



Bill Number: S.B. 1274

Farley Floor Amendment #2

Reference to: printed bill

Amendment drafted by: Aaron Latham

## FLOOR AMENDMENT EXPLANATION

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Creates definitions for:

- "public way" as a public street, alley, road, highway or thoroughfare of any kind in this state that is used by the public or that is open to the use of the public as a matter of right, for the purpose of vehicular travel.
- "vulnerable user of a public way" as a law enforcement officer, an emergency responder or a worker in a state highway work zone as defined in section 28-652 while in the course of official duties or a pedestrian, a person riding an animal or a person operating any of the following on a public way, crosswalk or shoulder of the highway:
  - a farm tractor or implement of husbandry without an enclosed shell.
  - a skateboard.
  - roller skates.
  - in-line skates.
  - a scooter.
  - a wheelchair.
  - a bicycle.

Prohibits motor vehicle operators from doing the following to a vulnerable user of a public way:

- driving within three feet
- distract or attempting to distract,
- force or attempt to force off a public way

Classifies a collision that occurs while a motor vehicle overtakes a vulnerable user of a public way as *prima facie* evidence of the driver's failure to leave at least three feet between the vehicle and vulnerable user.

If no injury or death occurs as a result of a violation, the offense is classified as a

**Class 2 misdemeanor.**

**If injury or death of a vulnerable user occurs, requires a sentence to include completion of a traffic safety course and the performance of between 100 and 200 hours of community restitution.**

**If that sentence is not completed within one year of sentencing, the following must be ordered:**

- A fine of up to \$12,500 dollars, and
- Suspension of the driving privileges for one year.

**Adds to the definition of harassment: taunting or maliciously throwing an object at or in the direction of a vulnerable user of a public way.**

**Requires a law enforcement officer investigating a motor vehicle accident that resulted in the serious physical injury or death of a vulnerable user of a public way to indicate whether the cited offense contributed to the serious physical injury or death.**

FARLEY FLOOR AMENDMENT #2

SENATE AMENDMENTS TO S.B. 1274

(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2           “Section 1. Section 13-2921, Arizona Revised Statutes, is amended to  
3 read:

4           **13-2921. Harassment; classification; definition**

5           A. A person commits harassment if, with intent to harass or with  
6 knowledge that the person is harassing another person, the person:

7           1. Anonymously or otherwise contacts, communicates or causes a  
8 communication with another person by verbal, electronic, mechanical,  
9 telegraphic, telephonic or written means in a manner that harasses.

10          2. Continues to follow another person in or about a public place for  
11 no legitimate purpose after being asked to desist.

12          3. Repeatedly commits an act or acts that harass another person.

13          4. Surveils or causes another person to surveil a person for no  
14 legitimate purpose.

15          5. On more than one occasion makes a false report to a law  
16 enforcement, credit or social service agency.

17          6. Interferes with the delivery of any public or regulated utility to  
18 a person.

19          7. TAUNTS OR MALICIOUSLY THROWS AN OBJECT AT OR IN THE DIRECTION OF A  
20 VULNERABLE USER OF A PUBLIC WAY AS DEFINED IN SECTION 28-913.

21          B. A person commits harassment against a public officer or employee if  
22 the person, with intent to harass, files a nonconsensual lien against any  
23 public officer or employee that is not accompanied by an order or a judgment  
24 from a court of competent jurisdiction authorizing the filing of the lien or  
25 is not issued by a governmental entity or political subdivision or agency  
26 pursuant to its statutory authority, a validly licensed utility or water

1 delivery company, a mechanics' lien claimant or an entity created under  
2 covenants, conditions, restrictions or declarations affecting real property.

3 C. Harassment under subsection A is a class 1 misdemeanor. Harassment  
4 under subsection B is a class 5 felony.

5 D. This section does not apply to an otherwise lawful demonstration,  
6 assembly or picketing.

7 E. For the purposes of this section, "harassment" means conduct that  
8 is directed at a specific person and that would cause a reasonable person to  
9 be seriously alarmed, annoyed or harassed and the conduct in fact seriously  
10 alarms, annoys or harasses the person.

11 Sec. 2. Section 28-667, Arizona Revised Statutes, is amended to read:

12 **28-667. Written accident report; definition**

13 A. A law enforcement officer or public employee who, in the regular  
14 course of duty, investigates a motor vehicle accident resulting in bodily  
15 injury, death or damage to the property of any person in excess of one  
16 thousand dollars or the issuance of a citation shall complete a written  
17 report of the accident as follows:

18 1. Either at the time of and at the scene of the accident or after the  
19 accident by interviewing participants or witnesses.

20 2. Within twenty-four hours after completing the investigation.

21 3. IF A CITATION IS ISSUED AND THE ACCIDENT RESULTED IN SERIOUS  
22 PHYSICAL INJURY TO OR DEATH OF A VULNERABLE USER OF A PUBLIC WAY AS DEFINED  
23 IN SECTION 28-913, WHETHER THE CITED OFFENSE APPEARS TO HAVE CONTRIBUTED TO  
24 THE SERIOUS PHYSICAL INJURY OR DEATH.

