

## **A Legal Perspective: How the Bicycle Safety Act Helps Cyclists**

Legal reform is tricky business. Sometimes, folks want one thing, and get another. I'll admit that I was concerned that this would happen here. While the old bicycle laws were inadequate and confusing, over many cases I had learned how to use them in favor of cyclists. Would the new law be mere window dressing, or even worse, a step back? The answer is clear. The new Bicycle Safety Law is a quantum leap forward and will be an immensely useful tool to protect and to enforce the rights of cyclists.

### **The Beginning of the End of Buzzing**

One of the most frustrating (and scary) problems we face is buzzing, where vehicles drive as close as possible to cyclists to threaten and terrify us (whether the driver intends to or not). The experience has ruined many rides for me (and has injured and even killed other cyclists). The old law was silent about buzzing. The new law, however, requires a "safe operating distance between the motor vehicle and a bicycle."

I've heard that some would have preferred a defined distance, such as a certain number of feet. From my professional experience, however, I actually prefer an undefined distance. Sometimes a defined amount would be enough, other times not; the new law gives me a flexible tool when an accident results from someone driving too close.

### **Civil Fines**

Any violation of the new law, including the safe passage provision, is punishable by a civil fine. The fine structure is based on injury and ranges up to \$1000. I know this doesn't sound like a lot, but the civil fine is in addition to other remedies, including a law suit against the driver and criminal charges. Trust me, the imposition of a civil fine of any amount will greatly help in the determination of more significant liability.

We will see how this develops across the state. My advice is to report all cases of buzzing and to educate the police officer and the prosecutor how the new law works. Demand that a fine be levied!

### **Criminal Prosecution for Curses and Cans**

When I was 25-years younger and lived my life in accordance with "Breaking Away," I didn't mind being yelled at on the road. It was part of the lifestyle. I've matured since, and have experienced many cases where verbal and physical projectiles out of cars have resulted in injury.

This is the worst kind of buzzing, and it's a specifically defined crime under the Bicycle Safety Law. Now, get the tag number, call the police, and file a criminal complaint against those drivers who "harass, taunt, or maliciously throw an object" at you. The jerks can go to jail for 30 days, whether they hit you or not. An injury or crash is not a requirement for prosecution.

### **It's Your Choice Where to Ride**

One of the biggest problems with the old law was its "exclusive side path" provision. It required that where there was a usable path adjacent to a road, you had to use the path. But we sometimes ride too fast to safely ride on a side path. And the path might be clogged with strollers and dog-walkers, or it might be poorly maintained. Now, you can choose to ride where you prefer. The new law says that you mostly have to stick to a bicycle lane (which is defined as paved lane, usually on the roadway, for the "preferential or exclusive use of bicyclists), but that you never have to choose an "adjacent recreational bicycle path."

This change is a big deal. With my young boys, I can ride on a path and with my cycling pals, on the road. This is not only much safer for us, but it reduces tension among path users. From a legal prospective, I can do a better job helping cyclists who are involved in accidents anywhere they occur. But stay off sidewalks in municipalities where sidewalk riding is not permitted (See [scbikelaw.com](http://scbikelaw.com) for a list of municipal laws).

### **Advocacy Success**

The PCC and its supporters deserve tremendous credit and it's hard to overstate the importance of this accomplishment. The PCC not only beat back attempts to water down the law, it catapulted the laws of South Carolina into the modern age, particularly with the anti-harassment provision. With the PCC, I plan to travel around the state to hold open workshops on the practical effects of the new law. There's a lot more to talk about. Please get in touch if you have any questions, or want to schedule a workshop. You can write me at [pwilborn@scbikelaw.com](mailto:pwilborn@scbikelaw.com).

## Summary of H3006 Bicycle Law Revisions

H3006 - The Bicycle Safety Act - amends Article 27, Chapter 5, Title 56 of the 1976 Code as indicated below. The Act is designed to provide greater safety for bicyclists on South Carolina roads and to bring South Carolina statutes into greater conformity with the Uniform Vehicle Code.

