

Pedal Power



A Legal Guide for Oregon Bicyclists

BY RAY THOMAS
FIFTH EDITION

A PROJECT OF THE BICYCLE



TRANSPORTATION ALLIANCE

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OPTIONS FOR PORTLAND TRANSPORTATION

RESOURCES FOR BICYCLING IN PORTLAND

Maps & Guidebooks

- Portland bike map and brochure
- Neighborhood maps for North, NE, SE, Outer SE & SW Portland 503.823.CYCL (press 2)
- Columbia River Gorge bike map
- Oregon Bicyclist's Manual
- Portland By Cycle: A Guide to Your Ride

Bicycle Repair and Maintenance Classes

- Community Cycling Center 503.288.8864
- North Portland BikeWorks 503.287.1098

Street Maintenance Requests (City)

- Street Maintenance (24 hours) 503.823.1700

Bicycle Parking

- Locker rental (downtown) 503.823.CYCL (press 3)
- Locker rental (transit/MAX) 503.226.0676
- Bicycle rack installation requests 503.823.CYCL (press 3)

Bikes on Transit

- Tri-Met Bikes on Buses/MAX 503.962.7644



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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 found on the right side of each page. 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 19 volume set of ORS can be purchased, but it is our intent to create one handy guide containing the actual text of the law. In the column to the left of the statutes we have included a number of comments that help to 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.

With the popularity of separate bicycle facilities and traffic planning there is a new awareness among drivers about bicycling as a lifestyle choice 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 re-examine 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, access to city sidewalks, and 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 Kristin Kidd whose efforts led to each of the editions to date.

Ray Thomas

Swanson, Thomas & Coon

Representing Oregon's Bicycling Community Since 1981

A Word From The BTA

Congratulations! You have in your hands an indispensable resource for bicycling in Oregon. In this book, you'll find the laws that govern bicycling in our state, and 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.

Pedal Power is a companion volume to the bi-monthly Legal Clinics offered by Ray Thomas as a benefit for the Bicycle Transportation Alliance (BTA). One of the state's leading experts on bicycle law, Ray has offered the clinic for more than a decade. The information it (and this book) contains is based on the countless cases he has handled on behalf of cyclists from all walks of life.

The BTA is a statewide non-profit organization working to promote bicycling and improve cycling conditions in Oregon. We work to create healthy, sustainable communities by making cycling safer, more convenient and more accessible. Since 1991, we have represented cyclists' rights in cities throughout Oregon, and at the state legislature. We believe everyone should be able to use a bike to meet their transportation needs, whether it's commuting to work, getting kids to school, or riding to the nearest grocery store to get a gallon of milk.

Ray Thomas, along with countless other professionals and community members, has been instrumental to this work. Their support has enabled the BTA to become a strong, respected organization with more than 4000 members.

I invite you to join them – and the Bicycle Transportation Alliance. By becoming a member, you help us represent cyclists of all types and abilities, and lend your voice to the growing call for communities that are vital, environmentally sustainable, and human in scale.

Please send in the membership form on the previous page, or visit our web site at www.bta4bikes.org.

See you on the road,

Evan Manuel
Executive Director

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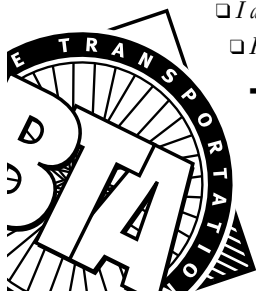
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Ray Thomas' Legal Clinic at the Bicycle Transportation Alliance

Every other month, the Bicycle Transportation Alliance presents a free Bike Legal Clinic in Portland. Cyclists, pedestrians and auto drivers alike have the opportunity to learn from the experience and expertise of Portland bicycle lawyer Ray Thomas.

In a one hour evening session that is both informative and entertaining, Ray explains the format of Pedal Power, how to ride within the limits of the law, and how to use the law to your advantage in the event of an incident or accident. Delving into the labyrinth of legal language, Ray uses plain English to cover topics ranging from the laws on lights and riding on the sidewalk to passing on the right and the proper use of bicycle lanes.

One need not be a BTA member to attend, and the service is provided free of charge. If you live outside the Portland metro area, or if you are interested in hosting a legal clinic for your business or organization, please call Swanson, Thomas & Coon to arrange a special presentation; 503.228.5222. For details on date, time and location for the Portland clinic, please call the Bicycle Transportation Alliance; 503.226.0676.

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. Usually a motorist fails to see a bicycle rider and opens a door so close to the bicycle that an accident or near miss occurs. Bicycle messengers call it being “car-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:

ORS 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 \$90.00. 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 an accident. 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 accident”), but by the time the motorist thinks about it and talks to an insurance adjuster or attorney, their view of the accident 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 accident 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 accident the motorist is primarily at fault. However, it is essential in every case that the bicyclist carefully remember and reconstruct the scene of the accident 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 about ten years. 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 an accident.

Oregon's 2006 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. General concern about exercise causing and good health, new laws like the 2005 Safe Routes to School legislation and the new crosswalk law have improved conditions for non-motorized roadway users. Oregon commercial interests interested 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; i.e. as more and more Oregonians identify themselves with non-motorized roadway users, positive inertia toward improvement of conditions make the Spring of 2006 the most exciting season ever for Oregon's walkers, bicyclists, skaters, bladers, and rollers.

Oregon law treats all non-motorized crosswalk users as if they were pedestrians, even bicyclists. The Oregon 2005 Legislature attempted to clarify away a confusing section of the law relating to when a motorist must stop and wait for a pedestrian. Unfortunately, the new law is somewhat difficult to read and is linked in the minds of many citizens with the uncertainties associated with the school zone speed limit law. The end result is ignorance combined with apprehension.

Oregon Crosswalk Law

What is a Pedestrian?

The current Oregon Revised Statute (ORS) governing crosswalks went into effect in January of 2006. 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.

The New 2006 Crosswalk Law

The pedestrian crosswalk law 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 if one vehicle stops to allow a pedestrian to cross and remain stopped.

The new 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.

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. While on the one hand Oregon law allows bicyclists to have the right-of-way in crosswalks like a pedestrian, the law also sets a speed limit for bicycle riders that conditions the right-of-way 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 in a crosswalk than their parent on a bicycle under Oregon's crosswalk law. Bicycle advocates like the Bicycle Transportation Alliance (BTA) have been unsuccessful for over ten years in convincing the legislature that the law should be changed to include language that would allow bicyclists to proceed at a "reasonably safe speed" in a crosswalk and maintain 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 across intersections like galloping urban deer, few bicyclists know about the "walking speed" limit and 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 claims, 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 our book *Pedal Power* 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 while the crosswalk sets an unnecessarily harsh speed limit of a “walking speed” for bicyclists. 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.

How To Send All The Right 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 an 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 it 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 accident. As a result, a clear liability accident is now a shared liability accident 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 accidents. 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 supplied 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.

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 more friendly 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 light-

ing 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 an accident 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 accidents that are clearly the motorist’s fault become contested liability fights because the bicyclist failed to have a headlight. Since many accidents occur when a motor vehicle pulls out in front of a bicyclist, it is often the finding of a post-accident 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 an accident 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 are somewhat problematic because when the bicycle stops the lights go out. 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, because they provide a long charge and can be readily removed for daytime only riding. Most

experienced night riders use a smaller 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 an accident, 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.

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 & PEDESTRIANS:

Prohibition of Non-Motorized Vehicles on Freeways

734-20-0045 (1) Non-motorized vehicles 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 122nd Avenue, MP 10.25, east bound, and to Sandy Boulevard, MP 15.14, west bound;

(B) The Sunset Highway No. 47 easterly of the Jefferson Street Interchange, MP 73.35;

(C) Interstate 5 (Hwy. No. 1) from the Beaverton-Tigard Highway Interchange, MP 292.20, to the Delta Park Interchange, MP 306.70;

(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, MPEo.00, to 23rd Street, MP 1.99.

(b) Medford area: Interstate 5 (Pacific Highway No. 1) from the Barnet Road Interchange, MP 27.58, to the Crater Lake Highway Interchange, MP 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 sheetmetal surrounding their vulnerable bodies. If anyone is hassled about riding on lawful roadways, cite the “offending officer” to the OAR; knowledge is power.

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 motorists’ 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. Consequently, there is much confusion on everyone’s part about how to ride in and drive near bicycle lanes.

Bicyclists must use bike lanes 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 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 suitable), 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 prac-

tice and common sense into account. The new law provides that a rider may move out of the bicycle lane or path to pass, turn or avoid a hazard:

Section 3. ORS 814.420 is amended to read:

814.420 (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 about 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 include 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.

ORS 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 the Rules of Road, 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 \$360.00 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.

The New Law of Passing From A Bicyclists' Perspective

Bicyclists have complained for years about the former Oregon law that prohibited passing on the right when motorists and bike riders were sharing the same lane. The Bicycle Transportation Alliance Legislative Committee and the 2005 Oregon Legislature worked together to change the law so that passing on the right is allowed when it is safe under existing circumstances. The new law goes into effect with the rest of Oregon's 2005 legislative changes in January of 2006.

First, what is not different. The old law permitted passing on the right when a vehicle was in the same lane and turning left, so long as the following vehicle did not have to go off of the paved roadway in order to go around. The new law continues to allow this maneuver, which aids the smooth flow of traffic. Passing on the right in a bicycle lane (which is a separate lane from the regular traffic lane) is allowed at any time, even under the old law, just as passing on the right when there are two parallel traffic lines in the same direction on a highway is allowed.

The “New” Law About Passing On The Right

What has changed about passing on the right in Oregon is that the 2005 Legislature adopted the Bicycle Transportation Alliance (BTA) Legislative Committee's recommendations that certain safe maneuvers will improve the law for bicycle riders and help improve the flow of traffic. Senate Bill (SB) 938 was passed with a bipartisan effort in the Oregon House and Senate and signed by the Governor in late June 2005. The new law, while simple, makes a significant change for Oregon bicyclists. ORS 814.420 now provides as follows (the new matter is in bold below):

Unsafe Passing on the Right.

SECTION 1. ORS 811.415 is amended to read:

811.415. (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 a sufficient distance to permit passage by the overtaking vehicle to be made in safety.
 - (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.

In application, the new law allows safe passing on the right which helps to make the flow of traffic more smooth, and keeps riders from being stuck while stopped in a line of exhaust spewing motor vehicles.

