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**SENATE BILL 5723**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Randall, Saldaña, Liias, Rolfes, Billig, and Nguyen

AN ACT Relating to increasing safety on roadways for pedestrians, bicyclists, and other roadway users; amending RCW 46.61.110, 46.61.145, 46.61.180, 46.61.185, 46.61.190, 46.61.205, 46.61.250, and 46.61.770; reenacting and amending RCW 43.84.092; creating a new section; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that a number of the collision types that have resulted in a high number of serious injuries and deaths of vulnerable roadway users can be associated with certain types of traffic infractions. To address the heightened risk to vulnerable roadway users when violations of these traffic infractions occur, the legislature intends to: (1) Introduce an additional fine as a penalty for drivers who commit these violations against a vulnerable roadway user; (2) modify when vulnerable roadway users may be passed by motor vehicles; and (3) clarify when and how pedestrians and bicyclists may use the roadway. To increase enforcement of all traffic infractions and offenses committed against vulnerable roadway users, the legislature intends for revenue that is collected from the new fine to be dedicated to the education of law enforcement officers, prosecutors, and judges about opportunities for the enforcement of traffic violations committed against vulnerable roadway users, with any remaining funds to be used to increase awareness by the public of the risks and penalties associated with these traffic violations. The goals of this act are to achieve a reduction in the frequency with which drivers violate traffic laws that endanger vulnerable roadway users and to encourage safe sharing of the roadway by drivers, bicyclists, pedestrians, and other vulnerable roadway users.

**Sec.**  RCW 46.61.110 and 2005 c 396 s 1 are each amended to read as follows:

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction((~~, subject to those limitations, exceptions and special rules hereinafter stated~~)):

(1) The driver of a vehicle overtaking other traffic proceeding in the same direction shall pass to the left ((~~thereof~~)) of it at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken traffic.

(2)(a) The driver of a vehicle approaching an individual who is traveling as a pedestrian or on a bicycle ((~~that~~)), riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell, and who is ((~~on~~)) traveling in the right lane of a roadway or on the right-hand shoulder or bicycle lane of the roadway, shall ((~~pass to the left at a safe distance to clearly avoid coming into contact with the pedestrian or bicyclist, and shall not again drive to the right side of the roadway until safely clear of the overtaken pedestrian or bicyclist~~)):

(i) On a roadway with two lanes or more for traffic moving in the direction of travel, before passing and until safely clear of the individual, move completely into a lane to the left of the right lane when it is safe to do so;

(ii) On a roadway with only one lane for traffic moving in the direction of travel:

(A) When there is sufficient room to the left of the individual in the lane for traffic moving in the direction of travel, before passing and until safely clear of the individual:

(I) Reduce speed to a safe speed for passing relative to the speed of the individual; and

(II) Pass at a safe distance to clearly avoid coming into contact with the individual or the individual's vehicle or animal; or

(B) When there is insufficient room to the left of the individual in the lane for traffic moving in the direction of travel to comply with (a)(ii)(A) of this subsection, before passing and until safely clear of the individual, move completely into the lane for traffic moving in the opposite direction when it is safe to do so and in compliance with RCW 46.61.120 and 46.61.125.

(b) A driver of a motor vehicle found to be in violation of this subsection (2) must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(c) The additional fine imposed under (b) of this subsection must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

(d) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) Except when overtaking and passing on the right is permitted, overtaken traffic shall give way to the right in favor of an overtaking vehicle on audible signal and shall not increase speed until completely passed by the overtaking vehicle.

**Sec.**  RCW 46.61.145 and 1965 ex.s. c 155 s 24 are each amended to read as follows:

(1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

(4)(a) When the vehicle being followed is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(5) The additional fine imposed under subsection (4) of this section must be deposited into the vulnerable roadway user education account created in subsection (6) of this section.

(6) The vulnerable roadway user education account is created in the state treasury. All receipts from the additional fine in subsection (4) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only by the Washington traffic safety commission solely to:

(a) Support programs dedicated to increasing awareness by law enforcement officers, prosecutors, and judges of opportunities for the enforcement of traffic infractions and offenses committed against vulnerable roadway users; and

(b) With any funds remaining once the program support specified in (a) of this subsection has been provided, support programs dedicated to increasing awareness by the public of the risks and penalties associated with traffic infractions and offenses committed against vulnerable roadway users.

**Sec.**  RCW 46.61.180 and 1975 c 62 s 26 are each amended to read as follows:

(1) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(2) The right-of-way rule declared in subsection (1) of this section is modified at arterial highways and otherwise as stated in this chapter.

