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HOUSE BILL 2028

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Kochmar, Orwall, Hayes, and Hargrove

Read first time 04/11/13. Referred to Committee on Public Safety.

1            AN ACT Relating to marijuana in negligent driving provisions;  
2 amending RCW 46.61.5249; and prescribing penalties.

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

4            **Sec. 1.** RCW 46.61.5249 and 2012 c 183 s 13 are each amended to  
5 read as follows:

6            (1)(a) A person is guilty of negligent driving in the first degree  
7 if he or she operates a motor vehicle in a manner that is both  
8 negligent and endangers or is likely to endanger any person or  
9 property, and exhibits the effects of having consumed liquor,  
10 marijuana, or an illegal drug or exhibits the effects of having inhaled  
11 or ingested any chemical, whether or not a legal substance, for its  
12 intoxicating or hallucinatory effects.

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 (2) For the purposes of this section:

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

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

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

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

14 (c) "Exhibiting the effects of having consumed marijuana" means  
15 that a person has the odor of marijuana on his or her person, or by  
16 speech, manner, appearance, behavior, lack of coordination, or  
17 otherwise exhibits that he or she has consumed marijuana and either:

18 (i) Is in possession of or in close proximity to a container that  
19 has or recently had marijuana in it; or

20 (ii) Is shown by other evidence to have recently consumed  
21 marijuana.

22 (d) "Exhibiting the effects of having consumed an illegal drug"  
23 means that a person by speech, manner, appearance, behavior, lack of  
24 coordination, or otherwise exhibits that he or she has consumed an  
25 illegal drug and either:

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

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

29 (~~(d)~~) (e) "Exhibiting the effects of having inhaled or ingested  
30 any chemical, whether or not a legal substance, for its intoxicating or  
31 hallucinatory effects" means that a person by speech, manner,  
32 appearance, behavior, or lack of coordination or otherwise exhibits  
33 that he or she has inhaled or ingested a chemical and either:

34 (i) Is in possession of the canister or container from which the  
35 chemical came; or

36 (ii) Is shown by other evidence to have recently inhaled or  
37 ingested a chemical for its intoxicating or hallucinatory effects.

1       (~~(e)~~) (f) "Illegal drug" means a controlled substance under  
2 chapter 69.50 RCW for which the driver does not have a valid  
3 prescription or that is not being consumed in accordance with the  
4 prescription directions and warnings, or a legend drug under chapter  
5 69.41 RCW for which the driver does not have a valid prescription or  
6 that is not being consumed in accordance with the prescription  
7 directions and warnings.

8       (3) Any act prohibited by this section that also constitutes a  
9 crime under any other law of this state may be the basis of prosecution  
10 under such other law notwithstanding that it may also be the basis for  
11 prosecution under this section.

12       (4) A person convicted of negligent driving in the first degree who  
13 has one or more prior offenses as defined in RCW 46.61.5055(14) within  
14 seven years shall be required, under RCW 46.20.720, to install an  
15 ignition interlock device on all vehicles operated by the person.

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