
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-0093.4/11 4th draft

ATTY/TYPIST: BP:crs

BRIEF DESCRIPTION: Concerning bicyclist and motorist mutual
responsibilities.

AN ACT Relating to bicyclist and motorist mutual responsibilities; amending RCW 46.61.755, 46.61.770, 46.61.110, and 46.61.100; adding new sections to chapter 46.61 RCW; creating a new section; and recodifying RCW 46.61.755 and 46.61.770.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds and declares that mutual responsibility is required by both bicyclists and motorists to reduce accidents and conflicts between them. This act is intended to clarify such mutual responsibilities so that bicyclists and motorists may be better informed as to safe practices that will help reduce accidents and conflicts between bicyclists and motorists.

Sec. 2. RCW 46.61.755 and 2000 c 85 s 3 are each amended to read as follows:

(1) Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special

regulations in RCW 46.61.750 through 46.61.780 and except as to those provisions of this chapter which by their nature can have no application.

(2) Every person riding a bicycle upon a sidewalk ~~((or))~~, crosswalk, or multiuse trail must be granted all of the rights and is subject to all of the duties applicable to a pedestrian by this chapter. Every person riding a bicycle shall yield the right-of-way to a pedestrian on a sidewalk, crosswalk, or multiuse trail or path; however, the pedestrian is not relieved of the obligation to exercise due care.

Subsection (2) clarifies that bicycles have a duty to yield to pedestrians on multi-use paths, similar to sidewalks and crosswalks.

Sec. 3. RCW 46.61.770 and 1982 c 55 s 7 are each amended to read as follows:

(1) Every person operating a bicycle upon a roadway at a rate of speed less than the legal and normal flow of traffic at the particular time and place shall, when traffic is present, ride as near to the right side of the right through lane as is judged reasonably safe by the bicyclist except as may be appropriate while preparing to make or ~~((while))~~ making turning movements, ~~((or while))~~ transiting a roundabout, overtaking and passing another bicycle or vehicle proceeding in the same direction, or riding two or more bicycles abreast.

(2) Subject to the exception in subsection (1) of this section, a person operating a bicycle upon a roadway at speeds less than the legal and normal flow of traffic shall, when traffic is present, make use of a paved shoulder of the roadway or any specially designated bicycle lane, if such a lane exists, and such use is reasonably judged safe by the bicyclist.

Subsections (1) and (2) change existing law by *requiring* (rather than merely allowing) bicyclists going below the speed limit and normal flow to ride as far to the right on a through-lane, or use a bicycle lane, or paved shoulder as the bicyclists reasonably judges "safe" except for specific situations. Subsection (6) below defines "safe." A similar requirement is contained in Colorado and Vermont's recent mutual responsibility laws. The subsection also adds the word "legal" to "normal flow of traffic" so that if a bicyclist is going the speed limit or greater but motorists are going faster, the bicyclist is not required to pull off.

(3) Subject to the exception in subsection (1) of this section, a person operating a bicycle upon a roadway or highway (~~other than~~), excluding a limited-access highway, (~~which roadway or highway~~) that carries traffic in one direction only and has two or more marked traffic lanes(~~(7)~~) may ride in the left through lane, and when so doing, shall ride as near to the left side of the left through lane and as the bicyclist reasonably judges is safe.

Existing law allows bicyclists to ride on the left of one-way streets greater than 1 lane. Subsection (3) requires bicyclists riding on the left to keep as far to the left as they reasonably judge to be "safe," except for specific situations.

~~((A person operating a bicycle upon a roadway may use the shoulder of the roadway or any specially designated bicycle lane if such exists.))~~

(4) When a bicyclist is being overtaken on the left and the lane, including any attached shoulder or bicycle lane, is wide enough for the vehicle to pass the bicyclist at a safe distance, the bicyclist shall ride as far to the right as reasonably judged safe by the bicyclist to facilitate the overtaking.

(5) When a bicyclist is being overtaken on the right and the lane, including any attached shoulder or bicycle lane, is wide enough for the vehicle to pass the bicyclist at a safe distance, the bicyclist shall ride as far to the left as reasonably judged safe by the bicyclist to facilitate the overtaking.

Subsections (4)-(5) require the bicyclist to assist the passing motorist when the lane and shoulder is wide enough by riding as far to the side as the bicyclist reasonably judges is safe. Colorado's mutual responsibility law has a similar requirement.

(6) For the purposes of this section, "safe" includes a reasonable space of pavement on either side of the bicyclist, a position so as to be seen and safe from opening vehicle doors and to avoid being passed at less than a safe distance, and a surface that is free from hazards, pavement defects, and objects or materials, whether fixed or moveable, that may obstruct travel, cause a collision or fall, or damage the bicycle.

Subsection (6) clarifies that "safe" includes having adequate space on both sides of the bicycle, a position suitable to be seen and safely pass opening doors and to be safely passed, and a road that is free of hazards, etc.

~~((+2))~~ (7) Persons riding bicycles upon a roadway shall not ride more than two abreast except when passing other bicycles or riding on paths or parts of roadways set aside for the exclusive use of bicycles.

Existing law allows riding two-abreast. Subsection (7) clarifies that a bicyclist passing two or more bicycles may ride more than two-abreast. Colorado's new law contains a similar provision.

NEW SECTION. **Sec. 4.** Notwithstanding the provisions of this chapter including, but not limited to, the provisions on rights-of-way, every driver of a motor vehicle shall exercise due care to avoid colliding with any bicyclist and shall when necessary to avoid an imminent or likely collision give warning by sounding the horn or an appropriate verbal warning.

Existing law provides that drivers must use due care to avoid colliding with a pedestrian, even if the pedestrian violates right of way rules. This clarifies that such due care applies also to avoiding collisions with bicyclists.

