

HB 1485-FN – AS INTRODUCED

2014 SESSION

14-2311
03/04

HOUSE BILL ***1485-FN***

AN ACT relative to vulnerable users of highways.

SPONSORS: Rep. Peterson, Hills 21; Rep. Cebrowski, Hills 7; Rep. LeBrun, Hills 32;
Rep. Muns, Rock 21; Rep. Verschueren, Straf 13; Rep. Carson, Merr 7;
Rep. Schlachman, Rock 18; Sen. Carson, Dist 14

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill increases the penalty for vehicular assault when the victim is a vulnerable user, as defined in the bill.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to vulnerable users of highways.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Vehicular Assault. Amend RSA 265:79-a to read as follows:

2 265:79-a Vehicular Assault.

3 ***I.*** Any person who, without intent, causes death or serious bodily injury as defined in
4 RSA 625:11, VI to another while using a vessel or propelled vehicle as defined in RSA 637:9, III shall
5 be guilty of a class A misdemeanor, where such person’s unlawful operation of the propelled vehicle
6 or vessel causes or materially contributes to the collision, ***or guilty of a class B felony where such***
7 ***person’s unlawful operation of the propelled vehicle or vessel causes or materially***
8 ***contributes to the collision and the victim is a vulnerable user as defined in paragraph II.***
9 ~~[Evidence that the driver violated any of the rules of the road shall be prima facie evidence that the~~
10 ~~driver caused or materially contributed to the collision.]~~

11 ***II. In this section, “vulnerable user” means:***

12 ***(a) A pedestrian, including a person engaged in work in or along a highway or***
13 ***engaged in the provision of emergency services within a right-of-way.***

14 ***(b) A person riding an animal.***

15 ***(c) A person lawfully operating any of the following on a way or the shoulder of***
16 ***a way: bicycle, implement of husbandry, skateboard, roller skates, in-line skates, scooter,***
17 ***moped, motorcycle, horse-drawn carriage, electric personal assistive mobility device, or***
18 ***wheelchair.***

19 2 Effective Date. This act shall take effect January 1, 2015.

HB 1485-FN - FISCAL NOTE

AN ACT relative to vulnerable users of highways.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Corrections, and New Hampshire Municipal Association state this bill, as introduced, may increase state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on state, county, and local revenue, or local expenditures.

METHODOLOGY:

The Judicial Branch states this bill amends RSA 265:79-a to define a “vulnerable user” and increase the penalty for vehicular assault on vulnerable users from a class A misdemeanor to a class B. Over the past decade, the Branch reports there have been a total of 368 vehicular assault chargers prosecuted in superior court and the district division of the circuit court, however has no information to estimate how many of those would be increased from a class A misdemeanor to a class B felony by this bill. The Branch does have information on the average cost of processing a class A misdemeanor versus a class B felony case, a routine criminal case which in FY 2015 is estimated at \$67.64 for a class A misdemeanor, and \$433.34 for a class B felony, a difference of \$365.70. The possibility for a case to be appealed increases the cost. All costs are estimated based on case weight information from the last needs assessment completed in 2005. Since the last needs assessment studies there have been changes to the judicial system, such as the formation of the circuit court, more self-represented litigants and how cases are processed, that may impact the costs associated with processing cases.

The Judicial Council states this bill may result in an indeterminable increase in state general fund expenditures if an individual is found to be indigent, and the public defender program is unable to provide representation. The majority of the cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). The public defender program is appropriated monies that it expends according to the terms of its contract with the Council, of which the proposed changes in this bill would not impact. The Council states if the public defender program is not used then a contract attorney is used, charging a flat fee of \$756.25 per felony. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$4,100 for a felony charge.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have increased expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states this bill will not have a fiscal impact on the Department because such offenses are typically prosecuted by county prosecutors not the Department and any appeals for a conviction for such an offense could be handled within the Department's existing budget.