

Vulnerable Road User

Presentation to Transportation
LRC 10/14/10

Proposed Ordinance

- **RESTRICTIONS ON OPERATING A MOTOR VEHICLE NEAR VULNERABLE ROAD USERS;**
- **THE PENALTY BEING AS PROVIDED IN**
- **SECTION 12.84.010 OF THE EL PASO CITY CODE.**

Intent of the Ordinance

- **Protection of Vulnerable Road User**

- Bicyclists and pedestrians are allowed to use the roadway by law in Texas, but these users do not have the same physical protection as motorists and are at greater risk of injury or death; and
- **A**pproximately 50 cyclists and 400 pedestrians are killed every year in Texas;
- A safe passing ordinance provides the foundation for an education campaign of tolerance and acceptance for “active” forms of alternative transportation, which furthers the City’s goals of promoting El Paso as a bicycle friendly community, as well as for the enhancement of walkable streets and neighborhoods.

Who is a Vulnerable Road User

- A Vulnerable Road User means:
- (1) a pedestrian, including a runner, physically disabled person, child, skater,
- highway construction and maintenance worker, tow truck operator, utility worker, other
- worker with legitimate business in or near the road or right-of-way, or stranded motorist
- or passenger;
- (2) a person on horseback;
- (3) a person operating equipment other than a motor vehicle, including, but not limited to, a bicycle, handcycle, horse-driven conveyance, or unprotected farm equipment; or
- (4) a person operating a motorcycle, moped, motor-driven cycle, or motor assisted scooter.

Requirements for Drivers

- An operator of a motor vehicle passing a vulnerable road user operating on a highway or street shall:
 - (1) vacate the lane in which the vulnerable road user is located if the highway or street has two or more marked lanes running in the same direction; or
 - (2) pass the vulnerable road user at a safe distance.

What is Safe Distance

- Safe distance is at least:
- (1) three feet if the operator's vehicle is a passenger car or light truck; or
- (2) six feet if the operator's vehicle is a truck, other than a light truck, or a commercial motor vehicle as defined by Texas Transportation Code Section 522.003.

Additional Driver Requirements

- (d) An operator of a motor vehicle that is making a left turn at an intersection, including an intersection with an alley or private road or driveway, shall yield the right-of-way to a vulnerable road user who is approaching from the opposite direction and is in the intersection, or is in such proximity to the intersection as to be an immediate hazard.
- (e) An operator of a motor vehicle may not overtake a vulnerable road user traveling in the same direction and subsequently make a right-hand turn in front of the vulnerable road user unless the operator is safely clear of the vulnerable road user, taking into account the speed at which the vulnerable road user is traveling and the braking requirements of the motor vehicle making the right-hand turn.

Additional Driver Requirements

- An operator of a motor vehicle may not maneuver the vehicle in a manner that:
 - (1) is intended to cause intimidation or harassment to a vulnerable road user; or
 - (2) threatens a vulnerable road user.
- An operator of a motor vehicle shall exercise due care to avoid colliding with any vulnerable road user on a roadway or in an intersection of roadways.

Defense to Prosecution

- It is an affirmative defense to prosecution under this section that at the time of the offense the vulnerable road user was acting in violation of the law.

Police Department Comments

- El Paso Police Department supports the concept of creating an ordinance that provides adequate protection for “Vulnerable Road Users” however the ordinance as drafted conflicts with the Texas Transportation code (TTC) and existing El Paso City Municipal Ordinances.

