

South Dakota Bicycle Coalition

Position Paper - Three Foot Passing Legislation

February 2010

Introduction

A bill now in the South Dakota Legislature aims to better clarify what is considered a safe clearance for motorists passing bicyclists who share the road. As introduced, the SB70 would require a minimum of 3 feet passing distance.

If Passed, the Law Would ...

- strengthen the existing Rules of the Road by offering an objective measure of a safe passing distance.
- uphold the rights and responsibilities of bicyclists and motorists by encouraging operator education.
- support the legal concept of bicycles as vehicles.
- move the state higher in national rankings as a bicycle-friendly state by supporting a message to safely share the road, as reinforced through a 3-foot law.

SB70 is Needed.

Bicyclists ride for numerous reasons in many parts of South Dakota - for health, for recreation, for travel and for livable communities. For these reasons, bicycling in the state is growing.

And, with growth comes a need to educate the public on how to best share the road and reduce the chance for serious injury. But, unfortunately, the existing law is vague - only requiring motorists to pass "at a safe distance to the left thereof."

A more clear, standard measure will support safer road sharing.

3 Feet is Enough.

The South Dakota Bicycle Coalition believes that a minimum of 3 feet is the right, reasonable standard. It is clean and definitive; and, at the same width of a bicycle (handlebars & rider), it is enforceable if observed. Also, most motorists can relate to 3 feet, especially if accompanied by an effective Share the Road education campaign.

Fourteen States - Arizona, Arkansas, Colorado, Connecticut, Florida, Illinois, Kentucky, Maine, Minnesota, New Hampshire, Oklahoma, Tennessee, Utah and Wisconsin - have all passed similar legislation for due care standards or rules of the road requiring a minimum of 3 feet.

Additionally, Iowa's legislature is currently considering a 5 foot safe passage law for bicyclists. Some feel that 5 feet is necessary, especially at high speeds when wind turbulence is a significant hazard.

SB70 is Enforceable.

The South Dakota Bicycle Coalition finds the proposed law to be no more or less enforceable than many other laws in the Rules of the Road chapter. For example, how do drivers know if they are following another vehicle "more closely than is reasonable and prudent"? (*SDCL 32-26-40*)

The 3 foot law would serve, primarily, as an educational tool. It would help outline safe practices for motorists and bicyclists, over being used to punish law breakers.

At least one precedent exists to demonstrate how a law can support public education - the seat belt law. Currently, the law only has secondary enforcement, but it plays an important role in educating motorists on safe practices.

Is it Safe for Motorists?

In order to give a bicyclist 3 feet of passing clearance, a motorist may have to move into another lane or cross the center line (when legal).

But, whether it be a bicycle, farm tractor or other vehicle, motorists may, as per the law, cross the center line to overtake another vehicle, where it's legal and safe (*SDCL 32-26-26, SDCL 32-26-34*).

It should be noted, that the current bicycle positioning law (SDCL 32-20B-5) does allow a bicycle to move from the right hand curb or edge of a the roadway for a number of reasons - including when riding in "a lane that is too narrow for a bicycle and vehicle to travel safely side by side within the lane."

Therefore, when a lane becomes too narrow for both a bicyclist and car to be in the same lane, a bicyclist, for safety reasons, can move into the lane. Then, the motor vehicle must utilize part or all of another lane.

We Agree with the Law.

The South Dakota Bicycle Coalition agrees with South Dakota Law that bicycles are vehicles and should act and be treated as such on the roadway, and that that drivers of overtaking vehicles should pass at a safe distance.

However, given the frequency and high consequences of motorists failing to pass at a safe distance, the coalition agrees with South Dakota cyclists – and 14 other states – that additional guidance within the law is necessary. SB70 and 3-foot can provide this to motorists and cyclists in South Dakota.

References

Senate Bill 70 (SB70 - as introduced)

Section 1. That chapter 32-26 be amended by adding thereto a NEW SECTION to read as follows:

The driver of any motor vehicle overtaking a bicycle proceeding in the same direction shall pass the bicycle as required by § 32-26-26 and shall leave a safe distance, but in no case less than three feet clearance, when passing the bicycle. The driver of the motor vehicle shall maintain the clearance until safely past the overtaken bicycle. A violation of this section is a Class 2 misdemeanor

32-20B-5. Operation on roadway--Riding close to right-hand curb required--Violation as misdemeanor. Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway. However, a person operating a bicycle may move from the right-hand curb or edge of the roadway to overtake and pass another bicycle or vehicle proceeding in the same direction, to prepare for a left turn at an intersection or into a private road or roadway or to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and vehicle to travel safely side by side within the lane. A violation of this section is a Class 2 misdemeanor.

32-26-26. Overtaking vehicles--Passing to left required--Cutting in front prohibited--Violation as misdemeanor. The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at a safe distance to the left thereof. The driver of an overtaking vehicle shall pass at a safe distance to the side of an overtaken vehicle and may not cut in front of the latter until safely clear of the overtaken vehicle. A violation of this section is a Class 2 misdemeanor.

32-26-34. Passing by crossing highway center line when vision is obscured--Violation as misdemeanor. No driver of a vehicle may drive to the left side of the center line of a highway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety. A violation of this section is a Class 2 misdemeanor.

Definition of Bicycles as Vehicles - from SDCL 32-14-1.

Definitions. Terms used in chapters 32-14 to 32-19, inclusive, 32-12 and 32-22 to 32-34, inclusive ... (39) "Vehicle," a device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals.