§ 80.00 Fine for felony.

1. A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of

a. five thousand dollars; or

b. double the amount of the defendant's gain from the commission of the crime or, if the defendant is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the defendant's gain from the commission of such offense; or

c. if the conviction is for any felony defined in article two hundred twenty or two hundred twenty-one of this chapter, according to the following schedule:

(i) for A-I felonies, one hundred thousand dollars;

(ii) for A-II felonies, fifty thousand dollars;

(iii) for B felonies, thirty thousand dollars;

(iv) for C felonies, fifteen thousand dollars.

When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.

2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.

3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does

not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.

4. Exception. The provisions of this section shall not apply to a corporation.

5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.

6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.

7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.