What Has Not Changed under the “New” Law

While the new law allows passing the right when it is safe to do so, it is still a violation of the passing law to engage in unsafe passing maneuvers. While it is a fact question in each situation, it is likely that judges and juries will have a dim view toward passing on the right when it occurs at reckless speeds on lane divider lines of multi-lane roadways, or when riders fail to cautiously approach cars stopped with

blinking turn signals waiting for the light to change. While the law does create a right of passage on the right side of the traffic lane, riders will have to help car drivers learn to drive around bicyclists using the right part of the lane. Fluid and dynamic utilization of the entire roadway requires full attention and constant scanning by drivers. A glance over the right shoulder is necessary for all movements that may cutoff a passing bicyclist on the right side.

The old law was unfair to bike riders because few people even knew about the legal restriction on passing on the right and it was not until somebody got into an accident that the passing prohibition was used against them. The old law was unfair because it created a blanket prohibition against a riding maneuver which is used safely throughout the world by bicyclists. Further, the old law discriminated against bicycle riders because motorists were allowed to pass slower moving bicyclists in the same lane, but when the motorist slowed the bicycle riders were unable to then move forward, such as at a traffic light where there was a long line of stopped cars. The new law removes one more trap from the Oregon Vehicle Code and promotes a dynamic and fluid use of the traffic lanes akin to the cooperative sharing of the road encountered in other countries where roads are not dominated by motor vehicles.

Of course, bicycles are entitled to pass cars just like any other vehicle on streets without a bicycle lane. Note that ORS 811.410 prohibits overtaking vehicles from speeding up until they are completely passed. When bicyclists are passed by cars, such as on a rural two-lane black-top, the passing car frequently crosses the centerline of the roadway in order to give berth to the cyclists since the speed difference between the vehicles can be as much as 50 miles per hour. Bicyclists must recognize that if the pass takes the motorist over the centerline then the passing car must yield to vehicles coming in the opposite direction.

Experienced bicyclists shudder when they sight a truck quickly approaching from the rear on a rural highway when another truck is coming in the opposite direction, such that all three vehicles have the chance of meeting on the same section of roadway. When necessary, the overtaking vehicle is supposed to slow down and pass the slower moving cyclist after the roadway is clear and unobstructed in the opposite lane.

Bicyclists Deserve Additional Room on the Roadway

Many bicyclists wonder why car drivers are so miserly with their relinquishment of a portion of the travel lane, and so reluctant to cross

the center line in a roadway when it is unoccupied. While it is generally true that the Rules of the Road prohibit crossing the center line in no passing zones, there is an exception in ORS 811.420 allowing a vehicle to cross over the center line “when an obstruction or condition exists making it necessary to drive to the left of the center of the roadway.” Of course, the driver must yield to oncoming motorists, but if the roadway is clear, there is no reason that a motorist should be reluctant to move over to give a safe wide berth to bicyclists.

One way we can teach drivers is through our own actions

One exercise I sometimes enjoy when driving is to watch the vehicles ahead of me go around a bicyclist, usually giving the rider little room when they pass. Then when I go around the bicyclist, I give four feet of space to the bike rider and then watch my rearview mirror to see what happens. Most times, the following vehicles automatically end up following my lead if the opposite lane is clear, taking their cue from me about giving bicyclists room on the road. It says something good about human nature that when we follow each other like lemmings it is not always toward bad behavior, but sometimes toward improved behavior. The changes in the passing law are an important step in creating a legal environment in Oregon which takes bicyclists into account.

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.

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 with 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.

Avoiding Typical Accidents

Bicyclists seeking to avoid accidents 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 accident patterns to learn and prepare to avoid so as to reduce the chance of an injury accident.

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 because arguably more alert than they are for other types of non-motorized road users such as joggers and bladders) 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 accidents.

Left Turning Motorists

Most left-turn accident cases involve a bicyclist not in a bicycle lane who is hit by a motorist coming from the opposite direction who fails to see the bicyclist until it is too late. These are often serious accidents because of the closing forces from traveling in opposite directions. Accidents occurring where the bicyclist is riding at night without lights or was passing on the right of a line of stopped or slower cars without being in a bike lane provide the most frequently encountered liability problems from the bicyclists' perspective. However, in the typical case, the failure to yield by the motorist is sufficient to establish liability. When these accidents result in lawsuits and go to court the usual legal problem relates to medical causation and damages rather than fault.

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, past that point 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 an accident.

Other Survival Skills

Other non-riding factors are also involved in avoiding accidents. 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 Accidents

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 accidents 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.

Accident Avoidance Riding Skills

Defensive driving awareness coupled with knowledge of emergency accident avoidance techniques may decrease the chances of an injury accident. However, an old statistical rule of thumb is that the average rider will be involved in an accident about once in every seven years of riding. Knowledge of emergency avoidance techniques can go a long way toward avoiding accidents because there is so much room in which 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 and 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 is to wear a good helmet. Many serious accidents include large force impacts to the head. Dented and cracked helmets are frequently found at the scene of high energy accidents. 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. 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 or not an accident happens. Maximize your chances of avoiding an accident by using lights at night, wearing bright colors, and always wear a helmet.

Oregon Revised Statutes (O.R.S.)

