

SENATE BILL REPORT

HB 1112

As of March 27, 2023

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

Committee Activity: Law & Justice: 3/27/23.

Brief Summary of Bill

- Establishes the new gross misdemeanor crime of negligent driving with a vulnerable user victim in the first degree.
- Modifies the scope and name of the traffic infraction negligent driving in the second degree with a vulnerable user victim.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: A person commits the misdemeanor crime of negligent driving in the first degree 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. Negligent driving in the first degree is punishable by up to 90 days in jail, a \$1,000 fine, or both.

A person commits the civil infraction of negligent driving in the second degree if the person operates a motor vehicle in a manner that is both negligent and endangers or is likely to

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endanger any person or property under circumstances not constituting negligent driving in the first degree. Negligent driving in the second degree is punishable by a \$250 fine.

A person commits negligent driving in the second degree with a vulnerable user victim, a civil infraction punishable by a \$5,000 fine and a 90-day 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. Vulnerable users include pedestrians; individuals riding animals; and individuals operating or riding certain equipment that is not enclosed in a shell such as bicycles, tractors, and motorcycles.

In lieu of the standard penalties for negligent driving in the second degree with a vulnerable user victim, a person who requests and personally appears for a hearing may instead:

- pay a \$250 penalty;
- attend traffic school for a period of time determined by the court;
- perform community service hours, to be determined by the court not to exceed 100 hours, related to driver improvement and providing public education on traffic safety; and
- submit certification to the court that the requirements have been met within one year of the hearing.

As it relates to the crimes and infractions above, 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 gross misdemeanor crime of negligent driving with a vulnerable user victim in the first degree is created. A person commits this crime 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.

Negligent driving with a vulnerable user victim is punishable by up to 365 days in jail, a \$5,000 fine which may not be reduced below \$1,000, or both. A person convicted of this crime will also lose their driving privileges for 90 days.

The traffic infraction of negligent driving in the second degree with a vulnerable user victim is renamed 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.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2024.

Staff Summary of Public Testimony: PRO: This bill creates a different classification for negligent driving with a vulnerable user victim if a death occurs. This is a balancing of the scales between justice and mercy. When we allow negligent drivers to remain on the roads, we risk losing lives. This bill fills a gap in current law by holding those who kill through their negligent driving accountable for their actions. Currently, this behavior can be resolved through an infraction. We are in a crisis of car-pedestrian accidents. The current laws allow those who kill due to their negligent driving to get away with nothing more than an infraction. Surviving families can sue, but often that ends in the perpetrator filing for bankruptcy. The current punishment for running over a dead body is a gross misdemeanor, but for negligently killing a person it can be as low as paying a \$250 fine.

CON: This bill will cause drivers in traffic accidents to be criminalized for ordinary negligence. Though such a death is tragic, a driver should not be criminalized for ordinary negligence. Generally criminal law requires more than ordinary negligence such as criminal negligence, aggravated negligence, or being exhibiting the effects of alcohol or drugs. This law would be unique by criminalizing the failure to exercise caution.

Persons Testifying: PRO: Representative Paul Harris, Prime Sponsor; Amy Freedheim, Senior Deputy Prosecutor King County - Felony Traffic; Perry Casper; Representative Sharon Tomiko Santos.

CON: Teri Kemp, WA Defender Assn/WA Assn of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: No one.