

Ohio Bicycle Federation Proposal for revisions to Ohio Revised Code

As passed by OBF Board at 4/19/2009 Meeting (Lake Farm Park)

Current ORC language where we propose no changes is in bold italics. {Words to be added are in curly brackets with blue, underlined text}. ~~{Words to be deleted are in square brackets and in blue strikethrough italics text}~~.

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Priority 1 — Revise "Far right rule", 4511.55(A)

Present language: 4511.55(A) "Every person operating a bicycle upon a roadway *shall ride as near to the right side of the roadway as practicable* obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction."

4511.55(A) consists of three parts: (1) What we call "the far right rule" (shown in red above); (2) An important instruction to follow the rules of the road; and (3) An instruction to "exercise due care" when passing.

(Part 1) The "far right rule" as it now modified in Ohio as a result of adding division (C) in HB 389 does not create serious problems with one exception discussed below. This is because the specific clarifications added in ORC 4511.55(C) and the nature of the word "practicable" are flexible enough to not require riding so close to the curb as to place the cyclist in danger. Unfortunately, the far to the right rule is still likely to be misunderstood as requiring riding "AS CLOSE AS POSSIBLE" to the road edge unless a specific exception applies. Although it is often acceptable to ride about 2.5 to 3 feet from the right edge of the road, there are situations where this is unsafe and unreasonable, and riding closer than this to the edge is practically always unsafe.

This language often encourages the beginning cyclist's mistake of "hugging the curb". Riding too close to the curb encourages motorists to attempt to pass, even where passing is not safe. It contributes to mistakes where motorists turn in front of cyclists, the so-called "right hook". It tends to force cyclists to ride too close to parked cars, exposing them to risk of being "doored", and to ride over and through hazards rather than around them. It also leads to novice cyclists making left turns from the right edge by swerving in front of traffic, as in a "shooting gallery".

In 2006, the Legislature added a new paragraph 4511.55(C) that helps to clarify what "as near as practicable" means. However, to the extent that the far to the right rule, albeit unintentionally, encourages bad practices, it raises the question of just to what extent a special rule applicable to bicycles that goes beyond the normal slow moving vehicle rule in ORC 4511.25(B) is necessary or helpful. If the rule was designed to facilitate passing, the rule in 4511.25(B) suffices. If the rule was designed to force cyclists close to the curb in other circumstances it encourages unsafe practices and is unnecessary.

An additional problem with existing law is that it leaves uncertain the question of whether the exceptions in the 4511.25(B) apply to bicycles or whether they are overridden by the far to the right rule. Our proposal makes clear that they apply. If the language below is adopted, the new paragraph (C) from HB 389 of 2006 will not be needed because these exceptions are built into 4511.55(A)(2).

(Part 2) The important instruction to follow the rules of the road is hidden between the two unfortunate parts of this law. We suggest that this be in a division of its own.

(Part 3) The "exercise due care" when passing is redundant of the obligation to obey all rules applicable to drivers of other vehicles. It is most likely a relic of a time when bicycles were not treated as vehicles under the Revised Code. It is no longer necessary.

The appropriate purpose of both 4511.55(A) and 4511.25(B) is to facilitate safe passing of slower vehicles by faster vehicles. It is not always necessary or safe for a cyclist to ride at the edge of the road. Instead a cyclist should ride only far enough to the right to allow passing and then only if such passing is safe and reasonable.

The current version of 4511.55 may be interpreted as requiring a person operating a bicycle to ride in marked bicycle lanes. Such lanes are often placed in hazardous places, including too close to parked cars (in the "door zone"), on the wrong side of turning traffic, which creates crossing conflicts or on steep descents, where a five foot lane is much too narrow for the speeds that may be expected.

Finally, there are situations on one-way roads where it is safer to ride towards the left side of the road to avoid hazards from the door zone of parked cars.

