

MAY 12 2015  
Ronald R. Carpenter  
Clerk

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE ADOPTION OF THE )  
AMENDMENT TO IRLJ 6.2 )  
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ORDER  
NO. 25700-A-1103

The Judicial Information System Committee (JISC), having recommended the adoption of the proposed amendment to IRLJ 6.2 and the raising of the assessment authorized by RCW 2.68.040(1)(a), and JISC, local governments, and the Office of Public Defense (OPD) having recommended an inflation adjustment to the base penalty schedule, as authorized by RCW 46.63.110(3), with support from the Superior Court Judges' Association, District and Municipal Court Judges' Association, Association of Washington Cities, and the Washington State Association of Counties, and the Court having determined that the proposed increases will aid in the prompt and orderly administration of justice, and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

- (a) That the assessment, as authorized by RCW 2.68.020(1)(a), is increased from \$17 to \$23;
- (b) That the infraction base penalty schedule is increased by \$6 for inflation, as authorized by RCW 46.63.110(3);
- (c) That the amendment as attached hereto is adopted;
- (d) That pursuant to the emergency provisions of GR 9(i), the amendment and assessment increase will be published expeditiously and become effective July 1, 2015.

DATED at Olympia, Washington this 12<sup>th</sup> of May, 2015.

Madsen, C.J.

713/7

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*Dawn J.*

*Fairhurst, J.*

*Stephens, J.*

*Wiggins, J.*

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IRLJ 6.2  
 MONETARY PENALTY SCHEDULE FOR  
 INFRACTIONS

- (a) **Effect of Schedule.** The penalty for any infraction listed in this rule may not be changed by local court rule. The court may impose on a defendant a lesser penalty in an individual case. Provided that, whenever the base penalty plus statutory assessments results in a total payment that is not an even dollar amount, the base penalty is deemed to be amended to a higher amount which produces the next greatest even dollar total.
- (b) **Unscheduled Infractions.** The penalty for any infraction not listed in this rule shall be ~~\$42~~ \$48, not including statutory assessments. A court may, by local court rule, provide for a different penalty.
- (c) **Infractions Not Covered.** This schedule does not apply to penalties for parking, standing, stopping, or pedestrian infractions established by municipal or county statute. Penalties for those infractions are established by statute or local court rule, but shall be consistent with the philosophy of these rules.
- (d) **Penalty Schedule.** The following infractions shall have the penalty listed, not including statutory assessments.

	Base Penalty
(1) Traffic Infractions	
Second Degree Negligent Driving (RCW 46.61.525)	\$250
Wrong way on freeway (RCW 46.61.150)	\$182 <u>\$188</u>
Wrong way on freeway access (RCW 46.61.155)	\$87 <u>\$93</u>
Backing on limited access highway (RCW 46.61.605)	\$87 <u>\$93</u>
Spilling or failure to secure load (RCW 46.61.655)	\$87 <u>\$93</u>
Throwing or depositing debris on highway (RCW 46.61.645)	\$87 <u>\$93</u>

Disobeying school patrol (RCW 46.61.385)	\$87 <u>\$93</u>
Passing stopped school bus (with red lights flashing) (RCW 46.61.370)	\$87 <u>\$93</u>
Violation of posted road restriction (RCW 46.44.080; RCW 46.44.105(4))	\$182 <u>\$188</u>
Switching license plates, loan of license or use of another's (RCW 46.16A.240)	\$87 <u>\$93</u>
Altering or using altered license plates (RCW 46.16A.240200)	\$87 <u>\$93</u>
Operator's Licenses (RCW 46.20)	
No Valid Driver's License (With Identification)	\$250
All other RCW 46.20 infractions	\$42 <u>\$48</u>
Vehicle Licenses (RCW 46.16A)	
Expired Vehicle License (RCW 46.16A.010030)	
Two months or less	\$42 <u>\$48</u>
Over 2 months	\$87 <u>\$93</u>
Speeding (RCW 46.61.400) if speed limit is over 40 m.p.h.	
1-5 m.p.h. over limit	\$27 <u>\$33</u>
6-10 m.p.h. over limit	\$37 <u>\$43</u>
11-15 m.p.h. over limit	\$52 <u>\$58</u>
16-20 m.p.h. over limit	\$67 <u>\$73</u>
21-25 m.p.h. over limit	\$82 <u>\$88</u>

