

# SENATE BILL REPORT

## SB 5838

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As of February 25, 2009

**Title:** An act relating to traffic infractions where the conduct is a proximate cause of death, great bodily harm, or substantial bodily harm to another.

**Brief Description:** Concerning traffic infractions where the conduct is a proximate cause of death, great bodily harm, or substantial bodily injury.

**Sponsors:** Senators McDermott, Jacobsen, Murray, Kohl-Welles and Fairley.

**Brief History:**

**Committee Activity:** Judiciary: 2/24/09, 2/25/09 [DPF].

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Kim Johnson (786-7472)

**Background:** Under current law, a person is guilty of negligent driving in the first degree if that person (1) operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property; and (2) exhibits the effects of having consumed liquor or an illegal drug. Negligent driving in the first degree is a misdemeanor.

For purposes of this crime, "negligent" is defined as the failure to exercise ordinary care, and 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 something that a reasonably careful person would do under the same or similar circumstances.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** A person may also be found guilty of negligent driving in the first degree if the person (1) operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property; and (2) the person's actions are the proximate cause of great bodily harm or death of a bicyclist or pedestrian.

**Appropriation:** None.

**Fiscal Note:** Requested on February 23, 2009.

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*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.*

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: As the City Attorney for Seattle, I have both civil and criminal jurisdiction over matters in the city. I have had a number of families come to me puzzled by our inability to do more than just issue a traffic infraction when their loved one has been killed or seriously injured by a motorist. There is a large gap in our system when it comes to these types of cases because often times you cannot meet the level of proof to charge someone with vehicular assault or homicide yet an infraction is not enough to reflect the loss. We have experienced a number of losses in Seattle recently. Both people were killed in incidents that should not have happened. Providing for a criminal penalty like this will send a message to drivers that you are risking other people's lives. Ninety-nine percent of the time you may get away with being careless, but it is the 1 percent of the time when you cost someone their life, that there really ought to be a criminal consequence for your actions.

The term accident means an unforeseen and unplanned event. The kinds of incidents we're talking about today are not unforeseen, that is why the state adopted the traffic code. The state, in order to minimize the risks of automobiles harming others, has enacted laws that guide the safe operation of vehicles. If you violate these laws, you are taking other people's lives in your hands. There is a huge gulf between an infraction and a felony under the current law. We just lost a father of two because someone made an illegal U-turn and struck and killed him. People's lives ought to be worth more than just a \$100 fine.

**Persons Testifying:** PRO: Tom Carr, City Attorney for the City of Seattle; David Hiller, Cascade Bicycle Club.