

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/29/09
Date

Honorable David Dewhurst
President of the Senate

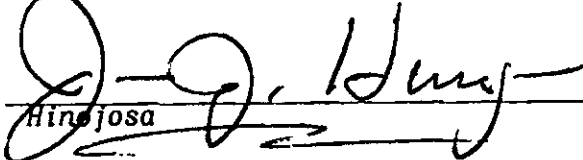
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1343 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.




Van de Putte

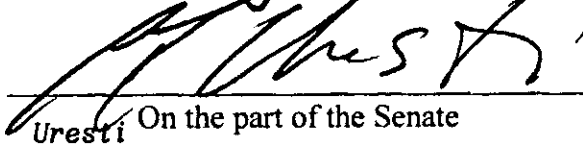


Hinojosa

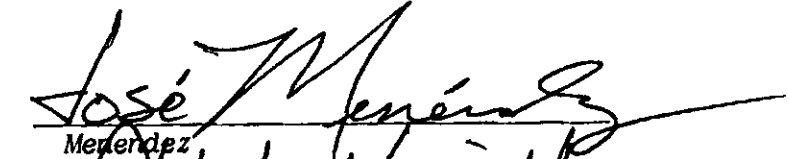
Patrick



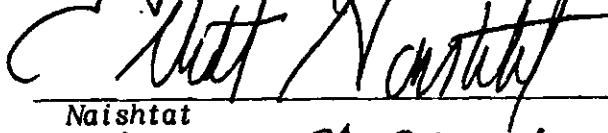
Shapiro




Uresti On the part of the Senate



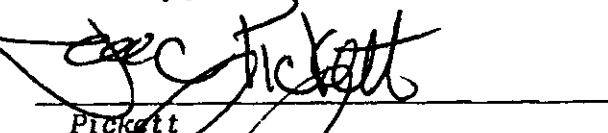
Mendez



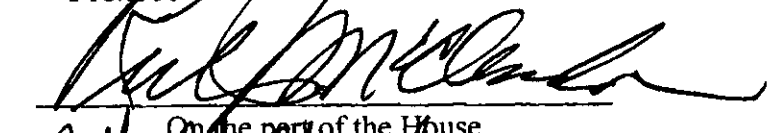
Naishtat



Phillips



Pickett



Ruth McClendon
On the part of the House
McClendon

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1343

A BILL TO BE ENTITLED

1 AN ACT

2 relating to blind and disabled pedestrians and failure of the
3 operator of a motor vehicle to yield the right-of-way.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 121.007, Human Resources Code, is
6 transferred to Chapter 552, Transportation Code, renumbered as
7 Section 552.010, and amended to read as follows:

8 Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS.

9 (a) No person may carry a white cane on a public street or highway
10 unless the person is totally or partially blind.

11 (b) The driver of a vehicle approaching an intersection or
12 crosswalk where a pedestrian guided by an assistance animal or
13 carrying a white cane is crossing or attempting to cross shall take
14 necessary precautions to avoid injuring or endangering the
15 pedestrian. The driver shall bring the vehicle to a full stop if
16 injury or danger can be avoided only by that action.

17 (c) If it is shown on the trial of an offense under this
18 section that as a result of the commission of the offense a
19 collision occurred causing serious bodily injury or death to a
20 blind person, the offense is a misdemeanor punishable by:

21 (1) a fine of not more than \$500; and

22 (2) 30 hours of community service to an organization
23 or agency that primarily serves visually impaired or disabled
24 persons, to be completed in not less than six months and not more

1 than one year.

2 (c-1) A portion of the community service required under
3 Subsection (c)(2) shall include sensitivity training. [~~The failure~~
4 ~~of a totally or partially blind or otherwise disabled person to~~
5 ~~carry a white cane or be guided or aided by an assistance animal~~
6 ~~does not deprive the person of the rights and privileges conferred~~
7 ~~by law on pedestrians crossing streets or highways and does not~~
8 ~~constitute evidence of contributory negligence.~~]

9 (d) For the purposes of this section:

10 (1) "Assistance animal" has the meaning assigned by
11 Section 121.002, Human Resources Code.

12 (2) "White cane" has the meaning assigned by Section
13 121.002, Human Resources Code [~~A person who violates this section~~
14 ~~commits a Class C misdemeanor].~~

15 (e) If conduct constituting an offense under this section
16 also constitutes an offense under another section of this code or
17 the Penal Code, the actor may be prosecuted under either section or
18 both sections.

19 SECTION 2. Section 552.003, Transportation Code, is amended
20 by adding Subsections (d), (d-1), (e), and (f) to read as follows:

21 (d) If it is shown on the trial of an offense under
22 Subsection (a) that as a result of the commission of the offense a
23 collision occurred causing serious bodily injury or death to a
24 visually impaired or disabled person, the offense is a misdemeanor
25 punishable by:

26 (1) a fine of not more than \$500; and

27 (2) 30 hours of community service to an organization

1 or agency that primarily serves visually impaired or disabled
2 persons, to be completed in not less than six months and not more
3 than one year.

4 (d-1) A portion of the community service required under
5 Subsection (d)(2) shall include sensitivity training.

6 (e) For the purposes of this section:

7 (1) "Visually impaired" has the meaning assigned by
8 Section 91.002, Human Resources Code.

9 (2) "Disabled" means a person who cannot walk without
10 the use or assistance of:

11 (A) a device, including a brace, cane, crutch,
12 prosthesis, or wheelchair; or

13 (B) another person.

14 (f) If conduct constituting an offense under this section
15 also constitutes an offense under another section of this code or
16 the Penal Code, the actor may be prosecuted under either section or
17 both sections.

