

SHB 3001 - S AMD TO TRAN COMM AMD (S-4941.1/10) **292**
By Senator McDermott

1 On page 1, after line 27 of the amendment, insert the following:

2 "NEW SECTION. **Sec. 3.** A new section is added to chapter 46.61 RCW
3 to read as follows:

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

9 (2) A person commits negligent bicycling with a vulnerable user
10 victim if he or she operates a bicycle in a manner that is both
11 negligent and endangers or is likely to endanger any person or property
12 and he or she proximately causes the death, great bodily harm, or
13 substantial bodily harm of a vulnerable user of a public way. For
14 purposes of this subsection, "negligent" has the same meaning as in RCW
15 46.61.525(2).

16 (3) The law enforcement officer or prosecuting authority issuing
17 the notice of infraction for an offense under this section shall state
18 on the notice of infraction that the offense was a proximate cause of
19 death, great bodily harm, or substantial bodily harm, as defined in RCW
20 9A.04.110, of a vulnerable user of a public way. The court shall
21 notify the person in writing of the time, place, and date of the
22 hearing, and that date shall not be sooner than seven days from the
23 date of the notice, except by agreement. The form for the notice of
24 traffic infraction under this section shall be prescribed by rule of
25 the supreme court and, in addition to the requirements of RCW
26 46.63.060, shall:

27 (a) State that a hearing will be scheduled by the court to
28 determine the penalties under subsection (4) or (5) of this section
29 and, if necessary, provide an opportunity for the person to contest the
30 determination that the offense has been committed;

1 (b) State that (i) the person named in the notice of infraction is
2 required to appear at the scheduled hearing regardless of whether the
3 person named in the notice contests the determination that the offense
4 has been committed, (ii) failure to appear at the hearing will result
5 in the suspension of the person's driver's license or driving privilege
6 for a minimum of ninety days and continue thereafter until any
7 penalties imposed pursuant to this chapter have been satisfied; and
8 (iii) failure to appear at the hearing will result in the imposition of
9 a fine fixed by the court in an amount of at least one thousand dollars
10 and not to exceed five thousand dollars; and

11 (c) Include a statement of the monetary and nonmonetary penalties
12 established and available under this section and any other applicable
13 law.

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

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

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

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

23 (d) Submit certification to the court establishing that the
24 requirements of this subsection have been met.

25 (5) In lieu of the penalties imposed under subsection (4) of this
26 section, a person found to have committed a violation of this section
27 may elect to:

28 (a) Pay a fine fixed by the court in an amount of at least one
29 thousand dollars and not to exceed five thousand dollars; and

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

31 (6) If a person found to have committed a violation of this section
32 does not complete all requirements of subsection (4) of this section
33 within one year of the date the violation of this section is found
34 committed and does not elect the penalties described in subsection (5)
35 of this section:

36 (a) The court shall impose a fine in an amount of at least one
37 thousand dollars and not to exceed five thousand dollars; and

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

3 For good cause shown, the court may extend the period of time in
4 which the person must complete the requirements of subsection (4) of
5 this section before imposing the fine and driving privilege suspension
6 provided for in this subsection.

7 (7) If a person issued a notice of infraction for a violation of
8 this section fails to appear for a hearing scheduled pursuant to
9 subsection (3)(a) of this section:

10 (a) The court shall enter an order assessing the monetary penalty;

11 (b) The person's driving privileges shall be suspended for ninety
12 days; and

13 (c) The court shall notify the department in accordance with RCW
14 46.20.270 of the failure to respond to the notice of infraction or to
15 appear at a scheduled hearing.

16 For good cause shown, the court may reschedule or continue the
17 hearing scheduled pursuant to subsection (3)(a) of this section.

18 (8) An offense under this section is a traffic infraction. To the
19 extent not inconsistent with this section, the provisions of chapter
20 46.63 RCW shall apply to infractions under this section. Procedures
21 for the conduct of all hearings provided for in this section may be
22 established by rule of the supreme court.

23 (9) If a person's driving privileges are suspended pursuant to
24 subsection (5)(b), (6)(b), or (7)(b) of this section, the court shall
25 send notice of such suspension to the department.

