

PROJET DE LOI

ENTITLED

The Road Traffic (Causing Death or Serious Injury by Driving) (Guernsey) Law, 2025

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THE STATES, in pursuance of their Resolution of the 21st February, 2024^a, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Causing death by dangerous driving.

1. (1) A person is guilty of an offence if the person causes the death of another person by driving a motor vehicle dangerously on a public highway.

(2) A person guilty of an offence under subsection (1) –

(a) is liable on conviction to imprisonment for a term not exceeding 14 years, to a fine, or to both, and

(b) must also be disqualified from holding or obtaining a driving licence for a period of not less than two years from the date of conviction, unless the court for special reasons thinks fit to order that the person be

^a Article VII of Billet d'État No. II of 2024.

disqualified for a shorter period or not to order that the person be disqualified.

Causing death by careless or inconsiderate driving.

2. (1) A person is guilty of an offence if the person causes the death of another person by driving a motor vehicle on a public highway –

- (a) without due care and attention, or
- (b) without reasonable consideration for other persons using the public highway.

(2) A person guilty of an offence under subsection (1) –

- (a) is liable on conviction to imprisonment for a term not exceeding five years, or to a fine, or to both, and
- (b) must also be disqualified from holding or obtaining a driving licence for a period of not less than twelve months from the date of conviction, unless the court for special reasons thinks fit to order that the person be disqualified for a shorter period or not to order that the person be disqualified.

Causing serious injury by dangerous driving.

3. (1) A person is guilty of an offence if the person causes serious injury to another person by driving a motor vehicle dangerously on a public highway.

(2) A person guilty of an offence under subsection (1) –

- (a) is liable on conviction to imprisonment for a term not exceeding five years, or to a fine, or to both, and

- (b) must also be disqualified from holding or obtaining a driving licence for a period of not less than two years from the date of conviction, unless the court for special reasons thinks fit to order that the person be disqualified for a shorter period or not to order that the person be disqualified.
- (3) In this section and section 4, "**serious injury**" includes an injury that -
 - (a) results in a fracture of any bone (except simple fractures of fingers, toes or nose),
 - (b) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage,
 - (c) involves injury to any internal organ, or
 - (d) involves second or third degree burns, or any burns affecting more than 5% of the body surface.

Causing serious injury by careless or inconsiderate driving.

- 4. (1) A person is guilty of an offence if the person causes serious injury to another person by driving a motor vehicle on a public highway –
 - (a) without due care and attention, or
 - (b) without reasonable consideration for other persons using the public highway.
- (2) A person guilty of an offence under subsection (1) –

- (a) is liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both, and
- (b) must also be disqualified from holding or obtaining a driving licence for a period of not less than twelve months from the date of conviction, unless the court for special reasons thinks fit to order that the person be disqualified for a shorter period or not to order that the person be disqualified.

Meaning of driving dangerously.

5. (1) For the purposes of this Law, a person is to be regarded as driving a motor vehicle dangerously on a public highway if (and only if) either condition 1 or 2 is satisfied.

(2) Condition 1 is satisfied if -

- (a) the way that the person drives falls far below what would be expected of a competent and careful driver, and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

(3) Condition 2 is satisfied if it would be obvious to a competent and careful driver that driving the motor vehicle in its current state would be dangerous.

(4) In subsections (2)(b) and (3), "**dangerous**" refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those subsections what would be expected of, or obvious to, a competent and careful driver in a case where a person ("**the accused**") is charged with an offence

under section 1(1) or 3(1), regard is to be had not only to the circumstances of which the accused could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

(5) In determining for the purposes of subsection (3) the state of a motor vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.

Meaning of driving without due care and attention

6. (1) For the purposes of sections 2(1)(a) and 4(1)(a), a person ("B") is to be regarded as driving without due care and attention if (and only if) the way B drives falls below what would be expected of a competent and careful driver.

(2) In determining for the purposes of subsection (1) what would be expected of a competent and careful driver in the particular case, regard is to be had not only to the circumstances of which B could be expected to be aware but also to any circumstances shown to have been within the knowledge of B.

Meaning of driving without reasonable consideration.

7. For the purposes of sections 2(1)(b) and 4(1)(b) a person ("C") is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by C's driving.

Alternative available for conviction.

8. (1) In proceedings against a person for an offence under section 1(1), the person may be convicted of an offence under section 2(1) if the facts proved against that person -

- (a) do not amount to the offence under section 1(1), but
- (b) do amount to the offence under section 2(1).

(2) In proceedings against a person for an offence under section 3(1), the person may be convicted of an offence under section 4(1) if the facts proved against that person -

(a) do not amount to the offence under section 3(1), but

(b) do amount to the offence under section 4(1).

Interpretation.

9. In this Law -

"**the 1957 Law**": see section 11(6),

"**dangerously**", in relation to driving: see section 5,

"**driving without due care and attention**": see section 6,

"**driving without reasonable consideration for other persons**": see section 7,

"**motor vehicle**" means a mechanically propelled vehicle intended or adapted for use on a public highway,

"**public highway**" includes any road, street, lane or public place, and

"**serious injury**": see section 3(3).

Repeal.

10. The Vehicular Traffic (Causing Death by Driving) Law, 1957^b is repealed.

^b Ordres en Conseil Vol. XVII, p. 279; this enactment has been amended.

Continuity of the Vehicular Traffic (Causing Death by Driving) Law, 1957.

11. (1) This section applies where, in any proceedings a person ("D") is charged, in respect of the same conduct and the same death, with –

- (a) an offence under section 1 or 2 of this Law, and
- (b) an offence under section 1 of the 1957 Law.

(2) Subsection (4) has effect where the only thing preventing D from being found guilty of the offence under section 1 of the 1957 Law is –

- (a) the fact that the death took place after the commencement of this Law, or
- (b) the fact that it has not been proved beyond a reasonable doubt that the death took place before the commencement of this Law.

(3) Subsection (4) also has effect where the only thing preventing D from being found guilty of the offence under section 1 or 2 of this Law is –

- (a) the fact that the conduct took place before the commencement of this Law, or
- (b) the fact that it has not been proved beyond a reasonable doubt that the time when the conduct took place was after the commencement of this Law.

(4) For the purpose of determining the guilt of D, it is to be conclusively presumed that both the conduct and the death took place before the commencement of this Law.

(5) This section applies to any proceedings, whenever commenced, other than proceedings in which D has been convicted or acquitted of the offence under the 1957 Law before the commencement of this section.

(6) In this section –

(a) "the 1957 Law" means the Vehicular Traffic (Causing Death by Driving) Law, 1957, and

(b) a reference to an offence under this Law or to an offence under the 1957 Law includes a reference to –

(i) inciting the commission of that offence,

(ii) conspiracy to commit that offence, and

(iii) attempting to commit that offence.

Citation.

12. This Law may be cited as the Road Traffic (Causing Death or Serious Injury by Driving) (Guernsey) Law, 2025.

Commencement.

13. This Law shall come into force on the day appointed by Order of the Committee for Home Affairs; and different dates may be appointed for different provisions and for different purposes.