

12 November 2013

Ms Kate McGuckin
Research Director
Transport, Housing and Local Government Committee

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Dear Ms McGuckin

Queensland Parliament – Inquiry into Cycling Issues; Roundtable information request regarding Driver Responsibility

This document is the final version of the Amy Gillett Foundation submission that provides the information requested by Mr John Grant, MP on 16 October 2013 at the Roundtable discussion for the Queensland Parliament's Inquiry into Cycling Issues. This version replaces the draft submission that was provided to the Inquiry Committee on 6 November 2013.

The concept of 'default driver responsibility' was included in the AGF submission to the Committee as part of this Inquiry. In that submission, we reviewed international precedents and in principle agreed with the premise that drivers needed to be held to account for their actions.

Since making our submission in July 2013, we have reviewed and considered the legal and practical implications of a catch-all concept of 'default driver responsibility'. Within the Westminster system which underpins the law in Australia, the burden of proof rests with the Crown or the state and it not possible, nor the desired intention, to change this. Thus the concept of default driver responsibility is not the policy intent of our submission.

However, the current road rules do not adequately protect bike riders. Just as bike rider safety concerns have arisen in other countries and have been addressed within their legal framework, we need to do the same in Australia. This submission (attached, regarding Driver Responsibility) focuses on ways, within the Australian legal framework, to create appropriate levels of accountability when as a result of a person's actions, or their failure to act, a bike rider suffers serious injury or is killed.

Once again we congratulate the Committee's leadership in undertaking this Inquiry. We also thank the Committee for the opportunity to provide further information on changes to the legislative approach in Queensland to improve the safety of bicycle riders.

We are available to provide any additional information the Committee may need in preparation of their report to Parliament. Please do not hesitate to contact us directly.

Yours Sincerely

Submitted via email in MS Word format

Tracey Gaudry
Chief Executive Officer

Everyone has the right to ride in safety for work, sport and play

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1 Holding drivers to account

Currently in Australia, including in Queensland, drivers are frequently not found to have committed an offence when, as a result of their actions, or failure to act, a bike rider is killed or seriously injured.

The main reason for this is **the non-existence of a statutory driving offence that adequately addresses the circumstances associated with injury or death of a vulnerable road user who is hit by a car.**

When a driver's actions lead to a crash with a bike rider, the elements and standard of proof required to successfully bring criminal charges against the driver are rarely met.

The motto of the Amy Gillett Foundation (AGF) is "Safe Together". That is, people driving vehicles and vulnerable road users¹ such as pedestrians and bike riders, have a shared responsibility for safety when sharing roads and paths.

1.1 The Westminster system and international models

It is of utmost importance to recognise the Westminster system which underpins the law in Australia, that is, the presumption of innocence where the burden of proof rests with the Crown or the state. The primary aim of holding drivers accountable for their action is to achieve wide behaviour change within the community, to improve self-regulated adherence to road rules and overall safer road user behaviour on our roads.

There are many international examples of 'better practice' in placing the responsibility for injury on the operator of the vehicle who causes the injury through careless or negligent behaviour. Some of these are cited in the appendices. It is important to note that legal responsibility is a single part of much larger commitments by 'better practice' countries to create a safe environment for bike riders. In the Netherlands for example, the culture of care includes driver education, cycling training and inclusion of knowledge of bike riders in driver education and training. This broader campaign has had a more substantial impact on the increase in cycling participation and low rate of bike rider injuries and deaths than 'strict liability' legislation alone.

International models need to be reviewed for their applicability to the Queensland/Australian justice system, including the potential for modifications to suit our system.

One such possibility, outlined below, draws on Australian work health and safety regulations.

1.2 A relevant Australian safety reform model: Work health and safety

It is pertinent to explore approaches to safety reform in other environs in Australia. Workplace safety carries directly relevant parallels.

The recent reforms to work health and safety adopted in Queensland address the shared responsibility for workplace safety by establishing statutory duties across a range of people including

¹ The AGF has placed primary focus on bicycle riders, in accordance with the focus of the Inquiry.

workers, employers and owners of workplaces. These reforms were implemented to reduce the incidence of workplace injury and death and may provide a useful model to reduce the incidence of bike rider injury and death on our roads.

