



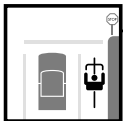
**PEDAL POWER:
A Legal Guide
for
Oregon Bicyclists**

by Ray Thomas

EIGHTH EDITION



A PROJECT OF THE BICYCLE TRANSPORTATION ALLIANCE

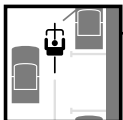
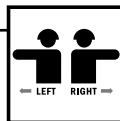


Obey all signs & traffic lights

Bicycles must be driven like other vehicles if they are to be taken seriously by motorists. Never ride against traffic.

Use hand signals

Hand signals tell motorists what you intend to do. For turn signals, point in the direction of your turn. Signal as a matter of courtesy and safety and as required by law.

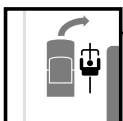
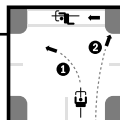


Ride consistently

Ride as close as practical to the right. Exceptions: when travelling at the normal speed of traffic, avoiding hazardous conditions, preparing to make a left turn, or using a one-way street.

Choose the best way to turn left

There are two ways to make a left turn: 1) Like an auto: look back, signal, move into the left lane, and turn left. 2) Like a pedestrian: ride straight to the far-side crosswalk, then walk your bike across, or queue up in the traffic lane.

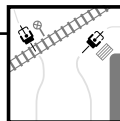


Use caution when passing

Motorists may not see you on their right, so be extra careful where there's no bike lane if you pass on the right side of cars. Watch for parked cars pulling out, unsignalled right turns and opening car doors. Make eye contact with drivers.

Avoid road hazards

Watch for sewer grates, slippery manhole covers, oily pavement, gravel and ice. Cross railroad tracks at right angles. For better control as you move across bumps and other hazards, stand up on your pedals.

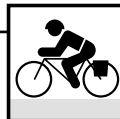


Ride a well-equipped bike

Outfit your bike with a good bike lock, tool kit, fenders, and bike bags. You are required to use a strong white head-light (visible from 500') and rear red reflector or light (visible from 600') at night and when visibility is poor.

Dress appropriately

Wear a Snell or ANSI approved hard-shell helmet whenever you ride (required by law for cyclists under 16 years of age). Wear light-colored clothes at night. Make yourself as visible as possible.

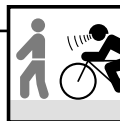


Get a green light

If you come to a red light and see this symbol on the street, position your bike directly over it. Wait, and soon the light will turn green! If a car is already there, it will activate the light for you.

Go slow on sidewalks

Pedestrians have the right of way on walkways. You must give an audible warning when you pass. Enter driveways and intersections at a walker's pace and look carefully for traffic. Cyclists are not allowed to ride on sidewalks in downtown Portland.



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Preface

This book is a collection of information about bicycles and the law in Oregon. The material is collected in sections relating to laws, with explanatory articles about several areas. Its purpose is to provide bicyclists with more knowledge about the laws of the roadway.

The text of the law as contained in the Oregon Revised Statutes (ORS) is provided at the end of Part I. These statutes have not been readily available to bicyclists, because Oregon's bicycle laws are frequently buried in chapters relating to motor vehicles and other topics, like insurance.

Of course, the entire 21-volume, 774 chapter set of ORS can be purchased or accessed at www.leg.state.or.us/ors, but it is our intent to create one handy guide containing the actual text of important bicycle laws. In text boxes accompanying the statutes, we have included a number of comments that help explain or summarize the law.

As bicyclists, we share a wary alliance with other traffic. Our time of domination on the roads in this country is long past. After 1910, the motor vehicle and its accompanying internal combustion orientation changed forever the atmosphere on Oregon's roads. Yet we were here first, and over the years bicycle pioneers have maintained a small but determined presence on the state's roadways. Modern laws reflect our status as a vocal and sometimes politically effective presence, but more often than not, the needs of bicyclists are misunderstood by those who would regulate our riding behavior.

The law creates a much more powerful position for the bicyclist on the road than most drivers realize. The rider has a right to take the lane unless other drivers are being slowed down, and even then bicyclists have a right to maintain as much of the roadway as is reasonably necessary to avoid hazards. It is a continuing frustration to riders that so many drivers fail to recognize our legitimate legal presence on the road; not beside the road, but in the traffic lane.

Increased rider numbers and creation of bicycle facilities has led to a new awareness among drivers about bicycling as a lifestyle change and transportation option. Transportation planners support the bicycle for some very good reasons. Our roadways are a finite resource, and so is human health. Using human power to get around is a needed direction for our human race. Our dependence on the automobile for transportation has created a large segment

of our population that is unable to move itself through space without discomfort unless some power assist is available. For those of us who know what it feels like to be able to move mile after mile at the speed of a bicycle, it is sad to realize that many people will never ride a bicycle again after they get their first driver's license.

People who complain about the level of funding for bicycle facilities should reexamine priorities. If it turns out that some of the tax dollars spent on bicycle transportation went for facilities that were never fully used, then shame on us humans for failing to utilize a way of traveling that is so satisfying and good for our vitality as a species. When I hear people complain about the behavior of riders it makes me wish everyone could have the experience of riding a well-tuned bicycle; it would turn more people into bicyclists. If more people had decent rain gear and could stand being out of breath, it would make our roadways into healthy arteries instead of dangerous car corridors filled with exhaust fumes.

If bicyclists are to maximize their impact on the transportation system, we need to know the rules of the road and how to make the laws work for us, at least to the extent that is possible. Our state's legislature has all too frequently passed laws that increase the domination of internal combustion vehicles. Restrictions on riding speed in crosswalks and access to city sidewalks, plus other prohibitions on bicycle access combine to make our way more difficult. However, as the saying goes, knowledge is power, and this book contains and explains the rules and limitations on where we can ride, how we can ride, and where we stand as bicyclists on the roadway. It is a pleasure to present it to Oregon's bicycle community. We are pleased to donate the proceeds from sales of this book to the Bicycle Transportation Alliance, Oregon's bicycle advocacy group.

Thank you to my law partner Doug Swanson, for pointing out the need for this book, and to Charley Gee and Bruce Morris for their assistance with the Eighth Edition and our work for justice for Oregon bicyclists.

Ray Thomas

Swanson, Thomas, Coon & Newton

Representing Oregon's Bicycling Community Since 1981

A Word From The Bicycle Transportation Alliance

Congratulations! You have in your hands an indispensable resource for bicycling in Oregon. In this book, you'll find the laws that affect bicyclists in our state, as well as a wealth of information about how those laws have been applied and interpreted. You'll also find stories, safety tips, and advice about what to do if you're in a crash.

The Pedal Power Legal Guide is a companion to the Legal Clinics hosted by Ray Thomas at the BTA office throughout the year. Ray Thomas is one of Oregon's leading experts on bicycle law, and has been sharing his expertise as a service to Oregon riders for more than a decade. His knowledge is based on the countless cases he has handled on behalf of cyclists from all walks of life.

The Bicycle Transportation Alliance, together with our members and the support of partners like Ray, has been leading Oregon's bicycle advocacy movement for over 20 years. The laws and policies that you read about in this book are a direct result of our work to make bicycling safe, easy, and intuitive for people of all ages and abilities. The BTA is committed to building a world-class bike network, encouraging more people to ride, and making our streets safe for everyone.

Oregon is a safe and wonderful place to ride, but we have more work to do in order to build communities where anyone can get around by bike. I invite you to join the thousands of people who support healthy, sustainable, bike-friendly communities by becoming a member of the Bicycle Transportation Alliance today.

As a member, you provide support for our advocacy and education programs. Plus, you receive discounts at bike shops, restaurants, and other local businesses around Oregon.

Please send in the membership form on the next page, or visit our website at btaoregon.org/pedalpower to join online.

Sincerely,

Rob Sadowsky
Executive Director



Join online: www.btaoregon.org/pedalpower

YES! I support the movement toward healthy, sustainable communities where bicycling is safe, convenient, and accessible; I support the BTA.

- \$40** Individual
- \$60** Household
- \$100** Friend*
- \$300** Bud Clark Society*
- \$25** Student/Limited income
- I want to renew as a Sustaining Member with my monthly gift of \$5, \$10, or more: \$ _____ Sustainer* (fill out credit card information below or send a voided check to enroll)

/

Visa or Mastercard # Expiration Date (MM/YY)

My contact/billing information:

Name

Address City State ZIP + 4

Email Home Phone

- YES!** Sign me up for the:
- Monthly BTA e-newsletter
 - Monthly members-only insider news

As a member, you receive discounts at more than 60 bike shops and local businesses around Oregon. See all member benefits at www.btaoregon.org/memberbenefits

***I am renewing at the level of \$100 or more or as a Sustaining Member at \$10/month or more. Please send me [check one]:**

- T-Shirt**
 - Men: S M L XL XXL
 - Women: S M L XL (sizes run small)
- Book**
 - Rubber to the Road: Volume I (Rides around Portland)
 - Rubber to the Road: Volume II (Rides around Portland)

PART I: Bicycle Laws

Laws Relating to Bicycles

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Oregon Revised Statutes (O.R.S.)

List of applicable statutes

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- 153.091 Presumptive Fines
- 153.021 Minimum Fines
- 153.061 Appearance by defendant
- 195.115 Reducing barriers for pedestrian and bicycle access to schools
- 184.740 Safe Routes to Schools Fund
- 184.741 Safe routes to schools program; rules
- 366.112 Bicycle lane and path advisory committee; members, terms, duties and powers; meetings
- 366.514 Use of highway fund for footpaths and bicycle trails
- 801.030 Exemptions from amendments to vehicle code
- 801.150 "Bicycle."
- 801.155 "Bicycle lane."
- 801.160 "Bicycle path."
- 801.258 "Electric assisted bicycle."
- 801.305 "Highway."
- 801.320 "Intersection."
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- 801.608 "Vulnerable user of a public way."
- 802.325 Bicycle safety program; contents; fees
- 810.090 Bicycle racing
- 810.150 Drain construction; compliance with bicycle safety requirements; guidelines
- 811.020 Passing stopped vehicle at crosswalk; penalty
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- 811.050 Failure to yield to rider on bicycle lane; penalty
- 811.055 Failure to yield to bicyclist on sidewalk
- 811.060 Vehicular assault of bicyclist or pedestrian; penalty
- 811.065 Unsafe passing of person operating bicycle; penalty

- 811.135 Careless driving; penalty
- 811.355 Improperly executed right turn; penalty
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- 815.280 Violation of bicycle equipment requirements; penalty
- 815.281 Selling noncomplying bicycle headgear; renting or leasing bicycle without having approved headgear available; penalties

Text of applicable statutes

153.018 Maximum Fines.

- (1) The penalty for committing a violation is a fine. The law creating a violation may impose other penalties in addition to a fine but may not impose a term of imprisonment.
- (2) Except as otherwise provided by law, the maximum fine for a violation committed by an individual is:
 - (a) \$2,000 for a Class A violation.
 - (b) \$1,000 for a Class B violation.
 - (c) \$500 for a Class C violation.
 - (d) \$250 for a Class D violation.
 - (e) \$2,000 for a specific fine violation, or the maximum amount otherwise established by law for the specific fine violation.
- (3) If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation.

Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:

- (a) \$4,000 for a Class A violation.
- (b) \$2,000 for a Class B violation.
- (c) \$1,000 for a Class C violation.
- (d) \$500 for a Class D violation.

153.019 Presumptive fines; generally.

- (1) Except as provided in ORS 153.020, the presumptive fines for violations are:
 - (a) \$435 for a Class A violation.
 - (b) \$260 for a Class B violation.
 - (c) \$160 for a Class C violation.
 - (d) \$110 for a Class D violation.
- (2) The presumptive fine for a specific fine violation is:
 - (a) The amount specified by statute as the presumptive fine for the violation;
or
 - (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.

153.021 Minimum fines.

- (1) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to the presumptive fines established by ORS 153.019 (1) or 153.020 (1) to an amount that is less than:
 - (a) \$220 for a Class A violation.
 - (b) \$130 for a Class B violation.
 - (c) \$80 for a Class C violation.
 - (d) \$60 for a Class D violation.
- (2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a specific fine violation to an amount that is less than 20 percent of the presumptive fine for the violation.

153.061 Appearance by defendant.

- (2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

184.740 Safe Routes to Schools Fund

- (1) The Safe Routes to Schools Fund is established separate and distinct from the General Fund. Interest earned by the Safe Routes to Schools Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the

Department of Transportation to implement a safe routes to schools program as described in section 2 of this 2005 Act.

- (2) The department may apply for, accept, receive and disburse gifts, grants, donations and other moneys from the federal government or from any other source to carry out a safe routes to schools program. Moneys received by the department under this subsection shall be deposited in the Safe Routes to Schools Fund.
- (3) The department, in consultation with the Transportation Safety Committee, may award grants from the Safe Routes to Schools Fund to applicants who comply with criteria adopted by the department under section 2 of this 2005 Act.

184.741 Safe routes to schools program; rules.

- (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a safe routes to schools program to assist communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school.
- (2) The department may provide the following kinds of assistance:
 - (a) Grants;
 - (b) Technical services and advice;
 - (c) Public information and education; and
 - (d) Evaluation and measurement of community programs.
- (3) If the department awards grants under this section:
 - (a) The department shall award grants for all of the following:
 - (a) Education;
 - (b) Engineering; and
 - (c) Enforcement;
 - (b) No one grant is required to include moneys for all the components specified in paragraph (a) of this subsection; and
 - (c) The department shall adopt rules specifying criteria that will be used in awarding grants.
- (4) A city, county or school district that has developed or is preparing to develop a plan described in ORS 195.115 to reduce barriers and hazards to children walking or bicycling to and from school may apply to the department for assistance in developing or carrying out the plan.

2005 Oregon Laws chapter 484 (eff. Jan 1, 2006) was passed by the 2005 Oregon legislature to be the state counterpart to H.R. 3, a new federal law known as SAFETEA-LU which was estimated to provide \$1 million per year for five years to the Oregon Department of Transportation (ODOT) Transportation Safety Division (TSD).

366.112 Bicycle lane and path advisory committee; members, terms, duties and powers; meetings.

- (1) There is created in the Department of Transportation an advisory committee to be appointed by the Governor to advise the department regarding the regulation of bicycle traffic and the establishment of bicycle lanes and paths. The committee shall consist of eight members including an employee of a unit of local government employed in land use planning, a representative of a recognized environmental group, a person engaged in the business of selling or repairing bicycles, a member designated by the Oregon Recreation Trails Advisory Council, and at least one member under the age of 21 at the time of

appointment. Members of the advisory committee shall be entitled to compensation and expenses as provided by ORS 292.495.

- (2) The members shall be appointed to serve for terms of four years each. A vacancy on the committee shall be filled by appointment by the Governor for the unexpired term.
- (3) The committee shall meet regularly four times a year, at times and places fixed by the chairperson of the committee. The committee may meet at other times upon notice by the chairperson or three members of the committee. The department shall provide office space and personnel to assist the committee as requested by the chairperson, within the limits of available funds. The committee shall adopt rules to govern its proceedings and may select officers it considers necessary.

366.514 Use of highway fund for footpaths and bicycle trails.

- (1) Out of the funds received by the Department of Transportation or by any county or city from the State Highway Fund reasonable amounts shall be expended as necessary to provide footpaths and bicycle trails, including curb cuts or ramps as part of the project. Footpaths and bicycle trails, including curb cuts or ramps as part of the project, shall be provided wherever a highway, road or street is being constructed, reconstructed or relocated. Funds received from the State Highway Fund may also be expended to maintain footpaths and trails and to provide footpaths and trails along other highways, roads and streets and in parks and recreation areas.

At least 1% of State Highway Funds must be spent for nonmotorized users on highway or street construction projects.
- (2) Footpaths and trails are not required to be established under subsection (1) of this section:
 - (a) Where the establishment of such paths and trails would be contrary to public safety;
 - (b) If the cost of establishing such paths and trails would be excessively disproportionate to the need or probable use; or
 - (c) Where sparsity of population, other available ways or other factors indicate an absence of any need for such paths and trails.
- (3) The amount expended by the department or by a city or county as required or permitted by this section shall never in any one fiscal year be less than one percent of the total amount of the funds received from the highway fund. However:
 - (a) This subsection does not apply to a city in any year in which the one percent equals \$250 or less, or to a county in any year in which the one percent equals \$1,500 or less.
 - (b) A city or county in lieu of expending the funds each year may credit the funds to a financial reserve fund in accordance with ORS 294.525, to be held for not more than 10 years, and to be expended for the purposes required or permitted by this section.
 - (c) For purposes of computing amounts expended during a fiscal year under this subsection, the department, a city or county may record the money as expended:

- (a) On the date actual construction of the facility is commenced if the facility is constructed by the city, county or department itself; or
 - (b) On the date a contract for the construction of the facilities is entered with a private contractor or with any other governmental body.
- (4) For the purposes of this chapter, the establishment of paths, trails and curb cuts or ramps and the expenditure of funds as authorized by this section are for highway, road and street purposes. The department shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this section. The department shall recommend construction standards for footpaths and bicycle trails. Curb cuts or ramps shall comply with the requirements of ORS 447.310 and rules adopted under ORS 447.231. The department shall, in the manner prescribed for marking highways under ORS 810.200, provide a uniform system of signing footpaths and bicycle trails which shall apply to paths and trails under the jurisdiction of the department and cities and counties. The department and cities and counties may restrict the use of footpaths and bicycle trails under their respective jurisdictions to pedestrians and nonmotorized vehicles, except that motorized wheelchairs shall be allowed to use footpaths and bicycle trails.
- (5) As used in this section, “bicycle trail” means a publicly owned and maintained lane or way designated and signed for use as a bicycle route.

801.030 Exemptions from amendments to vehicle code.

This section describes exemptions from specific changes to the vehicle code. The exemptions allow some practice or right to continue after the change is made. The exemptions are as follows:

- (1) Nothing contained in ORS 810.150 shall require the redesign, modification or replacement of street drains installed prior to September 13, 1975.
- (2) Sections 2 to 169 of chapter 451, Oregon Laws 1975, shall not apply to or govern the construction of or punishment for any vehicle code offense committed before June 27, 1975, or the construction and application of any defense to a prosecution for such an offense and do not impair or render ineffectual any court or administrative proceedings or procedural matters which occurred before June 27, 1975.

801.150 “Bicycle.”

“Bicycle” means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
- (2) Has a seat or saddle for use of the rider;
- (3) Is designed to travel with not more than three wheels in contact with the ground;
- (4) Is propelled exclusively by human power; and
- (5) Has every wheel more than 14 inches in diameter or two tandem wheels either of which is more than 14 inches in diameter

801.155 “Bicycle lane.”

“Bicycle lane” means that part of the highway, adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law.

801.160 “Bicycle path.”

“Bicycle path” means a public way, not part of a highway, that is designated by official signs or markings for use by persons riding bicycles except as otherwise specifically provided by law.

801.220 “Crosswalk.”

“Crosswalk” means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks and no other shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- (1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
 - (a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
 - (b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- (2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

801.258 “Electric assisted bicycle.”

“Electric assisted bicycle” means a vehicle that:

- (1) Is designed to be operated on the ground on wheels;
- (2) Has a seat or saddle for use of the rider;
- (3) Is designed to travel with not more than three wheels in contact with the ground;
- (4) Has both fully operative pedals for human propulsion and an electric motor; and
- (5) Is equipped with an electric motor that:
 - (a) Has a power output of not more than 1,000 watts; and
 - (b) Is incapable of propelling the vehicle at a speed of greater than 20 miles per hour on level ground.

801.305 “Highway.”

- (1) “Highway” means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

- (2) For the purpose of enforcing traffic offenses contained in the Oregon Vehicle Code, except for ORS 810.230, “highway” includes premises open to the public that are owned by a homeowners association and whose boundaries are contained within a service district established on or before July 1, 2002, under ORS 451.410 to 451.610.

801.320 “Intersection.”

“Intersection” means the area of a roadway created when two or more roadways join together at any angle, as described in one of the following:

- (1) If the roadways have curbs, the intersection is the area embraced within the prolongation or connection of the lateral curb lines.
- (2) If the roadways do not have curbs, the intersection is the area embraced within the prolongation or connection of the lateral boundary lines of the roadways.
- (3) The junction of an alley with a roadway does not constitute an intersection.
- (4) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersection highway is a separate intersection. In the event the intersection highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways is a separate intersection.

801.345 “Moped.”

“Moped” means a vehicle, including any bicycle equipped with a power source, other than an electric assisted bicycle as defined in ORS 801.258 or a motor assisted scooter as defined in ORS 801.348, that complies with all of the following:

- (1) It is designed to be operated on the ground upon wheels.
- (2) It has a seat or saddle for use of the rider.
- (3) It is designed to travel with not more than three wheels in contact with the ground.
- (4) It is equipped with an independent power source that:
 - (a) Is capable of propelling the vehicle, unassisted, at a speed of not more than 30 miles per hour on a level road surface; and
 - (b) If the power source is a combustion engine, has a piston or rotor displacement of 35.01 to 50 cubic centimeters regardless of the number of chambers in the power source.
- (5) It is equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the system is engaged.

801.348 “A motor assisted scooter.”

A motor assisted scooter means a vehicle that:

- (1) Is designed to be operated on the ground with not more than three wheels;
- (2) Has handlebars and a foot support or seat for the operator’s use;
- (3) Can be propelled by motor or human propulsion; and
- (4) Is equipped with a power source that is incapable of propelling the vehicle at a speed of greater than 24 miles per hour on level ground and:

- (a) If the power source is a combustion engine, has a piston or rotor displacement of 35 cubic centimeters or less regardless of the number of chambers in the power source; or
- (b) If the power source is electric, has a power output of not more than 1,000 watts.

801.360 “Motor vehicle.”

“Motor vehicle” means a vehicle that is self-propelled or designed for self-propulsion.

801.385 “Pedestrian.”

“Pedestrian” means any person afoot or confined in a wheelchair.

801.400 “Premises open to the public.”

“Premises open to the public” includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

801.440 “Right of way.”

“Right of way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

801.450 “Roadway.”

“Roadway” means the portion of a highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a highway includes two or more separate roadways the term “roadway” shall refer to any such roadway separately, but not to all such roadways collectively.

801.480 “Shoulder.”

“Shoulder” means the portion of a highway, whether paved or unpaved, contiguous to the roadway that is primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

801.485 “Sidewalk.”

“Sidewalk” means the area determined as follows:

- (1) On the side of a highway which has a shoulder, a sidewalk is that portion of the highway between the outside lateral line of the shoulder and the adjacent property line capable of being used by a pedestrian.
- (2) On the side of a highway which has no shoulder, a sidewalk is that portion of the highway between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian.

801.608 “Vulnerable user of a public way.”

“Vulnerable user of a public way” means a pedestrian, a highway worker, a person riding an animal or a person operating any of the following on a public way, crosswalk or shoulder of the highway:

- (1) A farm tractor or implement of husbandry without an enclosed shell;
- (2) A skateboard;
- (3) Roller skates;
- (4) In-line skates;
- (5) A scooter; or
- (6) A bicycle.

802.325 Bicycle safety program; contents; fees.

- (1) The Department of Transportation, in consultation with the Transportation Safety Committee, shall establish a bicycle safety program that complies with this section to the extent moneys are available for such program. The program established may include the following:
 - (a) Bicycle safety promotion and public education.
 - (b) Advice and assistance for bicycle safety programs operated by government or nongovernment organizations.
 - (c) Classroom instruction and actual riding instruction necessary to teach safe and proper operation of bicycles.
 - (d) Bicycle education and information that assist police agencies in the enforcement of bicycle laws.
 - (e) Other education or safety programs the department determines will help promote the safe operation of bicycles, promote safe and lawful riding habits and assist in accident prevention.
 - (f) The department may charge a fee for services provided under the program. Any fee charged by the department under this paragraph shall be established by rule and shall not be in an amount that will discourage persons from participating in safety programs offered by the department under this section.
- (2) The department shall act as a liaison between government agencies and advisory committees and interested bicyclist groups.
- (3) The department may accept donations and solicit grants to enable the department to carry out the functions of this section.

810.090 Bicycle racing.

Bicycle racing is permitted on any highway in this state upon the approval of, and under conditions imposed by, the road authority for the highway on which the race is held. [1983 c.338 §§153]

810.150 Drain construction; compliance with bicycle safety requirements; guidelines.

- (1) Street drains, sewer drains, storm drains and other similar openings in a roadbed over which traffic must pass that are in any portion of a public way, highway, road, street, footpath or bicycle trail that is available for use by bicycle traffic shall be designed and installed, including any modification of existing drains, with grates or covers so that bicycle traffic may pass over the drains safely and without obstruction or interference.

The law requires that drain grates or covers be designed to allow bicycle traffic to pass safely. Report violations to your maintenance bureau!

- (2) The Department of Transportation shall adopt construction guidelines for the design of public ways in accordance with this section. Limitations on the applicability of the guidelines are established under ORS 801.030.

811.020 Passing vehicle stopped at crosswalk; penalty.

- (1) The driver of a vehicle commits the offense of passing a stopped vehicle at a crosswalk if the driver:
- Approaches from the rear another vehicle that is stopped at a marked or an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway; and
 - Overtakes and passes the stopped vehicle.
- (2) The offense described in this section, passing a vehicle at a crosswalk, is a Class B traffic violation.

Overtaking vehicles, including bicycles, must stop for vehicles stopped at crosswalks for pedestrians.

811.025 Failure to yield to pedestrian on sidewalk; penalty.

- (1) The driver of a vehicle commits the offense of failure to yield to a pedestrian on a sidewalk if the driver does not yield the right of way to any pedestrian on a sidewalk.
- (2) The offense described in this section, failure to yield to a pedestrian on a sidewalk, is a Class B traffic infraction.

Bicyclists are drivers of vehicles in relation to pedestrians and must yield to pedestrians in crosswalks.

811.028 Failure to stop and remain stopped for pedestrian; penalty.

- (1) The driver of a vehicle commits the offense of failure to stop and remain stopped for a pedestrian if the driver does not stop and remain stopped for a pedestrian when the pedestrian is:
- Proceeding in accordance with a traffic control device as provided under ORS 814.010 or crossing the roadway in a crosswalk; and
 - In any of the following locations:
 - In the lane in which the driver's vehicle is traveling;
 - In a lane adjacent to the lane in which the driver's vehicle is traveling;
 - In the lane into which the driver's vehicle is turning;
 - In a lane adjacent to the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that does not have a traffic control device under which a pedestrian may proceed as provided under ORS 814.010; or
 - Less than six feet from the lane into which the driver's vehicle is turning, if the driver is making a turn at an intersection that does not have a traffic control device under which a pedestrian may proceed as provided under ORS 814.010.
- (2) For the purpose of this section, a bicycle lane or the part of a roadway where a vehicle stops, stands or parks that is adjacent to a lane of travel is considered to be part of that adjacent lane of travel.

Drivers and bicyclists must yield to pedestrians in crosswalks.

- (3) This section does not require a driver to stop and remain stopped for a pedestrian under any of the following circumstances:
- (a) Upon a roadway with a safety island, if the driver is proceeding along the half of the roadway on the far side of the safety island from the pedestrian; or
 - (b) Where a pedestrian tunnel or overhead crossing has been provided at or near a crosswalk.
- (4) For the purpose of this section, a pedestrian is crossing the roadway in a crosswalk when any part or extension of the pedestrian, including but not limited to any part of the pedestrian's body, wheelchair, cane, crutch or bicycle, moves onto the roadway in a crosswalk with the intent to proceed.
- (5) The offense described in this section, failure to stop and remain stopped for a pedestrian, is a Class B traffic violation.

New and improved definition of "crossing"!

811.050 Failure to yield to rider on bicycle lane; penalty.

- (1) A person commits the offense of failure of a motor vehicle operator to yield to a rider on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle, electric assisted bicycle, electric personal assistive mobility device, moped, motor assisted scooter or motorized wheelchair upon a bicycle lane.
- (2) This section does not require a person operating a moped to yield the right of way to a bicycle or a motor assisted scooter if the moped is operated on a bicycle lane in the manner permitted under ORS 811.440.
- (3) The offense described in this section, failure of a motor vehicle operator to yield to a rider on a bicycle lane, is a Class B traffic violation.

Motor vehicles must yield to bicycles in bicycle lanes.

811.055 Failure to yield to bicyclist on sidewalk.

- (1) The driver of a motor vehicle commits the offense of failure to yield the right of way to a bicyclist on a sidewalk if the driver does not yield the right of way to any bicyclist on a sidewalk.
- (2) The driver of a motor vehicle is not in violation of this section when a bicyclist is operating in violation of ORS 814.410. Nothing in this subsection relieves the driver of a motor vehicle from the duty to exercise due care.
- (3) The offense described in this section, failure to yield the right of way to a bicyclist on a sidewalk, is a Class B traffic infraction.

Motorists must yield to bicyclists on sidewalks.

811.060 Vehicular assault of bicyclist or pedestrian; penalty.

- (1) For the purposes of this section, 'recklessly' has the meaning given that term in ORS 161.085.
- (2) A person commits the offense of vehicular assault of a bicyclist or pedestrian if:
- (a) The person recklessly operates a vehicle upon a highway in a manner that results in contact between the person's vehicle and a bicycle operated by a person, a person operating a bicycle or a pedestrian; and

- (b) The contact causes physical injury to the person operating a bicycle or the pedestrian.
- (3) The offense described in this section, vehicular assault of a bicyclist or pedestrian, is a Class A misdemeanor.

811.065 Unsafe passing of a person operating a bicycle.

- (1) A driver of a motor vehicle commits the offense of unsafe passing of a person operating a bicycle if the driver violates any of the following requirements:
 - (a) The driver of a motor vehicle may only pass a person operating a bicycle by driving to the left of the bicycle at a safe distance and returning to the lane of travel once the motor vehicle is safely clear of the overtaken bicycle. For the purposes of this paragraph, a 'safe distance' means a distance that is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic. This paragraph does not apply to a driver operating a motor vehicle:
 - (a) In a lane that is separate from and adjacent to a designated bicycle lane;
 - (b) At a speed not greater than 35 miles per hour; or
 - (c) When the driver is passing a person operating a bicycle on the person's right side and the person operating the bicycle is turning left.
 - (b) The driver of a motor vehicle may drive to the left of the center of a roadway to pass a person operating a bicycle proceeding in the same direction only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of a roadway when prohibited under ORS 811.295, 811.300 or 811.310 to 811.325.
 - (c) The driver of a motor vehicle that passes a person operating a bicycle shall return to an authorized lane of traffic as soon as practicable.
- (2) Passing a person operating a bicycle in a no passing zone in violation of ORS 811.420 constitutes prima facie evidence of commission of the offense described in this section, unsafe passing of a person operating a bicycle, if the passing results in injury to or the death of the person operating the bicycle.
- (3) The offense described in this section, unsafe passing of a person operating a bicycle, is a Class B traffic violation.

811.135 Careless driving; penalty.

- (1) A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.
- (2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.

