Criminalizing Driving with Ordinary Negligence resulting in Death (HB 1112)

We oppose this bill because it will cause drivers in traffic accidents to be criminalized for ordinary negligence based on the conveyance of the person who died. Although tragic, a driver should not be criminalized for ordinary negligence. Currently, Washington citizens can be convicted of crimes if there is something more than ordinary negligence such as criminal negligence (manslaughter), aggravated negligence (vehicular assault), recklessness (vehicular homicide), or exhibiting the effects of alcohol (negligent driving first degree).

This offense would be unique in that it would criminalize conduct based on the objective standard of ordinary negligence with nothing more: "failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances."

The problem with this is that the driver did not intend to cause any harm, was not reckless, and was not driving with aggravated negligence but, instead was simply failing to exercise caution. For example, let's say a driver "spaced out" thinking about their shopping list and did not notice a pedestrian jaywalking in downtown Seattle. This would be negligent and would likely result a civil lawsuit and a traffic infraction, but should they become a criminal? No, they should not.

Although this conduct supports a civil lawsuit, it is unfair to criminally prosecute someone for a routine traffic accident that, tragically, resulted in the loss of the life. If the person's negligent driving was "aggravated," then the driver can currently be charged with a felony vehicle homicide by disregard for safety of others. Ordinary negligence should not be prosecuted based on the conveyance of the person who died.

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