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SENATE BILL 5326

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Kline, Zarelli, Kohl-Welles, Nelson, Rockefeller, and White

Read first time 01/20/11. Referred to Committee on Judiciary.

1            AN ACT Relating to negligent driving resulting in substantial  
2            bodily harm, great bodily harm, or death of a vulnerable user of a  
3            public way; reenacting and amending RCW 46.20.342; adding a new section  
4            to chapter 46.61 RCW; creating a new section; prescribing penalties;  
5            and providing an effective date.

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

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 46.61 RCW  
8            to read as follows:

9            (1) A person commits negligent driving in the second degree with a  
10            vulnerable user victim if, under circumstances constituting negligent  
11            driving in the second degree, as defined in RCW 46.61.525, he or she  
12            proximately causes the death, great bodily harm, or substantial bodily  
13            harm of a vulnerable user of a public way.

14            (2) The law enforcement officer or prosecuting authority issuing  
15            the notice of infraction for an offense under this section shall state  
16            on the notice of infraction that the offense was a proximate cause of  
17            death, great bodily harm, or substantial bodily harm, as defined in RCW  
18            9A.04.110, of a vulnerable user of a public way.

1 (3) A person found to have committed negligent driving in the  
2 second degree with a vulnerable user victim shall be required to:

3 (a) Pay a monetary penalty of five thousand dollars, which may not  
4 be reduced to an amount less than one thousand dollars; and

5 (b) Have his or her driving privileges suspended for ninety days.

6 (4) In lieu of the penalties imposed under subsection (3) of this  
7 section, a person found to have committed negligent driving in the  
8 second degree with a vulnerable user victim who requests and personally  
9 appears for a hearing pursuant to RCW 46.63.070 (1) or (2) may elect  
10 to:

11 (a) Pay a penalty of two hundred fifty dollars; and

12 (b) Complete a traffic safety course approved by the court; and

13 (c) Perform up to one hundred hours of community service, which  
14 must be approved by the court and must include activities related to  
15 driver improvement and providing public education on traffic safety;  
16 and

17 (d) Submit certification to the court establishing that the  
18 requirements of this subsection have been met within one year of the  
19 hearing.

20 (5) If a person found to have committed a violation of this section  
21 elects the penalties imposed under subsection (4) of this section but  
22 does not complete all requirements of subsection (4) of this section  
23 within one year of the hearing:

24 (a) The court shall impose a monetary penalty in the amount of five  
25 thousand dollars, which may not be reduced to an amount less than one  
26 thousand dollars; and

27 (b) The person's driving privileges shall be suspended for ninety  
28 days.

29 For good cause shown, the court may extend the period of time in  
30 which the person must complete the requirements of subsection (4) of  
31 this section before imposing the monetary penalty and driving privilege  
32 suspension provided for in this subsection.

33 (6) An offense under this section is a traffic infraction. To the  
34 extent not inconsistent with this section, the provisions of chapter  
35 46.63 RCW shall apply to infractions under this section. Procedures  
36 for the conduct of all hearings provided for in this section may be  
37 established by rule of the supreme court.

1 (7) If a person's driving privileges are suspended pursuant to  
2 subsection (3)(b) or (5)(b) of this section, the court shall send  
3 notice of such suspension to the department.

4 (8) For the purposes of this section, "vulnerable user of a public  
5 way" means: (a) A pedestrian; (b) a person riding an animal; or (c) a  
6 person operating any of the following on a public way:

7 (i) A farm tractor or implement of husbandry without an enclosed  
8 shell;

9 (ii) A skateboard;

10 (iii) Roller skates or in-line skates;

11 (iv) A scooter;

12 (v) A bicycle or tricycle;

13 (vi) An electric assist bicycle;

14 (vii) An electric personal assistive mobility device; or

15 (viii) A wheelchair conveyance or other personal mobility device.