We urge the Legislature to adopt the improved language below, which is based upon the Pennsylvania Code, § 3301(b) and § 3505(c) and the UVC § 11-1205(a)(3).

Proposed revision to 4511.55(A), to be split into two subsections (A & C) with added divisions (D) and (E).

(A) Every person operating a bicycle upon a roadway shall obey all traffic rules applicable to vehicles, except those provisions which, by their nature, can have no application.

(B) Persons riding bicycles or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

{(C) A bicycle that is operated at less than the prevailing speed of traffic shall be operated in accordance with division (B) of section 4511.25 of the Revised Code except when reasonably necessary to avoid conditions that do not permit the bicycle to be so operated, including the presence of fixed or moving objects,

parked or moving vehicles, surface hazards, pedestrians, or animals, or if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane, or when it otherwise is unsafe or not practicable to operate the bicycle in accordance with division (B) of section 4511.25 of the Revised Code.

(D) Notwithstanding division (C) of this section, a person operating a bicycle is not required to ride within any lane marked for bicycle use.

(E) A person operating a bicycle upon a roadway designated and posted with signs for one-way traffic may ride as near to the left side of the roadway as practicable, subject to the conditions in division (C) of this section.

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Contingency version – to be presented only if preferred version above is not accepted
Priority #1: Revise 4511.55(A) to link it to 4511.25(B)

Present language: 4511.55(A) "Every person operating a bicycle upon a roadway *shall ride as near to the right side of the roadway as practicable* obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction."

The current version of this law may create confusion because it is not linked to the "Slow Vehicle Rule" of 4511.25(B). We propose additional language below to provide the necessary linkage. In addition, the instruction to exercise "due care" is redundant to the general duty to obey all traffic rules. Listing the duty to obey traffic rules in a separate division gives better emphasis on following the rules of the road.

The current version of 4511.55 may be interpreted as requiring a person operating a bicycle to ride in marked bicycle lanes. Such lanes are often placed in hazardous places, including too close to parked cars (in the "door zone"), on the wrong side of turning traffic, which creates crossing conflicts or on steep descents, where a five foot lane is much too narrow for the speeds that may be expected.

Finally, there are situations on one-way roads where it is safer to ride towards the left side of the road to avoid hazards from the door zone of parked cars.

4511.55. Bicycle lane position; riding bicycles or motorcycles abreast.

(A) Every person operating a bicycle upon a roadway at less than the prevailing speed of traffic shall :

- (1) ride as near to the right side of the roadway as practicable ~~obeying~~ subject to the exceptions and as otherwise provided in section 4511.25(B) and**
- (2) Obey all traffic rules applicable to vehicles, except those provisions which, by their nature, can have no application.**

(B) Persons riding bicycles or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

(C) This section does not require a person operating a bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane.

{(D) Notwithstanding division (A)(1) of this section, a person operating a bicycle is not required to ride within any lane marked for bicycle use.}

(E) A person operating a bicycle upon a roadway designated and posted with signs for one-way traffic may ride as near to the left side of the roadway as practicable, subject to the conditions in division (1) of this section.

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Priority 2 — Safer rules for right turns (4511.36)

One of the most frequent motorist-caused bicycle collisions occurs when the motorist passes the bicycle and then cuts abruptly across the cyclist’s path. This type of mistake is particularly prevalent where there are marked bicycle lanes. The proposed language below will clarify the motorist’s duty and encourage teaching of safer practices in driver training classes.

4511.36. Rules for turns at intersections.

(A) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway, provided that the driver of a motor vehicle shall not make a sudden right turn at an intersection or driveway after passing a person operating a bicycle within one hundred feet of the intersection or driveway. Where there is a marked bicycle lane, as close as practicable means that the driver must safely merge into the bicycle lane before making the turn.