NEW SECTION. **Sec. 5.** (1) The driver of a motor vehicle approaching a bicyclist or pedestrian that is on a roadway, shoulder, or bicycle lane shall pass at a safe distance to clearly avoid coming into contact with the bicyclist or pedestrian, and shall not again drive to the side of the roadway occupied by the bicyclist or pedestrian until safely clear of the overtaken bicyclist or pedestrian.

(2) A safe distance, with respect to passing bicyclists and pedestrians, is as follows:

(a) When the motor vehicle speed is less than thirty-five miles per hour, the driver of the motor vehicle shall maintain a minimum of three feet lateral separation between the closest part of the motor vehicle and the closest part of the bicycle or pedestrian.

(b) When the motor vehicle speed is thirty-five miles per hour or more, the driver of the motor vehicle shall maintain a minimum of five feet lateral separation between the closest part of the motor vehicle and the closest part of the bicycle or pedestrian to the extent that it is reasonably feasible and safe; however, the minimum distance of lateral separation must not be less than three feet.

(c) For the purpose of determining the distance of lateral separation, a mirror, trailer, or any object connected to or extended from a motor vehicle or bicycle is considered part of the motor vehicle or bicycle.

Subsection 2(a) clarifies that at speeds less than 35 mph "safe distance" to pass is a minimum of 3 feet-which is a well understood measure, now enacted in law in 14 states.

Subsection 2(b) addresses concerns raised by the Washington State Patrol that at higher speeds the passing distance should be greater than 3 feet. It provides that when speeds are 35 mph or greater, to the extent it is "reasonably feasible and safe," the minimum passing distance shall be 5 feet. "The reasonably feasible and safe" qualification also addresses concerns of truckers and motorists where road conditions do not allow a full 5 feet passing.

Subsection 2(c) clarifies that objects extended from or connected to a vehicle, such as a mirror or trailer, are considered part of the vehicle when determining the passing distance.

Sec. 6. RCW 46.61.110 and 2005 c 396 s 1 are each amended to read as follows:

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(1) The driver of a vehicle overtaking other traffic proceeding in the same direction shall pass to the left thereof at a safe distance

and shall not again drive to the right side of the roadway until safely clear of the overtaken traffic.

(2) The driver of a vehicle approaching a pedestrian or bicycle that is on the roadway or on the right-hand shoulder or bicycle lane of the roadway shall pass to the left at a safe distance, as defined in section 5(2) of this act, to clearly avoid coming into contact with the pedestrian or bicyclist, and shall not again drive to the right side of the roadway until safely clear of the overtaken pedestrian or bicyclist.

(3) Except when overtaking and passing on the right is permitted, overtaken traffic shall give way to the right in favor of an overtaking vehicle on audible signal and shall not increase speed until completely passed by the overtaking vehicle.

RCW 46.61.110 is amended to include a cross reference to the definition of "safe distance" contained in section 5(2).

Sec. 7. RCW 46.61.100 and 2007 c 83 s 2 are each amended to read as follows:

(1) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(b) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(c) When overtaking and passing a pedestrian or bicyclist in compliance with section 5 of this act;

Subsection 1(c) clarifies that motorists may cross the center line when overtaking a bicyclist or pedestrian, just as they are currently allowed to do when avoiding an obstruction such as a rock. This addresses a concern of the truckers that the existing law may not allow motorists to cross the center line to pass a bicyclist or pedestrian.

(d) Upon a roadway divided into three marked lanes and providing for two-way movement of traffic under the rules applicable thereon;

~~((d))~~ (e) Upon a street or highway restricted to one-way traffic; or

~~((e))~~ (f) Upon a highway having three lanes or less, when approaching a stationary authorized emergency vehicle, tow truck or other vehicle providing roadside assistance while operating warning lights with three hundred sixty degree visibility, or police vehicle as described under RCW 46.61.212~~((+2))~~ (1)(d)(ii).

(2) Upon all roadways having two or more lanes for traffic moving in the same direction, all vehicles shall be driven in the right-hand lane then available for traffic, except (a) when overtaking and passing another vehicle proceeding in the same direction, (b) when traveling at a speed greater than the traffic flow, (c) when moving left to allow traffic to merge, or (d) when preparing for a left turn at an intersection, exit, or into a private road or driveway when such left turn is legally permitted. On any such roadway, a vehicle or combination over ten thousand pounds shall be driven only in the right-hand lane except under the conditions enumerated in (a) through (d) of this subsection.

(3) No vehicle towing a trailer or no vehicle or combination over ten thousand pounds may be driven in the left-hand lane of a limited access roadway having three or more lanes for traffic moving in one direction except when preparing for a left turn at an intersection, exit, or into a private road or driveway when a left turn is legally permitted. This subsection does not apply to a vehicle using a high

occupancy vehicle lane. A high occupancy vehicle lane is not considered the left-hand lane of a roadway. The department of transportation, in consultation with the Washington state patrol, shall adopt rules specifying (a) those circumstances where it is permissible for other vehicles to use the left lane in case of emergency or to facilitate the orderly flow of traffic, and (b) those segments of limited access roadway to be exempt from this subsection due to the operational characteristics of the roadway.

(4) It is a traffic infraction to drive continuously in the left lane of a multilane roadway when it impedes the flow of other traffic.

(5) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, a vehicle shall not be driven to the left of the center line of the roadway except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

NEW SECTION. **Sec. 8.** The following sections are codified or recodified in chapter 46.61 RCW under the subheading "bicyclist and motorist mutual responsibilities":

- (1) RCW 46.61.755;
- (2) RCW 46.61.770;
- (3) Section 4 of this act; and
- (4) Section 5 of this act.