

HOUSE BILL REPORT

ESHB 1966

As Passed House:
March 12, 2019

Title: An act relating to increasing safety on roadways for pedestrians, bicyclists, and other roadway users.

Brief Description: Increasing safety on roadways for pedestrians, bicyclists, and other roadway users.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Kilduff, Goodman, Lovick, Kloba, Fitzgibbon and Ortiz-Self).

Brief History:

Committee Activity:

Transportation: 2/25/19, 2/27/19 [DPS].

Floor Activity:

Passed House: 3/12/19, 61-36.

Brief Summary of Engrossed Substitute Bill

- Establishes an additional fine equal to the base penalty (\$48) for following too closely and failure to stop or yield traffic infractions when a vulnerable roadway user, as defined in state law, is followed too closely or not given the right-of-way.
- Expands rules for motor vehicles for overtaking and passing an individual who is traveling as a pedestrian or on a bicycle, riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell, and establishes an additional fine (\$48) for unlawfully passing these vulnerable roadway users, as well as individuals driving a motorcycle, motor-driven cycle, and moped.
- Refines rules related to pedestrians and bicyclists use of roadways for travel.
- Directs revenue from the increased fine to a newly created Vulnerable Roadway User Account to be used to increase law enforcement officers', prosecutors', judges', and the public's knowledge of vulnerable roadway user infractions and offenses.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Fey, Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Wylie, 1st Vice Chair; Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Boehnke, Chambers, Chapman, Doglio, Entenman, Eslick, Goehner, Gregerson, Irwin, Kloba, Lovick, Mead, Orcutt, Ortiz-Self, Paul, Pellicciotti, Ramos, Riccelli, Shewmake and Van Werven.

Minority Report: Do not pass. Signed by 5 members: Representatives Young, Assistant Ranking Minority Member; Dent, Dufault, McCaslin and Shea.

Staff: Jennifer Harris (786-7143).

Background:

Overtaking and Passing of Vehicles Traffic Offense.

The driver of a vehicle overtaking other traffic proceeding in the same direction must pass to the left of it at a safe distance and must drive to the right side of the roadway until safely clear of the vehicle being passed. The driver of a vehicle approaching a pedestrian or bicycle that is on the roadway or the right-hand shoulder or bicycle lane of the roadway must pass to the left at a safe distance to clearly avoid coming into contact with the pedestrian or bicyclist, and may not drive to the right side of the roadway until safely clear of him or her.

Except when overtaking and passing on the right is permitted, overtaken traffic must move to the right for an overtaking vehicle on audible signal from that vehicle and may not increase its speed until the overtaking vehicle has completely passed it.

Failure to pass in the manner specified above is a traffic infraction. The current total in penalty and fees assessed for this traffic infractions is \$136, with the base penalty of \$48 set by the Washington State Supreme Court by rule.

Following Too Closely or Failure to Stop or Yield Traffic Offenses.

The following traffic infractions relate to driving too close to another vehicle and right-of-way violations that may, but are not required to, involve vulnerable roadway users, as that term is defined below:

- Following Too Closely: A driver of a vehicle is not permitted to follow another vehicle more closely than is reasonable and prudent based on the speed of the vehicles and the traffic and condition of the highway.
- Failure to Yield Right-of-Way at an Intersection: When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left must yield the right-of-way to the vehicle on the right.
- Failure to Yield Right-of-Way, Left Turn: A driver of a vehicle intending to turn left within an intersection or into an alley, private road, or driveway must yield the right-of-way to any vehicle approaching from the opposite direction that is within the intersection or so close that it presents an immediate hazard.

- Failure to Stop and Yield at an Intersection: A driver approaching a stop sign must stop at a clearly marked stop sign, or before entering a cross walk if there is no stop sign marking, or at the nearest point to the intersecting roadway with a view of approaching traffic, and must then yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to present an immediate hazard.
- Failure to Yield Right-of-Way from a Driveway or Private Road: A driver of a vehicle about to enter or cross a highway from a private road or driveway must yield the right-of-way to all vehicles lawfully approaching the highway.

The current total in penalties and fees assessed for each of these traffic infractions is \$136, with the base penalty of \$48 set by the Washington State Supreme Court by rule.

Pedestrians on Roadways.

Pedestrian means any person who is traveling on foot or using a wheelchair, a power wheelchair, or a means of conveyance propelled by human power other than a bicycle.

Where sidewalks are provided, it is unlawful for any pedestrian to walk or otherwise move along and upon an adjacent roadway. Where sidewalks are not provided, any pedestrian walking or otherwise moving along a highway must, when practical, walk or move only on the left side of the roadway or its shoulder facing traffic, and upon meeting an oncoming vehicle, must move clear of the roadway.

Bicyclists on Roadways.

