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**SENATE BILL 5127**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senator McCoy

Prefiled 01/10/19.

1 AN ACT Relating to increasing the traumatic brain injury fee;  
2 amending RCW 46.63.110 and 74.31.060; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read  
5 as follows:

6 (1) A person found to have committed a traffic infraction shall  
7 be assessed a monetary penalty. No penalty may exceed two hundred and  
8 fifty dollars for each offense unless authorized by this chapter or  
9 title.

10 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2)  
11 is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1)  
12 is five hundred dollars for each offense. No penalty assessed under  
13 this subsection (2) may be reduced.

14 (3) The supreme court shall prescribe by rule a schedule of  
15 monetary penalties for designated traffic infractions. This rule  
16 shall also specify the conditions under which local courts may  
17 exercise discretion in assessing fines and penalties for traffic  
18 infractions. The legislature respectfully requests the supreme court  
19 to adjust this schedule every two years for inflation.

20 (4) There shall be a penalty of twenty-five dollars for failure  
21 to respond to a notice of traffic infraction except where the

1 infraction relates to parking as defined by local law, ordinance,  
2 regulation, or resolution or failure to pay a monetary penalty  
3 imposed pursuant to this chapter. A local legislative body may set a  
4 monetary penalty not to exceed twenty-five dollars for failure to  
5 respond to a notice of traffic infraction relating to parking as  
6 defined by local law, ordinance, regulation, or resolution. The local  
7 court, whether a municipal, police, or district court, shall impose  
8 the monetary penalty set by the local legislative body.

9 (5) Monetary penalties provided for in chapter 46.70 RCW which  
10 are civil in nature and penalties which may be assessed for  
11 violations of chapter 46.44 RCW relating to size, weight, and load of  
12 motor vehicles are not subject to the limitation on the amount of  
13 monetary penalties which may be imposed pursuant to this chapter.

14 (6) Whenever a monetary penalty, fee, cost, assessment, or other  
15 monetary obligation is imposed by a court under this chapter, it is  
16 immediately payable and is enforceable as a civil judgment under  
17 Title 6 RCW. If the court determines, in its discretion, that a  
18 person is not able to pay a monetary obligation in full, and not more  
19 than one year has passed since the later of July 1, 2005, or the date  
20 the monetary obligation initially became due and payable, the court  
21 shall enter into a payment plan with the person, unless the person  
22 has previously been granted a payment plan with respect to the same  
23 monetary obligation, or unless the person is in noncompliance of any  
24 existing or prior payment plan, in which case the court may, at its  
25 discretion, implement a payment plan. If the court has notified the  
26 department that the person has failed to pay or comply and the person  
27 has subsequently entered into a payment plan and made an initial  
28 payment, the court shall notify the department that the infraction  
29 has been adjudicated, and the department shall rescind any suspension  
30 of the person's driver's license or driver's privilege based on  
31 failure to respond to that infraction. "Payment plan," as used in  
32 this section, means a plan that requires reasonable payments based on  
33 the financial ability of the person to pay. The person may  
34 voluntarily pay an amount at any time in addition to the payments  
35 required under the payment plan.

36 (a) If a payment required to be made under the payment plan is  
37 delinquent or the person fails to complete a community restitution  
38 program on or before the time established under the payment plan,  
39 unless the court determines good cause therefor and adjusts the  
40 payment plan or the community restitution plan accordingly, the court

1 may refer the unpaid monetary penalty, fee, cost, assessment, or  
2 other monetary obligation for civil enforcement until all monetary  
3 obligations, including those imposed under subsections (3) and (4) of  
4 this section, have been paid, and court authorized community  
5 restitution has been completed, or until the court has entered into a  
6 new time payment or community restitution agreement with the person.  
7 For those infractions subject to suspension under RCW 46.20.289, the  
8 court shall notify the department of the person's failure to meet the  
9 conditions of the plan, and the department shall suspend the person's  
10 driver's license or driving privileges.

11 (b) If a person has not entered into a payment plan with the  
12 court and has not paid the monetary obligation in full on or before  
13 the time established for payment, the court may refer the unpaid  
14 monetary penalty, fee, cost, assessment, or other monetary obligation  
15 to a collections agency until all monetary obligations have been  
16 paid, including those imposed under subsections (3) and (4) of this  
17 section, or until the person has entered into a payment plan under  
18 this section. For those infractions subject to suspension under RCW  
19 46.20.289, the court shall notify the department of the person's  
20 delinquency, and the department shall suspend the person's driver's  
21 license or driving privileges.

