

# HOUSE BILL REPORT

## HB 2778

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**As Reported By House Committee On:**  
Law & Justice

**Title:** An act relating to the brain injury trust fund.

**Brief Description:** Creating the brain injury trust fund.

**Sponsors:** Representatives Kessler, Ballasiotes, Cody, Ogden, Scott, Van Luven and Costa.

**Brief History:**

**Committee Activity:**

Law & Justice: 2/3/98, 2/4/98 [DPS].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

**Staff:** Bill Perry (786-7123).

**Background:** In 1990, the Legislature expressed its concern over the problem of serious head injuries by enacting the Head Injury Prevention Act. That act created a head injury prevention program in the Department of Health (DOH). The DOH is to consult with the Washington Traffic Safety Commission on coordinating public education efforts to prevent traumatic head injuries. The DOH may use any funds appropriated for that purpose to award grants to promote such public education.

The DOH is authorized to assess the effectiveness of head injury prevention programs within agencies of state government, and agencies are directed to cooperate with the DOH.

The DOH is specifically directed to work with the Washington Traffic Safety Commission on driver education to increase awareness of pedestrian safety issues.

The DOH is also directed to prepare training guidelines for health and education professionals and law enforcement officials. In particular, emergency medical personnel are to be trained in proper helmet removal techniques.

Persons convicted of drunk driving (DUI) are subject to a number of monetary penalties. DUI is a gross misdemeanor that carries a maximum fine of \$5,000. There are mandatory minimum fines that must be imposed. The amount of the mandatory minimum fine imposed for a DUI conviction escalates depending on the number of prior DUI-related offenses the offender has committed, and also on the level of the offender's breath or blood alcohol concentration (BAC). For a first-time offender with a BAC of less than 0.15, the mandatory minimum fine is \$350. At the top end of the scale, the mandatory minimum fine is \$1,500 for a third-time offender who has a BAC of over 0.15. Whatever fine is imposed, it is subject to a 60 percent public safety and education account assessment. In addition, each DUI conviction is also subject to a mandatory \$125 fee imposed to fund programs of the state toxicologist and law enforcement agencies that are intended to reduce drunk driving. Thus the minimum fine for a first-time DUI offender with a BAC of less than 0.15 becomes \$685 [ $\$350 + (.6 \times \$350) + \$125$ ]. The minimum fine for a third-time offender with a BAC of 0.15 or more is \$2,525.

Vehicular homicide is a class A felony which carries a fine of up to \$50,000. Vehicular assault is a class B felony punishable by a fine of up to \$20,000. Neither of these felonies has a mandatory minimum fine.

**Summary of Substitute Bill:** A \$25 fine is assessed on persons convicted of DUI, vehicular homicide, or vehicular assault. The fine is also assessed on persons given a deferred prosecution, or convicted of a lesser charge, resulting from an arrest for DUI or vehicular homicide or assault.

The brain injury trust fund is created and is to be funded by the proceeds of the \$25 fine. The fund is to be used to provide services to persons disabled by traumatic brain injuries. Expenditures from the fund are authorized by the director of the Department of Labor and Industries.

A seven-member advisory board is created for the fund. The members are:

- o A person selected by the Washington Medical Association;
- o A person selected by the Washington Brain Injury Foundation;
- o A person selected by the University of Washington head injury research program;
- o A survivor of brain trauma selected by the Governor;
- o A family member of a brain trauma survivor selected by the Governor;
- o An employee of the Department of Social and Health Services selected by the Governor; and

- o A person representing special education interests, selected by the Superintendent of Public Instruction.

The advisory board may adopt rules for eligibility for benefits and for benefit amounts to be awarded from the fund.

**Substitute Bill Compared to Original Bill:** The substitute bill makes one technical change in the name of one of the appointing authorities.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 1998.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Serious brain injuries are personally devastating and costly both to the victims and their families and to the taxpayers. This bill requires drunk drivers, who are responsible for many of these terrible injuries, to help pay the costs of brain injury.

**Testimony Against:** None.

**Testified:** Representative Kessler, prime sponsor; John Andrews, Brain Injury Association of Washington (pro); Mac Shelton, Now Bike (Northwest Bicycle Federation) (pro); Ron Finlay, Brain Injury Association of Washington (pro); Doug Shofstall, citizen (pro); Bittin Foster, citizen (pro); and Brett Auckley, Municipal and District Court Judges Association (neutral).