



House of Representatives

General Assembly

File No. 222

February Session, 2010

House Bill No. 5457

House of Representatives, March 30, 2010

The Committee on Transportation reported through REP. GUERRERA of the 29th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT ENHANCING PENALTIES FOR HARM TO VULNERABLE USERS OF A PUBLIC WAY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) As used in this
2 section:

3 (1) "Vulnerable user" means (A) a pedestrian, (B) a highway worker,
4 as defined in section 14-212d of the general statutes, including a
5 highway worker who performs duties on a highway under the control
6 of a political subdivision of the state, while in the performance of his or
7 her duties and while outside his or her vehicle, (C) a person riding or
8 driving an animal, (D) a person riding a bicycle, (E) a person using a
9 skateboard, roller skates or inline skates, or (F) a person operating or
10 riding on an agricultural tractor or farm implement, as defined in
11 section 14-1 of the general statutes, that does not have an enclosed
12 passenger compartment; and

13 (2) "Public way" means a highway, as defined in section 14-1 of the

14 general statutes, shoulder, as defined in section 14-1 of the general
15 statutes, crosswalk, sidewalk, parking area, as defined in section 14-
16 212 of the general statutes, or multipurpose trail.

17 (b) A person commits the offense of infliction of serious physical
18 injury or death to a vulnerable user when such person, while operating
19 a motor vehicle on a public way, fails to exercise due care to avoid
20 colliding with a vulnerable user of such public way and collides with
21 such vulnerable user causing serious physical injury, as defined in
22 section 53a-3 of the general statutes, or death to such vulnerable user.

23 (c) Any person convicted of the offense of infliction of serious
24 physical injury or death to a vulnerable user shall be sentenced to
25 attend a motor vehicle operator's retraining program, as provided in
26 section 14-111g of the general statutes, and perform not less than one
27 hundred hours or more than two hundred hours of community service
28 and may be fined not more than five thousand dollars. Such person
29 shall complete such retraining program and perform such community
30 service within one year of the date of sentencing.

31 (d) If the Court Support Services Division reports to the court that
32 such person has not successfully completed such retraining program
33 and performed such community service within such one-year period,
34 the court shall fine such person not more than ten thousand dollars
35 and suspend such person's motor vehicle operator's license or
36 nonresident operating privilege for a period of one year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	New section

TRA *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Judicial Dept.	GF - Revenue Gain	Less than \$50,000	Less than \$50,000

Note: GF=General Fund

Municipal Impact: None

Explanation

Any revenue from additional criminal fines imposed under the bill is anticipated to be minimal. The Court Support Services Division can track offenders in accordance with the bill at no cost.

The Out Years

The ongoing fiscal impact identified above would remain constant into the future since fine amounts are set by statute.

OLR Bill Analysis**HB 5457*****AN ACT ENHANCING PENALTIES FOR HARM TO VULNERABLE USERS OF A PUBLIC WAY.*****SUMMARY:**

This bill imposes penalties on drivers who seriously injure or kill pedestrians, bicyclists, highway workers, and others (“vulnerable users”) on public ways. Current law already imposes penalties on drivers who seriously injure or kill highway workers (see BACKGROUND).

Motorists whose lack of due care kills or seriously injures a vulnerable user must attend a motor vehicle operator’s retraining program and perform community service. They are also subject to a fine of up to \$5,000.

Under the bill, offenders who do not successfully complete the retraining program and perform community service within one year from sentencing face a fine of up to \$10,000 and suspension of their driver’s license or nonresident operating privilege for one year.

EFFECTIVE DATE: October 1, 2010

CAUSING SERIOUS PHYSICAL INJURY OR DEATH TO A VULNERABLE USER

The bill creates a class of “vulnerable users” of public ways, and imposes specific penalties on drivers who seriously injure or kill them.

Under the bill a vulnerable user is a:

1. pedestrian;
2. highway worker, including a highway worker performing his

or her duties on a highway under the control of a political subdivision of the state, while outside of his or her vehicle;

3. person riding or driving an animal;
4. bicyclist;
5. skateboarder;
6. roller blader or roller skater; or
7. operator of, or rider on, an agricultural tractor or farm implement that does not have an enclosed passenger compartment.

A public way is a highway, shoulder, crosswalk, sidewalk, parking area, or multipurpose trail.

