

---

SENATE BILL 5147

---

State of Washington                      60th Legislature                      2007 Regular Session

By Senators Haugen and Swecker

Read first time 01/11/2007. Referred to Committee on Transportation.

1            AN ACT Relating to creating a surcharge on vehicle liability  
2 insurance policies to be used for additional emphasis patrols in high-  
3 accident-corridor locations; amending RCW 48.18.170 and 48.18.180;  
4 adding new sections to chapter 46.68 RCW; adding a new section to  
5 chapter 82.04 RCW; adding a new section to chapter 35.102 RCW;  
6 prescribing penalties; and providing an effective date.

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

8            NEW SECTION.    **Sec. 1.** A new section is added to chapter 46.68 RCW  
9 to read as follows:

10            (1) An annual surcharge of two dollars per motor vehicle must be  
11 imposed on every motor vehicle liability insurance policy issued or  
12 renewed on or after the effective date of this section. The surcharge  
13 must be paid by the policyholder to the insurer. The insurer shall  
14 collect the surcharge and remit it to the department of revenue in  
15 accordance with RCW 82.32.045, which will collect, administer, audit,  
16 and enforce the surcharge. All other applicable provisions of chapter  
17 82.32 RCW have full force and application with respect to the surcharge  
18 imposed under this section. The office of the insurance commissioner  
19 shall provide to the department of revenue the information needed by

1 the department of revenue to collect the surcharge. The surcharge is  
2 not to be considered premiums of the insurer and is not subject to  
3 premium taxes, however, nonpayment of the surcharge by the insured may  
4 be a valid reason for cancellation of the policy. The surcharge  
5 imposed on policyholders under this section is not subject to  
6 retaliatory tax provisions.

7 (2) All insurers required to collect the surcharge under this  
8 section must register with the department of revenue under RCW  
9 82.32.030.

10 (3) Two-thirds of the proceeds from the surcharge must be deposited  
11 into the state patrol highway account created in RCW 46.68.030 to be  
12 used for additional emphasis patrols in high-accident-corridor  
13 locations on state routes; and the remainder must be deposited into the  
14 highway safety fund created in RCW 46.68.060 to be used to create a  
15 county road high-accident-corridor emphasis patrol program. The  
16 program must be administered by the Washington state traffic safety  
17 commission. County law enforcement may apply to the commission for  
18 emphasis patrols on specific high-accident-corridors within their  
19 county. The commission shall determine what criteria to use in  
20 awarding these emphasis patrols. The emphasis patrols shall be  
21 performed by the Washington state patrol at no cost to the county. For  
22 purposes of this section, "high-accident-corridor" means a highway  
23 corridor of one mile or more where a five-year analysis of collision  
24 history indicates that the section has higher than average collision  
25 and severity factors.

26 **Sec. 2.** RCW 48.18.170 and 1947 c 79 s .18.17 are each amended to  
27 read as follows:

28 "Premium" as used in this code means all sums charged, received, or  
29 deposited as consideration for an insurance contract or the continuance  
30 thereof. "Premium" does not include the annual surcharge imposed under  
31 section 1 of this act. Any assessment, or any "membership," "policy,"  
32 "survey," "inspection," "service" or similar fee or charge made by the  
33 insurer in consideration for an insurance contract is deemed part of  
34 the premium.

35 **Sec. 3.** RCW 48.18.180 and 1994 c 203 s 2 are each amended to read  
36 as follows:

1 (1) The premium stated in the policy (~~shall~~) must be inclusive of  
2 all fees, charges, premiums, or other consideration charged for the  
3 insurance or for the procurement thereof.

4 (2) No insurer or its officer, employee, agent, solicitor, or other  
5 representative (~~shall~~) may charge or receive any fee, compensation,  
6 or consideration for insurance, which is not included in the premium  
7 specified in the policy.

8 (3) Each violation of this section is a gross misdemeanor, as  
9 provided in chapter 9A.20 RCW.

10 (4) This section does not apply to a fee paid to a broker by an  
11 insured as provided in RCW 48.17.270.

12 (5) This section does not apply to the surcharge imposed under  
13 section 1 of this act.

14 NEW SECTION. Sec. 4. A new section is added to chapter 46.68 RCW  
15 to read as follows:

16 (1) The surcharge required by section 1 of this act, to be  
17 collected by the insurer, shall be deemed to be held in trust by the  
18 insurer until paid to the department of revenue, and any insurer, who  
19 appropriates or converts the surcharge collected to the insurer's own  
20 use or to any use other than the payment of the surcharge to the extent  
21 that the money required to be collected is not available for payment on  
22 the due date, is guilty of a gross misdemeanor as provided in chapter  
23 9A.20 RCW.

24 (2) If any insurer fails to collect the surcharge imposed in  
25 section 1 of this act or, having collected the surcharge, fails to pay  
26 it to the department of revenue in the manner prescribed by this  
27 chapter, whether such failure is the result of the insurer's own acts  
28 or the result of acts or conditions beyond the insurer's control, the  
29 insurer shall, nevertheless, be personally liable to the state for the  
30 amount of the surcharge.

31 (3) The amount of the surcharge, until paid by the insured to the  
32 insurer, constitutes a debt from the insured to the insurer and any  
33 insurer, who fails or refuses to collect the surcharge as required with  
34 intent to violate the provisions of this chapter or to gain some  
35 advantage or benefit, either direct or indirect, and any insured who  
36 refuses to pay any surcharge due under section 1 of this act, is guilty  
37 of a misdemeanor as provided in chapter 9A.20 RCW.

1        NEW SECTION.   **Sec. 5.**   A new section is added to chapter 82.04 RCW  
2   to read as follows:

3        This chapter may not apply to the surcharge imposed in section 1 of  
4   this act.

5        NEW SECTION.   **Sec. 6.**   A new section is added to chapter 35.102 RCW  
6   to read as follows:

7        Taxes imposed under the authority of this chapter may not apply to  
8   the surcharge imposed under section 1 of this act.

9        NEW SECTION.   **Sec. 7.**   This act takes effect August 1, 2007.

--- END ---