

Sandra Eismann-Harpen
720 East Tenth Street
Newport, Kentucky 41071

OFFICE OF GENERAL COUNSEL

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Ms. D. Ann D'Angelo
Asst. General Counsel
Transportation Cabinet
Office of Legal Services
200 Mero Street
Frankfort, Kentucky 40622
Fax: 502-564-5238

Re: Proposed Regulation 601 KAR 14:020 Bicycle Safety Standards

Dear Ms. D'Angelo:

In February, the Transportation Cabinet filed a proposed amendment to Kentucky's Bicycle Safety Standards (601 KAR 14:020). One of the proposed changes will allow bicycles to be operated on a sidewalk or crosswalk with the same rights and duties as a pedestrian unless otherwise prohibited. While I advocate laws to improve infrastructure and safety for bicyclists, this proposal is not only unnecessary, but it is also counter to urban renewal efforts and dangerous. It will decrease safety for bicyclists, motorists, and pedestrians.

Bicyclist enthusiasts regularly cite European countries as examples of bicycle friendly communities. Under German law, bicyclists must ride in the street, unless they are under the age of 10. If there is a bicycle path, a bicyclist must ride on the cycle path and may not ride in the street. While some bicycle paths use sidewalks, when bicycle paths use sidewalks, the sidewalks are wide with clearly marked areas for bicycles. Any other use of sidewalks by bicyclists is prohibited. Moreover, when bicycle paths are on sidewalks, bicyclists may only cross at intersections with a walk signal for pedestrians, and they must walk their bicycle across the intersection.

Having traveled extensively in Europe, I can attest to the efficiency and safety inherent in this system. Not only is there a solid bicycle infrastructure, but there are logical laws to support it. I will admit that my heart briefly stopped when merging into a roundabout for the first time when riding a bicycle in Germany. But, Germany does an excellent job of educating its residents on bicycle laws. In fact, youth are educated on bicycle laws and safety as part of the elementary school curriculum. As such, motorists yield to bicyclists on the road similar to other vehicles, and bicyclists ride where they are supposed to ride. Moreover, the German police ensure that these laws are enforced. Education and

enforcement are critical, yet often neglected, components to improving bicycle safety. Bicycle laws are only effective when enforced.

As a lifelong Kentuckian and an urban resident, I am excited about the increased interest in bicycling and I am strong advocate for laws that promote bicycle safety. But, the Transportation Cabinet needs to be attentive to the fact that bicycles are a mode of transportation, not just recreation, in urban and semi-urban areas. I have neighbors who do not own an automobile. While I agree that bicycling may have a different meaning in suburban or rural areas, the Transportation Cabinet creates laws with statewide reach. As such, it is imperative that it considers the full impact of its laws.

As an urban resident and employee, I am an advocate for walkable, sustainable communities. I regularly walk to local events, restaurants, bars, and shops. My neighbors and I walk our dogs for exercise and for relief. In my community, children walk to school and employees walk to work. On a daily basis, the disabled and elderly use the sidewalk in front of my home, and there is bus that stops every 20 minutes in front of my home to drop off or pick up passengers accessing the nearby grocery store. We also have a strong running community.

If bicyclists are permitted to ride on sidewalks, it will jeopardize the safety of all of these legitimate users of sidewalks. Many of our sidewalks barely accommodate two people walking side-by-side. Pedestrian traffic and obstacles, such as trash cans and grocery carts, are so prevalent on my street that pedestrians must often step aside to allow oncoming pedestrians to pass. Moreover, those traveling with mobility aids, such as wheelchairs, must frequently use the road to avoid obstacles on the sidewalk. Not only are our sidewalks narrow, but they are also lined with parked cars, buildings, retaining walls, outdoor café seating, and garages. An adult bicyclist travels at speeds of 10 to 20 mph. When bicyclists ride on the sidewalk, pedestrians and bicyclists are often forced to make split second decisions to avoid collision. I have witnessed pedestrians literally jump out of the way of bicyclists unlawfully traveling on the sidewalk. By allowing bicyclists to ride on sidewalks, this proposal creates a right-of-way issue. When a pedestrian and bicyclist are both on the sidewalk, who has the right-of-way and who must yield? This regulation would allow groups of bicyclists to use the sidewalk, and may even result in pedestrians moving to the road for safety from bicyclists. Moreover, it is unpredictable which direction a pedestrian or bicyclist will go to avoid collision, therefore, accidents between bicyclists and pedestrians will certainly increase if this is enacted.

A major concern for bicyclists is visibility. By promoting the use of sidewalks for bicycling, this regulation will result in reduced visibility for bicyclists. In urban areas, sidewalks are located in close proximity to on street parking, buildings, retaining walls, outdoor café seating, garages, etc. Unfortunately, some bicyclists use the sidewalks today despite this being unlawful.

Last fall, a bicyclist collided into my car while he was traveling on the sidewalk. He was traveling fast enough that he was thrown off of his bicycle and his head hit the trunk of

my car. Within the past year, 5 other bicyclists nearly collided into my car. All of these bicyclists were traveling illegally on the sidewalk. I live on a busy street, lined with parked vehicles, with a posted speed limit of 35 mph. Many of the parked vehicles are trucks, SUVs, and vans, thus they are large enough to fully hide bicyclists and pedestrians from view of motorists. When bicyclists travel on the sidewalk, not only do parked vehicles make them invisible to motorists, but bicyclists also travel around 15 mph. The speed of bicyclists creates a very dangerous situation. When motorists use driveways to turn around or to park, the speed of pedestrians is slow enough that the motorists can see them approaching in time to stop, but bicyclists travel so fast that they are obscured from view until the moment they are crossing the driveway.