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Priority 3 — Safer passing rules (4511.27)

The present form of 4511.27(A)(1) lacks a definition for the minimum safe passing distance when a motor vehicle passes a bicycle or other non-motorized vehicle. When there is a hit from behind or sideswipe collision, the motorist will often claim that the cyclist swerved. This provision added to Ohio Law, will lead to improved justice for victims of unconscionably reckless motoring because the defense would be required to establish that the victim swerved

more than the minimum clearance distance to have caused the accident. Similar provisions have been enacted in at least twelve other states (AZ, AK, CT, FL, IL, ME, MN, NH, OK, TN, UT, WI) and is being considered in others.

The present "give way on audible signal" language in division (2) is an antiquated leftover from the days of Model T Fords and dirt roads. Then, people drove towards the center of such roads to avoid ruts at the edge. A faster driver would signal with his horn to alert the leading driver to move over. On modern roads, people normally drive near the right; therefore this instruction has little meaning. Use of horns must be reserved for emergency situations or as an alert to inattentive drivers, not to intimidate slower drivers.

4511.27. Rules governing overtaking and passing of vehicles.

(A) The following rules govern the overtaking and passing of vehicles or trackless trolleys proceeding in the same direction:

(1) The operator of a motor vehicle or trackless trolley overtaking another vehicle or trackless trolley proceeding in the same direction shall, except as provided in division (A)(3) of this section, signal to the vehicle or trackless trolley to be overtaken, 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 or trackless trolley. When a motor vehicle overtakes a bicycle, the safe passing distance shall be not less than three feet.

(2) ~~Except when overtaking and passing on the right is permitted, t} {T}he operator of an overtaken vehicle [shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator]~~ shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

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Priority 4 — Rules for malfunctioning traffic signals (4511.132(A))

Current Ohio law is ambiguous with respect to malfunctioning traffic signals (lights) if they fail to present a green (proceed) signal to traffic from one direction at a controlled intersection. This can occur because of a malfunction to the timer on timed lights or due to the failure of a vehicle detector to detect an approaching vehicle.

4511.132(A) The driver of a vehicle, streetcar, or trackless trolley who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver either exhibits no colored lights or colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right-of-way or if the signals are otherwise malfunctioning, including failure of a vehicle detector to detect the

vehicle;}

(1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;

(2) Yield the right-of-way to all vehicles, streetcars, or trackless trolleys in the intersection or approaching on an intersecting road, if the vehicles, streetcars, or trackless trolleys will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways;

(3) Exercise ordinary care while proceeding through the intersection.

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Priority 5 — Clarifying Powers of Local Authorities (4511.07(A)(8))

The word "fundamentally" used in 4511.07(A)(8) undermines the vital concept of uniform traffic laws. We have found that this word creates confusion with city officials and potentially with the courts. We recommend that this one word be deleted.

We have also found cities that adopted many of the changes from HB 389 of 2006 but failed to repeal language inconsistent with the uniform rules of the road and contrary to safe operation. We propose language that is very similar to 4511.06 to make clear that local rules that conflict with the uniform rules of the road are not permitted.

4511.07(A)(8) Regulating the operation of bicycles and requiring; provided that no such regulation shall be fundamentally inconsistent with the uniform rules of the road prescribed by this chapter and that no such regulation shall prohibit the use of bicycles on any public street or highway except as provided in section 4511.051 of the Revised Code and no local authority shall enact or enforce any rule in conflict with this chapter;

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Priority 6 — UVC brake performance metric (4511.56(D))

The requirement in 4511.56(D) for an "adequate brake" is ambiguous. Some police departments prefer an objective standard. This desire leads to some communities requiring that the brake "skid the wheel", which suggests irresponsible operation. In addition, skidding the wheel is impossible for the front wheel of most bicycles and it is extremely dangerous to try this test. We suggest using the following language from the Uniform Vehicle Code 12-706, as shown below.

(D) Every bicycle when used on a street or highway shall be equipped with an adequate brake for brakes that will enable its operator to stop the bicycle within fifteen feet from a speed of ten miles per hour on dry, level, clean pavement.

