

RCW 46.61.526 Negligent driving—Second degree—Vulnerable user victim—Penalties—Definitions. (Effective until January 1, 2025.) (1)

A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances not constituting negligent driving in the first degree, he or she operates a vehicle, as defined in RCW 46.04.670, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

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

(3) Persons under the age of sixteen who commit an infraction under this section are subject to the provisions of RCW 13.40.250.

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

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

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

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

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

(b) Attend traffic school for a number of days to be determined by the court pursuant to chapter 46.83 RCW;

(c) Perform community service for a number of hours to be determined by the court, which may not exceed one hundred hours, and which must include activities related to driver improvement and providing public education on traffic safety; and

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

(6) If a person found to have committed a violation of this section elects the penalties imposed under subsection (5) of this section, the court may impose the penalties under subsection (5) of this section and the court may assess costs as the court deems appropriate for administrative processing.

(7) Except as provided in (b) of this subsection, if a person found to have committed a violation of this section elects the penalties under subsection (5) of this section but does not complete all requirements of subsection (5) of this section within one year of the hearing:

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

(ii) The person's driving privileges shall be suspended for ninety days.

(b) For good cause shown, the court may extend the period of time in which the person must complete the requirements of subsection (5) of this section before any of the penalties provided in this subsection are imposed.

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

(9) If a person is penalized under subsection (4) of this section, then the court shall notify the department, and the department shall suspend the person's driving privileges. If a person fails to meet the requirements of subsection (5) of this section, the court shall notify the department that the person has failed to meet the requirements of subsection (5) of this section and the department shall suspend the person's driving privileges. Notice provided by the court under this subsection must be in a form specified by the department.

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

(11) For the purposes of this section:

(a) "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

(b) "Negligent" has the same meaning as provided in RCW 46.61.525(2).

(c) "Vulnerable user of a public way" means:

(i) A pedestrian;

(ii) A person riding an animal; or

(iii) A person operating or riding any of the following on a public way:

(A) A farm tractor or implement of husbandry, without an enclosed shell;

(B) A bicycle;

(C) An electric-assisted bicycle;

(D) An electric personal assistive mobility device;

(E) A moped;

(F) A motor-driven cycle;

(G) A motorized foot scooter; or

(H) A motorcycle. [2020 c 146 § 1; 2011 c 372 § 1.]

Application—2011 c 372: "This act applies to infractions committed on or after July 1, 2012." [2011 c 372 § 4.]

Effective date—2011 c 372: "This act takes effect July 1, 2012." [2011 c 372 § 5.]

RCW 46.61.526 Negligent driving—With a vulnerable user victim—Second degree—Penalties—Definitions. (Effective January 1, 2025.)

(1) A person commits negligent driving with a vulnerable user victim in the second degree if, under circumstances not constituting negligent driving with a vulnerable user victim in the first degree under RCW 46.61.5259 or negligent driving in the first degree under RCW 46.61.5249, he or she operates a vehicle, as defined in RCW 46.04.670, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes great bodily harm or substantial bodily harm of a vulnerable user of a public way.

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

(3) Persons under the age of 16 who commit an infraction under this section are subject to the provisions of RCW 13.40.250.

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

(a) Pay a monetary penalty of \$5,000, which may not be reduced to an amount less than \$1,000; and

(b) Have his or her driving privileges suspended for 90 days.

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

(a) Pay a penalty of \$250;

(b) Attend traffic school for a number of days to be determined by the court pursuant to chapter 46.83 RCW;

(c) Perform community service for a number of hours to be determined by the court, which may not exceed 100 hours, and which must include activities related to driver improvement and providing public education on traffic safety; and

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

(6) If a person found to have committed a violation of this section elects the penalties imposed under subsection (5) of this section, the court may impose the penalties under subsection (5) of this section and the court may assess costs as the court deems appropriate for administrative processing.

(7) Except as provided in (b) of this subsection, if a person found to have committed a violation of this section elects the penalties under subsection (5) of this section but does not complete all requirements of subsection (5) of this section within one year of the hearing:

(a) (i) The court shall impose a monetary penalty in the amount of \$5,000, which may not be reduced to an amount less than \$1,000; and

(ii) The person's driving privileges shall be suspended for 90 days.

(b) For good cause shown, the court may extend the period of time in which the person must complete the requirements of subsection (5) of this section before any of the penalties provided in this subsection are imposed.

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

(9) If a person is penalized under subsection (4) of this section, then the court shall notify the department, and the department shall suspend the person's driving privileges. If a person fails to meet the requirements of subsection (5) of this section, the court shall notify the department that the person has failed to meet the requirements of subsection (5) of this section and the department shall suspend the person's driving privileges. Notice provided by the

court under this subsection must be in a form specified by the department.

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

(11) For the purposes of this section:

(a) "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

(b) "Negligent" has the same meaning as provided in RCW 46.61.525(2).

(c) "Vulnerable user of a public way" has the same meaning as provided in RCW 46.61.5259. [2023 c 471 § 2; 2020 c 146 § 1; 2011 c 372 § 1.]

Effective date—2023 c 471: See note following RCW 46.61.5259.

Application—2011 c 372: "This act applies to infractions committed on or after July 1, 2012." [2011 c 372 § 4.]

Effective date—2011 c 372: "This act takes effect July 1, 2012." [2011 c 372 § 5.]