The Vulnerable User law went into effect on January 1, 2008 and is a violation, not a crime. It may be included in a citizen prosecution initiated by an injured cyclist. Oregon is the first state to recognize and provide special protection for vulnerable road users.

- (3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:
- (a) Impose a sentence that requires the person to:
 - (a) Complete a traffic safety course; and
 - (b) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;
 - (b) Impose, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:
 - (a) A fine of up to \$12,500, notwithstanding ORS 153.018; and
 - (b) A suspension of driving privileges as provided in ORS 809.280; and
 - (c) Set a hearing date up to one year from the date of sentencing.
- (4) At the hearing described in subsection (3)(c) of this section, the court shall:
- (a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties imposed under subsection (3)(b) of this section; or
 - (b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:
 - (a) Grant the person an extension based on good cause shown; or
 - (b) Impose the penalties under subsection (3)(b) of this section.
- (5) When a court imposes a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.
- (6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense contributed to the serious physical injury or death of a vulnerable user of a public way.

811.355 Improperly executed right turn; penalty.

- (1) A person commits the offense of making an improperly executed right turn if the person is operating a vehicle, is intending to turn the vehicle to the right and does not proceed as close as practicable to the right-hand curb or edge of the roadway
- (a) In making the approach for a right turn; and
 - (b) In making the right turn.
- (2) The offense described in this section, improperly executed right turn, is a Class B traffic violation.

811.410 Unsafe passing on left; penalty.

- (1) A person commits the offense of unsafe passing on the left if the person violates any of the following requirements concerning the overtaking and passing of vehicles:

- (a) The driver of a vehicle that is overtaking any other vehicle proceeding in the same direction shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
 - (b) Except when overtaking and passing on the right is permitted under ORS 811.415, the driver of an overtaken vehicle shall give way to the right in favor of an overtaking vehicle and shall not increase the speed of the overtaken vehicle until completely passed by the overtaking vehicle.
 - (c) The driver of a vehicle shall not drive to the left side of the center of the roadway in overtaking and passing a vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken.
 - (d) An overtaking vehicle shall return to an authorized lane of traffic as soon as practicable.
- (2) This section does not authorize driving on the left side of the center of the road when prohibited under the following:
- (a) Limitations on driving on the left of the center of a roadway under ORS 811.305.
 - (b) Passing in a no passing zone under ORS 811.420.
 - (c) ORS 811.295, 811.300 and 811.310 to 811.325 that require driving on the right.
- (3) The offense described in this section, unsafe passing on the left, is a Class B traffic violation.

811.415 Unsafe passing on right; penalty.

- (1) A person commits the offense of unsafe passing on the right if the person:
- (a) Drives a vehicle to overtake and pass upon the right of another vehicle at any time not permitted under this section.
 - (b) Drives a vehicle to overtake and pass upon the right of another vehicle at any time by driving off the paved portion of the highway.
- (2) For purposes of this section, a person may drive a vehicle to overtake and pass upon the right of another vehicle under any of the following circumstances:
- (a) Overtaking and passing upon the right is permitted if:
 - (a) The overtaken vehicle is making or the driver has signaled an intention to make a left turn;
 - (b) The paved portion of the highway is of sufficient width to allow two or more lanes of vehicles to proceed lawfully in the same direction as the overtaking vehicle; and
 - (c) The roadway ahead of the overtaking vehicle is unobstructed for sufficient distance to permit passage by the overtaking vehicle to be made in safety.

The Oregon passing on the right law went into effect on January 1, 2006 and provides "c) overtaking and passing upon the right is permitted if the overtaking vehicle is a bicycle that may safely make the passage under the existing conditions."

- (b) Overtaking and passing upon the right is permitted if the overtaken vehicle is proceeding along a roadway in the left lane of two or more clearly marked lanes allocated exclusively to vehicular traffic moving in the same direction as the overtaking driver.
 - (c) Overtaking and passing upon the right is permitted if the overtaking vehicle is a bicycle that may safely make the passage under the existing conditions.
- (3) The offense described in this section, unsafe passing on the right, is a Class B traffic violation.

811.420 Passing in no passing zone; exceptions; penalty.

- (1) A person commits the offense of passing in a no passing zone if the person drives a vehicle on the left side of a roadway in a no passing zone that has been established and designated to prohibit such movements by appropriate signs or markings posted on the roadway.
- (2) The authority to establish and post no passing zones for purposes of this section is established under ORS 810.120.
- (3) The provisions of this section do not apply under any of the following circumstances:
 - (a) When a driver turns left into or from an alley, intersection, private road or driveway.
 - (b) When an obstruction or condition exists making it necessary to drive to the left of the center of the roadway provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance that would constitute an immediate hazard.
- (4) The offense described in this section, passing in a no passing zone, is a Class B traffic violation.

A motorist may pass over the center line when a "condition exists making it necessary to drive to the left of center of the roadway provided that a driver doing so shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance that would constitute an immediate hazard."

811.425 Failure of slower driver to yield to overtaking vehicle; penalty.

- (1) A person commits the offense of failure of a slower driver to yield to overtaking vehicle if the person is driving a vehicle and the person fails to move the person's vehicle off the main traveled portion of the highway into an area sufficient for safe turnout when:
 - (a) The driver of the overtaken vehicle is proceeding at a speed less than a speed established in ORS 811.105 as prima facie evidence of violation of the basic speed rule;
 - (b) The driver of the overtaking vehicle is proceeding at a speed in conformity with ORS 811.105;
 - (c) The highway is a two directional, two-lane highway; and
 - (d) There is no clear lane for passing available to the driver of the overtaking vehicle.
- (2) This section does not apply to the driver of a vehicle in a funeral procession.

- (3) The offense described in this section, failure of a slower driver to yield to overtaking vehicle, is a Class B traffic violation.

811.435 Operation of motor vehicle on bicycle trail; exemptions; penalty.

- (1) A person commits the offense of operation of a motor vehicle on a bicycle trail if the person operates a motor vehicle upon a bicycle lane or a bicycle path.
- (2) Exemptions to this section are provided under ORS 811.440.
- (3) This section is not applicable to mopeds. ORS 811.440 and 814.210 control the operation and use of mopeds on bicycle lanes and paths.
- (4) The offense described in this section, operation of a motor vehicle on a bicycle trail, is a Class B traffic violation.

811.440 When motor vehicles may operate on bicycle lane.

This section provides exemptions from the prohibitions under ORS 811.435 and 814.210 against operating motor vehicles on bicycle lanes and paths. The following vehicles are not subject to ORS 811.435 and 814.210 under the circumstances described:

Motorists may only drive upon a bicycle lane when turning, or crossing over it in order to turn off the road, after yielding the right of way to bicyclists.

- (1) A person may operate a moped on a bicycle lane that is immediately adjacent to the roadway only while the moped is being exclusively powered by human power.
- (2) A person may operate a motor vehicle upon a bicycle lane when:
- Making a turn;
 - Entering or leaving an alley, private road or driveway; or
 - Required in the course of official duty.
- (3) An implement of husbandry may momentarily cross into a bicycle lane to permit other vehicles to overtake and pass the implement of husbandry.
- (4) A person may operate a motorized wheelchair on a bicycle lane or path.
- (5) A person may operate a motor assisted scooter on a bicycle lane or path.
- (6) A person may operate an electric personal assistive mobility device on a bicycle lane or path. [1983 c.338 '645; 1991 c.417 '1; 2001 c.749 '24; 2003 c.341 '8]

811.490 Improper opening or leaving open of vehicle door; penalty.

- (1) A person commits the offense of improper opening or leaving open a vehicle door if the person does any of the following:
- Opens any door of a vehicle unless and until it is reasonably safe to do so and it can be done without interference with the movement of traffic, or with pedestrians and bicycles on sidewalks or shoulders.
 - Leaves a door open on the side of a vehicle available to traffic, or to pedestrians or bicycles on sidewalks or shoulders for a period of time longer than necessary to load or unload passengers.
- (2) The offense described in this section, improper opening or leaving open a vehicle door, is a Class D traffic infraction.

It's illegal to leave open a car door that interferes with bicycle traffic.

811.505 Failure to stop when emerging from alley, driveway or building; penalty.

- (1) A person commits the offense of failure to stop when emerging from an alley, driveway or building if the person is operating a vehicle that is emerging from an alley, building, private road or driveway in a business or residence district and the person does not stop the vehicle as follows:
 - (a) If there is a sidewalk or sidewalk area, the person must stop the vehicle before driving onto the sidewalk or sidewalk area.
 - (b) If there is no sidewalk or sidewalk area, the person must stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic.
- (2) The offense described in this section, failure to stop when emerging from an alley, driveway or building, is a Class B traffic violation.

814.400 Application of vehicle laws to bicycles.

- (1) Every person riding a bicycle upon a public way is subject to the provisions applicable to and has the same rights and duties as the driver of any other vehicle concerning operating on highways, vehicle equipment and abandoned vehicles, except:
 - (a) Those provisions which by their very nature can have no application.
 - (b) When otherwise specifically provided under the vehicle code.
- (2) Subject to the provisions of subsection (1) of this section:
 - (a) A bicycle is a vehicle for purposes of the vehicle code; and
 - (b) When the term “vehicle” is used the term shall be deemed to be applicable to bicycles.
- (3) The provisions of the vehicle code relating to the operation of bicycles do not relieve a bicyclist or motorist from the duty to exercise due care.

“Due Care” is the underlying legal requirement for all roadway users; be aware that due care varies somewhat in the eye of the beholder – to some folks riding a bicycle in heavy traffic is not due care at all, a good reason for bicyclists to take their turn in serving on juries so the jury box is truly representative of the conscience of the community, including the two-wheeled community.

814.405 Status of electric assisted bicycle.

An electric assisted bicycle shall be considered a bicycle, rather than a motor vehicle, for purposes of the Oregon Vehicle Code, except when otherwise specifically provided by statute.

Bicycles are vehicles too, and the same Rules of the Road apply except where “motor” vehicles are the only type mentioned or the “nature” of the provision cannot apply to bicycles.

814.410 Unsafe operation of bicycle on sidewalk; penalty.

- (1) A person commits the offense of unsafe operation of a bicycle on a sidewalk if the person does any of the following:
 - (a) Operates the bicycle so as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

- (b) Operates a bicycle upon a sidewalk and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians on the sidewalk.
 - (c) Operates a bicycle on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property.
 - (d) Operates the bicycle at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp. This paragraph does not require reduced speeds for bicycles at places on sidewalks or other pedestrian ways other than places where the path for pedestrians or bicycle traffic approaches or crosses that for motor vehicle traffic.
 - (e) Operates an electric assisted bicycle on a sidewalk.
- (2) Except as otherwise specifically provided by law, a bicyclist on a sidewalk or in a crosswalk has the same rights and duties as a pedestrian on a sidewalk or in a crosswalk.
- (3) The offense described in this section, unsafe operation of a bicycle on a sidewalk, is a Class D traffic violation.

814.420 Failure to use bicycle lane or path; exceptions; penalty.

- (1) Except as provided in subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.
- (2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.
- (3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or path for the purpose of:
- (a) Overtaking and passing another bicycle, a vehicle or a pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.
 - (b) Preparing to execute a left turn at an intersection or into a private road or driveway.
 - (c) Avoiding debris or other hazardous conditions.
 - (d) Preparing to execute a right turn where a right turn is authorized.
 - (e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.
- (4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation.

If a bicycle lane is available the law requires riders to use it except when necessary to safely avoid a hazard or to make a turn.

814.430 Improper use of lanes; exceptions; penalty.

- (1) A person commits the offense of improper use of lanes by a bicycle if the person is operating a bicycle on a roadway at less than the normal speed of traffic using the roadway at that time and place under the existing conditions and the person does not ride as close as practicable to the right curb or edge of the roadway.
- (2) A person is not in violation of the offense under this section if the person is not operating a bicycle as close as practicable to the right curb or edge of the roadway under any of the following circumstances:
 - (a) When overtaking and passing another bicycle or vehicle that is proceeding in the same direction.
 - (b) When preparing to execute a left turn.
 - (c) When reasonably necessary to avoid hazardous conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or other conditions that make continued operation along the right curb or edge unsafe or to avoid unsafe operation in a lane on the roadway that is too narrow for a bicycle and vehicle to travel safely side by side. Nothing in this paragraph excuses the operator of a bicycle from the requirements under ORS 811.425 or from the penalties for failure to comply with those requirements.
 - (d) When operating within a city as near as practicable to the left curb or edge of a roadway that is designated to allow traffic to move in only one direction along the roadway. A bicycle that is operated under this paragraph is subject to the same requirements and exceptions when operating along the left curb or edge as are applicable when a bicycle is operating along the right curb or edge of the roadway.
 - (e) When operating a bicycle alongside not more than one other bicycle as long as the bicycles are both being operated within a single lane and in a manner that does not impede the normal and reasonable movement of traffic.
 - (f) When operating on a bicycle lane or bicycle path.
- (3) The offense described in this section, improper use of lanes by a bicycle, is a Class D traffic infraction.

The Cyclist's Bill of Rights:

Bicyclists must stay as close to the curb as is practical except when:

- proceeding at the speed of traffic
- turning left
- the lane is not wide enough to allow safe passing, or
- surface hazards make it necessary to take more of the lane.

Riding along left side of road on one way street.

Bicyclists can ride "two up," (side by side).

814.440 Failure to signal turn; exceptions; penalty.

- (1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:
 - (a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.
 - (b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

Hand signal necessary for at least 100 feet before turn or stop except when both hands necessary to control bicycle.

- (c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.
- (2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both hands be used to safely control or operate the bicycle.
- (3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.
- (4) The offense described under this section, failure to signal for a bicycle turn, is a Class D traffic infraction.

814.450 Unlawful load on bicycle; penalty.

- (1) A person commits the offense of having an unlawful load on a bicycle if the person is operating a bicycle and the person carries a package, bundle or article which prevents the person from keeping at least one hand upon the handlebar and having full control at all times.
- (2) The offense described in this section, unlawful load on a bicycle, is a Class D traffic infraction.

Full control and one hand on handlebars necessary.

814.460 Unlawful passengers on bicycle; penalty.

- (1) A person commits the offense of unlawful passengers on a bicycle if the person operates a bicycle and carries more persons on the bicycle than the number for which it is designed or safely equipped.
- (2) The offense described in this section, unlawful passengers on a bicycle, is a Class D traffic infraction.

Unlawful to ride with more riders than bike intended to carry.

814.470 Failure to use bicycle seat; penalty.

- (1) A person commits the offense of failure to use a bicycle seat if the person is operating a bicycle and the person rides other than upon or astride a permanent and regular seat attached to the bicycle.
- (2) A person operating an electric personal assistive mobility device is not subject to this section.
- (3) The offense described in this section, failure to use bicycle seat, is a Class D traffic violation.

Use that bicycle seat.

814.480 Nonmotorized vehicle clinging to another vehicle; penalty.

- (1) A person commits the offense of nonmotorized vehicle clinging to another vehicle if the person is riding upon or operating a bicycle, coaster, roller skates, sled or toy vehicle and the person clings to another vehicle upon a roadway or attaches that which the person is riding or operating to any other vehicle upon a roadway.
- (2) The offense described in this section, nonmotorized vehicle clinging to another vehicle, is a Class D traffic infraction.

814.484 Meaning of “bicycle” and “operating or riding on a highway.”

- (1) For purposes of ORS 814.485, 814.486, 815.052 and 815.281, “bicycle” has the meaning given in ORS 801.150 except that:
 - (a) It also includes vehicles that meet the criteria specified in ORS 801.150 (1) to (4) but that have wheels less than 14 inches in diameter.
 - (b) It does not include tricycles designed to be ridden by children.
- (2) For purposes of the offenses defined in ORS 814.485, 814.486 and 815.281 (2), a person shall not be considered to be operating or riding on a bicycle on a highway or on premises open to the public if the person is operating or riding on a three-wheeled nonmotorized vehicle on a beach while it is closed to motor vehicle traffic.

Legal requirements for vehicles do not include children’s tricycles or three-wheeled beach pedal bikes.

814.485 Failure to wear protective headgear; penalty.

- (1) A person commits the offense of failure of a bicycle operator or rider to wear protective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.
- (2) Exemptions from this section are as provided in ORS 814.487.
- (3) The offense described in this section, failure of a bicycle operator or rider to wear protective headgear, is a specific fine traffic violation. The presumptive fine for failure of a bicycle operator or rider to wear protective headgear is \$25.

Helmets mandatory if under 16 years old.

814.486 Endangering bicycle operator or passenger; penalty.

- (1) A person commits the offense of endangering a bicycle operator or passenger if:
 - (a) The person is operating a bicycle on a highway or on premises open to the public and the person carries another person on the bicycle who is under 16 years of age and is not wearing protective headgear of a type approved under ORS 815.052; or
 - (b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a highway or on premises open to the public without wearing protective headgear of a type approved under ORS 815.052.
- (2) Exemptions from this section are as provided in ORS 814.487.
- (3) The offense described in this section, endangering a bicycle operator or passenger, is a specific fine traffic violation. The presumptive fine for endangering a bicycle operator or passenger is \$25.

Child passengers must wear helmets.

814.487 Exemptions from protective headgear requirements.

A person is exempt from the requirements under ORS 814.485 and 814.486 to wear protective headgear, if wearing the headgear would violate a religious belief or practice of the person.

814.488 Citations; exemption from requirement to pay fine.

- (1) If a child in violation of ORS 814.485 is 11 years of age or younger, any citation issued shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, rather than to the child for violation of ORS 814.485.
- (2) If a child in violation of ORS 814.485 is at least 12 years of age and is under 16 years of age, a citation may be issued to the child for violation of ORS 814.485 or to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child for violation of ORS 814.486, but not to both.
- (3) The first time a person is convicted of an offense described in ORS 814.485 or 814.486, the person shall not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052.

Parents can be cited for their children's failure to wear a helmet.

First offense, no fine if obtain proof of purchase of proper helmet.

814.489 Use of evidence of lack of protective headgear on bicyclist.

Evidence of violation of ORS 814.485 or 814.486 and evidence of lack of protective headgear shall not be admissible, applicable or effective to reduce the amount of damages or to constitute a defense to an action for damages brought by or on behalf of an injured bicyclist or bicycle passenger or the survivors of a deceased bicyclist or passenger if the bicyclist or passenger was injured or killed as a result in whole or in part of the fault of another.

Proof of lack of helmet not admissible evidence in civil action.

814.500 Rights and duties of person riding motorized wheelchair on bicycle lane or path.

Every person riding a motorized wheelchair on a bicycle lane or path is subject to the provisions applicable to and has the same rights and duties as the driver of a bicycle when operating on a bicycle lane or path, except:

- (1) When those provisions which by their very nature can have no application.
- (2) When otherwise specifically provided under the vehicle code.

814.514 Failure of operator of motor assisted scooter to use bicycle lane or path; exception; penalty.

- (1) Except as provided in subsection (2) of this section, a person commits the offense of failure of a motor assisted scooter operator to use a bicycle lane or bicycle path if the person operates a motor assisted scooter on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.
- (2) A person is not subject to this section if the operation of a motor assisted scooter on a bicycle lane or bicycle path is prohibited by local ordinance.
- (3) The offense described in this section, failure of a motor assisted scooter operator to use a bicycle lane or bicycle path, is a Class D traffic violation.

815.280 Violation of bicycle equipment requirements; penalty.

- (1) A person commits the offense of violation of bicycle equipment requirements if the person does any of the following:
 - (a) Operates on any highway a bicycle in violation of the requirements of this section.
 - (b) Is the parent or guardian of a minor child or ward and authorizes or knowingly permits the child or ward to operate a bicycle on any highway in violation of the requirements of this section.
- (2) A bicycle is operated in violation of the requirements of this section if any of the following requirements are violated:
 - (a) A bicycle must be equipped with a brake that enables the operator of the bicycle to stop the bicycle within 15 feet from a speed of 10 miles per hour on dry, level, clean pavement.
 - (b) A person shall not install or use any siren or whistle upon a bicycle. This paragraph does not apply to bicycles used by police officers.
 - (c) At the times described in the following, a bicycle or its rider must be equipped with lighting equipment that meets the described requirements:
 - (a) The lighting equipment must be used during limited visibility conditions.
 - (b) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the bicycle.
 - (c) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.
- (3) Nothing contained in this section shall be construed to prohibit the use of additional parts and accessories on any bicycle consistent with this section.
- (4) This section does not apply to electric personal assistive mobility devices. Equipment requirements for electric personal assistive mobility devices are provided in ORS 815.284.
- (5) The offense described in this section, violation of bicycle equipment requirements, is a Class D traffic violation.

The 2007 Oregon Legislature amended the old law at insistence of fixed gear advocates but not to the version they wanted; instead the law now clearly requires that “A bicycle must be equipped with a brake” and then sets an easy performance requirement of 15 feet to stop from ten miles per hour that a fixed gear without a brake can beat even on wet pavement.

Parents responsible for children following law.

Light must be used during “limited visibility conditions.”
Front – white light visible 500 feet.
Rear – red reflector or light visible 600 feet to rear.

815.281 Selling noncomplying bicycle headgear; renting or leasing bicycle without having approved headgear available; penalties.

- (1) A person commits the offense of selling unapproved bicycle equipment if the person sells or offers for sale any bicycle headgear that is not approved by the Department of Transportation under ORS 815.052.
- (2) A person commits the offense of unlawfully renting or leasing a bicycle to another if the person:

- (a) Is in the business of renting or leasing bicycles; and
 - (b) Does not have bicycle headgear approved under ORS 815.052 available for rental for use by persons under 16 years of age.
- (3) The offenses described in this section are Class D traffic infractions.

Oregon Rules Relating to Bicycle Facilities

Manual on Uniform Traffic Control Devices for Streets and Highways

Oregon Supplement to the 2009 Edition



Adopted December 2011

By Oregon Administrative Rule 734-020-0005

CHAPTER 9C. MARKINGS

Section 9C.04 Markings For Bicycle Lanes

[Revise text from Section 9C.04, P1 through P6, as shown below:]

Support:

Pavement markings designate that portion of the roadway for preferential use by bicyclists. Markings inform all road users of the restricted nature of the bicycle lane.

Standard:

Longitudinal pavement markings shall be used in conjunction with bicycle lane symbol markings or Bike Lane signs (see Section 9B.04) to define bicycle lanes. An 8 inch wide longitudinal white line shall be used to separate motor vehicle lanes from bicycle lanes traveling in the same direction. Double yellow longitudinal lines shall be used to separate motor vehicle lanes from bicycle lanes traveling in the opposite direction.

Guidance:

If used, bicycle lane word, symbol, and/or arrow markings (see Figure 9C-3) should be placed at the beginning of a bicycle lane and at periodic intervals along the bicycle lane based on engineering judgment.

Standard:

If the bicycle lane symbol marking is used in conjunction with word or arrow messages, it shall precede them.

Option:

If the word, symbol, and/or arrow pavement markings shown in Figure 9C-3 are used, Bike Lane signs (see Section 9B.04) may also be used, but to avoid overuse of the signs not necessarily adjacent to every set of pavement markings.

Standard:

A through bicycle lane shall not be positioned to the right of a right turn only lane or to the left of a left turn only lane unless conflicting movements are controlled by a traffic control signal.

SURFACE TREATMENTS

Pavement condition is important to cyclists, as they ride on lightweight two-wheeled vehicles with narrow, high-pressure tires (necessary for the bicycle's inherent efficiency). Rough surfaces and imperfections such as joints can cause a rider to lose control and fall. Debris such as gravel and glass are also problems, and these can be addressed through maintenance. Adequate drainage is critical to cyclists, as they ride in the area where water ponds when drains get clogged, or surface irregularities prevent water from entering drain grates.

Surface Types

The preferred roadway surfacing for bicycling is a finely graded asphaltic concrete. Rough open-graded mixes are very uncomfortable for cyclists, as they cause vibrations and increased rolling resistance, contributing to greater cyclist fatigue.



Chip seal ends at motor vehicle travel lane

Chip Seals

Chip-sealed surfaces are particularly unpleasant to ride on and should be avoided when possible. Where used, chip seals should be limited to the travel lanes on roads and highways with paved shoulders: the shoulders should NOT be chip-sealed. On roads with no shoulders (where cyclists ride in the travel lanes), chip seals should use a fine mix and be covered with a fog or slurry seal.

Drainage Grates

Care must be taken to ensure that drainage grates are bicycle-safe, as required by ORS 810.150. If not, a bicycle wheel may fall into the slots of the grate causing the cyclist to fall. Replacing existing grates (A, B, preferred methods) or welding thin metal straps across the grate, perpendicular to the direction of travel (C, alternate method) is required. These should be checked periodically to ensure that the straps remain in place.

Note: grates with bars perpendicular to the roadway must not be placed at the bottom of curb cuts, as wheelchairs could get caught in the slot.

If a street-surface grate is required for drainage (ODOT types G-1, G-2, CG-1 and CG-2), care must be taken to ensure that the grate is flush with the road surface. Inlets should be raised after a pavement overlay to within 1/4 inch of the new surface. If this is not possible or practical, the pavement must taper into drainage inlets so they do not cause an abrupt edge at the inlet.

The gap between the grate and the inlet should be kept tight, no more than 3/4 inch, to prevent bicycle wheels from getting trapped.

The most effective way to avoid drainage-grate problems is to eliminate them entirely with the use of inlets in the curb face (type CG-3). The cross-slope of the outer 3 feet or so of the bike lane should stay constant, with no exaggerated warping towards the opening. This may require more grates per mile to handle bypass flow; but this is the most bicycle-friendly design.

Another bicycle-friendly option is to ensure the inlet grate is entirely contained in the gutter pan.

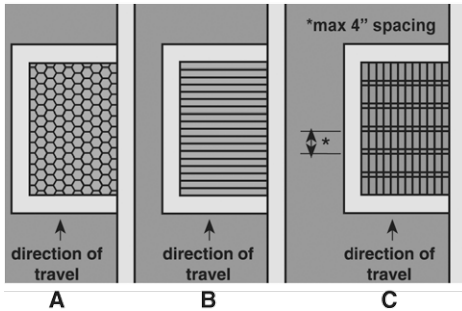


Figure 1-15: Bicycle safe drainage grates

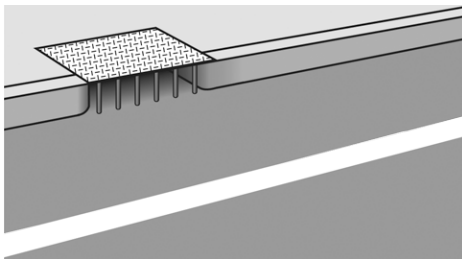


Figure 1-16: Curb inlet drainage grate

Railroad Crossings

Special care must be taken wherever a bikeway intersects railroad tracks. The most important concerns for bicyclists are smoothness, angle of crossing and flange opening.

The combination of smoothness, angle and flange opening create conditions that affect cyclists. By improving smoothness and flange opening, the angle becomes less critical. A common mistake is to overcorrect for the angle, as the resulting sharp reversing curves needed to create a right angle crossing can be more difficult for cyclists to negotiate than the crossing itself. Sometimes all that is needed is a slight widening of the shoulders to allow cyclists to align themselves better at the track crossing.

By statute, all public highway, bikeway, shared-use paths, and sidewalk crossings of a railroad in Oregon are regulated by the Rail Division of the Department of Transportation. The Rail Division must approve, by issuance of an Order, the construction of new crossings or alterations to existing crossings, to include the approaches to these crossings. Crossing Orders specify construction details, installation of traffic control devices,

and assign maintenance responsibilities to the road authority and the railroad, who are parties to the application.



Concrete RR crossing with rubber flanges

Crossing Surface

The four most commonly used materials, in descending order of preference, are:

- **Concrete:** Concrete performs best under wet conditions and, when laid with precision, provides a smooth ride.
- **Rubber:** Rubber provides a rideable crossing when new, but they are slippery when wet and degrade over time.
- **Asphalt:** asphalt pavement must be maintained in order to prevent a ridge buildup next to the rails.
- **Timber:** Timbers wear down rapidly and are slippery when wet.

Crossing Angle

The risk of a fall is kept to a minimum where the roadway (or bikeway portion of the roadway) crosses the tracks at 90°. If the skew angle is less than 45°, special attention should be given to the bikeway alignment to improve the angle of approach, preferably to 60° or greater, so cyclists can avoid catching their wheels in the flange and losing their balance. OAR 741-115-0070 specifies regulations for bicycle lanes and multi-use paths that cross railroad tracks at the same grade. Under OAR 741-115-0070 (3), an engineering study is required whenever bicycle lanes or multi-use paths are proposed to cross railroad tracks at 59 degrees or less.

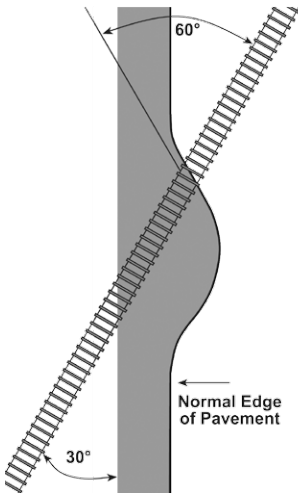


Figure 1-17: Bulged RR crossing

Creating a separated path to angle the bikeway at 90° degrees is feasible, but special care should be taken to maintain the path regularly.



Rail crossing S curve

Flange Opening

The open flange area between the rail and the roadway surface can cause problems for cyclists, since it can catch a bicycle wheel, causing the rider to fall. Flange width must be kept to a minimum.

Efforts to create a right-angle crossing at a severe skew can have unintended consequences: the reversing curves required for a right-angle approach can create other problems for cyclists. It is often best to widen the roadway, shoulder or bike lane to allow cyclists to choose the path that suits their needs the best. On extremely skewed crossings (30° or less), it may be impracticable to widen the shoulders enough to allow for 90° crossing; widening to allow 60° crossing or better is often sufficient.



Bicycle unfriendly RR crossing

Rumble Strips

Rumble strips are provided to alert motorists that they are wandering off the roadway. They are most common on long sections of straight freeways in rural settings, but are also used on some two-lane undivided highways. Rumble strips should not extend across the entire width of the shoulder, because they create an unridable surface for bicyclists. Rumble strips should not be used if they leave less than 4 feet of rideable space.

Bicycle friendlier rumble strips adjust the placement and width of the rumble strip and provide gaps for bicyclists to leave the shoulder to make a left turn or to avoid debris. A minimum of 4-feet of rideable shoulder is required and 12-foot gaps on 40 to 60 foot intervals is recommended. On narrower shoulders rumble strips can also be cut directly at the fog line, leaving the entire shoulder available for cycling. Rumble strips must be dropped before pinch points.