26-30 m.p.h. over limit	\$102 <u>\$108</u>
31-35 m.p.h. over limit	\$127 <u>\$133</u>
36-40 m.p.h. over limit	\$152 <u>\$158</u>
Over 40 m.p.h. over limit	\$182 <u>\$188</u>

Speeding if speed limit is 40 m.p.h. or less

1-5 m.p.h. over limit	\$37 <u>\$43</u>
6-10 m.p.h. over limit	\$42 <u>\$48</u>
11-15 m.p.h. over limit	\$57 <u>\$63</u>
16-20 m.p.h. over limit	\$77 <u>\$83</u>
21-25 m.p.h. over limit	\$102 <u>\$108</u>
26-30 m.p.h. over limit	\$127 <u>\$133</u>
31-35 m.p.h. over limit	\$152 <u>\$158</u>
Over 35 m.p.h. over limit	\$182 <u>\$188</u>

Speed Too Fast for Conditions (RCW 46.61.400(1)) \$42 \$48

Rules of the Road

Failure to stop (RCW 46.61.050.)	\$42 <u>\$48</u>
Failure to stop on approach of emergency vehicle (RCW 46.61.210)	\$500
Failure to yield the right of way (RCW 46.61.180, 185, .190, .205, .235, .300, .365)	\$42 <u>\$48</u>

Failure to yield the right of way on approach of emergency vehicle (RCW 46.61.210)	\$500
Following too close (RCW 46.61.145, .635)	\$42 <u>\$48</u>
Failure to signal (RCW 46.61.310)	\$42 <u>\$48</u>
Improper lane usage or travel (RCW 46.61.140)	\$42 <u>\$48</u>
Impeding traffic (RCW 46.61.425)	\$42 <u>\$48</u>
Improper passing (RCW 46.61.110, .115, .120, .125, .130)	\$42 <u>\$48</u>
Prohibited and improper turn (RCW 46.61.290, .295, .305)	\$42 <u>\$48</u>
Crossing double yellow line left of center line (RCW 46.61.100, .130, .140)	\$42 <u>\$48</u>
Operating with obstructed vision (RCW 46.61.615)	\$42 <u>\$48</u>
Wrong way on one-way street (RCW 46.61.135)	\$42 <u>\$48</u>
Failure to comply with restrictive signs (RCW 46.61.050)	\$42 <u>\$48</u>

Accident

If an accident occurs in conjunction with any of the listed rules-of-the-road infractions or speed too fast for conditions, the penalty for the infraction shall be: \$67 \$73

Equipment (RCW 46.37)

Illegal use of emergency equipment (RCW 46.37.190) \$87 \$93

Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37.390(1) and (3))

First offense (the penalty may be waived upon proof to \$47 \$53

the court of compliance)

Second offense within 1 year of first offense \$67 \$73

Third and subsequent offenses within 1 year of first offense \$87 \$93

Any other equipment infraction (RCW 46.37.010) \$42 \$48

#### Motorcycles

Any infraction relating specifically to motorcycles (including no valid endorsement, RCW 46.20.500) \$42 \$48

#### Parking

Illegal parking on roadway (RCW 46.61.560) \$30

Any other parking infraction (not defined by city or county ordinance) \$20

#### Pedestrians

Any infraction regarding pedestrians (not defined by city or county ordinance) \$27 \$33

#### Bicycles

Any infraction regarding bicycles \$32 \$38

#### Load Violations

(all under RCW 46.44, except over license capacity)  
(see RCW 46.16A)

Over legal--tires, wheelbase (RCW 46.44.105(1))

