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H.295

Introduced by Representatives LaLonde of South Burlington, Conquest of
Newbury, and Viens of Newport City

Referred to Committee on

Date:

Subject: Motor vehicles; gross negligence; distracted driving

Statement of purpose of bill as introduced: This bill proposes to provide that
an unexcused violation of certain of Vermont's distracted driving laws
constitutes gross negligence per se under Vermont's criminal law prohibiting
operation of a motor vehicle on a public highway in a grossly negligent manner
if the violation caused a crash resulting in serious bodily injury to or the death
of a person other than the operator.

An act relating to distracted driving and the crime of grossly negligent
motor vehicle operation

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT
OPERATION

(a) Negligent operation.

1 (1) A person who operates a motor vehicle on a public highway in a
2 negligent manner shall be guilty of negligent operation.

3 (2) The standard for a conviction for negligent operation in violation of
4 this subsection shall be ordinary negligence, examining whether the person
5 breached a duty to exercise ordinary care.

6 (3) A person who violates this subsection shall be imprisoned not more
7 than one year or fined not more than \$1,000.00, or both. If the person has been
8 previously convicted of a violation of this subsection, the person shall be
9 imprisoned not more than two years or fined not more than \$3,000.00, or both.
10 If serious bodily injury to or death of any person other than the operator
11 results, the operator shall be subject to imprisonment for not more than two
12 years or to a fine of not more than \$3,000.00, or both. If serious bodily injury
13 or death results to more than one person other than the operator, the operator
14 may be convicted of a separate violation of this subdivision for each decedent
15 or each person injured.

16 (b) Grossly negligent operation.

17 (1) A person who operates a motor vehicle on a public highway in a
18 grossly negligent manner shall be guilty of grossly negligent operation.

19 (2)(A) The standard for a conviction for grossly negligent operation in
20 violation of this subsection shall be gross negligence, examining whether the

1 person engaged in conduct ~~which~~ that involved a gross deviation from the care
2 that a reasonable person would have exercised in that situation.

3 (B) An unexcused violation of section 1095b (handheld use of
4 portable electronic device prohibited), 1099 (texting prohibited), or 4125
5 (commercial motor vehicle distracted driving prohibited) of this title
6 constitutes gross negligence per se under this subsection, if the violation
7 caused serious bodily injury to or the death of a person other than the operator.

8 (3) A person who violates this subsection shall be imprisoned not more
9 than two years or fined not more than \$5,000.00, or both. If the person has
10 previously been convicted of a violation of this section, the person shall be
11 imprisoned not more than four years or fined not more than \$10,000.00, or
12 both. If serious bodily injury to or death of any person other than the operator
13 results, the operator shall be imprisoned for not more than 15 years or fined not
14 more than \$15,000.00, or both. If serious bodily injury or death results to more
15 than one person other than the operator, the operator may be convicted of a
16 separate violation of this subdivision for each decedent or each person injured.

17 (c) The provisions of this section do not limit or restrict the prosecution for
18 manslaughter.

19 * * *

20 Sec. 2. EFFECTIVE DATE

21 This act shall take effect on July 1, 2017.