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

815.280 Bicycle equipment requirements**815.281 Selling unapproved bicycle headgear; renting bicycle without having approved headgear available; penalties****153.018 Schedule of penalties**

(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 provided in this section, a sentence to pay a fine for a violation shall be a sentence to pay an amount not exceeding:

(a) \$720 for a Class A violation.

(b) \$360 for a Class B violation.

(c) \$180 for a Class C violation.

(d) \$90 for a Class D violation.

(e) The amount otherwise established by law for any specific fine violation.

(3) If no special corporate fine is specified in the law creating the violation, a sentence to pay a fine for a violation committed by a corporation shall be in an amount not to exceed twice the fine established under this section for a violation by an individual. 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.

(4) If a person or corporation has gained money or property through the commission of a violation, instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section, the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the violation. For the purposes of this subsection, the defendant's gain is the amount of money or the value of property, as determined under ORS 164.115, derived from the commission of the violation, less the amount of money or the value of property, as determined under ORS 164.115, returned to the victim of the violation or seized by or surrendered to lawful authority before the time sentence is imposed.

153.093 Minimum fine

(1) Notwithstanding any other provision of law, a court or violations bureau may not defer, waive, suspend or otherwise reduce the fine for a violation to an amount that is less than:

(a) 75 percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a Class A, B, C or D violation, or an unclassified violation, under ORS 153.012 and 153.015; or

(b) 20 percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a specific fine violation as described by ORS 153.015.

(2) Nothing in this section:

(a) Affects the manner in which a court imposes or reduces monetary obligations other than fines.

(b) Allows a court to reduce any fine amount below a minimum fine amount established by statute for the offense.

(c) Affects the ability of a court to establish a payment schedule for fines imposed by the court.

(3) For the purpose of determining whether a fine meets the requirements of subsection (1) of this section, the unitary assessment amount under ORS 137.290 and the county assessment amount under ORS 137.309 shall be included in calculating the amount required under subsection (1) of this section.

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 is estimated to provide \$1 million per year for five years to the Oregon Department of Transportation (ODOT) Transportation Safety Division (TSD).

195.115 Reducing barriers for pedestrian and bicycle access to schools.

City and county governing bodies shall work with school district personnel to identify barriers and hazards to children walking or bicycling to and from school. The cities, counties and districts may develop a plan for the funding of improvements designed to reduce the barriers and hazards identified. [2001 c.940 §1]

2005 Oregon Laws chapter 484 (eff. Jan 1, 2006).

SECTION 1. (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.

SECTION 2. (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.

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

At least 1% of State Highway Funds must be spent for non-motorized users on highway or street construction projects.

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.

(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.

801.348 "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.

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.

(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:

(a) 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

(b) 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.

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

Overtaking vehicles must stop for vehicles stopped at crosswalks for pedestrians.

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

Drivers and bicyclists must yield to pedestrians on sidewalks.

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.

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:

(a) Proceeding in accordance with a traffic control device as provided under ORS 814.010 or crossing the roadway in a crosswalk, as defined in ORS 801.220; and

(b) In any of the following locations:

(A) In the lane in which the driver's vehicle is traveling;

(B) In a lane adjacent to the lane in which the driver's vehicle is traveling;

(C) In the lane into which the driver's vehicle is turning;

(D) 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

(E) 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.

(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

**Motor vehicles
must yield to
bicycles in
bicycle lanes.**

- (b) Where a pedestrian tunnel or overhead crossing has been provided at or near a crosswalk.
- (4) The offense described in this section, failure to stop and remain stopped for a pedestrian, is a Class B traffic violation.

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.

**Motorists must
yield to bicyclists
on sidewalks.**

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.

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 con-

tact 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.

811.415. 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.

(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.

Bicyclists may pass on the right when it is safe as of January 1, 2006

Motorists may only drive upon a bicycle lane when turning, or crossing over it in order to turn off the road.

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. (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.
- [1983 c.338 '645; 1991 c.417 '1; 2001 c.749 '24; 2003 c.341 '8]

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

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.

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.

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

On a sidewalk it is illegal to:

- Dart in front of other vehicles.
- Pass a pedestrian without an audible signal.
- Ride faster than a walking speed when crossing in front of motor vehicles.

paragraph does not require reduced speeds for bicycles either:

(A) 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; or

(B) When motor vehicles are not present.

(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 infraction.

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

(1) Except as provided in [subsection (2)] subsections 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:

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.

Preparing to execute a left turn at an intersection or into a private road or driveway.

Avoiding debris or other hazardous road conditions.

Preparing to execute a right turn where a right turn is authorized.

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.

[(3)] (4) The offense described in this section, failure to use a bicycle lane or path, is a Class D traffic violation.

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

The Bicyclist's Bill of Rights:

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

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

Okay to ride along left side of road on one way street.

Bicyclists can ride "two up," or side by side; not three across.

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.

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.

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.

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

Full control and one
hand on handlebars
necessary.

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

(2) The offense described in this section, unlawful load on a bicycle, is a Class D traffic infraction.

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.

Use that bicycle seat.

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.

No free rides.

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.

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

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.

814.485. Failure to wear protective headgear; penalty.

**Helmets mandatory
if under 16 years old.**

(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 traffic infraction punishable by a maximum fine of \$25.

814.486. Endangering bicycle operator or passenger; penalty.

**Child passengers
must wear helmets.**

(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 traffic infraction punishable by a maximum fine of \$25.