Bicycle means every device propelled solely by human power, or an electric-assisted bicycle, upon which a person or persons may ride, having two tandem wheels either of which is 16 inches or greater in diameter, or three wheels, any one of which is more than 20 inches in diameter.

Every person riding a bicycle at a rate of speed less than the normal flow of traffic must ride as near to the right through lane as is safe, except as may be appropriate when preparing to make or while making turning movements, or while overtaking and passing another bicycle or vehicle proceeding in the same direction. A person riding a bicycle on a one-way roadway, other than a limited-access highway, which has two or more marked traffic lanes, may ride as near to the left side of the left through lane as is safe.

A person operating a bicycle on a roadway may use the shoulder of the roadway or a designated bicycle lane, where it is present.

Crosswalks.

Crosswalk means the portion of the roadway between an intersection area and the farthest sidewalk line. If there are no sidewalks, then a crosswalk is the portion of roadway between an intersection area and a line 10 feet from it, unless modified by a marked crosswalk.

The driver of an approaching vehicle must stop and remain stopped to allow pedestrians and bicyclists to cross the roadway with an unmarked or marked crosswalk when the pedestrian or bicyclist is in a lane used for the same direction of travel upon which the vehicle is traveling or onto which it is turning. No pedestrian or bicyclist may suddenly leave a curb or other place of safety and walk, run, or otherwise move into the path of a vehicle that is so close that it is impossible for the driver to stop.

Vulnerable Roadway User Traffic Offense.

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 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 roadway user.

A vulnerable roadway user is defined as a pedestrian; a person riding an animal; or a person operating any of the following on a public way: a farm tractor or implement of husbandry, without an enclosed shell; a bicycle; an electric-assisted bicycle; an electric personal assistive mobility device; a moped; a motor-driven cycle; a motorized foot scooter; or a motorcycle.

Washington Traffic Safety Commission.

The Washington Traffic Safety Commission (WTSC) oversees efforts to improve safety on Washington's public highways. The WTSC is the federally recognized highway safety office in Washington. It collects fatal and serious-injury crash data, engages in research, and oversees highway safety pilot projects.

Summary of Engrossed Substitute Bill:

Overtaking and Passing of Vehicles Traffic Offense.

The driver of a vehicle approaching an individual who is traveling as a pedestrian or on a bicycle, riding an animal, or using a farm tractor or implement of husbandry without an enclosed shell, and who is traveling in the right lane of a roadway or on the right-hand shoulder or bicycle lane of the roadway, before passing and until completely clear of the individual, must:

1. on a roadway with two lanes or more for traffic moving in the direction of travel: move completely into the lane to the left of the right lane when it is safe to do so;
2. on a roadway with only one lane for traffic moving in the direction of travel:
 - when there is sufficient room to the left of the individual in the lane for traffic moving in the direction of travel: (a) reduce speed to a safe speed for passing relative to the speed of the individual; and (b) pass at a safe distance, where practicable of at least 3 feet, to clearly avoid coming into contact with the individual or the individual's vehicle or animal; or
 - when there is insufficient room to the left of the individual in the lane for traffic moving in the direction of travel for traffic moving in the direction of travel to comply with the requirements immediately above, move completely into the lane

for traffic moving in the opposite direction when it is safe to do so and in compliance with other state law.

A driver of a motor vehicle must be assessed an additional fine that is equal to the base penalty for the infraction committed if the driver does not comply with requirements for passing one of the individuals noted above. The additional fine must also be paid for unlawfully passing motorcycles, motor-driven cycles, and mopeds. The total fine, based on a doubling of the current base penalty amount for these infractions, which adds \$48, is \$184. The fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments to which the base penalty for this violation is subject.

Following Too Closely or Failure to Stop or Yield Traffic Offenses.

A driver of a vehicle must be assessed an additional fine that is equal to the base penalty for the infraction committed if the driver:

- commits the infraction in law for following vehicles too closely, and does so when the vehicle being followed is a vulnerable user of a public way; or
- commits the infractions in law for failure to grant or yield the right-of-way, and does so when the vehicle not granted the right-of-way is a vulnerable user of a public way.

The total fine, based on a doubling of the current base penalty amounts for these infractions, which adds \$48, is \$184. The fine may not be waived, reduced, or suspended, unless the court finds the offender to be indigent, and is not subject to the additional fees and assessments to which the base penalty for this violation is subject.

Pedestrians on Roadways.

Where sidewalks are provided but are not accessible, pedestrians may walk or otherwise travel on an adjacent roadway. When sidewalks are not provided or are inaccessible, a pedestrian traveling on a highway must:

1. when shoulders are provided and are accessible: walk on the shoulder of the roadway as far as is practical from the edge of the roadway, facing traffic when a shoulder is available in that direction; or
2. when shoulders are not provided or are inaccessible: walk as near as is practical to the outside edge of the roadway facing traffic, and when practical, move clear of the roadway when an oncoming vehicle approaches.