(First offense) \$72 \$78

(Second offense)	\$102 <u>\$108</u>
(Third offense)	\$117 <u>\$123</u>
<del>In addition to the above (RCW 46.44.105(2))</del>	
<del>3 cents per excess pound</del>	
Over license capacity (RCW 46.16A.145545)	
(First offense)	\$57 <u>\$63</u>
(Second offense)	\$102 <u>\$108</u>
(Third offense)	\$117 <u>\$123</u>
Violation of special permit	\$67 <u>\$73</u>
Failure to obtain special permit	\$67 <u>\$73</u>
Failure to submit to being weighed	\$67 <u>\$73</u>
Illegal vehicle combination (RCW 46.44.036)	\$67 <u>\$73</u>
Illegally transporting mobile home	\$72 <u>\$78</u>
Any other infraction defined in RCW 46.44	\$52 <u>\$58</u>
Violation of Federal Motor Carrier Safety Regulations (RCW 46.32.010)	
Logbook/Medical Certificate	\$69 <u>\$75</u>
Equipment/All Others	\$42 <u>\$48</u>
Private Carrier (RCW 46.73)	
Failure to display valid medical exam	\$69 <u>\$75</u>
Violation of daily log book	



Driver not out of service	\$69 <u>\$75</u>
Driver out of service	\$95 <u>\$101</u>
Off-Road Vehicles (ATVs) (RCW 46.09) Any RCW 46.09 infraction	\$47 <u>\$53</u>
Snowmobiles (RCW 46.10) Any RCW 46.10 infraction	\$47 <u>\$53</u>
<del>Failure to respond to notice of infraction or failure to pay penalty (RCW 46.63.110(3))</del>	\$25
Failure to provide proof of motor vehicle insurance (RCW 46.30.020)	\$250
(2) Commercial Vehicle Infractions <u>(WAC 480)</u>	
<del>Defective Equipment/Driver Safety (auto transp.)- (WAC 480-30-095)</del>	\$42 <u>\$48</u>
<del>Commercial Vehicle License (auto transp.) (WAC 480-30-095(1))</del>	\$42 <u>\$48</u>
<del>Defective Equipment/Driver Safety (charter/excursion bus) (WAC 480-40-075)</del>	\$42 <u>\$48</u>
<del>Commercial Vehicle License (charter/excursion bus) (WAC 480-40-075(1))</del>	\$42 <u>\$48</u>
<del>Defective Equipment/Driver Safety (solid waste transp.) (WAC 480-70-400)</del>	\$42 <u>\$48</u>
<del>Commercial Vehicle License (solid waste transp.) (WAC 480-70-400(1))</del>	\$42 <u>\$48</u>
Failure To Have Proof of Insurance (RCW 81.80.190)	\$250
<del>Defective Equipment/Driver Safety (WAC 480-12-180)</del>	\$42 <u>\$48</u>

Commercial Vehicle License ( <del>WAC 480-12-180(1)</del> )	\$42 <u>\$48</u>
Defective Equipment/Driver Safety (limousine) ( <del>WAC 480-35-090</del> )	\$42 <u>\$48</u>
Commercial Vehicle License (limousine) ( <del>WAC 480-35-090(1)</del> )	\$42 <u>\$48</u>
(3) Parks and Recreation Infractions	
Display of Snowmobile Registration Number, Decals, and Validation Tabs (WAC 308-94-070050)	\$55 <u>\$61</u>
Off-Road Vehicle Traffic Prohibited (WAC 332-52-030(4))	\$42 <u>\$48</u>
Travel Off-Road or Off-Trail (WAC 332-52-030(4)(c))	\$42 <u>\$48</u>
Spark-Arresting Muffler Required (WAC 332-52-030(4)(h))	\$42 <u>\$48</u>
Yield Right of Way to:	
Log Hauling and Gravel Trucks (WAC 332-52-030(4)(l))	\$42 <u>\$48</u>
Animal-Drawn Vehicles/Persons Riding Animals (WAC 332-52-030(4)(l))	\$42 <u>\$48</u>
Following Closer Than 150 Feet (WAC 332-52-030(4)(m))	\$42 <u>\$48</u>
Moving Through Livestock Herd Without Direction (WAC 332-52-030(4)(o))	\$42 <u>\$48</u>
Parking on the Traveled Portion of the Roadway (WAC 332-52-030(4)(q))	\$30
Excessively Rev Vehicle Engine (WAC 332-52-030(4)(r))	\$42 <u>\$48</u>
Driving/Parking Vehicles (WAC 332-52-050(1))	\$42 <u>\$48</u>
Bicycles/Motorbikes/Motorcycles on Posted Trails	\$42 <u>\$48</u>