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.

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

(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.

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

(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.

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

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

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.

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:

Parents responsible for children following law.

- (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.

Brake must be strong enough to skid tire.

(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 to make the braked wheels skid on dry, level, clean pavement.
- (b) A person shall not install or use any siren or whistle upon a bicycle.
- (c) At the times described in the following, a bicycle or its rider must be equipped with lighting equipment that meets the described requirements:

Light must be used during “limited visibility conditions.”

- (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.

Front — white light visible 500 feet.

Rear — red reflector or light visible 600 feet to rear.

(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.

815.281. Selling unapproved bicycle headgear; renting 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.

Bicycles, Sidewalks 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 uniform fine is \$90.00. 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 be prepared to stop quickly when using the sidewalk, even though by law the motorist is supposed to yield to the bicycle.

The Portland police have “cracked down” on bicyclists who ride on sidewalks in downtown Portland in response to business owners’ concerns that bicyclists were disrupting pedestrian traffic and making sidewalks unsafe for pedestrians. The crackdown apparently began in late 1997, which was in response to business owners’ concerns that bicyclists were disrupting pedestrian traffic and making sidewalks unsafe for pedestrians. The downtown police precinct appears to have followed suit. The police say that they are not just cracking down on bicyclists, but are also citing people who violate other “livability” ordinances, such as those that regulate noise, driving on the bus mall and blocking driveways.

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.

PART II: BICYCLE RIDING ON SIDEWALKS

CITY ORDINANCES REGARDING RIDING ON THE SIDEWALK

Ashland § 11.52.030:

No person shall ride or operate a bicycle on a sidewalk in the central business district or commercial zone.

Maximum Fine Not to Exceed \$500.00

Upon conviction, the court may, in addition to any other penalty, order that the bicycle that was used at the time of the offense be impounded until such time as may appear just and reasonable.

Beaverton § 6.02.410:

Prohibits riding upon a sidewalk where official signs prohibit bicycle riding.

Fine Not to Exceed \$50.00

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

Corvallis § 6.10.060.100 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

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.

Violation Not to Exceed \$50.00

In addition to or in lieu of a penalty for a bicycle violation, the municipal judge may prohibit the operation of a bicycle used in the violation on the streets of the city for a period not to exceed 30 days. In such event, the chief of police shall be directed to impound the bicycle, and retain it for the period that the operation is prohibited, or the owner's registration card held for the period during which the operation of the bicycle is prohibited.

Gresham § 8.55.070 Misuse of a Bicycle

Rides a bicycle upon a sidewalk within the city, except for law enforcement officers in the performance of their duties.

Fine \$175.00

If accident involved, fine increases to \$235.00

Hillsboro § 10.28.100 Operation on sidewalks.

Bicycles and skateboards may be operated on sidewalks within the corporate limits of the city excepting those sidewalks enumerated in subsection (A) of this section, and under conditions enumerated in subsections (B) and (C) of this section.

A. No person shall ride or operate any bicycle or skateboard on sidewalks adjacent to streets or on Public Service Building Grounds located within the following boundary: between the north line of NE and NW Lincoln St. to the south line of SW and SE Baseline St. and the east line of NE and SE 5th Ave. to the west line of NW and SW Adams Ave.

B. Bicycles and skateboards ridden on sidewalks permitted in this chapter may not be operated at a speed greater than ten miles per hour.

C. Any person riding or operating a bicycle or skateboard on any sidewalk of the city shall at all times yield the right-of-way to pedestrians using the sidewalk and upon approaching an area of pedestrian congestion, or children playing on the sidewalk, shall dismount and walk the bicycle or skateboard past the area of congestion or children at play. (Prior code §§ 7-3.10)

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. (Ord. 3629 §35(2), 1972)

\$100.00 fine

Newberg 98-2500 Section 4. Prohibited Riding.

No person shall engage in a riding activity in an area designated as a Prohibited Riding Area, as defined in Section 3(a).

Section 3(a). Riding as described in Section 1 is prohibited on any sidewalk or other City property in the downtown commercial area of the City or on a sidewalk or other City property adjacent to Newberg 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.

Maximum Fine is \$500.00

Bail \$72.00

Portland**§ 16.70.320 Operating Rules.**

(Amended by Ord. No. 165594, July 8, 1992.) 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

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.
- 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.**
1. Not ride upon a sidewalk within a business district
Class A Infraction — Maximum Fine \$500.00
- Wilsonville** **§ 5.100 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

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

PART II: 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 lamp-post 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.

Beaverton Chapter 6.02.410 Bicycle Operating Rules

In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, a person shall not:

1. leave a bicycle, except in a bicycle rack. If no rack is provided, or if the rack is full, the person shall leave the bicycle so as not to obstruct any street, sidewalk, driveway or building entrance.

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 Section 10.28.180 No parking on sidewalks.

From and after the passage of the ordinance codified in this chapter, it shall be unlawful for any person to park or leave a bicycle upon the sidewalk within the city, except in areas designated by ordinance, which areas shall be properly marked by signs or painting and provided with racks for parking bicycles.

Section 10.28.190 Designated parking areas.