The Work Health and Safety Act 2011² was introduced to protect workers from workplaces that were not taking their responsibilities seriously. Before the law, when people were injured it was difficult for people to access compensation. While injured workers could take civil action, the process was expensive, lengthy and stressful. As with injured bike riders, the elements and standard of proof required to successfully bring criminal charges against the employer or owner of the workplace were rarely met. In addition to establishing statutory duties across a range of people including workers, employers and owners of workplaces, the new work health and safety laws establish three categories of penalties for breach of these duties. The breach is defined as:

A breach occurs when the law is not upheld.

Either an action is taken that places a person at risk of injury, illness or death; or steps are not taken to avoid a risky situation from occurring; or there is a failure to comply with regulatory requirements.

Examples of breaches of the law include:

- exposing workers to the risk of excessive noise
- working at heights where the risk of falling is not controlled
- allowing unlicensed operators to use specified equipment such as forklifts
- not ensuring that plant is appropriately guarded to eliminate or minimise exposure of workers to moving parts
- failing to have in place safe work method statements for work carried out in or near a confined space
- not notifying the Department of Justice and Attorney-General when a notifiable serious injury or illness occurs at your workplace.

If you do not fulfil your duties or obligations, you are in breach of the Work Health and Safety Act 2011 and could be prosecuted.

Further, the work health and safety laws offer a model for penalties that apply to anyone who fails to comply with a health and safety duty. Importantly, the penalties are proportional to the risk of injury or death and to the level of control a person has for work health and safety:

Categories of offences

There are three categories of offences for failing to comply with a health and safety duty under the WHS Act, depending on the degree of seriousness or culpability involved.

Category 1 - the highest penalty under the Work Health and Safety Act 2011 is for a category 1 offence. These are the most serious breaches where a duty holder who recklessly endangers a person to risk of death or serious injury.

- Corporation: up to \$3 000 000
- Individual as a PCBU or an officer: up to \$600 000/ 5 years jail
- Individual e.g. worker: up to \$300 000/ 5 years jail.

Category 2 - failure to comply with a health and safety duty that exposes a person to risk of death, serious injury or illness.

- Corporation: up to \$1 500 000
- Individual as a PCBU or an officer: up to \$300 000
- Individual e.g. worker: up to \$150 000.

² Queensland Work Health and Safety Act 2011,
<https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkHSA11.pdf>

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Category 3 - failure to comply with a health and safety duty.

- Corporation: up to \$500 000
- Individual as a PCBU or an officer: up to \$100 000
- Individual e.g. worker: up to \$50 000.

Category 1 offences, involving reckless conduct, will be prosecuted in the District Court. Category 2 and 3 offences will be prosecuted in the Magistrates Court. Appeals are made to the High Court of Australia.

The legislation also provides for on the spot fines and details action to be taken if a fine is not paid.

The legislative model is illustrated below.

