SPONSOR: Sen. Sokola & Rep. Osienski
Sens. Townsend, Hansen, Walsh, Lopez

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 78
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO RULES OF THE ROAD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Subchapter IX, Chapter 41, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4176E. Operation of a vehicle causing serious physical injury to a vulnerable user.

(a) As used in this section, "vulnerable user" means any of the following:

(1) A pedestrian that is lawfully on or within a highway, crosswalk, improved or unimproved shoulder of a highway, or sidewalk.

(2) An individual actively engaged in work upon a highway, in work upon utility facilities upon or along a highway, or in the provision of emergency services upon, within, or adjacent to a highway.

(3) An individual riding an animal or driving an animal-drawn carriage, or a passenger of the individual, lawfully on or within a highway or improved or unimproved shoulder of a highway.

(4) An individual operating or a passenger on or in any of the following, when any of the following is lawfully on or within a highway, crosswalk, improved or unimproved shoulder of a highway, or sidewalk:

a. A farm tractor or similar vehicle designed primarily for farm use.

b. A skateboard.

c. Roller skates.

d. In-line skates.

e. A scooter.

f. A moped.

g. A bicycle or a device that is an extension of a bicycle, such as an extend-a-bike, a bicycle trailer, or a child's bicycle seat.

h. A motorcycle.

LC : MJC : RAY : 1901490049
LC : HVW : RAY : 5081490079
Released: 07/01/2017 01:19 AM

i. A nonmotorized or motorized wheelchair.

j. An electric personal assistive mobility device.

(b) A person is guilty of operation of a vehicle causing serious physical injury to a vulnerable user when, in the course of driving or operating a motor vehicle or OHV in violation of any provision of this chapter other than § 4177 of this title, the person's driving or operation of the vehicle or OHV causes serious physical injury, as defined in § 222 of Title 11, to a vulnerable user.

(c) The Superior Court has original and exclusive jurisdiction over a violation of this section by a person 18 years of age or older. Notwithstanding any provision of law to the contrary, an offense which is within the original or exclusive jurisdiction of another court and which may be joined properly with a violation of this section is deemed to be within the original and exclusive jurisdiction of the Superior Court.

(d) A person who violates this section is guilty of a violation. Unless suspended under subsection (e) of this section, the Superior Court must impose upon a person convicted under this section all of the following:

(1) A fine of $550.

(2) A suspension of the person's license or driving privileges, or both, for up to 1 year.

(3) A requirement that the person complete a traffic safety course approved by the Division of Motor Vehicles.

(4) A requirement that the person perform not less than 10, nor more than 100, hours of community service which must include activities related to driver improvement and providing public education on traffic safety.

(e) The Superior Court may suspend up to $500 of the fine and the imposition of the suspension of the person's license or driving privileges, or both. Any sentence suspended under this subsection must be suspended on the condition that the person completes the remaining provisions of the sentence. If any sentence is suspended, the Superior Court shall set a hearing date at a time within 1 year of the date of sentencing. At that hearing, the Superior Court shall do one of the following:

(1) If the person has successfully completed the requirements described in paragraphs (d)(3) and (d)(4) of this section, dismiss the penalties suspended under this subsection.

(2) If the person has not successfully completed the requirements described in paragraphs (d)(3) and (d)(4) of this section do one of the following:

a. Grant the person an extension based on good cause shown. The Court may not grant more than 1 extension for good cause shown.

b. Impose those portions of the sentence suspended under subsection (e) of this section.

(f) Nothing in this section is deemed to preclude prosecution under any other provision of this chapter.

Section 2. Amend § 4176, Title 21 of the Delaware Code by making by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4176. Careless or inattentive driving.

~~(d)(1) In addition to any other penalty imposed for an offense committed under this section, if the finder of fact determines that the commission of that offense contributed to the serious physical injury of a vulnerable user lawfully in the public right-of-way, the court shall:~~

~~a. Impose a sentence that requires the person convicted of the offense to:~~

~~1. Complete a traffic safety course approved by the Delaware Division of Motor Vehicles;~~

~~2. Perform up to 100 hours of community service, which must include activities related to driver improvement and providing public education on traffic safety;~~

~~b. Impose, but suspend on the condition that the person complete the requirements of paragraph (d)(1)a. of this section,~~

~~1. A fine of not more than $550; and~~

~~2. A suspension of driving privileges as provided in § 2733(a)(2) of this title; and~~

~~3. Set a hearing date up to 1 year from the date of sentencing. At that hearing, the court shall:~~

~~A. If the person has successfully completed the requirements described in paragraph (d)(1)a. of this section, dismiss the penalties imposed under paragraphs (d)(1)b.1. and 2. of this section.~~

~~B. If the person has not successfully completed the requirements described in paragraph (d)(1)a. of this section, either: I. Grant the person an extension based on good cause shown, or II. Impose the penalties under paragraphs (d)(1)b.1. and 2. of this section.~~

~~(2) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense contributed to the serious physical injury of a vulnerable user of the public right-of-way. If so noted, the person receiving the citation shall not be permitted to use the voluntary assessment process otherwise permitted under § 709 of this title.~~

~~(3) As used herein, "vulnerable user of a public right-of-way" means:~~

~~a. A pedestrian, including those persons actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; or~~

~~b. A person riding an animal; or~~

~~c. A person operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:~~

~~1. A farm tractor or similar vehicle designed primarily for farm use;~~

~~2. A skateboard;~~

~~3. Roller skates;~~

~~4. In-line skates;~~

~~5. A scooter;~~

~~6. A moped;~~

~~7. A bicycle; or~~

~~8. A motorcycle.~~