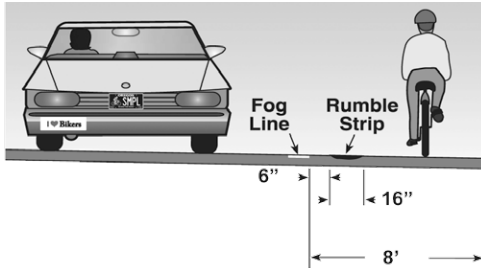


Figure 1-18: Bicycle friendlier rumble strips



Well placed rumble strip leaves room for bicyclists

Another alternative is the use of profiled fog lines. They are highly retro-reflective, alert drivers when they've strayed from the travel way, and leave the entire width of the shoulder available for bicycling. Should a bicyclist need to cross the fog line occasionally, the bumps are not too severe. They should not be used on narrow shoulders (under 4 feet) as they will be located in the area where cyclists prefer to ride.

For the most up-to-date information on rumble strip placement, design and alternatives, refer to the ODOT Traffic Manual and standard drawings.



Profiled edge stripe

SIGNING AND MARKING OF BIKEWAYS

Introduction

Signing and marking of bikeways must be uniform and consistent for them to command the respect of the public and provide safety to users. Signing and marking must be warranted by use and need. Signing and markings of bikeways on the state highway system should conform to the recommendations of this section. To provide uniformity and continuity, cities and counties are encouraged to adopt these standards. Consult the MUTCD, the ODOT Traffic Manual and the ODOT Traffic Line Manual for up-to-date details and dimensions.

Well-designed roads make it clear to users how to proceed, and require very little signing. Conversely, an over-abundance of warning and regulatory signs may indicate a failure to have addressed problems. The attention of drivers and bicyclists should be on the road and other users, not on signs on the side of the road. Over-signing degrades the usefulness of signs, causes distractions, creates a cluttered effect, is ineffective and wastes resources.

Language Barriers: The message conveyed by signs should be easily understandable by all roadway users: symbols are preferable to text.

Sign Placement: Signs placed adjacent to roadways must conform to adopted standards for clearance and breakaway posts and should never block the accessible pedestrian route.

Shared Roadways

Signing

In general, no signs are required for shared roadways. Bicyclists should be expected on all urban local streets, which are mostly shared roadways.

The W11-1 sign alone indicates a bicyclist crossing point. To inform roadway users that bicyclist can be expected in the travel lane it may be helpful to install bike warning signs (W11-1) with the supplemental plaque ON ROADWAY (OBW1-5) or ON BRIDGE ROADWAY (OBW1-7). Signs should be placed in advance of the roadway condition and are primarily used to indicate a short segment of shared travel lane. If the roadway condition is continuous, an additional rider “NEXT XX MILES” may be used.



Figure 1-19: W11-1 with riders

The SHARE THE ROAD (W16-1P) rider indicates a shared travel lane. It is specific to bicyclists only when paired with W11-1 and has the same function as the sign combinations shown above. ODOT convention is to use the W11-1 plus OBW1-5 or OBW1-7.



Figure 1-20: W16-1P

CW11-1 Should be used in temporary work zones to indicate a shared lane condition.



Figure 1-21: CW11-1

R4-11 is regulatory and is used to indicate a permanent shared lane condition. It may be used in conjunction with the shared lane marking (sharrow). The need to use R4-11 is an indication that the bicycling facility is not intuitive, nor comfortable for most bicyclists. Better quality bicycle accommodation should be provided in lieu of signs. See the MUTCD for further guidance.



Figure 1-22: R4-11

Directional and route signs are useful where bicyclists are directed to follow a routing that differs from the routing recommended for motorists. The routing must have obvious advantages over other routes, such as safety, convenience, or when the main roadway is hostile to bicycles. BIKE ROUTE (D11-1) signs lack sufficient information and often lead to areas poorly suited for bicycling. Better options exist. Bicycle destination guide signs are preferred.



Figure 1-23: D11-1

The Portland Bureau of Transportation, in cooperation with ODOT, developed the OBD1 series of bicycle route guide signs, the preferred sign series in Oregon. Additionally, the MUTCD (2009 edition) D1 sign series provides any number of bicycle route guide sign options.



Figure 1-24: Bicycle route guide sign OBD1-3c

Bicycle route guide signs are used to indicate a preferred route for bicyclists. They should be used when the signed route provides a clear advantage to bicyclists such as:

- A low volume street
- A short cut
- A flatter route
- A bicycle boulevard
- A bicycle specific destination
- An alternative to a busy, bicycle unfriendly thoroughfare

The b-series signs are used for multi-modal routes. The c-series provides travel time and distance information.

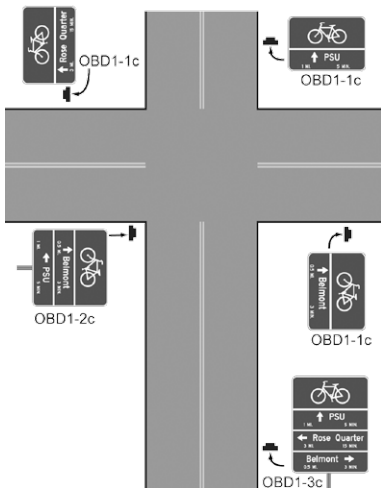
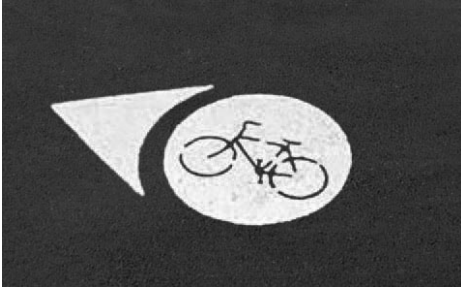


Figure 1-25: MUTCD Figure 9B-6 with Oregon Supplement OBD1 signs

Bike Boulevards

Signing and marking conventions for bicycle boulevards continue to evolve. OBD1-3c signs should be adequate to convey route information to cyclists. Additionally, Portland and Eugene have developed bike boulevard route signs by adding the name of the bike boulevard, complimented with a Designated Bicycle Boulevard pavement marking.



1st Generation bicycle boulevard pavement marking



2nd Generation bicycle boulevard pavement marking (indicates turn)

Sharrows

Sharrows, also known as “shared lane markings,” are a new form of pavement marking included in the 2009 MUTCD. They are primarily intended for use on narrow, low-speed roadways with on-street parking. Their primary purposes are to:

- Encourage bicyclists to ride away from the door zone; and
- Indicate to drivers where to expect cyclists.

Sharrows should be used on streets with high bicycle demand, and where there is potential competition for the use of a narrow lane. Early observations indicate that bicyclists ride further from parked cars

(reducing their risk of being hit by an opening car door), and drivers more safely share the road with bicyclists.



Sharrows indicate where bicyclists should position themselves in the roadway

Shoulder Bikeways

Signing

In general, no signs are required for shoulder bikeways. Bicyclists riding on shoulder bikeways are well served with adequate width and smooth pavement.

Marking

A normal 4 inches wide fog line stripe is used on shoulder bikeways.



Shoulder bikeway on higher volume rural road

Bike Lanes

Bike Lane Designation

Bike lanes are officially designated to create an exclusive or preferential travel lane for bicyclists with the following markings:

- An 8 inches white stripe; and
- Bicycle symbol and directional arrow stencils.

Where a bike lane is next to parking, parking should be defined by parking space markings or a solid 4 inches stripe. Optional NO PARKING signs (R7-9 and R7-9a) may be installed if problems with parked cars occur; in many jurisdictions, painting curbs yellow indicates that parking is prohibited. Where the bike lane ends, sign OBW1-9 may be used where cyclists enter the motor vehicle travel lanes.

Stencil Placement

Stencils should be placed after most intersections; this alerts drivers and bicyclists entering the roadway of the exclusive nature of the bike lanes. Stencils should be placed after every intersection where a parking lane is placed between the bike lane and the curb.



Figure 1-26: Oregon standard bike lane marking



Figure 1-27: OBW1-9

Supplementary stencils may also be placed at the end of a block, to warn cyclists not to enter a bike lane against traffic.

Additional stencils may be placed on long sections of roadway with no intersections. A rule of thumb for appropriate spacing is: multiply designated travel speed by 40. For example, in a 35 MPH speed zone, stencils may be placed approximately every 1400 feet.

Placing stencils outside where motor vehicles are expected to cross a bike lane, such as driveways and the area immediately after an intersection will help reduce maintenance costs, as vehicles won't drive over the stencils repeatedly.



Figure 1-28: Standard bike stencil

Intersections

Bike lanes should be striped to a marked crosswalk or a point where turning vehicles would normally cross them.

Bike lanes are not normally striped through intersections; however, it may be appropriate to do so where extra guidance is needed; in this case, they may be marked with 8 inches wide dotted lines, to guide bicyclists through a long undefined area or to alert turning motorists of the presence of bicycle traffic.

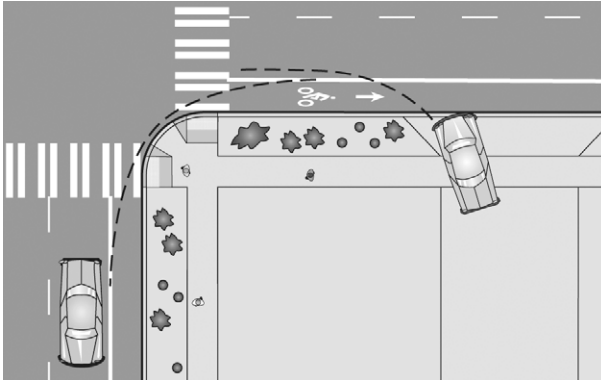


Figure 1-29 : Bike stencil placed out of wheel path

Right Turn Lanes at Intersections

The through bike lane to the left of a right-turn lane must be striped with two 8 inches stripes and connected to the preceding bike lane with a dotted line (8 inches x 2 feet on 8 feet centers [6 feet gaps]). This lets turning motorists cross the bike lane. A stencil must be placed at the beginning of the through bike lane.

Sign R4-4, BEGIN RIGHT TURN LANE, YIELD TO BIKES, may be placed at the beginning of the taper in areas where a through bike lane may not be expected. For example, on sections of roadway where bike lanes have been added where there weren't any previously.



Figure 1-30: R4-4

Reflectors

Reflectors and raised markings in bike lanes are discouraged as they can deflect a bicycle wheel, causing the cyclist to lose control. If pavement markers are needed for motorists, they should be installed on the motorist's side of the bike lane stripe, and have beveled edges.

Special use signs

Railroad Crossing

Where a shared roadway, shoulder bikeway, bike lane or shared-use path crosses a railway at an unfavorable crossing angle, or if the crossing

surface is rough or slippery, warning signs OBW8-19R and OBW8-19L should be used.



Figure 1-31: OBW8-19L

Sidewalk Users

Where bicyclists are allowed to use sidewalks, and the sidewalks are too narrow for safe riding (usually on a bridge), sign OBR10-13 may be used to encourage cyclists to walk.

Bicycle Use of Push-Buttons

Where it is recommended that bicyclists use a push-button to cross an intersection (usually where a shared-use path crosses a roadway at a signalized intersection), the following signs should be used.



Figure 1-32: OBR10-13



Figure 1-33: R10-26

Bike Stencils at Intersections

Many traffic lights are actuated by wire loops placed under the surface of the roadway. An electrical current passes through these loops, creating an electro-magnetic field. When a motor vehicle stops over them, the vehicle's metal disrupts the electro-magnetic field, sending a signal to the traffic controller that a vehicle is waiting for the light turn. Many bicycles don't contain enough conductive metal (steel or aluminum) to trigger the signal, causing frustration.



Figure 1-34: Bike symbol for loop detection placement

To help bicyclists trigger a signal, stencils placed over the most sensitive area of the loop detector indicate to cyclists where to place their bicycles for maximum sensitivity.

Tunnels & Bridges

Where substantial bicycle traffic is expected in a narrow tunnel, the signs OBR10-10 and OBW1-8 may be used; it can be adapted for use on long narrow bridges, especially where there are sight distance constraints.

The push-button sign should be placed at a location that allows cyclists to proceed at a normal speed and enter the tunnel as lights begin to flash. The duration timing of the flashing lights should be based on normal bicycle travel speed, plus an extra margin of safety (though leaving the flashing lights on for too long may render them ineffective if motorists enter the tunnel and cyclists are no longer present).



Figure 1-35: OBR 10-10 and OBW 1-8

Touring Routes

Special signs have been created to guide cyclists along state and national touring routes, such as the Oregon Coast Bike Route, Oregon Scenic Bikeways and US National Numbered Bike routes:



Figure 1-36: OBD 11-3

These signs should be used sparingly, mainly at intersections (with right or left turn arrows) to guide cyclists along the route.



Figure 1-37: OBM 1-8

Bicycles

Bicycle use on streets and highways is growing daily, both for exercise and transportation in city areas. The same traffic rules and regulations apply to both bicyclists and vehicle drivers.

A major problem for drivers is the ability to see bicyclists, especially at night. Sometimes they may be in the blind spot of your vehicle. When you approach a bicyclist, keep on the lookout and slow down. To avoid conflict, drivers of motor vehicles need to know the following rules:

- Do not drive in a bicycle lane. You may cross a bicycle lane when turning or when entering or leaving an alley, driveway, or private road. Do not move into a bicycle lane in preparation for a turn.
- You may use a bicycle lane as part of an official duty, such as delivering mail. Farm equipment may briefly use a bicycle lane to let other traffic pass.

- You must yield to bicyclists in a bicycle lane or on a sidewalk, before you turn across the lane or sidewalk.
- You must yield to bicyclists at intersections, the same as you do for other types of vehicles.
- When you are traveling at a speed greater than 35 mph, you may only pass a bicyclist by driving to the left when the passing distance is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane.
- The same rules for passing other vehicles apply to bicycles. Be aware that you must follow the rules of the road in no passing zones as noted on Pages 45-46. If you can not pass safely, you must slow down and remain behind the bicycle until it is safe to pass.
- Do not honk at a bicyclist, unless you have good cause to warn the rider you are close by. The loud noise could startle the rider. There may be a good reason for the bicyclist to be riding in the travel lane, such as roadway hazards not visible to motorists.
- Operators of motorized wheelchairs, scooters, and personal assistive mobility devices are permitted to use bicycle lanes and paths. These vehicles can not exceed a speed limit of 15 mph. You must yield to these operators before you turn across the bicycle lane or path.

Drivers need to remember that bicyclists often must react differently to road hazards than drivers of motor vehicles. These hazards could include potholes, glass, litter, storm grates, and railroad crossings, as well as opened doors of parked vehicles. Any of these items could cause a bicyclist to move into your path or to slow down. Give bicyclists plenty of clearance on the street so they will have room to move around these hazards.

The actions of an inexperienced bicyclist will be less predictable. Look for signs that tell you a bicyclist is inexperienced, such as whether the bicycle rider is riding in a smooth and straight manner, riding against traffic, or is weaving and wobbling.

Children on bicycles should be given extra consideration. They believe others will look out for them and may lack a sense of danger. Be aware that their actions could be very unpredictable.

Collisions with Bicyclists

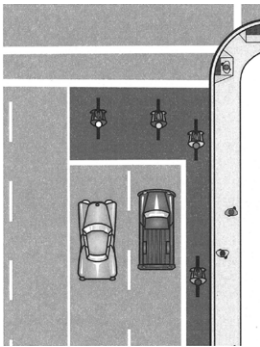
Several common errors can cause you to strike a bicyclist:

- Turning left without noticing an oncoming bicyclist.
- Turning right at an intersection or driveway without checking for a bicyclist on the right who is continuing straight ahead or a bicyclist coming from the opposite direction in front of you.

- Entering or crossing a street without checking for a bicyclist in the street or on the sidewalk.
- Opening a vehicle door into the path of a bicyclist or swerving into a bicycle lane.
- Trucks, RVs, and vehicles pulling trailers with wide mirrors passing too close to a bicyclist.

Bike Boxes

The bike box helps prevent collisions between motorists and bicycles at intersections. It is typically a painted box on the road with a white bicycle symbol inside. Bicycle lanes approaching and leaving the box may also be painted. As a driver, you must stop for a traffic signal behind the bike box. Do not stop in the box. Bicyclists will move into the box, in front of your vehicle or other traffic, at the intersection. No right turns are allowed at these intersections when the traffic signal is red. If turning right on a green light, you must signal and watch for bicyclists on the right.



Bike Box



Sharrow

A bicycle sharrow, two chevrons painted above a bicycle symbol on the road, indicates the lane is shared. Vehicle or bicycle traffic may be in the lane. Although you should always keep on the lookout for bicyclists, this serves as an additional warning to watch for bicycles in the lane.

Bicycle Helmets

Oregon law requires anyone less than 16 years old to wear approved protective headgear when riding or being carried on a bicycle. As a parent or person with legal responsibility for the safety and welfare of a child, you will be held responsible. Although not required by law, bicycle helmets are strongly recommended for persons age 16 and older.

Bicyclist Riding Rules

To become more confident in your riding skills, please obtain the Oregon Bicyclist Manual at your local DMV office or online at **www.oregon.gov/odot/hwy/bikeped**.

As a bicyclist in Oregon, you must be aware that bicycles are considered vehicles. You have the same rights, duties, and responsibilities as vehicle drivers.

Bicyclists must ride in the direction of traffic and as near to the right side of the road or street as is practical. On a one-way street in a city, a bicyclist may ride as near as practical to either the right or left side of the street or roadway.

There are some exceptions to this rule, such as when a bicyclist is overtaking and passing another bicycle or vehicle, when a bicyclist is getting ready to make a left turn, or when a bicyclist is riding at the same speed as traffic. A bicyclist also does not need to keep right if a lane is too narrow to let a bicycle and vehicle travel side-by-side or if riding close to the edge of the roadway is unsafe because of parked vehicles, fixed or moving objects, animals, or road surface hazards. Bicyclists may ride side by side along Oregon roads, but only if it does not impede other traffic.

Increase your visibility. It will help protect you on the road. Brightly colored clothing during the day and white or reflectorized clothing at night will help you be seen. At night, you must have a headlight and rear reflector on your bicycle; a red taillight and additional reflectors are also helpful.

Other rules include: signal before making a turn or a stop (see the inside front cover for more details), always keep at least one hand on the handlebars, don't carry more passengers than there are seats available, yield to pedestrians, have adequate brakes, and never perform stunts while riding on streets or highways.

LEGAL DEVELOPMENTS

“Vulnerable Roadway User”, a Useful Legal Concept for Bicycle and Pedestrian Injuries

The 2007 Oregon Legislature passed HB 3314, creating an enhanced penalty for careless driving if it contributes to serious physical injury or death to a “vulnerable user of a public way”, now found in ORS 811.135(3), effective January 1, 2008. The purpose of this article is to discuss the Vulnerable User legal concept and its potential for improvement in safety for non-motorized roadway users such as bicyclists and pedestrians. In the Winter 2007 edition of *Oregon Cycling*, I wrote about the need for enhanced protection for vulnerable roadway users. See “Injuries And Law Change”, www.stc-law.com/bikeinjuries.html.

“Vulnerable Roadway User”: A European safety concept

The concept of “vulnerable roadway user” has been used by planners and safety organizations in Europe to categorize and describe non-motorized roadway users. The label is a nice one because it incorporates the inherent vulnerability of humans who use the roads without being encased in a protective steel shell. Inclusion of the concept of vulnerability evokes a more sympathetic image and focuses on the shared vulnerability of these different user groups. By including vulnerable users within a single term, the requirement for protection is brought to mind to counterbalance the somewhat natural reaction some people have to improving safety by restricting access, such as by restricting bicycle access to freeways or pedestrian crossings or roads.

No state had ever used the Vulnerable Roadway User concept as a legal term, but for the reasons above stated, the members of the Bicycle Transportation Alliance (BTA) Legislative Committee felt it could focus the need for enhanced protection of vulnerable user groups (who are reducing energy consumption and pollution, while improving their own

good health and fitness). Since people need to get out of their cars and walk or roll under their own power, some enhanced protection is necessary to get law enforcement and the court system participating in protecting and encouraging kids to walk to school, commuters to ride a bike, and people to use skateboards or scooters instead of getting a ride or driving a car to run an errand.

It was our view that Oregon law was far too lenient in punishing careless drivers who received merely a fine and were not even required to make a court appearance after a horrific collision. Some police officers and medical personnel have even been heard to argue that people who choose not to ride in a car should expect to have bad things happen because the roadways are so dangerous. To us, tolerating the status quo was not acceptable – it was time to change the law and create a zone of protection instead of indifference toward those people brave enough to use their bodies to get around.

Political realities and difficulties

When we first introduced the idea of an enhanced penalty for careless drivers who hurt vulnerable users, key legislators told us that any effort to create new crimes and inmates for our already overburdened state court and corrections system would face widespread resistance. Further, our effort to include motorcyclists within the definition of Vulnerable Roadway User was criticized. Motorcyclists were thus excluded, even though the American Motorcyclist Association (AMA) “Motorcyclists Matter” campaign was a pioneer in the enhanced penalty area. On the other hand, we were pleased to include highway workers and rural folks moving equipment or astride animals within the definition. (*See law text on page 52.*)

It was extremely difficult to create an enhanced penalty when further criminal consequences were not an option, but BTA legislative committee member Doug Parrow tweaked our original language to include a non-criminal alternative of a \$12,500 fine (up from \$750.00) and a one-year license suspension (no license suspension was previously included in a conviction for Careless Driving). Additionally, to create an inducement for careless drivers to improve their driving skill and pay the community back for their actions, a traffic safety course requirement and 100-200 hours of community service related to driver improvement and providing public education in traffic safety were added as alternatives to the fine and suspension. If the program is successfully completed, then the suspension and fine would be suspended.

While some in the bicycle community saw the penalties as insufficient, we felt they were a great improvement over the status quo. We also added

a requirement requested by victims' families that careless drivers be required to make a court appearance in front of a judge to face the charges, instead of merely sending a check in the mail. Preliminary reviews of our non-criminal alternative by law enforcement personnel were somewhat favorable because it provided an additional charging option. Police officers and prosecutors told us they were sometimes frustrated in serious collision cases because Oregon did not have a vehicular homicide law and its criminally negligent homicide law requires a gross deviation from the standard of care, which is close to a recklessness requirement. The Vulnerable User law provided a way to create real consequences for careless or negligent drivers without sending them to jail.

We quickly learned after legislative hearings on our bill that the testimony of families and victims was critical in creating legislative support. We also discovered that creating a new legal concept within the existing statutory structure required amending a considerable number of other statutes (*see the statutory language below for the amendments to other statutes*). The responsibility for administering the program, monitoring careless drivers and supervising community service and any fines or license suspensions also had to be assigned to various agencies. Agency legislative staffers were wary that their departments would be required to take on additional work without receiving any additional staff to perform it. However, our forward-looking attempt to solve the careless driver problem for kids trying to get to school and folks trying to work on the state's highways contributed substantially to rounding up agency representatives willing to help us figure out how to operate the program without costing the state a lot of money. Because we were doing something that had never been done, the committee staff and the Legislative Counsel's office were required to draft and study multiple amendments, so that by the time the Bill wound its way through the legislature it had been amended at least eleven different times, a record in our experience.

Conclusion

ORS 811.135(3) went into effect January 1, 2008. We have not yet been able to assess fully how effective it will be in creating real consequences for bad-driver collisions. We hope that law enforcement will respond to our law by increasing their protective attitude toward kids trying to walk to school and folks trying to ride a bike instead of driving. Before the Vulnerable Roadway User law was passed, Oregon law provided only minor consequences for careless driving that really hurt someone. After our law passed the Legislature, a well-known local bicyclist was killed by a driver with a suspended license, and some folks in the bicycle community felt that we had not gone far enough in protecting the state's riders.

We felt, however, that given the constraints of the political process, we had made a good first step by incorporating a European safety concept into the American legal system, with an enhanced penalty mandating either community service and driver-improvement education, or a substantial fine and a mandatory one-year license suspension. While the Vulnerable User law will likely be challenged in court, we hope it is a good first step toward creating greater consequences for drivers who fail to give Vulnerable Roadway Users their right to use the road.

In the 2009 legislative session we introduced a Vehicular Homicide crime that would include situations where a motorist continues to drive even with a suspended license, as the Vulnerable User penalty will do little to punish someone who has no driver's license and no money to pay the fine. One underlying problem for American safety activists is that over the last 40 years, citizens have been encouraged by media and the government to believe that driving a car is a right instead of a privilege. The percentage of serious injury or death collisions caused by suspended and unlicensed drivers is unacceptable and should provide a basis for passage of additional criminal consequences in order to get these drivers off of the streets. While our efforts were not successful in 2009, we hope to introduce and secure passage of a Vehicular Homicide law some day.

Primary statutes associated with the Vulnerable User Law

ORS 801.608 “Vulnerable user” defined.

“Vulnerable user of a public way” means a pedestrian, a highway worker, a person riding an animal or a person operating any of the following on a public way, crosswalk or shoulder of the highway:

- (1) A farm tractor or implement of husbandry without an enclosed shell;
- (2) A skateboard;
- (3) Roller skates;
- (4) In-line skates;
- (5) A scooter; or
- (6) A bicycle.

ORS 811.135 Careless driving.

A person commits the offense of careless driving if the person drives any vehicle upon a highway or other premises described in this section in a manner that endangers or would be likely to endanger any person or property.

- (2) The offense described in this section, careless driving, applies on any premises open to the public and is a Class B traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class A traffic violation.
- (3) In addition to any other penalty imposed for an offense committed under this section, if the court determines that the commission of the offense described in

this section contributed to the serious physical injury or death of a vulnerable user of a public way, the court shall:

- (a) Impose a sentence that requires the person to:
 - (A) Complete a traffic safety course; and
 - (B) Perform between 100 and 200 hours of community service, notwithstanding ORS 137.129. The community service must include activities related to driver improvement and providing public education on traffic safety;
- (b) Order, but suspend on the condition that the person complete the requirements of paragraph (a) of this subsection:
 - (A) A fine of up to \$12,500, notwithstanding ORS 153.018; and
 - (B) A suspension of driving privileges for one year as provided in ORS 809.280; and
- (c) Set a hearing date up to one year from the date of sentencing.
- (4) At the hearing described in subsection (3)(c) of this section, the court shall:
 - (a) If the person has successfully completed the requirements described in subsection (3)(a) of this section, dismiss the penalties ordered under subsection (3)(b) of this section; or
 - (b) If the person has not successfully completed the requirements described in subsection (3)(a) of this section:
 - (A) Grant the person an extension based on good cause shown; or
 - (B) Order the penalties under subsection (3)(b) of this section.
- (5) When a court orders a suspension under subsection (4) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.
- (6) The police officer issuing the citation for an offense under this section shall note on the citation if the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way.

ORS 153.061 Appearance By Defendant.

- (1) Except as provided in subsections (2) and (3) of this section, a defendant who has been issued a violation citation must either:
 - (a) Make a first appearance by personally appearing in court at the time indicated in the summons; or
 - (b) Make a first appearance in the manner provided in subsection (4) of this section before the time indicated in the summons.
- (2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

LEGAL DEVELOPMENTS

Oregon's "Safe Passing" Law

Sometimes strange things happen to a bill as it passes through the Oregon Legislature. For example in 2007, SB 108, which created a new "safe distance" law for motorists passing bicycles, started out as a measure requiring commercial truckers to use a "forward crossview mirror" so as to see pedestrians immediately in front of trucks. However, along the way strange and wonderful things happened as the bill passed back and forth between House and Senate committees. In the case of SB 108, Senator Floyd Prozanski (D-Eugene) managed to inject his ideas to reform Oregon's bicycle passing laws. What emerged was a new law which added a collection of legal concepts intended to remedy several factors believed responsible for the tragic death of triathlete Jane Higdon on Territorial Road when she and a group of riders were passed too closely and hit by a truck hauling logs.

Text of new law

SB 108, codified as ORS 811.065, "Unsafe passing of a person operating a bicycle", states:

- (1) A driver of a motor vehicle commits the offense of unsafe passing of a person operating a bicycle if the driver violates any of the following requirements:
 - (a) The driver of a motor vehicle may only pass a person operating a bicycle by driving to the left of the bicycle at a safe distance and returning to the lane of travel once the motor vehicle is safely clear of the overtaken bicycle. For the purposes of this paragraph, a 'safe distance' means a distance that is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic. This paragraph does not apply to a driver operating a motor vehicle:
 - (A) In a lane that is separate from and adjacent to a designated bicycle lane;
 - (B) At a speed not greater than 35 miles per hour; or
 - (C) When the driver is passing a person operating a bicycle on the person's right side and the person operating the bicycle is turning left.

- (b) The driver of a motor vehicle may drive to the left of the center of a roadway to pass a person operating a bicycle proceeding in the same direction only if the roadway to the left of the center is unobstructed for a sufficient distance to permit the driver to pass the person operating the bicycle safely and avoid interference with oncoming traffic. This paragraph does not authorize driving on the left side of the center of a roadway when prohibited under ORS 811.295, 811.300 or 811.310 to 811.325.
 - (c) The driver of a motor vehicle that passes a person operating a bicycle shall return to an authorized lane of traffic as soon as practicable.
- (2) Passing a person operating a bicycle in a no passing zone in violation of ORS 811.420 constitutes prima facie evidence of commission of the offense described in this section, unsafe Enrolled Senate Bill 108 (SB 108-BCCA) Page 1 passing of a person operating a bicycle, if the passing results in injury to or the death of the person operating the bicycle.
 - (3) The offense described in this section, unsafe passing of a person operating a bicycle, is a Class B traffic violation. (Maximum fine of \$360.)

Features of the law

The law, which went into effect on January 1, 2008, attempts to use the "safe distance" concept rather than a specific distance, and defines "safe distance" as the distance "sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic." While a number of states have legislated specific passing distances, the most common of which is three feet, ORS 811.065 uses the bicyclist's own body as a distance measure, thereby providing the motorist with a useful gauge to protect the bicyclist from the possibility of a mishap that might place the bicyclist under the wheels of the passing motor vehicle.

Specific exclusions from the law are traffic lanes next to a bicycle lane, speeds below 35 mph, or when the bicyclist is turning left and the motorist is passing on the right. The 35 mph speed limit was a compromise to allow city transit services to travel more closely to bicyclists in a low speed urban environment.

The law also attempts to limit the passing maneuver to instances where the roadway is unobstructed in an attempt to avoid the situation where drivers are tempted to "squeeze" by bicyclists on a crowded roadway. The law makes clear its intention not to authorize passing when it is otherwise prohibited by law. If the passing maneuver in a no-passing zone causes injury or death to the bicyclist then such an act is "prima facie" evidence of the offense, which means that no further proof is necessary to establish the elements of the violation. However, the law does not specifically prohibit passing a rider or group of riders in a no passing zone; instead it attempts to hold a driver responsible for an attempt to pass in a no-passing zone which results in an injury collision.

