



Senate Judicial Proceedings Committee  
Annapolis, MD 21401-1991

February 27, 2014

**RE: SUPPORT SB 808**

Dear Esteemed Members of the Judicial Proceedings Committee,

Bike Maryland represents the hundreds of thousands of bicyclists in Maryland – everyone from the 3 year old learning to ride a bicycle to the experienced bicyclist. We support SB 808.

As the previous speaker testified, there are a number of types of crashes that take place when cars and bicycles are sharing the road and a driver violates the cyclist's right of way. I am going to focus on one particular type of crash, the right hook, and a tragic crash whose aftermath illustrates the potential for cyclists to be denied compensation with theories that would not apply to a driver.

The illustration in the previous testimony depicts a right-hook. This is a situation in which a motor vehicle passes a bicyclist that is riding to the right, and the motor vehicle makes a right turn in front of the cyclist – this can result in injury and death. Due to being right hooked, a cyclist may crash into the side of a motor vehicle or if the cyclist is able to make an emergency stop, the side of the motor vehicle may advance into the cyclist.

That type of crash occurred in August 2009 on Maryland Avenue in Baltimore. The right lane had parked cars and there was some open space within the lane next to the parked cars. Mr. John Yates was riding as far right as practicable as the law required. In the case of parked cars, that means he was roughly straddling the line between the two lanes, staying out of the way of through traffic, but not so close to the parked cars that he would be struck by an opening door. A truck started to pass him and as he came to an intersection, the driver made a right turn, and crashed into Mr. Yates, pinning him under the trailer, and he was killed.

The police report stated that Mr. Yates should have been riding in the center of the lane, as a motorcycle would do and that the crash was the fault of Mr. Yates although Mr. Yates was not required to ride in the center of the lane. When the family of Mr. Yates filed a claim with the driver's insurance company, they were told that he had been contributorily negligent. The insurance company maintained that position when the family filed suit and during the pre-trial period. It was the cyclist's fault for being to the right of a truck even though the truck had passed to the left of the bike.

If a truck passes a car and then makes a right turn from the left lane, the driver would not say that the car should not have been there. Everybody understands that when you make a right turn from a left lane, you have the duty to make sure you can cross that right lane safely. Yet the most vulnerable of all victims, the cyclist, seems to have a duty that no one else has: to not be in the right lane when a truck driver wants to make a wide turn. In the end, a video of the entire crash was found which showed that the driver had not even signaled the right turn. The insurance company settled shortly before trial. But what if the truck driver had signaled? Should cyclists have the duty to vacate the right lane or face the consequences without legal redress, simply because a driver has signaled that he wants to be in that lane?

We realize that insurance companies are in business and will often deny valid claims as part of their negotiating process. If the company wants to say that the crash never occurred, or that the driver could not have avoided the crash, that is to be expected. Our concern is that the law currently provides a legal basis to deny a claim even when a driver clearly has failed to yield the right of way.

Mr. Yates had every right to be in the right lane where he was. The driver violated his right of way by making a right turn from the left lane and running over him. If SB808 had been law, the insurance company would have not been able to deny a claim based on false belief that a cyclist should not have been to the right of the truck.

Thank you very much for the opportunity to provide our view on this legislation.

*Carol Silldorff*

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