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ORDINANCE NO.

**AN ORDINANCE ADDING A NEW SECTION 12-1-35 OF THE CITY CODE
RELATING TO RESTRICTIONS ON OPERATING A MOTOR VEHICLE NEAR
VULNERABLE ROAD USERS, AND CREATING AN OFFENSE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 12-1-35 of the City Code is amended to read:

§ 12-1-35 VULNERABLE ROAD USERS.

(a) In this section, 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.

(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 purpose 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 Texas Transportation Code 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 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.

(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) 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.

PART 3. This ordinance takes effect on _____, 2009.

PASSED AND APPROVED

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_____, 2009

Lee Leffingwell
Mayor

APPROVED: _____

David Allan Smith
City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk