

SUBJECT: Minimum safe passing distance for unprotected road users

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Phillips, Martinez, Burkett, Fletcher, Guerra, Harper-Brown, McClendon

2 nays — Lavender, Pickett

2 absent — Y. Davis, Riddle

WITNESSES: For — James Jones, San Antonio Police Department; Felicia Scott; Robin Stallings, Bike Texas; (*Registered, but did not testify:* Jeff Chattin; Emma Cravey and Juliana Furioso, BikeTexas; Meskerem Goshime; Xavier Harvey; Jeff Humphrey, San Antonio Police Department; Dennis Kearns; Leslie Luciano; Sandra Martinez, Methodist Healthcare Ministries of South Texas; Allene Mayfield; Durwood Mayfield; Anne O’Ryan, AAA Texas; John Sanford; Gayle Stallings; Mark Stine and Susan Wilcox, BikeTexas)

Against — (*Registered, but did not testify:* Chris Howe)

On — ((*Registered, but did not testify:* John Barton, Texas Department of Transportation; Ron Joy, Texas Department of Public Safety)

BACKGROUND: Transportation Code, sec. 551.103 requires a person operating a bicycle on a roadway to ride as near to the right curb or edge of the roadway as practicable unless there is some extenuating circumstance, the person is passing another vehicle, the person is making a left turn, the person is riding in a lane that is too narrow for a bicycle and a motor vehicle to safely travel side by side, or the person is riding in a one-way street.

Transportation Code, sec. 551.104(b) prohibits a person from operating a bicycle at night unless the bicycle has a lamp on the front that emits a white light visible from at least 500 feet in the front and has on the rear either a red reflector visible from 50 to 300 feet or a red light visible from 500 feet in the rear . The offense is a misdemeanor punishable by a fine between \$1 and \$200, as described by Transportation Code, sec. 542.401.

Transportation Code, sec. 545.053, requires an operator passing another vehicle to pass to the left at a safe distance.

DIGEST:

CSHB 2225 would require the operator of a motor vehicle passing an unprotected road user to either:

- vacate the lane in which the road user was operating, if on a highway with two or more marked lanes; or
- pass the user at a safe distance, defined as three feet for cars and light trucks and six feet for commercial vehicles, when road conditions allowed.

The bill would require an operator of a motor vehicle making a turn at an intersection, including an intersection with an alley or private road or driveway, to yield the right-of-way to an unprotected road user who was in the intersection or was close enough to be an immediate hazard. An operator of a motor vehicle would have to exercise due care to avoid colliding with any unprotected road user on a roadway or at an intersection.

The bill would prohibit an operator of a motor vehicle from:

- overtaking an unprotected road user and subsequently turning in front of them unless the operator was safely clear of the unprotected road user, taking into account the unprotected road user's speed and the braking requirements of the turning vehicle;
- using their vehicle to intimidate or harass an unprotected road user;
- using their vehicle to threaten an unprotected road user.

Definitions. The bill would consider an unprotected road user to be:

- a pedestrian, including a runner, physically disabled person, worker, tow-truck operator; stranded motorist or passenger;
- a person on horseback;
- a person operating equipment other than a motor vehicle, including a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or
- a person operating a motorcycle, moped, motor-driven cycle, or motor-assisted scooter.

Penalties. A violation of the provisions of the bill would be punishable as

a misdemeanor offense, with a fine between \$1 and \$200. If the violation resulted in property damage, the offense would be a misdemeanor punishable by a fine up to \$500. If the violation resulted in bodily injury, the violation would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

It would be a defense to prosecution under the bill that at the time of the offense, the unprotected road user was acting in violation of the law. If the offense also was an offense under another section of Transportation Code or Penal Code, the person could be prosecuted under either section or both sections.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

Too many Texans are injured or killed in accidents along Texas roads, and the risk of serious injury or death is higher for those individuals who are not inside a vehicle. About 50 cyclists and 400 pedestrians a year are killed in Texas in automobile crashes. CSHB 2225 could prevent fatalities caused by collisions between motor vehicles and unprotected road users.

This is a statewide issue and should be addressed as such. A patchwork of local ordinances would make it difficult for road users to comply with the law as they travel between cities. CSHB 2225 would protect Texans in rural areas riding on unprotected farm equipment or horseback, as well as bicyclists, pedestrians, motorcyclists, and other legal unprotected road users by providing a standard safe passing distance that would apply only when road conditions allowed. The bill would not make cities widen their streets to accommodate the requirements or make vehicles veer into oncoming traffic.

Current law does not provide specific guidelines for a motor vehicle overtaking a bicyclist on a street or highway other than the inadequately defined mandate to pass another vehicle "at a safe distance." There also is no specific penalty for passing a bicyclist unsafely. The bill would specify safety distances consistent with the Texas Commercial Driver's handbook to ultimately prevent injury and damages caused by collisions and other accidents occurring between vehicles and unprotected road users.

CSHB 2225 also would provide protection for road users in a dangerous situation created by threatening or harassing behavior or improper turning. If an unprotected road user was hit by a vehicle's door, that would still be

considered a collision and would be covered by existing law. The bill is necessary to create some way for safe passing distance to be enforced between a motor vehicle and an exposed person on a roadway. The standard in the bill would create a clear statement for educational programs and safety awareness campaigns.

The bill would not change the liability of motor vehicle drivers. Every motor vehicle in the state currently must have bodily injury insurance and insurance for damage or destruction of property. If a vehicle caused bodily or property damage, the motorist's insurance would pay for the damages. Bicyclists and unprotected road users have a lot more to lose than motorists in terms of medical costs and damage from a collision. They have an incentive to stay out of the way of larger vehicles. Requiring insurance for bicyclists is outside the scope of the bill. The bill would provide a defense to prosecution for motorists if unprotected road users were violating the law at the time of the violation.

The bill would improve safety for all road users. The safe-passing distance requirement would codify existing recommended driving practices — wide enough to provide protection but narrow enough to be easily followed. The standard is a minimum and could be exceeded if necessary.

**OPPONENTS
SAY:**

CSHB 2225 would be unnecessary at the state level and could have unintended consequences for the safety of all road users. Many Texas cities, including Austin, Fort Worth, San Antonio, and Houston have already passed ordinances to protect cyclists and other vulnerable road users from motor vehicles. The bill would attempt to resolve a mostly urban problem that should be addressed locally, not imposed on the state's rural areas as well.

The bill also could have unintended consequences for bicyclist safety, as bicyclists could have a harder time holding a motor vehicle liable for dangerous behavior if the vehicle had obeyed the three feet distance requirement created under the bill. A distance of three feet is less than the width of some car doors and not enough room for a bicyclist to travel comfortably when motor vehicles travel at high speeds or in adverse road conditions.

The bill would increase liability for motorists by setting criminal penalties for motorists without setting reciprocal penalties for a bicyclist infringing on the safe passing distance of an automobile. Bicycles are considered

vehicles under the law and should be treated no differently from any other driver on the road. Further, bicyclists do not typically carry insurance, leaving a motorist at greater risk of liability should there be an accident. The bill should include penalties for bicyclists that do not carry the minimum amount of vehicle insurance required by law.

**OTHER
OPPONENTS
SAY:**

Requiring a passing distance of three to six feet could create an even more dangerous driving condition, as motor vehicles may have to swerve into oncoming traffic to avoid an unprotected road user. As a consequence, cities could be forced to spend money on widening their roads to accommodate the new required passing distance.