SHB 2095 - H AMD **2018**
By Representative Reed

ADOPTED 02/17/2026

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to establish educational requirements to provide law enforcement officers, prosecutors, and judges with information regarding state laws protecting vulnerable users of public ways.

Additionally, it is the intent of the legislature to strengthen options for vulnerable users of public ways to obtain civil remedies against negligent vehicle operators who injure or kill vulnerable road users in protected areas.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington state criminal justice training commission shall, in consultation with the Washington association of prosecuting attorneys, develop and provide educational classes and materials regarding negligent driving with a vulnerable user victim in the first and second degree in violation of chapter 46.61 RCW to all law enforcement officers in Washington who enforce traffic laws or respond to traffic injuries or fatalities, and to all prosecutors in Washington who enforce traffic laws or who initiate civil infraction or criminal proceedings in response to traffic injuries or fatalities.

(a) The educational classes and materials covered by this section shall be provided to all qualifying law enforcement officers and prosecutors within three months of the beginning of their employment and at least once every three years thereafter.

(b) The educational classes and materials covered by this subsection must include, but are not limited to: (i) For all qualifying law enforcement officers and prosecutors, coverage of fact patterns that illustrate negligent driving with a vulnerable user

victim in the first and second degree; and (ii) for qualifying law enforcement officers, best practices for responding to traffic injuries and fatalities involving vulnerable users of public ways.

(c) To the greatest extent possible, educational classes and materials for law enforcement officers covered by this section must be designed to be delivered during: (i) An officer's basic law enforcement academy training; or (ii) regularly scheduled group settings, such as daily roll call, or other forums or formats that minimize disruption of officer duties.

(d) To the greatest extent possible, educational classes and materials for prosecutors covered by this section must be designed to qualify for some continuing legal education credits through the Washington state bar association.

(2) The Washington state criminal justice training commission and the Washington association of prosecuting attorneys shall develop and begin providing the educational classes and materials covered by this section no later than July 1, 2027.

(3) All qualifying law enforcement officers and prosecutors under subsection (1) of this section must complete the educational classes and materials required by this section within six months of the beginning of their employment and every three years thereafter, but only if the Washington state criminal justice training commission makes such educational classes and materials available to qualifying law enforcement officers and prosecutors.

NEW SECTION. **Sec. 3.** A new section is added to chapter 2.56 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington state administrative office of the courts shall develop and provide educational classes and materials regarding negligent driving with a vulnerable user victim in the first and second degree in violation of chapter 46.61 RCW to all judicial officers and judges pro tempore in Washington who hear cases involving violations of traffic laws or which involve traffic injuries or fatalities.

(a) The educational classes and materials covered by this section must include, but are not limited to, coverage of fact patterns that illustrate negligent driving with a vulnerable user victim in the first and second degree and all statutory penalties.

(b) The educational classes covered by this section must be designed to qualify for some continuing legal education credits through the Washington state bar association.

(2) The administrative office of the courts shall develop and begin providing all educational classes and materials covered by this section no later than January 1, 2028.

NEW SECTION. **Sec. 4.** A new section is added to chapter 4.24 RCW to read as follows:

(1)(a) Any driver who operates a vehicle in a manner that proximately causes the injury or death of a vulnerable user of a public way shall be presumed to have acted negligently in any tort action alleging liability for the injury or death, but this presumption may be rebutted by the driver.

(b) The presumption of negligence established in this section only applies when the vulnerable user of a public way was injured or killed by the driver while the vulnerable user was present on a sidewalk or shoulder, or in a crosswalk, bicycle lane, path, or area established by state or local law for the use of vulnerable users of a public way.

(c) The presumption of negligence established in this section does not apply to an emergency vehicle driver who operates the emergency vehicle within the course and scope of the driver's employment or official duties directly related to the emergency vehicle. An "emergency vehicle" includes, but is not limited to, an authorized emergency vehicle, as defined in RCW 46.04.040, an organ transport vehicle, as defined in RCW 46.04.371, a fire apparatus, ambulance, emergency medical service vehicle, or other vehicle used by a public agency or licensed provider for emergency response, rescue operations, or the transport of patients or emergency personnel.

