

SLATER | ROSS

A T T O R N E Y S

www.slaterross.com

Christopher A. Slater

Admitted in Oregon and Washington
cslater@slaterross.com

Sovereign Hotel, 4th Floor
710 S.W. Madison Street
Portland, Oregon 97205
Tel: (503) 227-2024
Fax: (503) 224-7299

March 31, 2015

Senator Floyd Prozanski
Chair, Senate Committee on Judiciary
Oregon State Capitol, S-415
900 Court Street N.E.
Salem, Oregon 97301

VIA ELECTRONIC MAIL ONLY – ORIGINAL WILL NOT FOLLOW

Re: Senate Bill 694

Dear Chair Prozanski and Members of the Committee:

I am a motorcyclist and an attorney that represents injured motorcyclists in Oregon and Washington. I also advocate for the passage of laws that improve motorcycle safety. I have been riding motorcycles since 1985 and have been practicing as an attorney in Oregon since 1997. I am submitting this letter as my support of Senate Bill 694 ("SB 694") ("Lane Filtering"). This submission will focus upon the safety benefits of Lane Splitting and the legal issues associated with legalized Lane Filtering under SB 694.

THE CURRENT PROBLEM

Under current Oregon law, motorcycles are restricted to operating only within a single lane of traffic and are prohibited from operating between lanes of traffic, including on divided highways and freeways. In essence, motorcycles in Oregon are required to operate as if they were automobiles. Unfortunately, this creates safety issues for motorcyclists because it places them in the most common vehicle accident situation as if they were an automobile without having the safety features of modern automobiles. Moreover, as Oregon's urban areas increase in density, transportation policies will need to incentivize the use of alternative vehicles, including motorcycles. However, current Oregon law actually reduces the incentive for using motorcycles as a more fuel-efficient alternative because it forces them to operate in the same manner as less fuel-efficient automobiles.

March 31, 2015

Senate Committee on Judiciary

Re: *SB 694*

Page 2

LANE SPLITTING AND LANE FILTERING AS A SOLUTION

The global solution to this problem is the legalized practice of “Lane Splitting”. Lane splitting is when motorcycles operate between lanes of traffic traveling in the same direction. Lane splitting is currently legal in most developed European and Asian countries where population density is common. In the United States, it is currently unlawful to lane split, except in California, where lane splitting has been legally practiced for decades. “Lane Filtering” is a subpart of Lane Splitting when motorcycles operate between lanes of traffic only when the rest of traffic is slowed or at a complete stop. Lane filtering is most commonly practiced in dense urban areas when motorcycles “filter” to the front of traffic at stop lights, thereby promoting more efficient traffic flow, reducing traffic congestion and effectively incentivizing the use of motorcycles for commuting in urban areas.

THE SAFETY BENEFITS OF LANE SPLITTING

However, the most important reason for legalized lane splitting is safety. There is a common public misperception that lane splitting is more dangerous than the current practice. One of the most common misperceptions is that drivers will not see motorcycles when they change lanes. The opposite is true. Currently, motorcycles must often operate in the driver’s “blind spot” in the lane next to the driver. However, when the motorcycle is riding between lanes, it is in plain view to the driver in either side mirror where there is no blind spot.

The most important safety benefit of lane splitting is the resulting reduction of rear-end accidents and accidents when motorcycles are “pinched” between two larger vehicles. According to the National Highway Traffic Safety Administration (“NHTSA”), 40% of all motor vehicle accidents are rear-end accidents. According to the Oregon Department of Transportation (“ODOT”), in 2013 37% of all accidents were rear-end accidents, and the number one driver error was not stopping for a stopped or parked vehicle. On highways and freeways, rear-end accidents most commonly occur during stop-and-go traffic situations, notably during commuting hours when the vehicular traffic is the most dense and traveling the slowest. Multi-vehicle collisions often occur under these circumstances resulting in vehicles being impacted at both the front and rear of the vehicle. And while injuries often do not occur to drivers and passengers in these accidents, the injuries to a motorcyclist can be significant or even fatal in these situations. This is because of the relatively low mass of motorcycles, the lack of common safety features with modern automobiles, and the exposure of the rider. I have seen the results of rider collisions with automobiles in my law practice.