16 (9) Any act prohibited by this section that also constitutes a  
17 crime under any other law of this state may be the basis of prosecution  
18 under such other law notwithstanding that it may also be the basis for  
19 prosecution under this section.

20 **Sec. 2.** RCW 46.20.342 and 2010 c 269 s 7 and 2010 c 252 s 4 are  
21 each reenacted and amended to read as follows:

22 (1) It is unlawful for any person to drive a motor vehicle in this  
23 state while that person is in a suspended or revoked status or when his  
24 or her privilege to drive is suspended or revoked in this or any other  
25 state. Any person who has a valid Washington driver's license is not  
26 guilty of a violation of this section.

27 (a) A person found to be (~~an~~) a habitual offender under chapter  
28 46.65 RCW, who violates this section while an order of revocation  
29 issued under chapter 46.65 RCW prohibiting such operation is in effect,  
30 is guilty of driving while license suspended or revoked in the first  
31 degree, a gross misdemeanor. Upon the first such conviction, the  
32 person shall be punished by imprisonment for not less than ten days.  
33 Upon the second conviction, the person shall be punished by  
34 imprisonment for not less than ninety days. Upon the third or  
35 subsequent conviction, the person shall be punished by imprisonment for  
36 not less than one hundred eighty days. If the person is also convicted  
37 of the offense defined in RCW 46.61.502 or 46.61.504, when both

1 convictions arise from the same event, the minimum sentence of  
2 confinement shall be not less than ninety days. The minimum sentence  
3 of confinement required shall not be suspended or deferred. A  
4 conviction under this subsection does not prevent a person from  
5 petitioning for reinstatement as provided by RCW 46.65.080.

6 (b) A person who violates this section while an order of suspension  
7 or revocation prohibiting such operation is in effect and while the  
8 person is not eligible to reinstate his or her driver's license or  
9 driving privilege, other than for a suspension for the reasons  
10 described in (c) of this subsection, is guilty of driving while license  
11 suspended or revoked in the second degree, a gross misdemeanor. For  
12 the purposes of this subsection, a person is not considered to be  
13 eligible to reinstate his or her driver's license or driving privilege  
14 if the person is eligible to obtain an ignition interlock driver's  
15 license but did not obtain such a license. This subsection applies  
16 when a person's driver's license or driving privilege has been  
17 suspended or revoked by reason of:

18 (i) A conviction of a felony in the commission of which a motor  
19 vehicle was used;

20 (ii) A previous conviction under this section;

21 (iii) A notice received by the department from a court or diversion  
22 unit as provided by RCW 46.20.265, relating to a minor who has  
23 committed, or who has entered a diversion unit concerning an offense  
24 relating to alcohol, legend drugs, controlled substances, or imitation  
25 controlled substances;

26 (iv) A conviction of RCW 46.20.410, relating to the violation of  
27 restrictions of an occupational driver's license, a temporary  
28 restricted driver's license, or an ignition interlock driver's license;

29 (v) A conviction of RCW 46.20.345, relating to the operation of a  
30 motor vehicle with a suspended or revoked license;

31 (vi) A conviction of RCW 46.52.020, relating to duty in case of  
32 injury to or death of a person or damage to an attended vehicle;

33 (vii) A conviction of RCW 46.61.024, relating to attempting to  
34 elude pursuing police vehicles;

35 (viii) A conviction of RCW 46.61.212(4), relating to reckless  
36 endangerment of emergency zone workers;

37 (ix) A conviction of RCW 46.61.500, relating to reckless driving;

1 (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a  
2 person under the influence of intoxicating liquor or drugs;

3 (xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

4 (xii) A conviction of RCW 46.61.522, relating to vehicular assault;

5 (xiii) A conviction of RCW 46.61.527(4), relating to reckless  
6 endangerment of roadway workers;

7 (xiv) A conviction of RCW 46.61.530, relating to racing of vehicles  
8 on highways;