(WAC 332-52-050(3))

Driving Motor Vehicle in Camp (WAC 332-52-050(4))	\$42 <u>\$48</u>
Moorage and Use of Marine Facilities (WAC 352-12-010)	\$42 <u>\$48</u>
Moorage Fees (WAC 352-12-020)	\$42 <u>\$48</u>
Seasonal Permits (WAC 352-12-030)	\$42 <u>\$48</u>
Use of Onshore Campsites (WAC 352-12-040)	\$42 <u>\$48</u>
Self-Registration (WAC 352-12-050)	\$67 <u>\$73</u>
Parking (WAC 352-20-010)	\$24
Motor Vehicles on Roads and Trails (WAC 352-20-020)	\$67 <u>\$73</u>
Speed Limits (WAC 352-20-030)	\$42 <u>\$48</u>
Vehicles in Snow Areas (WAC 352-20-040)	\$67 <u>\$73</u>
Trucks and Commercial Vehicles (WAC 352-20-050)	\$42 <u>\$48</u>
Camping (WAC 352-32-030)	\$67 <u>\$73</u>
Campsite Reservation (WAC 352-32-035)	\$42 <u>\$48</u>
Picnicking (WAC 352-32-040)	\$42 <u>\$48</u>
Park Periods (Unlawful Entry) (WAC 352-32-050)	\$67 <u>\$73</u>
Park Capacities (WAC 352-32-053)	\$42 <u>\$48</u>
Peace and Quiet (WAC 352-32-056)	\$67 <u>\$73</u>
Pets (WAC 352-32-060)	\$42 <u>\$48</u>
Horseback Riding (WAC 352-32-070)	\$42 <u>\$48</u>

Use of Nonmotorized Cycles or Similar Devices in State Parks (WAC 352-32-075)	\$42 <u>\$48</u>
Swimming (WAC 352-32-080)	\$42 <u>\$48</u>
Games (WAC 352-32-090)	\$42 <u>\$48</u>
Disrobing (WAC 352-32-100)	\$42 <u>\$48</u>
Tents, etc., on Beaches (WAC 352-32-110)	\$42 <u>\$48</u>
Lakes Located Wholly Within State Park Boundaries--Internal Combustion Engines Prohibited (WAC 352-32-155)	\$42 <u>\$48</u>
Lakes located Partially Within State Park Boundaries--Internal Combustion Engines Prohibited (WAC 352-32-157)	\$42 <u>\$48</u>
Solicitation (WAC 352-32-195)	\$67 <u>\$73</u>
Intoxication in State Park Areas (WAC 352-32-220)	\$142 <u>\$148</u>
Food and Beverage Containers on Swimming Beaches (WAC 352-32-230)	\$42 <u>\$48</u>
Use of Metal Detectors in State Parks (WAC 352-32-235)	\$42 <u>\$48</u>
Self-Registration (WAC 352-32-255)	\$67 <u>\$73</u>
Sno-Park Permit (WAC 352-32-260)	\$42 <u>\$48</u>
Sno-Park Permit Display (WAC 352-32-265)	\$42 <u>\$48</u>
Vehicular Traffic--Where Permitted--Generally (WAC 352-37-030)	\$67 <u>\$73</u>
Equestrian Traffic (WAC 352-37-080)	\$42 <u>\$48</u>
Pedestrians To Be Granted Right of Way (WAC 352-37-090)	\$42 <u>\$48</u>