25 B. Every law enforcement officer or public employee who, in the  
26 regular course of duty, investigates a motor vehicle accident that results in  
27 damage to the property of any person in an amount of one thousand dollars or  
28 less, but that does not result in the issuance of a citation or bodily injury  
29 or death, shall complete a portion of the written report of the accident.  
30 The portion of the written report shall:

1           1. Be completed either at the time of and at the scene of the accident  
2       or after the accident by interviewing participants or witnesses.

3           2. Be completed within twenty-four hours after completing the  
4       investigation.

5           3. Include the following minimum information:

6           (a) The time, day, month and year of the accident.

7           (b) Information adequate to identify the location of the accident.

8           (c) Identifying information for all involved parties and witnesses,  
9       including name, age, sex, address, telephone number, vehicle ownership and  
10      registration and proof of insurance.

11          (d) A narrative description of the facts of the accident, a simple  
12      diagram of the scene of the accident and the investigating officer's name,  
13      agency and identification number.

14          C. The agency employing the officer or public employee:

15          1. Shall not allow a person to examine the accident report or any  
16      related investigation report or a reproduction of the accident report or a  
17      related investigation report if the request is for a commercial solicitation  
18      purpose.

19          2. May require a person requesting the accident or related  
20      investigative report to state under penalty of perjury that the report is not  
21      examined or copied for a commercial solicitation purpose.

22          3. May retain the original report.

23          4. Shall maintain an electronic copy of the original report if the  
24      agency elects not to retain the original report pursuant to paragraph 3 of  
25      this subsection.

26          5. Shall immediately forward a copy of the report to the department of  
27      transportation for its use.

28          6. Except as otherwise provided by law, on request shall provide a  
29      copy of the unredacted report to the following:

30           (a) A person who is involved in the accident or the owner of a vehicle  
31      involved in the accident or a representative of the person or owner.

1                         (b) Any insurer licensed pursuant to title 20 if the report is related  
2                         to an investigation into fraudulent claims, or any insurer that writes  
3                         automobile liability or motor vehicle liability policies and that is both of  
4                         the following:

5                             (i) Under the jurisdiction of the department of insurance or a  
6                         self-insured entity or its agents, employees or contractors in connection  
7                         with claims investigation activities, antifraud activities, rating or  
8                         underwriting.

9                             (ii) An insurer of a person or vehicle involved in the accident.

10                         (c) An attorney licensed to practice law or to a licensed private  
11                         investigator representing a person involved in the accident in connection  
12                         with any civil, administrative or arbitration proceeding in any court or  
13                         government agency or before any self-regulatory body, including the service  
14                         of process, investigation in anticipation of litigation and the execution or  
15                         enforcement of judgments and orders, or pursuant to a court order.

16                         (d) An insurance support organization as defined in section 20-2102  
17                         that provides services in connection with claims investigation activities,  
18                         antifraud activities, rating or underwriting.

19                         D. If a request is made pursuant to subsection C, paragraph 6,  
20                         subdivision (a) or (c) of this section and the accident report indicates that  
21                         a criminal complaint has been issued, before the report is released the  
22                         personal identifying information regarding any victim shall be redacted from  
23                         the accident report pursuant to section 13-4434.

24                         E. A law enforcement agency may deny a request for a copy of an  
25                         unredacted accident report if the agency determines that release of the  
26                         report would be harmful to a criminal investigation.

27                         F. The department may place notes, date stamps, identifying numbers,  
28                         marks or other information on the copies as needed, if they do not alter the  
29                         original information reported by the investigating officer or public  
30                         employee.

1           G. Any law restricting the distribution of personal identifying  
2 information by a business entity described in subsection C, paragraph 6,  
3 subdivisions (b) and (d) of this section applies to personal identifying  
4 information contained in an accident report. If a person who receives  
5 information under this section is not otherwise subject to distribution  
6 restrictions for information contained in accident reports, the person shall  
7 not release the report or any information contained in the report except to  
8 those persons designated in subsection C, paragraph 6 of this section.

9           H. For the purposes of this section, "commercial solicitation purpose"  
10 means a request for an accident report if there is neither:

11           1. A relationship between the person or the principal of the person  
12 requesting the accident report and any party involved in the accident.

13           2. A reason for the person to request the report other than for the  
14 purposes of soliciting a business or commercial relationship.

15           Sec. 3. Repeal

16           Section 28-735, Arizona Revised Statutes, is repealed.

17           Sec. 4. Title 28, chapter 3, article 15, Arizona Revised Statutes, is  
18 amended by adding section 28-913, to read:

19           28-913. Operating a motor vehicle near a vulnerable user of a public  
20 way; endangering a vulnerable user of a public way; violation;  
21 classification; definitions

22           A. AN OPERATOR OF A MOTOR VEHICLE MAY NOT KNOWINGLY, INTENTIONALLY OR  
23 RECKLESSLY DO ANY OF THE FOLLOWING:

24           1. OPERATE THE MOTOR VEHICLE WITHIN THREE FEET OF A VULNERABLE USER OF  
25 A PUBLIC WAY. IF WHILE OVERTAKING A VULNERABLE USER OF A PUBLIC WAY THE  
26 DRIVER IS INVOLVED IN A COLLISION WITH THE VULNERABLE USER OF A PUBLIC WAY,  
27 THE COLLISION IS PRIMA FACIE EVIDENCE OF THE DRIVER'S FAILURE TO LEAVE AT  
28 LEAST THREE FEET BETWEEN THE MOTOR VEHICLE AND THE VULNERABLE USER OF A  
29 PUBLIC WAY.

