

March 11, 2015

The Honourable Grant Crack, MPP  
Chair of the Standing Committee on General Government  
C/o Sylwia Przezdziecki  
Legislative Assembly of Ontario  
By email: sprzezdziecki@ola.org

Dear Mr. Chair and Members of the Committee:

We are writing on behalf of Cycle Toronto with respect to your Committee hearings on Bill 31, the *Transportation Statute Law Amendment Act (Making Ontario's Roads Safer), 2015*.

Cycle Toronto is a diverse member-supported organization that advocates for a healthy, safe, cycling-friendly city for all. We strongly support the passage of Bill 31, which in large part aims to improve cycling safety in Ontario. In particular, Cycle Toronto would like to express our support for the following elements of the Bill:

- Permitting flashing red lights on the rear of bicycles (Section 22 (2));
- Higher fines for distracted driving (Section 23);
- Providing for traffic control signals specific to bicycles and allowing cycling alongside crosswalks (e.g., for two-stage left turns) (Sections 39 & 41);
- Requiring drivers to maintain a one-metre distance when passing a cyclist (Section 43);
- Providing for contraflow bicycle lanes on one-way streets (Section 45);
- Permitting bicycle riding on paved highway shoulders (Section 47); and
- Higher fines for “doorings” – opening a vehicle door in the path of a cyclist (Section 50).

There are, however, five areas of Bill 31 that we recommend should be amended:

1. We respectfully submit that the existing requirement for reflective tape on bicycles is physically impossible to accommodate on some road bicycles (Section 22 (2));
2. We do not support the drastic increase—from \$20 to \$500—in maximum fines for cyclists without lights, although we would accept a smaller increase (Section 22 (3));
3. We propose language to strengthen the new one-metre passing rule (Section 43);
4. We propose a new provision clarifying that riding two-abreast is permissible under certain conditions.
5. We request that Bill 31 address the need for mandatory side-guards on large trucks.

As members of the Committee are no doubt aware, cycling is increasing in popularity in Ontario at a significant rate. Many Ontarians, however, have legitimate concerns about the safety of our



416 644 7188  
info@cycleto.ca  
www.cycleto.ca

Cycle Toronto  
@ Centre of Social Innovation  
720 Bathurst Street, Suite 307  
Toronto, ON M5S 2R4

streets. While changes in vehicle design have improved the consequences of collisions for vehicle inhabitants, pedestrians and cyclists remain disproportionately vulnerable to traffic deaths and injuries. A recently-released Toronto Public Health report shows that in Toronto over a recent five-year period, there were an average of 1,287 collisions with cyclists each year, of which, on average, 2 were fatal and 1,117 resulted in injuries.<sup>1</sup> A recent poll commissioned by Share the Road Cycling Coalition indicates that a majority of Ontarians would like to ride their bicycles more often, but have safety concerns that prevent them from doing so.<sup>2</sup>

Cycle Toronto is encouraged by the Ontario Government's attention to the potential for growth in cycling for both transportation and recreation. We were pleased to join the Minister of Transportation's Cycling Strategy Working Group which culminated in the release of the Ontario Cycling Strategy in 2013 and the announcement of the Ontario Municipal Cycling Infrastructure Program last year by then-Transportation Minister Glen Murray. We were encouraged when the current Minister of Transportation, Stephen Del Duca, reintroduced the former Bill 173 as Bill 31 and retained important cycling safety elements. And we are hopeful that Community Safety Minister Yasir Naqvi will succeed with his proposal to allow municipalities to set lower default speed limits (currently undergoing consultations).

Cycle Toronto would also like to acknowledge the important contributions made by other elected officials to this bill including Cheri DiNovo, MPP for Parkdale-High Park; Norm Miller, MPP for Parry Sound-Muskoka; and Eleanor McMahon, MPP for Burlington and former Executive Director of the Share the Road Cycling Coalition.

We would like to elaborate on the four areas of Bill 31 that we believe should be amended:

### **1. Reflective tape (Section 22(2))**

We respectfully submit that the existing requirement for reflective tape on bicycles is physically impossible to accommodate on some road bicycles. The area available is limited by the length and diameter of the forks of the bicycle, which in some cases are smaller than the area of reflective tape required by law. We ask for some flexibility in this area.