9 (xv) A conviction of RCW 46.61.685, relating to leaving children in  
10 an unattended vehicle with motor running;

11 (xvi) A conviction of RCW 46.61.740, relating to theft of motor  
12 vehicle fuel;

13 (xvii) A conviction of RCW 46.64.048, relating to attempting,  
14 aiding, abetting, coercing, and committing crimes;

15 (xviii) An administrative action taken by the department under  
16 chapter 46.20 RCW; (~~or~~)

17 (xix) A conviction of a local law, ordinance, regulation, or  
18 resolution of a political subdivision of this state, the federal  
19 government, or any other state, of an offense substantially similar to  
20 a violation included in this subsection; or

21 (xx) A finding that a person has committed a traffic infraction  
22 under section 1 of this act and suspension of driving privileges  
23 pursuant to section 1 (3)(b) or (5)(b) of this act.

24 (c) A person who violates this section when his or her driver's  
25 license or driving privilege is, at the time of the violation,  
26 suspended or revoked solely because (i) the person must furnish proof  
27 of satisfactory progress in a required alcoholism or drug treatment  
28 program, (ii) the person must furnish proof of financial responsibility  
29 for the future as provided by chapter 46.29 RCW, (iii) the person has  
30 failed to comply with the provisions of chapter 46.29 RCW relating to  
31 uninsured accidents, (iv) the person has failed to respond to a notice  
32 of traffic infraction, failed to appear at a requested hearing,  
33 violated a written promise to appear in court, or has failed to comply  
34 with the terms of a notice of traffic infraction or citation, as  
35 provided in RCW 46.20.289, (v) the person has committed an offense in  
36 another state that, if committed in this state, would not be grounds  
37 for the suspension or revocation of the person's driver's license, (vi)  
38 the person has been suspended or revoked by reason of one or more of

1 the items listed in (b) of this subsection, but was eligible to  
2 reinstate his or her driver's license or driving privilege at the time  
3 of the violation, or (vii) the person has received traffic citations or  
4 notices of traffic infraction that have resulted in a suspension under  
5 RCW 46.20.267 relating to intermediate drivers' licenses, or any  
6 combination of (c)(i) through (vii) of this subsection, is guilty of  
7 driving while license suspended or revoked in the third degree, a  
8 misdemeanor. For the purposes of this subsection, a person is not  
9 considered to be eligible to reinstate his or her driver's license or  
10 driving privilege if the person is eligible to obtain an ignition  
11 interlock driver's license but did not obtain such a license.

12 (2) Upon receiving a record of conviction of any person or upon  
13 receiving an order by any juvenile court or any duly authorized court  
14 officer of the conviction of any juvenile under this section, the  
15 department shall:

16 (a) For a conviction of driving while suspended or revoked in the  
17 first degree, as provided by subsection (1)(a) of this section, extend  
18 the period of administrative revocation imposed under chapter 46.65 RCW  
19 for an additional period of one year from and after the date the person  
20 would otherwise have been entitled to apply for a new license or have  
21 his or her driving privilege restored; or

22 (b) For a conviction of driving while suspended or revoked in the  
23 second degree, as provided by subsection (1)(b) of this section, not  
24 issue a new license or restore the driving privilege for an additional  
25 period of one year from and after the date the person would otherwise  
26 have been entitled to apply for a new license or have his or her  
27 driving privilege restored; or

28 (c) Not extend the period of suspension or revocation if the  
29 conviction was under subsection (1)(c) of this section. If the  
30 conviction was under subsection (1)(a) or (b) of this section and the  
31 court recommends against the extension and the convicted person has  
32 obtained a valid driver's license, the period of suspension or  
33 revocation shall not be extended.

34 NEW SECTION. **Sec. 3.** This act applies to infractions committed on  
35 or after the effective date of this section.

1        NEW SECTION.   **Sec. 4.**   This act takes effect July 1, 2012.

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