1           2. DISTRACT OR ATTEMPT TO DISTRACT A VULNERABLE USER OF A PUBLIC WAY  
2 FOR THE PURPOSE OF CAUSING VIOLENCE OR INJURY TO THE VULNERABLE USER OF A  
3 PUBLIC WAY.

4           3. FORCE OR ATTEMPT TO FORCE A VULNERABLE USER OF A PUBLIC WAY OFF OF  
5 A PUBLIC WAY, CROSSWALK OR SHOULDER OF THE HIGHWAY EXCEPT AS NECESSARY FOR  
6 PURPOSES OF PUBLIC SAFETY.

7           B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2  
8 MISDEMEANOR, EXCEPT THAT IF THE VIOLATION CAUSED SERIOUS PHYSICAL INJURY AS  
9 DEFINED IN SECTION 13-105 TO OR DEATH OF A VULNERABLE USER OF A PUBLIC WAY,  
10 THE COURT SHALL:

11           1. IMPOSE A SENTENCE THAT REQUIRES THE PERSON TO COMPLETE A TRAFFIC  
12 SAFETY COURSE AND PERFORM BETWEEN ONE HUNDRED AND TWO HUNDRED HOURS OF  
13 COMMUNITY RESTITUTION. THE COMMUNITY RESTITUTION MUST INCLUDE ACTIVITIES  
14 RELATED TO DRIVER IMPROVEMENT AND PUBLIC EDUCATION ON TRAFFIC SAFETY.

15           2. ORDER, BUT SUSPEND ON THE CONDITION THAT THE PERSON COMPLETE THE  
16 REQUIREMENTS OF PARAGRAPH 1 OF THIS SUBSECTION:

17           (a) A FINE OF UP TO TWELVE THOUSAND FIVE HUNDRED DOLLARS.

18           (b) THE SUSPENSION OF THE PERSON'S DRIVING PRIVILEGES FOR ONE YEAR.

19           3. SET A HEARING DATE UP TO ONE YEAR AFTER THE DATE OF SENTENCING. AT  
20 THE HEARING THE COURT SHALL DO ONE OF THE FOLLOWING:

21           (a) IF THE PERSON HAS SUCCESSFULLY COMPLETED THE REQUIREMENTS  
22 DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION, DISMISS THE PENALTIES ORDERED  
23 UNDER PARAGRAPH 2 OF THIS SUBSECTION.

24           (b) IF THE PERSON HAS NOT SUCCESSFULLY COMPLETED THE REQUIREMENTS  
25 DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION, EITHER:

26           (i) GRANT THE PERSON AN EXTENSION BASED ON GOOD CAUSE SHOWN.

27           (ii) IMPOSE THE SENTENCE PRESCRIBED BY PARAGRAPH 2 OF THIS SUBSECTION.

28           C. FOR THE PURPOSES OF THIS SECTION:

29           1. "PUBLIC WAY" MEANS A PUBLIC STREET, ALLEY, ROAD, HIGHWAY OR  
30 THOROUGHFARE OF ANY KIND IN THIS STATE THAT IS USED BY THE PUBLIC OR THAT IS

Senate Amendments to S.B. 1274

1       OPEN TO THE USE OF THE PUBLIC AS A MATTER OF RIGHT, FOR THE PURPOSE OF  
2       VEHICULAR TRAVEL.

3           2. "VULNERABLE USER OF A PUBLIC WAY" MEANS A LAW ENFORCEMENT OFFICER,  
4       AN EMERGENCY RESPONDER OR A WORKER IN A STATE HIGHWAY WORK ZONE AS DEFINED IN  
5       SECTION 28-652 WHILE IN THE COURSE OF OFFICIAL DUTIES OR A PEDESTRIAN, A  
6       PERSON RIDING AN ANIMAL OR A PERSON OPERATING ANY OF THE FOLLOWING ON A  
7       PUBLIC WAY, CROSSWALK OR SHOULDER OF THE HIGHWAY:

- 8           (a) A FARM TRACTOR OR IMPLEMENT OF HUSBANDRY WITHOUT AN ENCLOSED  
9       SHELL.
- 10          (b) A SKATEBOARD.
- 11          (c) ROLLER SKATES.
- 12          (d) IN-LINE SKATES.
- 13          (e) A SCOOTER.
- 14          (f) A WHEELCHAIR.
- 15          (g) A BICYCLE."

16       Renumber to conform

17       Amend title to conform

2/16/15  
1:46 PM  
S: AL/dr