(d) The presumption of negligence established in this section does not apply if:

(i) The vulnerable user failed to abide by traffic control devices including, but not limited to, crosswalk signs, traffic lights, and stop signs;

(ii) The vulnerable user failed to stop at a stop sign, even if the vulnerable user was authorized to proceed without stopping under other state law;

(iii) The vulnerable user was intoxicated or otherwise impaired and failed to abide by traffic control devices and right-of-way laws; or

(iv) The vulnerable user was riding a horse and the horse was acting out of control of its rider.

(2) In any cause of action subject to this section:

(a) The driver is presumed to have breached his or her duty of care towards the plaintiff by acting negligently, but the driver may rebut this presumption by proving, by a preponderance of the evidence, that the driver was not negligent;

(b) The plaintiff must prove by a preponderance of the evidence:

(i) That the plaintiff was a vulnerable user of a public way who was injured or killed while present on a sidewalk or shoulder, or in a crosswalk, bicycle lane, or other designated lane, path, or area established by state or local law for the use of vulnerable users of a public way;

(ii) The plaintiff's damages; and

(iii) That the driver's negligence was the sole proximate cause of the plaintiff's damages;

(c) A prevailing plaintiff is entitled to recover:

(i) Actual damages, including economic and noneconomic damages;

(ii) Statutory damages of $1,500; and

(iii) Reasonable attorneys' fees and actual costs, including expert fees;

(d) A prevailing defendant is entitled to recover:

(i) Actual damages, including economic and noneconomic damages;

(ii) Statutory damages of $1,500; and

(iii) Reasonable attorneys' fees and actual costs, including expert fees;

(e) If a driver subject to liability under this section has previously been found civilly or criminally liable for injuring or killing a vulnerable road user while operating a vehicle, a prevailing plaintiff may also recover punitive damages.

(3) In any cause of action subject to this section that involves both driver and nondriver defendants, the presumption of negligence created by this section applies only against driver defendants and does not apply against nondriver defendants.

(4) This section is cumulative and nonexclusive and does not affect any other civil remedy or criminal law.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Negligent" has the meaning provided in RCW 46.61.525.

(b) "Vehicle" has the meaning provided in RCW 46.04.670.

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

(A) A pedestrian;

(B) A person riding an animal; or

(C) A person operating or riding any of the following on a public way: (I) A farm tractor or implement of husbandry, without an enclosed shell; (II) a bicycle; (III) an electric-assisted bicycle; (IV) an electric personal assistive mobility device; (V) a moped; (VI) a motor-driven cycle; or (VII) a motorized foot scooter.

(ii) For the purpose of this section, "vulnerable user of a public way" does not include motorcycles.

Sec. 5. RCW 46.52.030 and 2005 c 171 s 1 are each amended to read as follows:

(1) Unless a report is to be made by a law enforcement officer under subsection (3) of this section, the driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with subsection (5) of this section, shall, within four days after such accident, make a written report of such accident to the chief of police of the city or town if such accident occurred within an incorporated city or town or the county sheriff or state patrol if such accident occurred outside incorporated cities and towns. Nothing in this subsection prohibits accident reports from being filed by drivers where damage to property is less than the minimum amount or where a law enforcement officer has submitted a report.

(2) The original of the report shall be immediately forwarded by the authority receiving the report to the chief of the Washington state patrol at Olympia, Washington. The Washington state patrol shall give the department of licensing full access to the report.

(3) Any law enforcement officer who investigates an accident for which a report is required under subsection (1) of this section shall submit an investigator's report as required by RCW 46.52.070.