There shall be and is designated and set aside for the parking of bicycles the following area in which bicycles shall be parked and in which area it shall be, and is declared to be, unlawful to park or leave standing any other type of vehicle. The area is defined as follows:

At the curb on the street and sidewalk, beginning at the intersection of the north boundary of Main St. and the west boundary of N. 3rd St., thence north twenty feet.

At the curb on the sidewalk beginning at a point on the north side of E. Lincoln St. fifty-five feet east from the easterly boundary of N. 2nd Ave., thence east twenty feet.

On the street, on the easterly side of S 9th Ave. beginning at a point ten feet south of the south line of E Cedar St., thence south thirty-five feet, during the months the municipal swimming pool is in operation and while bicycle racks are maintained in the street for parking bicycles.

On the street, on the southerly side of E Cedar St., beginning at the point fifteen feet east of the east line of S 9th Ave., thence east forty-five feet, during the months the municipal swimming pool is in operation and while bicycle racks are maintained in the street for parking purposes.

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.

Newport**Chapter XI, Section 12.**

No operator of a bicycle shall leave his bicycle lying or standing in such a manner that shall hinder or impede pedestrian or vehicular traffic upon the sidewalks or paths and upon the streets or alleys within the city of Newport, but shall take proper care to see that his bicycle is so placed to avoid annoyance and danger of accident during his absence from it.

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 (Tri-Met). 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 Tri-Met 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 101.105 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.

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.

Harassment By Motorists – Know Your Legal Rights

One would think that with fewer bicyclists on the road during the wet winter months motorists would be more tolerant of our presence. However, perhaps a perverse dynamic is at work such that drivers with a malignant attitude toward bicyclists are more motivated to hassle a solitary cyclist on the road in front of them. In any event, we have seen a disturbing number of harassment incidents and this article is offered as a refresher on what you can do about harassment if you or a friend are an intended target.

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, letting them know what the law provides regarding your right to use the roadway, citation to 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

Harassment by motorists—know your legal rights

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 Motor 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 is 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 com-

municating 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 III: HARASSMENT OF BICYCLISTS

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

The citation begins the prosecution; it is the document that is served on the defendant.

Citizen arrest allows use of justifiable force. Don't take matters into your own hands — call law enforcement to make contact with the person who harassed you.

ORS 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

Any physical injury may result in an Assault IV charge even if the injury is minor.

Remember to take photographs of your injuries.

Class A misdemeanor. Minimum jail = 1 year
Menacing = Intentionally attempting to place a person in fear of serious physical injury.

Reckless Endangerment = Creating substantial risk of serious injury.

Harassment = Annoying someone by offensive physical contact such as by spitting. No injury required; even spilling a liquid that lands on the bicycle will support this charge. Class B misdemeanor. Maximum jail = 6 months

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.

ORS 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.

**Class B
misdemeanor.
Maximum jail =
6 months**

(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.

Citizen Initiated Violation Prosecution

What and Why

Encourage injured riders to create strong enforcement of bicyclist rights to the road in injury accidents by taking things into their own hands and 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 accidents. 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 an accident, but not investigating or issuing citations in traffic accidents unless one of the parties is placed into the area hospital Trauma system 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 accidents 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 cop 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 an accident based on their own after the fact personal investigation. However, even if a police investigation of the accident 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 accident investigation by police. After all, the insurance adjuster/attorney system serve pretty well in sorting out who is at fault in most accidents. 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 cop 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). 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, and then decides. If convicted the bad driver receives a conviction and fine for a moving violation which is no different than one from a ticket issued by a police officer.

The process, known as a citizen "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 to us or give us our 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 bicyclist 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 accident 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 below 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 accident and to make a legal record of the driver’s law violation.

How to Initiate a Citizen Initiated Violation Prosecution (Yourself)

1. 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 cannot succeed 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):

Contact the officer who investigated your accident or facilitated exchange of traffic accident information, any other officer involved in your accident, the shift sergeant for that unit on that shift at the time of your accident, 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 person willing to speak with you about it near a 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 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 county and city 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;

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.

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.

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:

What To Do If You're In An Accident

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 an accident there are several tips you can follow which will make any accident 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 accident. This article is a very basic primer on these areas.

If you are in an accident

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 accident. If they will not do so, then call the police.

Persons involved in an accident 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 accident 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 accident witnesses have certain legal duties. ORS 811.715 requires that witnesses to an accident 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 accident. Because some people are unwilling to become involved in the aftermath of an accident, 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 an accident 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 accident 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 an accident, a written notice providing the name and address of the driver and a statement of the accident 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 an accident, 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 an accident 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 accident 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 an accident 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 accident 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 since the accident. 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 accident.

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 accident regardless of whether or not the other person is insured, and regardless of whose fault caused the accident. It is “No fault” coverage. “No fault” means that even if an accident 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

er person who has no insurance, or insufficient insurance to cover the damages resulting from the accident. 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.

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 accidents 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 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 DUI 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 accident involves minor injury or property damage, it will be more difficult to attract excellent counsel. If you have an accident that is clearly the fault of the other party and don’t mind the hassle of birddogging 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 <http://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, and a tort claim must be made within 180 days of the accident against any public body, including Tri-Met 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 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 accident, 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 system which exists to help you recover from your injuries; no one should be allowed to add insult to your injuries.

