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HOUSE BILL 1369

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State of Washington

59th Legislature

2005 Regular Session

By Representative Nixon

Read first time 01/21/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to negligent driving; amending RCW 46.61.525;  
2 creating a new section; providing an effective date; and declaring an  
3 emergency.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to make  
6 the roadways safe. It is necessary for all drivers of motor vehicles  
7 to be in an alert position to monitor and react timely to changing and  
8 unexpected situations on the roadways. Therefore, this act creates a  
9 presumption of negligent driving in the second degree for persons  
10 driving with excessively reclined driver's seats.

11 **Sec. 2.** RCW 46.61.525 and 1997 c 66 s 5 are each amended to read  
12 as follows:

13 (1)(a) A person is guilty of negligent driving in the second degree  
14 if, under circumstances not constituting negligent driving in the first  
15 degree, he or she operates a motor vehicle in a manner that is both  
16 negligent and endangers or is likely to endanger any person or  
17 property.

1 (b) It is an affirmative defense to negligent driving in the second  
2 degree that must be proved by the defendant by a preponderance of the  
3 evidence, that the driver was operating the motor vehicle on private  
4 property with the consent of the owner in a manner consistent with the  
5 owner's consent.

6 (c) Negligent driving in the second degree is a traffic infraction  
7 and is subject to a penalty of two hundred fifty dollars.

8 (2) A person is presumptively guilty of negligent driving in the  
9 second degree if the driver's seat is reclined to an extent that the  
10 person cannot adequately view the roadway or use the vehicle mirrors.  
11 When issuing a traffic citation under this subsection (2), the traffic  
12 enforcement officer must estimate the angle the driver's seat makes  
13 with the vertical and include this estimate in the citation.

14 (3) For the purposes of this section, "negligent" means the failure  
15 to exercise ordinary care, and is the doing of some act that a  
16 reasonably careful person would not do under the same or similar  
17 circumstances or the failure to do something that a reasonably careful  
18 person would do under the same or similar circumstances.

19 ~~((3))~~ (4) Any act prohibited by this section that also  
20 constitutes a crime under any other law of this state may be the basis  
21 of prosecution under such other law notwithstanding that it may also be  
22 the basis for prosecution under this section.

23 NEW SECTION. Sec. 3. This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of the  
25 state government and its existing public institutions, and takes effect  
26 July 1, 2005.

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