Overnight Parking or Camping Prohibited (WAC 352-37-110)	\$67 <u>\$73</u>
Speed Limits (WAC 352-37-130)	\$42 <u>\$48</u>
(4) Boating Infractions	
Operating Vessel in Negligent Manner (RCW 79A.60.030)	<del>\$167</del> <u>\$173</u>
No Personal Flotation Device (PFD) on Vessel for Each Person (RCW 79A.60.160(1))	\$42 <u>\$48</u>
Personal Flotation Device Not the Appropriate Size (RCW 79A.60.160(1))	\$42 <u>\$48</u>
Personal Flotation Device Not Readily Accessible (RCW 79A.60.160(1))	\$42 <u>\$48</u>
Observer Required on Board Vessel (RCW 79A.60.170(2))	\$42 <u>\$48</u>
Observer To Continuously Observe (RCW 79A.60.170(2))	\$42 <u>\$48</u>
Failure To Display Skier Down Flag (RCW 79A.60.170(2))	\$42 <u>\$48</u>
Flag/Pole Not to Specifications (RCW 79A.60.170(2))	\$42 <u>\$48</u>
Observer Does Not Meet Minimum Qualifications (RCW 79A.60.170(3))	\$67 <u>\$73</u>
Water Skier Not Wearing Personal Flotation Device (RCW 79A.60.170(4))	\$67 <u>\$73</u>
Overloading of Vessel Beyond Safe Carrying Ability (RCW 79A.60.180(1))	\$117 <u>\$123</u>
Carrying Passengers in Unsafe Manner (RCW 79A.60.180(1))	\$67 <u>\$73</u>
Overpowering of Vessel Beyond Vessel's Ability To Operate Safely (RCW 79A.60.180(2))	\$117 <u>\$123</u>

Person Not Wearing Personal Flotation Device (PFD) on Personal Watercraft (RCW 79A.60.190(1))	\$67 <u>\$73</u>
Failure To Give Accident Information to Law Enforcement (RCW 79A.60.200(1))	\$117 <u>\$123</u>
Motor Propelled Vessels Without Effective Muffler in Good Working Order and Constant Use (RCW 79A.60.130(1))	\$42 <u>\$48</u>
Sound Level in Excess of 90 Decibels for Engines Made Before 1/1/94 Using Stationary Test (RCW 79A.60.130(1))	\$42 <u>\$48</u>
Sound Level in Excess of 88 Decibels for Engines Made on or After 1/1/94 Using Stationary Test (RCW 79A.60.130(1))	\$42 <u>\$48</u>
Sound Level in Excess of 75 Decibels Using Shoreline Test (RCW 79A.60.130(3))	\$42 <u>\$48</u>
Removing, Altering or Modifying Muffler or Muffler System (RCW 79A.60.130(7))	\$42 <u>\$48</u>
Manufacturing, Selling, or Offering for Sale Any Vessel Equipped With Noncomplying Muffler or Muffler System RCW 79A.60.130(8))	\$67 <u>\$73</u>
Vessel Exemption/Exception for Competing in Racing Events Carried on Board Operating Vessel (RCW 79A.60.130(8))	\$42 <u>\$48</u>
Personal Flotation Devices (PFDs) (WAC 352-60-030)	\$42 <u>\$48</u>
Visual Distress Signals (WAC 352-60-040)	\$42 <u>\$48</u>
Ventilation (WAC 352-60-050)	\$42 <u>\$48</u>
Navigation Lights and Sound Signals (WAC 352-60-060)	\$42 <u>\$48</u>
Steering and Sailing (WAC 352-60-070)	\$42 <u>\$48</u>
Fire Extinguishing Equipment (WAC 352-60-080)	\$42 <u>\$48</u>

