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## Gov. Perry Vetoes SB 488

June 19, 2009

### TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 488 of the 81st Texas Legislature, Regular Session, due to the following objections:

*Senate Bill No. 488 would create a new class of users of roadways, called "vulnerable road users," which would require specific actions by operators of motor vehicles. These vulnerable road users would include pedestrians; highway construction and maintenance workers; tow truck operators; stranded motorists or passengers; people on horseback; bicyclists; motorcyclists; moped riders; and other similar road users.*

*Many road users placed into the category of vulnerable road users already have operation regulations and restrictions in statute. For example, a person operating a vehicle being drawn by an animal is subject to the same duties as a motor vehicle, and a pedestrian is required to yield the right of way to a motor vehicle, unless he or she is at an intersection or crosswalk.*

*While I am in favor of measures that make our roads safer for everyone, this bill contradicts much of the current statute and places the liability and responsibility on the operator of a motor vehicle when encountering one of these vulnerable road users. In addition, an operator of a motor vehicle is already subject to penalties when he or she is at fault for causing a collision or operating recklessly, whether it is against a "vulnerable user" or not.*

**IN TESTIMONY WHEREOF**, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this the 19th day of June, 2009.

**RICK PERRY**

Governor of Texas

**ATTESTED BY:**

**COBY SHORTER, III**

Deputy Secretary of State

For a detailed view of this bill, visit <http://www.legis.state.tx.us/BillLookup/History.aspx?LegSess=81R&Bill=SB488>.

AN ACT

relating to the operation of a motor vehicle in the vicinity of a vulnerable road user; providing penalties.

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

SECTION 1. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.428 to read as follows:

Sec. 545.428. VULNERABLE ROAD USERS. (a) In this section, "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 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.

(b) 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 has two or more marked lanes running in the same direction; or

(2) pass the vulnerable road user at a safe distance.

(c) For the purposes of Subsection (b)(2), when road conditions allow, 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 Section 522.003.

(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 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 vehicle making the right-hand turn.

(f) 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.

(g) 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.

(h) A violation of this section is punishable under Section 542.401 except that:

(1) if the violation results in property damage, the violation is a misdemeanor punishable by a fine of not to exceed \$500; or

(2) if the violation results in bodily injury, the violation is a Class B misdemeanor.

(i) It is a defense to prosecution under this section that at the time of the offense the vulnerable road user was acting in violation of the law.

(j) If conduct constituting an offense under this section

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also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 2. This Act takes effect September 1, 2009.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 488 passed the Senate on April 21, 2009, by the following vote: Yeas 25, Nays 5; May 23, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2009, House granted request of the Senate; May 31, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 26, Nays 5.

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Secretary of the Senate

I hereby certify that S.B. No. 488 passed the House, with amendments, on May 19, 2009, by the following vote: Yeas 140, Nays 5, one present not voting; May 29, 2009, House granted request

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of the Senate for appointment of Conference Committee;  
May 30, 2009, House adopted Conference Committee Report by the  
following vote: Yeas 142, Nays 0, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor