



Testimony of the Washington Area Bicyclist Association in Support of Senate Bill 808

Members of the Committee:

My name is Paul d'Eustacchio. I am a resident of Takoma Park, Maryland and an Officer of the Washington Area Bicyclist Association—an organization representing approximately 15,000 Maryland-based bicyclists and bicycling supporters.

Presently, the law is unclear what duties a bicyclist must meet when riding on Maryland's roadways and trails, and we support this bill as a means of clarifying those duties. Generally, bicycles are treated as vehicles, so the rules applying to vehicles apply to bicycles. But too frequently, common law is interpreted differently, to create duties that conflict with those of the vehicle code and create confusion when a bicyclist is involved in a crash. In that confusion, where insurers and jurors who may have limited familiarity with the realities of bicycling attempt to discern liability from context, bicyclists in crashes often do what they are supposed to do. They meet their legal duties. But they are faulted and denied recovery for not doing *something more*.

Our organization gets hundreds of calls per year from cyclists who have been involved in a crash with a motor vehicle, looking for advice on what to do. In many of those cases, the individual has reported the crash, sought medical attention, and called the insurance company. It's with the insurer that they often encounter a critical problem and call us for advice, because the driver's insurance company is unwilling to pay for their medical bills or a new bike. If the cyclist has run a stop sign or otherwise failed to yield the right of way, we deliver the bad news: "The driver had the right of way, so you are not entitled to compensation."

Frequently, however, the cyclist actually *had* the right of way and it was the driver who broke the law. But the cyclist is still being denied compensation, because the insurance company mistakenly believes that the cyclist was somehow in the wrong.

We have provided a handout ("Exhibit 1") with four common types of crashes in which motor vehicles fail to yield the right of way to cyclists, but an insurance company later asserts that the cyclist was at fault. I'll skip over the right hooks, because the next witness plans to discuss them in detail.

The second illustration shows a "dooring", which is when a motorist emerging from a parked car opens a door into the path of a cyclist. Our vehicle code prohibits occupants of a car from opening a door unless it is safe to do so. Nevertheless, insurers frequently blame the cyclist for riding in the "door zone", even though cyclists are supposed to keep right, and bike lanes are generally striped in the door zone.

"Left cross" is the term for when a driver makes a left turn that cuts off a cyclist proceeding straight in the opposite direction. It is a clear violation of the cyclist's right of way, but when crashes occur cyclists are often blamed

Maryland's law of negligence provides a rationale for denying compensation to cyclists in each of these cases, even though the driver has violated their right of way. Senate Bill 808 would change that.

The common law's strength is the flexibility to allow for justice in situations not yet contemplated by the legislature. But with matter of vehicle safety, the legislature has spoken repeatedly, codifying the rules that maximize safety and create a coherent and operational system of travel.

A cyclist should be able to rely on the legislature's pronouncements and meet their duties by complying with the code, and insurers should not have the freedom to develop conflicting duties based on alternative, conflicting theories in order to avoid compensating vulnerable road users to happen to have the right of way.

As an organization that teaches roadway safety classes, we want to be able to teach people: "This is what you have to do to meet the requirements of the law in Maryland." Unfortunately, we can't do that because "what you have to do" isn't clear. Our elected legislators are saying one thing. But after a crash, the insurers are saying something different.

Senate Bill 808 resolves this contradiction to make it clear that the statute provides the final word on the duties of a cyclist.

Thank you.