

WRITTEN TESTIMONY IN SUPPORT OF HOUSE BILL NO. 2068

BY: DAVID HAMBY

Key Points

1. The current law is based upon the 1944 version of the Uniform Vehicle Code (UVC). The current UVC has removed related provisions.
2. There is confusion in the meaning of Section (d) in the current Kansas law.
3. Laws that mandate the use of a particular facility undermine the ability of the bicyclist to choose the safest, most practical route to get to their destination.
4. Riding in the street has been proven by many studies to be the safest place to ride. Dictating that the bicyclist use a less safe facility creates liability concerns. Riding on sidewalks is more dangerous to cyclists and motor vehicles, and increases the liability exposure for local governments and citizens.
5. The change to Section (d) has no financial impact to the state, and has a positive financial impact to local governments and citizens, i.e. reduces their expense and exposure.

Supporting Information

1. According to the League of American Bicyclists, "In 1944, §11-1205(c) was added to the Uniform Vehicle Code (UVC) and contained a mandatory sidepath provision. By 1979, only 12 states did not have a law similar to the mandatory sidepath provision set out in §11-1205(c). In 1979, §11-1205(c) was eliminated from the UVC and now only 17 states retain some version of a mandatory use law. As of the last revision to the UVC in 2000, there is no UVC sections equivalent to either a mandatory bike path or bike lane use law." In the past few decades, many states have repealed mandatory sidepath provisions, including Colorado in 2005, New Mexico in 1997, Oklahoma in 2006, Pennsylvania in 1998, Vermont in 2004 and Wyoming in 2007.
2. What is a "usable path for bicycles"? Is it a path for exclusive use of bicycles, bike lanes, a sidewalk, or a multi-use trail? Section (d) of the existing law has been interpreted by the Courts (*Schallenberger v. Rudd*, 244 Kan 230, 767 P2d 841 (Kan 1989)) to mean a usable path for the exclusive use of bicycles. However, K.S.A. 8-1590 has not been revised or removed. There are very few, if any, usable paths for the exclusive use of bicycles in the State of Kansas. The general public and local law enforcement may interpret this section of the law differently than the Kansas Supreme Court therefore creating confusion and even an unhealthy relationship between bicyclists and other road users.
3. As a daily bicycle commuter to my place of work, I face many difficulties on my commute which may include other road users, animals, weather and adverse road conditions (potholes, debris, parked cars, etc.). In the face of those difficulties, I desire the right to choose the safest, most practical route to get from Point A to Point B. Section (d) of this law may impede my right to travel in this manner depending upon where I ride. If I am compelled to take less safe routes, there might be a duty by cities and adjoining property owners to improve and maintain those routes, at considerable expense.

4. The safety of bicycling on different types of facilities has been studied in detail. A study titled *Adult Bicyclists in the U.S.* by Dr. William Moritz finds that riding on a multi-use trail is 2.1 times more dangerous than riding on a major road without bike facilities and riding on a sidewalk is 24.8 times more dangerous. Many other studies have found similar results both nationally and internationally. Reasons include that forced use of sidewalks (etc.) substantially increase the intersections where cyclists and motor vehicles can come into contact, and that cyclists travel through such intersections at speeds (even slowly) faster than motor vehicle drivers are trained to watch for.
5. There is no negative financial impact to the State for eliminating Section (d) of this law and in fact there may actually be benefit to reduce agencies' exposure to liability claims from bicyclists injured while using "usable paths for bicycles" that put them in a more dangerous situation. It also could reduce the local government's and adjoining property owner's responsibility for maintaining and improving such paths with signage, markings and general care.

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