

SENATE BILL REPORT

ESHB 2095

As of February 23, 2026

Title: An act relating to protecting vulnerable users of public ways.

Brief Description: Protecting vulnerable users of public ways.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Reed, Parshley, Ryu, Ramel, Doglio, Berry, Obras, Santos, Cortes, Street, Scott, Fosse and Pollet).

Brief History: Passed House: 2/17/26, 53-44.

Committee Activity: Law & Justice: 2/23/26.

Brief Summary of Bill

- Establishes a rebuttable presumption of negligence for certain tort claims arising from a vehicle collision that proximately causes the injury or death of a vulnerable user of a public way if the victim was injured or killed in a protected area.
- Requires the Criminal Justice Training Commission and Administrative Office of the Courts to develop educational materials for certain law enforcement officers, prosecutors, and judges regarding negligent driving with a vulnerable user victim.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7414)

Background: Negligent Driving with a Vulnerable User Victim. A person commits the crime of negligent driving with a vulnerable user victim in the first degree if the person operates a vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and the person proximately causes the death of a vulnerable user of

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a public way.

Negligent driving with a vulnerable user victim in the first degree is a gross misdemeanor, punishable by up to 364 days of imprisonment, a fine up to \$5,000, and suspension of driving privileges for 90 days.

A person commits the infraction of 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 or negligent driving in the first degree, the person operates a vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and the person proximately causes great bodily harm or substantial bodily harm of a vulnerable user of a public way.

Negligent driving with a vulnerable user victim in the second degree is a traffic infraction, punishable by a fine up to \$5,000, and suspension of driving privileges for 90 days. If the driver requests and personally appears for a hearing, and does not contest the determination, the driver may, in place of the above penalties, pay a penalty of \$250, attend traffic school, and perform community service within one year of the hearing.

Vulnerable User of a Public Way. A vulnerable user of a public way means:

- a pedestrian;
- a person riding an animal;
- a person operating or riding 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.

Law Enforcement Reporting of Accidents. If an accident results in injury to or death of any person or damage to the property of any person, a law enforcement officer present at the scene or in possession of facts concerning the accident is required to make a report of the accident to the Department of Licensing (DOL), on a form prescribed by the DOL. The law enforcement officer shall report:

- when a collision has occurred that results in a fatality;
- the identity of the operator of the vehicle involved in the collision when the officer has reasonable grounds to believe the operator caused the collision;

- when a collision has occurred that results in substantial bodily harm; and
- 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.

The Washington State Patrol (WSP) may require any driver involved in an accident or any witness of the accident to file supplemental reports of the accident. WSP is required to create a sample form for accident reports and to make it available to other agencies or individuals. The report form is designed to capture all material facts related to the accident, including the location, circumstances, and the conditions present at the time of the accident.

Civil Liability in General. A tort is a type of legal wrong. When one party injures or otherwise harms another person, that person, the plaintiff, can typically bring a legal civil action for the tort against the responsible party, the defendant, and seek an award of damages.

Ordinary Care and Negligence. A plaintiff who has been harmed by a defendant's unintentional misconduct can bring a civil claim for negligence. A negligence claim requires proof of the following four basic elements:

- that the defendant owed the plaintiff a duty of ordinary care;
- that the defendant's acts or omissions breached their duty of care;
- that the breach caused the plaintiff damages; and
- that the plaintiff suffered a cognizable injury.

Ordinary care means the care a reasonable person would exercise under the same or similar circumstances. Negligence is the failure to exercise ordinary care. It is the doing of some act that a reasonably careful person would not do under the same or similar circumstances, or the failure to do some act that a reasonably careful person would have done under the same or similar circumstances.

Burden of Proof. The plaintiff has the burden of proof when bringing a civil action and must prove each element of their claim by a preponderance of the evidence. To meet the preponderance of the evidence standard, the party with the burden of proof must persuade the trier of fact that, considering all evidence in the case, the proposition on which that party has the burden of proof is more likely true than not.

Summary of Bill: Any driver who operates a vehicle in a manner that proximately causes the injury or death of a vulnerable user of a public way is presumed to have acted negligently in any tort action alleging liability for the injury or death, but the driver may rebut this presumption by proving, by a preponderance of the evidence, that the driver was not negligent.

The presumption of negligence only applies when the vulnerable user was injured or killed by the driver while the vulnerable user was 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. In cases that involve both driver and nondriver defendants, the presumption of negligence applies only against driver defendants.

The presumption of negligence does not apply to a driver of an emergency vehicle who operates the emergency vehicle within the course and scope of the driver's employment or official duties directly related to the emergency vehicle.

In any legal action alleging liability for the injury or death of a vulnerable user, the plaintiff must prove by a preponderance of the evidence:

- that the plaintiff was a vulnerable user of a public way who was injured or killed in a qualifying area;
- the plaintiff's damages; and
- that the driver's negligence was a proximate cause of the plaintiff's damages.

A prevailing plaintiff is entitled to recover actual damages, statutory damages of \$1,500, and reasonable attorneys' fees and actual costs, including expert fees. A prevailing plaintiff may also recover punitive damages if the driver has previously been found civilly or criminally liable for injuring or killing a vulnerable road user while operating a vehicle.

Educational Requirements for Law Enforcement Officers, Prosecutors, and Judges. By July 1, 2027, the Washington State Criminal Justice Training Commission (CJTC), in consultation with the Washington Association of Prosecuting Attorneys, must develop and provide educational classes and materials regarding the offense of negligent driving with a vulnerable user victim to all law enforcement officers who enforce traffic laws or respond to traffic injuries or fatalities, and to all prosecutors who enforce traffic laws or who initiate civil infraction or criminal proceedings in response to traffic injuries or fatalities.

Classes and materials must be provided to all covered law enforcement officers and prosecutors within three months of the beginning of their employment and at least once every three years thereafter. Covered officers and prosecutors must complete these classes and materials within six months of beginning their employment and every three years thereafter, but only if the CJTC makes the classes and materials available. Classes and materials for law enforcement officers must be designed to be delivered in a manner that minimizes disruption of officer duties. Classes and materials for prosecutors and judges must be designed to qualify for some continuing legal education credits.

By January 1, 2028, the Washington State Administrative Office of the Courts must develop and provide similar educational classes and materials 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. This requirement is subject to the availability of amounts appropriated for this specific purpose.

Law Enforcement Reporting of Accidents That Involve Vulnerable Users. The DOL form used by law enforcement officers for accident reports and the WSP sample form for accident reports must state whether the accident involved a vulnerable user of a public way and, if so, the specific type of vulnerable user.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2026.

Staff Summary of Public Testimony: PRO: This is to address the safety crisis for when pedestrians are injured or killed when the pedestrian is in a designated area for pedestrians. Vulnerable users have a reasonable expectation of safety in those designated areas such as sidewalks or crosswalks. Police officers are providing critical reporting. Nothing in this bill imposes liability on a city or county.

CON: The attorney fee provision allows fees from the driver directly. This is not how the insurance system works. The application of the bill is for every road that a motor bike can legally operate on.

OTHER: Our normal system is comparative fault, and you pay your percentage. The sole proximate cause is different. A prevailing party is not defined. This bill would incentivize more litigation involving cities and road design.

Persons Testifying: PRO: Representative Julia Reed, Prime Sponsor; Holden Ringer; Bob Anderton, Washington Bike Law; Rita Hulsman; Vicky Clarke, Washington Bikes; Tanya English; Annemarie Dooley, WA Physicians for Social Responsibility.

CON: Kyle Moore, City of Kent; Kris Tefft, Washington Liability Reform Coalition; Michael Rhodes, Washington Defense Trial Lawyers Association.

OTHER: Derrick Nunnally, Association of Washington Cities; Paul Graves, Washington Trucking Association.

Persons Signed In To Testify But Not Testifying: No one.