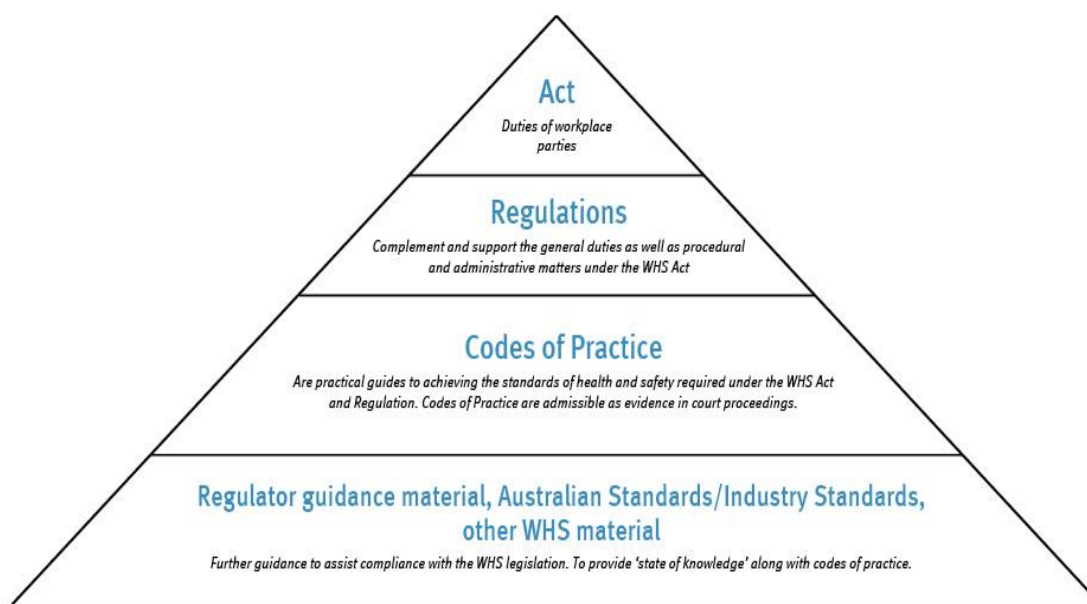


Figure 1: Overview of the Work Health and Safety Legislation

1.2.1 Application in the context of road safety

Application of the work health and safety model in the context of vulnerable road users and vehicle drivers means both user groups would be subject to penalties if they fail to comply with a road safety duty.

Modelling a similar law for vulnerable road users would establish a duty for drivers with respect to safety of vulnerable road users. The law would also establish a duty for vulnerable road users with respect to their own safety – for example, complying with other laws such as wearing a helmet, having lights and reflectors on the bike. A failure by a road user to comply with the statutory duty would be a breach.

The AGF is concerned that the current system allows drivers' actions to be deemed an 'accident' (e.g. dooring, driving too close) and as a result, drivers are not held accountable when their actions seriously injure or kill a bike rider. The non-accountability associated with an 'accident' or 'mistake' (as opposed to a deliberate action e.g. drink driving, speeding) exposes vulnerable road users to increased risk. All road users need to be clear in the knowledge that a pedestrian or bike rider is more vulnerable in a shared environment. The penalty applied needs to be weighted to reflect this

acute vulnerability for all driver actions that cause harm, whether that behaviour is careless, unintentional, deliberately risky or intentional.

The focus is not on penalty for causing an injury but on breach of a statutory duty. This removes the “it was an accident” excuse. It does not matter if it was an accident, the duty exists and has been breached – the penalties reflect the degree of seriousness or culpability involved.

Drawing upon the work health and safety model, there would potentially be three levels of breach/penalty, with the first two only requiring evidence of failure of duty (using the bike rider and driver in each example below). Even if a driver successfully argued against the third level for dooring on basis that it was not reckless, they could be penalised at level 2 because of failure of duty. Subject to the types of duties imposed by the law, examples of driver actions that could be considered a breach might include failure to allow a minimum of a metre when passing a bike rider, causing a hazard by opening a vehicle door in the path of a bike rider, and turning in front of a bike rider without adequate warning (insufficient indication).

Examples of behaviours and how they may be categorised could include:

Proposed Category 1: a penalty for recklessly endangering a person to risk of death or serious injury (e.g. bike rider running a red light; driver opening door and knocking bike rider into path of traffic; driver colliding with bike rider)

Proposed Category 2: a penalty for a failure to comply with a duty that exposes a person to risk of death or injury (e.g. not wearing helmet; opening door in path of bike rider; passing within a metre of a bike rider)

Proposed Category 3: a penalty for a failure to comply with a duty (e.g. no lights or reflectors on bike)

Penalties need to incorporate a range of deterrents including monetary fines and demerit points. In the case of proposed Category 1 offences, especially in the event that a bike rider is killed, a mandatory period of licence suspension should be considered.

1.3 Safe System approach

The Safe System approach underpins road safety in Australia. All levels of government are committed to the comprehensive approach to improving road safety.

Using the Safe System approach, the road environment itself can contribute to crashes. Road design and traffic management, including speed limit setting, can bring protected road users (i.e. drivers) and vulnerable road users (i.e. bike riders and pedestrians) together in situations which increase the risk of a collision. This contribution of the road environment to crashes represents a system failure of the road network.

When a system failure of the road network is clearly found to contribute to a crash, especially one that results in death or serious injury, the appropriate government agency needs to take responsibility – or be held to account. Remedial measures to address the system failure must be taken to reduce the likelihood of similar crashes occurring in the future. Remedial treatment as a matter of course following serious crashes will improve the safety of the road network for all road users. Then, if a road user makes a mistake, which is a fundamental consideration of the Safe

System, the road users involved or affected are less likely to be punished by the road network for that mistake with death or serious injury.

Thus, if we are to consider establishing statutory duties for road safety, the role of the responsible agency for the provision of a safe road system must also be incorporated into these duties. Using the Safe System approach, organisations that are responsible for the design and implementation of the physical road network are accountable for the failings of the network. To commit to a true Safe System approach, the road itself, including adequate provision of space for all legitimate road users and appropriate speeds, would be considered as a direct contributing factor in a crash that resulted in serious bodily harm or death.

Importantly, the introduction of legislation to establish statutory duties and penalties to reduce the incidence of injury to, and death of, vulnerable road users would not of itself affect the availability of civil action by injured parties to claim loss and damages. Nor would it affect the bringing of criminal charges where relevant.

The introduction of legislation to establish statutory duties and penalties to reduce the incidence of injury to, and death of, vulnerable road users has the potential to create a robust and effective system that promotes a “Safe Together” culture.

1.4 Impact on hit and run crashes

The Committee requested information on the likelihood that changes to the law that held drivers to account would lead to an increase in the number of hit and run crashes. We were unable to find any evidence globally that this type of penalty had impacted the number of hit and run crashes.

Anecdotally, we are aware that hit and run behaviour does occur at some crashes in Australia including involving bike riders. Alarming, in some collisions that resulted in the death of a bike rider, the driver of the vehicle was not even aware of the collision. This is an infrequent occurrence, but one that usually involves a heavy vehicle (e.g. truck or bus).

However, the introduction of statutory duties may significantly change the behaviour of the bike rider. Bike riders may be more likely to comply with their duties reflecting a level of responsibility for their own safety on the road. Bike riders may be more likely to report an incident if they know the driver will be charged with a breach.

2 Concluding remarks and recommendations

The need for greater protection of bike riders in Queensland from death and serious injury arising from collisions with motor vehicles is well-established. Road rules and their enforcement are an important component in an overall strategy designed to protect vulnerable road users.

The AGF would be pleased to be involved in the development of an appropriate regulatory model to protect vulnerable road users.

The Appendices contain examples of international laws designed to hold drivers to account. However, while the principles of these laws may be adopted in Australia, many of the laws are not consistent with our Westminster system approach to law, including presumption of innocence and the procedural aspects of our civil and criminal jurisdictions.

The AGF also recommends that the general deterrence effect of regulatory change should be complemented by parallel vulnerable road user safety improvements outlined in our original submission including; more comprehensive driver education and licensing procedures that place increased emphasis on drivers' duty of care for vulnerable road users, discrete road rules improvements including the introduction of minimum overtaking distance legislation, and increased penalties for driving offences that injure vulnerable road users.

Drawing from the above assessment of law in Australia as it pertains to vulnerable road users and principles of international laws designed to hold drivers to account, the AGF recommends a future body of work be undertaken in order to develop a series of guiding principles for future law reform in Australia for improved safety for vulnerable road users. These principles would underpin the Safe System and would comprise, but not be limited to, the following elements:

- Establishment and enforcement of a clear duty of care on drivers in relation to all vulnerable road users. This duty of care should be above and beyond any general duty not to behave recklessly or in contravention of road rules
- Breach of the duty of care is sufficiently serious to justify a criminal offence when an event occurs that brings a vulnerable road user into contact with a vehicle where the event is objectively capable of being anticipated
- Inclusion of duties of the responsible agency for the provision of a safe road system
- Uphold the principles of the Westminster system
- Be complementary to parallel vulnerable road user safety improvements
- A widespread education and behaviour change campaign must accompany all regulatory change. Drivers need to be educated about their responsibilities for vulnerable road users

Such a body of work should not halt or delay the introduction of amendments to discrete road rules that will directly improve bike rider safety through their application, including the introduction of minimum overtaking distance legislation proposed in our initial submission to the Inquiry.

