

# HOUSE BILL REPORT

## HB 1972

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to imposing criminal penalties for negligent driving involving the death of a vulnerable user victim.

**Brief Description:** Imposing criminal penalties for negligent driving involving the death of a vulnerable user victim.

**Sponsors:** Representatives Harris and Santos.

**Brief History:**

**Committee Activity:**

Public Safety: 1/28/22, 2/1/22 [DPS].

**Brief Summary of Substitute Bill**

- Reclassifies Negligent Driving in the second degree with a Vulnerable User Victim, an infraction under current law, to Negligent Driving with a Vulnerable User Victim in the first degree, a newly created gross misdemeanor, when the negligent driving was the proximate cause of a vulnerable user of the roadway's death.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Orwall, Ramos, Simmons, Thai and Young.

**Staff:** Omeara Harrington (786-7136).

**Background:**

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

The statutes outlining the rules of the road contain a number of provisions that apply when a driver causes or risks harm to another person. A person commits the felony offenses of Vehicular Homicide or Vehicular Assault when he or she causes the death or substantial bodily harm of another person by driving under the influence of intoxicating liquor or any drug, driving in a reckless manner, or driving with disregard for the safety of others. Reckless Driving, a gross misdemeanor, applies when a person drives in willful or wanton disregard for the safety of persons or property.

A person is guilty of Negligent Driving if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property. "Negligence" is a lower standard than recklessness, disregard for the safety of others, or willful or wanton disregard for safety. It is defined as the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances. Negligent Driving may be a crime or a traffic infraction, depending the circumstances.

A person commits a first degree Negligent Driving offense, which is a misdemeanor, if he or she commits the offense while exhibiting the effects of having consumed liquor, marijuana, or any drug, or the effects of having inhaled or ingested any chemical for its intoxicating or hallucinatory effects. Absent these circumstances, a person commits a second degree offense, which is a traffic infraction carrying a \$250 fine.

A person commits Negligent Driving in the second degree with a Vulnerable User Victim if he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way. A "vulnerable user of a public way" includes:

- a pedestrian;
- a person riding an animal; or
- a person operating or riding any of the following on a public way: a farm tractor or implement of husbandry without an enclosed shell; a bicycle; an electric-assisted bicycle; an electric personal assistive mobility device; a moped; a motor-driven cycle; a motorized foot scooter; or a motorcycle.

Negligent Driving in the second degree with a Vulnerable User Victim is a traffic infraction that carries a penalty of \$5,000, which cannot be reduced below \$1,000, and a 90-day driver's license suspension. However, in lieu of these penalties, a person who requests and personally appears for a hearing may pay a penalty of \$250, attend traffic school for a number of days determined by the court; perform community service related to driver improvement and providing public education on traffic safety for a number of hours determined by the court, not to exceed 100 hours; and submit certification to the court that these requirements have been met within one year of the hearing.

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

A new gross misdemeanor offense of Negligent Driving with a Vulnerable User Victim in the first degree is created. A person commits the offense when he or she operates a vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and proximately causes the death of a vulnerable user of a public way. The offense is punishable by up to 364 days of imprisonment, a \$5,000 fine, which may not be reduced below \$1,000, and suspension of driving privileges for 90 days.

**Substitute Bill Compared to Original Bill:**

The effective date of the bill is delayed to January 1, 2023. A technical change is made to add the new crime of Negligent Driving with a Vulnerable User Victim in the first degree to the exclusive list of crimes in the motor vehicle provisions of the RCW.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2023.

**Staff Summary of Public Testimony:**

(In support) This bill stems from an incident in which a woman was hit and killed by a negligent driver in her driveway. The driver was speeding, never swerved, never braked, and went 173 feet off the road. In this case, justice was not met. The driver took the option available in current law in which a negligent driver can opt to appear in court and pay a reduced penalty of \$250, complete up to 100 hours of community service, and take driving classes. As a comparison, the Attorney General is filing 36 gross misdemeanors related to a hydroplant that released rubber particulates into the Puyallup River. Killing fish has a higher penalty than killing a person with a car. A person can get into a car, swat at a bug, and be fined \$250 whether they hit a mailbox or a human. Judges need the discretion to not treat these cases as the same.

(Opposed) None.

**Persons Testifying:** Representative Paul Harris, prime sponsor; and Perry Casper.

**Persons Signed In To Testify But Not Testifying:** None.