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## OLR Bill Analysis

sSB 111 (File 404, as amended by Senate "A")\*

### ***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 faces a fine of up to \$1,000.

Under the bill, vulnerable users include pedestrians, blind people and their service animals, bicyclists, highway workers, people in wheelchairs, and others. Existing law requires drivers to exercise due care to avoid colliding with a pedestrian or bicyclist.

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).

\*Senate Amendment "A" (1) adds blind people and their service animals to those considered vulnerable users and (2) eliminates a requirement that violators attend a driving retraining program and perform community service. It requires, rather than authorizes, imposition of a fine.

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;
7. operator of, or passenger on, a farm tractor; or
8. blind person and his or her service animal.

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)).

### ***Related Law: Exercising Due Care to Avoid Pedestrian***

A driver must exercise due care to avoid colliding with a pedestrian or bicyclist. The driver must give a reasonable warning by sounding a horn or similar device to avoid colliding. A violation is an infraction (CGS § 14-330d).

### ***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 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)