26 (10) For the purposes of this section, "vulnerable user of a public
27 way" means: (a) A pedestrian; (b) a person riding an animal; or (c) a
28 person operating any of the following on a public way:

29 (i) A farm tractor or implement of husbandry without an enclosed
30 shell;

31 (ii) A skateboard;

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

33 (iv) A scooter;

34 (v) A bicycle or tricycle;

35 (vi) An electric assist bicycle;

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

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

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

5 **Sec. 4.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read
6 as follows:

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

12 (a) A person found to be (~~an~~) a habitual offender under chapter
13 46.65 RCW, who violates this section while an order of revocation
14 issued under chapter 46.65 RCW prohibiting such operation is in effect,
15 is guilty of driving while license suspended or revoked in the first
16 degree, a gross misdemeanor. Upon the first such conviction, the
17 person shall be punished by imprisonment for not less than ten days.
18 Upon the second conviction, the person shall be punished by
19 imprisonment for not less than ninety days. Upon the third or
20 subsequent conviction, the person shall be punished by imprisonment for
21 not less than one hundred eighty days. If the person is also convicted
22 of the offense defined in RCW 46.61.502 or 46.61.504, when both
23 convictions arise from the same event, the minimum sentence of
24 confinement shall be not less than ninety days. The minimum sentence
25 of confinement required shall not be suspended or deferred. A
26 conviction under this subsection does not prevent a person from
27 petitioning for reinstatement as provided by RCW 46.65.080.

28 (b) A person who violates this section while an order of suspension
29 or revocation prohibiting such operation is in effect and while the
30 person is not eligible to reinstate his or her driver's license or
31 driving privilege, other than for a suspension for the reasons
32 described in (c) of this subsection, is guilty of driving while license
33 suspended or revoked in the second degree, a gross misdemeanor. This
34 subsection applies when a person's driver's license or driving
35 privilege has been suspended or revoked by reason of:

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

- 1 (ii) A previous conviction under this section;
- 2 (iii) A notice received by the department from a court or diversion
3 unit as provided by RCW 46.20.265, relating to a minor who has
4 committed, or who has entered a diversion unit concerning an offense
5 relating to alcohol, legend drugs, controlled substances, or imitation
6 controlled substances;
- 7 (iv) A conviction of RCW 46.20.410, relating to the violation of
8 restrictions of an occupational driver's license, a temporary
9 restricted driver's license, or an ignition interlock driver's license;
- 10 (v) A conviction of RCW 46.20.345, relating to the operation of a
11 motor vehicle with a suspended or revoked license;
- 12 (vi) A conviction of RCW 46.52.020, relating to duty in case of
13 injury to or death of a person or damage to an attended vehicle;
- 14 (vii) A conviction of RCW 46.61.024, relating to attempting to
15 elude pursuing police vehicles;
- 16 (viii) A conviction of RCW 46.61.500, relating to reckless driving;
- 17 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a
18 person under the influence of intoxicating liquor or drugs;
- 19 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;
- 20 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;
- 21 (xii) A conviction of RCW 46.61.527(4), relating to reckless
22 endangerment of roadway workers;
- 23 (xiii) A conviction of RCW 46.61.530, relating to racing of
24 vehicles on highways;
- 25 (xiv) A conviction of RCW 46.61.685, relating to leaving children
26 in an unattended vehicle with motor running;
- 27 (xv) A conviction of RCW 46.61.740, relating to theft of motor
28 vehicle fuel;
- 29 (xvi) A conviction of RCW 46.64.048, relating to attempting,
30 aiding, abetting, coercing, and committing crimes;
- 31 (xvii) An administrative action taken by the department under
32 chapter 46.20 RCW; (~~or~~)
- 33 (xviii) A conviction of a local law, ordinance, regulation, or
34 resolution of a political subdivision of this state, the federal
35 government, or any other state, of an offense substantially similar to
36 a violation included in this subsection; or
- 37 (xix) A finding that a person has committed a traffic infraction

1 under section 3 of this act and suspension of driving privileges
2 pursuant to section 3 (5)(b), (6)(b), or (7)(b) of this act.