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<sup>1</sup> Toronto Public Health. "Health Evidence to Support Development of Complete Streets Guidelines." December 2014. Accessed at: <http://www.toronto.ca/legdocs/mmis/2015/pw/bgrd/backgroundfile-75763.pdf>

<sup>2</sup> Share the Road Cycling Coalition. "Provincial Bicycling Organization Releases Polling Data Highlighting Support for Active Transportation in Metrolinx's The Big Move." Accessed at: [http://www.sharetheroad.ca/files/Media\\_Release\\_OBS\\_Metrolinx\\_FINAL.pdf](http://www.sharetheroad.ca/files/Media_Release_OBS_Metrolinx_FINAL.pdf)



## 2. Fines for riding without lights (Section 22 (3))

Section 22(3) of Bill 31 would repeal Section 62(18) of the HTA, which currently sets the maximum fine for riding without lights at \$20. The consequence would be that the HTA's "General penalty" (Section 214) would then apply to cyclists.

Section 214 of the HTA indicates that contravention of the Act shall result in a penalty of up to \$500 where not otherwise specified, except in the case of pedestrians, who may be subject to a penalty of up to \$50 where not otherwise specified. This ten-fold difference reflects the fact that pedestrians are not operating motor vehicles, which can be potentially deadly weapons. It is our view that a fine of \$500 is excessive for a cyclist, given that persons on bicycles are vulnerable road users like pedestrians, and cannot cause the same level of damage to persons and property that motor vehicle drivers can.

We do not, therefore, support the drastic increase—from \$20 to \$500—in maximum fines for cyclists riding without lights. We do, however, recognize that riding without lights is a serious safety risk. For this reason, we would argue in favour of retaining HTA Section 62(18), with a more modest increase in maximum fines.

## 3. The one-metre passing rule (Section 43)

What keeps many Ontarians from cycling is fear for their safety while riding in mixed traffic, and it is safe to say that almost every Toronto commuter cyclist knows the heart-stopping feeling of being passed too closely by a motor vehicle. We applaud the Ontario Government for introducing a one-metre passing rule. The clause "as nearly as may be practicable," however, dilutes the law and renders it unenforceable. We therefore recommend an amendment that would strengthen this provision.

Twenty-five American states have safe passing laws that require a one-metre (three foot) distance or more; not one of these dilutes the rule with language similar to what is found in Bill 31: "as nearly as may be practicable." The Rhode Island law explains why three feet is the minimum distance. It states that a "**'safe distance' means a distance that is sufficient to prevent contact with the person operating the bicycle if the person were to fall into the driver's lane of traffic.**" If a driver feels they have discretion as to when they may pass more closely, there is a greater risk that a cyclist will be hit, or even felled by a pothole, *and fall under the wheels of that moving vehicle or one behind it.* For this reason, one metre, without discretion, must be the law.

Cycle Toronto proposes alternate wording for section 43 that was recommended by the former Toronto Coroner's Office and originally found in the Ministry of Transportation's "Cycling Skills" publication:

*Upon passing a bicycle, drivers or operators of motor vehicles shall maintain a distance of at least 1 metre beside. Upon traveling behind the bicycle, drivers or operators of motor vehicles shall maintain a distance of at least 3 meters behind. Where a traffic lane*



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www.cycleto.ca

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*is too narrow to share safely with a motor vehicle, it is legal for a bicycle to take the whole lane by riding in the center of it.*<sup>3</sup>

Furthermore, in keeping with another recommendation from the same Coroner's Office,<sup>4</sup> Cycle Toronto also requests that the original HTA Section 148 (6) be amended to recognize that cyclists should ride one metre from the edge of the road and not "turn out to the right." As the Ministry of Transportation's own "Cycling Skills" guide states, cyclists should "stay about one metre from the curb to avoid curbside hazards and ride in a straight line."<sup>5</sup> As the former Coroner observes, "[m]otor vehicle operators must appreciate that a bicycle is a vehicle and is entitled to dominate a lane where it is appropriate to do so. This concept is widely taught in bicycle skill training courses." The language we have provided above aims to rectify the common misunderstanding about cyclists having to "get out of the way" that have arisen from the reference in the HTA to "turning out to the right."

