

TESTIMONY OF LAURI BOXER-MACOMBER

AGAINST LD 1230

Before the Joint Standing Committee on Transportation

April 8, 2021

Dear Senator Diamond, Representative Martin and Members of the Transportation Committee:

My name is Lauri Boxer-Macomber. I am a resident of Portland, Maine, a cyclist who rides thousands of miles every year on Maine's roadways, and an attorney who has regularly handled bicycle crash cases throughout the State of Maine for over a decade.

Although I cannot offer oral testimony at the hearing this morning, I caution you from falling prey to the title of LD 1230 and urge you to vote **against** LD 1230. This legislation **does not enhance traffic safety for anyone on Maine's roadways.**

If passed, this bill **will conflict with the section 2063** of the Maine Motor Vehicle and Traffic Code, which already governs safe-positioning standards for bicyclists, and will **likely lead to many traffic crashes, many deaths, and many serious injuries—not just of bicyclists, but of other users of Maine's public ways.**

This Committee does not want to be responsible for that type of tragedy and all of the other unintended consequences of this legislation.

Let me elaborate.

1. **Safe bicycle positioning is highly circumstantial, and this legislation fails to acknowledge that important truth.** Whether people choose to ride their bikes single file on the far right side of the roadway, in a group in the middle of a travel lane, two abreast, or in other ways or locations often depends on factors such as:
 - a. conspicuity (i.e. the ability to be seen and recognized by other traffic),
 - b. visibility (i.e. the landscape of the road, including whether there are blind spots, curves, or similar features that impact visibility),
 - c. operator ability (i.e. the age, physical abilities, etc. of any given operator of a motor vehicle or a bicycle),
 - d. lane size (i.e. whether a lane is of substandard width),
 - e. speed (bicycle speed, motor vehicle traffic speeds, the posted speed limit, and/or the reasonable and prudent speed for traffic at that time and place),

- f. whether one or more bicycle riders are passing or being passed (by motor vehicle traffic, bicycle traffic or other traffic),
- g. hazardous conditions on the surface of the roadway or in the vicinity of the public way (e.g. snow, ice, potholes, piles of leaves, debris, sand piles, etc.),
- h. whether traffic is turning (either bicycle traffic, motor vehicle traffic or other traffic),
- i. whether there are pedestrians, joggers, people with strollers, machinery, parked cars, delivery vehicles, mail trucks, dog walkers, or others on the shoulder or far right side of the way,
- j. the traffic and circumstances in the opposing lane of travel; and
- k. whether there are traffic lights, traffic control devices and/or intersections, and marked lanes up ahead.

To require single file riding any time a motor vehicle operator decides to commence a pass is not only illogical, but it is unfair. It incorrectly assumes that the rights of motor vehicle operators are paramount to all other road users. It also unjustly and incorrectly assumes that a motorist's desire to quickly pass two or more bicycle riders—regardless of what those bicycle riders may be doing at that time and place—trumps all other rules of the road, safety statutes, and standards of care. This simply is not right.

Requiring riders to single up and defer to a motor vehicle operator any time a motorist wants to pass them is also dangerous because riding single file in certain circumstances may be at odds with the safe positioning and operational factors listed above (a-k).

LD 1230 also unjustly strips riders of their right to commence and/or complete safe passes and turns, as well as does not factor in the need to keep a young child or elderly parent sheltered from motor vehicle traffic during a pass by a motor vehicle operator.

2. **LD 1230 Conflicts with 29-A M.R.S. 2063 and, as such, this Committee should not allow the legislation to move forward.** It is bad public policy, bad form, and unwise for this committee to recommend the passage of new legislation that contradicts longstanding laws within Maine's Motor Vehicle and Traffic Code. As the State Police have correctly pointed out in their testimony to this committee, we already have a statute that governs where bicycle riders may ride (section 2063). That statute also clearly sets forth the circumstances when one or more riders may ride in locations other than the far right of the travel lane. If this committee allows section LD 1230 to move forward, it will be promoting the adoption of standards that directly contradict section 2063. This will not only create confusion and ambiguity in the law, but it will likely cause chaos and road rage on Maine's roadways. In addition, it will create ambiguities for Maine's law enforcement officers, which could make one or both statutes difficult to enforce.

3. **There are already too many unsafe passes taking place.** As someone who regularly rides on Maine’s roadways and who devotes her legal practice to people who have been killed, crushed, permanently impaired and broken by motor vehicle operators who have made imprudent and unsafe operational choices with their motor vehicles, I can attest to the fact that the State of Maine already has tremendous work to do when it comes to public education on how to safely pass people riding bicycles. All too often drivers commence unsafe passes with their multi-ton motor vehicles when those passes cannot be carried out without causing someone harm. If this committee were to move LD 1230 forward, not only would it be encouraging more unsafe passes, but it would be prohibiting bicyclists from proactively positioning themselves in the roadway in ways that have prevented crashes and saved lives in the past.

4. **If this committee wants to do something to enhance traffic safety it should not only vote “ought not to pass” on LD 1230, but it should:**
 - a. Enact legislation that directly or indirectly improves infrastructure for vulnerable road users;
 - b. Enact legislation that encourages drivers to drive at safe speeds; and
 - c. Enact LD 821 during the 130th legislation, which encourages better investigation and prosecutorial review of vulnerable road user crashes, including crashes due to unsafe passes.

Thank you for your time and consideration.

/s/ Lauri Boxer-Macomber

Lauri Boxer-Macomber