

To: Co-Chairs Senator Lee Beyer and Representative Caddy McKeown; Co-Vice Chairs Senator Brian Boquist and Representative Ron Noble and the other members of the Joint Committee on Transportation

From: Ray Thomas, Attorney and Student of the Oregon Vehicle Code

Re: HB 2682

I have spent my career since 1979 working as a lawyer on cases resulting from crashes involving many types of motorized and non-motorized vehicles. For 11 years, I wrote the “Bicycles and The Law” column which appeared on a regular basis in Oregon Cycling newspaper. My work has included researching and writing parts of four different legal guides on Oregon vehicle and pedestrian law, one of which -- “Pedal Power: A Legal Guide for Oregon Bicyclists” – published in cooperation with the City of Portland and Bicycle Transportation Alliance (now Street Trust), is now in its 8th edition. Since 1994 I have presented clinics on bicycle law to many groups including police agencies, lawyers and district attorneys, judges, safety professionals, private companies, bicycle clubs, non-profits and regular citizens. I have been involved in drafting and presenting many Oregon Vehicle Code provisions and testified before this legislature on many occasions relating to the Code.

I am testifying in favor of HB 2682 because it clarifies the law in a way that keeps the Vehicle Code consistent as it applies to bicycles. I believe this clarification of the law is necessary because two recent lower court case holdings contradict the understanding of law enforcement and road maintenance authorities and road users. According to these two judge’s rulings a bicycle lane ceases to exist in intersections unless there is actual paint on the pavement, which is contrary to the intent of the Oregon Vehicle Code and the Oregon Department of Transportation (ODOT). That intent is consistent with the rest of the Vehicle Code, which treats bicycles as vehicles (ORS 814.400) and with the understanding of drivers, cyclists and other road users that traffic lanes continue through intersections although the center line, lane dividers and fog lines do not. A bicycle is a vehicle, and a bike lane is a traffic lane for vehicles that continues through intersections without striping.

ORS 801.155 defines a “bicycle lane” as “that part of the highway, adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles...” That provision was never intended to mean that, because bicycle lane striping (“signs or markings”) does not continue through each intersection, the bike lane stops every time the cyclist reaches an intersection. The decisions of two local courts holding that the bicycle lane stops because the striping does not continue through the intersection need to be corrected. The legislature should make it clear that bicycle lanes, like auto travel lanes, continue through intersections.

HB 2682 would not expand the rights of any road user group, bicycles or motor vehicles. The Oregon Vehicle Code already contains the requirement for all road users that “Due Care” be exercised at all times. ORS 814.400(3) provides “The provisions of the Oregon Vehicle Code relating to operation of bicycles do not relieve a bicyclist or motorist from the duty to exercise

due care.” The Oregon Vehicle Code already contains a legal standard that outlaws dangerous riding behavior.

Local road authorities cannot afford to paint new stripes over all of Oregon’s intersections with bike lanes in order to maintain the continuation of lanes through intersections. There is even the potential for tort liability against ODOT, counties and cities over whether a bike lane has been adequately striped and maintained which could create considerable financial hardship for road departments.

HB 2682 would not change existing Oregon law regarding bicycle lanes as state and local law enforcement have been applying it since the “bicycle lane” definition was first enacted in 1983. It is merely a housekeeping measure, with ODOT’s support, to keep the Vehicle Code consistent and clarify a definition that has been misinterpreted by two outlier rulings.