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Priority 7 — Allowing bicycles on freeway shoulders in limited cases (4511.051)

4511.051 bans bicycles from any part of a freeway, regardless of the hardship that this causes when there is no reasonable alternative route and regardless whether there is any increased safety hazard. Many other states either allow riding along a freeway shoulder except where such use is explicitly prohibited, or they have a mechanism to allow the state Department of Transportation to allow shoulder use where necessary and where reasonably safe.

The experience of other states in permitting freeway shoulder use has been quite good. This is because freeway shoulders are generally free of collision hazards. In other words, the freeway shoulder may be safer than alternate routes because crossing and turning traffic is eliminated by the design of the freeway.

A published study for California "Statewide Safety Study of Bicycles and Pedestrians on Freeways, Expressways, Toll Bridges, and Tunnels", Dr. Thomas C. Ferrara, PE, MTI Report 01-01, Mineta Transportation Institute, 2001 concluded: "Overall vehicle collision rates are no higher on freeways open to bicycles than they are on adjacent highways open to bicycles." This study is available at <http://transweb.sjsu.edu/mtiportal/research/publications/summary/0101.html>

Another study from Arizona, "Bicycle - Motor Vehicle Collisions on Controlled Access Highways in Arizona" lists nine motor-vehicle bicycle collisions comprising 0.035 percent of the reported collisions in Arizona during the eleven year reporting period (1991-2002). Of the nine collisions, two occurred to people crossing the highway rather than riding along it, two involved impaired motorists and two involved impaired bicycle operators. The study concluded: *"The rate of bicycle-motor vehicle crashes on controlled access highways is less than one per year across the entire state of Arizona for over a decade, clearly implying that there is not a large-scale safety problem associated with the use of these highways by bicyclists."*

The League of American Bicyclists issued the following statement about bicycle use of freeways: *"The League notes that the U.S. has more than 25 years' experience allowing bicyclists to use the shoulders of limited access freeways. Accident data collected in the states that allow this indicate that the bicyclists' accident rate on these facilities is quite low. Accordingly, the League supports expanding the rights of bicyclists to use these freeway shoulders where no other reasonable alternative exists."*

Present language: 4511.051 Prohibitions on use of freeways.

(A) No person, unless otherwise directed by a police officer, shall:

(2) Occupy any space within the limits of the right-of-way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

We recommend the following language that would allow the DOT to approve exceptions in

limited cases. This language is based on the Pennsylvania Code § 3511.

Proposed new division (B) for 4511.051

{(B) Notwithstanding division (A) above, the Department of Transportation may authorize bicycle operation on the shoulder of designated portions of freeways under the following conditions:

(1) A written request for review of the freeway route is made to the department based on the potential unavailability of a reasonable alternate route.

(2) The department determines that no reasonable alternate route exists.

(3) The department publishes a notice authorizing bicycle access to the shoulder of the freeway. The notice shall constitute approval for use of bicycles on the shoulder of the specified portion of the freeway.

(4) Signs will be posted at the freeway access ramps to indicate where shoulder bicycle access is permitted.

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Priority 8 — Bicycle and vehicle definitions (4511.01 and 4501.01)

Bicycles are defined to be vehicles in the ORC, however, the present definition, which mentions “motorized bicycle”, is confusing because it implies that a non-motorized bicycle is not a vehicle. The language at the bottom of this division includes a double negative (except --- other than”) that also may easily be misunderstood.

We recommend explicitly mentioning “bicycle” separately from “motorized bicycle” or alternately, drop the adjective “motorized” and simply say “bicycle” in the first line.

In addition, the definitions in § 4501.01 and 4511.01 are not consistent, which creates additional confusion.

§4501.01 and 4511.01. Definitions.

As used in this chapter and in Chapter 4513. of the Revised Code:

(A) "Vehicle" means every device, including a {bicycle or} motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power.