### Article 27

#### Bicyclists and Users of Play Vehicles; Rights and Duties

Section 56-5-3410. The provisions of this article are applicable to bicycles whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this article.

Section 56-5-3420. A person riding a bicycle upon a roadway must be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special provisions in this article and except as to those provisions of this chapter which by their nature can have no application.

#### Safe Operating Distance (new statute):

Section 56-5-3435. A driver of a motor vehicle must at all times maintain a safe operating distance between the motor vehicle and a bicycle.

“This should have been passed years ago,” said 5th Circuit Solicitor Barney Giese. This will give a needed legal tool to prosecute motorists who hit bicyclists. Before this law change it was a gray area according to Giese.

#### Anti-Harassment of Cyclists (new statute)

Section 56-5-3445. It is unlawful to harass, taunt, or maliciously throw an object at or in the direction of any person riding a bicycle. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars or imprisoned not more than thirty days, or both.

#### Clearer signaling for cyclists (revised statute)

Section 56-5-3480. (A)(1) A bicyclist shall indicate a right turn by extending the left arm upward, by raising the left arm to the square, or by extending the right arm horizontally to the right.

(2) A bicyclist shall indicate a left turn by extending the left arm horizontally.

(3) A bicyclist shall indicate stopping or decreasing speed by extending the left arm or the right arm downward.

(B) A bicyclist is not required to give signals provided for in subsection (A) continuously if the hand or arm is needed to control the bicycle.

#### Clarification of lane positioning (revised statute)

Section 56-5-3430. (A) Except as provided in subsection (B), every bicyclist operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable. A bicyclist may, but is not required to, ride on the shoulder of the roadway in order to comply with the requirements of this subsection.

(B) A bicyclist may ride in a lane other than the right-hand lane if only one lane is available that permits the bicyclist to continue on his intended route.

(C) When operating a bicycle upon a roadway, a bicyclist must exercise due care when passing a standing vehicle or one proceeding in the same direction.

(D) Bicyclists riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

### **Elimination of the mandatory sidepath law and clarification of right-of-way in bike lanes**

Section 56-5-3425. (A) For purposes of this section, 'bicycle lane' means a portion of the roadway or a paved lane separated from the roadway that has been designated by striping, pavement markings, and signage for the preferential or exclusive use of bicyclists.

(B) Whenever a bicycle lane has been provided adjacent to a roadway, operators of:

(1) motor vehicles may not block the bicycle lane to oncoming bicycle traffic and shall yield to a bicyclist in the bicycle lane before entering or crossing the lane; and

(2) bicycles are required to ride in the bicycle lane except when necessary to pass another person riding a bicycle or to avoid an obstruction in the bicycle lane. However, bicyclists may ride on the roadway when there is only an adjacent recreational bicycle path available instead of a bicycle lane.

**The statute mandating all bicycles to be equipped with a bell was eliminated.**

**The statute making it a misdemeanor for a bicycle to not be equipped with proper brakes, reflectors or lights was replaced with a fine of \$25.**

**Imposition of more severe penalties for motor vehicles that violate provisions within Article 27 pertaining to bicycles (revised statute)**

Section 56-5-3500. (A) Except as otherwise provided, in the absence of another violation being cited, a violation of this article by the driver of a motor vehicle is subject to a civil fine of up to one hundred dollars unless a bicyclist is injured as a result of the violation.

(B) In the absence of another violation being cited, a person driving a motor vehicle who violates a provision of this article and the violation is the proximate cause of a:

(1) minor injury to a bicyclist, must be assessed a civil fine of up to five hundred dollars; or

(2) great bodily injury, as defined in Section 56-5-2945, to a bicyclist, must be assessed a civil fine of not more than one thousand dollars.

**Definition of a bicycle (revised statute)**

"Section 56-5-160. A bicycle is a device propelled solely by pedals, operated by one or more persons, and having two or more wheels, except childrens' tricycles."

This revision ensures that adult bicycles using more than two-wheels are covered by the statutes in Article 27, Section 56.