

From: [Ann Smith](#)
To: rep.robnosse@state.or.us; [JCT Exhibits](#); [Rep Schouten](#)
Subject: Oregon H.B. 2682
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To Rep. Nosse, Rep. Schouten as sponsors and the members of the Oregon Joint Committee on Transportation:

My name is J. Ann Smith and I am a resident of 3182 Forest Hills Drive, Medford, Jackson County, Oregon. I am writing to extend my support for H.B. 2682 and urge the committee to vote in favor of advancing this measure. It is imperative that all legal protections for cyclists operating within a designated bike lane be recognized and extended to their travel through intersections. This provides greater legal accountability for operators of motor vehicles who endanger the lives of vulnerable users on bicycles. It will also allow cyclists and their families to seek civil damages for injuries and fatalities sustained in mid-intersection collisions with motor vehicles. It is a logical extension of the Oregon Vehicle Code which recognizes bicycles as vehicles and assigns to their operators all of the rights and responsibilities associated with operating a vehicle on a public roadway (ORS 814.400). It is no different than the legal protections afforded to drivers and passengers in motor vehicles who are victims of a mid-intersection collision in which another driver failed to yield right-of-way.

As a dedicated bicycle commuter, I am always saddened to learn of yet another fatality or serious injury of a fellow cyclist in collisions with motor vehicles. I think many of us operate with a barely acknowledged sense of doom with regard to integrating with our transportation system. Our "skin in the game," so to speak, is significant. But that sadness is transformed into anger when literally nothing of consequence occurs as a result of unnecessary and preventable loss of life or often-horrific, life-changing physical and emotional suffering caused by that collision. It's easy and common for those who don't cycle to shift blame to the vulnerable user who "should know better" than to ride a bike next to multi-ton motor vehicles, but more often than not, law enforcement and the judiciary characterize it as nothing more than a tragic accident -- completely absolving the living of any responsibility. The fact is that responsibility can be assessed to various parties, but will not be because the law as written isn't explicit enough.

Oregon law is explicit, however, that bicyclists must use designated bike lanes when they are available (ORS 814.420). There are numerous exceptions to the rule that permit bicyclists to leave the bike lane, one of which includes the provision that the cyclist is intending to travel straight through an intersection and the bike lane is positioned to the right of a dedicated right-turn lane.

ORS 814.420 (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:

...

(e) Continuing straight at an intersection where the bicycle lane or path is to the right of a lane from which a motor vehicle must turn right.

In the case of the Jonathan Chase Adams, killed November 2017 in Bend by a FedEx driver turning right across the path of the bike lane in which Mr. Adams was legally operating, the lane to the left of the bike lane was not a dedicated right-turn lane. So does that specifically worded exception apply to a straight-through cyclist? One can argue that it would have been better for Mr. Adams to eschew the bike lane and use the general travel lane instead to continue through the intersection under ORS 814.420(3)(c) to avoid "hazardous conditions" (i.e., right-hook conflicts) that arise when a bike lane is installed to the right of general use lanes and across which motor vehicles are legally permitted to turn right. As a cyclist who faces this very choice on every commute I make, I wonder who makes this judgment as to the quality of the conditions within which I ride? Is it me, the person most at risk for misjudging hazards? Or is it the law enforcement officer who pulls me over to enforce ORS 814.420 whose position in his police cruiser doesn't give him the perspective of a vulnerable user navigating debris-strewn public roads in traffic that not only permits, but by design encourages, large motor vehicles to cross the paths of cyclists in an unrestricted way that does not apply to the paths of other motor vehicles? Or is it the judge in traffic court who has neither the benefit of experiencing the conditions at issue, nor the imperative of making life and death decisions within the environment those conditions exist. The answer to this question is not to be found in the Oregon statutes, yet it's a question that is never far from my mind as I travel Oregon roads on my bicycle.

Neither will you find any Oregon law that prohibits the installation of bike lanes that manufacture conflict between vulnerable users and motor vehicle traffic. If the driver cannot be found at fault for the collision, how can the city, county or state that designed and built the roadway to operate in a manner that creates inherent risk for the very users that are being served by these specifically designated bike facilities -- and mandated by State law to be used by bicyclists -- be absolved? This is the legal no-man's land we find ourselves in: that a young man dies and nobody is responsible for putting him at risk or causing his death despite the fact that he was operating right where everyone expected him to be.

H.B. 2682 does not address the many instances of deficiency in the traffic code that inadequately protects vulnerable users, let alone provides them or their families with legal recourse when they are injured or killed while adhering to mandates within that same code. However, it does recognize and codify what should be obvious to everyone: that if general use lanes continue through intersections then so do designated bicycle lanes; that if a driver of a motor vehicle collides with another motor vehicle within an intersection that driver may be charged with failure to yield right-of-way, then when that driver of a motor vehicle collides with another legally designated vehicle, say a bicycle, he may also be charged with failure to yield right-of-way. Improperly placed bike lanes that manufacture conflict between motor vehicles and bicyclists are not going away in Oregon any time soon. I strongly urge the Oregon legislature to pass this bill and protect cyclists within Oregon intersections. But don't stop there for there is much work to be done.

Thank you considering my written testimony.

J. Ann Smith

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