3 (c) A person who violates this section when his or her driver's
4 license or driving privilege is, at the time of the violation,
5 suspended or revoked solely because (i) the person must furnish proof
6 of satisfactory progress in a required alcoholism or drug treatment
7 program, (ii) the person must furnish proof of financial responsibility
8 for the future as provided by chapter 46.29 RCW, (iii) the person has
9 failed to comply with the provisions of chapter 46.29 RCW relating to
10 uninsured accidents, (iv) the person has failed to respond to a notice
11 of traffic infraction, failed to appear at a requested hearing,
12 violated a written promise to appear in court, or has failed to comply
13 with the terms of a notice of traffic infraction or citation, as
14 provided in RCW 46.20.289, (v) the person has committed an offense in
15 another state that, if committed in this state, would not be grounds
16 for the suspension or revocation of the person's driver's license, (vi)
17 the person has been suspended or revoked by reason of one or more of
18 the items listed in (b) of this subsection, but was eligible to
19 reinstate his or her driver's license or driving privilege at the time
20 of the violation, or (vii) the person has received traffic citations or
21 notices of traffic infraction that have resulted in a suspension under
22 RCW 46.20.267 relating to intermediate drivers' licenses, or any
23 combination of (i) through (vii), is guilty of driving while license
24 suspended or revoked in the third degree, a misdemeanor.

25 (2) Upon receiving a record of conviction of any person or upon
26 receiving an order by any juvenile court or any duly authorized court
27 officer of the conviction of any juvenile under this section, the
28 department shall:

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

35 (b) For a conviction of driving while suspended or revoked in the
36 second degree, as provided by subsection (1)(b) of this section, not
37 issue a new license or restore the driving privilege for an additional

1 period of one year from and after the date the person would otherwise
2 have been entitled to apply for a new license or have his or her
3 driving privilege restored; or

4 (c) Not extend the period of suspension or revocation if the
5 conviction was under subsection (1)(c) of this section. If the
6 conviction was under subsection (1)(a) or (b) of this section and the
7 court recommends against the extension and the convicted person has
8 obtained a valid driver's license, the period of suspension or
9 revocation shall not be extended.

10 NEW SECTION. **Sec. 5.** Sections 3 and 4 of this act apply to
11 infractions committed on or after the effective date of this section.

12 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act take effect
13 July 1, 2011."

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14 On page 2, beginning on line 1 of the title amendment, strike the
15 title amendment and insert "On page 1, line 1 of the title, after
16 "Relating to" strike the remainder of the title and insert "bicycle and
17 pedestrian safety; amending RCW 46.20.342; adding a new section to
18 chapter 46.83 RCW; adding a new section to chapter 46.61 RCW; creating
19 new sections; prescribing penalties; and providing an effective date.""

EFFECT: (1) Creates the traffic infraction of "negligent driving
in the second degree with a vulnerable user victim," which involves a
driver committing the traffic infraction of negligent driving in the
second degree while proximately causing the death, great bodily harm,
or substantial bodily harm of a vulnerable user of a public way.

"Vulnerable user of a public way" includes bicyclists, pedestrians, and wheelchair users.

(2) Creates the traffic infraction of "negligent bicycling with a vulnerable user victim," which involves a bicyclist committing the traffic infraction of negligent bicycling while proximately causing the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way. "Vulnerable user of a public way" includes bicyclists, pedestrians, and wheelchair users.

(3) A person found to have committed the new traffic infractions must: (a) Pay a penalty of two hundred fifty dollars; (b) complete a traffic safety course approved by the court; (c) perform up to one hundred hours of community service, which must be approved by the court and must include activities related to driver improvement and providing public education on traffic safety; and (d) submit certification to the court establishing that these requirements have been met.

(4) In lieu of these penalties, the person may elect to: (a) Pay a fine fixed by the court in an amount of at least one thousand dollars and not to exceed five thousand dollars; and (b) have his or her driving privileges suspended for ninety days.

(5) Additional penalties are provided for failure to satisfy initial penalties and/or for failure to appear at required hearings.

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