Appendix A – European precedents, civil law

Most European countries have introduced legislation establishing stricter liability for drivers of motorised vehicles including Austria, Belgium, France, Germany, Greece, the Netherlands, Spain and Switzerland.³ While the details vary between countries, the main premise of the onus of responsibility defaulting to the driver is consistent – it must be noted that the European legal system is entirely different to that in Australia. The onus of responsibility defaulting to the driver is within a system that is underpinned by a presumption of *guilt* rather than *innocence*, and court procedures in which the judge gathers and weighs up the evidence. The summary below has been included within this context to provide an overview of historical aspects of driver liability laws in Europe:

...road accidents have become significant causes of personal injury since the 19th century. Fault liability encountered three problems: speed made evidence difficult to gather, mechanisation made the proof of fault (or even defect) in these types of road accident more complex, and there was the potential for a much larger number of victims compared with accidents caused in the days of the horse and carriage. Three forms of response have been identified. In some countries, there was early legislation to make special provision for such injuries, either taking the area out of fault or making fault easier for the victim to prove. The Prussian railway law of 1838 was an early example of the imposition of strict liability (see also Netherlands 1859; Germany as a whole 1877). In relation to cars, then the German law of 1909 and the Dutch Law of 1924, and Spain in 1962 were based on presumptions of fault or reversals of the burden of proof. (No-fault liability was established in France in 1985, Belgium in 1994.) The second response was for the courts to interpret the existing law on basic delictual liability and modify it in terms of the burden of proof... In relation to cars, Spain established a presumption of fault in 1931 and reversal of the burden of proof in 1943. Liability for things might be seen as part of this same pattern of adapting the general law on delict to deal with specific problems. The Spanish techniques of presuming fault and reversing the burden of proof are the most common. In more recent years, the strictness has increased by reducing the scope for the application of defences such as contributory negligence (France 1982, Netherlands 1990, plus Germany (by legislation) in 2002).⁴

More recently, the Directive of the European Parliament relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (2009/103/EC, 16 September 2009)⁵, includes the following two clauses

3. The insurance referred to in Article 3 shall cover personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised users of the roads who, as a consequence of an accident in which a motor vehicle is involved, are entitled to compensation in accordance with national civil law.
This Article shall be without prejudice either to civil liability or to the quantum of damages.
- (22) Personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised road users, who are usually the weakest party in an accident, should be covered by the compulsory

³ Fedtke, J., *Strict Liability for Car Drivers in Accidents Involving "Bicycle Guerrillas"? Some Comments on the Proposed Fifth Motor Directive of the European Commission*. The American Journal of Comparative Law, 2003. 51(4): p. 941-957

⁴ European Legal Development, Traffic Liability, http://www.eld.law.cam.ac.uk/projects/traffic_liability.php

⁵ Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability Text with EEA relevance, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:263:0011:01:EN:HTML>

insurance of the vehicle involved in the accident where they are entitled to compensation under national civil law. This provision does not prejudice the issue of civil liability, or the level of awards of damages in respect of a given accident, under national legislation.

2.1 The Netherlands

The most commonly cited example of the ‘strict liability’ law in Europe is from the Dutch Road Traffic Act 1994, Article 185. The law is typically referred to as Article 185 WVV. WVV is an abbreviation of *Wegenverkeerswet* which literally translates to Road Traffic Act. The term ‘strict liability’ is not a translation of any part of the law. The law is usually explained as, ‘as a driver you are liable when you crash into a cyclist’.⁶ However, the term ‘strict liability’ has gained currency in the discussion about the onus of responsibility being on drivers.

Further, Article 185 WVV is not a simple law. Figure 1 is included to show the flow of decisions in the event of a crash between a motorised and non-motorised road user – and this is a simplified version.