Backfire Flame Control (WAC 352-60-090)	\$42 <u>\$48</u>
Liquefied Petroleum Gas (WAC 352-60-100)	\$42 <u>\$48</u>
Canadian Vessels (WAC 352-60-110)	\$42 <u>\$48</u>
(5) Fish and Wildlife Infractions	
Fish for Personal Use – Barbed Hooks (RCW 77.15.160(1)(a))	\$48
Fail to Immediately Record Fish/Shellfish Catch (RCW 77.15.160(1)(b))	\$48
Fail to Return Catch Record Card (RCW 77.15.160(1)(c))	\$39
Recreational Fishing – License not with Person (no fish/shellfish possession) (RCW 77.15.160(1)(d)(i))	\$73
Recreational Fishing – Rule Violation (no fish/shellfish possession) (RCW 77.15.160(1)(d)(ii))	\$73
Seaweed – License not with Person (<2x daily limit) (RCW 77.15.160(1)(e)(i))	\$48
Seaweed – Rule violation (<2x daily limit) (RCW 77.15.160(1)(e)(ii))	\$48
Unclassified Fish/Shellfish (not game fish, food fish, shellfish, Or endangered/protected fish) (RCW 77.15.160(1)(f))	\$73
Wasting Fish/Shellfish (<\$250) (RCW 77.15.160(1)(g))	\$48
Harm Bird Eggs/Nests (not endangered/protected wild birds) (RCW 77.15.160(2)(a))	\$97
Unclassified Wildlife (not big game, game animals, game birds, or endangered/protected wildlife) (RCW 77.15.160(2)(b))	\$73

Wasting Wildlife (not big game) – (<\$250) (RCW 77.15.160(2)(c))	\$73
Hunting Wild Animals (not big game) License not with Person (no wild animal possession) (RCW 77.15.160(2)(d))	\$73
Hunting Wild Birds – License not with Person (no wild bird Possession) (RCW 77.15.160(2)(e)(i))	\$73
Hunting Wild Birds – Rule Violation (no wild bird possession) (RCW 77.15.160(2)(e)(ii))	\$73
Taxidermist/Fur Dealer/Wildlife Meat Cutter – Fail to Maintain Records (RCW 77.15.160(3)(a)(i))	\$122
Taxidermist/Fur Dealer/Wildlife Meat Cutter – Fail to Report Information (RCW 77.15.160(3)(a)(ii))	\$73
Trapper – Fail to Report Trapping Activity (RCW 77.15.160(3)(b))	\$73
Contest Violation (RCW 77.15.160(4)(a))	\$146
Violate Other Infraction Rules (RCW 77.15.160(4)(b))	\$73
Posting Signs (RCW 77.15.160(4)(c))	\$122
Scientific Permit Violation (not big game/big game parts) – Violate Permit Terms or Conditions (RCW 77.15.160(4)(d)(i))	\$122
Scientific Permit Violation (not big game/big game parts) – Violate Rule re: Permit Issuance or Use (RCW 77.15.160(4)(d)(ii))	\$122
Transporting Aquatic Plants (RCW 77.15.160(4)(e))	\$73
Violate Distance/Feeding Prohibitions for Southern Resident Orca Whales (RCW 77.15.740)	\$500
Negligently Feed/Attempt to Feed Large wild Carnivores (RCW 77.15.790)	\$73



[Adopted effective September 1, 1992; amended effective June 25, 1993; May 1, 1994; August 15, 1995; June 5, 1996; December 28, 1999; July 22, 2001; April 30, 2007; December 10, 2013.]

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GORDON McCLOUD, J. (dissenting)—We have been asked to choose between funding a desperately needed district court computer system by increasing fees charged to the users of those courts who are least able to pay, and not funding that system at all. We understand the majority's valid reasons for choosing to fund that critical computer project. But the project's significant benefits are outweighed by the substantial harm that its funding source would cause. We cannot agree to fund that new computer system by increasing court fees for those least able to pay. We therefore respectfully dissent.

