

HOUSE BILL REPORT

HB 1112

As Passed Legislature

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, Santos, Ramel, Fitzgibbon, Kloba and Donaghy.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/16/23, 1/26/23 [DP];

Transportation: 2/13/23, 2/23/23 [DP].

Floor Activity:

Passed House: 3/8/23, 86-11.

Senate Amended.

Passed Senate: 4/12/23, 49-0.

House Concurred.

Passed House: 4/14/23, 96-0.

Passed Legislature.

Brief Summary of Bill

- Establishes the new gross misdemeanor offense of Negligent Driving with a Vulnerable User Victim in the first degree, which a person commits if the person operates a vehicle in a manner that is 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.
- Requires the Washington Traffic Safety Commission to produce and disseminate informational and educational materials explaining the penalties for Negligent Driving with a Vulnerable User Victim in the first degree.

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.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass. Signed by 8 members: Representatives Goodman, Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Corey Patton (786-7388).

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 22 members: Representatives Fey, Chair; Donaghy, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Bronoske, Chapman, Dent, Doglio, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Orcutt, Ramel, Ramos, Schmidt, Volz and Wylie.

Minority Report: Without recommendation. Signed by 6 members: Representatives Timmons, Vice Chair; Berry, Cortes, Mena, Taylor and Walsh.

Staff: Michael Hirsch (786-7195).

Background:

Under state law, a person who causes or risks harm while operating a motor vehicle may be charged with a number of different offenses or infractions, depending on the specific circumstances. For example, a person commits Negligent Driving in the first degree, a misdemeanor, if the 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, inhaled, or ingested certain substances. A person commits Negligent Driving in the second degree, a traffic infraction punishable by a \$250 penalty, if the person operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property under circumstances not constituting Negligent Driving in the first degree.

A person commits Negligent Driving in the second degree with a Vulnerable User Victim, a traffic infraction punishable by a \$5,000 penalty and a 90-day driver's license suspension, if the person operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way, which includes: a pedestrian; a person riding an animal; or a person operating or riding a number of specified items on a public way. However, in lieu of the standard penalties, a person who requests and personally appears for a hearing may instead: (1) pay a \$250 penalty; (2) attend traffic school for a number of days determined by the court; (3) 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 (4) submit certification to the court that these requirements have been met within one year of the hearing.

"Negligence" means 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.

Summary of Bill:

The new offense of Negligent Driving with a Vulnerable User Victim in the first degree is established as a gross misdemeanor. A person commits the offense if the person 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. The Washington Traffic Safety Commission must, subject to appropriation, produce and disseminate informational and educational materials explaining the penalties for Negligent Driving with a Vulnerable User Victim in the first degree.

The traffic infraction of Negligent Driving in the second degree with a Vulnerable User Victim is renamed to Negligent Driving with a Vulnerable User Victim in the second degree, and the scope of the infraction is modified. A person commits the infraction if the person operates a vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and proximately causes great bodily harm or substantial bodily harm of a vulnerable user of a public way.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 20, 2023.

Effective Date: The bill takes effect on January 1, 2025.

Staff Summary of Public Testimony (Community Safety, Justice, & Reentry):

(In support) As the architect of the criminal justice system, the Legislature's choices either facilitate or hinder the service of justice. There are a number of examples of people who have exhibited unreasonable behavior while driving and caused another person's death, but prosecutors did not always file charges for Vehicular Homicide in those cases. Current law allows a person to avoid harsher penalties by admitting guilt, but that ignores the reality that a life was lost. A victim's family is allowed to sue, but bankruptcy law enables people to avoid judgments. Judges should be able to reconsider the facts of these kinds of cases and impose penalties closer to comparable crimes. Innumerable lives are irrevocably changed by these incidents. Justice deserves architecture that allows justice to stand up.

(Opposed) None.

Staff Summary of Public Testimony (Transportation):

(In support) Changes to road design and road hazards cannot solve pedestrian and bicycling fatalities. Driver behavior causes deaths on roads. A person pleading guilty to negligent driving does not have to describe the circumstances.

Killing someone while driving negligently is a traffic infraction and the penalties are not serious enough. There is no difference in law whether ordinary negligent driving results in the death of a person or not. The prosecutor has to determine whether a person's driving had greater disregard for the safety of others than ordinary negligent driving. There is no in-between charge between a traffic infraction and a felony. This bill allows a court to see all of the consequences a crash can have.

(Opposed) None.

Persons Testifying (Community Safety, Justice, & Reentry): Representative Paul Harris, prime sponsor; Representative Sharon Santos; and Perry Casper.

Persons Testifying (Transportation): Representative Paul Harris, prime sponsor; Perry Casper; Larry Walker, A Brotherhood Against Totalitarian Enactment of Washington; and Amy Freedheim, King County Prosecutors.

Persons Signed In To Testify But Not Testifying (Community Safety, Justice, & Reentry): None.

Persons Signed In To Testify But Not Testifying (Transportation): None.