



WASHINGTON COUNTY

OREGON

Date: March 27, 2019

To: Co-Chairs Senator Lee Beyer and Representative Caddy McKeown; Co-Vice Chairs Senator Brian Boquist and Representative Ron Noble and the other members of the Joint Committee on Transportation

From: Washington County Commissioner Dick Schouten (representing District 1, Aloha, Beaverton and Cooper Mountain)

Re: HB 2682

The Washington County Board of Commissioners strongly recommend that your Joint Committee schedule and conduct a work session for HB 2682, and that you vote to move this bill onto your respective Legislative Chambers for their ultimate approvals – “do pass”.

I am a Washington County Commissioner testifying on behalf of an unanimous County Board. I am as well a member of the California and Oregon Bars and a frequent bicycle rider and bicycle commuter of more than 50 years. I want to share with you some of the facts about my once and only (over all of those many years) collision with an automobile. These facts and the relevant Oregon Vehicle Code then at issue for me are now highly relevant as to why you should support passage of HB 2682.

At around 7:30 AM on a workday some four years ago I was traveling north in the bike lane that runs along the east side of SW Murray Blvd. in Beaverton. Murray Blvd. is a busy, four to five lane arterial road in Beaverton, especially during “rush hour”. Specifically at about 7:30 that day I was crossing SW Bonnie Brae Street, a street that intersects Murray Blvd. There is no traffic light at this intersection as Bonnie Brae is a lightly traveled neighborhood street, and Bonnie Brae’s intersection with Murray is located just one block north of the busy SW Allen Blvd. and Murray Blvd. intersection. The Allen/Murray intersection is fully signalized for through going traffic, left and right turns, etc.

Just as I was bicycling through the Murray Blvd./Bonnie Brae Street intersection a motorist on Bonnie Brae at the immediate west side of Murray Blvd. tried to quickly cross five motor traffic lanes and two bicycle lanes to continue traveling eastbound on Bonnie Brae. This driver in his haste to cross Murray Blvd. failed to see me bicycling on the east-side Murray Blvd. bike lane. The resultant collision totaled my bicycle and I suffered a broken elbow bone and some other more minor injuries.

The bottom line was that I subsequently hired a lawyer to represent me and eventually received a nearly \$9,000 settlement from the motorist’s insurance carrier to compensate me for my losses. My attorney successfully argued with the motorist’s insurance carrier (a carrier known to be difficult to negotiate with) that their insured was per se negligent, since the insured violated ORS 811.050 - failing to yield to a bicyclist traveling lawfully in a bicycle lane.

At the time of the collision (and since) a bicycle lane stripe runs along both sides of SW Murray for some seven to eight miles in Beaverton. But that stripe is interrupted not only where Murray Blvd. crosses a number of arterial and collector roads, but most frequently where Murray Blvd. intersects numerous neighborhood streets, including at Bonnie Brae Street. To define bicycle lanes in ORS 801.155 as not

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existing at intersections such as Murray Blvd. and Bonnie Brae is to constantly place both bicyclists and motorists into legal uncertainty with respect to right of way and liability at an almost unlimited number of intersections across our State.

It's also clear to me after reading all of the relevant Oregon Vehicle Code sections and related, implementing regulations and traffic manuals that's not what the Legislature intended. That can be seen graphically at pages 807 and 813 of the 2009 Edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (2009 Edition, including Revisions 1 and 2, dated May 2012 and hereafter referred to as the "Traffic Control Manual"). For your convenience, copies of those Traffic Control Manual pages have been handed to members of the Joint Transportation Committee. But as I have already suggested, these pages are more than just colorful graphics. They are Oregon law. The Traffic Control Manual has been adopted into Oregon Law by Oregon Revised Statute and Oregon Administrative Regulations. On those graphics, you can see that bike lanes (and many other traffic control striping and markings) do not necessarily run through intersections and usually don't; that some of the bike lane markings are solid lines and some of them are merely dashes or dots; and that some bike lane markings are "optional", i.e., may not be marked at all. It's graphically clear that doesn't mean bike lanes cease to exist in such unmarked areas.