Accidents That Result In Property Damage

Fortunately, most bicycle accidents do not result in personal injuries. Instead, wheels get bent, helmets scraped (you did have your helmet on didn't you?) and, if the accident 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 know 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 accident.** 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 accident.** 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 accident 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 an accident. 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 accident. 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 accident. There is no tactical reason to wait to resolve the property damage claim, and 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 accident, 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

\$5,500 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 be of assistance to mention this law because if the bicyclist has to go out and 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 in the first place. The statutory provision is contained in its entirety below:

ORS 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 \$5,500 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 negotiations to obtain fair payment.

Accidents and Insurance

All too often a bicyclist is seriously injured in an accident caused by a negligent driver and later investigation reveals that the motorist was uninsured, sometimes leaving the bicyclist without any insurance benefits. A recent example may help illustrate the point. On August 11, 1998, Jan Conner and Marvin Rambo (at the time the President of Portland Wheelman bicycling club) were run down by a drunk driver who swerved his sport utility vehicle into the bike lane on Airport Way, throwing Marvin 80 feet and Jan about 45 feet upon impact. The driver then sped away on a flat tire leaving the bicyclists bleeding along the side of the road. After a one and a half year long police investigation, the perpetrator was arrested, convicted by a jury of drunk driving and hit and run, then sentenced to 12 years in prison. Our office filed a negligence lawsuit against the driver for the injuries suffered by the bicycle riders. In the “discovery” stage of the lawsuit, we found out that the driver’s insurance had been canceled for nonpayment. Another potentially applicable insurance liability policy had expired one day before the accident. The bicyclists were left with serious permanent physical injuries and a “judgment proof” incarcerated driver without insurance or any remedy.

All too often, serious accidents are caused by people who are irresponsible drivers without insurance. However, there are two types of insurance bicyclists who are also automobile drivers can obtain in order to protect themselves.

Personal Injury Protection

Every Oregon motorist’s insurance policy contains Personal Injury Protection (also known as “PIP”). PIP provides certain minimum coverages and can be “stacked,” meaning that when more than one policy is applicable the benefits accumulate for the benefit of the claimant. 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 \$30.00 per day. PIP is “no-fault,” in that an injured party may make a claim against the policy regardless of who was at fault in the accident.

Uninsured and Underinsured Motorist Coverage

The second type is uninsured (UM) or underinsured (UIM) motorist coverage, insuring for all sums the uninsured “shall be legally entitled to recover as damages for bodily injury or death caused by accident and arising out of the ownership, maintenance or use of an uninsured motor vehicle” (ORS 742.500). UM or UIM coverage provides coverage as if the uninsured driver had a liability insurance policy. The injured person makes a claim against his or her own insurance policy for their damages. In the case of a serious accident caused by an uninsured driver or underinsured driver, UM or UIM coverage is the best protection for an injured rider. While the Oregon statutory minimum is \$25,000.00, with today’s high medical costs it is advisable to have at least four times that amount. 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. UM and UIM coverage applies to bicyclists, so long as an accident is the fault of an uninsured or underinsured driver.

The legal relationship between the various types of coverage in a serious accident 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 an accident is covered by a particular insurance policy.

Frequently, serious accidents are caused by uninsured or underinsured drivers. Even if an accident 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.

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 \$1,250 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 \$2,500.

- (e) If the injured person is a parent of a minor child and is required to be hospitalized for a minimum of 24 hours, \$15 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 \$450.
- (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 (Excerpted) (The complete text of this statute is available in the Oregon State website listed in the Resources Section).

Every policy required to provide the coverage specified in ORS 742.502 shall provide uninsured motorist coverage which 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 shall require the insurer to reproduce in such policy the particular language of any of the following provisions:

- (1)(a) The insurer will pay all sums which the insured, the heirs or the legal representative of the insured shall be 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 such 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.
- (2) As used in this policy:
 - (a) "Insured," when unqualified, means when applied to uninsured motorist coverage:

(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 such named insured and relatives of either; provided, neither such relative nor spouse is the owner of a vehicle not described in the policy; and provided further, 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.

(b) "Insured vehicle," except as provided in paragraph (c) 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 the actual use thereof is with the permission of the owner of such vehicle and such vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.

(c) "Insured vehicle" does not include a trailer of any type unless such trailer is a described vehicle in the policy.

(d) "Uninsured vehicle," except as provided in paragraph (e) of this provision, means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible automobile 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 such vehicle, or with respect to which there is such collectible bodily injury liability insurance applicable at the time of the accident but the insurance company writing the same denies coverage thereunder or, within two years of the date of the accident, such company writing

the same 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 automobile bodily injury liability insurance applicable at the time of the accident.

(B) A hit-and-run vehicle as defined in paragraph (f) of this provision.

(C) A phantom vehicle as defined in paragraph (g) of this provision.

(e) "Uninsured vehicle" does not include:

(A) An insured vehicle;

(B) A vehicle which 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 which is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any of the foregoing;

(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.

(f) "Hit-and-run vehicle" means a vehicle which causes bodily injury to an insured arising out of physical contact of such vehicle with the insured or with a vehicle which the insured is occupying at the time of the accident, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such hit-and-run vehicle;

(B) The insured or someone on behalf of the insured shall have reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation of the State of Oregon or to the equivalent department in the state where the accident occurred, and shall have 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 such accident for damages

against a person or persons whose identity is 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 which the insured was occupying at the time of the accident.

