

***Judiciary Committee***

***ESB 5790***

***Title:*** *An act relating to vehicular assault.*

***Brief Description:*** *Revising provisions relating to vehicular assault.*

***Sponsors:*** *By Senators Kline, Costa, Shin, Sheahan, McCaslin, Deccio, Winsley and Constantine.*

***Brief Summary of Engrossed Bill***

- *Changes the causation and injury elements of vehicular assault and renames it vehicular assault in the first degree.*
- *Creates a new crime of vehicular assault in the second degree.*
- *Removes vehicular assault from the definition of "most serious offense."*

***Hearing Date:*** *3/29/01*

***Staff:*** *Edie Adams (786-7180).*

***Background:***

*The crime of vehicular assault involves driving a vehicle in a reckless manner or while under the influence of drugs or alcohol and this conduct is the proximate cause of serious bodily injury to another person. "Serious bodily injury" is injury that involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any body part or organ.*

*Vehicular assault is a class B felony ranked at seriousness level IV under the Sentencing Reform Act. This means that an adult offender with no prior criminal history would receive a standard range disposition of 3-9 months. Vehicular assault is included as a most serious offense under the "three-strikes law," which imposes a life sentence on an offender convicted of three most serious offenses.*

*Under the juvenile sentencing structure, vehicular assault is classified as a category C offense. A juvenile who commits a category C offense is subject to a standard range disposition of local sanctions, unless the offender has four or more prior adjudications, in which case the juvenile is subject to confinement at a state institution for 15-36 weeks. Local sanctions include up to 30 days of confinement, up to 12 months of community supervision, up to 150 hours of community service, and a fine of up to \$500.*

*The crime of vehicular assault requires that the reckless or drunk driving be the proximate cause of the injury. Proximate cause is a legal standard that consists of two components: cause in fact and legal causation. An act is the cause in fact of the injury if the injury would not have occurred but for the act. Legal causation involves considerations of whether a defendant's conduct should warrant legal liability as a matter of social policy and common sense. One way a court determines if there is legal causation is whether the injury was reasonably foreseeable. A person is generally not liable for unforeseeable harmful results that are not within the risk created by the person's acts.*

*Other driving-related offenses include reckless driving and negligent driving. Reckless driving is a gross misdemeanor and involves driving a vehicle in willful or wanton disregard for the safety of persons or property. Negligent driving involves operating a vehicle in a manner that is negligent and endangers a person or property. Negligent driving in the first degree also requires that the operator exhibit the effects of having consumed alcohol or drugs. First-degree negligent driving is a misdemeanor and second-degree negligent driving is a traffic infraction subject to a penalty of \$250.*

#### **Summary of Bill:**

*A number of changes are made to the crime of vehicular assault.*

*The crime of vehicular assault is renamed vehicular assault in the first degree, and the elements of the crime are changed. The causation element is changed from proximate cause to cause in fact, and the requirement that the reckless or drunk driving is the cause of the injury is removed. In addition, the degree of injury that is required is lowered from "serious bodily injury" to "substantial bodily harm." "Substantial bodily harm" means injury that involves a temporary but substantial disfigurement, a temporary but substantial loss or impairment of the function of any body part or organ, or a fracture of any body part.*

*A new crime of vehicular assault in the second degree is created. A person is guilty of second-degree vehicular assault if the person operates a vehicle with criminal negligence and causes substantial bodily harm to another. Criminal negligence involves failing to be aware of a substantial risk that a wrong may occur and this failure is a gross deviation from the standard of care that a reasonable person would exercise. Second-degree vehicular assault is a class C felony and is not ranked under the Sentencing Reform Act. This means that the maximum sentence that may be imposed is up to one year in jail. Second-degree vehicular assault is ranked under the juvenile offense categories as a level D offense, for which only local sanctions may be imposed.*

*The crime of vehicular assault is removed from the definition of "most serious offense" so*

*it is no longer subject to the three-strikes law. Second-degree vehicular assault is added to the list of "crimes against persons."*

***Appropriation:*** *None.*

***Fiscal Note:*** *Available on original bill.*

***Effective Date:*** *Ninety days after adjournment of session in which bill is passed.*