

SUBJECT: Requirements for a motor vehicle passing a bicyclist

COMMITTEE: Transportation — favorable, without amendment

VOTE: 6 ayes — Krusee, Harper-Brown, Deshotel, Harless, Hill, Macias
1 nay — Phillips
2 absent — Haggerty, Murphy

SENATE VOTE: On final passage, May 9 — 25-5 (Brimer, Eltife, Hegar, Nichols, Shapiro)

WITNESSES: *(On House companion bill, HB 1790 by Harper-Brown:)*
For — Michael A. McDougal; Robin Stallings, Texas Bicycle Coalition;
(Registered, but did not testify: Kristina Gaboury, Texas Bicycle
Coalition; David E. Hollingsworth; Robin Holzer, Citizens’
Transportation Coalition; Wini Hunton-Chan; Scott Johnson; Dennis
Kearns; Laura King, Austin Cycling Association; Freddie Schumer; Mark
Stine; W. Preston Tyree)

Against — None

BACKGROUND: Transportation Code, sec. 551.103 requires a person operating a bicycle on a roadway to ride as near to the right curb or edge of the roadway as possible unless there is some extenuating circumstance, the person is passing another vehicle, the person is making a left turn, or the person is riding on a one-way street.

Transportation Code, sec. 551.104(b)(2) requires a person to operate a bicycle equipped with a TxDOT-approved, rear-mounted red reflector visible from a distance of 50 to 300 feet or a red light visible from a distance of at least 500 if riding in the dark.

DIGEST: SB 248 would require the operator of a motor vehicle passing a bicyclist to vacate the lane in which the bicyclist was operating if on a highway with two or more marked lanes or to pass at a safe distance.

The bill would consider a safe distance:

- three feet for cars and light trucks; or
- six feet for commercial vehicles or trucks other than light trucks.

This bill would set the following penalties for non-compliance:

- a misdemeanor punishable by a fine of \$1 to no more than \$200;
- a misdemeanor punishable by a fine of \$500, if the violation resulted in property damage; or
- a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), if the violation resulted in bodily injury.

It would be a defense to prosecution if at the time of the offense the bicyclist was not in compliance with Transportation Code, sec. 551.103 or 551.104(b)(2) or was operating on a public road that did not have a paved shoulder. Violators also could be prosecuted under another section of the Penal Code.

The bill would require a person operating a bicycle at night to have a lamp on the rear of the bicycle that emitted a red light visible from a distance of 500 feet to the rear of the bicycle.

The bill would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 248 would clarify what was a safe passing distance between a motor vehicle and a bicycle. About 50 cyclists a year are killed in Texas in automobile crashes. Roughly 40 percent of bicyclists' traffic crash fatalities in Texas occur due to unsafe passing by a motor vehicle. Current law does not provide specific guidelines for a motor vehicle overtaking a bicyclist on a street or highway other than to put an inadequately defined "safe passing distance" between the vehicle and the bicyclist. There also is currently no specific penalty for unsafe passing of a bicycle. The bill would specify safety distances consistent with the Commercial Driver's handbook and existing safe driving practices to ultimately prevent injury and damages caused by collisions and other accidents occurring between vehicles and cyclists.

The bill would not change the liability of motor vehicle drivers. Every vehicle in the state currently must have \$20,000 in bodily injury insurance and \$15,000 for damage or destruction of property. If a vehicle caused bodily or property damage, the motorist's insurance would pay out for the damages and the motorist would be held liable.

OPPONENTS
SAY:

SB 248 would create additional liabilities for automotive drivers. This bill would set criminal penalties if an automobile driver infringed on the safe passing distance of a bicyclist, but without reciprocal penalties for a bicyclist infringing on the safe passing distance of an automobile. This bill would make automobile drivers responsible for all passing violations without holding bicyclists accountable for their actions. Because bicycles are considered vehicles under the law, bicyclists should not be treated differently than any other driver on the road and should be liable for passing violations as well. Further, bicyclists do not typically carry insurance, leaving an automotive driver at greater risk of liability should there be an accident. This bill should include penalties for bicyclists that do not carry the minimum amount of vehicle insurance required by law.

OTHER
OPPONENTS
SAY:

While Transportation Code, sec. 551.104 includes braking and lighting requirements for bicyclists, there are no penalties for non-compliance. This bill should include penalties for bicyclists in non-compliance with vehicle outfitting laws in order to protect the safety of everyone on the road.

NOTES:

The companion bill, HB 1790 by Harper-Brown, was placed on the General State Calendar on May 9, but was not considered by the House.