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H.57

Representative Donahue of Northfield moves that the bill be amended by striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 13 V.S.A. § 2312 is added to read:

§ 2312. VIABLE FETUS; TREATMENT AS VICTIM

(a) As used in this section, “viable fetus” means a human fetus that has reached the end of the 20th week after conception or, in the case of in vitro fertilization, the end of the 20th week after implantation, until birth.

(b) Except as provided in subsection (c) of this section, a prosecution may be maintained for a violation of section 2301 (murder) or 2304 (manslaughter) of this chapter when the victim of the homicide is a viable fetus.

(c) This section shall not apply to acts performed during an abortion or pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment, or to acts committed by a pregnant person toward the person’s own viable fetus.

(d) This section shall not be construed to confer, deny, expand, or contract the legal status or legal rights of a viable fetus.

Sec. 4. 23 V.S.A. § 1091(e) is added to read:

(e)(1) A prosecution may be maintained for grossly negligent operation of a motor vehicle with death resulting in violation of subdivision (b)(3) of this

1 section when the victim of the violation is a viable fetus as defined in
2 13 V.S.A. § 2312(a).

3 (2) This subsection shall not be construed to confer, deny, expand, or
4 contract the legal status or legal rights of a viable fetus.

5 Sec. 5. 23 V.S.A. § 1210(f) is amended to read:

6 (f)(1) Death resulting. If the death of any person results from a violation of
7 section 1201 of this title, the person convicted of the violation shall be fined
8 not more than \$10,000.00 or imprisoned not less than one year nor more than
9 15 years, or both. The provisions of this subsection do not limit or restrict
10 prosecutions for manslaughter.

11 (2) If the death of more than one person results from a violation of
12 section 1201 of this title, the operator may be convicted of a separate violation
13 of this subdivision for each decedent.

14 * * *

15 (4) Fetal death.

16 (A) A prosecution may be maintained for operating a motor vehicle
17 under the influence of alcohol or drugs with death resulting in violation of this
18 section and section 1201 of this title when the victim of the violation is a viable
19 fetus as defined in 13 V.S.A. § 2312(a).

20 (B) This subsection shall not be construed to confer, deny, expand, or
21 contract the legal status or legal rights of a viable fetus.

- 1 Sec. 6. EFFECTIVE DATE
- 2 This act shall take effect on passage.