



Issue Brief: “Vulnerable User” Statutes

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This Brief was produced by the Traffic Resource Center for Judges, an initiative of the National Center for State Courts (NCSC). The Traffic Resource Center is a cooperative effort between the Department of Transportation and the National Center for State Courts (NCSC) to establish a resource for judges, court administrators, court clerks, and other court staff on issues related to traffic adjudication.



About the Author:

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Many states have specific statutes that impose increased penalties for motor vehicle accidents involving injury to pedestrians or cyclists. The last several years, however, have seen over a dozen out of the 50 states enact or at least debate the creation of “vulnerable user” statutes that would elevate the criminal penalties for accidents involving such users. Interestingly, the definition of “vulnerable user” and what crimes are enhanced varies widely depending on the state.

Who is a “vulnerable user”?

- Pedestrians: Hawai’i specifies the pedestrian must be “legally within a street or public highway.” Additionally, Delaware, Utah, and Vermont define “pedestrian” to include highway workers and emergency services workers either “upon a highway” or “within the right-of-way.”
 - Highway workers/emergency services: states that do not include highways workers and emergency services as part of the definition of pedestrian include them in a separate category.
 - Bicycles: All states; in addition Utah and Washington State specifically include both motor driven and electric-assisted bicycles as well.
 - Person riding an animal: Hawai’i does not include animal riders, while Vermont includes those either “riding, driving, or herding an animal.”
 - Agricultural/husbandry/farm equipment: These include farm tractors in particular (Delaware, Utah, Oregon, and Washington). Utah and Washington specify the equipment must have an enclosed shell; Oregon had an enclosed shell requirement when it enacted its law in 2007 but removed it in 2009. Hawai’i does not have a farm equipment provision.
 - Nonmotorized means of transportation (in general):
Vermont
 - Skateboards: Delaware, Oregon, Utah
 - Roller skates: Delaware, Oregon, Utah, Vermont
 - In-line skates/rollerblades: Delaware, Oregon, Utah, Vermont
 - Scooters: Delaware, Utah (motorized), Oregon, Vermont, Washington (motorized)



- Mopeds: Delaware, Hawai'i, Utah, Washington
- Motorcycles: Delaware, Utah, Washington
- Wheelchairs: Hawai'i, Utah
- Personal mobility devices: Hawai'i (manual and electric), Utah (electric), Vermont (manual or electric), Washington (electric)
- Roller skis: Vermont

What is covered?

Enhanced or special penalties for crimes involving a vulnerable user also vary from state to state

Delaware

[21 Del. C. § 4176](#) (Careless or inattentive driving): Careless or inattentive driving where serious physical injury occurred. Defendant must make a first appearance by personally appearing in court at the time indicated in the summons. On conviction, court must impose a sentence that includes both completion of traffic safety course and up to 100 hours of community service in activities related to driver improvement and providing public education on traffic safety. Failure to complete the 2 requirements results enhanced penalty (fine of up to \$550 and suspension of driving privileges per existing statute).

Hawaii

[HRS § 707-702.5](#) (Negligent homicide in the first degree) A person commits the offense of negligent homicide in the first degree if that person causes the death of a vulnerable user by the operation of a vehicle in a negligent manner. Crime is a class B felony.

[HRS § 707-703](#) (Negligent homicide in the second degree) A person commits the offense of negligent homicide in the second degree if that person causes the death of a vulnerable user by the operation of a vehicle in a manner that constitutes simple negligence as defined in section [707-704\(2\)](#). Crime is a class C felony.

[HRS § 707-705](#) (Negligent injury in the first degree) A person commits the offense of negligent injury in the first degree if that person causes substantial bodily injury to a vulnerable user by the operation of a motor vehicle in a negligent manner. Crime is a class C felony.

Oregon

[ORS § 811.135\(3\)](#): Careless driving where serious physical injury or death of vulnerable user occurred. Defendant must make a first appearance by personally appearing in court at the time indicated in the summons (ORS § 153.061). On conviction, court must impose a sentence that includes both completion of traffic safety course and 100-200 hours of community service that includes activities related to driver improvement and providing public education on traffic safety.



Failure to complete the 2 requirements results enhanced penalty (fine of up to \$12,500 and suspension of driving privileges for one year).

Vermont

[23 V.S.A. § 1033\(b\)](#) (Passing motor vehicles and vulnerable users): The operator of a motor vehicle approaching or passing a vulnerable user...shall exercise due care, which includes increasing clearance, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in subdivision (a)(1) of this section.

[23 V.S.A. § 1039](#) (Following too closely, crowding, and harassment): The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user as defined in subdivision 4(81) of this title, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

Utah

[Utah Code Ann. § 41-6a-706.5](#) (Operation of motor vehicle near a vulnerable user of a highway prohibited -- Endangering a vulnerable user of a highway prohibited): Must not operate a motor vehicle within three feet of a vulnerable user of a highway; distract or attempt to distract a vulnerable user of a highway for the purpose of causing violence or injury to the vulnerable user of a highway; or force or attempt to force a vulnerable user of a highway off of the roadway for a purpose unrelated to public safety. Violation is class C misdemeanor, or class B misdemeanor is bodily injury occurred.

Washington

[Rev. Code Wash. § 46.61.526](#) (Negligent driving -- Second degree -- Vulnerable user victim): A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances not constituting negligent driving in the first degree, he or she operates a vehicle, as defined in RCW 46.04.670, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way. Case cannot be deferred. (§ 46.63.070(5)(d)) On conviction, court may impose a sentence that includes both penalty of \$1000-\$5000 and suspension of driving privileges for 90 days. In the alternative, person may pay penalty of \$250, attend traffic school, and perform up to 100 hours of community service in activities related to driver improvement and providing public education on traffic safety.