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March 27, 2019

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

Re: SB 810

Dear Chair Prozanski and Members of the Judiciary 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 and result in motorcycle awareness and driver accountability. I have been riding motorcycles since 1985 and have been practicing as an attorney in Oregon since 1997. My perspective comes from years of riding motorcycles and representing clients injured in motorcycle accidents. I am submitting this letter as my written testimony in support of SB 810, which amends the Vulnerable User statute, ORS 801.608, to extend its protections to motorcyclists, moped operators, and their passengers. This Bill would build on the passage of HB 2598 in 2017, which amended the Vehicular assault Statute to protect riders and passengers from reckless drivers.

As a motorcycle accident attorney, I have a unique view of what happens when drivers don't see motorcycles and the dramatic consequences to riders and their passengers. The most common motorcycle accident is when a car makes a left-hand turn in front of a motorcycle, usually because the driver is not looking for, or does not otherwise see, the oncoming motorcycle. The second most common motorcycle accident is when a vehicle pulls out of, or into, a side street or driveway, also usually because the driver does not look for, or otherwise see, the motorcycle. The third most common motorcycle accident is when a car rear ends a motorcycle because the driver is inattentive or distracted, usually by a mobile electronic device.

Over many accident cases I have seen a pattern. In my experience, negligent drivers are often not being cited for any violation when they cause an accident. Moreover, careless drivers are often only being cited for routine traffic violations, and reckless drivers are being cited only for careless driving. I have also seen drivers receiving cell-phone tickets when they cause accidents. It is been my experience that accident cases are usually not referred to the District Attorney's office unless

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there is a fatality or a drunk driver involved. Clients have repeatedly complained to me about how careless and even reckless drivers are facing no criminal repercussions for their conduct and instead being given a traffic violation or no traffic violation at all.

OREGON EXTENDS PROTECTIONS IN 2017

In 2017, Oregon began to address this issue by passing HB 2598, which expanded Oregon's Vehicular Assault Statute, ORS 811.060, to protect motorcyclists and their passengers from reckless drivers, making it a Class A Misdemeanor for a reckless driver to injure a motorcyclist or passenger. That same year, Oregon passed SB 493, which made it a Class A Misdemeanor for a criminally negligent driver to seriously injure a vulnerable user.

OREGON'S CURRENT VULNERABLE USER STATUTE

Oregon was the first state to pass a vulnerable user statute. Under the current version of ORS 801.608, pedestrians, bicyclists, people riding animals, highway workers, skateboarders, inline skaters, scooter riders, and farm equipment operators are on the vulnerable users list, motorcyclists, moped operators, and their passengers are not, even though they are equally susceptible to being directly struck and seriously by a careless, or criminally negligent, driver as these other road users. Oregon has two accident-specific statutes in the Vehicle Code. Oregon's careless driving statute, ORS 811.135, has two penalty escalators related to accidents: if the careless driving contributes to the cause of an accident the violation is escalated from a Class B violation to a Class A violation; and if the resulting accident injures a vulnerable user, as defined by ORS 801.608, a careless driver faces driver training, community service, potential license suspension and up to a \$12,500 fine. Oregon's Assault in the Fourth Degree Statute, ORS 163.160, also makes it a Class A Misdemeanor for a criminally negligent to seriously injure a vulnerable user. However, Oregon's Vehicle Code treats motorcycles and mopeds the same as automobiles and the enforcement of the Vehicle Code against careless and criminally drivers who injure or kill motorcyclists or their passengers is the same as automobile drivers and their passengers, even though the *consequences* of those careless and reckless acts are dramatically different.¹ For example, in 2015, Dwight Gibbons was seriously injured while waiting on a freeway on-ramp when a driver rear-ended his motorcycle with such force that it pushed Dwight and his motorcycle under the car in front of him, after which the driver struck a barrier, broke the car's axle, and proceeded on the barrier until the stop line. The driver was convicted of Careless Driving Contributing to an Accident, and paid a \$435 fine. The driver was not required to take a driver safety class. In Washington, motorcyclists and their passengers are protected as vulnerable users.

