

HOUSE BILL REPORT

SSB 5326

As Reported by House Committee On: Judiciary

Title: An act relating to negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way.

Brief Description: Concerning negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, Zarelli, Kohl-Welles, Nelson, Rockefeller and White).

Brief History:

Committee Activity:

Judiciary: 3/2/11, 3/17/11 [DPA].

Brief Summary of Substitute Bill (As Amended by House)

- Creates a new traffic infraction, which is committed when a person operates a vehicle in a manner that is both negligent and endangers any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of the public way.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Eddy, Frockt, Kirby, Nealey, Orwall and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Rodne, Ranking Minority Member; Chandler and Klippert.

Staff: Kelly Pfundheller (786-7289).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Negligent Driving.

Related but separate provisions in current traffic law may apply when a person harms another person while operating a motor vehicle in a manner that is negligent. These include negligent driving in the first degree and negligent driving in the second degree.

A person is guilty of negligent driving in the first degree if that person operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug. Negligent driving in the first degree is a misdemeanor, carrying a sentence range of zero to 90 days in jail and being subject to a fine of up to \$1,000.

A person is guilty of negligent driving in the second degree if that person operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property. Negligent driving in the second degree is an infraction and is subject to a fine of \$250.

Relevant Terms.

Distinct from the term "motor vehicle," the term "vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks.

The term "proximate cause" is a legal term referring to the causal connection between an individual's conduct and the harm done to another when the individual's conduct is a substantial factor in bringing about the harm. The conduct must usually produce a particular foreseeable result in a natural unbroken sequence, without which the harm would not have occurred.

"Great bodily harm" is defined in the criminal code as a bodily injury which creates a probability of death, a significant serious permanent disfigurement, or a significant permanent loss or impairment of the function of any bodily part or organ.

"Substantial bodily harm" is defined in the criminal code as a bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part.

Summary of Amended Bill:

New Infraction.

The infraction of negligent driving in the second degree with a vulnerable user victim is created. A person commits the infraction if, under circumstances not constituting negligent

driving in the first degree, he or she operates a vehicle in a manner that is both negligent and endangers any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of the public way.

A vulnerable user of the public way is defined as a pedestrian; person riding an animal; or a person operating a farm tractor, a bicycle, an electric assist bicycle, an electric personal assistive mobility device, a moped, a motor-driven cycle, a motorized foot scooter, or a motorcycle.

Hearing and Penalties.

A person who has committed the infraction must pay a fine of \$5,000 and have his or her driving privileges suspended for 90 days. The court may not reduce the fine to less than \$1,000.

If a person requests and personally appears for a hearing, the person may elect an alternative penalty where they are required to: pay a fine of \$250; complete traffic school for a number of days determined by the court; and perform community service related to driver improvement for a number of hours determined by the court (but not exceeding 100 hours). The person must submit certification to the court that the person has completed the requirements. If a person elects the alternatively penalty, the court must impose the penalty and the court may require the person to pay administrative costs. If a person fails to complete the required traffic safety and community service requirements within one year of the date of the violation, the court must assess a fine in an amount between \$1,000 and \$5,000 and suspend the person's driving privileges for 90 days. The court has discretion to extend the period of time in which the person must complete the requirements.

A person whose license is suspended as a result of a violation of this infraction and who is found operating a motor vehicle during the suspension is guilty of driving while license suspended in the second degree.

The infraction may not be deferred.

Amended Bill Compared to Substitute Bill:

The definition of vulnerable user is expanded to include motorcyclists. Changes are made to the alternative penalty scheme, including the requirement to complete traffic school (rather than a traffic safety course) and community service (rather than "court approved" community service). The court is required to impose the alternative penalty scheme when a person who has committed the infraction elects it, and the court has the discretion to impose administrative costs.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 17, 2011.

Effective Date of Amended Bill: The bill takes effect on July 1, 2012.

Staff Summary of Public Testimony:

(In support) This legislation is the product of three years of work, and it will provide families with justice in cases where a person's actions did not reach the threshold of criminality, but were still egregious. The bill does not need any amendments beyond those made to the companion bill, House Bill 1339.

(With concerns) The bill should be amended to reflect the changes in the companion bill, particularly with regards to the authority of the courts to impose administrative costs.

(Opposed) None.

Persons Testifying: (In support) David Hiller, Cascade Bicycle Company.

(With concerns) Melanie Stewart, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.