(3)(a) When the vehicle on the right approaching the intersection is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(4) The additional fine imposed under subsection (3) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec.**  RCW 46.61.185 and 1965 ex.s. c 155 s 29 are each amended to read as follows:

(1) The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

(2)(a) When the vehicle approaching from the opposite direction within the intersection or so close that it constitutes an immediate hazard is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) The additional fine imposed under subsection (2) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec.**  RCW 46.61.190 and 2000 c 239 s 5 are each amended to read as follows:

(1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in RCW 47.36.110.

(2) Except when directed to proceed by a duly authorized flagger, or a police officer, or a firefighter vested by law with authority to direct, control, or regulate traffic, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and after having stopped shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(3) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering a marked crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the roadway, and then after slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways: PROVIDED, That if such a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield right-of-way.

(4)(a) When right-of-way has not been yielded in accordance with this section to a vehicle that is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(5) The additional fine imposed under subsection (4) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec.**  RCW 46.61.205 and 1990 c 250 s 88 are each amended to read as follows:

(1) The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right-of-way to all vehicles lawfully approaching on said highway.

(2)(a) When right-of-way has not been yielded in accordance with this section to a vehicle that is a vulnerable user of a public way, a driver of a motor vehicle found to be in violation of this section must be assessed an additional fine equal to the base penalty assessed under RCW 46.63.110(3). This fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments that the base penalty for this violation is subject to under RCW 2.68.040, 3.62.090, and 46.63.110.

(b) For the purposes of this section, "vulnerable user of a public way" has the same meaning as provided in RCW 46.61.526(11)(c).

(3) The additional fine imposed under subsection (2) of this section must be deposited into the vulnerable roadway user education account created in RCW 46.61.145.

**Sec.**  RCW 46.61.250 and 1990 c 241 s 6 are each amended to read as follows:

(1) Where sidewalks are provided and are accessible, it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are provided but wheelchair access is not available, ((~~disabled~~)) persons with disabilities who require such access may walk or otherwise move along and upon an adjacent roadway until they reach an access point in the sidewalk.

(2) Where sidewalks are not provided ((~~any~~)) or are inaccessible, a pedestrian walking or otherwise moving along and upon a highway shall((~~,~~)):

(a) When ((~~practicable~~)) shoulders are provided and are accessible, walk ((~~or move only~~)) on the ((~~left side of the roadway or its~~)) shoulder ((~~facing traffic which may approach from the opposite direction and~~)) of the roadway as far as is practicable from the edge of the roadway, facing traffic when a shoulder is available in this direction; or

(b) When shoulders are not provided or are inaccessible, walk as near as is practicable to the outside edge of the roadway facing traffic, and when practicable, move clear of the roadway upon meeting an oncoming vehicle ((~~shall move clear of the roadway~~)).

(3) A pedestrian traveling to the nearest emergency reporting device on a one-way roadway of a controlled access highway is not required to travel facing traffic as otherwise required by subsection (2) of this section.

**Sec.**  RCW 46.61.770 and 1982 c 55 s 7 are each amended to read as follows:

(1) Every person operating a bicycle upon a roadway at a rate of speed less than the normal flow of traffic at the particular time and place shall ride as near to the right side of the right through lane as is safe except ((~~as may be appropriate~~)):

(a) While preparing to make or while making turning movements((~~, or~~)) at an intersection or into a private road or driveway;

(b) When approaching an intersection where right turns are permitted and there is a dedicated right turn lane, in which case a person may operate a bicycle in this lane even if the operator does not intend to turn right;

(c) While overtaking and passing another bicycle or vehicle proceeding in the same direction; and

(d) When reasonably necessary to avoid unsafe conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.

(2) A person operating a bicycle upon a roadway or highway other than a limited-access highway, which roadway or highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe.

(3) A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane ((~~if such exists~~)).

((~~(2)~~)) (4) When the operator of a bicycle is using the travel lane of a roadway with only one lane for traffic moving in the direction of travel and it is wide enough for a bicyclist and a vehicle to travel safely side-by-side within it, the bicycle operator shall operate far enough to the right to facilitate the movement of an overtaking vehicle unless other conditions make it unsafe to do so or unless the bicyclist is preparing to make a turning movement or while making a turning movement.

(5) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

**Sec.**  RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  This act takes effect January 1, 2020.

**--- END ---**