¹ In 2017, the Oregon Department of Transportation (ODOT) submitted testimony at the House Judiciary hearing for HB 2598 which illustrates the disparate accident outcomes to motorcyclists and their passengers when compared to other vehicle operators. That hearing testimony is attached hereto as Exhibit 1.

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CONCLUSION

Oregon took an important step to protect Oregon riders and their passengers in 2017 by passing HB 2598, which applies only to reckless drivers. SB 810 would build upon that success by protecting Oregon riders and their passengers from careless and criminally negligent drivers.² By passing SB 810, Oregon would join Washington and other states by treating motorcycles and mopeds the same as other vulnerable road users by enhancing the penalties against careless and criminally negligent drivers, thereby raising public awareness that these road users share the road with automobiles, trucks, and other commercial vehicles. As a rider and a motorcycle accident attorney, I urge the committee to recommend passage of SB 810.

Very truly yours,

/S/ CHRISTOPHER A. SLATER

Christopher A. Slater

Attorney at Law

CAS:rn

² A chart illustrating the current protections for Oregon riders and their passengers, and how SB 810 would change those protections, is attached hereto as Exhibit 2.



DATE: March 7, 2017

TO: House Committee on Judiciary

FROM: Troy Costales, Administrator
Transportation Safety Division

SUBJECT: House Bill 2598

INTRODUCTION

House Bill 2598 changes the list of items for which a person can be charged with reckless assault to include contact between a person's vehicle and a motorcycle or its operator or passenger.

DISCUSSION

The Oregon Department of Transportation collects crash data from accident reports submitted to the Driver and Motor Vehicle Services Division. Below is some information related to the frequency of crashes involving motorcycles, how often they are struck by another vehicle, and the relative frequency/severity of those crashes compared to other types of crashes in Oregon.

Crash Data

Motorcyclists Killed and Injured
All Crash Types, 2012 - 2014

YEARS	Motorcyclists Killed	Motorcyclists Injured
2012	49	1,028
2013	31	953
2014	44	874
TOTAL	124	2,855

Motorcyclists Killed and Injured
in Vehicle-to-Vehicle Crashes

YEARS	Motorcyclists Killed	Motorcyclists Injured
2012	20	529
2013	13	496
2014	22	433
TOTAL	55	1,458

Motorcyclists Killed and Injured in
Vehicle-to-Vehicle Crashes where the
Motorcycle was the Striking Vehicle

YEARS	Motorcyclists Killed	Motorcyclists Injured
2012	14	331
2013	13	301
2014	19	280
TOTAL	46	912

Motorcyclists Killed and Injured in Vehicle-
to-Vehicle Crashes where the Motorcycle
was Not the Striking Vehicle

YEARS	Motorcyclists Killed	Motorcyclists Injured
2012	6	198
2013	0	195
2014	3	153
TOTAL	9	546

