
A BILL FOR AN ACT

RELATING TO HOMICIDE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that there is ambiguity
2 between the crime of manslaughter established in section
3 707-702, Hawaii Revised Statutes, and the crime of negligent
4 homicide in the first degree, established in section 707-702.5,
5 Hawaii Revised Statutes. Both statutes may be applicable where
6 a person's irresponsible behavior results in the unintended
7 death of another person, except that negligent homicide in the
8 first degree specifically applies to certain cases that involve
9 the offender's operation of a vehicle.

10 The legislature recognizes that in recent years, there have
11 been numerous instances in which a person's operation of a
12 vehicle has led to the deaths of innocent bystanders. In one
13 incident in Kakaako, a commercial driver operating a loaded
14 trolley collided into and dragged a pedestrian over one hundred
15 feet. When authorities stopped the driver, they found an open
16 bottle of liquor and noticed that the driver smelled of alcohol.
17 In Nanakuli, a speeding motorist collided into a pedestrian in a



1 crosswalk, and the collision's impact threw the pedestrian a
2 distance of more than two hundred feet. The driver continued to
3 drive, and only stopped three-quarters of a mile from the point
4 of impact, and only because the vehicle became inoperable. At
5 the time the police confronted the driver, the driver was in the
6 process of attaching her car to a friend's car with a tow cable.
7 On the North Shore of Oahu, another motorist failed to stop the
8 motorist's vehicle after striking a pedestrian. After an
9 extended search, the driver was found miles away in a vacant
10 parking lot. The left door of the driver's vehicle was open,
11 and the driver was on the ground, unconscious from excessive
12 alcohol.

13 The legislature notes that in all of the foregoing cases,
14 the offending drivers who committed these egregious acts had
15 blood alcohol levels over the .08 threshold. Further, the
16 prosecutors decided to charge the offenders with negligent
17 homicide in the first degree, a class B felony that carries a
18 maximum prison sentence of ten years, instead of manslaughter, a
19 class A felony that carries a maximum prison sentence of twenty
20 years. These prosecutorial decisions caused outrage in the



1 victims' communities, especially among the victims' family
2 members, who viewed these inadequate prosecutions as
3 miscarriages of justice.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Change the name of the offense of negligent homicide
6 to vehicular homicide; and
7 (2) Recategorize the penalty categories for each of the
8 three degrees of the offense to the next highest level
9 of severity.

10 SECTION 2. Section 327L-18, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "[~~§~~]**§327L-18**[~~§~~] **Construction of chapter.** (a) Nothing in
13 this chapter shall be construed to authorize a health care
14 provider, health care facility, or any other person to end a
15 patient's life by lethal injection, mercy killing, or active
16 euthanasia. Actions taken in accordance with this chapter shall
17 not, for any purpose, constitute suicide, assisted suicide,
18 mercy killing, murder, manslaughter, [~~negligent~~] any other form
19 of homicide, or any other criminal conduct under the law."



1 SECTION 3. Section 706-606.5, Hawaii Revised Statutes, is
2 amended by amending subsection (1) to read as follows:

3 "(1) Notwithstanding section 706-669 and any other law to
4 the contrary, any person convicted of murder in the second
5 degree, any class A felony, any class B felony, or any of the
6 following class C felonies:

7 (a) Section 134-7 relating to persons prohibited from
8 owning, possessing, or controlling firearms or
9 ammunition;

10 (b) Section 134-8 relating to ownership, etc., of certain
11 prohibited weapons;

12 (c) Section 134-17 only as it relates to providing false
13 information or evidence to obtain a permit under
14 section 134-9;

15 (d) Section 188-23 relating to possession or use of
16 explosives, electrofishing devices, and poisonous
17 substances in state waters;

18 (e) Section 386-98(d)(1) relating to fraud violations and
19 penalties;

20 (f) Section 431:2-403(b)(2) relating to insurance fraud;



- 1 (g) Section [~~707-703~~] 707-704 relating to [~~negligent~~]
2 vehicular homicide in the [~~second~~] third degree;
3 (h) Section 707-711 relating to assault in the second
4 degree;
5 (i) Section 707-713 relating to reckless endangering in
6 the first degree;
7 (j) Section 707-716 relating to terroristic threatening in
8 the first degree;
9 (k) Section 707-721 relating to unlawful imprisonment in
10 the first degree;
11 (l) Section 707-732 relating to sexual assault in the
12 third degree;
13 (m) Section 707-752 relating to promoting child abuse in
14 the third degree;
15 (n) Section 707-757 relating to electronic enticement of a
16 child in the second degree;
17 (o) Section 707-766 relating to extortion in the second
18 degree;
19 (p) Section 708-811 relating to burglary in the second
20 degree;



