

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/28/09
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 SB 488 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.

[Signature]

[Signature]

[Signature]

Ken Paxton

[Signature]

[Signature]

[Signature]

[Signature]

Wendy R. Davis
On the part of the Senate

[Signature]
On the part of the House

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

S.B. No. 488

A BILL TO BE ENTITLED

AN ACT

relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.

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

SECTION 1. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.428 to read as follows:

Sec. 545.428. VULNERABLE ROAD USERS. (a) In this section, "vulnerable road user" means:

(1) a pedestrian, including a runner, physically disabled person, child, skater, highway construction and maintenance worker, tow truck operator, utility worker, other worker with legitimate business in or near the road or right-of-way, or stranded motorist or passenger;

(2) a person on horseback;

(3) a person operating equipment other than a motor vehicle, including a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or

(4) a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

(b) An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:

(1) vacate the lane in which the vulnerable road user is located if the highway has two or more marked lanes running in the same direction; or

1 (2) pass the vulnerable road user at a safe distance.

2 (c) For the purposes of Subsection (b)(2), when road
3 conditions allow, safe distance is at least:

4 (1) three feet if the operator's vehicle is a passenger
5 car or light truck; or

6 (2) six feet if the operator's vehicle is a truck other
7 than a light truck or a commercial motor vehicle as defined by
8 Section 522.003.

9 (d) An operator of a motor vehicle that is making a left turn
10 at an intersection, including an intersection with an alley or
11 private road or driveway, shall yield the right-of-way to a
12 vulnerable road user who is approaching from the opposite direction
13 and is in the intersection or in such proximity to the intersection
14 as to be an immediate hazard.

15 (e) An operator of a motor vehicle may not overtake a
16 vulnerable road user traveling in the same direction and
17 subsequently make a right-hand turn in front of the vulnerable road
18 user unless the operator is safely clear of the vulnerable road
19 user, taking into account the speed at which the vulnerable road
20 user is traveling and the braking requirements of the vehicle
21 making the right-hand turn.

22 (f) An operator of a motor vehicle may not maneuver the
23 vehicle in a manner that:

24 (1) is intended to cause intimidation or harassment to
25 a vulnerable road user; or

26 (2) threatens a vulnerable road user.

27 (g) An operator of a motor vehicle shall exercise due care

1 to avoid colliding with any vulnerable road user on a roadway or in
2 an intersection of roadways.

3 (h) A violation of this section is punishable under Section
4 542.401 except that:

5 (1) if the violation results in property damage, the
6 violation is a misdemeanor punishable by a fine of not to exceed
7 \$500; or

8 (2) if the violation results in bodily injury, the
9 violation is a Class B misdemeanor.

10 (i) It is a defense to prosecution under this section that
11 at the time of the offense the vulnerable road user was acting in
12 violation of the law.

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

17 SECTION 2. This Act takes effect September 1, 2009.

Senate Bill 488
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

SECTION 1. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.428 as follows:
Sec. 545.428. VULNERABLE ROAD USERS.

Same as Senate version.

Same as Senate version.

(a)-(b)

(a)-(b) Same as Senate version.

Same as Senate version.

(c) Provides that the safe distance at which an operator of a motor vehicle passing a vulnerable road user operating on a highway or street is required to pass the vulnerable road user, when road conditions allow, is at least three feet if the operator's vehicle is a passenger car or light truck or six feet if the operator's vehicle is a truck other than a light truck or a commercial motor vehicle.

(c) Provides that the operator of a motor vehicle passing a vulnerable road user operating on a highway or street is presumed to have failed to comply with the requirement that the operator pass the vulnerable road user at a safe distance if the distance between the operator's vehicle and the vulnerable road user is less than three feet if the operator's vehicle is a passenger car or light truck or six feet if the operator's vehicle is a truck other than a light truck or a commercial motor vehicle.

Same as Senate version.

(d)-(g)

(d)-(g) Same as Senate version.

Same as Senate version.

No equivalent provision.

(h) Prohibits a person from opening the door on the side of a vehicle that is adjacent to moving traffic unless it is reasonably safe to open the door without interfering with the movement of traffic, including vulnerable road users and prohibits a person from leaving a door open on the side of a vehicle that is adjacent to moving traffic for a period longer than necessary to load or unload passengers or goods.

Same as Senate version.

No equivalent provision.

(i) Prohibits a person from harassing, taunting, or throwing an object or liquid at or in the direction of any

Same as Senate version.

Senate Bill 488
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

vulnerable road user.

- (h)
 - (i) Provides that it is a defense to prosecution for an offense under provisions relating to vulnerable road users that at the time of the offense the vulnerable road user was acting in violation of the law.
 - (j)
- SECTION 2. Effective date.

(j) Same as Senate version.

(k) Provides that the presumption that a motor vehicle operator has failed to comply with the requirement to pass a vulnerable road user at a safe distance does not arise and may not be applied against the operator of the motor vehicle if at the time of the offense the vulnerable road user was acting in violation of the law.

(l) Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 29, 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: **SB488** by Ellis (Relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would create as an offense certain actions of a driver of a motor vehicle in the vicinity of a vulnerable road user. Depending on various criteria, the punishment would be either a fine of between \$1 and \$200; a misdemeanor punishable by a fine not to exceed \$500; or a Class B misdemeanor, which is punishable by a fine not to exceed \$2,000, confinement in jail for a term not to exceed 180 days, or both such fine and confinement.

Costs associated with enforcement, prosecution, and punishment are not anticipated to have a significant fiscal impact. Revenue gain from fines would vary depending on the number of offenses prosecuted and the amount of fine imposed.

Local Government Impact

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

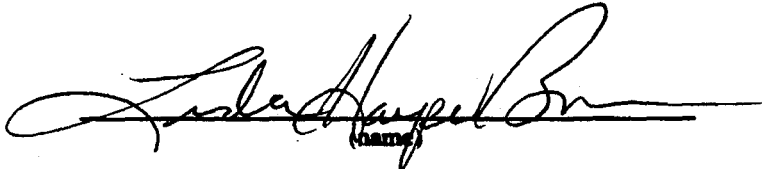
Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, SD, KJG, DB

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S. B. 488 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.


(name)

5-29-09
(date)