A pedestrian traveling to the nearest emergency reporting device on a one-way roadway of a controlled access highway is not required to travel facing traffic as otherwise required.

Bicyclists on Roadways.

The definition of "bicycle" is expanded to include devices with three wheels, any one of which is 20 inches in diameter (rather than any one of which is greater than 20 inches in diameter), and which otherwise meet the criteria in the definition.

Every person riding a bicycle at a rate of speed less than the normal flow of traffic must ride as near to the right through lane as is safe except:

- while preparing to make or while making turning movements at an intersection or into a private road or driveway;
- when approaching an intersection where right turns are permitted and there is a dedicated right turn lane, in which case a bicyclist may continue to travel in the right turn lane, even if the bicyclist does not intend to turn right;
- while overtaking and passing another bicyclist or vehicle proceeding the same direction; and
- when reasonably necessary to avoid unsafe conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.

When a bicyclist is using the travel lane of a roadway with only one lane for traffic moving in the direction of travel and it is wide enough for a bicyclist and a vehicle to travel safely side-by-side, the bicyclist must operate far enough to the right to facilitate the movement of an overtaking vehicle, unless other conditions make it unsafe to do so or the bicyclist is preparing to make a turning movement or while making a turning movement.

Washington Traffic Safety Commission and Educational Programs.

A Vulnerable Roadway User Education Account (account) is created in the State Treasury. All revenue generated from the additional fine must be deposited into the account, and may only be used by the WTSC to:

1. support programs dedicated to increasing awareness by law enforcement officers, prosecutors, and judges of opportunities for the enforcement of traffic infractions and offenses committed against vulnerable roadway users; and
2. with any funds remaining, support programs dedicated to increasing awareness by the public of the risks and penalties associated with traffic infractions and offenses committed against vulnerable roadway users.

Interest earned from the account must be deposited in that account.

Legislative Intent Section.

The legislative intent section finds that a number of collision types that can be associated with certain traffic infractions have resulted in a high number of serious injuries and deaths of vulnerable roadway users. As a result, the Legislature intends to:

- introduce an additional fine as a penalty for drivers who commit these violations against a vulnerable roadway user;
- modify when certain vulnerable roadway users may be passed by motor vehicles; and
- clarify when and how pedestrians and bicyclists may use the roadway.

Revenue from the additional fine will be dedicated to the education of law enforcement officers, prosecutors, and judges about opportunities for the enforcement of traffic violations committed against vulnerable roadway users; any funds remaining will be used to support programs dedicated to increasing awareness by the public of the risks and penalties associated with traffic violations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2020.

Staff Summary of Public Testimony:

(In support) The state can do more to protect vulnerable roadway users. The bill identifies rules of the road that, when violated, can lead to vulnerable roadway user deaths. A large vehicle overtaking a person in a farm vehicle or a bicyclist creates a high level of danger. The bill is about deterrence by doubling penalties. Every roadway is different, so decisions need to be made in different situations. Pedestrians and bicyclists have responsibilities too, and the bill also focuses on these.

The charge for Negligent Driving with a Vulnerable User Victim is not being cited at the scene of a crash, while traffic fatalities and injuries are increasing for vulnerable roadway users in Washington. This bill attempts to address this and further Target Zero goals. There have been instances when bicyclists and pedestrians have been seriously injured and ended up in the emergency room, while the driver who caused the injury received a ticket for a minor traffic infraction and was allowed to drive home. These drivers are not facing any consequences for their actions, and law enforcement is not aware of the law in many of these situations. This bill will help reduce incidents like these.

It is important to be certain that judges, prosecutors, law enforcement officers, and the public are informed about vulnerable roadway user laws. The Pedestrian Safety Advisory Council and the Cooper Jones Bicyclist Safety Advisory Council have made the recommendation to provide better education on vulnerable roadway user laws because in many cases charges are not being brought against individuals who break the law and have vulnerable roadway user victims.

Only 50 percent of adults meet the recommended guidelines for minimum activity levels per week. More physical environments need to be adapted to foster this activity level. Systemwide solutions are needed to make the roadways safe for all its users.

(Opposed) None.

(Other) The Washington State Department of Transportation supports the bill as furthering the goals for Target Zero. It also supports the goal of increased mode shifts to walking and bicycling. The recommended distance of 3 feet added to the proposed substitute bill, as well as the other changes in it, is appreciated.

Persons Testifying: (In support) Representative Kilduff, prime sponsor; Shelly Baldwin, Washington Traffic Safety Commission; Alex Alston, Washington Bikes; Jessica Gould; Victor Coleman, Childhood Obesity Prevention Coalition; and Michelle Penrod.

(Other) Charlotte Claybrooke, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying: None.