

SENATE AMENDMENTS

2nd Printing

By: Menendez, McClendon

H.B. No. 1343

A BILL TO BE ENTITLED

AN ACT

relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS.

(a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more

1 than one year.

2 (A) A portion of the community service required
3 under Subsection (2) shall include sensitivity training. [~~The~~
4 ~~failure of a totally or partially blind or otherwise disabled~~
5 ~~person to carry a white cane or be guided or aided by an assistance~~
6 ~~animal does not deprive the person of the rights and privileges~~
7 ~~conferred by law on pedestrians crossing streets or highways and~~
8 ~~does not constitute evidence of contributory negligence.~~]

9 (d) For the purposes of this section:

10 (1) "Assistance animal" has the meaning assigned by
11 Section 121.002, Human Resources Code.

12 (2) "White cane" has the meaning assigned by Section
13 121.002, Human Resources Code. [~~A person who violates this section~~
14 ~~commits a Class C misdemeanor.~~]

15 SECTION 2. Section 552.003, Transportation Code, is amended
16 by adding Subsections (d) and (e) to read as follows:

17 (d) If it is shown on the trial of an offense under
18 Subsection (a) that as a result of the commission of the offense a
19 collision occurred causing serious bodily injury or death to a
20 visually impaired or disabled person, the offense is a misdemeanor
21 punishable by:

22 (1) a fine of not more than \$500; and

23 (2) 30 hours of community service to an organization
24 or agency that primarily serves visually impaired or disabled
25 persons, to be completed in not less than six months and not more
26 than one year.

27 (A) A portion of the community service required

1 under Subsection (2) shall include sensitivity training.

2 (e) For the purposes of this section:

3 (1) "Visually impaired" has the meaning assigned by
4 Section 91.002, Human Resources Code.

5 (2) "Disabled" means a person who cannot walk without
6 the use or assistance of:

7 (A) a device, including a brace, cane, crutch,
8 prosthesis, or wheelchair; or

9 (B) another person.

10 SECTION 3. (a) The change in law made by this Act applies
11 only to an offense committed on or after the effective date of this
12 Act. For purposes of this section, an offense is committed before
13 the effective date of this Act if any element of the offense occurs
14 before that date.

15 (b) An offense committed before the effective date of this
16 Act is covered by the law in effect when the offense was committed,
17 and the former law is continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Acting Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Vande Pette

1 Amend H.B. No. 1343 (senate committee printing) as follows:

2 (1) In SECTION 1 of the bill, immediately after added
3 Section 552.010(c)(2), Transportation Code (page 1, line 33),
4 strike "(A)" and substitute "(c-1)".

5 (2) In SECTION 1 of the bill, in added Section 552.010(c),
6 Transportation Code (page 1, line 34), strike "Subsection (2)" and
7 substitute "Subsection (c)(2)".

8 (3) In SECTION 1 of the bill, immediately after added
9 Section 552.010(d)(2), Transportation Code (page 1, between lines
10 45 and 46), insert the following:

11 (e) If conduct constituting an offense under this section
12 also constitutes an offense under another section of this code or
13 the Penal Code, the actor may be prosecuted under either section or
14 both sections.

15 (4) Strike the recital to SECTION 2 of the bill (page 1,
16 lines 46 and 47) and substitute the following:

17 SECTION 2. Section 552.003, Transportation Code, is amended
18 by adding Subsections (d), (d-1), (e), and (f) to read as follows:

19 (5) In SECTION 2 of the bill, immediately after added
20 Section 552.003(d), Transportation Code (page 1, line 58), strike
21 "(A)" and substitute "(d-1)".

22 (6) In SECTION 2 of the bill, in added Section 552.003(d),
23 Transportation Code (page 1, line 59), strike "Subsection (2)" and
24 substitute "Subsection (d)(2)".

25 (7) In SECTION 2 of the bill, immediately after added
26 Section 552.003(e), Transportation Code (page 2, between lines 3
27 and 4), insert the following:

28 (f) If conduct constituting an offense under this section
29 also constitutes an offense under another section of this code or

- 1 the Penal Code, the actor may be prosecuted under either section or
- 2 both sections.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 1

BY: Andrew Kravitz
Secretary of the Senate

1 Amend H.B. No. 1343 (senate committee report) by adding the
2 following appropriately numbered SECTION and renumbering
3 subsequent SECTIONS of the bill accordingly:

4 SECTION _____. Section 30.002, Education Code, is amended
5 by adding Subsections (c-1) and (c-2) to read as follows:

6 (c-1) To implement Subsection (c)(1) and to determine a
7 child's eligibility for a school district's special education
8 program on the basis of a visual impairment, the full individual
9 and initial evaluation of the student required by Section 29.004
10 must, in accordance with commissioner rule:

11 (1) include an orientation and mobility evaluation
12 conducted:

13 (A) by a person who is appropriately certified
14 as an orientation and mobility specialist, as determined under
15 commissioner rule; and

16 (B) in a variety of settings, including in the
17 student's home, school, and community and in settings unfamiliar
18 to the student; and

19 (2) provide for a person who is appropriately
20 certified as an orientation and mobility specialist to
21 participate, as part of the multidisciplinary team, in
22 evaluating data on which the determination of the child's
23 eligibility is based.

24 (c-2) Any reevaluation by a school district of a student
25 who has been determined, after the full individual and initial
26 evaluation, to be eligible for the district's special education
27 program on the basis of a visual impairment must, in accordance
28 with commissioner rule, include an orientation and mobility
29 evaluation conducted by a person described by Subsection (c-

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1 1)(1)(A).

