



House of Representatives

General Assembly

File No. 619

February Session, 2010

Substitute House Bill No. 5457

House of Representatives, April 22, 2010

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING 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) A person is guilty of
2 misconduct with a motor vehicle in the second degree when, with
3 criminal negligence in the operation of a motor vehicle, such person
4 causes the serious physical injury of a vulnerable user of a public way.

5 (b) For the purposes of this section:

6 (1) "Vulnerable user" means (A) a pedestrian, (B) a highway worker,
7 as defined in section 14-212d of the general statutes, including a
8 highway worker who performs duties on a highway under the control
9 of a political subdivision of the state, while in the performance of his or
10 her duties and while outside his or her vehicle, (C) a person riding or
11 driving an animal, (D) a person riding a bicycle, (E) a person using a
12 wheelchair, skateboard, roller skates or inline skates, or (F) a person
13 operating or riding on an agricultural tractor or farm implement, as

14 defined in section 14-1 of the general statutes, that does not have an
15 enclosed passenger compartment; and

16 (2) "Public way" means a highway, as defined in section 14-1 of the
17 general statutes, shoulder, as defined in section 14-1 of the general
18 statutes, sidewalk, parking area, as defined in section 14-212 of the
19 general statutes, or multi-use trail.

20 (c) Misconduct with a motor vehicle in the second degree is a class
21 A misdemeanor and any person found guilty under this section shall
22 be sentenced to a term of imprisonment, with the execution of such
23 sentence of imprisonment suspended entirely or after a period set by
24 the court, and a period of probation with a condition of such probation
25 being that such person attend a motor vehicle operator's retraining
26 program, as provided in section 14-111g of the general statutes, and
27 perform not more than one hundred hours of community service.

28 Sec. 2. Section 53a-57 of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective October 1, 2010*):

30 (a) A person is guilty of misconduct with a motor vehicle in the first
31 degree when, with criminal negligence in the operation of a motor
32 vehicle, [he] such person causes the death of another person.

33 (b) Misconduct with a motor vehicle in the first degree is a class D
34 felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	53a-57

JUD *Joint Favorable Subst.*

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	Potential Minimal	Potential Minimal
Judicial Dpt (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

To the extent that creation of the bill's new crime of 2nd degree misconduct with a motor vehicle increases the likelihood that an offender would receive a harsher penalty, the bill could result in a cost for incarceration and / or probation supervision in the community.

As it is anticipated that relatively few fines would be imposed on an annual basis, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$47,425 to incarcerate the offender.

The Out Years

The annualized ongoing revenue gain identified above would remain constant into the future since fine amounts are set by statute; the annualized cost associated with incarceration and probation supervision would continue into the future subject to inflation.

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

This bill creates the crime of 2nd degree misconduct with a motor vehicle, which it defines as criminally negligent operation of a motor vehicle that causes serious physical injury to a "vulnerable user" of a public way.

Under the bill, "vulnerable users" include pedestrians, bicyclists, highway workers, people in wheelchairs, and others. Current law already imposes penalties on drivers who seriously injure or kill highway workers (see BACKGROUND).

Second-degree misconduct with a motor vehicle is a class A misdemeanor, punishable by up to one year in prison, a maximum fine of \$2,000, or both. Under the bill, the court must partially or completely suspend the prison term and impose a period of probation. As a condition of probation the offender must attend a motor vehicle operator's retraining program and perform up to 100 hours of community service. The penalty is apparently the same for first-time and subsequent offenders.

The bill makes the conforming change of reclassifying the existing crime of misconduct with a motor vehicle as 1st degree misconduct with a motor vehicle (see BACKGROUND).

EFFECTIVE DATE: October 1, 2010

DEFINITIONS***Vulnerable User***

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. person using a wheelchair;
7. roller blader or roller skater; or
8. 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, sidewalk, parking area, or multi-use trail.

BACKGROUND

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).

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:

1. a person who performs maintenance, repair, or construction of state bridges, state roads, shoulders, medians, and associated

rights-of-way in highway work zones;

2. a person who operates a truck, loader, or other equipment on state bridges or roads or in highway work zones;
3. a person who performs any other related maintenance work, as required, on state bridges or roads or in highway work zones;
4. a state or local public safety officer who enforces work zone-related transportation management and traffic control;
5. 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
6. 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)).

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 someone's death. 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 or she 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 existing 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)).

Legislative History

On April 5, the House referred the bill (File 222) to the Judiciary Committee, which favorably reported a substitute bill reclassifying the crime of inflicting serious injury or death to a vulnerable user as 2nd degree misconduct, applying it only in cases of serious injury, and making it a class A misdemeanor; changing the penalty; adding wheelchair users to the list of vulnerable users; and making other changes.

COMMITTEE ACTION

Transportation Committee

Joint Favorable
Yea 30 Nay 6 (03/16/2010)

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0 (04/12/2010)