Passing bicycles

ORS 811.420 (Oregon's general passing law) prohibits "passing" in a no-passing zone except

when an obstruction or condition exists making it necessary to drive to the left of the center of the roadway provided that a driver doing so shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway within a distance that would constitute an immediate hazard. ORS 811.420(3)(b)

The "condition" "making it necessary" to cross the center line is the same provision bicyclists have pointed to as legal justification for the maneuver that bicyclists typically encourage motorists to use to get around a slower group of riders. Since bicyclists do not occupy the entire lane, motorists are able to pass bicyclists by waiting until the roadway ahead is unobstructed and then moving only slightly over the center no-passing line in order to give a wide berth and get around the group of riders. Many riders believe that if the rider or group of riders is the "condition" "making it necessary to drive to the left of center of the roadway", this is a much-preferred alternative to the situation where a motorist angrily holds back from going around the riders when the traffic lane is too narrow for both riders and the motorist. It is also far preferable to the situation where the motorist is tempted to squeeze by a group of riders without crossing over the center line because the motorist is afraid that if they cross the center line, then they are passing in a no-passing zone.

Since ORS 811.065 states that the prima facie case arises when an injury occurs after a "violation of ORS 811.420" then it could be argued that the only time the new law prohibition is violated is when it was unnecessary for the motorist to go around the riders in a no-passing zone or when the roadway ahead is not sufficiently clear, in which case ORS 811.420 would be violated, and if an injury occurs, then the motorist would be held accountable for violation of the new law.

Though one might wish that the language of ORS 811.065 were clearer, at least the intent is to improve safety for riders. If the intent of the law is to prohibit motorists from moving slightly over the center line in no-passing zones to go around a group of riders then I believe that this new law will create even more confusion and be cause for increased bicycle/motorist tensions when groups of riders are overtaken by motorists.

Experience has demonstrated that there seems to be a lack of uniformity among law enforcement officers about whether motorists may ever cross the center line to pass a group of slower riders. If the law is interpreted to allow a motorist to make such a maneuver when it is safe to do so (i.e., the roadway ahead is unobstructed) and the motorist provides sufficient passing distance to the bicyclists as required by the law (enough room so

that if the bicyclist falls over there will be no contact) then the law does at least provide a new standard over how much room to give riders when passing. It would be unfortunate if ORS 811.065 is interpreted to prohibit ever allowing a passing motorist to touch the lane divider line in a no-passing zone in order to provide a safe berth to a group of bicyclists. Any bicyclist who has ever had an impatient motorist try to squeeze by in a narrow lane wants to avoid the experience in the future.

What about when the bicycle-passing law does not apply?

In instances where the law is inapplicable, such as where the posted speed limit is less than 35 mph, then the general Oregon passing law will still apply to bicycles being passed by motorized traffic. ORS 811.410 is the general law governing passing on the left of another vehicle (including bicycles). It states in relevant part:

811.410 Unsafe passing on left; penalty.

- (1) A person commits the offense of unsafe passing on the left if the person violates any of the following requirements concerning the overtaking and passing of vehicles:
 - (a) The driver of a vehicle that is overtaking any other vehicle proceeding in the same direction shall pass to the left of the other vehicle at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
 - (c) The driver of a vehicle shall not drive to the left side of the center of the roadway in overtaking and passing a vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of a vehicle approaching from the opposite direction or a vehicle overtaken.

While the “general” passing law in ORS 811.410 fails to provide the “fall over” safe passing distance contained in ORS 811.065, it nevertheless specifies that the passing vehicle must give a “safe distance” to the passed vehicle (bicycle). Where motorists “buzz” a bicyclist or even hit the rider when overtaking and passing, the “general” rule of ORS 811.410 provides a basis for a traffic citation, even if the bicycle passing law does not apply because of speed or where the bicyclist is in a bicycle lane. In instances where the motorist intentionally “buzzes” the bicyclist then stronger legal measures are called for, like Reckless Driving, Reckless Endangerment, Menacing or Assault (*see the section on Motorist Harassment on page 131*); but where the actions are the result of a mistake, then the “general” law can still be the basis for a citation by law enforcement or a citizen violation prosecution. A citation for Careless Driving is also likely warranted in most unintentional “close passing” incidents that cause injuries.

“Following too close” and pace lines

The final portion of SB 108 in 2007 was an amendment to the “following too close” statute in order to allow bicyclists to lawfully ride in a pace line. The “following too close” law, ORS 811.485, will now specifically apply only to “motor” vehicles, excluding bicycles from its scope. While some members of the law enforcement community may be displeased that bicyclists are singled out for more favorable treatment than other vehicles, the new law does make a forceful statement that bicycle pace lines where groups of bicyclists are “taking the wheel” of the rider in front in order to draft and reduce wind resistance, are doing so with the legal blessing of the vehicle code.

Other “passing” related provisions

It is also important to mention that the law “Failure of slower driver to yield to overtaking vehicle”, ORS 811.425, should never be applied to bicyclists. That law provides:

- (1) A person commits the offense of failure of a slower driver to yield to overtaking vehicle if the person is driving a vehicle and the person fails to move the person’s vehicle off the main traveled portion of the highway into an area sufficient for safe turnout when:
 - (a) The driver of the overtaken vehicle is proceeding at a speed less than a speed established in ORS 811.105 as prima facie evidence of violation of the basic speed rule;
 - (b) The driver of the overtaking vehicle is proceeding at a speed in conformity with ORS 811.105;
 - (c) The highway is a two directional, two-lane highway; and
 - (d) There is no clear lane for passing available to the driver of the overtaking vehicle.
- (2) This section does not apply to the driver of a vehicle in a funeral procession.
- (3) The offense described in this section, failure of a slower driver to yield to overtaking vehicle, is a Class B traffic violation.

This law is intended to apply to the situation where a slow-moving vehicle, like a truck pulling a horse trailer, is clogging the entire lane at a slower speed than normal traffic, and there is no clear lane for passing available to overtaking drivers. The law is inapplicable to bicyclists because of the hybrid relationship between bicycles and motor vehicles in sharing the same lane. When a slow-moving bicyclist is overtaken by a motor vehicle, it is almost always possible for the motor vehicle to pass the bicyclist by staying within the travel lane or slightly crossing over the lane divider line. In this instance, the bicycle is a “condition” “making it necessary to drive to the left of the center of the roadway” which is allowed by ORS 811.420 so long as the roadway is unobstructed ahead.

If the slow-moving vehicle law were interpreted otherwise, it would require a bicyclist to go off of the road onto the uneven or gravel-covered shoulder to allow overtaking vehicles to pass, a dangerous situation. Instead, the bicyclist who is lawfully sharing the lane is merely required to ride as far to the right as practical – ORS 814.430 uses the term “practicable” – truly sharing the lane with the overtaking motorist. Unlike a large vehicle with a trailer behind it, the bicycle does not occupy a full lane or require moving off of the “main traveled portion of the highway” in order to allow a motorized vehicle to overtake and pass.

BICYCLE ACCESS AND LEGAL REQUIREMENTS

We Have a Right to the Freeway, But Which Freeway?

Oregon bicyclists are sometimes stopped by a police officer for riding a bicycle on a freeway or interstate. Riders often ask “What are my rights regarding riding on the freeway?” The exact language of the rule governing non-motorized vehicles on our freeways is as follows:

12. Selected Oregon Administrative Rules (OAR) That Pertain to Bicyclists And Pedestrians:

734-20-0045 Prohibition of Non-Motorized Vehicles on Freeways

(1) Bicycles and pedestrians as defined in ORS 801.150 and 801.385 are prohibited upon the following segments of freeways within the State of Oregon:

(a) Portland area:

- (A) The Columbia River Highway No. 2 (Banfield/I-84) from its intersection with I-5, MP 0.00, to 238th Avenue, MP 15.96;
- (B) The Sunset Highway No. 47 easterly of the Jefferson Street Interchange, MP 73.35;
- (C) Interstate 5 (Hwy. No. 1) northerly of the Beaverton-Tigard Highway Interchange, MP 292.20.
- (D) Interstate 205 (Hwy No. 64) northerly of the Overcrossing of the Oswego Highway No. 3, MP 8.82;
- (E) Interstate 405 (Hwy. No. 81) in its entirety; and
- (F) Lower Columbia Highway No. 2W from its intersection with I-405, MPE0.00, to 23rd Street, MP 1.99.

(b) Medford area: Interstate 5 (Pacific Highway No. 1) from the South Medford Interchange, MP 27.16, to the North Medford Interchange, M.P. 30.29 (in Medford).

(2) The closure of the above sections to nonmotorized vehicles shall become effective following the erection of adequate signing.

Please note that paragraph (2) provides that “adequate signing” is necessary in order to give non-motorized users notice of the closure. This means that the signs warning us off of the road must actually be in place before we are required to use an alternative route.

No sign, no ticket. Riders familiar with the prohibited sections of roadway will probably agree, however, that no one would want to be on these sections of highway without thick sheet metal surrounding their vulnerable bodies. If anyone is hassled about riding on lawful roadways, cite the “offending officer” to the OAR; knowledge is power.

BICYCLE ACCESS AND LEGAL REQUIREMENTS

Bike Lanes Revisited

Engage a motorist who is not a bicycle rider in a conversation about bicycles and you may be surprised to hear a frequently held view that a “bicycle revolution” has occurred in this country in the last several years. When this happens I am frequently left asking myself the question, “Did I miss something?” The answer is that from a motorist’s perspective the “bicycle revolution” is evidenced by a new presence: the bicycle lane. When most drivers obtained their driver’s licenses, bicycle lanes did not exist. Consequently, most motorists have never been taught about how to drive near bicycle lanes. The same situation applies to bicyclists, leading to much confusion on everyone’s part about how to ride in and drive near bicycle lanes.

Bicyclists must use a bike lane if one is available

Oregon Revised Statute 814.420 (ORS) requires that a bicyclist use a bicycle lane or path if one is available. This is referred to as a “mandatory sidepath law” by bicycle law analysts. This is the section that was used to cite a number of riders who refused to ride on bicycle paths (now called multi-use paths). Many riders refused to use the old bike paths because they were poorly constructed and infrequently maintained. Riding at 15 mph over a bumpy (roots and potholes), glass covered bike path with blind crossings for driveways was never a pleasant experience. However, paragraph 2 of ORS 814.420 states that a person is not required to comply with the rule unless the responsible jurisdiction has established, after a public hearing, that the bicycle lane or path is “suitable for safe bicycle use at reasonable rates of speed.” Since no one certified any of the bike paths as “suitable,” (they were inherently unsuitable), there was a large loophole in the law and no one was ever convicted of violating it. Now *State v. Potter* (Court of Appeals 2002) has switched the burden to the bicyclist to prove there was no hearing with affirmative evidence at trial. Bike lanes are presumed to be procedurally okay, a change in the law probably closing a legal loophole.

The 2005 Oregon legislature provided exceptions to the old mandatory usage requirement for bicycle lanes that takes actual practice and common sense into account. The law provides that a rider may move out of the bicycle lane or path to pass, turn or avoid a hazard.

ORS 814.420 now reads:

814.420 Failure to use bicycle lane or path; exceptions; penalty.

- (1) Except as provided in [subsection (2)] subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.
- (2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.
- (3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or bicycle path for the purpose of:
 - (a) Overtaking and passing another bicycle, a vehicle or pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.
 - (b) Preparing to execute a left turn at an intersection or into a private road or driveway.
 - (c) Avoiding debris or other hazardous road conditions.
 - (d) Preparing to execute a right turn where a right turn is authorized.
- [3)](4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation.

The BTA Legislative Committee and membership worked effectively with legislators and their staffers to improve the law for all roadway users. Member phone calls, personal visits and emails helped us to get the word out that as bicycle riders we want to have a voice in setting up the rules on the roadway. As more people identify themselves and our state in a picture that includes a bike someplace in it, the better able we are to get large numbers of people to support improvement of our safety on the roads.

Bicycle lanes are a great improvement over the old bicycle paths. However, it is unfortunate that sometimes the bicycle lanes contain more debris than adjacent travel lanes because of the absence of high speed traffic blowing debris off of the surface. There is a real public relations problem when bicyclists fail to use designated bicycle lanes because motorists legitimately feel that considerable space and financial resources are being dedicated to bicycles on the roadway and the least that bicyclists can do is to use the available facilities. Still, some purists refuse to recognize bicycle lanes as preferred locations of bicycle travel because “separate” means “unequal” on the roadway and bicyclists should never allow themselves to

be “moved” anywhere off of the main roadway. All in all, bicycle lanes are an improvement for bicycling and we should use them if they are in safe condition when we are moving at a speed which would slow down motorized traffic.

When are motor vehicles allowed on a bicycle lane?

Bicyclists frequently complain that motorists are driving on bicycle lanes. Motorists frequently resent bicyclists’ efforts to direct them off of bicycle lanes and back into the motorized section of the roadway. The Oregon Rules of The Road provide that motorists may not use bicycle lanes unless the use fits within one of about a dozen exceptions.

ORS 811.440 provides four ways to get into the bike lane:

- (2) A person may operate a motor vehicle upon a bicycle lane when:
 - (a) Making a turn;
 - (b) Entering or leaving an alley, private road or driveway; or
 - (c) Required in the course of official duty.
- (3) An implement of husbandry [farm machinery] may momentarily cross into a bicycle lane to permit other vehicles to overtake and pass the implement of husbandry.

In addition, ORS 811.550 provides that vehicles may not be stopped or parked upon a bicycle lane with certain exceptions. The exceptions are contained in ORS 811.560 which includes the following:

- 1) Worker or student transport buses with flashing lights on;
- 2) Vehicles “stopped, standing, or parked momentarily to pick up or discharge a passenger”;
- 3) Maintenance or repair vehicles performing work on the roadway;
- 4) “When the driver’s disregard of the prohibitions is necessary to avoid conflict with other traffic”;
- 5) Vehicles under the direction of a police officer or traffic control device;
- 6) Disabled vehicles that cannot be moved;
- 7) Government employees releasing fish;
- 8) “Vehicles momentarily stopped to allow oncoming traffic to pass before making a right-hand or left-hand turn, or momentarily stopped in preparation or while negotiating an exit from the roadway.”

The law that adds the last group does not mention its application to bicycles until 23 paragraphs into the statute.

811.550 Places where stopping, standing and parking prohibited.

This section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555. Except as

provided under an exemption in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves standing a vehicle in any of the following places:

- (23) On a bicycle lane. Exemptions under ORS 811.560 are applicable to this subsection.
- (24) On a bicycle path. Exemptions under ORS 811.560 are applicable to this subsection.

Conflicts over the right-of-way in bicycle lanes

When a motorist is entitled to drive across a bicycle lane, the motorist must still yield to a bicyclist occupying the lane just as any motorist must yield to another vehicle already occupying an adjacent lane. This is a difficult concept for many motorists, unfamiliar with bike lanes, to understand. First, the bicyclist is usually proceeding at a slower speed than the motorist, so, for example, if a motorist is going to be turning right and crossing the bicycle lane, it is difficult for many motorists to wait until a bicyclist they just passed is safely through the intersection before cutting across the bike lane. Bicyclists should not be passed by motorists who then cut the bicyclist off by squeezing a quick right turn in front of the approaching rider, the most frequent scenario for conflict.

Parking maneuvers, entering driveways or parking lots, and exiting motorized vehicles are all areas of potential conflict over who has the right to be in the bicycle lane. ORS 811.050 makes it a Class B traffic infraction (up to a \$1,000.00 fine) for a motorist to fail to yield to a rider in a bicycle lane. The technique motorists need to learn to use in driving near bicycle lanes is to drive so that bicyclists do not have to alter their speed in order to avoid a collision with the motorists. This means that motorists must wait for bicyclists to pass, slow down as they approach a bicyclist in the bike lane (such as in the right turn example), or stop in the lane of traffic with the turn signal on while waiting for the bike lane to clear before turning or parking. Other approaching motorists need to recognize and defer to the slowing or stopping motorist in order to avoid a potential collision that places everyone in danger.

The bicycle lane is a hybrid invention encountered mostly in urban environments. Many motorists are not certain about the rules relating to bicycle lanes, and some motorists resent them (and bicyclists for that matter). There will be a motorist learning curve over the years that results in more drivers having confidence around bicycles and bicycle lanes. During the “early years” of the bicycle revolution, both bicyclists and motorists need to recognize that we are trying something new that will ultimately make the streets safer, cleaner, and more user-friendly for all of us.

BICYCLE ACCESS AND LEGAL REQUIREMENTS

How to Send All the Right Signals – Turn and Stop Signals

I can't remember when I started to use hand turn signals while riding my bicycle. Until that moment it always seemed unnecessary, kind of like a pedestrian signaling intent to make a change in direction. Actually, I think I began using hand signals at about the same time I decided that I was really a skilled bicycle rider – it was a sort of add-on accessory to my riding skills. Now that I have been doing it for a few years it seems so natural to me that I don't know how I got along without it.

Before I began using signals, I remember being chastised by some of my riding companions for holding myself out as a bike legal expert on the one hand and failing to follow the law about signals. The first few times I used signals I remember it feeling odd and unnecessary. Then I had a few experiences where I was able to move easily through traffic because drivers knew my intentions and we were able to share the road in a cooperative manner. Motorists appreciate that I am giving them a way to predict my stops and turns. Now I use signals whenever I am in traffic, and it is almost second nature.

Riders need to know that the law requires us to use signals for turns and stops.

Oregon Revised Statute (ORS) 814.440 provides as follows:

814.440 Failure to signal turn; exceptions, penalty.

- (1) A person commits the offense of failure to signal for a bicycle turn if the person does any of the following:
 - (a) Stops a bicycle the person is operating without giving the appropriate hand and arm signal continuously for at least 100 feet before executing the stop.
 - (b) Executes a turn on a bicycle the person is operating without giving the appropriate hand and arm signal for the turn for at least 100 feet before executing the turn.

- (c) Executes a turn on a bicycle the person is operating after having been stopped without giving, while stopped, the appropriate hand and arm signal for the turn.
- (2) A person is not in violation of the offense under this section if the person is operating a bicycle and does not give the appropriate signal continuously for a stop or turn because circumstances require that both hands be used to safely control or operate the bicycle.
- (3) The appropriate hand and arm signals for indicating turns and stops under this section are those provided for other vehicles under ORS 811.395 and 811.400.
- (4) The offense described under this section, failure to signal for a bicycle turn, is a Class D traffic infraction.

The fine for a Class D infraction is \$90.00.

From a legal standpoint, the statute provides a stringent standard, but, fortunately, one with an exception within it that allows us to suspend our signaling in order to maintain control over the bicycle. I suspect the statute was written at a time when most riders were using the old coaster brakes that relied on backward pedal rotation instead of hand levers. Signaling a turn or stop for 100 feet requires some skillful coordination, particularly during a downhill section with a stop or turn at the bottom (it is hard to use a hand brake and signal at the same time). Fortunately, the law allows us an exception so that we can maintain control over our bicycles, and I frequently find myself signaling a left turn by putting my arm out into a signal and then pulling it back in to squeeze the front brake lever several times before I finally stop or turn.

Because the signal rule has the force of law, it contains a potential legal trap for unwary cyclists – it can be used against a bicyclist who fails to signal and then is hit by a negligent motorist. For example, let’s say that you intend to make a left turn on a rural highway. As you veer out and across the traffic lane from your position near the fog line (next to the shoulder), you hear a car coming up from behind you and (surprised), you accelerate, hoping to complete your turn before the car overtakes you. Unfortunately, the car is going faster than you thought, the driver is not paying attention, and the motorist is unable to stop in time. While the driver misses hitting you, she drives her car off of the road into the ditch and hits a utility pole.

This scenario should clearly focus legal fault on the driver. She was driving too fast, not paying close enough attention, and failed to maintain control over her vehicle. However, the bicyclist failed to signal. If she or her insurance company sued the bicyclist in court for the property damage to her car, they would attempt to establish “statutory negligence” on the part of the bicycle rider. After all, the bicycle rider failed to signal, and the driver would have instantly been able to see that the bicyclist was slowing to turn if a proper arm signal had been used. The lack of a signal

in all likelihood contributed to the collision. As a result, a clear liability collision is now a shared liability collision and the bicyclist would likely be one-half or more at fault in causing the collision. Thus, the rather bizarre result of this example is that the bicyclist would likely end up paying for several thousand dollars of automobile damage.

One uncomfortable byproduct of our labors to make bicycles a more accepted and legitimate form of transportation is that insurance companies are now pursuing damage claims against bicyclists who are looked upon as being partially at fault in collisions. As a consequence, bicyclists are sometimes uncomfortable with their new found position of legitimacy (and legal responsibility), because they are looked upon as potential deep pockets in repairing the damage from collisions.

I have had several telephone calls from bicycle riders outraged that claims are being made against them for minor property damage resulting from damage to automobiles caused by motorists having scratched up their cars in collision with the rider. This is an example of adding insult to injury.

Many of us are probably aware of the fact that the signal law actually evolved from legal requirements for motor vehicles and that the hand signals required of drivers evolved from the days when vehicles were not equipped with turn signals. Thus, the Oregon Revised Statute section referred to in the bicycle signal statute provides for signals which can all be accomplished with the left arm (the one that can be hung out of the driver's window of a motor vehicle). Nevertheless, as bicyclists we are also allowed to use our right arm to make our signals. It's your choice. Whichever type of signal you choose, be sure to include hand signals in your bicycling repertoire.

BICYCLE ACCESS AND LEGAL REQUIREMENTS

Oregon Bicycle Lighting Requirements

It has been exciting over the last several years to see so many recreational riders transforming themselves into bicycle commuters. This transformation has been the result of hard work by planners and bicycle advocacy organizations like the Bicycle Transportation Alliance (BTA) to make the roads a friendlier place for bicycling commuters. Oregon's mild winters allow recreational riders to make the transition with little difficulty; for most commutes, a little rain gear goes a long way toward transforming short aggravating car trips into healthful bicycle rides. There is a deep sense of satisfaction that accompanies a ride at dawn across a Willamette River bridge packed bumper to bumper with cars while on a bicycle in an uncrowded bicycle lane. However, adequate bicycle lighting is a necessary accessory for those dawn and dusk commuting rides.

Many recreational riders choose not to ride at night. Putting together a lighting package is frequently left out of the transition to bicycle commuting because many city streets are well lit and most bicycles have reflector packages that include front and rear reflectors. While some reflector packages effectively catch and reflect light from approaching headlights, no reflector is activated unless it has light hitting directly upon its surface. Further, even a new bicycle with a reflector package is not in legal trim to ride at night. Oregon law requires that bicycles have a white light in front, and a red reflector or light to the rear during "limited visibility conditions."

Violations of Oregon's bicycle lighting law are probably the most frequently observed traffic offense committed by bicycle riders. During the winter months, it is impossible for most bicycle commuters to avoid riding during darkness at the beginning and end of their commute. While bicyclists may feel that they are visible with their yellow rain gear and reflectorized bicycles, a bicyclist involved in a collision with a car usually

discovers (the hard way) the importance of Oregon's lighting law. When the driver tells the investigating police officer about the invisibility of the cyclist, the cyclist receives a traffic citation for what would otherwise be considered a collision that was primarily the fault of the motorist.

Psychology recognizes a common human behavior known as "case building" engaged in by people when they have committed a questionable act. While "case building" starts for most people at the moment of impact and blossoms from there, many straightforward collisions that are clearly the motorist's fault become contested liability fights because the bicyclist failed to use a headlight. Since many collisions occur when a motor vehicle pulls out in front of a bicyclist, it is often the finding of a post-collision reconstruction that the ambient light was insufficient to activate the front reflector on the bicycle. Since the motorist was not facing directly toward the bicyclist, the car headlights did nothing to make the front reflector visible, and the motorist has some justification in claiming that the unlighted bicycle rider was at fault for failing to have a proper light. It is sometimes possible to show that ambient light, the headlights of other cars, and the bicyclist's bright clothing combined to make the bicycle rider clearly visible if the motorist had been paying attention; however, a bicyclist involved in a collision at night without a headlight always has a big problem with liability.

The law is very clear in its requirements:

815.280 Violation of bicycle equipment requirements; penalty.

- (1) A person commits the offense of violation of bicycle equipment requirements if the person does any of the following:
 - (c) At the times described in the following, a bicycle or its rider must be equipped with lighting equipment that meets the described requirements:
 - (A) The lighting equipment must be used during limited visibility conditions.
 - (B) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the bicycle.
 - (C) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

The offense described in this section, violation of bicycle equipment requirements, is a Class D traffic violation with a maximum fine of \$90.00.

Note that helmet mounted lights (which many people prefer because they are directional) are fully compliant with the law. Further, a light is only necessary on the front. A red reflector is sufficient for the back of the bike. The Consumer Product Safety Commission (CPSC) mandates that all bicycles sold in the United States contain a reflector set. However, it is

ironic that the higher end bicycles have fewer or no reflectors, and one of the first things that many riders do is remove the reflectors when they purchase a new bike. Spoke and pedal reflectors are particularly prone to making clicking noises when the bicycle is underway, and many reflectors are incompatible with bicycle racks.

Some riders report that police officers have told them that front strobes do not comply with the law. There are no Oregon appellate decisions interpreting Oregon's lighting law. It is my belief that these battery saving lights are in legal compliance with the law although probably not as good as a steady white light to the front for illuminating hidden pot holes and other hazards in the dark. Certainly a rear red strobe is okay, but the best practice is to have both a rear light and a rear reflector.

It is also good practice to use bicycle lights during twilight or foggy conditions, any time you would be tempted to turn on your headlights if you were driving a car. Carrying a small flashlight in your pack or bike bag is a good backup in case your bike light battery goes dead or the light bulb burns out. Most bike light bulbs are pretty tough, but the combination of high pressure tires, no suspension, and rough roads frequently combine to break the little filaments in the bulb so that the replacement frequency for bike lamps is higher than on a motorized vehicle. Carrying a flashlight gives you a good backup, keeps you in compliance with the law, and will be a welcome companion if you ever flat out on the way home and need to complete a roadside repair in the dark.

Generator sets used to be somewhat problematic because when the bicycle stops the lights go out. Now, many generators have a "standlight" function, which stores energy in a capacitor so that the light continues to shine for a few minutes after the bike stops moving, such as at a stop sign. While a generator set is preferable from an ecological standpoint (no dependence on chemical batteries that must be discarded) it is probably better to buy a modern halogen light set with rechargeable batteries. My favorite lighting systems use large rechargeable batteries that fit in the water bottle cage or attach somewhere because they provide a long charge and can be readily removed for daytime-only riding. Many experienced night riders use a small strobe light to the rear and then a larger halogen unit for the front. If you do use a rear light, make sure you mount it so that your bike bag or pack does not obstruct its view from the rear.

Complying with Oregon's lighting law adds a little hassle to your daily commute, but provides additional safety and confidence for night riding. Many riders are lulled into a false sense of security because new bikes have reflector systems. While few riders receive tickets for violation of Oregon's lighting law, if you are ever in a collision, violations of the

lighting law will almost certainly be used against you. Bicycle lights are inexpensive to purchase and easy to mount, so add this important equipment to your night-time ride.

TYPICAL HAZARDS

Oregon Statute Makes Dangerous Storm Drains Illegal

In years past, storm drains have presented a significant hazard for bicyclists. Many drains were designed with metal spaces in the direction of travel that were wide enough to “eat” bicycle wheels. Newer designs have a crisscross pattern, eliminating the potential for getting a tire wedged into the structure, launching the unwary rider over the handlebars.

The Oregon Revised Statutes contain a legal prohibition against dangerous storm grates that can be used by riders to nudge maintenance departments to install or redesign dangerous storm drains. Oregon Revised Statutes (ORS) 810.150 requires that storm drains be designed so that bicycles may pass safely:

810.150 Drain construction; compliance with bicycle safety requirements; guidelines.

- (1) Street drains, sewer drains, storm drains and other similar openings in a roadbed over which traffic must pass that are in any portion of a public way, highway, road, street, footpath or bicycle trail that is available for use by bicycle traffic shall be designed and installed, including any modification of existing drains, with grates or covers so that bicycle traffic may pass over the drains safely and without obstruction or interference.
- (2) The Department of Transportation shall adopt construction guidelines for the design of public ways in accordance with this section. Limitations on the applicability of the guidelines are established under ORS 801.030.

Unfortunately, the statute is modified by ORS 801.030 which “grandfathers” in “drains installed prior to 1975.” This means that old style drains may escape the reach of the statute as a matter of law. However, it is almost impossible to tell when a drain has been installed so, for advocacy purposes, it is probably best to assume that the drain was installed after 1975, and is, therefore, subject to the prohibition on dangerous installations.

Further, almost all roadways have been maintained or resurfaced since 1975 and this maintenance carries with it the legal responsibility to inspect the facilities and proceed only in a safe manner. While ORS 801.030 states that ORS 810.150 does not require “redesign, modification or replacement of street drains installed prior to September 13, 1975” when a roadway has been more recently maintained or repaved (and few roadways have not) it is certainly fair to argue that while the drain itself may be immune, the road surrounding the drain should be contoured to allow bicycle traffic to pass safely over the drain, OR the dangerous drain should be striped or signed with warnings to approaching riders.

Note also that the section applies not only to public ways that are part of a “highway, road or street” but also to a “foot path or bicycle trail.” This means that if the dangerous grate is in a location where bicycles may lawfully pass, it must be designed to be safe.

Contemporary storm drains are designed to conform to design requirements that take bicycles into account. However, there are still old drains in existence which, like unexploded military ordinance, create a potential hazard for anyone passing over them. In addition, even properly designed storm drains can pose a hazard if the drain surface is installed below the pavement surface of the road.

One of the techniques used by street departments to repair a crumbling roadway is to install a new asphalt surface. A road surfacing machine removes the crumbling surface section of the old road and then new blacktop is installed. Sometimes this process occurs over and over again so that the surface of the roadway rises slightly with each application. However, when this technique is used, the storm drains located at the edge of the roadway must be raised to be flush with the new surface of the roadway. If the storm drain is left recessed at the old roadway level, it creates a hazard for bicyclists proceeding along the edge of the road. Storm drains and manhole covers in the main traveled portion of the roadway are typically raised with some sort of collar device to avoid a traffic hazard; but some storm drains at the edge of the roadway are not given the same careful treatment. It is important that roadways be designed, and upgraded, to take both motorized and non-motorized users into account, and the storm drain statute mandates that all drains in any portion of the roadway over which bicyclists may legally travel must be safe.

What to do to report a violation

If you know of a storm drain that presents a potential hazard in violation of the statute, call or write a letter to your local road maintenance department. Sometimes merely advising the maintenance department of their civic responsibility or the requirements of the statute may not be

enough to make things happen. In these times fear of “liability” or a “potential lawsuit” is often used as an excuse for denying access to users of public and private facilities (“I’m sorry but we cannot let you go in there because if someone got hurt then we might get sued”). You can use the potential lawsuit phobia to actually make something good happen by letting maintenance departments know that if someone was hurt by a dangerous storm drain, a lawyer could “cause trouble” for the city or county and then the taxpayers may have to pay for an injury. Make sure you send a copy of the letter to County Counsel or City Attorney’s Office to provide additional notice of the dangerous condition.

Regular commuters along stretches of road containing dangerous storm drains have probably learned over time to avoid hazards on their ride. However, the riders who are most likely going to be hurt are more occasional users. It is important, for the benefit of other riders who may be riding over unfamiliar terrain or at night, that regular riders of particular routes advocate for safe conditions. A sample letter advising of a drain problem is copied below. Note that the letter attempts to discuss the importance of the thoroughfare for bicyclists. The tone should not be threatening or whiny, but authoritative.