(g) "Phantom vehicle" means a vehicle which causes bodily injury to an insured arising out of a motor vehicle accident which is caused by an automobile which has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such phantom vehicle;

(B) The facts of such 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 shall have reported the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation of the State of Oregon or to the equivalent department in the state where the accident occurred, and shall have 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 such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof.

(h) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

(i) "Occupying" means in or upon or entering into or alighting from.

(j) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.

(k) "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.

(b) This coverage does not apply to bodily injury to an insured while occupying a vehicle (other than an insured vehicle) owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by such a vehicle.

(c) This coverage does not apply so as to inure directly or indirectly to the benefit of any workers' compensation carrier, any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or any similar law or the State Accident Insurance Fund Corporation.

right of subrogation to the claim against the tortfeasor;

(d) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by the credit given to the insurer pursuant to subsection (4)(d)(C) or (D) of this section.

(12)(a) The parties to this coverage agree that no cause of action shall accrue to the insured under this coverage unless within two years from the date of the accident:

(A) Agreement as to the amount due under the policy has been concluded;

(B) The insured or the insurer has formally instituted arbitration proceedings;

(C) The insured has filed an action against the insurer in a court of competent jurisdiction; or

(D) Suit for bodily injury has been filed against the uninsured motorist in a court of competent jurisdiction and, within two years from the date of settlement or final judgment against the uninsured motorist, the insured has formally instituted arbitration proceedings or filed an action against the insurer in a court of competent jurisdiction.

Insurance Company Rules and Regulations

ORS 746.230 Unfair claim settlement practices.

(1) No insurer or other person shall commit or perform any of the following unfair claim settlement practices:

1. (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 reasonable 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.

Useful Resources

We have assembled the following list of resources which may be of assistance in learning more about topics relating to bicycling:

NATIONAL

www.Active.com – A comprehensive worldwide database to find, learn about and register for sports and recreational activities online.

www.AnalyticCycling.com – A technical site devoted to evaluating and estimating cycling performance.

www.Bicycling.com – Bicycling magazine’s online guide to cycling, with tips on gear, techniques and training, along with new product news, racing coverage, advocacy and cyclists’ rights.

www.Bicyclinginfo.org – Part of the Pedestrian and Bicycle Information Center.

www.bikefed.org – Bicycle Federation of America

www.Bikelane.com – A comprehensive collection of useful bicycle sites and resources.

www.bikeaccess.net – Bike Travel Online: Site has tips, phone numbers, stories and the “Online Wheelchair” report.

www.bts.gov/NTL – National Transportation Library: Bicycle and pedestrian specific materials from the Bureau of Transportation Statistics.

www.Cyclingnews.com – Useful, helpful, practical information on riding, buying and fixing bikes.

www.Dirtraggmag.com – Articles, poetry, feature columns, reviews of mountain biking gear.

www.DirtWorld.com – Trails, racing, reviews, stories, an online store and more for the mountain biker.

www.Exploratorium.edu/cycling – The Exploratorium Museum’s Science of Cycling presents a multimedia guide to the science behind bicycles.

www.fhwa.dot.gov – Federal Highway Administration – Information on the Millennium trails.

www.gorp.com – Great Outdoor Recreations Pages

www.imba.com – International Mountain Bicycling Association

www.Mountainbike.com – Online companion to Mountain Bike magazine.

www.nhtsa.dot.gov – National Highway Traffic Safety Administration

www.smf.org – Snell Memorial Foundation (SNELL) A non-profit organization dedicated to research, education, testing, and development of helmet safety standards.

www.Trails.com – Over 150,000 biking, hiking and paddling trails

LOCAL

www.bicyclealliance.org – Bicycle Alliance of Washington

www.bikeportland.org – Jonathon Maus' blog about biking life in Portland.

bikeshow.portlandtransport.com – Archived, downloadable podcasts of KBOO's "The Bike Show".

www.bta4bikes.org – Bicycle Transportation Alliance

www.catoregon.org – Center for Appropriate Transportation

www.communitycyclingcenter.org – Community Cycling Center

www.oregon.gov/ODOT/HWY/BIKEPED – Metro Regional Bicycle & Pedestrian Advisory Committee

www.portlandcycling.net – Carlo Delumpa's blog and bicycling community calendar.

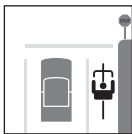
www.pumpclub.org – Portland United Mountain Pedalers

www.salembicycleclub.org – Salem Bicycle Club

www.shifftobikes.org – A loose-knit collection of fun loving Portland cyclists.

www.stc-law.com – Swanson, Thomas & Coon's official website with current bike laws, electronic version of Pedal Power, schedule of legal clinics, resources, miscellaneous articles, jury instructions and skate laws.

www.Oregon.gov – The Oregon State website for statutes and cases.

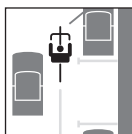
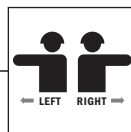


Obey all signs & traffic lights

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.

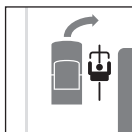
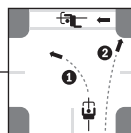


Ride consistently

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.

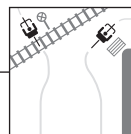


Use caution when passing

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. Cross 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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