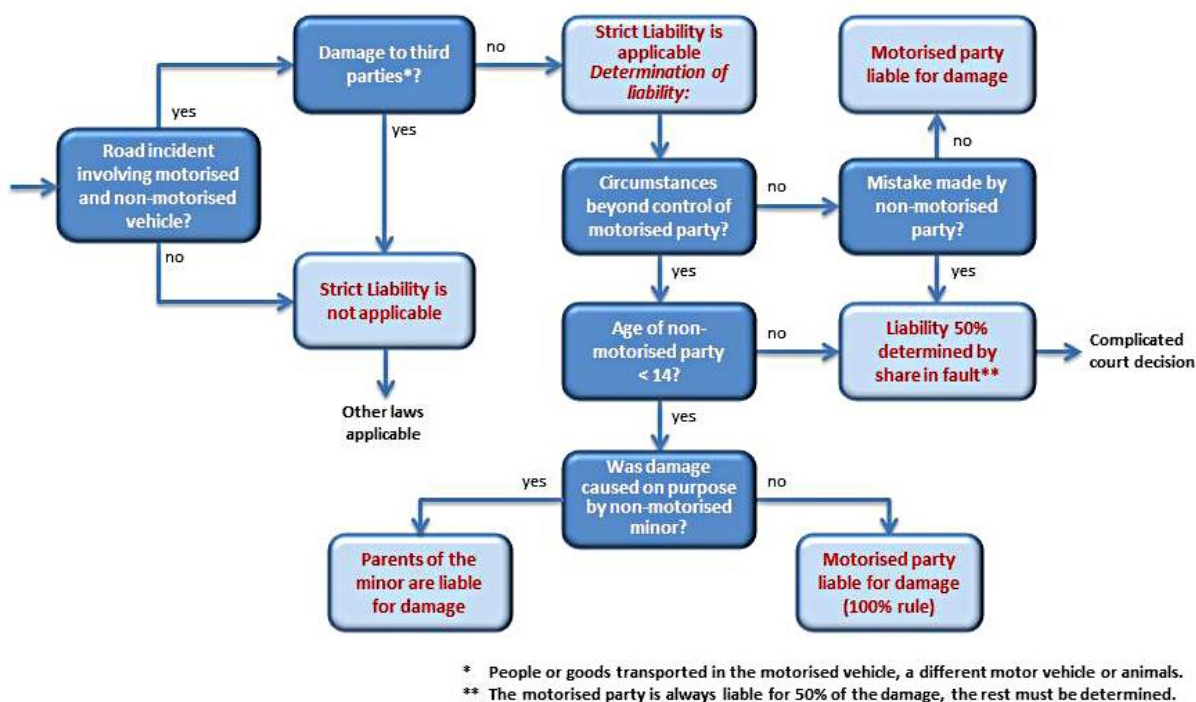


Figure 2. Simplified version of the flow chart for Article 185 WVV

The Dutch law only relates to crashes that involve a person driving a motorised vehicle and a road user who is not using a motor vehicle, and aged over 14 years. Children under 14 years are always protected as they are considered not fully accountable for their actions. A judge apportions the fault of the non-motorised road user.

the onus is on the driver, is because the driver is the one who voluntarily used a vehicle of which it is widely known that it may cause severe damage to other road users, who are not protected in a vehicle.¹

⁶ Bicycle Dutch. Strict liability in the Netherlands, <http://bicycledutch.wordpress.com/2013/02/21/strict-liability-in-the-netherlands/>

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It does not include crashes between vehicles of differing mass and does not include parked vehicles. A video clip of the Dutch approach provides an insight to the law, see YouTube clip:

http://www.youtube.com/watch?v=4_Bq1vxCUvo

It is important to note that the legal responsibility is a single part of a much larger commitment by the Dutch to create a safe environment for bike riders in the Netherlands. For decades the Dutch have been committed to creating culture of care including driver education, cycling training and inclusion of knowledge of bike riders in driver education and training. This broader campaign has had a more substantial impact on the increase in cycling participation and low rate of bike rider injuries and deaths than Article 185 WVV alone.