22 (c) If the payment plan is to be administered by the court, the  
23 court may assess the person a reasonable administrative fee to be  
24 wholly retained by the city or county with jurisdiction. The  
25 administrative fee shall not exceed ten dollars per infraction or  
26 twenty-five dollars per payment plan, whichever is less.

27 (d) Nothing in this section precludes a court from contracting  
28 with outside entities to administer its payment plan system. When  
29 outside entities are used for the administration of a payment plan,  
30 the court may assess the person a reasonable fee for such  
31 administrative services, which fee may be calculated on a periodic,  
32 percentage, or other basis.

33 (e) If a court authorized community restitution program for  
34 offenders is available in the jurisdiction, the court may allow  
35 conversion of all or part of the monetary obligations due under this  
36 section to court authorized community restitution in lieu of time  
37 payments if the person is unable to make reasonable time payments.

38 (7) In addition to any other penalties imposed under this section  
39 and not subject to the limitation of subsection (1) of this section,

1 a person found to have committed a traffic infraction shall be  
2 assessed:

3 (a) A fee of five dollars per infraction. Under no circumstances  
4 shall this fee be reduced or waived. Revenue from this fee shall be  
5 forwarded to the state treasurer for deposit in the emergency medical  
6 services and trauma care system trust account under RCW 70.168.040;

7 (b) A fee of ten dollars per infraction. Under no circumstances  
8 shall this fee be reduced or waived. Revenue from this fee shall be  
9 forwarded to the state treasurer for deposit in the Washington auto  
10 theft prevention authority account; and

11 (c) A fee of (~~two~~) five dollars per infraction. Under no  
12 circumstances shall this fee be reduced or waived. Revenue from this  
13 fee shall be forwarded to the state treasurer for deposit in the  
14 traumatic brain injury account established in RCW 74.31.060.

15 (8)(a) In addition to any other penalties imposed under this  
16 section and not subject to the limitation of subsection (1) of this  
17 section, a person found to have committed a traffic infraction other  
18 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional  
19 penalty of twenty dollars. The court may not reduce, waive, or  
20 suspend the additional penalty unless the court finds the offender to  
21 be indigent. If a court authorized community restitution program for  
22 offenders is available in the jurisdiction, the court shall allow  
23 offenders to offset all or a part of the penalty due under this  
24 subsection (8) by participation in the court authorized community  
25 restitution program.

26 (b) Eight dollars and fifty cents of the additional penalty under  
27 (a) of this subsection shall be remitted to the state treasurer. The  
28 remaining revenue from the additional penalty must be remitted under  
29 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
30 under this subsection to the state treasurer must be deposited in the  
31 state general fund. The balance of the revenue received by the county  
32 or city treasurer under this subsection must be deposited into the  
33 county or city current expense fund. Moneys retained by the city or  
34 county under this subsection shall constitute reimbursement for any  
35 liabilities under RCW 43.135.060.

36 (9) If a legal proceeding, such as garnishment, has commenced to  
37 collect any delinquent amount owed by the person for any penalty  
38 imposed by the court under this section, the court may, at its  
39 discretion, enter into a payment plan.

1 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two  
2 hundred fifty dollars for the first violation; (b) five hundred  
3 dollars for the second violation; and (c) seven hundred fifty dollars  
4 for each violation thereafter.

5 **Sec. 2.** RCW 74.31.060 and 2011 c 143 s 6 are each amended to  
6 read as follows:

7 The traumatic brain injury account is created in the state  
8 treasury. (~~Two dollars of~~) The fee imposed under RCW  
9 46.63.110(7)(c) must be deposited into the account. Moneys in the  
10 account may be spent only after appropriation, and may be used only  
11 to support the activities in the statewide traumatic brain injury  
12 comprehensive plan, to provide a public awareness campaign and  
13 services relating to traumatic brain injury under RCW 74.31.040 and  
14 74.31.050, for information and referral services, and for costs of  
15 required department staff who are providing support for the council  
16 under RCW 74.31.020 and 74.31.030. The secretary of the department of  
17 social and health services has the authority to administer the funds.

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