SPONSOR: Sen. Sokola
Sen. Peterson; Reps. Osienski, Wilson

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1

FOR

SENATE BILL NO. 150

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 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 Injury to a Vulnerable User of a Public Right-of-Way.

(a) A person is guilty of operation of a vehicle causing injury to a vulnerable user of a public right-of-way 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 to a vulnerable user lawfully in the public right-of-way.

(b) Whoever violates this section:

(1) Shall be fined $550 and have their license and driving privileges, or both, suspended for up to one year; and

(2) Shall complete a traffic safety course approved by the Delaware Division of Motor Vehicles; and

(3) Shall 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.

(c) The court may suspend up to $500 and the imposition of the suspension of license and driving privileges, or both. Any sentence suspended pursuant to this subsection shall be on the condition that the offender shall complete the remaining provisions of the sentence and the court shall set a hearing date at a time within 1 year of the date of sentencing. At that hearing, the court shall:

(1) If the person has successfully completed the requirements described in paragraphs (b)(2) and (b)(3) of this section, dismiss the penalties imposed under paragraph (b)(1) of this section; or

(2) If the person has not successfully completed the requirements described in paragraphs (b)(2) and (b)(3) of this section, either:

a. Grant the person an extension based on good cause shown, or

b. Impose those portions of the sentence suspended pursuant to subsection (c) of this section.

In no event shall more than one extension be granted for good cause shown.

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

(1) A pedestrian, including those persons actively 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

(2) A person riding an animal; or

(3) A person operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:

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

h. A motorcycle.

(e) Any person cited for a violation of this section shall not be permitted to use the voluntary assessment process otherwise permitted under § 709 of this title.

(f) Nothing in this section shall be deemed to preclude prosecution under any other provision of this Chapter.

§ 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.~~

SYNOPSIS

This bill enhances penalties for violations when a victim is vulnerable user (as defined) of a right-of-way who experiences serious physical injury. It expands vulnerable user protection from careless or inattentive driving violations to all rules of the road. The substitute was necessary to restructure the section and replace the definition of a vulnerable user.

Author: Senator Sokola