2 SECTION _____. (a) Not later than January 1, 2010, the
3 commissioner of education shall adopt rules necessary to
4 implement Subsections (c-1) and (c-2), Section 30.002, Education
5 Code, as added by this Act.

6 (b) Not later than the beginning of the 2010-2011 school
7 year, Subsections (c-1) and (c-2), Section 30.002, Education
8 Code, as added by this Act, shall be implemented.

9 SECTION _____. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary
13 for immediate effect, this Act takes effect September 1, 2009.

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ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 3

Leta Spaw
Secretary of the Senate

BY:

Wentworth

1 Amend H.B. No. 1343 (Senate committee printing) by adding
2 the following SECTION to the bill, appropriately numbered, and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION ____. Section 545.401, Transportation Code, is
5 amended by amending Subsection (b) and adding Subsections (e),
6 (f), (g), and (h) to read as follows:

7 (b) Except as provided by Subsection (e), an [Am] offense
8 under this section is a misdemeanor punishable by:

9 (1) a fine not to exceed \$200;

10 (2) confinement in county jail for not more than 30
11 days; or

12 (3) both the fine and the confinement.

13 (e) If an offense under this section results in the
14 serious bodily injury or death of an operator or passenger of
15 another motor vehicle, the offense is a Class B misdemeanor.

16 (f) The court may:

17 (1) order that the driver's license of a person
18 convicted of an offense under Subsection (e) be suspended for
19 not less than 30 days beginning on the date of conviction; and

20 (2) require the person to attend and present proof
21 that the person successfully completed a driving safety course
22 approved under Chapter 1001, Education Code, before the person's
23 driver's license may be reinstated.

24 (g) A judge, acting under Article 42.12, Code of Criminal
25 Procedure, who elects to place a defendant on community
26 supervision under that article may require the defendant to
27 attend and present proof that the defendant successfully
28 completed a driving safety course approved under Chapter 1001,
29 Education Code.

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1 (h) A person who is subject to prosecution under both this
2 section and another section of this or any other code may be
3 prosecuted under either or both sections.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1343 by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way to those pedestrians. The bill would amend Chapter 552 (pedestrians) to create a penalty of a fine of up to \$500 and a community service requirement for a motor vehicle driving offense resulting in injury or death to a blind, visually impaired, or disabled person. The bill would also amend the Transportation Code to enhance the level of punishment for the offense of reckless driving if the offense results in the serious bodily injury or death of an operator or passenger of another motor vehicle. The bill would also amend the Education Code relating to determining a student's eligibility for a school district's special education program on the basis of the student's visual impairment. The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, ESi, KJG, SD, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1343 by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way to those pedestrians. The bill would amend Chapter 552 (pedestrians) to create a penalty of a fine of up to \$500 and a community service requirement for a motor vehicle driving offense resulting in injury or death to a blind, visually impaired, or disabled person.

The bill would take effect September 1, 2009.

Local Government Impact

Fiscal impact to units of local government would depend on the number of offenses prosecuted and the discretion of the judge in imposing the fine.

Source Agencies: 304 Comptroller of Public Accounts, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, ESi, KJG, SD, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 29, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB1343** by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Transportation Code relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way to those pedestrians. The bill would amend Chapter 552 (pedestrians) to create a penalty of a fine of up to \$500 and a community service requirement for a motor vehicle driving offense resulting in injury or death to a blind, visually impaired, or disabled person.

The bill would take effect September 1, 2009.

Local Government Impact

Fiscal impact to units of local government would depend on the number of offenses prosecuted and the discretion of the judge in imposing the fine.

Source Agencies: 304 Comptroller of Public Accounts, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, KJG, SD, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 21, 2009

TO: Honorable Joseph Pickett, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1343 by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **As Introduced**

Depending on the number of offenses and on the amount of fines imposed by the courts, there could be a revenue gain to the state of up to \$500,000 annually.

The bill would amend the Transportation Code, relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way to those pedestrians. The bill would amend Chapter 552 (pedestrians) to create a fine of up to \$4,000 for a motor vehicle driving offense resulting in injury or death to a blind, visually impaired, or disabled person.

The bill would amend Chapter 542 (rules of the road) to create a new General Revenue Fund Account—Visually Impaired Safety Services. Ten percent of the collections from the new fine, up to a maximum of \$500,000 per fiscal year, would be sent to the Comptroller of Public Accounts for deposit into the new General Revenue Fund account. Money in the new account could be appropriated only to the Department of Assistive and Rehabilitative Services for various services to visually impaired persons.

The bill would take effect September 1, 2009.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Although the bill would not make an appropriation, it would establish the basis for an appropriation.

Because the level of the fine created by the bill would be set by a judge, the amount of collections from the fine cannot be estimated; therefore, the exact revenue gain to the state is unknown. However, based on the maximum amount of revenue allowed to be deposited into the account, if numerous offenses occurred and depending on fines imposed by the courts, there could be a revenue gain to the state of up to \$500,000 annually.

Local Government Impact

Fiscal impact to units of local government would depend on the number of offenses prosecuted and the discretion of the judge in imposing the fine.

Source Agencies: 304 Comptroller of Public Accounts, 538 Assistive and Rehabilitative Services, Department of

LBB Staff: JOB, KJG, SD, DB

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1343 by Menendez (Relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TMP