This district court computer system is critically necessary. Our district courts are the hardworking courts at the base of our justice system in Washington. They are the courts that have the heaviest dockets and that handle some of the most pressing legal needs faced by Washington residents every day: domestic violence protection orders, assaults, DUI's, and other criminal charges. The district courts keep our society safe and functioning. They provide a main avenue for Washington residents to access justice by handling numerous cases involving critical issues and many litigants who

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cannot afford lawyers. And those courts are starved for funds. The fact that our district courts function so well and handle such huge caseloads despite severe financial restrictions is a testament to our hardworking judges and their very limited support staff. Of note to the court's order issued today, the district courts have to rely on a severely outdated computer system that is basically obsolete. A new computer system that can properly track district court cases statewide, and that can provide access to a party's record in other cases including other prior convictions, protection orders, or prohibitions, is not a luxury - it is a necessity for public safety.

But the governing statute says that to fund this project, we have to increase the fees charged to those who commit infractions - or suffer without funding for the project at all. The majority has therefore entered an order that increases the Judicial Information System assessment on traffic infractions from \$17.00 to \$23.00 and also increases the corresponding base penalty on such traffic infractions by \$6.00, making the total increase per infraction \$12.00 - an amount that was adopted as necessary to keep pace with inflation.

The sad reality is that courts across the country are pressured to obtain funds by imposing and increasing fees that disproportionately burden the people who are least able to pay. Funding our district courts is absolutely necessary but obtaining funds by increasing fees does more harm than good. It creates—or perpetuates—all of the following problems.

First, this increase to the base fee cannot be waived by the judge. The law says that it is mandatory and cannot be changed, even if the person can't pay. That's not fair.

In fact, our court condemned exactly that sort of unfairness just a few months ago in *State v. Blazina*, \_\_\_ Wn.2d \_\_\_, 344 P.3d 680, 681 (2015). In that case, we said that “a trial court has a statutory obligation to make an individualized inquiry into a defendant’s current and future ability to pay before the court imposes LFOs [legal financial obligations].” *Id.* While *Blazina* dealt with a different type of fee than Infraction Rules for Courts of Limited Jurisdiction (IRLJ) 6.2, the subject of the majority’s order here, does, the same principle should apply. Unfortunately, the majority abandons that principle by increasing traffic infraction fees regardless of ability to pay

and our IRLJs do not require that a determination be made regarding a driver's ability to pay such fees.<sup>1</sup>

Second, this type of fee system adversely affects poor populations specifically. As we recognized in *Blazina*, “indigent offenders owe higher LFO sums than their wealthier counterparts because they cannot afford to pay, which allows interest to accumulate and to increase the total amount that they owe.”<sup>2</sup> We rightly condemned that result in *Blazina*. We recognize that we are dealing with a different type of fee today. But the effect is the same. The data shows that the majority of fees generated from infractions comes not from the base infraction fee or even from the several additional, mandatory fees that the governing statutes tack on. Instead, the majority of those fees comes from penalties imposed when a payment is missed, for whatever reason. In other words, the people who are least able

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<sup>1</sup> Courts may waive or reduce penalties for drivers who request a mitigation hearing, but a hearing is not required. IRLJ 2.4, 3.4.

<sup>2</sup> *Blazina*, 344 P.3d at 684 (citing KATHERINE A. BECKETT, ALEXES M. HARRIS & HEATHER EVANS, WASH. STATE MINORITY & JUSTICE COMM'N, THE ASSESSMENT AND CONSEQUENCES OF LEGAL FINANCIAL OBLIGATIONS IN WASHINGTON STATE (2008) 21-22 (WASH. STATE MINORITY & JUSTICE COMM'N), available at [http://www.courts.wa.gov/committee/pdf/2008LFO\\_report.pdf](http://www.courts.wa.gov/committee/pdf/2008LFO_report.pdf)).

to pay up front, all at once, are the ones who end up paying the most. That was not fair in *Blazina*, and it's still not fair here.

Third, the law governing this fee increase states that its purpose must be to compensate for the effects of inflation. But infraction payments are not necessarily down because of inflation. Instead, the data shows that they are down at least in part because the number of "committed" infractions are down. Why is the number of "committed" infractions down? We suspect that it is due in part to innovative court programs designed to assist low-income people with retaining their licenses. The majority's Order will make up the revenue shortfall caused by these programs - programs that all the Justices support - by burdening the remaining, smaller, group of people receiving infractions with the revenue shortfall that these positive programs cause. That's helping one group of court users at the expense of another. That's not fair, either.

