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HOUSE BILL 2273

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Smith, Kretz, Nelson, Pearson, Chandler, and Bailey

Read first time 02/20/09. Referred to Committee on Transportation.

1            AN ACT Relating to requiring certain persons convicted of negligent  
2 driving to retake and successfully pass the driver licensing  
3 examination in order to keep a driver's license; and amending RCW  
4 46.61.5249 and 46.61.525.

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

6            **Sec. 1.** RCW 46.61.5249 and 1997 c 66 s 4 are each amended to read  
7 as follows:

8            (1)(a) A person is guilty of negligent driving in the first degree  
9 if he or she operates a motor vehicle in a manner that is both  
10 negligent and endangers or is likely to endanger any person or  
11 property, and exhibits the effects of having consumed liquor or an  
12 illegal drug.

13            (b) It is an affirmative defense to negligent driving in the first  
14 degree by means of exhibiting the effects of having consumed an illegal  
15 drug that must be proved by the defendant by a preponderance of the  
16 evidence, that the driver has a valid prescription for the drug  
17 consumed, and has been consuming it according to the prescription  
18 directions and warnings.

19            (c) Negligent driving in the first degree is a misdemeanor.

1        (d) Upon the second violation of this section, a person must retake  
2 and successfully pass the driver licensing examination in order to keep  
3 his or her driver's license.

4        (2) For the purposes of this section:

5        (a) "Negligent" means the failure to exercise ordinary care, and is  
6 the doing of some act that a reasonably careful person would not do  
7 under the same or similar circumstances or the failure to do something  
8 that a reasonably careful person would do under the same or similar  
9 circumstances.

10       (b) "Exhibiting the effects of having consumed liquor" means that  
11 a person has the odor of liquor on his or her breath, or that by  
12 speech, manner, appearance, behavior, lack of coordination, or  
13 otherwise exhibits that he or she has consumed liquor, and either:

14       (i) Is in possession of or in close proximity to a container that  
15 has or recently had liquor in it; or

16       (ii) Is shown by other evidence to have recently consumed liquor.

17       (c) "Exhibiting the effects of having consumed an illegal drug"  
18 means that a person by speech, manner, appearance, behavior, lack of  
19 coordination, or otherwise exhibits that he or she has consumed an  
20 illegal drug and either:

21       (i) Is in possession of an illegal drug; or

22       (ii) Is shown by other evidence to have recently consumed an  
23 illegal drug.

24       (d) "Illegal drug" means a controlled substance under chapter 69.50  
25 RCW for which the driver does not have a valid prescription or that is  
26 not being consumed in accordance with the prescription directions and  
27 warnings, or a legend drug under chapter 69.41 RCW for which the driver  
28 does not have a valid prescription or that is not being consumed in  
29 accordance with the prescription directions and warnings.

30       (3) Any act prohibited by this section that also constitutes a  
31 crime under any other law of this state may be the basis of prosecution  
32 under such other law notwithstanding that it may also be the basis for  
33 prosecution under this section.

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

36       (1)(a) A person is guilty of negligent driving in the second degree  
37 if, under circumstances not constituting negligent driving in the first

1 degree, he or she operates a motor vehicle in a manner that is both  
2 negligent and endangers or is likely to endanger any person or  
3 property.

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

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

11 (d) Upon the third violation of this section, a person must retake  
12 and successfully pass the driver licensing examination in order to keep  
13 his or her driver's license.

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

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