle and Traffic Law, be transferred to the general fund of the state treasury.
- (4) All monies which have been retained pursuant to a notice of suspension of approval shall be transferred to the general fund of the state treasury.

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