

Proposed Statutes
ARTICLE 126 – VEHICULAR VIOLENCE

126.00 Vehicular violence defined

The following definitions are applicable to this article.

- (a) Vehicular violence means conduct committed while operating a motorized vehicle, other than driving under the influence of alcohol or drugs, that negligently causes injury or death to another individual.
- (b) Failure to exercise due care means ordinary or civil negligence.
- (c) A specified traffic infraction is a traffic rule or regulation in the vehicle and traffic law contained in the following list, as well as any moving violation reasonably related to the safety of pedestrians and bicyclists.
 - a. VTL 1110 (obey traffic control devices)
 - b. VTL 1111 (traffic control signals)
 - c. VTL 1113 (flashing lights)
 - d. VTL 1120 (drive on the right)
 - e. VTL 1142 (stop or yield signs)
 - f. VTL 1145 (right of way at traffic circle)
 - g. VTL 1146 (exercise due care)
 - h. VTL 1151-a (ped right of way on sidewalks)
 - i. VTL 1160 (turning at intersections)
 - j. VTL 1161 (u-turns)
 - k. VTL 1163 (turning safely)
 - l. VTL 1170 (train signal)
 - m. VTL 1171 (certain vehicles to stop at train crossing)
 - n. VTL 1172 (stop signs and yield signs)
 - o. VTL 1173 (stop exiting alleys, driveways, etc.)
 - p. VTL 1174 (passing school bus)
 - q. VTL 1180 (speed)
 - r. VTL 1182 (speed contests)
 - s. VTL 1212 (reckless driving)
 - t. VTL 1225 (avoiding intersections and traffic-control devices)
 - u. VTL 1225-a (driving on sidewalks)
 - v. VTL 1225-c (using mobile telephones)
 - w. VTL 1225-d (using portable electronic devices)
 - x. Any state or local statute reasonably related to the safe operation of a motor vehicle.
- (d) Motorized vehicle means any motor vehicle defined in the Vehicle and Traffic Law; or any motorcycle, ATV, or motor driven cycle or wheeled device, other than an electrically driven mobility assistance device.
- (e) Commissioner means the commissioner of motor vehicles of this state.

126.05 Serious Physical Injury by Vehicle

A person is guilty of serious physical injury by vehicle when such person fails to exercise due care while operating a motorized vehicle and commits a specified traffic infraction as defined in section 126.00(c), and the commission of the specified traffic infraction is the proximate cause of serious physical injury to another person.

Serious Physical Injury by Vehicle is a class B misdemeanor.

126.10 Aggravated Serious Physical Injury by Vehicle

A person is guilty of aggravated serious physical injury by vehicle when such person commits the crime of serious physical injury by vehicle as defined in section 126.05 of this article, and:

- (a) knows or has reason to know that such person's license or privilege of operating a motor vehicle in this state, or privilege of obtaining a license to operate a motor vehicle issued by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner if: (1) the suspension, revocation, or withdrawal was based upon a conviction of a violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law; or (2) the suspension, revocation, or withdrawal was based upon a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law; or (3) the suspension was a mandatory suspension pending prosecution of a charge of a violation of eleven hundred ninety two of the vehicle and traffic law ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law or other similar statute; or
- (b) has previously been convicted of violating any provision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. For purposes of this subdivision, a conviction in any other state or jurisdiction of an offense which, if committed in this state, would constitute a violation of section eleven-hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; or
- (c) was driving 20 or more miles per hour above the legal speed limit; or
- (d) was committing more than one specified traffic infraction as defined in section 126.00(c); or
- (e) thereby caused serious physical injury to more than one person.

Aggravated Serious Physical Injury by Vehicle is a class A misdemeanor.

126.15 Death by Vehicle.

A person is guilty of death by vehicle when such person fails to exercise due care while operating a motorized vehicle and commits a specified traffic infraction as defined in section 126.00(c), and the commission of the specified traffic infraction is the proximate cause of the death of another person.

Death by Vehicle is a class A misdemeanor.

126.20 Aggravated Death by Vehicle.

A person is guilty of aggravated death by vehicle when such person commits the crime of death by vehicle as defined in section 126.15 of this article, and:

- (a) knows or has reason to know that such person's license or privilege of operating a motor vehicle in this state, or privilege of obtaining a license to operate a motor vehicle issued by the commissioner is suspended, revoked or otherwise withdrawn by the commissioner if: (1) the suspension, revocation, or withdrawal was based upon a conviction of any provision of section eleven hundred ninety-two of the vehicle and traffic law; or (2) the suspension, revocation, or withdrawal was based upon a refusal to submit to a chemical test, pursuant to section eleven hundred ninety-four of the vehicle and traffic law; or (3) the suspension was a mandatory suspension pending prosecution of a charge of a violation of eleven hundred ninety two of the vehicle and traffic law ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law or other similar statute; or
- (b) has previously been convicted of violating any provision of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years. For purposes of this subdivision, a conviction in any other state or jurisdiction of an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; or
- (c) was driving 20 or more miles per hour above the legal speed limit; or
- (d) was committing more than one specified traffic infraction as defined in section 126.00(c); or
- (e) thereby caused the death of more than one person;
- (f) thereby caused the death of one person and the serious physical injury of at least one other person.

Aggravated Death by Vehicle is a class E felony.