Road Operations & Maintenance

Re: Storm Drains

Dear Sir/Madam:

This letter is to advise you and to provide notice of a dangerous condition existing which violates the Oregon Revised Statutes.

As you know, _____ is a major bicycle commuter thoroughfare for persons heading _____ and _____ alongside the _____. Bicycle traffic in _____ is fairly heavy and the road is quite narrow with a small paved shoulder. Because of the proximity to the _____, _____, _____, the roadway is heavily used by bicyclists.

Unfortunately, there are at least _____ storm drains on the _____ side of _____ directly in front of _____ that _____.

ORS 810.150 requires that grates and drains be engineered such that bicycles can pass safely over them. These storm drains clearly do not meet this test and should be re-engineered to bring the drain up to the level of the roadway surface.

If a bicyclist were to be injured as a result of colliding with one of these storm drains, it would likely result in a significant claim against _____.

Please provide me with your position in regard to this problem at your earliest opportunity. For your information, I am providing a copy of this letter to the office of the _____ Counsel for their review.

Agencies in charge of maintenance for areas with dangerous hazards need to hear from bicyclists. Conditions are allowed to exist on roadway shoulders that would never be tolerated on the main section of the roadway. Often these dangers exist because maintenance departments fail to realize that roadway shoulders are heavily used by bicyclists. While the wheel you save may not be your own, it is very satisfying to see roadway improvements resulting from your good efforts.

TYPICAL HAZARDS

Avoiding Typical Accidents and Collisions

Bicyclists seeking to avoid accidents and collisions are obliged to become highly experienced riders, or to become extremely well informed by taking a bicycle riding course such as one sponsored by bicycling organizations such as The League of American Bicyclists or Oregon's Bicycle Transportation Alliance. There are a number of clear collision and accident patterns to learn, and prepare to avoid, to reduce the chance of an injury.

Collisions with motorists

Motorists all too frequently do not recognize bicycle riders as vehicles; not because they seek to avoid recognizing us (indeed, most motorists are made nervous by bicycle riders and become arguably more alert than they are for other types of non-motorized road users such as joggers and bladers), but because the bicycle is recognized as being somewhat "vehicle-like." While there is definitely a love/hate relationship between motorists and bicyclists, any pathology in the relationship is not a factor in the great majority of collisions.

Typical accidents and collisions

Calling a collision an "accident" implies there is some lack of personal responsibility on the part of the person who caused it, much like a child protesting to a parent that breaking a favorite dish by mistake was an "accident" so why the big fuss. In the law responsibility is assigned for fault or negligence and many safety advocates have eliminated the word "accident" from their vocabulary and replaced it with "collision" to encourage folks to examine why collisions occur and how they can be avoided.

For bicyclists in traffic any contact with a motorized vehicle is going to hurt; the “minor fender bender” does not exist when the exterior surface of your vehicle is your own skin. Safe riding behavior includes knowledge of the basic rules of the road, but also recognition that motorists are frequently ignorant about the bicyclists’ right to a share of the roadway and oblivious to the presence of two-wheeled traffic. While many drivers will figuratively tiptoe in driving around large trucks, a bicyclist is often invisible or viewed as an irritant to be driven around with a slight flick of the wrist on the hydraulically assisted steering wheel. Highway riding in windy or rainy conditions around high speed traffic requires real skill and willingness to endure being passed by motorists who act as if they resent the presence of company in the traffic lane. While it is fair to argue about our legal rights and point out that bicyclists are moving the earth in a positive, healthy and non-polluting direction, when it comes down to riding behavior it is always best to assume that motorists are not paying attention.

The best way to avoid collisions with motorists is to ride skillfully and defensively, engaging in a cooperative sharing of the roadway. Encourage motorists to pass to avoid congestion and use signals to indicate your intentions. Left and right turning motorists are frequently oblivious to bicyclists so be careful when bridging gaps in traffic or riding alongside stopped cars.

Survival skills for close traffic

Riding in close traffic requires heightened awareness in anticipating potential vehicle paths of travel. At some point, every experienced bicyclist learns to accept the fact that in approaching any intersection with cars, there is a point of no return after which the rider is so far into the intersection that there is little room for evasive bike handling. Up to this point, the rider is only committed to a path of travel within certain broad parameters and if a motorist suddenly decides to squeeze off a quick left turn, it is possible that there is still enough room in the intersection for a good bike handler to evade the car (unlike a collision between two cars where the sheer bulk of the car bodies fills all available escape routes between the curbs in the intersection). Thinking about the potential paths of travel of other vehicles while approaching intersections is a lot of work. However, advanced riding technique requires development of this level of attention in order to entirely eliminate manageable risks. Ultimately, however, whether we are traveling as bicyclists, pedestrians, or motorists, we place ourselves at a point of no return. If someone fails to recognize our superior right of way or maintain their vehicle under proper control, there is little we can do to change course to avoid a collision.

Other survival skills

Other non-riding factors are also involved in avoiding collisions. Conspicuity (the safety concept responsible for color selection on highway signs and the clothes of flaggers and roadway workers) plays a role in forcing the attention of drivers onto approaching bicyclists. The usual hazard colors are best. You don't have to worry about being confused with a car, motorcyclist, or any other larger object than yourself; choose colors associated with an emergency and you will be safest, albeit dressed somewhat like a fishing lure.

The law requires front lights at night

Recognition that even a medium-performance lighting system (the law only requires that the front light be visible for 600 feet; good enough for a small flashlight beam) raises the chances of being seen at night or at twilight.

Other types of common collisions

Collisions between bicycles and motor vehicles also occur in other scenarios, such as collisions at transition points where bicyclists are entering or crossing regular traffic lanes from sidewalks or bicycle lanes, crossing intersections in crosswalks, or intersections where a driver fails to yield to the bike rider. Again, the majority of these collisions involve situations where the motorist has failed to recognize the bicyclist as a vehicle and either turns into or directly in front of the bicycle rider.

The classic "right hook" where a motorist fails to see and cuts off a bicyclist in a bicycle lane is a failure to look out for bicycles. Claiming that the bicyclist was in the motorist's "blind spot" is no excuse at all – properly outfitted vehicles with adjusted mirrors and a careful "shoulder check" (looking over the shoulder for approaching cyclists) are all that is necessary to prevent these collisions. For the cyclist approaching a right turn area it is important to recognize that many drivers fail to adequately look out for approaching cyclists. Defensive riding practices are most helpful – ride as if you are invisible to drivers and don't assume that they see you even when they look right at you. For all you know that driver may be seeing a parking spot across the street, not you in the path of their gaze, while their mind is engaged on their dog whining in the back seat.

Accident and collision avoidance riding skills

Defensive driving awareness coupled with knowledge of emergency collision and accident avoidance techniques may decrease the chances of an injury. However, an old statistical rule of thumb is that the average rider will be involved in an accident or collision about once in every seven years of riding. Knowledge of emergency avoidance techniques can go a long way toward avoiding accidents and collisions because there is room to maneuver in a typical intersection for a narrow bicycle. The League of

American Bicyclist's (LAB) Effective Cycling course has taught riders these types of maneuvers for three decades or more.

It is a little difficult to practice emergency maneuvers which necessarily involve taking the bike to the limit of its performance. Mountain bike riders usually learn how much front brake to apply without performing an "endo" over the handle bars, but on a road bike few riders know where the line is between maximum braking and a front flip.

Car drivers have classes available at Portland International Raceway (PIR) which teach emergency avoidance maneuvers. For these classes, regular street cars are outfitted with adjustable wheeled outriggers. The outriggers can be raised or lowered, taking weight off of the tires of the car. The car is then driven in dry and wet pavement simulations, allowing the driver to experience tire and suspension performance at and beyond the point of loss of traction. Emergency braking and steering maneuvers require practice and some technique, such as turning into the direction of a skid, which may be counter intuitive, so these classes provide a safe "laboratory" for practice.

While bicyclists do not have outriggers or specialized "training wheels" available, some people practice emergency maneuvers on a soft mowed grassy area. Since the front wheel provides over twice as much braking potential as the rear wheel, it is important to learn how to shift weight during emergency braking back behind the saddle and low on the bike without going over the handle bars. Many riders become complacent and fail to use their front brakes sufficiently; and, the rear brake, particularly with a narrow high pressure tire, provides very little braking power before the rear tire breaks loose from the pavement and skids.

Another technique that can be practiced and mastered is used by bicycle police officers to come to a sudden controlled stop. It involves skidding the bike sideways, a maneuver many of us practiced with our coaster brakes when we were kids, causing great loss of rear tire life.

A grassy area can also provide a good place to practice emergency turning maneuvers and explore how far the bicycle will turn before it begins to skid or flop over. The usual complement of hazard warnings must accompany any practice session since any accident, even on a grassy knoll, can produce serious injury.

Wear a helmet

It may go without saying that one of the few things we can do to improve our chances of avoiding serious injury in the event of an accident or collision is to wear a good helmet. Many serious accidents or collisions include large force impacts to the head. Dented and cracked helmets are frequently found at the scene of high energy collisions. Yet, many riders,

including a number of elite level racers, object to wearing a helmet for reasons of aesthetics.

Conclusion

Defensive riding techniques allow bicyclists to avoid some accidents and collisions. Knowledge of most common scenarios that result in injuries combined with learning the basics about emergency avoidance maneuvers may make a critical difference in whether an accident or collision happens. Maximize your chances of avoiding them by using lights at night, wearing bright colors, and always wear a helmet.

TYPICAL HAZARDS

Car-Doored Again? The Law Is on Your Side!

It is always a pleasure to find out that the law is in our favor when bicyclists have a conflict on the road with motorists. Usually, conflicts relate to the question of who has the right to the same space at the same time. For example, a motorist may fail to see a bicycle rider and open a door so close to the bicycle that a collision or near miss occurs. In the vernacular of bikedom it is called being “doored.” While defensive riding can go a long way toward avoiding painful encounters with car doors, sometimes there is nothing a rider can do – everything happens too fast. Fortunately, this is one of those areas where the law is on the side of the bicycle rider.

Oregon’s Vehicle Code (remember, bicycles are “vehicles” too) prohibits opening the door of any vehicle unless it is reasonably safe to do so:

811.490 Improper opening or leaving open of vehicle door; penalty.

- (1) A person commits the offense of improper opening or leaving open a vehicle door if the person does any of the following:
 - (a) Opens any door of a vehicle unless and until it is reasonably safe to do so and it can be done without interference with the movement of traffic, or with pedestrians and bicycles on sidewalks or shoulders.
 - (b) Leaves a door open on the side of a vehicle available to traffic, or to pedestrians or bicycles on sidewalks or shoulders for a period of time longer than necessary to load or unload passengers.
- (2) The offense described in this section, improper opening or leaving open a vehicle door, is a Class D traffic infraction.

The scheduled fine amount for a Class D Traffic Infraction is \$110.00. Note that the law makes it illegal not only to open the door when it interferes with people trying to get by, but it is also illegal to leave the door open longer than necessary to load or unload passengers.

One would think that the law is so clear cut that disputes would never arise over who was right and wrong in this type of collision. Frequently, the motorist is apologetic and completely willing to accept blame at the scene (in spite of the advice on many insurance identification cards “do not accept fault for the collision”), but by the time the motorist thinks about it and talks to an insurance adjuster or attorney, their view of the collision changes. The revised version goes something like this: “I opened my car door with plenty of distance behind me for the approaching bicyclist to see it. If the bicyclist had been paying attention, he or she would have seen that my door was open and ridden around it. Since I only intended to have the door open long enough to get out of the car, the collision is mostly the fault of the bicyclist.” Believe it or not, this argument is enough to inject a note of comparative negligence on the part of the bicyclist into the equation in most cases.

The percentage of comparative fault works a pro rata reduction in the amount of damages, so the effect is significant. Add the fact that most of the members of any jury will identify primarily with the motorist, not the bicycle rider, and you have a recipe for disappointment for an injured bicycle rider. Remember, under Oregon’s system of comparative fault, if a jury decides that the motorist was partly at fault for opening the car door (less than 50%) but the bicyclist was mostly at fault (more than 50%) for failing to pay close enough attention and to make a reasonable effort to avoid striking the open door, then the bicyclist loses in court (even though the motorist violated the vehicle code by his or her own admission).

My experience investigating these cases is that in almost every car door collision the motorist is primarily at fault. However, it is essential in every case that the bicyclist carefully remembers and reconstructs the scene of the collision to demonstrate that there was not enough time to take necessary evasive action in order to avoid hitting the door. Usually, bicycle riders relate that things just happened too fast. There was simply not enough time to avoid the car door. Nevertheless, there are some things that riders can do to make this surprising and frequently painful event less likely to occur.

Scan the cars in the parking lane

Bicyclists have a duty to ride as far to the right as practicable, but the law allows us to take up to a full lane, if necessary, to avoid hazards like car doors. When riding alongside parked cars, scan ahead and watch for occupants. If there is sun glare on the windows, decorative louvers on the rear window, or some other obstruction that prevents you from seeing through the glass, assume that someone is going to be getting out of a parked vehicle and adjust your place in the road accordingly.

Ease your way between parked and moving cars

Most riders choose not to ride with mirrors. There is no law that makes mirrors mandatory equipment, and many riders have developed the skills necessary to identify approaching cars which may constitute a hazard by sound, and to look behind them without changing their “line” or position in the roadway. These are essential skills for riding around parked cars because if somebody does open a door in front of you, there is frequently very little time to react. If you do not know your position in relation to overtaking traffic, you may find yourself swerving from the car door into the path of an overtaking vehicle.

A simple solution is to ride with a rearview mirror. Mirrors are not looked upon as cool accessories. Mostly favored by the commuter set, I can’t remember the last time I saw anyone using one during the Tour de France. Nevertheless, a properly adjusted mirror is a great safety accessory. I have been riding with either a handlebar-mounted or helmet-mounted mirror for a long time. I use one because frequently I just do not have time to turn my head and look behind me. It seems that a mirror provides the rider with the essential instantaneous scanning of the rear view before necessary evasive action. I am not saying that it is unsafe to ride without a mirror, but I have certainly come to rely upon mine.

While it is nice to have the law on your side if you have an encounter with a car door, it is better to avoid the experience in the first place. Stay attentive to the intentions of occupants of parked cars, maintain your distance from parked cars, and consider using a rearview mirror. These are all ways you can avoid having to demonstrate to another driver or an insurance adjuster that the law is on your side in a collision.

TYPICAL HAZARDS

Fatal Right Hook: Hazard from Right Turning Motorists

Recent fatalities in Portland resulting from large trucks being driven over bicyclists in a marked bicycle lane illustrate that we have a long way to go before bicyclists are safe to ride on the street, even in bicycle lanes. The “right hook,” caused by a right-turning motorist who fails to see and provide the right-of-way to approaching cyclists, is one of the most common collision scenarios for bicyclists. These collisions also illustrate the mistaken ideas many folks have over the law and safe driving practices for motorized and non-motorized traffic.

The law of bike lanes

Oregon law grants bicyclists in bicycle lanes the right-of-way over motorized traffic as if the bicycle lane were another traffic lane, which it is – except that it is a hybrid since it is reserved for bicycles. Oregon law quite clearly grants a right-of-way to bicyclists in, and defines which vehicles can use, bike lanes:

ORS 811.050 states:

811.050 Failure to yield to rider on bicycle lane; penalty.

- (1) A person commits the offense of failure of a motor vehicle operator to yield to a rider on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle, electric assisted bicycle, electric personal assistive mobility device, moped, motor assisted scooter or motorized wheelchair upon a bicycle lane.
- (2) This section does not require a person operating a moped to yield the right of way to a bicycle or a motor assisted scooter if the moped is operated on a bicycle lane in the manner permitted under ORS 811.440.
- (3) The offense described in this section, failure of a motor vehicle operator to yield to a rider on a bicycle lane, is a Class B traffic violation.
A Class C traffic violation results in a maximum fine of \$360.00.

Oregon law allows motor vehicles to operate on a bicycle lane but only when making a turn or entering or leaving an alley, private road, or driveway. However, the law clearly requires motor vehicles to first yield the right-of-way to bicyclists occupying the bike lane, just as vehicles changing lanes on a multi-lane roadway must first yield the right-of-way to other vehicles occupying the lane the driver would like to enter.

ORS 811.440 states:

811.440 When motor vehicles may operate on bicycle lane.

This section provides exemptions from the prohibitions under ORS 811.435 and 814.210 against operating motor vehicles on bicycle lanes and paths. The following vehicles are not subject to ORS 811.435 and 814.210 under the circumstances described:

- (1) A person may operate a moped on a bicycle lane that is immediately adjacent to the roadway only while the moped is being exclusively powered by human power.
- (2) A person may operate a motor vehicle upon a bicycle lane when:
 - (a) Making a turn;
 - (b) Entering or leaving an alley, private road or driveway; or
 - (c) Required in the course of official duty.
- (3) An implement of husbandry may momentarily cross into a bicycle lane to permit other vehicles to overtake and pass the implement of husbandry.
- (4) A person may operate a motorized wheelchair on a bicycle lane or path.
- (5) A person may operate a motor assisted scooter on a bicycle lane or path.
- (6) A person may operate an electric personal assistive mobility device on a bicycle lane or path.

Evolution of the bicycle lane law

The bicycle lane law also mandates that bicyclists use a bicycle lane when one is available. This means that if a bicyclist is outside the bicycle lane without legal justification, then the bicyclist can be ticketed. In 2005, the Bicycle Transportation Alliance Legislative Committee succeeded in convincing the legislature to change the bicycle lane law to provide legal recognition of the circumstances when a bicyclist should be allowed to leave the bicycle lane, such as when attempting a left turn or avoiding debris or a vehicle blocking the bicycle lane.

ORS 814.420 states:

814.420 Failure to use bicycle lane or path; exceptions; penalty.

- (1) Except as provided in subsections (2) and (3) of this section, a person commits the offense of failure to use a bicycle lane or path if the person operates a bicycle on any portion of a roadway that is not a bicycle lane or bicycle path when a bicycle lane or bicycle path is adjacent to or near the roadway.

- (2) A person is not required to comply with this section unless the state or local authority with jurisdiction over the roadway finds, after public hearing, that the bicycle lane or bicycle path is suitable for safe bicycle use at reasonable rates of speed.
- (3) A person is not in violation of the offense under this section if the person is able to safely move out of the bicycle lane or path for the purpose of:
 - (a) Overtaking and passing another bicycle, a vehicle or a pedestrian that is in the bicycle lane or path and passage cannot safely be made in the lane or path.
 - (b) Preparing to execute a left turn at an intersection or into a private road or driveway.
 - (c) Avoiding debris or other hazardous conditions.
 - (d) Preparing to execute a right turn where a right turn is authorized.
 - (e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.
- (4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation.

The 2005 legislative change to the bicycle lane law legalized riders' real world riding behavior.

What has happened to us?

Experienced bicyclists know that the bicycle lane creates inevitable encounters between motorists and bicyclists every time a motorist crosses over the bicycle lane. Since most motorists did not learn in driver's training classes back in high school about bicycle lanes, there has been a slow learning curve for drivers in figuring out how to drive in league with bicycles. Driver reactions range from attempting to pretend that bicycle lanes do not even exist to excessive efforts at avoiding ever placing a tire on a bicycle lane divider line. Portland and other cities have attempted to assist drivers by creating broken painted lines to suggest places where motorists may merge over and across the bicycle lane in order to make a right turn. Some bicycle lanes also continue the broken painted line across intersections. Finally, some bicycle lanes now have bicycle collector areas modeled on the Netherlands model at the front of several test intersections in the Portland area. These "bike boxes" place bicyclists at the head of the line of stopped motorists for visibility.

It is clear that bicyclists frequently have the experience of motorists either failing to see them or refusing to yield the right-of-way in the bicycle lane. As I sometimes joke during presentations about bicycle law, if bicycles in bike lanes weighed the same as locomotives on railroad tracks (where the legal right-of-way principles are quite similar) there would be fewer motorists cutting us off because the result would be catastrophic for the motorist. However, the laws of physics (mass and velocity) dictate that when we get cutoff or pinched off in a bicycle lane we slow down and try

to avoid painful contact with a car. Recent events have shown that when the bicycle lane system works well it works very well, but when a large truck rolls over the bicycle lane oblivious to the presence of a bicyclist, the results are horrific.

Oregon right turn law for vehicles

Some law enforcement experts, notably the folks in Portland Police Bureau Traffic Division, suggested in October 2007 that Oregon adopt the California model which requires motorists to move over and onto the bicycle lane in the last 100 feet before the right turn. This “California rule” proposal has been met with some resistance by bicycle community leaders who point out that maintaining a clear bicycle lane is important for bicyclists who want to go straight in an intersection where a line of stopped right turning cars would block and cork the intersection if they were required to drive onto the bicycle lane before turning.

Oregon law requires that vehicles move as close to the curb as possible when approaching or making a right turn:

ORS 811.355 states:

811.355 Improperly executed right turn; penalty.

- (1) A person commits the offense of making an improperly executed right turn if the person is operating a vehicle, is intending to turn the vehicle to the right and does not proceed as close as practicable to the right-hand curb or edge of the roadway:
 - (a) In making the approach for a right turn; and
 - (b) In making the right turn.
- (2) The offense described in this section, improperly executed right turn, is a Class B traffic violation.

ORS 801.155 defines a “Bicycle Lane” as “part of the highway adjacent to the roadway.” Therefore, Oregon law tells the motorist to move as close to the right-hand curb OR edge of the roadway as possible. My earlier view of this statute failed to recognize that the bike lane is separate from the roadway and several of my conclusions in my previous article on this topic were also incorrect. Thanks to PBOT’s Greg Raisman for pointing this mistake out to me. Oregon law requires the motorist to move over next to but not on top of the bicycle lane. Thus it appears that when “making the approach for a right turn” motorists are not supposed to move over and on top of the bike lane while waiting to make a right turn. Certainly, one of the laudable goals of bicycle lanes was to allow bicyclists to pass stopped cars and not wait in the exhaust fumes of idling cars blocking the bike lane. However, the problem for riders is that motorists may not see the rider when they make the actual turn to the right over the bike lane.

Proponents of the “California Rule” suggest changing Oregon law to require motorists to move onto the bike lane 100 feet before the turn. Bicyclists who expect to be able to proceed straight on a bicycle lane next to a line of right turning motorists will be deprived of that opportunity if the law is changed to require rightward movement of vehicles before the right turn. Is this too much of a price to pay?

The push and pull of bicycle lanes

Bicycle lane advocates have taken a historic step in creating and expanding Oregon’s bicycle lane network. Bicycle lanes have created considerable tension with motorists who often blame bicyclists for removal of a potential traffic lane or on-street parking. When motorists see bicycle lanes that are empty of bicyclists on a roadway choked with backed up automobiles, it frustrates them that facilities have been created “at motorists’ expense” but then not used by bicyclists.

On the other hand, bicyclists take a somewhat possessory attitude toward bicycle lanes and sometimes take offense when motorists dare to drive on top of the bicycle lane. Repeated instances of being car-doored, encountering trucks and cars parked upon the bicycle lane, and episodes where left and right turning motorists disregard visible cyclists in the bicycle lane have led to many minor collisions and upset bicyclists. And, of course, there has not yet been a single motorist injured by a bicyclist in a bicycle lane. The bicycling community feels like it pays with its own skin for the mistakes of motorists.

In 2007 when the legislature was considering various options for bicycle law improvement, I had the idea that the law should make clear that motorists and bicyclists are supposed to cooperate in a fluid and dynamic fashion in sharing the roadway. Since the Oregon statute does not allow cars to use the bike lane to go around left turning motorists, I suggested that Oregon law be changed to allow the practice, so long as the motorist first yielded to bicyclists in the bicycle lane. This proposal met with the same reservations from the bike community that greeted proponents of the “California rule”. Bicyclists were worried that adding reasons for cars to be in the bike lane increased the danger for bicyclists. The proposal was dropped and current Oregon law continues to subject motorists to a potential ticket if they move into a bike lane to move around a left turning motorist.

The “blind spot” is no excuse for turning without knowing what is under or beside your vehicle

One thing that is clear is that motorists do have the obligation to yield to bicyclists in bicycle lanes. And large trucks must have modern mirror systems to provide a view of smaller objects like bicycles to the right of

their vehicles. Careful observation through the “shoulder check” for bicyclists and pedestrians is necessary before any turn. So long as the “blind spot” is an accepted description of the area that is more accurately titled the “limited visibility zone”, there will be acceptance of an unacceptable driving practice. If a driver cannot see to the right, the driver must either improve or change their mirror system, or move over in the cab to look to the right and see what is out there. When truck drivers take their trucks or trailers into a ditch or over a stationary object while turning, no one ever hears the excuse that the mistake was caused by the “blind spot”. The reason is that there is no good reason for driving where one can’t see what they are driving over. Solving the Fatal Right Hook begins with individual responsibility by drivers in making their vehicles fully roadworthy, which means using convex mirror systems to disclose surroundings. If you can’t see what is going to be under your truck before you start moving, don’t move until you know what you may be driving over. Of course, bicyclists must also ride defensively and it is important to recognize that some motorists may not see you, and some motorists may not stop at stop signs. BUT the “blind spot” excuse should be removed from our driving vocabularies – we will all be safer if every driver takes responsibility for the areas beside and under their vehicles.

Additional Bicycle Articles on the Web

Over the years we have written and published dozens of articles on a variety of topics related to bicycle law, safety and culture. The titles of most of these articles are indexed below. These articles are collected on our website at www.stc-law.com/bikearticles.html.

1. Accidents and Collisions: Injuries and Property Damage

Collisions and Insurance (February 2001)

Collisions That Result In Property Damage (July 2008)

Avoiding Typical Accidents and Collisions (April 2005)

Bicycles and the Law, Collisions and Insurance (October 2006)

Bicycles and the Law, Collision Insurance for Bicyclists (April 2007)

Bicycles and the Law, Injuries and Law Change (January 2007)

Car-doored Again? The Law Is On Your Side! (May 2005)

*Fatal Right Hook; Hazard From Right Turning Motorists
(November 2008)*

Left Turning Motorist Syndrome (March 1998)

*What To Do After the Collision – You Thought You Were Fine
But Now Know You Are Hurt (March 2010)*

What to do if You're in a Collision (June 2006)

*What to do (Que Debe Hacer Usted En Un Choque) –
en Español (June 2006)*

2. Bicycles and the Rules of the Road

Bicycles and Buses (September 2003)

Bicycling Laws for Beginning Riders (April 2000)

Bicycles on Sidewalks (July 2002)

- Bicycles, Sidewalks and the Law (July 2000)*
- Bike Lanes Revisited (September 1999)*
- But How Much Road? (July 1999)*
- Car-doored Again? The Law Is On Your Side! (May 2005)*
- Definitions Make a Difference (July 2001)*
- Do Bicyclists Lose Their Right To The Road When Off Bicycle? (May 2006)*
- Fatal Right Hook; Hazard From Right Turning Motorists (November 2008)*
- Law of Funeral Processions and Bicyclists (March 2012)*
- Left Turning Motorist Syndrome (March 1998)*
- Motorized Vehicle Access to Bicycle Lanes and Paths (April 2004)*
- New Law Creates Crime of Vehicular Assault of Bicyclists (June 2001)*
- ODOT: Prohibit of Bicycles on Metro Area Freeways (March 2006)*
- Oregon Bicycle Lighting (February 2000; updated June 2011)*
- Oregon Makes Dangerous Storm Drains Illegal (April 2002)*
- Oregon's Passing Laws Relating to Bicycles (December 2011)*
- Oregon's 2007 "Safe Passing" Law, SB 108 (January 2008)*
- Portland City Ordinance Chapter 16.50 (Trimet)*
- Right of Way Continues Without Painted Lines (January 2010)*
- Signals (February 1997)*
- Skaters, Bladers and Bicyclists: Same Legal Status in Portland (March 2001)*
- Some Thoughts on the 2009 Legislative Session and the Demise (Again) of Idaho-Style Stops and Vehicular Homicide Laws (May 2009)*
- Straightening the Shelves (February 2005)*
- We have a Right to the Freeway, but which Freeway? (October 2000)*
- We Know We Have a Right to the Road, But What Does That Mean? (July 2010)*
- Yellow Lights (May 1997)*

3. Insurance, the Courts and Police

- Collisions and Insurance (February 2001)*
- Collisions That Result In Property Damage (July 2008)*
- Bicycles and the Law, Collisions and Insurance (October 2006)*

Bicycles and the Law, Collision Insurance for Bicyclists (April 2007)

Bicycles and the Law, Injuries and Law Change (January 2007)

Citizen's Guide to Traffic Court (August 2005)

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PART II: Bicycle Riding on Sidewalks and Crosswalks

**City Ordinances Regarding
Riding on the Sidewalk**

**Miscellaneous Laws Regulating
Bicycle Riding and Parking**

**Articles about Bicycles, Sidewalks,
Crosswalks and the Law**

City Ordinances Regarding Riding on the Sidewalk

Albany

13.40.140 Riding on sidewalks.

No person shall ride or operate any bicycle upon a sidewalk in a business district. Any person riding a bicycle upon a sidewalk shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Ashland

§ 11.52.030

- A. Riding on sidewalks in the C-1-D District. No person shall ride or operate a bicycle on a sidewalk in the district or commercial zone. Riding on sidewalks in the C-1- D District is a Class IV violation.
- J. Bicycle Impoundment. In addition to any other penalty, the court may order impoundment of a bicycle used in an offense committed under this chapter until such time as may appear just and reasonable.

Maximum Fine Not to Exceed \$500.00

Bend

§ 6.325

Prohibits riding a bicycle on a sidewalk in any business district, except along an unimproved street or underpass. However, in a business district, bicycles may be ridden on sidewalks to deliver newspapers and messages and to make other deliveries.

§ 6.910 Prohibited Riding Area.

Beginning at the southwest end of the 1200 block of Wall Street, continuing south on Wall Street, to the north side of Newport Avenue. Proceeding west on Newport Avenue to Mirror Pond (Deschutes River). Then proceeding south along the Deschutes River from Newport Avenue to the south side of Franklin Avenue. Continuing east on Franklin Avenue to the west side of Broadway Street. Proceed south on Broadway Street to the south side of Louisiana Avenue. East on Louisiana Avenue from Broadway Street to the west side of Wall Street.

South on Wall Street from Louisiana Avenue to the south side of Kansas Street. Continue easterly from Kansas and Wall Street through the Administrative School District property to the southeast corner of the intersection of Kansas and Lava Street. Continue northeast on Lava Street to the north side.

Amount Set By Judge

Canby

§ 12.40.020 Definitions.

A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Bicycles means any wheeled bicycle, unicycle or tricycle.

Riding means propelling bicycles, skateboards or similar devices by having 1 or more feet on any part of the device.

Skateboards includes roller skates, in-line skates, blades, scooters, coasters, roller-skis or any similar device.

B. Wheelchairs and similar devices used by persons with physical disabilities are excepted from this chapter.

§ 12.40.030 Prohibited riding areas.