Moreover, I've really appreciated the countless motorists who have over many years respected and yielded to my right to travel in a bicycle lane. I also appreciated having been able to recover damages I wrongfully suffered at the hands of a motorist who failed to yield to my right to travel in a bicycle lane, albeit where that lane was briefly unmarked. Unfortunately, two State Circuit Courts decisions (one issued in 2009 and the other in the Fall of 2018) have confused the Oregon Vehicle definition of "bike lane".

It's time for the Legislature to end that legal confusion and clarify that ORS 801.155's definition of a bicycle lane means a bike lane continues in and through intersections where the bike lane markings are interrupted by an intersection, thus requiring motorists to yield to bicyclists traveling lawfully in any part of a bike lane, as required under ORS 811.050.

Respectfully submitted by



Washington County Commissioner Dick Schouten

Manual on Uniform Traffic Control Devices

for Streets and Highways

2009 Edition

Including Revision 1 dated May 2012
and Revision 2 dated May 2012



U.S. Department of Transportation
Federal Highway Administration

CHAPTER 9C. MARKINGS

Section 9C.01 Functions of Markings

Support:

- 01 Markings indicate the separation of the lanes for road users, assist the bicyclist by indicating assigned travel paths, indicate correct position for traffic control signal actuation, and provide advance information for turning and crossing maneuvers.

Section 9C.02 General Principles

Guidance:

- 01 *Bikeway design guides (see Section 9A.05) should be used when designing markings for bicycle facilities.*

Standard:

- 02 **Markings used on bikeways shall be retroreflectorized.**

Guidance:

- 03 *Pavement marking word messages, symbols, and/or arrows should be used in bikeways where appropriate. Consideration should be given to selecting pavement marking materials that will minimize loss of traction for bicycles under wet conditions.*

Standard:

- 04 **The colors, width of lines, patterns of lines, symbols, and arrows used for marking bicycle facilities shall be as defined in Sections 3A.05, 3A.06, and 3B.20.**

Support:

- 05 Figures 9B-7 and 9C-1 through 9C-9 show examples of the application of lines, word messages, symbols, and arrows on designated bikeways.

Option:

- 06 A dotted line may be used to define a specific path for a bicyclist crossing an intersection (see Figure 9C-1) as described in Sections 3A.06 and 3B.08.

Section 9C.03 Marking Patterns and Colors on Shared-Use Paths

Option:

- 01 Where shared-use paths are of sufficient width to designate two minimum width lanes, a solid yellow line may be used to separate the two directions of travel where passing is not permitted, and a broken yellow line may be used where passing is permitted (see Figure 9C-2).

Guidance:

- 02 *Broken lines used on shared-use paths should have the usual 1-to-3 segment-to-gap ratio. A nominal 3-foot segment with a 9-foot gap should be used.*

- 03 *If conditions make it desirable to separate two directions of travel on shared-use paths at particular locations, a solid yellow line should be used to indicate no passing and no traveling to the left of the line.*

- 04 *Markings as shown in Figure 9C-2 should be used at the location of obstructions in the center of the path, including vertical elements intended to physically prevent unauthorized motor vehicles from entering the path.*

Option:

- 05 A solid white line may be used on shared-use paths to separate different types of users. The R9-7 sign (see Section 9B.12) may be used to supplement the solid white line.

- 06 Smaller size letters and symbols may be used on shared-use paths. Where arrows are needed on shared-use paths, half-size layouts of the arrows may be used (see Section 3B.20).

Section 9C.04 Markings For Bicycle Lanes

Support:

- 01 Pavement markings designate that portion of the roadway for preferential use by bicyclists. Markings inform all road users of the restricted nature of the bicycle lane.

