



## Sharing the Road: State Laws and Cyclists

### Traffic Issue Brief: Sharing the Road: State Laws and Cyclists (February 2016)

This Brief was produced by the Traffic Resource Center for Judges, an initiative of the National Center for State Courts (NCSC). The Traffic Resource Center is a cooperative effort between the Department of Transportation and the National Center for State Courts (NCSC) to establish a resource for judges, court administrators, court clerks, and other court staff on issues related to traffic adjudication.



#### About the Author:

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Back in [January of 2014](#), we explored “Vulnerable User” statutes and looked at how some states have enacted laws which elevate criminal penalties for motorists inflicting injury to pedestrians and cyclists. In this edition, we look at how laws impacting cyclists differ from state to state: specifically looking at safe (distance) passing laws, distracted driving laws, cycling under the influence, and a lesser known law commonly referred to as the “Idaho Stop”.

A safe motor vehicle passing distance between driver and cyclist depends initially on the cyclist’s legal right to a portion of the road. Said entitlement differs by state and even therein changes depending upon the roadway, road condition, and road furniture (parked vehicles, etc). State laws are basically divided between two camps: those allowing for driver discretion, and those with a specific rule to which the driver must



adhere to. As of 2015, 28 states<sup>1</sup> require drivers to allow “not less than 3 feet” when passing a cyclist.

The League of American Cyclists offers a current breakdown of Safe Passing Laws [here](#). Examples of the two versions of the law can be seen below:

“Safe distance rule” as in [Hawaii 291C-43](#). (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

“3 foot rule” as in [Illinois Sec. 11-703](#). Overtaking a vehicle on the left. The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules otherwise stated in this Chapter:(d) The operator of a motor vehicle overtaking a bicycle or individual proceeding in the same direction on a highway shall leave a safe distance, but **not less than 3 feet**, when passing the bicycle or individual and shall maintain that distance until safely past the overtaken bicycle or individual.

Cycling advocates strongly support distracted driving laws because cyclists have little physical protection if hit by a car driven by a distracted driver. The USDOT describes distracted driving in an all-encompassing manner as: “any activity that could divert a person's attention away from the primary task of driving. All distractions endanger driver, passenger, and bystander safety”.<sup>2</sup> Fourteen states prohibit **all drivers** from using hand-held cell phones while driving and all of which are **primary**

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<sup>1</sup> Two states differ from the “3 foot rule”. Those being Pennsylvania which has a 4 foot rule, and North Carolina which has a 2 foot rule.

<sup>2</sup> <http://www.distraction.gov/stats-research-laws/facts-and-statistics.html>



**enforcement laws** (meaning an officer may cite a driver for using a hand-held cell phone without any other traffic offense taking place). No state bans all cell phone use for all drivers, however, 38 states and D.C. ban all cell phone use by novice drivers, and 20 states and D.C. prohibit it for school bus drivers. Currently, 46 states ban text messaging for all drivers and all but 5 have primary enforcement. The Governors Highway Safety Association offers a state-by-state chart updated as of February 2016 [here](#).<sup>3</sup> Regarding impaired cycling, laws vary from state to state and largely depend on the question of “what is a vehicle.” Most laws offer some variation of “A person is guilty of driving under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state.” The question then surrounds the definition of a “vehicle”. In Washington State, a vehicle is defined as “including every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, including bicycles.”<sup>4</sup> In other words, states like Washington permit application of DUI laws for a wide range including bicycles. In states where statutes are silent on whether bicycles are vehicles, charges for public drunkenness and possibly reckless driving would still apply.

Stop lights and (less so) stop signs can prove a challenge to cyclists. The “Idaho stop” law allows a bicyclist to treat a stop sign as a yield sign, and [the reason being](#)<sup>5</sup> that a cyclist has an unencumbered view of traffic (versus a vehicle with blindspots), and a much quicker stopping ability. Rather than being required to come to a stop, the bicyclist is required to slow down, stop if required for safety, before proceeding through an intersection controlled by a stop sign. This is an “Idaho Stop” because it has been the law in Idaho since 1982, but may more functionally be referred to as a “stop as yield” or “yield-

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<sup>3</sup> [http://www.ghsa.org/html/stateinfo/laws/cellphone\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html)

<sup>4</sup> <http://wabikes.org/growing-bicycling/washington-bike-laws/bicycle-laws-safety-revised-code-of-washington-state-bicycle-related/>

<sup>5</sup> <https://vimeo.com/4140910>

stop” law. While the “Idaho Stop” is not widely allowed, 14 states have some law that allows (see [Chart](#)) cyclists to proceed through a stop light “after a reasonable period of time,” or “when safe to do so” because in most localities, stop light sensors are not sensitive enough to detect whether a cyclist is present at the intersection so as to trigger a change in the light.

The National Household Travel Survey showed that the number of trips made by bicycle in the U.S. more than doubled from 1.7 billion in 2001 to 4 billion in 2009.<sup>6</sup> The trend is expected to continue as individuals and governments increasingly become aware of the economic and health related benefits associated with cycling.

Online legal research provided by LexisNexis.



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<sup>6</sup> [http://nhts.ornl.gov/2009/pub/Compendium\\_2014.pdf](http://nhts.ornl.gov/2009/pub/Compendium_2014.pdf)