A person commits the offense of inflicting serious injury or death to a vulnerable user when, while operating a motor vehicle on a public way, he or she fails to exercise due care to avoid colliding with the vulnerable user and the collision seriously injures or kills the vulnerable user.

The bill requires anyone convicted of this offense to be sentenced to attend a motor vehicle retraining program and perform between 100 and 200 hours of community service. He or she also may be fined up to \$5,000.

The offender must complete the retraining program and perform the community service within one year of sentencing. If the Court Support Services Division reports to the court that the offender has not done both within one year, the court must fine the person up to \$10,000 and suspend his or her operator's license or nonresident operating privilege for one year.

BACKGROUND

Due Care

Due care is the degree of care that a prudent and competent person engaged in the same endeavor would exercise under similar circumstances (*Black's Law Dictionary*, 1999).

Highway Worker

By law, a highway worker is someone required to perform the duties of his or her job on state bridges or roads or in highway work zones, including: (A) A person who performs maintenance, repair, or construction of state bridges, state roads, shoulders, medians, and associated rights-of-way in highway work zones; (B) a person who operates a truck, loader, or other equipment on state bridges or roads or in highway work zones; (C) a person who performs any other related maintenance work, as required, on state bridges or roads or in highway work zones; (D) a state or local public safety officer who enforces work zone-related transportation management and traffic control; (E) a state or local public safety officer who conducts traffic control or enforcement operations on state bridges, state roads, shoulders, medians, and associated rights-of-way; and (F) a state or local public safety officer or firefighter, an emergency medical services provider, or any other authorized person who removes hazards from state bridges or roadways, shoulders, medians and associated rights-of-way or who responds to accidents and other incidents on state bridges or roads, shoulders, medians, associated rights-of-way or in highway work zones (CGS § 14-212d).

Farm Implement

A farm implement is a vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations and which is not operated on a highway to transport a payload or for any other commercial purpose (CGS § 14-1 (29)).

Highway

A highway includes any state or other public highway, road, street, avenue, alley, driveway, parkway, or place under the control of the state or any of its political subdivisions, dedicated, appropriated or opened to public travel or other use (CGS § 14-1 (40)).

Shoulder

A shoulder is that portion of a highway immediately adjacent and contiguous to the travel lanes or main traveled portion of the roadway (CGS § 14-1 (83)).

Parking Area

A parking area means lots, areas, or other accommodations for parking motor vehicles off the street or highway and open to public use, with or without charge (CGS § 14-212 (6)).

Serious Physical Injury

Serious physical injury means physical injury that creates a substantial risk of death or causes serious disfigurement, serious impairment of health, or serious loss or impairment of the function of any bodily organ (CGS § 53a-3).

Motor Vehicle Operator's Retraining Program

By law, the retraining program must be offered by the Department of Motor Vehicles (DMV) or any organization conducting such a program certified by the DMV commissioner. The commissioner can charge up to \$60 for the program.

By law, the commissioner may require attendance at the retraining program by licensed drivers up to 24-years-old who have been convicted at least twice of a moving violation, suspension violation, or both; and licensed drivers over age 24 convicted three or more times of a moving violation or suspension violation, or a combination of these.

The retraining program must (1) review principles of motor vehicle operation, (2) develop alternatives for those attitudes contributing to aggressive driving behavior, and (3) emphasize the need to practice safe driving behavior (CGS § 14-111g).

Related Law: Misconduct with a Motor Vehicle

A person is guilty of misconduct with a motor vehicle when, with criminal negligence in the operation of a motor vehicle, he or she causes the death of another person. Misconduct with a motor vehicle is

punishable by up to five years in prison, a \$5,000 fine, or both (CGS § 53a-57).

A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation (CGS § 53a-3 (14)).

Related Law: Aggravated Endangerment of a Highway Worker

Under current law, a driver commits the offense of aggravated endangerment of a highway worker when, while speeding or otherwise driving unsafely in a highway work zone, he or she seriously injures or kills a highway worker. A driver convicted of this offense is subject to a fine of up to \$5,000 if he or she seriously injures the highway worker, or up to \$10,000 if he or she kills the highway worker, in addition to any other penalty authorized by law (CGS § 14-212d (e) and (f)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable

Yea 30 Nay 6 (03/16/2010)