

BILL ANALYSIS

Senate Research Center
77R9284 JAT-D

S.B. 1372
By: Moncrief
Criminal Justice
4/3/2001
As Filed

DIGEST AND PURPOSE

Currently, there are few laws to protect bicyclists and pedestrians. As proposed, S.B. 1372 provides for penalties for aggressive acts against a bicyclist or pedestrian from the operator of a motor vehicle that result in misdemeanor or felony charges. S.B. 1372 also defines safe passing of bicyclists and pedestrians by motor vehicles. This bill provides for a defensive driving course for alleged cycling traffic offenses that is to be administered by the Texas Department of Public Safety.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 4 (Section 543.303, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 45B, Code of Criminal Procedure, by adding Article 45.0512, as follows:

Art. 45.0512. DEFERRED DISPOSITION PROCEDURES APPLICABLE TO TRAFFIC OFFENSES COMMITTED BY BICYCLISTS. (a) Provides that this article applies to an alleged offense involving the operation of a bicycle, as defined by Section 541.201, Transportation Code, and supplements Articles 45.051 and 45.0511.

(b) Authorizes the justice to defer further proceedings without entering an adjudication and place the defendant on probation for a period not to exceed 180 days.

(c) Provides that during the deferral period under Article 45.051, the justice is:

(1) required to require the defendant to successfully complete a bicycling safety course administered by the Texas Department of Public Safety (department) under Section 543.303, Transportation Code, if the defendant elects deferred disposition and the defendant has not completed a bicycling safety course administered by the department within the preceding 12 months; and

(2) authorized to require the defendant to successfully complete a bicycling safety course administered by the department under Section 543.303, Transportation Code, if the defendant has completed a bicycling safety course administered by the department within the preceding 12 months.

(d) Provides that Subsection (c)(1) applies only under certain circumstances.

(e) Authorizes the court, notwithstanding Subsection (d)(1), on a written motion submitted to the court before the final disposition of the case, to grant a request to take a bicycling safety course under this article.

- (f) Provides that a request to take a bicycling safety course made at or before the time and at the place at which a person is required to appear in court is an appearance in compliance with the person's promise to appear.
- (g) Authorizes the court to require a person requesting a bicycling safety course to pay a fee set by the court at an amount of not more than \$10, including any other fee authorized by statute or municipal ordinance, to cover the cost of administering this article.
- (h) Provides that a person who requests but does not take a course is not entitled to a refund of the fee.
- (i) Requires fees collected by a municipal court to be deposited in the municipal treasury. Requires fees collected by another court to be deposited in the county treasury of the county in which the court is located.
- (j) Requires the court, if a person requesting a bicycling safety course fails to furnish evidence of the successful completion of the course to the court, to notify the person in writing, mailed to the address appearing on the notice to appear, of that failure, and require the person to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.
- (k) Provides that a person who fails to appear at the time and place stated in the notice commits a misdemeanor punishable as provided by Section 543.009, Transportation Code.
- (l) Authorizes the court, on a person's showing of good cause for failure to furnish evidence to the court, to allow an extension of time during which the person may present evidence that the person successfully completed the bicycling safety course.
- (m) Requires the court, when a person complies with Subsection (c) and evidence of successful course completion is accepted by the court, to perform certain acts.
- (n) Authorizes the court to dismiss only one charge for each completion of a course.
- (o) Prohibits a charge that is dismissed under this article from being part of a person's driving record or used for any purpose.
- (p) Prohibits an insurer delivering or issuing for delivery a motor vehicle insurance policy in this state from canceling or increasing the premium charged an insured under the policy because the insured completed a bicycling safety course or had a charge dismissed under this article.
- (q) Requires the court to advise a person charged with a misdemeanor under Subtitle C, Title 7, Transportation Code, committed while operating a bicycle of the person's right under this article to successfully complete a bicycling safety course if the offense was committed while operating a bicycle. Provides that the right to complete a course does not apply to a person charged with a violation of Section 545.066, 545.401, 550.022, or 550.023, Transportation Code.
- (r) Provides that nothing in this article shall prevent a court from assessing a special expense for deferred disposition in the same manner as provided by Article 45.051. Prohibits the court, for a deferred disposition under Subsection (c)(1), from collecting a fee that exceeds \$10 in addition to any applicable court cost.

