

**TESTIMONY FOR THE SENATE COMMITTEE ON BUSINESS AND
TRANSPORTATION**

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Senator Lee Beyer, Chair
Senate Committee on Business and Transportation
Oregon Senate
900 Court St., NE, Room 453
Salem, OR 97301

Re: **Ray Thomas' Written Testimony in Opposition to HB 3255**

Dear Senator Beyer,

I am an Oregon lawyer who has practiced law in Oregon courts since 1979. I have written two legal guides, one on pedestrian law and the other on Oregon bicycle law, the latter of which is now in its 8th printing. Both can be downloaded as pdfs at www.stc-law.com. I am a student of Oregon bicycle and pedestrian law, and have participated in many legislative projects with the Oregon Vehicle Code. For the last 21 years I have presented regular public legal clinics on the Oregon traffic laws to thousands of Oregonians who want to learn about their rights and responsibilities on the road.

I am writing to let you know that I am very concerned about the negative effects HB 3255 would create for a large number of Oregon bicyclists. This bill would make it illegal to ride a bike during limited visibility conditions without a rear red light that is visible from 600 feet. This means that every person and child riding a bike bought from their local bike shop or Fred Meyer store would be in violation of the law if they rode the bike at dusk in their neighborhood without having bought and installed a rear red light, even though every new bicycle purchased in the state of Oregon is already required by federal law to have 8 reflectors installed on it, including 3 reflectors (red to rear, yellow on each pedal) that are activated by the approaching headlights of an overtaking motor vehicle. If these Oregonians are hit by a careless driver HB 3255 would provide a full legal defense to the driver even though the riders had more than adequate rear reflectors already required by Oregon and federal law.

HB 3255 is a bad idea because it heightens Oregon's requirements of bicycle riders such that it makes all bikes illegal to ride that are presently in a legal state of trim with a white light to the front. Even the safety conscious and conservative Uniform Vehicle Code only requires a red reflector, which is also already Oregon law. ALL bikes when purchased are required by federal law from the CPSC to have an 8 reflector

system that includes both rear red reflectors and rear facing pedal reflectors and spoke reflectors.

And what HB 3255 would do is make it even more difficult to comply with Oregon vehicle law for those least likely to know about it or able to afford the modifications the law would require for every Oregon bicycle in order for it to be legally operated.

And how will the new law be used? To heap comparative negligence or fault onto a bicycle rider when they get run down by an overtaking motorist who was failing to give them the existing legal minimum passing distance. Who will pay for a statewide TV media buy to inform Oregonians that their bicycles are illegal without rear red lights? How could the fiscal have a big zero on it in the legislature? Did anyone tell legislators that the cost of responsibly informing every Oregonian who rides a bike is going to be in the many thousands of dollars? What about all the ODOT Oregon Driver Manuals and Oregon Bicyclist Manuals that are in classrooms and school libraries that would now be wrong because they tell people that it is legal to ride with a rear red reflector like the one that is already on the rear of their bike?

On a practical note it must be asked is it really any better to have a red light to the rear than a red reflector? And how many red reflectors will be removed from bikes to create a mount or a space for a red light? Answer: Lots. And note that a rear red light is almost always of a SMALLER diameter than a reflector. Further, since the rider can't see it while riding if the red light stops working the rider is going along with a poor reflecting dead and illegal rear red light.

It is my view that a rear red reflector is not demonstrably better for night riding than a low quality rear red light as it is not used to illuminate the path, only to be seen and be legal under HB 3255.

And it must be said that the leadership role Oregon plays in national bicycle law development is also in play here- if this law passes here it will encourage other "pro bike" legislators to do the same thing. What is being confused here is the difference between what is a preferred safe riding practice (rear red lights at night) and the legal minimum necessary to ride lawfully at night. Safety advocates uniformly suggest that bikes have rear red lights at best, but at least a rear red reflector. But a preferred safe riding practice should not be transformed into a legal requirement any more than that it should be a state law that only cars with "third brake lights" (not manufactured until the 1986 model year) can be legally operated on Oregon roads, thereby making all pre-1986 cars illegal unless modified. Our Vehicle Code already provides a legal safe minimum standard. Oregon bicycles operated in limited visibility conditions are required to have a front white light, a rear red reflector and when purchased a 8 reflector system that includes reflectors on the wheels and pedals.

Respectfully submitted,

Ray Thomas