Fourth, increasing fees to pay for court services is inefficient at best. As we noted in *Blazina*, if we are imposing fees to help fund the court system, "doubtful recoupment of money by the government" is a big problem. The reason was obvious to us in *Blazina*: "the state cannot collect

money from defendants who cannot pay.” *Id.* at 684. That’s not sound fiscal policy.

Finally and critically, recent studies in Washington show that the burden of both traffic stops and infraction payments has a racially disproportionate impact. In *Blazina*, we recognized that “[s]ignificant disparities also exist in the administration of LFOs in Washington.” *Blazina*, 344 P.3d at 684. That was not fair in *Blazina*, and it’s still not fair here.

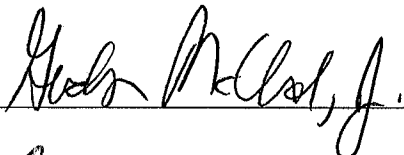
All this hints at the bigger issue: whether we should be funding our courts, which are designed to serve all the people, through user fees that disproportionately burden those who can least afford it. The clearest and most recent explanation of why this is such a bad policy appears in the Department of Justice’s recent report exploring the relationship between legal fees and court revenue in Ferguson, Missouri. That report explains that when court fees are based on revenue needs, rather than on legitimate penological goals, unfairness results. The majority, however, states no penological justification for the increase in any of the infraction schedule, only a revenue need. As the DOJ report says, that’s not fair, either.

In the Matter of the Adoption of  
The Amendment to IRLJ 6.2  
(Gordon McCloud, J., Dissenting)

The majority has made a policy decision to fund a desperately needed district court program with court user fees that burden those who are least able to pay. The majority's position is consistent with past practice and the national standard. But that system is broken. We totally agree that our district courts deserve the revenue for this program. We dissent, however, from the decision to achieve this goal by increasing mandatory, nonwaivable, infraction fees, that disproportionately burden the court users who are least able to pay. The end does not justify the means.



In the Matter of the Adoption of  
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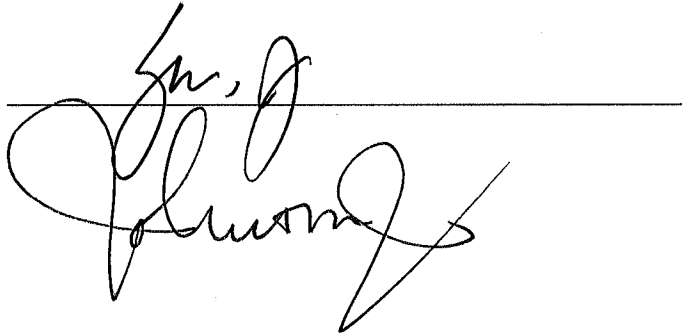
  
\_\_\_\_\_  
Gonzalez, J.

No. 25700-A-1103

YU, J. (dissenting)—I concur in the dissent but write separately as co-chair of the Supreme Court’s Minority and Justice Commission to express my disappointment with the Court’s decision to continue funding our trial courts through fines and fees. The Commission has carefully examined and documented the practices and policies that contribute to bias within our court and to the growing lack of confidence in our system of justice. One of those identified policies that has contributed to the erosion of confidence has been placing the burden on municipal and district courts to generate revenue to sustain court operations. The idea of “cash register” justice or requiring judges to impose fines in order to fund the court’s infrastructure is anathema to the idea of a free and independent judiciary that is accessible to all. The increase in the infraction rate may seem insignificant to some on this Court, but to the working class or poor, it is not trivial or inconsequential.

I respectfully disagree with the policy choice of this Court to continue funding our courts in this manner and dissent from the decision to do so.

No. 25700-A-1103  
Dissent to Order

Sm. J.  
A handwritten signature in cursive script, appearing to read "Sm. J." followed by a large, stylized flourish that extends across a horizontal line.