Police Department Comments

- To enhance the safety of “Vulnerable Road Users” (VRU’s) the public would best be served by:
 1. Creating a VRU public safety and awareness campaign
 2. Utilize radio, television, facebook and twitter to spread safe driver education information and safety tips for VRU’s
 3. Encourage drivers to attend free approved defensive driving courses

Police Department Comments

- If the VRU Ordinance is adopted, then the below items should be considered
 - 12.80.220 (a) (1)
 - Exclude “child” or create a specific definition of this word. Throughout State statutes, there are varying definitions of what constitutes a child i.e.,
 - The Texas Penal Code defines a “child” as a person under 17 years of age
 - The Texas Family Code defines a “child” as a person under 18 years of age
 - The TRC 545.412 Child Passenger Safety Seat defines a “child” as younger than 8.
- The El Paso Police Department does not want to encourage children to use public roadways without the supervision of a parent or guardian

Police Department Comments

- Exclude “pedestrian”

TRC Chapter 552 specifically governs the use of roadways by Pedestrians and Blind Pedestrians

1. Traffic Control Signals
2. Pedestrian Right-of-Way
3. Pedestrian Right-of-Way at Crosswalk
4. Pedestrian to keep to right
5. Crossing a Point Other than Crosswalk
6. Use of Sidewalk
7. Drivers to Exercise Due Care

Police Department Comments

- 12.80.220 (a) (1)
- Exclude “skater”
- El Paso Municipal Code 12.80.30 – Coasters, roller skates and similar devices
- “No person upon roller skates, skateboard, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk, subject to the duties applicable to pedestrians, or upon the areas located within the Civic Center Plaza and the Arts Festival Plaza including but not limited to the sidewalks, public rights-of-way, parking lots, walkways, ramps and stairs.”

- (3) Provide a detailed description of “a person operating equipment other than a motor vehicle” and “unprotected farm equipment”. It is unknown what these items refer to and if they are authorized to be used upon the public roadway.
- Exclude (3) “bicycle”
- TRC Chapter 551 governs - Operation of Bicycles, Mopeds, and Play Vehicles
- Bicycle – a device that a person may ride and that is propelled by human power and has two tandem wheels at least one of which is more than 14 inches in diameter
 1. Rights and Duties
 2. General Operation
 3. Operation on Roadway

Police Department Comments

- Exclude (a) (4) motorcycle, moped and motor driven cycle
- TRC 541.201 clearly defines the above as:
- Vehicles – a device that can be used to transport or draw persons or property on a highway. As such, they are regulated by the TRC and are authorized to occupy a single lane of traffic.
- Below are the individual definitions
 1. Moped – a motor-driven cycle that cannot attain a speed in one mile of more than 30 miles per hour...
 2. Motorcycle – a motor vehicle, other than a tractor, that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground
 3. Motor-driven-cycle – a motorcycle equipped with a motor that has an engine piston displacement of 250 cubic centimeters or less.

Police Department Comments

- Remove (b) (2) “pass the vulnerable road user at a safe distance”
- Replace with: Slow to a speed not to exceed 10 mph less than the posted speed limit.
- This removes the ambiguity of “safe distance” and gives motor vehicle operators specific instructions. Three feet and/or six feet in some instances may not ensure safety.

Police Department Comments

- Remove (c) (1) and (2) completely
- The El Paso Police Department finds that the distances of 3 and 6 feet are too small of a measurement and places an unnecessary burden on the part of the motor vehicle operator and the Officer.

Police Department Comments

- Remove (d)
- TRC Section 551.001 – 551.405 governs the operations, regulations, rights and duties of:
 1. Bicycles
 2. Mopeds
 3. Electric bicycles
 4. Electric personal assistive mobility devices
 5. Motor assisted scooters
 6. Golf carts
- TRC Section 552.001 – 552.010 – governs:
Pedestrians and Blind Pedestrians

Police Department Comments

- Remove (e) “taking into account the speed at which the vulnerable road user is traveling and the braking requirement of the motor vehicle making the right hand turn.”
 - This places an undue burden on the motor vehicle operator to mathematically calculate speed, distance and braking ratios.
- Change the last sentence to read: and the right hand turn can be made in a safe manner.

Action by Texas Cities

The following Cities have approved a safe passing act.

- San Antonio
- Austin
- New Braunfels