Standard:

- 02 **Longitudinal pavement markings shall be used to define bicycle lanes.**

Guidance:

- 03 *If used, bicycle lane word, symbol, and/or arrow markings (see Figure 9C-3) should be placed at the beginning of a bicycle lane and at periodic intervals along the bicycle lane based on engineering judgment.*

Figure 9C-1. Example of Intersection Pavement Markings—Designated Bicycle Lane with Left-Turn Area, Heavy Turn Volumes, Parking, One-Way Traffic, or Divided Highway

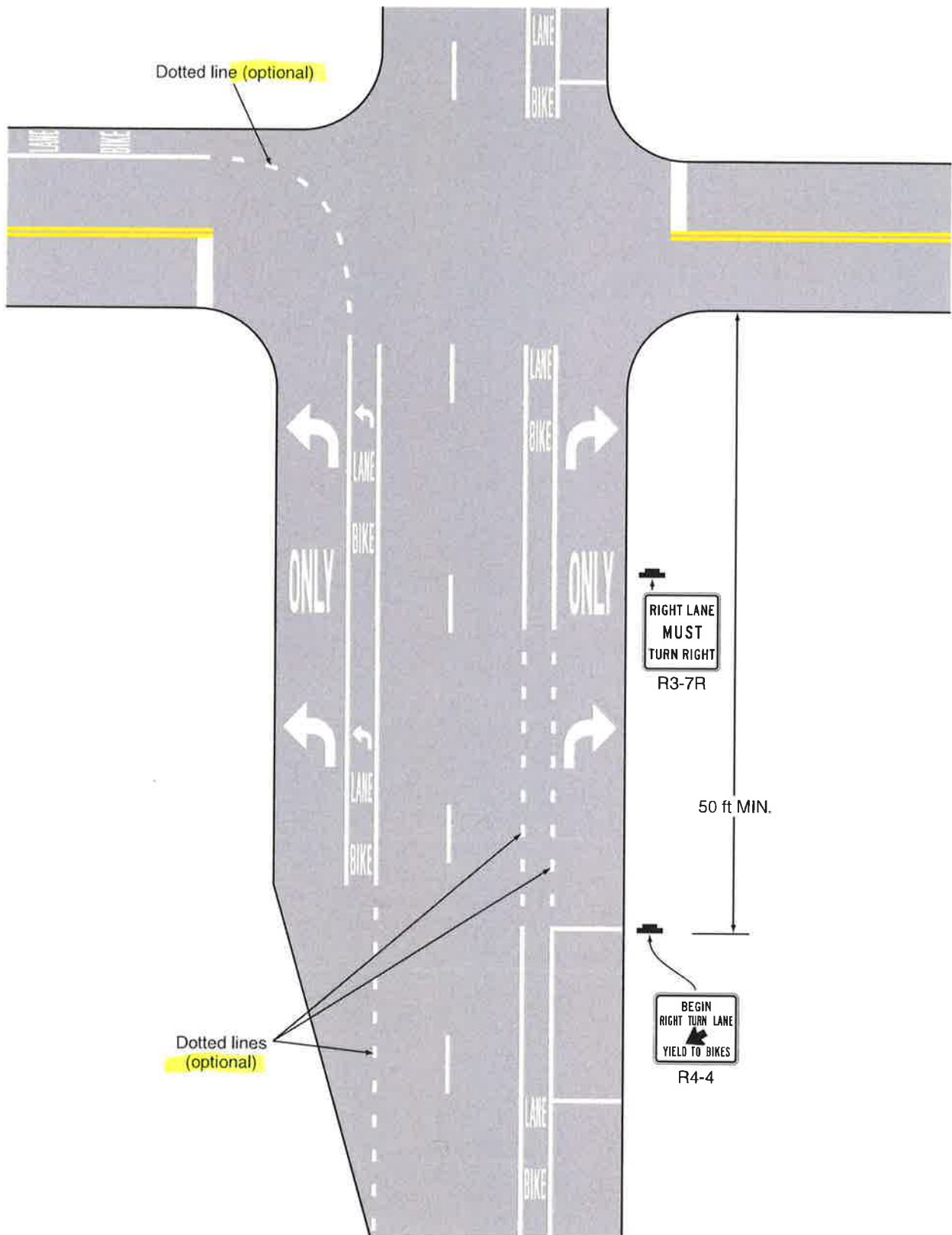


Figure 9C-6. Example of Pavement Markings for Bicycle Lanes on a Two-Way Street