A. Riding as described in § 12.40.010 is prohibited on any sidewalk or other city property in the area within the following boundaries:

- 1. North side of 3rd Street between N.W. Elm and N. Ivy;
- 2. South side of 1st Street between N.W. Elm and N. Ivy;
- 3. N. 2nd Street east of N. Ivy through to its terminus in the 300 block;
- 4. East side of N. Elm between 1st and 3rd Streets N.W.; and
- 5. East side of N. Ivy between 1st and 3rd Streets N.W.

B. The Traffic Safety Commission may designate additional prohibited riding areas.

§ 12.40.080 Penalty.

Any person convicted of a violation of the provisions of this chapter shall be punished by a fine not to exceed \$500.

Corvallis

§ 6.10.060.090 Riding on Sidewalk.

(2) No person, except a Police Officer in the performance of his/her official duties, shall ride a bicycle upon a sidewalk within the following boundary, including any and all adjacent sidewalks:

The northerly side of NW Jackson Avenue between NW Fifth Street and west side of the Riverfront bike path, the westerly side of Fifth Street between NW Jackson Avenue and SW Jefferson Avenue, and the southerly side of SW Jefferson Avenue to the west side of the Riverfront bike path; and the northerly side of Monroe Avenue between Fourteenth Street and Twenty-sixth Street, and the southerly side of Monroe Avenue between Fourteenth Street and Twenty-sixth Street.

Bail is \$77.00

Dallas

6.705 Prohibited Riding Area

No person, except a police officer engaged in official duties, shall ride a bicycle, roller skates, scooter, or skateboard on any sidewalk immediately adjacent to the following portions of city streets:

- (1) Main Street between its intersection with the north line of Washington Street and its intersection with the south line of Academy Street.
- (2) The north side of Washington Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.
- (3) Court Street, from its intersection with the west line of Jefferson Street to its intersection with the east line of Church Street.
- (4) Mill Street from its intersection with the West line of Jefferson Street to its intersection with the east line of Church Street.
- (5) Oak Street from its intersection with the west line of Jefferson Street to its intersection with the east line of Robb Street and Robb Street extended.
- (6) Jefferson Street from its intersection with the south line of Oak Street to its intersection with the north line of Washington Street.

6.710 Penalty

Violation of section 6.705 is punishable by a fine not to exceed \$75.00.

Eugene

5.400 Operating Rules.

- (1) No person may ride a bicycle on a sidewalk in that area bounded by the outer limits of Charnelton Street on the west, 6th Avenue on the north, Pearl Street on the east, and 11th Avenue on the south.
- (2) No person may park a bicycle in or near a public thoroughfare or place in such a manner as to obstruct traffic or endanger persons or property.
- (3) A person riding a bicycle
 - (a) In a lane for vehicular traffic or parking may ride only in the direction legally prescribed there for that traffic.
 - (b) In a lane for vehicular traffic or parking shall ride as closely to the curb as is safe, but when approaching an intersection where a curb lane is designated "Left Turn" or "Right Turn" shall avoid that lane within 50 feet of the intersection if intending to ride through the intersection without turning.
 - (c) On a street or alley shall ride in single file with other bicyclists whenever a motor vehicle is approaching within 100 feet to the rear.
 - (d) On a bicycle path or a sidewalk shall keep as far to the right as is safe, except when overtaking and passing pedestrians and other vehicles, which shall be overtaken and passed only on the left.

Grants Pass

6.20.040 Riding on Sidewalks.

- A. No person shall ride or operate a bicycle, skateboard, rollerskates or rollerblades upon a sidewalk adjacent to 6th Street and 7th Street, bounded on the north by "A" Street, and bounded on the south by "M" Street.
- B. No person shall ride or operate a bicycle, skateboard, rollerskates or rollerblades upon a sidewalk adjacent to "G" Street, bounded on the west by 4th Street, and bounded on the east by 7th Street.
- C. Any person riding a bicycle, skateboard, rollerskates or rollerblades upon any other sidewalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

Gresham

8.70.030 Use of Public Sidewalks and Property.

- (1) No person shall use a bicycle or non-motorized vehicle upon a sidewalk within the city in a careless manner.
- (2) No person shall use or permit the use of a bicycle or non-motorized vehicle:
 - (a) within city buildings; or
 - (b) at City Hall, the Center for the Arts, Heroes Memorial, or other public properties designated by the City Manager, and all public areas adjacent to the above mentioned and designated properties, including but not limited to, plazas, pedestrian areas, sidewalks, planters, artistic or memorial structures, seating areas, accessways, access ramps, and handrails.

Hillsboro

28.040 Operation on sidewalks

- A. Bicycles, skateboards and toy vehicles may be operated on sidewalks within the corporate limits of the city except on those sidewalks under HMC 8.28.040(B) or under those conditions in HMC 8.28.040(C) and (D).
- B. Sidewalks adjacent to streets or on public service building grounds located within the boundaries between the north line of NE and NW Lincoln Street to the south line of SW and SE Baseline Street and the east line of NE and SE 5th Avenue to the west line of NW and SW Adams Avenue.
- C. At speeds in excess of 10 miles per hour.
- D. Failing to yield the right-of-way to pedestrians using the sidewalk or not dismounting and walking past children at play or congestion caused by pedestrians.

McMinnville

§ 10.36.080 Riding – On Sidewalks.

No person shall ride a bicycle upon a sidewalk in the business district bounded on the west by Adams Street, on the east by Irvine, on the north by 5th Street and on the south by 1st Street.
 \$100.00 fine

Medford

6.430 Operation of Bicycles, Skateboards and Scooters

No person shall operate a skateboard, scooter or bicycle on a sidewalk within the area bound by Bear Creek, the north right-of-way of Sixth Street, the west right-of-way of Oakdale Avenue, and the south right-of-way of Tenth Street, except where official signs mark a designated bicycle path.

Maximum Fine is \$250.00 per violation

Newberg

10.20.030 Prohibited riding areas

A. Riding as described in NMC 10.20.010 is prohibited on any sidewalk or other city property in the downtown commercial area of the city or on any sidewalk or other city property adjacent to city buildings, except public streets. The downtown commercial area is that area between River Street on the east, Main Street on the west, the north right-of-way boundary of Hancock Street on the north, and the south right-of-way boundary of Second Street on the south.

B. The traffic safety commission may designate additional prohibited riding areas.

Penalty: See NMC 10.20.110.

10.20.040 Prohibited riding.

No person shall engage in a riding activity in an area designated as a prohibited riding area as defined in NMC 10.20.030.

Portland

§ 16.70.320 Operating Rules.

No person may:

- E. Ride a bicycle on a sidewalk, unless avoiding a traffic hazard in the immediate area, within the area bounded by and including SW Jefferson, Front Avenue, NW Hoyt and 13th Avenue, except:
 - 1. On sidewalks designated as bike lanes or paths;
 - 2. On the ramps or approaches to any Willamette River Bridge; or
 - 3. In the area bounded by the west property line of SW Ninth Avenue, the east property line of SW Park Avenue, the north property line of SW Jefferson and the south property line of SW Salmon Street.
 - 4. For police or special officers operating a bicycle in the course and scope of their duties; or
 - 5. For employees of the Association for Portland Progress and companies providing security services operating a bicycle in the course and scope of their duties. These employees must have in possession an identification card issued by the Chief of Police certifying the rider has completed a training course in the use of a bicycle for security patrol.

Maximum Fine is \$500.00

Prineville**§ 73.02 Operating and Parking Rules**

In addition to observing all other applicable provisions of this chapter and state law, no person shall do the following.

(A) Ride a bicycle on a sidewalk adjacent to the following streets:

First Street between Main and Court Streets
 2nd Street between Deer and Fairview Streets
 3rd Street between Locust and Fairview Streets
 4th Street between Deer and Court Streets
 Deer Street between 2nd and 4th Streets
 Claypool between 2nd and 4th Streets
 Beaver Street between 2nd and 4th Streets
 Main Street between 1st and 10th Streets
 Belknap Street between 1st and 4th Streets
 Court Street between 1st and 4th Streets
 Dunham between 2nd and 3rd Streets
 Elm Street between 2nd and 3rd Streets
 Fairview between 2nd and 3rd Streets.

(B) Park a bicycle upon a street or a sidewalk, except in a bicycle rack or against a building or at the curb and in a manner as to afford the least obstruction to pedestrian traffic.

§ 73.03 Impoundment of Bicycles

(A) A bicycle left on public property for a period in excess of 72 hours may be impounded by the Police Department.

(B) If a bicycle impounded under this chapter is licensed or other means of determining its ownership exist, the police shall make reasonable efforts to notify the owner.

(C) A bicycle impounded under this chapter that remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.

§ 70.99 Penalty.

Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished as provided in § 10.99.

§ 10.99 General Penalty

(A) Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished by a fine not to exceed \$500, subject to division (B) of this section.

(B) Any person violating any provision of this code which is identical to a state statute containing a lesser penalty shall, upon conviction, be punished by the penalty prescribed by state statute.

(C) Each calendar date on which a violation occurs constitutes a separate violation.

Roseburg

§ 8.02.140 Regulations relating to recreational-type or toy vehicles.

- A. Roller Skates, In-Line Skates, Skateboards, Bicycles and Other Devices.
 - 2. Excepting Police Officers and Police Explorers operating their bicycles in the course and scope of their duties, no person shall operate or ride upon roller skates, in-line skates, skateboards, bicycles or ride in, or by means of, any coaster, toy vehicle or similar device upon any sidewalk within the Downtown Development District as defined in Chapter 3.08 of this Code.

Chapter 3.08

Bounded on the north by Douglas Avenue on the South by Lane Street on the West by mid-block of Rose and Stephens and on the East by mid-block between Main and Kane and includes the Northwest corner of SE Stephens and SE Cass.

Fine Not to Exceed \$1,500.00

May also impound for a period not to exceed twenty days.

Salem

§ 101.100 Riding Bicycles On Sidewalks.

- (a) It shall be unlawful to ride a bicycle upon a sidewalk within that area bounded by and including Front Street on the west, save and except the bridges, Cottage Street on the east, Union Street on the north, and Trade Street on the south; provided this subsection shall not apply to three-wheeled bicycles being ridden by a handicapped or elderly person.

§ 101.105. Riding Bicycles at the Salem Civic Center.

It shall be unlawful for any person to ride a bicycle in or upon the Salem Civic Center described in SRC 102.005(t). This subsection shall not apply to three-wheeled bicycles ridden by a handicapped or elderly person.

102.005(22) "Salem Civic Center" means that area bounded on the north by the south line of Trade Street, on the east by the west line of Liberty Street, on the south by the north line of Leslie Street, and on the west by the east line of Commercial Street.

Tigard

§ 10.36.100 Riding - On Certain Sidewalks Prohibited.

No person shall ride or operate any wheeled vehicle, except wheelchairs, on any sidewalk adjacent and parallel to SW Main Street; and provided further, that any person riding any wheeled vehicle, excepting wheelchairs, on any sidewalk in the city shall at all times yield the right-of-way to pedestrians using such sidewalk.

5 days in City Jail or a fine not to exceed ten dollars, or both, or bicycle may be impounded for a period not to exceed fourteen days.

Troutdale

§ 10.24.010 Bicycles – General Requirements.

B. It shall be unlawful for the owner or operator of any bicycle to ride or park the same upon any sidewalk or path constructed for the use of and commonly used by pedestrians within the corporate limits of the city.

Fine Not to Exceed \$75.00

West Linn

6.155 Bicycle Operating Rules.

In addition to observing all other applicable provisions of this ordinance and state law, a rider of a bicycle upon a street shall:

- (1) Not ride upon a sidewalk within a business district;
- (2) Yield the right of way to pedestrians on sidewalks;
- (3) On a two way street, ride to the extreme right except when preparing for a left turn. On a one way street, ride to the extreme curbside of the traffic lane and with the direction of travel designated for that lane. If the curb lane is designated for “left turn” or “right turn” only, and the operator is not intending to turn, he shall operate in the through lane;
- (4) Not carry a package, bundle, or article which prohibits him from having full control of the bicycle and unobstructed vision;
- (5) Not ride abreast of another bicycle or in any manner other than single file, except on designated bicycle paths;
- (6) Not operate a bicycle in a careless or reckless manner which endangers or would be likely to endanger himself, another, or any property. Racing or trick riding shall be included in this offense;
- (7) Not leave a bicycle, except in a bicycle rack. If no rack is provided, he shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance. Nor shall he leave the bicycle in violation of the provisions relating to the parking of motor vehicles.

Wilsonville

§ 5.520(2) Bicycles – Operating Rules.

(2) Not ride a bicycle upon a sidewalk within areas as are from time to time established by the City Council.

No set fine

Woodburn

Section 29. Bicycle Operating Rules.

In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, a person shall:

- (1) Not leave a bicycle, except in a bicycle rack. If no bike rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles.
- (2) Not ride a bicycle upon a sidewalk within the downtown core area bounded on the north by Harrison Street, on the west by Second Street, on the south by Cleveland Street, and on the east by Front Street.

Yamhill

6.08.070 Bicycle Operating Rules.

In addition to observing all other applicable provisions of this Title and State law pertaining to bicycles, a person shall:

- (A) Not leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicle.
- (B) A bicycle shall not be ridden on a sidewalk in the following areas:
 - (1) On Maple Street between Second Street and Azalea Street.
 - (2) On East Main Street between North Larch Place and Maple Street.
 - (3) On East First Street between South Larch Place and Maple Street.
 - (4) All other areas specifically posted to prohibit the use of bicycles.
- (C) A citation to appear in the Yamhill Municipal Court for violation of this Chapter shall be issued to the alleged violator stating the date, time, and place to appear, and the date and place of the alleged offense. At the request of the offender, a trial shall be conducted before the court, without a jury.

6.08.080 Impounding of Bicycles.

- (A) No person shall leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.
- (B) A bicycle left on public property for a period in excess of 24 hours may be impounded by the Police Department.
- (C) In addition to any citation issued, a bicycle parked in violation of this Title may be immediately impounded by the Police Department.
- (D) If a bicycle impounded under this Title is licensed, or other means of determining its ownership exist, the Police shall make reasonable efforts to notify the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.
- (E) A bicycle impounded under this Title which remains unclaimed shall be disposed of in accordance with the City's procedures for disposal of abandoned or lost personal property.
- (F) Except as provided in Sub-section (D) above, a fee of \$10.00 shall be charged to the owner of a bicycle impounded under this section.

If you do not see your city in this list, contact your local city attorney or police department.

Miscellaneous Laws Regulating Bicycle Riding and Parking

- Ashland** **Municipal Code 11.52.030**
Parking. No person shall park a bicycle upon a street, other than in the roadway and against the curb, or against a lamppost designated for bicycle parking, or in a rack provided for the purpose of supporting bicycles, or on the curb in a manner so as to afford the least obstruction to pedestrian traffic.
- Bend** **Section 6.325 Bicycle Operating Rules.**
In addition to observing all applicable provisions of this code and state law pertaining to bicycles, a person shall:
(1) Not leave a bicycle other than in a bicycle rack. If no rack is provided, the person shall leave the bicycle so it does not obstruct a roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the motor vehicle parking provisions.
- Eugene** **Section 5.400 Operating Rules.**
No person may park a bicycle in or near a public thoroughfare or place in such a manner to obstruct traffic or endanger persons or property.
- Grants Pass** **Chapter 6.20, Section 6.20.030**
In addition to observing all other applicable provisions of this article and state law pertaining to bicycles, a person shall not leave a bicycle, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions of this article relating to the parking of motor vehicles.
- Gresham** **Section 8.55.070 Misuse of a Bicycle.**
Parks a bicycle in a public lot in a vehicle parking space. A bicycle may only be parked in a public parking lot where provision has been made for bicycles, in the stand, rack or other bicycle holder.
- Hillsboro** **8.28.100 Bicycle parking**
A. It is unlawful to park or leave a bicycle upon the sidewalk, except in areas designated under HMC 8.28.100(B).

- B. Designated areas for the parking of bicycles and only bicycles are as follows:
 1. At the curb on the street and sidewalk, beginning at the intersection of the north boundary of Main Street and the west boundary of N 3rd Street, thence north 20 feet;
 2. At the curb on the sidewalk beginning at the point on the north side of E Lincoln Street that is 55 feet east from the easterly boundary of N 2nd Avenue, thence east 20 feet; and
 3. During the months the municipal swimming pool is in operation and while bicycle racks are maintained in the street for parking bicycles:
 - a. On the street on the easterly side of S 9th Avenue beginning at a point 10 feet south of the south boundary of E Cedar Street, thence south 35 feet; and
 - b. On the street on the southerly side of E Cedar Street, beginning at a point 15 feet east of the east boundary of S 9th Avenue, thence east 45 feet.
- C. The manager will cause the appropriate number of bicycle racks to be erected, kept and maintained, each with the proper marking by signs or painting, upon each of the areas under HMC 8.28.100(B).

Milwaukie

Chapter 10.36, Section 10.36.060

No person shall leave a bicycle except at a rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provision relating to the parking of motor vehicles.

Portland

Chapter 16.50.100 Designation of Transit Lanes.

Designation of transit lanes will be made by the City Traffic Engineer upon advice from the City Engineer and Tri-County Metropolitan Service District of Oregon (TriMet). Designation will be shown by official signs or markings. Signs or markings will distinguish whether the transit lane may be used by:

- Bus only;
- Light rail vehicle only;
- Trolley or streetcar vehicle; or
- Carpool vehicle only; or some combination of the above.

The sign designations may be found at the TriMet website under Sharing the Road With TriMet: Tips for Bicyclists. "Bus Only" street signs, such as at the Rose Quarter and Beaverton Transit Center signify that these areas are closed to bikes as well as other vehicles.

Chapter 16.20.120 Prohibited Parking Or Stopping Of A Vehicle.

In manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic.

Salem

Chapter 101.110 Riding On Street And Bicycle Paths.

(a) Every person operating a bicycle upon a two-way street shall ride as near to the right-hand side of the street as practicable, and on a one-way street, he shall ride to the extreme curb side of the traffic lane and with the direction of travel designated for that lane. If the curb lane is designated for "left turn" or "right turn" only, and the operator is not intending to turn, he shall operate in the through lane.

Chapter 101.150 Parking Of Bicycles.

It shall be unlawful for any person to leave a bicycle upon any sidewalk, except in a bicycle rack. If no rack is provided, he shall leave the bicycle so as not to obstruct the roadway, sidewalk, driveway, or building entrance; nor shall any person leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

Bicycles, Sidewalks, Crosswalks and the Law

As I bicycle in the Portland area, I often see bicyclists riding on the sidewalks. Sometimes bicyclists appear to be doing this to avoid traveling the wrong way on a one-way street. Other times they ride on the sidewalk because the road is particularly inhospitable to cyclists due to traffic patterns, the road surface or the lack of a suitable shoulder.

Do we cyclists have the right to ride on the sidewalk? What are the rules? How are the police reacting to bicyclists who choose to use the sidewalk? This article will answer your questions about bicyclists and sidewalks.

Oregon Revised Statute 811.050 makes it a Class B traffic infraction for a motorist to fail to yield the right of way to a bicyclist on a sidewalk, unless the bicyclist is in violation of another statute, ORS 814.410, which provides that a person commits the offense of “unsafe operation of a bicycle on a sidewalk” if the person:

- Suddenly leaves the curb or other place of safety and moves into the path of a vehicle, causing an immediate hazard.
- Fails to give an audible warning before passing a pedestrian while riding on the sidewalk.
- Fails to yield to all pedestrians on the sidewalk.
- Rides carelessly or in a manner that endangers others or endangers property.
- Rides at a speed greater than an ordinary walk when approaching or entering a crosswalk, driveway, curb cut or pedestrian ramp if a motor vehicle is approaching.

Violation of ORS 814.410 is a class D traffic infraction for which the presumptive fine is \$110.00. In Portland’s “core,” and in other cities in Oregon, the rules are different. Gresham’s City Code prohibits bicyclists from riding on any city sidewalk. Portland Ordinance 16.70.320E prohibits bicyclists from riding on sidewalks in the property bounded by and

including S.W. Jefferson St., Front Avenue, N.W. Hoyt Street and 13th Avenue, unless “to avoid a traffic hazard in the immediate area.” The maximum fine is an astonishingly high amount of \$500.00.

Motorists sometimes do not do a very good job of looking out for bicyclists or anticipating what they are going to do. That is why it is important for bicyclists to be prepared for the inattentive motorist, and to stop quickly when using the sidewalk, even though by law the motorist is supposed to yield to the bicycle.

Pedestrians and downtown business owners are bothered by aggressive sidewalk riders who intimidate pedestrians with their larger size astride a bike riding quickly on crowded sidewalks. Bicycle advocates are frequently surprised when they hear pedestrian activists complain about the large number of bike riders who fail to follow the legal requirements for bicyclists to yield the right of way, make an audible signal when passing and stop for pedestrians in crosswalks. Law enforcement efforts to curb sidewalk riding vary depending on the current frustration level in each community. Unfortunately, it is difficult for anyone to know the rules when there are almost no signs announcing the coverage of these laws and enforcement is highly discretionary. There is no state law that requires cyclists to ride in a particular direction on sidewalks. The section which follows contains pertinent restrictions for some Oregon communities. If your area is not included, code provisions are now readily available on the internet, even for many small towns, which helps to demystify the area somewhat.

Anecdotally, the police seem to agree that the fine in Portland is too high, and have at least in several instances suggested to bicyclists that they ask the traffic court judge to reduce the fine. It probably will do you no good to argue with the police officer and, in fact, may hurt another bicyclist's chances of avoiding a ticket for the same behavior.

If you are cited for riding on the sidewalk, consider appearing in court or writing a letter to the court explaining, if you have a good reason, why you were on the sidewalk in the first place. If you are cited in a city where the ordinance is not posted, impress on the court that, unlike Corvallis, where bicyclists are warned of the prohibition with signs, this city is not even warning bicyclists that riding on the sidewalk might result in what is to you, an extraordinarily large fine. Even if you were riding illegally on the sidewalk when cited, if you appear in traffic court and explain why it is that you felt you had no safe alternative but to ride on the sidewalk, the judge may reduce your fine.

For now, if you ride your bicycle on the sidewalk – and that is your right anywhere in the state where doing so is not prohibited by ordinance – you need to know and obey the laws, and, if cited, be ready to pay the fine or argue in traffic court why you were riding on the sidewalk, and why your choice was reasonable or legal.

Bicyclists Must Mix with Pedestrians on Sidewalks

Bicyclists travel much faster than pedestrians and require considerably greater distance to turn and stop. When bicycle traffic is constricted, such as on bridges and other multi-use paths, the inevitable congestion magnifies the impact of the small steering or control mistakes that lead to occasional collisions.

Historically, many villages and cities have identified their highest areas of pedestrian density and declared them off limits to bicycles. In Portland, the area within SW Jefferson Street, Naito Parkway, NW Hoyt Street and 13th Avenue are off limits to bicycles except in the Park Blocks and on SW Salmon Street, on bridges and multi-use paths. However, the maximum fine of \$500.00, the fact that there are no warning signs defining the boundaries of prohibited areas, and almost universal ignorance and disregard of the law, create an uncertain environment that guarantees selective and uneven enforcement.

The law is clear

The law is clear that pedestrians have the right of way on sidewalks and that bicyclists must provide an audible signal when they pass persons on foot. To obtain the same right-of-way over motorized vehicles as pedestrians, bicyclists are limited by the traffic code to “no greater than a walking speed” when entering the area in front of driveways or entry ways and when approaching crosswalks. Pedestrians, of course, also have the right-of-way over any motorized vehicle in marked or unmarked crosswalks and on sidewalks.

One problem area is that bicyclists on the roadway sometimes fail to yield to pedestrians attempting to cross roadways in marked and unmarked crosswalks. ORS 811.020 prohibits passing a vehicle stopped at a crosswalk for a pedestrian, but bicyclists frequently disregard this provision (to the consternation of some pedestrians). Further, bicyclists sometimes act as if they believe they are on a higher moral plane than

other vehicles and therefore do not really have to stop for pedestrians. Other riders demonstrate their trick riding skills by weaving around clusters of alarmed pedestrians. The Oregon Traffic Code prohibits such behavior. ORS 814.410, “Unsafe Operation of Bicycle On Sidewalk,” is violated if a person “[O]perates a bicycle on a sidewalk in a careless manner that endangers or would be likely to endanger any person or property,” creating an offense with similar operational language to the better known “Careless Driving offense”.

Conclusion

When bicyclists follow the rules, sidewalk bicycle riding can be safe. However, bicyclists sometimes save their worst behavior for the sidewalks and ignore sidewalk riding prohibitions. When bicyclists yield to pedestrians and give an audible signal when passing, the whole mix goes a lot more smoothly and the sidewalk provides an important artery for non-motorized travel.

Oregon's Crosswalk Laws

The Oregon law of crosswalks has been in such a state of change that motorists and non-motorized roadway users view crosswalk encounters with mutual distrust and apprehension. For good reason. While the laws in Oregon's vehicle code clearly provide non-motorists with the right of way in crosswalks, the laws of physics require careful assertion of pedestrian legal rights on the street.

Oregon's policy makers have taken significant steps toward promoting non-motorized use of the state's roadways as a good direction for citizens. Oregon commercial interests wanting to establish Oregon as a recreation destination have placed countless images of humans enjoying Oregon's roadways before the public eye, and law enforcement personnel have been willing to include protection of the most vulnerable roadway users within their mission. Pedestrian advocacy groups like the Willamette Pedestrian Coalition are becoming increasingly well organized.

What is a pedestrian?

The current Oregon Revised Statute governing crosswalks went into effect in January of 2006 and was amended in 2011. It applies to "pedestrians" who are defined as "any person afoot or confined in a wheelchair." ORS 801.385

What is a crosswalk?

Everyone knows what a marked crosswalk is because you can see it. However, an "unmarked" crosswalk is a little more difficult to define because it is invisible. An "unmarked crosswalk" is a place where a "marked crosswalk" would be placed between two corners if someone decided to paint crosswalk lines. Even though it is "invisible", an unmarked crosswalk incorporates the same legal rights as a marked crosswalk. If one looks at a traditional four corner uncontrolled intersection, the unmarked crosswalks connect each corner. There is no diagonal crosswalk in Oregon.

ORS 811.220 Defines “Crosswalk”

“Crosswalk” means any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway that conform in design to the standards established for crosswalks under ORS 810.200. Whenever marked crosswalks have been indicated, such crosswalks, and no other, shall be deemed lawful across such roadway at that intersection. Where no marked crosswalk exists, a crosswalk is that portion of the roadway described in the following:

- (1) Where sidewalks, shoulders or a combination thereof exists, a crosswalk is the portion of a roadway at an intersection, not more than 20 feet in width as measured from the prolongation of the lateral line of the roadway toward the prolongation of the adjacent property line, that is included within:
 - (a) The connections of the lateral lines of the sidewalks, shoulders or a combination thereof on opposite sides of the street or highway measured from the curbs or, in the absence of curbs, from the edges of the traveled roadway; or
 - (b) The prolongation of the lateral lines of a sidewalk, shoulder or both, to the sidewalk or shoulder on the opposite side of the street, if the prolongation would meet such sidewalk or shoulder.
- (2) If there is neither sidewalk nor shoulder, a crosswalk is the portion of the roadway at an intersection, measuring not less than six feet in width, that would be included within the prolongation of the lateral lines of the sidewalk, shoulder or both on the opposite side of the street or highway if there were a sidewalk.

The 2006 crosswalk law

The pedestrian crosswalk law (passed by the 2005 legislature, effective January 1, 2006) requires that vehicles allow pedestrians to exercise the right of way in a marked, or unmarked crosswalk or with a walk signal if the pedestrian is in the lane or next to the lane of travel. Further, if the intersection has a traffic control device, the vehicle must yield if the pedestrian is less than six feet from the lane into which the vehicle is turning. If the roadway has a safety island, then the vehicle must only yield when the pedestrian is on the vehicle’s side of the island. And ORS 811.020 also requires all overtaking vehicles to stop and remain stopped if one vehicle stops to allow a pedestrian to cross.

The crosswalk law also provides greater protection for pedestrians at intersections without traffic control signals. On a street without a signal, the driver may proceed only if the lane involved in a turn and the adjacent lane are clear of pedestrians.

The 2011 Crosswalk Revolution

After the Oregon legislature changed the pedestrian crosswalk law in 2007 (giving pedestrians clear right of way in the crosswalk and requiring traffic to stop and remain stopped for them while crossing the street) it became clear that the law did not have a proper “trigger” to indicate WHEN the cars were required to stop. While it was clear that cars were

supposed to stop for pedestrians trying to “cross the roadway in a crosswalk,” the new statute never defined what a pedestrian could do to trigger the right of way, short of placing their body into the “killing zone” right in front of approaching traffic. What was needed was some way to get approaching traffic to stop without having to step in front of cars.

The Willamette Pedestrian Coalition (WPC) assembled its Legislative Committee to study the problem and concluded that a new concept needed to be introduced into the statute, one that clearly signaled traffic to stop, but allowed the pedestrian to stay in a place of relative safety until it was clear the cars were actually stopping. What emerged was a simple amendment that “crossing the roadway in a crosswalk” meant merely placing a part of, or extension of, the body (including a bicycle), off the curb. The idea was to make the definition simple, relatively safe to use and specific enough that a driver could be cited for a violation.

A broad coalition of disability groups, collision victims and transportation activists joined forces to take the new proposed standard to the state legislature. What emerged passed the legislature and became law on June 23, 2011:

- (4) For the purpose of this section, a pedestrian is crossing the roadway in a crosswalk when any part of the pedestrian’s body, wheelchair, cane, crutch or bicycle, moves onto the roadway in a crosswalk with the intent to proceed. ORS 811.028 (4).

Placing a toe into the crosswalk like you would to check the temperature of the water creates the legal obligation for traffic to stop for you without having to stand in front of the cars to do it. Once the cars stop you can cross in safety – the Oregon pedestrian revolution has arrived.

So much power, so little bulk

Substantial legal rights of pedestrians in crosswalks tend to melt away on the streets. The superior mass of a speeding motor vehicle creates a dicey situation any time it is unclear whether a motorist intends to actually yield to a pedestrian in a crosswalk. Intentional intimidation by motorists feels more dangerous when one is not surrounded by several thousand pounds of sheet metal.

If the pedestrian is not in a marked or unmarked crosswalk, then vehicular traffic has the right-of-way. This does not mean that pedestrians are prohibited from crossing the road except at crosswalks, only that away from a crosswalk the pedestrian must yield the superior right-of-way to the vehicle.