- 1 (q) Section 708-821 relating to criminal property damage
2 in the second degree;
- 3 (r) Section 708-831 relating to theft in the second
4 degree;
- 5 (s) Section 708-835.5 relating to theft of livestock;
- 6 (t) Section 708-836 relating to unauthorized control of
7 propelled vehicle;
- 8 (u) Section 708-839.55 relating to unauthorized possession
9 of confidential personal information;
- 10 (v) Section 708-839.8 relating to identity theft in the
11 third degree;
- 12 (w) Section 708-852 relating to forgery in the second
13 degree;
- 14 (x) Section 708-854 relating to criminal possession of a
15 forgery device;
- 16 (y) Section 708-875 relating to trademark counterfeiting;
- 17 (z) Section 710-1071 relating to intimidating a witness;
- 18 (aa) Section 711-1103 relating to riot;
- 19 (bb) Section 712-1221 relating to promoting gambling in the
20 first degree;



1 (cc) Section 712-1224 relating to possession of gambling
2 records in the first degree;
3 (dd) Section 712-1247 relating to promoting a detrimental
4 drug in the first degree; or
5 (ee) Section 846E-9 relating to failure to comply with
6 covered offender registration requirements,
7 or who is convicted of attempting to commit murder in the second
8 degree, any class A felony, any class B felony, or any of the
9 class C felony offenses enumerated above and who has a prior
10 conviction or prior convictions for the following felonies,
11 including an attempt to commit the same: murder, murder in the
12 first or second degree, a class A felony, a class B felony, any
13 of the class C felony offenses enumerated above, or any felony
14 conviction of another jurisdiction, shall be sentenced to a
15 mandatory minimum period of imprisonment without possibility of
16 parole as provided in subsection (2)."

17 SECTION 4. Section 707-702.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**\$707-702.5 [Negligent] Vehicular homicide in the first**
20 **degree.** (1) A person commits the offense of [negligent]



1 vehicular homicide in the first degree if that person causes the
2 death of:

3 (a) Another person by the operation of a vehicle in a
4 negligent manner while under the influence of drugs or
5 alcohol; or

6 (b) A vulnerable user by the operation of a vehicle in a
7 negligent manner.

8 (2) [~~Negligent~~] Vehicular homicide in the first degree is
9 a class [B] A felony."

10 SECTION 5. Section 707-703, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§707-703 [~~Negligent~~] Vehicular homicide in the second**

13 **degree.** (1) A person commits the offense of [~~negligent~~]
14 vehicular homicide in the second degree if that person causes
15 the death of:

16 (a) Another person by the operation of a vehicle in a
17 negligent manner; or

18 (b) A vulnerable user by the operation of a vehicle in a
19 manner that constitutes simple negligence as defined
20 in section 707-704(2).



1 (2) ~~[Negligent]~~ Vehicular homicide in the second degree is
2 a class [G] B felony."

3 SECTION 6. Section 707-704, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§707-704** ~~[Negligent]~~ Vehicular homicide in the third
6 **degree.** (1) A person is guilty of the offense of ~~[negligent]~~
7 vehicular homicide in the third degree if that person causes the
8 death of another person by the operation of a vehicle in a
9 manner which is simple negligence.

10 (2) ~~["Simple negligence" as used in this section:]~~ Simple
11 negligence occurs as follows:

12 (a) A person acts with simple negligence with respect to
13 the person's conduct when the person should be aware
14 of a risk that the person engages in that conduct~~[-]~~;

15 (b) A person acts with simple negligence with respect to
16 attendant circumstances when the person should be
17 aware of a risk that those circumstances exist~~[-]~~; or

18 (c) A person acts with simple negligence with respect to a
19 result of the person's conduct when the person should



1 be aware of a risk that the person's conduct will
2 cause that result[—

3 ~~(d)~~ A];

4 provided that a risk is within the ~~[meaning]~~ scope of this
5 subsection if the person's failure to perceive it, considering
6 the nature and purpose of the person's conduct and the
7 circumstances known to the person, involves a deviation from the
8 standard of care that a law-abiding person would observe in the
9 same situation.

10 (3) ~~[Negligent]~~ Vehicular homicide in the third degree is
11 a ~~[misdemeanor—]~~ class C felony."

12 SECTION 7. Sections 286-124, 286-240, 286-245, 286C-1,
13 291C-27, and 351-32, Hawaii Revised Statutes, are amended by
14 substituting the term "vehicular homicide", or similar term,
15 wherever the term "negligent homicide", or similar term,
16 appears, as the context requires.

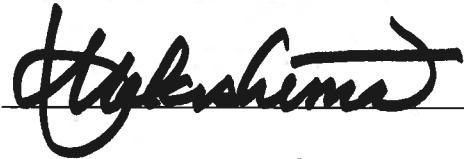
17 SECTION 8. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect upon its approval.
4

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Hyakushima", written over a horizontal line.

JAN 21 2022



H.B. NO. 1 889

Report Title:

Vehicular Homicide; Negligent Homicide; Penal Code

Description:

Changes the name of the offense of negligent homicide to vehicular homicide. Recategorizes the penalty categories for each of the three degrees of the offense to the next highest level of severity.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

