

FEB 22 2005  
JUDICIARY

HOUSE FILE 379  
BY FOEGE

(COMPANION TO SF 173 BY BEALL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the assessment of a brain injury surcharge,  
2 creating a brain injury surcharge fund, and making  
3 appropriations to the fund.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 379

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

1 Section 1. NEW SECTION. 135.23 BRAIN INJURY SURCHARGE  
2 FUND.

3 A brain injury surcharge fund is created as a separate fund  
4 in the state treasury under the control of the department.  
5 The fund shall consist of appropriations made to the fund and  
6 transfers of interest, earnings, and moneys required to be  
7 collected for deposit in the fund, including moneys received  
8 from the brain injury surcharge provided for in section 911.5.  
9 All moneys in the fund are appropriated to the department for  
10 use by the department to provide ongoing support for the  
11 advisory council on brain injuries and to provide a source of  
12 funding for programs benefiting persons with brain injuries.  
13 Any balance in the fund on June 30 of any fiscal year shall  
14 not revert to any other fund of the state but shall remain  
15 available for the purposes described in this section.

16 Sec. 2. Section 602.8102, subsection 135A, Code 2005, is  
17 amended to read as follows:

18 135A. Assess the surcharges provided by sections 911.2,  
19 911.3, and 911.4, and 911.5.

20 Sec. 3. Section 602.8108, subsection 2, Code 2005, is  
21 amended to read as follows:

22 2. Except as otherwise provided, the clerk of the district  
23 court shall report and submit to the state court  
24 administrator, not later than the fifteenth day of each month,  
25 the fines and fees received during the preceding calendar  
26 month. Except as provided in subsections 3, 4, 5, 7, and 8,  
27 and 9, the state court administrator shall deposit the amounts  
28 received with the treasurer of state for deposit in the  
29 general fund of the state. The state court administrator  
30 shall report to the legislative services agency within thirty  
31 days of the beginning of each fiscal quarter the amount  
32 received during the previous quarter in the account  
33 established under this section.

34 Sec. 4. Section 602.8108, Code 2005, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 9. The clerk of the district court shall  
2 remit all moneys collected from the brain injury surcharge  
3 provided in section 911.5 to the state court administrator for  
4 deposit in the brain injury surcharge fund established in  
5 section 135.23.

6 Sec. 5. Section 902.9, unnumbered paragraph 2, Code 2005,  
7 is amended to read as follows:

8 The surcharges required by sections 911.1, 911.2, and  
9 911.3, and 911.5 shall be added to a fine imposed on a class  
10 "C" or class "D" felon, as provided by those sections, and are  
11 not a part of or subject to the maximums set in this section.

12 Sec. 6. Section 903.1, subsection 4, Code 2005, is amended  
13 to read as follows:

14 4. The surcharges required by sections 911.1, 911.2,  
15 911.3, and 911.4, and 911.5 shall be added to a fine imposed  
16 on a misdemeanor as provided in those sections, and are not a  
17 part of or subject to the maximums set in this section.

18 Sec. 7. Section 909.8, Code 2005, is amended to read as  
19 follows:

20 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO  
21 SURCHARGE.

22 The provisions of this chapter governing the payment and  
23 collection of a fine, except section 909.3A, also apply to the  
24 payment and collection of surcharges imposed pursuant to  
25 chapter 911. However, section 909.10 shall not apply to  
26 surcharges assessed under sections 911.3, and 911.4, and  
27 911.5.

28 Sec. 8. NEW SECTION. 911.5 BRAIN INJURY SURCHARGE.

29 1. In addition to any other surcharge, the court or clerk  
30 of the district court shall assess a brain injury surcharge of  
31 twenty-five dollars if an adjudication of guilt or a deferred  
32 judgment has been entered for a criminal violation under  
33 section 321J.2.

34 2. The surcharge shall be remitted by the clerk of the  
35 district court as provided in section 602.8108, subsection 9.

1 3. The surcharge is subject to the provisions of chapter  
2 909 governing the payment and collection of fines, as provided  
3 in section 909.8.

4 EXPLANATION

5 This bill assesses a brain injury surcharge and creates a  
6 brain injury surcharge fund.

7 The bill assesses a brain injury surcharge in the amount of  
8 \$25 if an adjudication of guilt or a deferred judgment has  
9 been entered for the criminal offense of operating while  
10 intoxicated under Code section 321J.2.

11 The bill also creates a brain injury surcharge fund under  
12 the control of the Iowa department of public health. Under  
13 the bill, moneys from the assessment of the brain injury  
14 surcharge are appropriated to the brain injury fund including  
15 surcharge moneys deemed delinquent. The bill provides that  
16 the moneys in the fund shall be used by the Iowa department of  
17 public health to provide ongoing support of the advisory  
18 council on brain injuries and to provide a source of funding  
19 for programs benefiting persons with brain injuries. Any  
20 balance in the fund on June 30 of any fiscal year shall not  
21 revert to any other fund of the state but shall remain  
22 available for the purposes described in the new provisions.

23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35