This is a longstanding problem that has not received the attention it deserves, but the few studies that have been done demonstrate the safety benefits of lane splitting. In 1981, the Hurt Report was released. It is still considered the most comprehensive study on the cause of motorcycle

March 31, 2015

Senate Committee on Judiciary

Re: *SB 694*

Page 3

accidents in the United States. The report found that nearly 60% of all multi-vehicle motorcycle accidents occur in heavy traffic situations.¹ In 2000, the NHSTA released a proposal through the National Agenda for Motorcycle Safety (“NAMS”) to further study the safety benefits of lane splitting:

A motorcycle's narrow width can allow it to pass between lanes of stopped or slow-moving cars on roadways where the lanes are wide enough to offer an adequate gap. This option can provide an escape route for motorcyclists who would otherwise be trapped or struck from behind. There is evidence (Hurt, 1981) that traveling between lanes of stopped or slow-moving cars (i.e., lane splitting) on multiple-lane roads (such as interstate highways) slightly reduces crash frequency compared with staying within the lane and moving with other traffic.²

In 2014, the University of California at Berkeley (“UC Berkeley”) released a study in coordination with the California Motorcyclist Safety Program (“CMSP”) of the California Highway Patrol (“CHP”). 7,836 motorcycle accidents were studied, including 1,163 accidents where the motorcyclist was lane splitting. The UC Berkeley study found that in lane splitting accidents there were: 42% fewer rear-end accidents; 55% fewer fatalities; 45% fewer head injuries; 32% fewer torso injuries; and 12% fewer arm and leg injuries, when compared to non-lane splitting accidents. The study concluded that lane splitting was safest when vehicular traffic is 30 mph or less and the speed differential of the motorcycle is 10 mph or less. Interestingly, the study further found that the majority of motorcyclists were already lane splitting consistent with one or both of these speed variables. Only a very small percentage of motorcyclists engaged in lane splitting with neither of the speed variables being present.³ In 2013, the CHP released Lane Splitting Guidelines for the first time.⁴ The CHP Guidelines were consistent with the findings of the UC Berkeley study – that lane splitting is safest when traffic is 30 mph or less and there is a speed differential of 10 mph or less.

¹ Hurt, H.H. Jr., Ouellet, J.V. & Thom D.R. (1981b). *Motorcycle Accident Cause Factors and Identification of Countermeasures*. (DOT HS 805 862). Washington, DC: National Highway Traffic Safety Administration, page 57.

² National Agenda for Motorcycle Safety, U.S. Department of Transportation, National Highway Traffic Safety Administration. (DOT HS 809 156), 2000, page 51.

³ Safety Implications of Lane-splitting among California Motorcyclists Involved in Collisions, Report To California Office of Traffic Safety, Safe Transportation Research & Education Center University of California Berkeley, August 6, 2014, pages 2-4.

⁴ CMSP Lane Splitting General Guidelines, 2013. In California there are no mandated speed parameters for Lane Splitting. The CHP pulled the Guidelines down in 2014 due to rule making issues with the Guidelines.

March 31, 2015
Senate Committee on Judiciary
Re: *SB 694*
Page 4

SENATE BILL 694

SB 694 is a Lane Filtering Bill. It only permits motorcyclists to operate between lanes of traffic on highways and freeways where the posted speed limit is 50 mph or greater when traffic is stopped or traveling less than 10 mph and only when the motorcyclist is traveling at a speed differential of 10 mph or less. Accordingly, it is a very restrictive form of lane splitting. Under SB 694 lane filtering would only be permissible on a small percentage of Oregon roadways, and then only under circumstances where traffic is stopped or nearly stopped. SB 694 does not allow motorcyclists to split lanes at higher speeds or even at speeds approaching the limits suggested by the CHP. SB 694 does not allow motorcyclists to ride on the shoulder or in bicycle lanes.

The law enforcement aspects of SB 694 are also relatively straightforward. Under current law, law enforcement can cite any motorcyclist who rides between lanes of traffic. Because of the restrictions contained in SB 694, enforcement of the law will only be marginally different from existing law. Motorcycles seen riding between lanes at a higher speed differential or even at moderate speeds will be subject to citation, just like under the current law. Civil liability should also be minimally impacted. Motorcyclists and drivers will still owe a duty of reasonable care to each other. Drivers that change lanes without checking for other vehicles may be subject to legal liability when an accident results. Motorcycles that ride between lanes outside of the permitted parameters will also be subject to legal liability if their violation was the cause of a motor vehicle accident.

What SB 694 does allow is for motorcyclists to have the *option* of riding between lanes when they are the most vulnerable to rear-end collisions – in stop-and-go situations when traffic comes to a sudden halt and moves again, or is traveling so slowly where stoppage is likely to suddenly occur. Team Oregon currently teaches a similar strategy – to always find an exit option. On a crowded highway or freeway, that exit option is likely to exist between lanes of traffic. SB 694 would also have the added benefit of incentivizing motorcycle use in dense urban areas by providing traffic flow advantages over less fuel-efficient automobiles, particularly during traffic jams on highways and freeways, thereby reducing traffic congestion for everyone.

For these reasons, I urge the Committee to recommend passage of SB 694.

Very truly yours,

/S/ CHRISTOPHER A. SLATER

Christopher A. Slater
Attorney at Law

CAS:jg