

1-1 By: Ellis, Carona, Davis S.B. No. 488
1-2 (In the Senate - Filed January 15, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 1, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 7,
1-6 Nays 2; April 1, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 488 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the operation of a motor vehicle in the vicinity of a
1-11 vulnerable road user; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter I, Chapter 545, Transportation Code,
1-14 is amended by adding Section 545.428 to read as follows:

1-15 Sec. 545.428. VULNERABLE ROAD USERS. (a) In this section,
1-16 "vulnerable road user" means:

1-17 (1) a pedestrian, including a runner, physically
1-18 disabled person, child, skater, highway construction and
1-19 maintenance worker, tow truck operator, utility worker, other
1-20 worker with legitimate business in or near the road or
1-21 right-of-way, or stranded motorist or passenger;

1-22 (2) a person on horseback;

1-23 (3) a person operating equipment other than a motor
1-24 vehicle, including a bicycle, handcycle, horse-driven conveyance,
1-25 or unprotected farm equipment; or

1-26 (4) a person operating a motorcycle, moped,
1-27 motor-driven cycle, or motor-assisted scooter.

1-28 (b) An operator of a motor vehicle passing a vulnerable road
1-29 user operating on a highway or street shall:

1-30 (1) vacate the lane in which the vulnerable road user
1-31 is located if the highway has two or more marked lanes running in
1-32 the same direction; or

1-33 (2) pass the vulnerable road user at a safe distance.

1-34 (c) For the purposes of Subsection (b)(2), the operator is
1-35 presumed to have failed to comply with Subsection (b)(2) if the
1-36 distance between the operator's vehicle and the vulnerable road
1-37 user is less than:

1-38 (1) three feet if the operator's vehicle is a passenger
1-39 car or light truck; or

1-40 (2) six feet if the operator's vehicle is a truck other
1-41 than a light truck or a commercial motor vehicle as defined by
1-42 Section 522.003.

1-43 (d) An operator of a motor vehicle that is making a left turn
1-44 at an intersection, including an intersection with an alley or
1-45 private road or driveway, shall yield the right-of-way to a
1-46 vulnerable road user who is approaching from the opposite direction
1-47 and is in the intersection or in such proximity to the intersection
1-48 as to be an immediate hazard.

1-49 (e) An operator of a motor vehicle may not overtake a
1-50 vulnerable road user traveling in the same direction and
1-51 subsequently make a right-hand turn in front of the vulnerable road
1-52 user unless the operator is safely clear of the vulnerable road
1-53 user, taking into account the speed at which the vulnerable road
1-54 user is traveling and the braking requirements of the vehicle
1-55 making the right-hand turn.

1-56 (f) An operator of a motor vehicle may not maneuver the
1-57 vehicle in a manner that:

1-58 (1) is intended to cause intimidation or harassment to
1-59 a vulnerable road user; or

1-60 (2) threatens a vulnerable road user.

1-61 (g) An operator of a motor vehicle shall exercise due care
1-62 to avoid colliding with any vulnerable road user on a roadway or in
1-63 an intersection of roadways.

2-1 (h) A person may not open the door on the side of a vehicle
2-2 that is adjacent to moving traffic unless it is reasonably safe to
2-3 open the door without interfering with the movement of traffic,
2-4 including vulnerable road users. A person may not leave a door open
2-5 on the side of a vehicle that is adjacent to moving traffic for a
2-6 period longer than necessary to load or unload passengers or goods.

2-7 (i) A person may not harass, taunt, or throw an object or
2-8 liquid at or in the direction of any vulnerable road user.

2-9 (j) A violation of this section is punishable under Section
2-10 542.401 except that:

2-11 (1) if the violation results in property damage, the
2-12 violation is a misdemeanor punishable by a fine of not to exceed
2-13 \$500; or

2-14 (2) if the violation results in bodily injury, the
2-15 violation is a Class B misdemeanor.

2-16 (k) The presumption provided by Subsection (c) does not
2-17 arise and may not be applied against the operator of the motor
2-18 vehicle if at the time of the offense the vulnerable road user was
2-19 acting in violation of the law.

2-20 (l) If conduct constituting an offense under this section
2-21 also constitutes an offense under another section of this code or
2-22 the Penal Code, the actor may be prosecuted under either section or
2-23 both sections.

2-24 SECTION 2. This Act takes effect September 1, 2009.

2-25 * * * * *