SECTION 2. Amends Section 411.0175, Government Code, by requiring the Department of Public Safety (department) to tabulate and analyze the vehicle accident reports, rather than motor vehicle accident report, it receives; and annually or more frequently publish statistical information derived from

the accident reports as to the number, cause, and location of highway accidents, including information regarding the number of accidents involving injury to, death of, or property damage to a bicyclist or pedestrian.

SECTION 3. Amends Chapter 22, Penal Code, by adding Section 22.12, as follows:

Sec. 22.12. **THROWING OBJECT OR SUBSTANCE AT BICYCLIST OR PEDESTRIAN FROM MOTOR VEHICLE.** (a) Provides that a person commits an offense if the person, while operating a motor vehicle or as a passenger in a motor vehicle, drives past a bicyclist or a pedestrian who is on a street or highway and throws an object or substance from the motor vehicle.

(b) Provides that an offense under Subsection (a) is:

(1) a Class B misdemeanor if the operator or passenger acts with reckless disregard as to whether the bicyclist would be struck by or placed in fear of being struck by the object or substance;

(2) a Class A misdemeanor if the operator or passenger acts with the intent to strike the bicyclist or pedestrian with the object or substance or place the bicyclist or pedestrian in fear of being struck by the object or substance; or

(3) a state jail felony if, regardless of the mental state of the operator or passenger, the offense results in bodily injury to the bicyclist or pedestrian or damage to property of the bicyclist or pedestrian.

(c) Defines “bicyclist,” “highway or street,” and “passing.”

(d) Provides that the actor may be prosecuted under either section or under both sections, if conduct constituting an offense under this section also constitutes an offense under another section of this code or the Transportation Code.

SECTION 4. Amends Chapter 543, Transportation Code, by adding Subchapter D, as follows:

SUBCHAPTER D. DISMISSAL OF CERTAIN MISDEMEANOR CHARGES ON COMPLETING BICYCLING SAFETY COURSE

Sec. 543.301. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies to an alleged offense involving the operation of a bicycle, as defined by Section 541.201.

Sec. 543.302. **STATEMENT OF RIGHT PROVIDED ON NOTICE TO APPEAR.** Requires a notice to appear issued for an offense to which this subchapter applies to substantially state certain information. Authorizes the person, if this statement is not supplied, to continue to exercise the right described until the person is informed as provided by this section or until the final disposition of the case.

Sec. 543.303. **DEPARTMENT TO ADMINISTER.** Requires the Department of Public Safety (department) to establish and administer a bicycling safety course and authorizes the department to adopt rules to implement the program. Authorizes the program to include certain instruction.

SECTION 5. Amends Chapter 545B, Transportation Code, by adding Section 545.0535, as follows:

Sec. 545.0535. **PASSING BICYCLIST OR PEDESTRIAN ON HIGHWAY OR STREET.** Provides that an operator passing a bicyclist operating on a highway or street or driving past a

pedestrian walking on a highway or street is required to pass to the left of the bicyclist or pedestrian at a safe distance and prohibits the operator from moving back to the right side of the roadway until safely clear of the bicyclist or pedestrian.

Provides that for the purposes of this section, the operator is presumed to have passed the bicyclist or pedestrian at a distance that was not a safe distance if the operator struck the bicyclist or pedestrian with the vehicle or under certain other circumstances.

Provides that a violation of this section is: a Class B misdemeanor if the operator acts with reckless disregard as to whether the bicyclist or pedestrian would be struck by or placed in fear of being struck by the vehicle operated by the operator; a Class A misdemeanor if the operator acts with the intent to strike the bicyclist or pedestrian with the vehicle operated by the operator or place the bicyclist or pedestrian in fear of being struck by the vehicle operated by the operator; or a state jail felony if, regardless of the mental state of the operator, the offense results in bodily injury to the bicyclist or pedestrian or damage to property of the bicyclist or pedestrian. Provides that to the extent of a conflict between this section and another section in this subchapter, this section prevails.

SECTION 6. Amends Section 551.103(a), Transportation Code, to require a person operating a bicycle on a roadway who is moving slower than the other traffic on the roadway to ride as near as practicable to the right curb or edge of the roadway, except as provided by this subsection, unless the person is operating a bicycle in an outside lane that is less than 14 feet in width or too narrow for a bicycle and a motor vehicle to safely travel side by side.

SECTION 7. Repealer: Section 551.103(d) (Operation on Roadway), Transportation Code.

SECTION 8. Effective date: September 1, 2001. Requires the department to adopt the rules necessary to implement Section 543.303, Transportation Code, as added by this Act, not later than January 1, 2002. Makes application of this Act prospective.

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