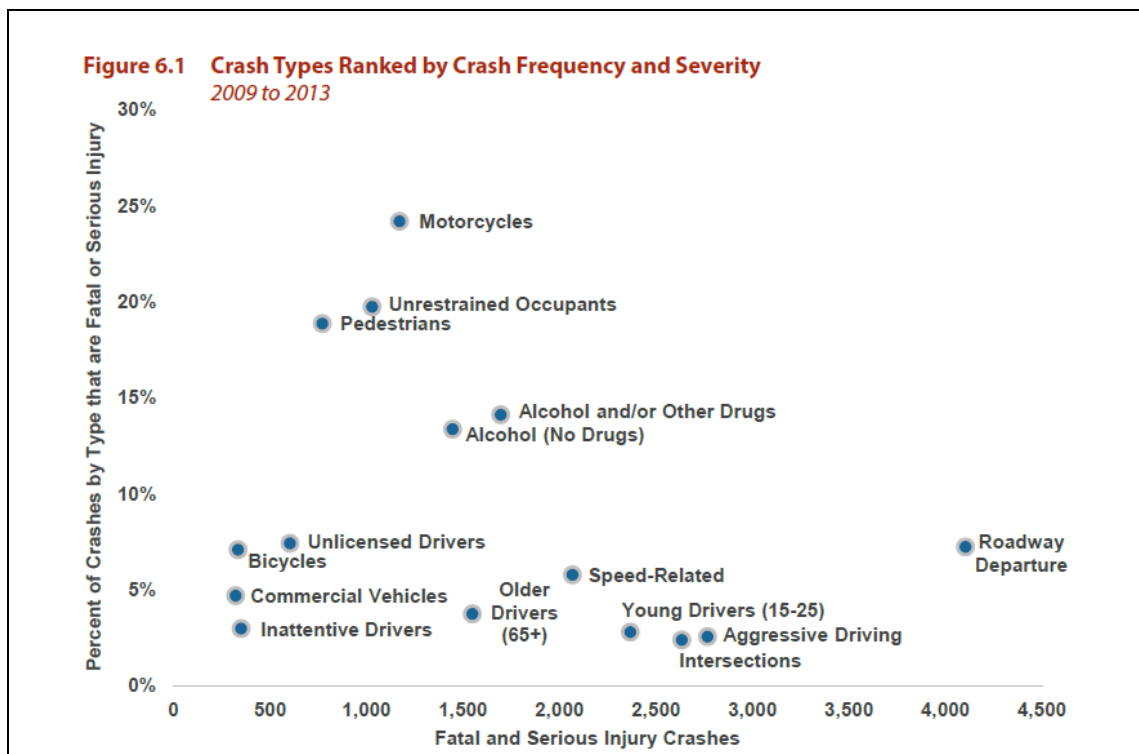
Motorcyclists Killed and Injured in
Crashes where a **Motorcycle Struck
Another Motorcycle**

YEARS	Motorcyclists Killed	Motorcyclists Injured
2012	2	28
2013	0	22
2014	3	26
TOTAL	5	76

Note: The first striking vehicle is not relevant to which vehicle has the crash fault

Frequency and Severity Comparison

Figure 6.1 is from the recently approved Transportation Safety Action Plan, page 70. The information is a combination of the frequency of fatal and serious injury crashes plus the percentage of these crashes that result in fatal or serious injury.



SUMMARY

HB 2598 changes the penalty for those who operate a vehicle recklessly and come into contact with a motorcyclist or passenger.

Vulnerable Road User Amendment and Changes to Existing Law

Driver Mental State --->	<i>Careless</i>	<i>Criminally Negligent</i>	<i>Reckless</i>
<p>Consequences to driver for injuring rider or passenger under current law</p> <p>CURRENT</p>	<p>Careless Driving Contributing to an Accident</p> <p><i>Class A Violation</i></p> <p>\$440 Fine</p>	<p><i>No Consequence</i></p>	<p>Vehicular Assault Causing Any Injury to Motorcyclist or Passenger</p> <p><i>Class A Misdemeanor</i></p> <p>\$6,250 Fine (max)</p> <p>1 Year Jail (max)</p>
<p>Consequences to driver for injuring rider under <i>proposed</i> law (currently applies to all non-automobile road users <i>except</i> motorcycles)</p> <p>PROPOSED</p>	<p>Careless Driving Resulting in Serious Injury to Vulnerable User</p> <p><i>Class A Violation</i></p> <p>\$440 Fine</p> <p>Safety Class</p> <p>100-200 hrs service (must include driver training and safety)</p>	<p>Criminally Negligent Driving Resulting in Serious Injury to Vulnerable User</p> <p><i>Class A Misdemeanor</i></p> <p>\$6,250 Fine (max)</p> <p>1 Year Jail (max)</p>	<p>Vehicular Assault Causing Any Injury to Motorcyclist or Passenger</p> <p><i>Class A Misdemeanor</i></p> <p>\$6,250 Fine (max)</p> <p>1 Year Jail (max)</p>

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