

**RCW 46.61.5249 Negligent driving—First degree.** (1) (a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or cannabis or any drug or exhibits the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed any drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the 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.

(b) "Exhibiting the effects of having consumed liquor, cannabis, or any drug" means that a person has the odor of liquor, cannabis, or any drug on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, cannabis, or any drug, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor, cannabis, or any drug in it; or

(ii) Is shown by other evidence to have recently consumed liquor, cannabis, or any drug.

(c) "Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects" means that a person by speech, manner, appearance, behavior, or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

(i) Is in possession of the canister or container from which the chemical came; or

(ii) Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person. [2022 c 16 s 44; 2013 2nd sp.s. c 35 s 16; 2012 c 183 s 13; 2011 c 293 s 5; 1997 c 66 s 4.]

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective date—2012 c 183:** See note following RCW 9.94A.475.

**Effective date—2011 c 293 ss 1-9:** See note following RCW 46.20.385.

*Criminal history and driving record: RCW 46.61.513.*