Bicycles and crosswalks

Bicycles are both protected and discriminated against by Oregon’s crosswalk law. While bicycles are considered to be vehicles under Oregon

law and must, therefore, yield the right-of-way to pedestrians just like any other vehicle, bicycles may also be operated in crosswalks. ORS 814.410(2) Oregon law allows bicyclists to have the right-of-way in crosswalks like a pedestrian. On the other hand, the law also sets a speed limit that conditions the right-of-way for bicyclists entering or approaching a crosswalk on proceeding no faster than a “walking speed”. ORS 814.410. Thus, a bicycle, which easily travels at speeds much faster than running shoes, rollerblades, skateboards, jog strollers, perambulators, and wheelbarrows (all pedestrian accessories) is held to the lowest speed of any member of the group; kids on skateboards may maintain a higher legal speed approaching a crosswalk when traffic is looming than their parent on a bicycle under Oregon’s crosswalk law. Bicycle advocates like the BTA have been unsuccessful for over ten years in convincing the legislature that the law should be changed to allow bicyclists to proceed at a “reasonably safe speed” in approaching a crosswalk without losing the right-of-way. While the law makes some sense as motorists should not have to yield the right-of-way to bicycle riders speeding into intersections like galloping urban deer, few bicyclists know about the “walking speed” limit. Invariably the law gets used against bicycle riders who are struck by a careless motorist when the bicyclist thought he or she was lawfully crossing the street. Insurance companies use the bicycle crosswalk law against bicycle riders to blindside injury claimants, creating an unfair result that sometimes adds legal insult to injury.

While bicyclists may lawfully use all crosswalks, there are restrictions in Oregon’s cities on bicycle riding on sidewalks in certain core areas. Most sidewalk restrictions are poorly signed so it is unclear where one can and cannot ride. Both this book and our website (www.stc-law.com) contain a collection of city laws regarding sidewalk restrictions.

Oregon law also requires that bicyclists both yield the right-of-way to pedestrians and provide an audible signal when passing a pedestrian on a sidewalk. The Oregon legal system allows pedestrians and bicyclists to share the sidewalk without speed restrictions, but sets an unnecessarily harsh speed limit of a “walking speed” for bicyclists entering crosswalks. This bad law sends the wrong signal to visiting bicyclists and is at odds with the state’s efforts to provide bicycle lanes and shared use recreation areas.

PART III: Harassment of Bicyclists

**Statutes for Criminal/
Traffic Prosecution**

**Article about Harassment
by Motorists**

Statutes for Criminal/ Traffic Prosecution

Procedure

- 133.055 (1) Criminal citation
- 133.225 Arrest by Private Person

Crimes

- 163.160 Assault IV
- 163.190 Menacing
- 163.195 Reckless Endangerment
- 166.065 Harassment

Procedure

133.055 Criminal citation; exception for domestic disturbance; notice of rights.

- (1) A peace officer may issue a criminal citation to a person if the peace officer has probable cause to believe that the person has committed a misdemeanor or has committed any felony that is subject to misdemeanor treatment under ORS 161.705. The peace officer shall deliver a copy of the criminal citation to the person. The criminal citation shall require the person to appear at the court of the magistrate before whom the person would be taken pursuant to ORS 133.450 if the person were arrested for the offense.

133.225 Arrest by a private person.

- (1) A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.
- (2) In order to make the arrest a private person may use physical force as is justifiable under ORS 161.255.

Crimes

163.160 Assault in the fourth degree.

- (1) A person commits the crime of assault in the fourth degree if the person:
 - (a) Intentionally, knowingly or recklessly causes physical injury to another; or
 - (b) With criminal negligence causes physical injury to another by means of a deadly weapon.
- (2) Assault in the fourth degree is a Class A misdemeanor.

163.190 Menacing.

- (1) A person commits the crime of menacing if by word or conduct the person intentionally attempts to place another person in fear of imminent serious physical injury.
- (2) Menacing is a Class A misdemeanor.

163.195 Recklessly endangering another person.

- (1) A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.
- (2) Recklessly endangering another person is a Class A misdemeanor.

166.065 Harassment.

- (1) A person commits the crime of harassment if the person intentionally:
 - (a) Harasses or annoys another person by:
 - (A) Subjecting such other person to offensive physical contact; or
 - (B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;
 - (b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or
 - (c) Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.
- (2) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.
- (3) Harassment is a Class B misdemeanor.
- (4) Notwithstanding subsection (3) of this section, harassment is a Class A misdemeanor if a person violates subsection (1) of this section by subjecting another person to offensive physical contact and the offensive physical contact consists of touching the sexual or other intimate parts of the other person.

Harassment by Motorists – Know Your Legal Rights

Harassment severity should determine your response

If you are harassed by a motorist, you need to analyze the severity of the hazard created by the motorist's actions, and gauge your own energy level for creating a considered response. A "considered response" is necessary because, while Oregonians are proud to point out that we do not shoot each other over parking spaces, nevertheless, provoking a motorist into an uncontrolled confrontation is stupid and dangerous.

If someone endangers you by violating the law, it is probably not worth taking them to traffic court for some technical violation of the Rules of the Road. Instead, translate your anger into writing a letter. Memorize their license plate number, obtain their name and address from the Department of Motor Vehicles (DMV) (an easy procedure, just call the Bicycle Transportation Alliance (BTA) or our office). Then write the driver, or better, the driver's employer if they are in a work vehicle. Let them know what the law provides regarding your right to use the roadway, the traffic code violations they committed in your presence, how their conduct made you afraid and angry, and finally, that you are going to wait until you hear from them before you decide about whether or not you will pursue the matter with a citation for a moving violation in traffic court.

Writing the letter is therapeutic, and in most cases you will hear from the worried motorist. While you may not get a direct apology, your follow up provides an excellent learning experience for most drivers, who are keenly aware of the effect a potential traffic code conviction will have upon their insurance rates and driving record.

A recent example illustrates the value of the letter writing approach. A Portland bicyclist received a "close shave" from a small pickup while riding along Front Avenue near Waterfront Park. He noted the license number, obtained the registered owner's name through DMV, and then, since the incident was not serious enough to merit a criminal prosecution, wrote a

letter along the lines outlined above to the motorist. Shortly afterward he received a long rambling letter back from the motorist, who claimed that he was not the driver, some mistake must have been made, but then he went on at length in providing an elaborate legal justification for the actions of the driver of the pickup truck, interspersing his argument with frequent biblical and legal citations. While the driver may have been unwilling to admit his involvement, his response shows that the message was received loud and clear.

However, if you were truly placed in danger, or injured, or if the motorist behaved in an outrageous manner, then you owe it to yourself, and to other riders, to pursue the matter further.

It is not worth going to traffic or district court, or bothering police agencies over any incident which is not sufficiently serious to justify charging one of the following traffic offenses or misdemeanor crimes:

- Assault IV
- Menacing
- Reckless Endangerment
- Harassment
- Reckless Driving
- Careless Driving

Each of these offenses involves serious and dangerous driving misbehavior.

What do I do?

If your harassment by a motorist is serious enough to take to court, you will have to be able to identify the driver, the vehicle, and usually the license plate number.

Call the police

Tell them what happened and what laws were broken by the motorist. Hopefully, law enforcement will be sympathetic and will have sufficient time to investigate and cite or arrest the driver. However, if the police are not responsive to your initial contact, do not give up. Call the BTA or our office, and we will help you to initiate a prosecution.

Be aware that even though the Oregon Vehicle Code gives you a right equal to that of any motorist to use the roadway, in the eyes of many people, bicycles are a toy and should always get out of the way of motorists. Part of your job as a bicyclist in the court system will be to educate everyone you contact about how you are exercising your legal rights to share the roadway with automobiles, and that on the day you were harassed you were also recognizing and abiding by your responsibilities as a roadway user.

If any motorist spits on you, throws something out of a vehicle in your direction, pretends they are going to run you off of the road or hit you, swerves their vehicle in a menacing manner toward you on your bike, or touches you or your bicycle in any way, then it is important for you to prosecute them, even if you are not hurt. The reason is that perpetrators of crimes usually get away without being identified or apprehended. If you are a victim of harassment by a driver, it is likely that your incident is one of many and, if you do nothing, the next time the driver goes after another bicyclist a serious injury may result.

Finally...

You do not need to become a bicycle militia member in order to stand up for your legal rights. Motorist harassment of bicyclists is a serious problem and is an event which intimidates riders from enjoying road riding. Since before the turn of the century, the League of American Wheelmen, now League of American Bicyclists, has led the fight for shared, safe roads for bicycle riders. A psychological profile of our culture would reveal that there are an identifiable percentage of motorists who cannot stand to see a bicycle rider in the lane of traffic in front of their vehicles without honking or in some other manner communicating their disapproval. Whether our response is a simple polite letter with an invitation for an apology, or a full scale criminal prosecution depends upon the severity of the hazard created by the motorist's behavior. If you are involved in an incident and do not get cooperation from law enforcement in initiating a prosecution, attend one of our free legal clinics and we will show you how to get started. While being spit at or sworn at is a foul form of interference with an otherwise nice day, on the other hand, arrest for a serious traffic offense is a good, and legal, way to even the score.

PART IV: Citizen Initiated Violation Prosecution

Citizen Initiated Prosecution Statute

**Excerpts of Frequent Violations
of Oregon Vehicle Code**

**Article About Citizen Initiated
Violation Prosecution**

Citizen Initiated Prosecution Statute

153.058 Initiation of violation proceeding by private party.

- (1) A person other than an enforcement officer may commence a violation proceeding by filing a complaint with a court that has jurisdiction over the alleged violation. The filing of the complaint is subject to ORS 153.048. The complaint shall be entered by the court in the court record.
- (2) A complaint under this section must contain:
 - (a) The name of the court, the name and address of the person bringing the action and the name and address of the defendant.
 - (b) A statement or designation of the violation that can be readily understood by a person making a reasonable effort to do so and the date, time and place at which the violation is alleged to have occurred.
 - (c) A certificate signed by the complainant stating that the complainant believes that the named defendant committed the violation specifically identified in the complaint and that the complainant has reasonable grounds for that belief. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. Complaints filed under this section are subject to the penalties provided in ORS 153.990.
- (3) Upon the filing of a complaint under this section, the court shall cause a summons to be delivered to the defendant and shall deliver a copy of the complaint to the district attorney for the county in which the complaint is filed. The court may require any enforcement officer to serve the summons.
- (4) If the complaint does not conform to the requirements of this section, the court shall set it aside upon motion of the defendant made before the entry of a plea. A pretrial ruling on a motion to set aside may be appealed by the state.
- (5) A court may, acting in its sole discretion, amend a complaint filed under the provisions of this section.
- (6) A court shall dismiss a complaint filed under this section upon the motion of the district attorney for the county or of the city attorney for a city if:
 - (a) The district attorney or city attorney has brought a proceeding against the defendant named in the complaint or intends to bring a proceeding against the defendant named in the complaint; and
 - (b) The proceeding is brought by the district attorney or city attorney by reason of the same conduct alleged in the complaint.

- (7) Any political subdivision of this state may require by ordinance that violation proceedings for the purpose of enforcing the charter or ordinances of the political subdivision may not be commenced in the manner provided by this section and that those proceedings may be commenced only by enforcement officers.
- (8) A person other than an enforcement officer may commence a violation proceeding under this section only for:
 - (a) Boating violations under ORS chapter 830, or any violation of rules adopted pursuant to ORS chapter 830 if the violation constitutes an offense;
 - (b) Traffic violations under ORS chapters 801 to 826, or any violation of rules adopted pursuant to those chapters if the violation constitutes an offense.

Excerpts of Frequent Violations of Oregon Vehicle Code

811.490 Improper opening or leaving open of vehicle door; penalty.

- (1) A person commits the offense of improper opening or leaving open a vehicle door if the person does any of the following:
 - (a) Opens any door of a vehicle unless and until it is reasonably safe to do so and it can be done without interference with the movement of traffic, or with pedestrians and bicycles on sidewalks or shoulders.

811.280 Failure of driver entering roadway to yield right of way; penalty.

- (1) A person commits the offense of failure of a driver entering a roadway to yield the right of way if the person:
 - (a) Is operating a vehicle that is about to enter or cross a roadway from any private road, driveway, alley or place other than another roadway; and
 - (b) Does not yield the right of way to any vehicle approaching on the roadway to be entered or crossed so closely as to constitute an immediate hazard.

811.350 Dangerous left turn; penalty.

- (1) A person commits the offense of making a dangerous left turn if the person:
 - (a) Is operating a vehicle;
 - (b) Intends to turn the vehicle to the left within an intersection or into an alley, private road, driveway or place from a highway; and
 - (c) Does not yield the right of way to a vehicle approaching from the opposite direction that is within the intersection or so close as to constitute an immediate hazard.

811.050 Failure to yield to rider on bicycle lane; penalty.

- (1) A person commits the offense of failure of a motor vehicle operator to yield to a rider on a bicycle lane if the person is operating a motor vehicle and the person does not yield the right of way to a person operating a bicycle, electric assisted bicycle, electric personal assistive mobility device, moped, motor assisted scooter or motorized wheelchair upon a bicycle lane.

Citizen Initiated Violation Prosecution

What and why

Encourage injured riders to create strong enforcement of bicyclist rights to the road in injury collisions by using laws already on the books to charge and convict drivers in court for violation of the Rules of the Road.

Law enforcement agencies do not have the resources or the legal understanding of laws relating to bicycles from a bicyclist perspective to investigate and issue citations for traffic law violations in most injury collisions. For example, in Portland, Oregon's most populous city known for its friendly attitude toward bike riders, city police maintain a departmental policy of facilitating exchange of information between the parties to a collision, but not investigating or issuing citations in traffic collisions unless one of the parties is taken from the scene by ambulance or the driver has a warrant or a suspended license. The Trauma system only takes the most serious injuries; entry triggers a police investigation including witness accounts and a scene diagram. However many bicycle collisions involve high energy transfers and serious injuries; yet no police investigation is provided – often an unpleasant surprise to many healing bike riders who later find out that it is their word against the motorist when it comes time to make an insurance claim.

Background

Police spokesmen have stated in the past that the Oregon statutes prohibit citation unless the officer witnesses commission of the offense. This is not technically correct because the law (ORS 810.410 (4)) allows a police officer to issue a citation after a collision based on their own after-the-fact personal investigation. However, even if a police investigation of the collision is available, non-motorized roadway users may still not like the result because some police officers do not see these user groups as legitimate and rightful roadway users. This paternalistic attitude fails to accord full legal rights to the most vulnerable roadway users, those who,

because of their vulnerability (since they are not encased in sheet metal), most need vigilant protection of the law.

But, bicyclists must consider fully the high costs associated with more intensive traffic collision investigation by police. After all, the insurance adjuster/attorney system serves pretty well in sorting out who is at fault in most collisions. Police officers' primary mission is to protect public safety. In the great majority of collisions, fault is clear and investigation of accidents is more appropriately performed by claim adjusters in insurance companies. Regardless of where one draws the line, there is a point after which it is just more important for a police officer to be working on a criminal case than answering a radio call to conduct a traffic investigation for an intersection collision.

We can do it ourselves

And, without requiring any change in law or policy, Oregon bicyclists already have the legal tools to initiate prosecution of traffic law breakers. Oregon law allows a citizen to initiate traffic violation prosecutions in state court, AND to have police help (per Oregon statute). The Oregon statute of limitations for violations is only six months; if the action is not filed within that time then the right to pursue a citizen violation is lost!

After the initial report is taken and the citizen signs the Oregon Uniform Citation and Complaint, the completed paperwork is served on the bad driver summoning them to traffic court to face the charges in a non-jury trial in front of a traffic judge. The complaining citizen gives an informal presentation of the case, the judge hears evidence and testimony. If convicted the bad driver receives a conviction and fine for a moving violation which is the same as one from a ticket issued by a police officer.

The process, known as an "Initiation of Violation Proceeding" is important for bicyclists – we usually get banged up the most in a bike-car collision. Too many of these wrecks occur because drivers fail to yield or give bicyclists their legal share of the road. These drivers are among the most dangerous drivers on the road and it is important that their driving records reflect it. Also, insurance adjusters frequently fail to give adequate recognition to bicyclists' legal rights. Whether ignorant of the law or just hostile to bike riders, many insurance adjusters see a bike collision case and instinctively favor their insured motorist. Since only the most serious collisions involve law enforcement investigation, the bike rider who is hurt after a clear cut violation of the traffic law by a motorist is often disappointed to learn that the driver (who was clearly admitting fault at the scene) is now claiming the bicyclist was at fault. On the other hand if the official court record contains a citation and traffic court conviction of

the driver, then the insurance adjuster will be hard pressed to ignore the true liability picture.

Follow the recipe

The Oregon statute is detailed and task specific. It includes every step of the process. The exact text is printed on page 137 because it may be necessary to show it to the authorities. Few law enforcement personnel are likely to have direct experience with the process when it is initiated by a citizen; but most officers are very familiar with the Oregon Uniform Citation and Complaint form (the statewide “ticket book”). The law requires that the officer facilitate the process. If you dead-end with the officer who first responds then try the department non-emergency and/or hit and run traffic phone number. In rural areas, state police and sheriff officers share jurisdiction. The gravity of any injury and seriousness of the motorist’s traffic violation will greatly influence the officer’s response. Filing these cases over petty traffic standoffs is going to stress a tax-poor law enforcement and court system struggling to contain Oregon’s dangerous traffic offenders. But in bike-car collisions resulting in injury in which the driver commits a clear violation of the traffic laws, the bike rider should consider whether a traffic violation conviction is an option that will be important later to clarify the legal cause of the collision and to make a legal record of the driver’s law violation.

How to initiate a citizen initiated violation prosecution yourself

Learn the lingo and read ORS 153.058 so you can explain it to someone who has never heard of it and will likely not believe such an unheard of procedure exists until you actually show them the law in their copy of their traffic statute book. If you are not successful up to this point, call our office or the Bicycle Transportation Alliance and see if you can find a volunteer to explain it. The statute has been on the books long enough and the wording is clear enough that at some point you will find someone who thinks it is probably their job to deal with you. It may require the following (and in this order):

1. Contact the officer who investigated your collision or facilitated exchange of traffic collision information, any other officer involved in your collision, the shift sergeant for that unit on that shift at the time of your collision, the commander for the unit, the executive officer’s office (Chief, Sheriff, whatever), the District Attorney’s office in your county, the City Attorney office in your city, the traffic department clerk in your local courthouse, or just about any staffer willing to speak with you about it in the courthouse or police station, and show them the statute and this article. If they don’t know about the process but are willing to ask someone about it you will probably succeed in getting

your case started if you are willing to allow the process to lumber up to speed. Per ORS 131.125, you only have six months after the date of the incident to initiate proceedings.

AND

2. Once you get a law enforcement officer willing to commence your violation proceeding, then work through the process with them. They are supposed to create and send a summary of a complaint (which you may be required to swear to and sign) to the clerk's office for issuance of a summons. The Oregon Uniform Traffic Citation and Complaint Form may be what most officers choose for issuance of the case. If you are unable to find someone willing to commence your prosecution, then you may want to call our office or the BTA to help get things going. Multnomah County and Portland traffic system staffers know about this process and will help another jurisdiction trying to follow the law and allow citizens to exercise their legal rights.

If an unhelpful person points out that ORS 153.058 says "A person other than an enforcement officer 'may' commence a violation proceeding..." so as to defeat your effort you must point out that the statute does not allow ANY discretion by the officer; the case **MUST** be commenced once the citizen's complaint is lodged. Further, the court has no discretion in issuing the summons as ORS 153.058 clearly states "the court 'shall' issue a summons to be delivered...". There is some discretion provided to the court to amend or dismiss a complaint, but issuance of properly presented complaints should not be opposed.

3. Ask the officer who issued your case to help you find out about how to present your case. As in traffic court you will be in the position usually occupied by the officer who wrote the ticket. Identification of the driver and presentation of evidence can be handled by you and your witnesses. The police or courts will help you issue subpoenas to other witnesses in advance of court. If you do not feel like you will be able to present your case then ask for help from the police officer or a friend; again, if you convince the judge at the trial that the defendant violated the law then the conviction that results will be like any other moving violation. Visit our website, www.stc-law.com, for more information and first-hand accounts of successful citizen prosecutions.

PART V: Collisions and Insurance Coverage

Personal Injury Protection Benefits

Uninsured Motorist Coverage

**Insurance Company Rules
and Regulations**

**Articles About Collisions and
Insurance Coverage**

Personal Injury Protection Benefits

742.520 Personal injury protection benefits for motor vehicle liability policies; applicability; definitions for ORS 742.520 to 742.542.

Every motor vehicle liability policy issued for delivery in this state that covers any private passenger motor vehicle shall provide personal injury protection benefits to the person insured thereunder, members of that person's family residing in the same household, children not related to the insured by blood, marriage or adoption who are residing in the same household as the insured and being reared as the insured's own, passengers occupying the insured motor vehicle and pedestrians struck by the insured motor vehicle. "Personal injury protection benefits" means the benefits described in this section and ORS 742.524 and 742.530.

- (2) Personal injury protection benefits apply to a person's injury or death resulting:
 - (a) In the case of the person insured under the policy and members of that person's family residing in the same household, from the use, occupancy or maintenance of any motor vehicle, except the following vehicles:
 - (A) A motor vehicle, including a motorcycle or moped, that is owned or furnished or available for regular use by any of such persons and that is not described in the policy;
 - (B) A motorcycle or moped which is not owned by any of such persons, but this exclusion applies only when the injury or death results from such person's operating or riding upon the motorcycle or moped; and
 - (C) A motor vehicle not included in subparagraph (a) or (B) of this paragraph and not a private passenger motor vehicle. However, this exclusion applies only when the injury or death results from such person's operating or occupying the motor vehicle.
 - (b) In the case of a passenger occupying or a pedestrian struck by the insured motor vehicle, from the use, occupancy or maintenance of the vehicle.
- (3) Personal injury protection benefits consist of payments for expenses, loss of income and loss of essential services as provided in ORS 742.524.
- (4) An insurer shall pay all personal injury protection benefits promptly after proof of loss has been submitted to the insurer.
- (5) The potential existence of a cause of action in tort does not relieve an insurer from the duty to pay personal injury protection benefits.

- (6) Disputes between insurers and beneficiaries about the amount of personal injury protection benefits, or about the denial of personal injury protection benefits, shall be decided by arbitration if mutually agreed to at the time of the dispute.
- (7) As used in ORS 742.520 to 742.542:
- (a) "Motor vehicle" means a self-propelled land motor vehicle or trailer, other than:
 - (A) A farm type tractor or other self-propelled equipment designed for use principally off public roads, while not upon public roads;
 - (B) A vehicle operated on rails or crawler-treads; or
 - (C) A vehicle located for use as a residence or premises.
 - (b) "Motorcycle" and "moped" have the meanings given those terms in ORS 801.345 and 801.365.
 - (c) "Occupying" means in, or upon, or entering into or alighting from.
 - (d) "Pedestrian" means a person while not occupying a self-propelled vehicle other than a wheelchair or a similar low-powered motorized or mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is determined to be medically necessary for the occupant of the wheelchair or other low-powered vehicle.
 - (e) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle not used as a public or livery conveyance, and includes any other four-wheel motor vehicle of the utility, pickup body, sedan delivery or panel truck type not used for wholesale or retail delivery other than farming, a self-propelled mobile home, and a farm truck.

742.524 Contents of personal injury protection benefits; deductibles.

- (1) Personal injury protection benefits as required by ORS 742.520 shall consist of the following payments for the injury or death of each person:
- (a) All reasonable and necessary expenses of medical, hospital, dental, surgical, ambulance and prosthetic services incurred within one year after the date of the person's injury, but not more than \$15,000 in the aggregate for all such expenses of the person. Expenses of medical, hospital, dental, surgical, ambulance and prosthetic services shall be presumed to be reasonable and necessary unless the provider is given notice of denial of the charges not more than 60 calendar days after the insurer receives from the provider notice of the claim for the services. At any time during the first 50 calendar days after the insurer receives notice of claim, the provider shall, within 10 business days, answer in writing questions from the insurer regarding the claim. For purposes of determining when the 60-day period provided by this paragraph has elapsed, counting of days shall be suspended if the provider does not supply written answers to the insurer within 10 days and shall not resume until the answers are supplied.
 - (b) If the injured person is usually engaged in a remunerative occupation and if disability continues for at least 14 days, 70 percent of the loss of income from work during the period of the injured person's disability until the date the person is able to return to the person's usual occupation. This benefit is subject to a maximum payment of \$3,000 per month and a maximum payment period in the aggregate of 52 weeks. As used in this paragraph,

"income" includes but is not limited to salary, wages, tips, commissions, professional fees and profits from an individually owned business or farm.

- (c) If the injured person is not usually engaged in a remunerative occupation and if disability continues for at least 14 days, the expenses reasonably incurred by the injured person for essential services in lieu of the services the person would have performed without income during the period of the person's disability until the date the person is reasonably able to perform such essential services. This benefit is subject to a maximum payment of \$30 per day and a maximum payment period in the aggregate of 52 weeks.
 - (d) All reasonable and necessary funeral expenses incurred within one year after the date of the person's injury, but not more than \$5,000.
 - (e) If the injured person is a parent of a minor child and is required to be hospitalized for a minimum of 24 hours, \$25 per day for child care, with payments to begin after the initial 24 hours of hospitalization and to be made for as long as the person is unable to return to work if the person is engaged in a remunerative occupation or for as long as the person is unable to perform essential services that the person would have performed without income if the person is not usually engaged in a remunerative occupation, but not to exceed \$750.
- (2) With respect to the insured person and members of that person's family residing in the same household, an insurer may offer forms of coverage for the benefits required by subsection (1)(a), (b) and (c) of this section with deductibles of up to \$250.

Uninsured motorist coverage

742.504 Required provisions of uninsured motorist coverage.

Every policy required to provide the coverage specified in ORS 742.502 shall provide uninsured motorist coverage that in each instance is no less favorable in any respect to the insured or the beneficiary than if the following provisions were set forth in the policy. However, nothing contained in this section requires the insurer to reproduce in the policy the particular language of any of the following provisions:

- (1)(a) The insurer will pay all sums that the insured, the heirs or the legal representative of the insured is legally entitled to recover as general and special damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and arising out of the ownership, maintenance or use of the uninsured vehicle. Determination as to whether the insured, the insured's heirs or the insured's legal representative is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the insurer, or, in the event of disagreement, may be determined by arbitration as provided in subsection (10) of this section.
 - (b) No judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in this policy, shall be conclusive, as between the insured and the insurer, on the issues of liability of the person or organization or of the amount of damages to which the insured is legally entitled.
- (2) As used in this policy:
- (a) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.
 - (b) "Hit-and-run vehicle" means a vehicle that causes bodily injury to an insured arising out of physical contact of the vehicle with the insured or with a vehicle the insured is occupying at the time of the accident, provided:
 - (A) The identity of either the operator or the owner of the hit-and-run vehicle cannot be ascertained;
 - (B) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30

days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof; and

- (C) At the insurer's request, the insured or the legal representative of the insured makes available for inspection the vehicle the insured was occupying at the time of the accident.
- (c) "Insured," when unqualified and when applied to uninsured motorist coverage, means:
- (A) The named insured as stated in the policy and any person designated as named insured in the schedule and, while residents of the same household, the spouse of any named insured and relatives of either, provided that neither the relative nor the spouse is the owner of a vehicle not described in the policy and that, if the named insured as stated in the policy is other than an individual or husband and wife who are residents of the same household, the named insured shall be only a person so designated in the schedule;
 - (B) Any child residing in the household of the named insured if the insured has performed the duties of a parent to the child by rearing the child as the insured's own although the child is not related to the insured by blood, marriage or adoption; and
 - (C) Any other person while occupying an insured vehicle, provided the actual use thereof is with the permission of the named insured.
- (d) "Insured vehicle," except as provided in paragraph (e) of this provision, means:
- (A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of those terms is defined in the public liability coverage of the policy, insured under the public liability provisions of the policy; or
 - (B) A nonowned vehicle operated by the named insured or spouse if a resident of the same household, provided that the actual use thereof is with the permission of the owner of the vehicle and the vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.
- (e) "Insured vehicle" does not include a trailer of any type unless the trailer is a described vehicle in the policy.
- (f) "Occupying" means in or upon or entering into or alighting from.
- (g) "Phantom vehicle" means a vehicle that causes bodily injury to an insured arising out of a motor vehicle accident that is caused by a vehicle that has no physical contact with the insured or the vehicle the insured is occupying at the time of the accident, provided:
- (A) The identity of either the operator or the owner of the phantom vehicle cannot be ascertained;
 - (B) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident; and

- (C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred, and filed with the insurer within 30 days thereafter a statement under oath that the insured or the legal representative of the insured has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof.
- (h) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.
- (i) "Stolen vehicle" means an insured vehicle that causes bodily injury to the insured arising out of a motor vehicle accident if:
 - (A) The vehicle is operated without the consent of the insured;
 - (B) The operator of the vehicle does not have collectible motor vehicle bodily injury liability insurance;
 - (C) The insured or someone on behalf of the insured reported the accident within 72 hours to a police, peace or judicial officer or to the equivalent department in the state where the accident occurred; and
 - (D) The insured or someone on behalf of the insured cooperates with the appropriate law enforcement agency in the prosecution of the theft of the vehicle.
- (j) "Uninsured vehicle," except as provided in paragraph (k) of this provision, means:
 - (A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible motor vehicle bodily injury liability insurance, in at least the amounts or limits prescribed for bodily injury or death under ORS 806.070 applicable at the time of the accident with respect to any person or organization legally responsible for the use of the vehicle, or with respect to which there is collectible bodily injury liability insurance applicable at the time of the accident but the insurance company writing the insurance denies coverage or the company writing the insurance becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible motor vehicle bodily injury liability insurance applicable at the time of the accident.
 - (B) A hit-and-run vehicle.
 - (C) A phantom vehicle.
 - (D) A stolen vehicle.
- (k) "Uninsured vehicle" does not include:
 - (A) An insured vehicle, unless the vehicle is a stolen vehicle;
 - (B) A vehicle that is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

- (C) A vehicle that is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any such government;
 - (D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;
 - (E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or
 - (F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of the household of the insured.
- (I) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, but does not include devices moved by human power or used exclusively upon stationary rails or tracks.

Insurance Company Rules and Regulations

746.230 Unfair claim settlement practices.

- (1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:
 - (a) Misrepresenting facts or policy provisions in settling claims;
 - (b) Failing to acknowledge and act promptly upon communications relating to claims;
 - (c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;
 - (d) Refusing to pay claims without conducting a reasonable investigation based on all available information;
 - (e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;
 - (f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;
 - (g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;
 - (h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;
 - (i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;
 - (j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;
 - (k) Delaying investigation or payment of claims by requiring a claimant or the physician of the claimant to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;
 - (l) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; or

- (m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim.
- (2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:
 - (a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;
 - (b) A substantial increase in the number of lawsuits filed against the insurer or its insured by claimants; or
 - (c) Other relevant evidence.

836-080-0220 Misrepresentation and other prohibited claim practices.