(4) The chief of the Washington state patrol may require any driver of any vehicle involved in an accident, of which report must

be made as provided in this section, to file supplemental reports whenever the original report in the chief's opinion is insufficient, and may likewise require witnesses of any such accident to render reports. For this purpose, the chief of the Washington state patrol shall prepare and, upon request, supply to any police department, coroner, sheriff, and any other suitable agency or individual, sample forms of accident reports required hereunder, which reports shall be upon a form devised by the chief of the Washington state patrol and shall call for sufficiently detailed information to disclose all material facts with reference to the accident to be reported thereon, including the location, the circumstances, the conditions then existing, the persons and vehicles involved, the insurance information required under RCW 46.30.030, personal injury or death, if any, the amounts of property damage claimed, the total number of vehicles involved, whether the vehicles were legally parked, legally standing, or moving, whether such vehicles were occupied at the time of the accident, ((~~and~~)) whether any driver involved in the accident was distracted at the time of the accident<u>, and whether the accident involved a "vulnerable user of a public way," as that term is defined in RCW 46.61.5259, and the specific type of vulnerable user as described in that section</u>. Distractions contributing to an accident must be reported on the accident form and include at least the following minimum reporting options: Not distracted; operating a handheld electronic telecommunication device; operating a hands-free wireless telecommunication device; other electronic devices (including, but not limited to, PDA's, laptop computers, navigational devices, etc.); adjusting an audio or entertainment system; smoking; eating or drinking; reading or writing; grooming; interacting with children, passengers, animals, or objects in the vehicle; other inside distractions; outside distractions; and distraction unknown. Every required accident report shall be made on a form prescribed by the chief of the Washington state patrol and each authority charged with the duty of receiving such reports shall provide sufficient report forms in compliance with the form devised. The report forms shall be designated so as to provide that a copy may be retained by the reporting person.

(5) The chief of the Washington state patrol shall adopt rules establishing the accident-reporting threshold for property damage accidents. Beginning October 1, 1987, the accident-reporting threshold for property damage accidents shall be five hundred

dollars. The accident-reporting threshold for property damage accidents shall be revised when necessary, but not more frequently than every two years. The revisions shall only be for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the time period since the last revision.

Sec. 6. RCW 46.52.070 and 2023 c 29 s 1 are each amended to read as follows:

(1) Any police officer of the state of Washington or of any county, city, town, or other political subdivision, present at the scene of any accident or in possession of any facts concerning any accident whether by way of official investigation or otherwise shall make report thereof in the same manner as required of the parties to such accident and as fully as the facts in his or her possession concerning such accident will permit.

(2) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in a fatality; and (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator caused the collision.

(3) The police officer shall report to the department, on a form prescribed by the director: (a) When a collision has occurred that results in substantial bodily harm as defined in RCW 9A.04.110(4)(b); (b) the identity of the operator of a vehicle involved in the collision when the officer has reasonable grounds to believe the operator who caused the substantial bodily harm may not be competent to operate a motor vehicle; and (c) the reason or reasons for the officer's belief.

<u>(4) Each report made pursuant to this section must state whether the accident involved a "vulnerable user of a public way," as that term is defined in RCW 46.61.5259, and the specific type of vulnerable user as described in that section.</u>

<u>NEW SECTION.</u> **Sec. 7.** This act takes effect July 1, 2026."

Correct the title.

EFFECT: (1) Removes "other designated lane" from the list of expressly protected areas where the presumption of negligence applies.

(2) Provides that the presumption of negligence does not apply if:

(a) The vulnerable user failed to abide by traffic control devices including, but not limited to, crosswalk signs, traffic lights, and stop signs;

(b) The vulnerable user failed to stop at a stop sign, even if the vulnerable user was authorized to proceed without stopping under other state law;

(c) The vulnerable user was intoxicated or otherwise impaired and failed to abide by traffic control devices and right-of-way laws; or

(d) The vulnerable user was riding a horse and the horse was acting out of control of its rider.

(3) Requires the plaintiff to prove that the driver's negligence was the sole proximate cause, rather than a proximate cause, of the plaintiff's damages.

(4) Provides that a prevailing defendant may recover actual damages, including economic and noneconomic damages, statutory damages of $1,500, and reasonable attorneys' fees and actual costs, including expert fees.

--- END ---