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Deadly car vs. bike accidents: Should they be a crime?

Susanne Scaringi died after her bicycle slammed into the side of a van that abruptly pulled in front of her. The driver had failed to yield.

The driver wasn't drunk or using drugs, and didn't commit a crime under state law. But should it be a criminal offense to commit a traffic infraction that results in someone's death?

That's one question the Cascade Bicycle Club wants to ask Wednesday during a Traffic Justice Summit to be held at City Hall. The club is proposing a new state law that would aim to protect bicyclists and pedestrians, and is inviting victims and the public to weigh in during the two-hour discussion.

The advocacy group is pushing for a "Vulnerable User Bill," which would expand Washington's negligent driving law to include traffic infractions that result in death or serious injury to a cyclist or pedestrian, such as a fatal failure to yield. Such infractions then would become gross misdemeanors, punishable by up to a year in jail.

The proposal is the club's top priority for the 2010 legislative session, said David Hiller, Cascade's advocacy director.

"This isn't about acts of God or things that are generally unavoidable. This is about when people deliberately ignore the parameters we have established for safe operation of what is a very dangerous appliance and it results in seriously bodily injury or death," he said.

The City of Seattle had a similar ordinance that was overturned by the state Court of Appeals in August. Both City Attorney Tom Carr and City Councilman Tim Burgess are expected to attend Wednesday's summit, scheduled from 5:30 to 7:30 p.m. at City Hall's Bertha Knight Landes room.

Scaringi, the cyclist, was headed from her West Seattle home to work when she was killed. In the same year, Tatsuo Nakata, a City Council aide, was killed when he was struck while crossing a crosswalk in West Seattle.

Carr, the city attorney, filed charges in both cases under the city's assault-by-vehicle ordinance, which was enacted in 2005 and made it a gross misdemeanor to commit certain traffic infractions when they kill or seriously hurt another person.

Under state law, drivers can be charged with felony vehicular homicide or assault if they're under the influence, or driving recklessly or with disregard for the safety of others. King County prosecutors had declined to file charges because the facts of the case didn't rise to the level required by state law.

Clinton Wilson, the driver who hit Scaringi, appealed his Municipal Court conviction. The appellate court [overturned the law](#) after ruling that it didn't mesh with a state law that decriminalizes most minor traffic infractions.

"However stated, Wilson's act -- whatever its consequence -- is only a traffic infraction under state law unless accompanied by the additional elements that would make it vehicular assault or vehicular homicide or driving while intoxicated or one of the other criminal offenses recognized in the exceptions under (state law)," the court ruled.

Between 2002 and 2006, Seattle averaged about 485 collisions per year involving pedestrians or bicyclists, with about nine of them fatal. Bicyclists were involved in 289 crashes, according to the [2007 Pedestrian and Bicycle Collision Report](#).

In bicycle-vehicle crashes, about 35 percent were caused by the driver failing to yield.

Advocates for a new law argue that families of those killed or maimed deserve greater sense of justice than a traffic ticket brings. However, a conviction for negligent driving doesn't carry much steeper punishment. Typically, a first-time offender gets probation or a deferred sentence.

"Do they need an automatic license suspension or do they need driver retraining. These are the questions that we should ask," Hiller said. He noted that people who don't control their vicious dogs face more criminal culpability than drivers for negligence behind the wheel.

Cascade supported similar legislation last year and is working with state Sens. Joe McDermott and Adam Kline, Hiller said.