#### **4. Riding two abreast (side-by-side riding) (Proposed amendment to HTA Section 148 – to be added to Bill 31, Section 43)**

Cycle Toronto supports the request of Morning Glory Cycling Club and other riding clubs to clarify the HTA with respect to riding two abreast (side-by-side riding). There is confusion among road users about the legality of this commonly-used long-distance road formation.

The City of Toronto notes that riding two abreast is *legal* under the HTA, subject to certain conditions. In addition, side-by-side riding is the *safest* formation as it reduces the length of time a motor vehicle must spend overtaking (e.g., passing the length of 10 rather than 20 bicycles) and discourages drivers from squeezing alongside a pack of riders when it is not safe to do so. Cycle Toronto proposes a new subsection in Bill 31, Section 43, that would expressly permit riding two abreast where it is safe to do so, using language adapted from a City of Toronto factsheet:

*"On a road where the travel lane is wide enough for a passing vehicle to safely share the lane with a cyclist, but a motorist cannot pass [by using] another travel lane which is free*

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<sup>3</sup> "Appendix B" of A Report on Cycling Fatalities in Toronto 1986 – 1998: Recommendations for Reducing Cycling Injuries and Death. Prepared for the Office of the Chief Coroner by: W. J. Lucas, M.D., C.C.F.P., Regional Coroner for Toronto. July 1, 1998. Accessed at: <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=24400995bbbc1410VgnVCM10000071d60f89R> [CRD](#)

<sup>4</sup> The Coroner's Report cited above states that: "CAN-BIKE and other cycling safety courses recommend that cyclists ride one metre from the edge of the road. [This section] should be repealed as it encourages cyclists to 'get out of the way' even when the condition of the road nearer the gutter may be hazardous."

<sup>5</sup> Ontario Ministry of Transportation. "Cycling Skills: Ontario's Guide to Safe Cycling." Accessed at: <http://www.mto.gov.on.ca/english/safety/pdfs/cycling-skills.pdf>. p. 14



*of traffic, [...] cyclists must [...] position themselves in single file and allow the faster vehicle to pass.”<sup>6</sup>*

*In all other situations, persons operating bicycles may ride two abreast.*

## **5. Mandatory side-guards on large trucks**

Our final request is that Bill 31 address one of the most significant safety concerns for urban cyclists: the need for mandatory side-guards on large trucks. Too many cyclists are killed unnecessarily when they are hit by large trucks and are crushed under their wheels. A study in New York City found that, although large vehicles (trucks, buses), make up only 5 to 17 percent of vehicles on the road, these vehicles account for almost one third (32%) of cycling fatalities.<sup>7</sup> A simple side-guard prevents a cyclist or pedestrian from being crushed under the wheels of a truck when they are hit. These guards are required in many jurisdictions.

We recognize that the Ontario Government has expressed an aversion to legislating in this area and would prefer to see a federal law providing uniform standards across the country. In the absence of action from Ottawa, however, there is no reason the province cannot show leadership and include this requirement for trucks on Ontario’s roads while it is making legislative changes in the name of road safety.

Thank you for the opportunity to comment on the proposed Bill 31. We look forward to continuing to work with the Ontario Government to make our roads safer for cyclists and other road users. If you have any questions about our testimony, please contact me directly.

Sincerely,



Jared Kolb, Executive Director  
Cycle Toronto



Liz Sutherland, Board Member  
Cycle Toronto

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<sup>6</sup> City of Toronto. “Single File Cycling vs. Two Abreast Cycling.” Accessed at: <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=af6e0995bbbc1410VgnVCM10000071d60f89RCRD&vgnextchannel=f4d4970aa08c1410VgnVCM10000071d60f89RCRD>

<sup>7</sup> Nica, L., Stayton, C., Mandel-Ricci, J., McCarthy, P., Grasso, K., Woloch, D., et al. (2009). Bicyclist fatalities in new york city: 1996-2005. *Traffic Injury Prevention*, 10(2), 157-161.



c.c.: The Honourable Stephen Del Duca, Minister of Transportation  
Kathryn McGarry, Parliamentary Assistant to the Minister of Transportation  
Michael Harris, PC Critic, Transportation  
Cheri DiNovo, NDP Critic, Urban Transportation  
Jamie Stuckless, Executive Director, Share the Road Coalition  
Fraser Chapman, Club President, Morning Glory Cycling Club



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