An insurer shall not:

- (1) Fail to fully disclose to a first party claimant all pertinent benefits, coverages and other provisions of an insurance policy under which the claim is asserted.
- (2) Conceal from a first party claimant any insurance policy benefits, coverages or other provisions that are pertinent to the claim.
- (3) Deny a claim on the grounds of the claimant's failure to exhibit the relevant property without proof of the insurer's demand and the claimant's unfounded refusal.
- (4) Except where there is such time limit specified in the policy, make statements, written or otherwise, that require a claimant to give written notice of loss or proof of loss within a specified time and that seek to relieve the insurer of its obligations if the time limit is not complied with, unless the failure to comply with the specified time limit prejudices the insurer's rights.
- (5) Request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
- (6) Issue checks or drafts in partial settlement of a loss or claim under a specific policy coverage that contain language releasing the insurer or its insured from its total liability.

836-080-0225 Required claim communication practices.

An insurer shall:

- (1) Not later than the 30th day after receipt of notification of claim, acknowledge the notification or pay the claim. An appropriate and dated notation of the acknowledgment shall be included in the insurer's claim file.
- (2) Not later than the 21st day after receipt of an inquiry from the Director about a claim, furnish the Director with an adequate response.
- (3) Make an appropriate reply, not later than the 30th day after receipt, to all other pertinent communications about a claim from a claimant that reasonably indicate a response is expected.
- (4) Upon receiving notification of claim from a first party claimant, promptly provide necessary claim forms, instructions and assistance that is reasonable in the light of the information possessed by the insurer, so that the claimant can

comply with the policy conditions and the insurer's reasonable requirements. Compliance with this section not later than the 30th day after receipt of notification of a claim constitutes compliance with section (1) of this rule.

836-080-0230 Standard for Prompt Claim Investigation.

An insurer shall complete its claim investigation not later than the 45th day after its receipt of notification of claim, unless the investigation cannot reasonably be completed within that time.

What to Do if You're in a Collision

What should you do if you are in a collision with a motor vehicle? First, Be Prepared! While the odds may be pretty good that you will never be involved in a collision, there are several tips you can follow which will make any collision less of a disruption in your life. An understanding of the fundamentals of insurance, medical services, and the legal system will help you later after your collision. This article is a very basic primer on these areas.

If you are in a collision

If you do get in a wreck with an automobile on your bicycle, make sure that you obtain complete and accurate information about the automobile driver. It is an unfortunate fact of modern life that some people with driving and insurance problems carry false identification. Make sure that the driver shows you an official document such as a driver license or other photo ID as well as a certificate of current insurance coverage before they leave the scene of the collision. If they will not do so, then call the police.

Persons involved in a collision need to know the law. It is an unfortunate fact that there are so many accidents involving hit and run drivers that law enforcement agencies are overrun. Generally, limited law enforcement resources can only be expended on the most serious injury collision cases. However, the persistent hit and run victim will get further in the system than a person who makes one call and gives up. Oregon law requires that a driver or vehicle owner must complete an accident report on a Department of Transportation Accident Report form within 72 hours of an accident which results in injury or property damage in excess of \$1,000.

Even collision witnesses have certain legal duties. ORS 811.715 requires that witnesses to a collision that results in injury or death to any person or damage to a vehicle must furnish to the driver or injured persons the true name and address of the witness. This means that you have a right to demand (with the legal authority to have the person cited if they fail to

comply and you are lucky enough to have a police officer arrive at the scene to cite them) that available witnesses provide you with information so that you can have a witness later to testify about what they saw in the collision. Because some people are unwilling to become involved in the aftermath of a collision, letting them know that failure to comply is a traffic offense may be a positive encouragement to do the right thing.

While few people know about the duties required at the scene of a collision for drivers, the law is very specific in requiring that whether there is an injury or only property damage, the driver of a vehicle must “immediately stop” at the scene or as close to the scene as possible. The driver must remain at the scene of the collision until they have provided “the name and address of the driver and the registration number of the vehicle and the name and address of any other occupants of the vehicle.” ORS 811.700. The driver must also exhibit their driver’s license documents and, if there is no driver in a vehicle hit in a collision, a written notice providing the name and address of the driver and a statement of the collision circumstances must be left in a “conspicuous place” in the vehicle. Violation of the law if there is property damage is a Class A Misdemeanor punishable by up to one year in jail.

If a person is injured in a collision, failure to follow the requirements is stepped up to a felony (Class C Felony, maximum penalty 5 years in jail). The other driver must provide “reasonable assistance” including making arrangements for conveying the injured party to a place providing medical treatment. The requirement for stopping at the scene also applies to a collision which results in injury to an animal; in that case, the driver must report the injury to the animal’s owner or if unable to do so, to a police officer. ORS 811.710.

Many people think that calling the police will result in investigation and preparation of a police report. However, unless it is apparent to the responding police that there has been an injury in the collision, they will usually not prepare a report, but instead will merely assist in exchange of information. Many serious injuries are not visible at the scene of a collision when a bicyclist’s adrenaline is flowing and there is the usual confusion about what to do next. If possible, return to the scene or send a friend with a camera and take photographs of skid marks, glass, or marks on the road showing point of impact, direction, speed, or force. Try to document what the conditions were and how the collision happened. Time after time, I have seen clients outraged and disappointed when a motorist who freely admitted to being at fault at the scene later changed his or her story in an attempt to shift fault to the bicycle rider.

Medical treatment

If you have any question at all about whether or not you are injured, you should immediately go to an emergency room or get in to see your regular doctor. Many internal injuries, including closed head brain injuries, as well as soft tissue neck and back injuries are not fully appreciated by the injured person until some time has passed after the collision. It is important that you document your injuries so that later, if need be, you can show through medical proof that your injuries were caused by the collision.

Bicycle riders need insurance

Most people do not realize that their automobile insurance policy also covers them while they are riding a bicycle. This is important for bicyclists, as “insurance consumers,” because everyone who has an automobile insurance policy is paying part of each premium dollar toward coverage that will apply if the insured person is injured as a pedestrian or bicyclist.

For example, if you are hit on your road bike by an uninsured drunk driver one afternoon while you are on a training ride and seriously injured, it is important to realize that your own automobile insurance will provide two types of coverage for you. First, Personal Injury Protection (PIP) will pay for your medical bills and loss of income. PIP is a part of your own policy and will apply in every bicycle collision regardless of whether the other person is insured, and regardless of whose fault caused the collision. It is “No fault” coverage. “No fault” means that even if a collision is your fault, PIP protection will cover you. Even if you have no car insurance because you are not a car owner, you may be covered by the car insurance policy for your parents, spouse or your employer.

The second type of applicable coverage is Uninsured (UM), Underinsured (UIM) Motorist Coverage, a legally required part of every automobile insurance policy. UM/UIM may provide an important safety net for riders whose injuries are a result of the fault of another person who has no insurance, or insufficient insurance to cover the damages resulting from the collision. UM/UIM coverage may pay not only for medical services and wage loss, but also for pain and suffering, interference with activities, future impairment of earning capacity and punitive (or punishment) damages.

All bicyclists should have some sort of insurance coverage. Seriously consider raising the limits of PIP (statutory minimum of \$15,000 for medical and up to \$15,000 for wage loss) and UM/UIM (statutory minimum \$25,000) coverage above the minimum amounts. If you shop for insurance, you will discover that the cost per dollar of coverage is relatively inexpensive once you get above the minimum coverage amounts.

If you are ever unlucky enough to get seriously hurt, you will be greatly relieved if you at least have adequate insurance to cover your damages.

Until February 2012 when Spoke Bicycle Insurance became the first broker to offer stand alone bicycle insurance, people without an automobile insurance policy did not have Liability or Uninsured/Underinsured Motorist (UM/UIM) coverage. This meant that if a cyclist caused a collision or was hit by an uninsured driver, the cyclist had no insurance coverage to cover the damages. Spoke Insurance offers \$100,000 in Liability coverage and \$25,000 UM/UIM per occurrence to bicyclists as a stand alone insurance product. While \$100,000 provides meaningful protection in case you hurt someone, the UM/UIM total of \$25,000 per occurrence is not enough to provide you with much more than coverage for the cost of a single night in the hospital.

In addition, Better World Club, in partnership with their broker Oregon's Gales Creek Insurance Services, has announced it is about to offer bike specific insurance nationally that will include both accident and liability coverage, as well death and dismemberment coverage.

Commercially available insurance for bicyclists is a huge step forward and a sign that bicycles are being taken seriously enough as sole transportation to draw the interest of the insurance industry in creating additional potential customers. Hopefully these initial programs will be successful so that insurance companies develop the confidence to offer higher limits to riders at affordable rates, including substantial coverage to allow a cyclist injured by an uninsured or underinsured driver to recover damages for pain and suffering and lost income.

It will never happen to me

Most people like to live their lives as if tragedy is not around the next corner. Studies have shown that people with a positive mental attitude are less likely to be accident prone and have better longevity than the perpetually worried. However, the experienced cyclist crashes an average of once every 8,000 miles of riding, or once in every 800 hours of riding (if you average around 10 miles per hour). This is not representative of the number of collisions involving injuries, which is much lower.

However, for some people who cannot get a driver's license due to mental, legal, or substance addiction problems, bicycle riding is one step above walking as the transportation option of last resort. The difficulty of getting and keeping a driver's license, maintaining mandatory insurance, and the high cost of car ownership, explains the findings in a recent study conducted by researchers at the Johns Hopkins Injury Prevention Center which revealed that one in three bicyclists involved in fatal collisions or

accidents had been drinking and nearly a fourth had a blood alcohol level over the legal limit.

The only advantage to drinking and driving a bicycle instead of a car is that at least when a bicyclist crashes the resulting damage is usually limited to the bicyclist. People who think that they are immune from arrest for DUII on a bicycle are wrong. Under Oregon law a bicycle rider can be cited for Driving Under the Influence of Intoxicants just like a motorist.

Should I handle my own case?

If you are seriously injured and the other driver is at fault and insured, it is likely that you will receive solicitation letters, “courtesy copies” of the police report, and even refrigerator magnets (argh) from lawyers who want to represent you. Remember, lawyer services are like any other personal service – be an educated consumer, make your selection carefully after learning about lawyers who come highly recommended by people you trust. If your collision involves minor injury or property damage, it will be more difficult to attract excellent counsel. If you have a collision that is clearly the fault of the other party and don’t mind the hassle of bird dogging your claim, then go for it and save the money (usually one-third) you would otherwise pay for a lawyer.

If you do decide to go it alone, there are resources available. My law firm, in conjunction with Bicycle Transportation Alliance (BTA), has conducted legal clinics for bike riders trying to learn their legal rights since 1995. Our goal is to provide information that riders need to know about the legal system. Call the BTA at (503) 226-0276, or email info@bta4bikes.org for the date of the next clinic. Our office has also posted a number of Oregon laws and information on our web site. Check it out. You may find the text of the law that applies to your case at www.stc-law.com.

The law regarding time limits is complicated and unforgiving. A thorough discussion is beyond the scope of this basic advice, but generally in Oregon the statute of limitations in a negligence action is two years. A tort claim notice must also be made within 180 days of the accident or collision against any public body, including TriMet or other semi-private companies. However, there are a number of exceptions and special rules, such as an extension of time for minors. If you decide to handle your accident or collision case for yourself, ask the claim adjuster to put in writing what legal timelines are applicable to your claim.

Why am I being treated this way?

After your collision, you feel like a victim. For some people, dealing with the other driver, medical services and insurance is smooth and uneventful. But many people are shocked when the expected “benefit

delivery system” turns out to be a “benefit denial system.” Every injured rider is entitled to be treated with respect and courtesy. Questions about insurance coverage, medical services costs and available benefits should be answered fully and without hesitation, and no person should be pressured to settle their claim. If you do not have the type of positive experience described above, something is wrong, and you should discuss these issues with a trusted friend or family member, or consult with an attorney. In any event, as an accident victim you have a right not to be pushed around by the same system that exists to help you recover from your injuries. No one should be allowed to add insult to your injuries.

Collisions That Result in Property Damage

Fortunately, most bicycle collisions do not result in personal injuries. Instead, wheels get bent, helmets scraped (you did have your helmet on didn't you?) and, if the collision is the motorist's fault, a "property damage" claim is made against an insurance company. For the bicyclist, property damage claims are frustrating. Few lawyers are interested in representing a bicyclist whose claim involves a few hundred dollars. Consequently, bicyclists with little or no experience in legal matters find themselves advocating for damages with experienced claims adjusters. Since the amount involved is usually small, the bicyclist ends up appealing to the claims adjuster's sense of fairness. Most claims adjusters are not experienced riders and they are frequently shocked by the costs of bicycle repair and parts.

Further, property damages are not recoverable unless the motorist is more than 50 percent at fault, because Oregon's law (unlike the law of some other western states) requires that a potential defendant pay their percentage of fault only if their fault is greater than that of the bicyclist. This means that if the bicyclist is 51 percent at fault and a motorist is 49 percent at fault, the motorist completely escapes financial responsibility.

Since the claims adjuster's job is to pay as little as possible on a claim, any fault arguably attributable to the bicyclist will be pointed out as a reason to reduce the amount paid. It is essential during these discussions that a bicyclist knows the basic Rules of the Road. If possible, be prepared to cite actual Oregon Revised Statute (ORS) numbers.

The law relating to property damage claims is technical. Many people believe that they should receive the amount of money they will need to replace their damaged property. Unfortunately, that is not the law. Instead, the bicyclist is entitled to the amount of money that is equal to the difference between the fair market value of the property immediately

before, and immediately after, the occurrence. This is called the diminution in property value.

Bicycles depreciate rapidly and often the market value of a used bicycle is considerably less than its original purchase price. In order to establish market value, it is best to take your bicycle to a bike shop and get the following estimates:

- Value of the bicycle in the condition it was in immediately before the collision. In other words, the appraisal should be an appraisal of the bicycle the same year and model as your bicycle in the condition your bicycle was before the collision. It is sometimes difficult to find an employee at a shop who can perform this appraisal because most bike shops only sell new bikes. If you are having trouble, call around and find the name of a bike shop that sells used bicycles.
- Cost of repair of the bicycle. Do this even if you are certain the bicycle is beyond repair.
- Value of the bicycle in the condition it was in immediately after the collision. This amount is usually very low; what market value is there for a damaged bike?

The claims adjuster will almost certainly call the shop to verify your figures. If your bike is “totaled” the adjuster will want to pay the value of your bicycle before the collision minus its salvage value. Frequently, bicycles have little or no salvage value. If you have a particular attachment to some of the components, such as that Terry saddle or that wonderful old Campagnolo crankset, let the adjuster know and they will frequently be willing to let you have these parts. It has been my experience that the adjuster will usually recognize that a bike has no salvage value and allow you to keep the damaged bike if it is indeed totaled. On the other hand, if the bicycle can be fixed, it is up to you whether you want to fix the bike or not.

You are not entitled to receive more money because your bicycle had a particularly high sentimental value. However, if your bicycle was a rare bicycle, and was, therefore, of an unusually high monetary value, you are entitled to receive that greater value if it is damaged or destroyed.

Remember, the diminution in value of the bicycle may be much less than it would actually take to fix the bike. The law states that the person responsible for the damage need only pay the loss in value, not the cost of repair.

Bicyclists are frequently anxious to have their damaged bicycles repaired as soon as possible after a collision. The Oregon statute of limitations for property damage claims caused by negligence is two years unless the defendant is an agent for a public entity, in which case written notice of a claim must be provided to the appropriate authority within 180 days after

the collision. In serious injury cases, it can be a year or more before the person has recovered enough to know what, if any, permanent physical impairments may have resulted; however, property damage claims can be resolved immediately after the collision. There is no tactical reason to wait to resolve the property damage claim. If a bicyclist also suffered physical injuries, any release of claims signed by the rider can be limited to property damage only so that the personal injuries may be pursued at a later time within the statute of limitations.

Sometimes riders are discouraged because the responsible driver's insurance company fails to promptly pay on the property damage claim. In auto v. auto cases, property damage claims get settled promptly because claims adjusters are accustomed to providing a rental car while the damaged vehicle is in the shop getting fixed. The same law applies to bicycles – the bicycle rider is entitled to a rental vehicle for the time it takes to get the damaged bicycle fixed and serviceable again. One tip for adding speed to the property damage disposition is to have the quote at the bicycle shop include the cost of a comparable rental bicycle by the day, week, and month so that the rider can let the adjuster know how the cost of delay is going to be transferred to the insurance company.

The same rules apply for other personal items such as helmet, panniers, clothing, and other personal property. If the clothing is new and you still have a receipt, it will be helpful for the bike shop in making an appraisal. If the property is older, the shop will need to know when you purchased it and the condition it was in prior to the collision. Finally, it is important that you save all property damaged so that you can show it to the adjuster if asked.

We frequently hear from angry bicyclists who feel that they are not being dealt with fairly in determining who was at fault in the collision, or the value of damaged property. Few bicyclists are willing to go to small claims court to advocate for themselves. Unfortunately, this means that riders frequently grudgingly accept “low ball” offers to settle property damage claims.

One tool that does exist for bicyclists is a law that gives a victim a negotiating edge. ORS 20.080 provides that in claims for less than \$10,000, if a ten-day demand letter is sent to the responsible party and is not paid, and the victim gets a lawyer and files a successful lawsuit, the responsible party has to pay the amount originally owed, plus attorney fees and costs. In a simple property damage claim, the attorney fees and costs could total several thousand dollars. If a bicycle rider is in negotiations and is being treated unfairly, it will probably help to mention this law because if the bicyclist has to hire a lawyer to file a lawsuit and wins the case, then the amount awarded as costs and fees may very well exceed the amount owed

for damages in the first place. The statutory provision is contained in its entirety below:

20.080 Attorney fees in actions for damages for personal or property injury.

- (1) In any action for damages for an injury or wrong to the person or property, or both, of another where the amount pleaded is \$10,000 or less, and the plaintiff prevails in the action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action, if the court finds that written demand for the payment of such claim was made on the defendant not less than 10 days before the commencement of the action or the filing of a formal complaint.
- (2) If the defendant pleads a counterclaim, not to exceed \$5,500, and the defendant prevails in the action, there shall be taxed and allowed to the defendant, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the counterclaim.

Property damage claims can be very frustrating for riders who are trying to represent themselves to get a fair recovery for their damaged equipment. Knowledge of the law helps to make the process a little easier, but in the final analysis, fair payment on damaged property claims requires a willingness to spend the time necessary to present the proof of loss and persevere through all the negotiations.

Collisions and Insurance

All too often a bicyclist is seriously injured in a collision caused by a negligent driver and later investigation reveals that the motorist was uninsured, sometimes leaving the bicyclist without any insurance benefits. All Oregon automobile policies include liability insurance to cover damages caused by a driving mistake. But each Oregon policy also contains two other types of coverage that can provide important benefits for injured bicyclists or pedestrians.

Personal Injury Protection

Personal Injury Protection (PIP) is included in every policy and is available regardless of fault (No Fault). If you are injured by a motor vehicle, even if the collision is your fault, your own auto policy (or that of your family) will provide basic medical payments, wage loss and other payments to you. The Oregon Revised Statutes (ORS) contain certain statutory minimums for PIP coverage, which include up to \$15,000.00 for medical expenses and one year of wage loss up to \$3,000 per month.

PIP policies can also be “stacked,” meaning that when more than one policy is applicable, the benefits accumulate for the claimant. So, if you don’t have an applicable policy, or your policy is insufficient to cover all of your expenses, then you can make a PIP claim against the driver’s policy, even if the collision is your fault. Sometimes insurance adjusters will question your right to make a claim but be persistent; the law is on your side.

Uninsured/Underinsured Motorist (UM/UIM) Coverage

Uninsured/Underinsured Motorist (UM/UIM) Coverage is included in every Oregon auto policy and provides coverage for all sums the uninsured “shall be legally entitled to recover as damages for bodily injury or death caused by a collision and arising out of the ownership, maintenance or use of an uninsured motor vehicle” (ORS 742.500). UIM coverage provides coverage to the injured person as if the uninsured driver had a liability insurance policy. The injured person makes a claim for damages with his or her own insurance policy.

So, when a person with auto insurance is injured by the fault of either a hit-and-run, uninsured or inadequately insured driver, UM/UIM coverage provides insurance coverage for the injured person and family in the same amount as the injured person's own liability coverage limits. This coverage applies whether the injured insured person was in a car, on foot or on a bicycle. In the case of a serious collision caused by an uninsured driver or underinsured driver, UM or UIM coverage is the best protection for an injured rider.

UM/UIM coverage only goes as high as the injured person's own liability coverage. Oregon's minimum liability coverage is \$25,000, which is too low for a serious injury with today's high medical costs. Oregon bicyclists would be well advised to consider raising their minimum insurance coverage to \$250,000, and their PIP insurance to \$25,000 or more, to protect themselves by creating a necessary fund for medical bills, lost wages, and pain and suffering if a serious injury is caused by an irresponsible driver. As with most insurance purchases, the higher ranges of insurance coverage provide more insurance for fewer dollars above the statutory minimum, so higher-limit policies are usually a very good deal for the dollar.

While it is not pleasant to consider, it is important to realize that a bicyclist is a vulnerable roadway user and what may be a minor fender bender in a car can result in tens of thousands of dollars of medical bills for a person on a bicycle.

The legal relationship between the various types of coverage in a serious collision is quite complex. In some instances, coverage may be denied or limited depending upon policy language and benefit amounts. Seek professional assistance from a lawyer knowledgeable about insurance claims before you accept any representations about whether a collision is covered by a particular insurance policy.

In sum, frequently, serious collisions are caused by uninsured or underinsured drivers. Even if a collision is caused by the bicyclist, PIP coverage (which is no-fault) will apply to provide some benefits. Bicyclists would be well advised to purchase UM or UIM policies with high policy limits to protect themselves from major injuries caused by financially irresponsible drivers..

Making Insurance Companies Play by the Rules

As lawyers representing injured bicyclists, we see one set of facts all too often. A bicyclist is hit by an automobile. The automobile driver is clearly at fault. Everyone stops, the bike is damaged and the bicyclist sometimes has minor injuries, like road rash or bruises. Information is exchanged and no ambulance is called. After the motorist apologizes for and takes responsibility for the collision, everyone departs.

One or two days later the bicyclist files a claim with the driver's insurance company, provides the claims adjuster with a statement about what happened and fills out paperwork, all the while thinking that this will be a straightforward insurance claim for property damage and physical injury. Then, about a week later the bicyclist receives a letter in the mail from the insurance adjuster saying that after an investigation, the claim is being denied because the bicyclist was mostly at fault in causing the collision. Or another equally frustrating variant occurs when the adjuster merely stops returning the injured person's phone calls.

At this point, the frustrated bicyclist sometimes gives up (rewarding the adjuster's bad behavior). If the insurance adjuster was trying to make the claim "go away" by making it difficult for the claimant, by unreasonably denying liability, failing to return phone calls or making a "lowball" offer; if the adjuster was counting on the claim being too small to attract an attorney to work on it, it is a perversion of the rules of fairness, especially if it works and the bicyclist abandons the claim.

However, frustrated bicyclists can increase their odds of having the insurance company follow the rules of fair play by using several little-known Oregon laws to even the playing field.

Citizen Prosecution of Dangerous Drivers

Oregon provides a powerful legal tool for citizens to take control of the legal process and issue a traffic ticket to a bad driver. ORS 153.058 empowers a citizen to file a violation proceeding against drivers who break

traffic laws. If successfully pursued to a conviction in court, a citizens citation can give you leverage to convince the insurance adjuster of the driver's liability. See "Citizen Prosecution of Dangerous Drivers: A User's Guide On How Others Have Done It and How You Can Do If for Yourself" for a how-to guide to ensure bad drivers are held accountable for their violations. (www.stc-law.com/citizenprosecutions.html)

Citizen prosecution of a dangerous driver makes it possible to create real consequences for a driver who commits violations of the traffic law in causing damage to a cyclist, even if law enforcement can't or won't give the driver a ticket.

Unfair Claims Settlement Practices Law

Another little-known but important Oregon law makes it illegal for insurance companies to mistreat claimants. Knowledge and use of this law should change the behavior of most bad actors in the claims process because they don't want to get caught.

ORS 764.230 is Oregon's unfair claims settlement practices law. It sets rules of conduct for insurance companies dealing with claimants. The requirements include:

ORS 746.230 Unfair Claims Settlement Practices.

- (1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:
 - (a) Misrepresenting facts or policy provisions in settling claims;
 - (b) Failing to acknowledge and act promptly upon communications relating to claims; ****
 - (d) Refusing to pay claims without conducting a reasonable investigation based on all available information; *****
 - (f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;
 - (g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

Additional requirements include rules set forth in the Oregon Administrative Rules, known as OARs, as follows:

OAR 836-080-0225 Required Claim Communication Practices

An insurer shall:

- (1) Not later than the 30th day after receipt of notification of claim, acknowledge the notification or pay the claim. *****
- (3) Make an appropriate reply, not later than the 30th day after receipt, to all other pertinent communications about a claim from a claimant that reasonably indicate a response is expected.

OAR 836-080-0230 Standard for Prompt Claim Investigation.

An insurer shall complete its claims investigation not later than the 45th day after its receipt of notification of claim, unless the investigation cannot reasonably be completed within that time.

These specific requirements provide basic legal ground rules for citizens involved in the claims process. Unfortunately, Oregon law does not provide meaningful financial penalties for violators. Some states, such as Connecticut, Texas and Washington, do provide financial consequences for unfair claims settlement practices. The Oregon Legislature could significantly improve Oregon law by following the example of these other states and reforming the Unfair Claim Practices Act to include administrative penalties and private rights of action in court against insurance companies who violate the law.

Oregon does have an insurance division that collects complaints about insurance companies and provides at least some oversight. The Oregon Unfair Claims Settlement Practices law provides for a finding against bad insurance companies of “bad general business practice”. The insurance division collects and tabulates the number of consumer complaints on a yearly basis. Complaints can be filed on line at www.obs.state.or.us/ins/consumer/tomake.html or by phone at (888) 877-4894. These complaints are compiled into a published yearly report on insurance companies operating in Oregon.

If an insurance company you are dealing with does not follow the rules, file a complaint with the State to help create a record of that company’s behavior. The current report for last year can be found at www.cbs.state.or.us/ins/consumer/consumer.html.

If you are a bicyclist who has fallen into the bad insurance practices trap, you should first call the adjuster (or the adjuster’s supervisor) and say that you want them to follow the Oregon Unfair Claim Settlement Practices law. Then, send a copy of the law by email (scanned), facsimile or mail, and tell them you will file a complaint if they do not call you back within 24 hours. This should prompt quick action, an improved attitude and a fair resolution of the claim for damages.

ORS 20.080, Small Tort Actions: Moving Forward If The Claim Does Not Settle

If satisfactory settlement of a claim cannot be worked out over the phone, the next option may be to send a demand letter to the adjuster. This letter sets out the facts of a collision, the injuries and property damage suffered, the medical treatment undertaken, any lost wages or income and the impact of pain, suffering, and inconvenience on the injured person.

Oregon law creates a financial incentive for insurers to settle small tort claims fairly. Under ORS 20.080 if an insurance company refuses to pay a written claim for damages of \$10,000 or less and the injured person later recovers in court, the insurance company must also pay the injured person's court costs and attorney fees. However, if the insurance company makes a settlement offer, the claimant must recover more than the offer to recover costs and attorneys fees.

When sending a written demand be sure to include language that will trigger application of the statute:

This letter is being sent pursuant to the provisions of ORS 20.080 to recover for [description of loss].

Demand is hereby made for payment of [\$loss] within 30 days. I have enclosed supporting documents for this claim.

Unless a satisfactory agreement to pay the above amount is reached within the time allowed, I will proceed with court action. If I recover damages in court, I will seek attorneys' fees and court costs in addition to the amount of the claim under ORS 20.080.

These documents are being sent to you and not your insured because you are acting as the sole and exclusive disclosed agent for your insured. If that is not correct, notify me in writing within 10 days so that I may take appropriate steps to contact your insured directly to resolve the matter in order to perfect this claim under ORS 20.080.

This language puts the insurer on notice (1) that you will seek attorney fees if you are forced to hire an attorney to litigate the case; and (2) that you are a well-informed claimant. Insurance adjusters who routinely "low ball" injured people risk having a successful claim made against their company, which, with the addition of attorney fees under ORS 20.080, may more than double the insurance company's costs. The purpose of the law is to provide a financial inducement to the insurance companies to reasonably settle claims without claimants having to take small claims to court.

ORS 20.080 helps solve the problem of unfair settlement practices for small claims, but only if you know about it and use it.

Hopefully, in your case the adjuster will make a fair offer. It may not be as much as the amount you sought, but is still reasonable because it includes factors from the insurance company's perspective that you had not considered as well as some "compromise discount".

Sometimes, even the suggestions listed above will not generate a fair offer in your case. If so, it may be time to talk to an attorney about your options. At least by following these steps you have placed yourself in a better position because you included the ORS 20.080 language in your demand, making an attorney more willing to take your case because their fees will be paid by the insurance company if you win.

NOTES

PORTLAND BICYCLING RESOURCES

Street Maintenance

To report problems on city streets:

- City Street Maintenance (emergencies, 24 hrs.) 503-823-1700
- City Pothole Hotline 503-823-BUMP
- City Traffic Safety Line safe@portlandoregon.gov / 503-823-SAFE
- Bicycling Message Line 503-823-CYCL, press 1

Download the City's free phone app: www.portlandonline.com and search for "PDX Reporter"

Bikes and TriMet

Expand your range and bring your bike on all TriMet buses and MAX for the regular fare. No permit needed! Bicycle storage lockers are also available at many transit centers and MAX stations.

- Bikes on buses/MAX/WES. www.trimet.org / 503-962-7644
- Secure bike parking at transit centers 503-962-2104

Bike Parking Information

- Bike parking map – downtown 503-823-7083
- Bike rack installation requests 503-823-CYCL, press 3

Youth Bike Safety Programs

- Community Cycling Center 503-288-8864
- Safe Routes to School / Bicycle Transportation Alliance (BTA) 503-226-0676

Safe Cycling Publications

All of these manuals are free from Portland Bureau of Transportation:

- Guide to Your Ride*, safe cycling tips & techniques*
- Safe Biking*, a city cycling handbook*
- Oregon Bicycling Manual*, a guide to safe cycling*
- Portland Bureau of Transportation 503-823-CYCL, press 2

Maps and Guides

Here are just some of the maps available to help you choose a good commuter or recreational route – all free, from Portland Bureau of Transportation:

- Portland By Bicycle – Citywide Bike Commuter map*
 - Portland Neighborhood Bike & Walk maps: N, NE, SE, SW, & NW areas**
 - Portland Metro area maps: Washington County / Gresham / Beaverton / Vancouver / Tigard / Wilsonville
 - Portland Bureau of Transportation 503-823-CYCL, press 2
- These are also available at: www.portlandonline.com/transportation/maps

For more information on bicycling in Portland contact:

- City of Portland Bureau of Transportation
- 1120 SW 5th Ave., Room 800
- Portland, OR 97204
- (503) 823-7083 / TTD (503) 823-6868 / jeff.smith@portlandoregon.gov

Visit us online at www.GettingAroundPortland.org
for more bike maps & safe cycling resources



*Disponible en español

This publication has been
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