



Senate

General Assembly

File No. 404

February Session, 2012

Substitute Senate Bill No. 111

Senate, April 12, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE PENALTY FOR CAUSING HARM TO A VULNERABLE USER 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, 2012*) (a) As used in subsection
2 (b) of this section, (1) "vulnerable user" means: (A) A pedestrian; (B) a
3 highway worker; (C) a person riding or driving an animal; (D) a
4 person riding a bicycle; (E) a person using a skateboard, roller skates
5 or inline skates; (F) a person operating or riding on an agricultural
6 tractor; and (G) a person using a wheelchair or motorized chair, and
7 (2) "public way" includes any state or other public highway, road,
8 street, avenue, alley, driveway, parkway or place, under the control of
9 the state or any political subdivision of the state, dedicated,
10 appropriated or opened to public travel or other use.

11 (b) Any person operating a motor vehicle on a public way who fails
12 to exercise reasonable care and causes the serious physical injury or
13 death of a vulnerable user of a public way, provided such vulnerable
14 user has shown reasonable care in such user's use of the public way,

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 13 \$	FY 14 \$
Judicial Dept.	GF - Potential Revenue Gain	25,000	25,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill would require an offender to attend a motor vehicle operator's retraining program and establishes a penalty of up to \$1,000 and/or community service. In the event a fine is issued for this offense, a revenue gain of up to \$25,000 would result. The estimate assumes the establishment of this offense will result in an estimated 25 offenders annually who would be prosecuted and receive the penalty.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 111*****AN ACT CONCERNING THE PENALTY FOR CAUSING HARM TO A VULNERABLE USER OF A PUBLIC WAY.*****SUMMARY:**

This bill establishes a penalty for a motorist who, failing to exercise reasonable care on a “public way,” seriously injures or causes the death of a “vulnerable user,” provided the vulnerable user exercised reasonable care in using the public way. A driver who causes such injury or death (1) must attend a driver retraining program and perform community service and (2) may be fined up to \$1,000.

Under the bill, vulnerable users include pedestrians, bicyclists, highway workers, people in wheelchairs, and others. The law already imposes penalties on drivers who (1) through negligence or criminal negligence, cause someone’s death while operating a motor vehicle, or (2) seriously injure or kill a highway worker (see BACKGROUND). Other criminal penalties may also apply depending on the driver’s conduct (e.g., driving under the influence).

EFFECTIVE DATE: October 1, 2012

DEFINITIONS***Vulnerable Users***

Under the bill, a vulnerable user is a:

1. pedestrian;
2. highway worker;
3. person riding or driving an animal (e.g., driving a horse-drawn vehicle);

4. bicyclist;
5. skateboarder, roller skater, or roller blader;
6. person using a wheelchair or motorized chair; or
7. operator of, or passenger on, a farm tractor.

Under the bill, a public way is a 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.

BACKGROUND

Reasonable Care

“Reasonable 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, Seventh Edition (1999)*).

Serious Physical Injury

By law, “serious physical injury” means physical injury that creates a substantial risk of death or causes serious (1) disfigurement, (2) impairment of health, or (3) loss or impairment of an organ’s function (CGS § 53a-3).

Highway Worker

By law, a “highway worker” is someone required to work on state bridges or roads or in highway work zones, including:

1. a person who maintains, repairs, or builds 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).

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)).

Driver Retraining Program

By law, the motor vehicle commissioner may require participation in this program by (1) drivers age 24 or younger who have been convicted at least twice of a moving violation, suspension violation, or both; and (2) drivers age 25 or older convicted three or more times of a moving violation or suspension violation, or a combination of these.

Moving violations include traveling unreasonably fast, speeding, reckless driving, and disobeying the signals of a police officer. Suspension violations are negligent homicide with a motor vehicle, evading responsibility, driving under the influence, 2nd degree manslaughter with a motor vehicle, misconduct with a motor vehicle, and 2nd degree assault with a motor vehicle.

The retraining program must (1) review principles of motor vehicle operation, (2) develop alternatives for attitudes contributing to

aggressive driving behavior, and (3) emphasize the need to practice safe driving behavior. The commissioner can charge up to \$60 for the program (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 operating a motor vehicle, he or she causes someone's death. It is punishable by up to five years in prison, a fine of up to \$5,000, or both (CGS § 53a-57).

A person acts with criminal negligence with respect to a result or 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: Negligent Homicide with a Motor Vehicle

A person is guilty of negligent homicide with a motor vehicle if, as a result of negligently operating a motor vehicle, he or she causes the death of another person. It is punishable by up to a fine of up to \$1,000, up to six months in prison, or both. Negligent homicide with a commercial motor vehicle is punishable by a fine of up to \$2,500, up to six months in prison, or both (CGS § 14-222a). *Black's Law Dictionary* defines negligence as "the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation."

Related Law: Aggravated Endangerment of a Highway Worker

By 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 \$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 Substitute Change of Reference
Yea 35 Nay 2 (03/14/2012)

Judiciary Committee

Joint Favorable
Yea 45 Nay 0 (03/28/2012)