

## **BILL ANALYSIS**

C.S.H.B. 827  
By: Harper-Brown  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law does not provide specific guidelines for a motor vehicle overtaking a vulnerable road user on a street or highway other than to put an inadequately defined "safe passing distance" between the vehicle and a bicyclist, nor does it provide uniform protection for a collective class of vulnerable road users. Approximately 40 percent of bicycle traffic crash fatalities in Texas occur due to unsafe passing by a motor vehicle. Current law does not provide for any penalty specific to the unsafe passing of a vulnerable road user.

C.S.H.B. 827 specifically defines which individuals may be designated as vulnerable road users. The bill provides that a safe passing distance of a vulnerable road user is three feet for a car or light truck and six feet for a truck other than a light truck. The bill establishes that violations that result in property damage are a misdemeanor punishable by a fine not to exceed \$500; violations causing bodily injury are a Class B misdemeanor.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 827 amends the Transportation Code to make it an offense to operate a motor vehicle in the vicinity of a vulnerable road user as prescribed by the bill's provisions. The bill defines "vulnerable road user" as: a 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; a person on horseback; a person operating equipment other than a motor vehicle, including a horse-driven conveyance, or unprotected farm equipment; or a pedestrian, including a runner, a physically disabled person, a child, a skater, or a person operating a bicycle, handcycle, moped, motor-driven cycle, or motor-assisted scooter. The bill prohibits a pedestrian, including the persons described above, or a person operating certain cycles, a moped, or a motor-assisted scooter, from operating more than three feet from the right edge line of pavement on a highway or street. The bill requires an operator of a motor vehicle passing a vulnerable road user operating on a highway or street to vacate the lane in which the vulnerable road user is located, if that highway has two or more marked lanes with a total width of not less than 24 feet running in the same direction and the far left lane is not occupied by a vehicle, or to pass the vulnerable road user at a safe distance. The bill establishes that the operator is presumed to have failed to 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.

C.S.H.B. 827 requires an operator making a left turn at an intersection, including an intersection with an alley or private road or driveway, to yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection or in such proximity to the

intersection as to be an immediate hazard. The bill prohibits an operator from maneuvering the vehicle in a manner that is intended to cause intimidation or harassment to a vulnerable road user or that threatens a vulnerable road user. The bill requires an operator to exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways. The bill 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. The bill 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. The bill prohibits a person from harassing, taunting, or throwing an object or liquid at or in the direction of any vulnerable road user.

C.S.H.B. 827 establishes that a violation of the bill's provisions is punishable under the general penalty provision of the law governing rules of the road, except if the violation results in property damage, the violation is a misdemeanor punishable by a fine not to exceed \$500, or if the violation results in bodily injury, the violation is a Class B misdemeanor. The bill establishes that the presumption that the operator of a motor vehicle failed to pass a 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 or six feet, depending on the operator's vehicle, 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. The bill provides that, if conduct constituting an offense under the bill's provisions also constitutes an offense under another law, the actor may be prosecuted under either law or both laws.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 827 differs from the original by adding a tow truck operator and a person operating a handcycle, moped, motor-driven cycle, or motor-assisted scooter to the definition of "vulnerable road user." The substitute removes a provision from the original including a motorcycle in that definition. The substitute adds a provision not in the original prohibiting a pedestrian or a person operating certain cycles, a moped, or a motor-assisted scooter, from operating more than three feet from the right edge line of pavement on a highway or street. The substitute differs from the original by specifying that an operator of a vehicle passing a vulnerable road user operating on a highway or street is required to vacate the lane in which the user is located if the highway has two or more marked lanes, with a total width of not less than 24 feet, running in the same direction and the far left lane is not occupied by a vehicle, whereas the original requires the operator to 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. The substitute removes a provision from the original prohibiting the operator of a motor vehicle from overtaking a vulnerable road user traveling in the same direction and subsequently making a right-hand turn in front of that user, unless the operator is safely clear of the user.

C.S.H.B. 827 establishes that the operator of a motor vehicle is presumed to have failed to comply with the requirement to pass a 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 or six feet, depending on the operator's vehicle, rather than establishing that the operator is presumed to have passed the vulnerable road user at a safe distance if the distance between the operator's vehicle and the vulnerable road user is more than three feet or six feet, depending on the operator's vehicle, as in the original. The substitute establishes that the presumption that the operator of a motor vehicle failed to pass a 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 or six feet, depending on the operator's vehicle, 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, rather than establishing a defense to prosecution that at the time of the offense the vulnerable road user was a person operating a bicycle in violation of the law relating to operation of, or safety equipment on, a bicycle, as in the original.