Although the regulation states that bicyclists should slow to the speed of pedestrians when approaching crosswalks and driveways, this is an unrealistic expectation. Today, it is unlawful for bicyclists to ride on the sidewalk, yet I see bicyclists do this on a daily basis. From my experience, most bicyclists, who ride unlawfully on sidewalks, also fail to slow or stop at intersections or driveways. Practically speaking, if a bicyclist is required to slow to the speed of a pedestrian at every driveway, the proposed regulation is useless - driveways are often so frequent that the regulation will require bicyclists to walk. Realistically, bicyclists will merely ride on sidewalks without slowing. Moreover, as drafted, this regulation creates ambiguity and uncertainty about bicycle laws and safety; thereby, it further reduces safety for everyone.

A similar issue exists at street crossings. Motorists are trained to look for pedestrians and vehicular traffic. Pedestrians and vehicles have different rights and responsibilities at intersections. When bicyclists use sidewalks, it becomes unclear as to which set of rules apply. If enacted, this regulation goes against national and international standards.

Vehicles must drive on the right side of the road and adhere to laws regarding one-way roads. When bicyclists ride on the road, the same rules apply. But, if a bicyclist is allowed to ride on the sidewalk and has the rights and duties of a pedestrian, can a bicyclist go in any direction? If a bicyclist can ride at 15 mph going in the opposite direction of traffic, a motorist may not see a bicyclist approaching a street crossing until it is too late. Moreover, pedestrians have the right-of-way at some street crossings when vehicles do not (*i.e.*, stop signs). Under the proposal, motorists will be required to yield to bicyclists traveling on sidewalks at intersections even though bicyclists may be traveling at a speed similar to motorists. When buildings and parked cars abut sidewalks, a bicyclist traveling 15 mph can appear in an intersection without warning or visibility to oncoming traffic, yet under the proposal, the bicyclist has the right-of-way. But, if motorists cannot see bicyclists approaching and motorists are required to yield to bicyclists, an increase in collisions will surely result.

Pedestrians can be seen well before they are ready to cross an intersection. Motorists often wait at crossings for traffic to provide an opening. They do not expect a bicyclist that was not visible a second ago to suddenly appear on the sidewalk. When bicyclists travel on the street with the flow of traffic, motorists are more likely to see them approach. At a busy street crossing near my home, I have personally witnessed several

near collisions between motorists and bicyclists on sidewalks. Because the road slopes near this crossing, bicyclists are not visible until they are approximately 15 yards from the intersection. If the bicyclists were traveling with the flow of traffic on the road, the motorists would have been alerted to their approach in the same manner as other vehicles.

Under the proposed regulation, a bicyclist shall obey traffic laws similar to a pedestrian. This means that a bicyclist can ride, without stopping, across a crosswalk on a busy road where there is no stop sign or light. It is unbelievably dangerous to allow a bicyclist riding 15 mph to approach and immediately ride across a busy road. Because of a bicyclist's speed, through traffic may not be aware of the bicyclist until it crossing the road. Similarly, the regulation would allow bicyclists to move from the road to the sidewalk to avoid stopping at stop signs.

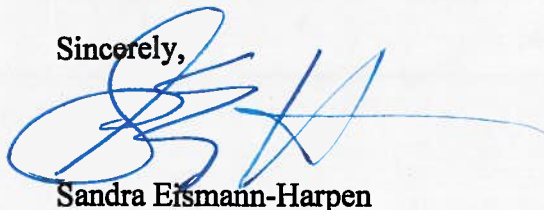
The Transportation Cabinet's proposed regulation for bicycle safety defies commonsense and international standards. Most states view bicycles as vehicles. If a bicycle is allowed on sidewalks, then do we also allow ATVs, mopeds, and cars to use sidewalks? If this suggestion sounds ridiculous, it is no more ridiculous than allowing a bicycle traveling at 15 mph to ride on the sidewalk. In fact, if the Transportation Cabinet surveys bicycling enthusiasts, it will find that most bicyclists do not want to ride on sidewalks. Roads are designed and maintained for vehicular traffic – sidewalks are not. Although sidewalks may be maintained sufficiently for pedestrian traffic, this may be insufficient for bicyclists. Will property owners be liable for endangering bicyclists if sidewalks are inadequately maintained for bicycling?

Despite the purported purpose of this regulation being bicycle safety, the regulation actually condones unsafe bicycling behavior. Moreover, if enacted, an increase in accidents, injuries, and fatalities is foreseeable. Because bicycling accidents are inevitable, does the agency intend for courts to apply pedestrian-based theories of common law liability to these accidents?

The proposed regulation is ill-conceived and irresponsible. It is out of touch with the realities of urban living. If the Transportation Cabinet seeks to encourage bicycling and walking, it needs to consider how these activities occur in densely populated areas. This short-sighted proposal was probably modeled after a suburban neighborhood with limited sidewalk use, large grass lawns, and limited on street parking. Even then, it will result in increased accidents, because motorists do not look for high-speed vehicles on sidewalks.

I strongly urge the Transportation Cabinet to withdraw or modify this proposal and to advocate against allowing bicyclists to ride on sidewalks.

Sincerely,



Sandra Eismann-Harpen