

1
2
3
4
5
6
7
8
9
10

H.577

Introduced by Representatives Kitzmiller of Montpelier, Kupersmith of S.
Burlington, Jewett of Ripton, Klein of East Montpelier,
McCullough of Williston and Minter of Waterbury

Referred to Committee on

Date:

Subject: Motor vehicles; vulnerable user; negligent operation

Statement of purpose: This bill proposes to expand in the motor vehicle
statutes the law addressing negligent operation to include such operation with
regard to vulnerable users.

11
12

AN ACT RELATING TO THE OPERATION OF A MOTOR VEHICLE
AS IT AFFECTS VULNERABLE USERS

13
14
15

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENCE OPERATION; GROSSLY NEGLIGENCE

16
17

OPERATION; VULNERABLE USERS

(a) Negligent operation.

18
19

(1) A person who operates a motor vehicle on a public highway in a
negligent manner shall be guilty of negligent operation.

1 (2) The standard for a conviction for negligent operation in violation of
2 this subsection shall be ordinary negligence, examining whether the person
3 breached a duty to exercise ordinary care.

4 (3) A person who violates this subsection shall be imprisoned not more
5 than one year or fined not more than \$1,000.00, or both. If the person has been
6 previously convicted of a violation of this subsection, the person shall be
7 imprisoned not more than two years or fined not more than \$3,000.00, or both.

8 (b) Grossly negligent operation.

9 (1) A person who operates a motor vehicle on a public highway in a
10 grossly negligent manner shall be guilty of grossly negligent operation.

11 (2) The standard for a conviction for grossly negligent operation in
12 violation of this subsection shall be gross negligence, examining whether the
13 person engaged in conduct which involved a gross deviation from the care that
14 a reasonable person would have exercised in that situation.

15 (3) A person who violates this subsection shall be imprisoned not more
16 than two years or fined not more than \$5,000.00, or both. If the person has
17 previously been convicted of a violation of this section, the person shall be
18 imprisoned not more than four years or fined not more than \$10,000.00, or
19 both. If serious bodily injury as defined in section 1021 of Title 13 or death of
20 any person other than the operator results, the person shall be imprisoned for
21 not more than 15 years or fined not more than \$15,000.00, or both.

1 (c)(1) Vulnerable users. As used in this subsection, “vulnerable user”
2 means a pedestrian, a highway worker, a person riding an animal, or a person
3 operating any of the following on a public highway, crosswalk, or shoulder of
4 the highway:

5 (A) A farm tractor or implement of husbandry without an enclosed
6 shell.

7 (B) A skateboard.

8 (C) Roller skates.

9 (D) In-line skates.

10 (E) A scooter.

11 (F) A bicycle.

12 (2) A person commits the violation of negligent operation or grossly
13 negligent operation involving a vulnerable user if he or she operates a motor
14 vehicle on a highway or other location described in this subsection in a manner
15 which constitutes negligent operation as provided in subsection (a) of this
16 section, or in a grossly negligent operation as provided in subsection (b) of this
17 section, and a vulnerable user is involved.

18 (3) In addition to any other penalty imposed for a violation committed
19 under this section, if the court determines that the commission of the violations
20 described in this section contributed to the serious physical injury or death of a
21 vulnerable person, the court shall:

1 (A) Impose a sentence that requires the violator to:

2 (i) Complete a traffic safety course; and

3 (ii) Perform between 100 and 200 hours of community service.

4 The community service shall include activities related to driver improvement,
5 and providing public education on traffic safety.

6 (B) Impose, but suspend on the condition that the violator complete
7 the requirements of subdivision (3)(A) of this subsection, a fine of up to
8 \$12,000.00.

9 (d) Manslaughter. The provisions of this section do not limit or restrict the
10 prosecution for manslaughter.

11 ~~(d)~~(e) Surcharge. A person convicted of violating subsection (b) of this
12 section shall be assessed a surcharge of \$50.00, which shall be added to any
13 fine or surcharge imposed by the court. The court shall collect and transfer the
14 surcharge assessed under this subsection to be credited to the DUI enforcement
15 fund. The collection procedures described in 13 V.S.A. § 5240 shall be
16 utilized in the collection of this surcharge.