18 SECTION 3. (a) The change in law made by this Act applies
19 only to an offense committed on or after the effective date of this
20 Act. For purposes of this section, an offense is committed before
21 the effective date of this Act if any element of the offense occurs
22 before that date.

23 (b) An offense committed before the effective date of this
24 Act is covered by the law in effect when the offense was committed,
25 and the former law is continued in effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2009.

House Bill 1343
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS. (a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and
(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(A) A portion of the community service required under Subsection (2) shall include sensitivity training. [The failure of a totally or partially blind or otherwise disabled person to carry a white cane or be guided or aided by an

SENATE VERSION

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS. (a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and
(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(c-1) A portion of the community service required under Subsection (c)(2) shall include sensitivity training. [The failure of a totally or partially blind or otherwise disabled person to carry a white cane or be guided or aided by an

CONFERENCE

SECTION 1. Same as Senate version.

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HOUSE VERSION

~~assistance animal does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.]~~

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code. [A person who violates this section commits a Class C misdemeanor.]

SECTION 2. Section 552.003, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) If it is shown on the trial of an offense under Subsection (a) that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a visually impaired or disabled person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

SENATE VERSION

~~assistance animal does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.]~~

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code. [A person who violates this section commits a Class C misdemeanor.]

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 2. Section 552.003, Transportation Code, is amended by adding Subsections (d), (d-1), (e), and (f) to read as follows:

(d) If it is shown on the trial of an offense under Subsection (a) that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a visually impaired or disabled person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

CONFERENCE

SECTION 2. Same as Senate version.

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HOUSE VERSION

- (A) A portion of the community service required under Subsection (2) shall include sensitivity training.
- (e) For the purposes of this section:
- (1) "Visually impaired" has the meaning assigned by Section 91.002, Human Resources Code.
- (2) "Disabled" means a person who cannot walk without the use or assistance of:
- (A) a device, including a brace, cane, crutch, prosthesis, or wheelchair; or
- (B) another person.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

SENATE VERSION

- (d-1) A portion of the community service required under Subsection (d)(2) shall include sensitivity training.
- (e) For the purposes of this section:
- (1) "Visually impaired" has the meaning assigned by Section 91.002, Human Resources Code.
- (2) "Disabled" means a person who cannot walk without the use or assistance of:
- (A) a device, including a brace, cane, crutch, prosthesis, or wheelchair; or
- (B) another person.
- (f) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

Same as House version.

Same as House version.

CONFERENCE

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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SENATE VERSION

CONFERENCE

The following rows were presented as the language of Senate Bill 2082, relating to determining a student's eligibility for a school district's special education program on the basis of the student's visual impairment.

No equivalent provision.

SECTION __. Section 30.002, Education Code, is amended by adding Subsections (c-1) and (c-2) to read as follows:

Same as House version.

(c-1) To implement Subsection (c)(1) and to determine a child's eligibility for a school district's special education program on the basis of a visual impairment, the full individual and initial evaluation of the student required by Section 29.004 must, in accordance with commissioner rule:

(1) include an orientation and mobility evaluation conducted:

(A) by a person who is appropriately certified as an orientation and mobility specialist, as determined under commissioner rule; and

(B) in a variety of settings, including in the student's home, school, and community and in settings unfamiliar to the student; and

(2) provide for a person who is appropriately certified as an orientation and mobility specialist to participate, as part of the multidisciplinary team, in evaluating data on which the determination of the child's eligibility is based.

(c-2) Any reevaluation by a school district of a student

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who has been determined, after the full individual and initial evaluation, to be eligible for the district's special education program on the basis of a visual impairment must, in accordance with commissioner rule, include an orientation and mobility evaluation conducted by a person described by Subsection (c-1)(1)(A).

No equivalent provision.

SECTION __. (a) Not later than January 1, 2010, the commissioner of education shall adopt rules necessary to implement Subsections (c-1) and (c-2), Section 30.002, Education Code, as added by this Act.
(b) Not later than the beginning of the 2010-2011 school year, Subsections (c-1) and (c-2), Section 30.002, Education Code, as added by this Act, shall be implemented.

Same as House version.

No equivalent provision.

SECTION __. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

Same as House version.

The following row was presented as the language of Senate Bill 1389, relating to the penalty for the offense of reckless driving.

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HOUSE VERSION

No equivalent provision.

SENATE VERSION

SECTION __. Section 545.401, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Except as provided by Subsection (e), an [An] offense under this section is a misdemeanor punishable by:

- (1) a fine not to exceed \$200;
 - (2) confinement in county jail for not more than 30 days;
- or
- (3) both the fine and the confinement.

(e) If an offense under this section results in the serious bodily injury or death of an operator or passenger of another motor vehicle, the offense is a Class B misdemeanor.

(f) The court may:

(1) order that the driver's license of a person convicted of an offense under Subsection (e) be suspended for not less than 30 days beginning on the date of conviction; and

(2) require the person to attend and present proof that the person successfully completed a driving safety course approved under Chapter 1001, Education Code, before the person's driver's license may be reinstated.

(g) A judge, acting under Article 42.12, Code of Criminal Procedure, who elects to place a defendant on community supervision under that article may require the defendant to attend and present proof that the defendant successfully completed a driving safety course approved under Chapter 1001, Education Code.

CONFERENCE

Same as House version.

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(h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1343** by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way to those pedestrians. The bill would amend Chapter 552 (pedestrians) to create a penalty of a fine of up to \$500 and a community service requirement for a motor vehicle driving offense resulting in injury or death to a blind, visually impaired, or disabled person. The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, ESi, KJG, SD, DB