Appendix B – United States precedents, criminal law

In the United States, the laws related to driver responsibility provide for criminal offences. Numerous states have a Vulnerable Road User law that imposes higher penalties on drivers in recognition of the greater potential to cause harm. As a lawyer from Portland, Oregon observed:

Oregon law was far too lenient in punishing careless drivers who receive merely a fine and are not even required to make a court appearance after a horrific collision. Some police officers and medical personnel have even been heard to argue that people who choose not to ride in a car should expect to have bad things happen because the roadways are so dangerous.⁷

The driver's intention has been an important distinction in the US laws. Driver carelessness and distraction are recognised as being as dangerous as deliberate recklessness in terms of potential harm to vulnerable road users. A table of current Vulnerable Road User laws is provided in Table 1.

Table 1. Current US states with vulnerable road user legislation

State	Statute	Summary of Laws
Delaware	SB 269 ⁸	In effect from 12 August 2010; Increases penalty for careless or inattentive driving that causes serious physical injury of vulnerable road users. Gives provision to a court to impose penalties of: <ul style="list-style-type: none"> - Complete a traffic safety course - Perform up to 100 hours community service <p>If a person completes these penalties, the following penalties may be suspended:</p> <ul style="list-style-type: none"> - Fine of up to \$550 - Suspension of drivers licence - Set a hearing for up to one year from sentencing to determine if requirements have been fulfilled.
Illinois	HB4861 ⁹	In effect since 17 February 2009; Creates an offense of infliction of serious physical injury or death to a vulnerable user of a public way. Infliction of a serious injury or death to a vulnerable road user is a Class A misdemeanor, minimum fine of \$12,500 and suspension of drivers licence.
Maryland	HB363	In effect since 1 October 2011; Creates a misdemeanor level offence: vehicular negligent homicide. Penalty is up to 3 years in prison and up to \$5,000 fine. ¹⁰
Nevada	AB328	In effect since 10 June 2011; Clarifies the law that a traffic violation that causes harm to a vulnerable road user constitutes reckless driving. Penalties include loss of licence, fine of up to \$2000 and community service.
Oregon	HB3314	In effect since 1 January 2008; Increases the penalty for careless driving if it contributes to the serious injury or death of a 'vulnerable user of a public way'. Requires a court to sentence a person to complete a traffic safety course and/or

⁷ Thomas, R. Bicycles and the law, <http://www.stc-law.com/vulnerable.html>

⁸ Delaware State Senate Bill No. 269,

[http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+269/\\$file/legis.html?open](http://legis.delaware.gov/LIS/lis145.nsf/vwLegislation/SB+269/$file/legis.html?open)

⁹ Illinois General Assembly, Bill Status of HB 4861,

<http://www.ilga.gov/legislation/BillStatus.asp?DocNum=4861&GAID=9&DocTypeID=HB&LegId=35678&SessionID=51&GA=95>

¹⁰ House Bill 363, Criminal Law – Manslaughter by Vehicle or Vessel – Criminal Negligence,

<http://mlis.state.md.us/2011rs/billfile/hb0363.htm>

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State	Statute	Summary of Laws
Texas (Austin)	§ 12-1-35	perform 100 to 200 hours of community service and/or pay a fine of up to \$12,500 and/or licence suspended for 1 year. ¹¹ The law is a violation, not a crime and may be included in a citizen prosecution initiated by an injured bike rider. ¹² In effect since 1 September 2009 ¹³ ; If violation results in property damage, fine of up to \$500 If a violation results in bodily injury, the violation is a Class B misdemeanour, fine of up to \$2000 and/or imprisonment not exceeding 180 days. Offenders may be placed on probation.
Vermont	§ 1039 ¹⁴	(a) ...The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or main speed unnecessarily close to a vulnerable user as defined in subdivision 4(81) of this title, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user. Penalties: demerit points (4), fines up to \$386
Washington	RCW 46.61.526 ¹⁵	In effect since 1 July 2012 Higher penalties for drivers who cause harm to a vulnerable road user. Penalties include fine up to \$5000, driver licence suspension.

Arkansas, Georgia, Oklahoma and Tennessee also have a Vulnerable Road User Law, however details of the specific law were not available.¹⁶

In addition, the legal committee of the League of American Bicyclists has drafted model legislation that can be used as a template in any jurisdiction. The authors of the template emphasise two key points of the wording: 1) vulnerable road users are clearly defined, and; 2) everyone who got a citation and was convicted was forced to attend a hearing.¹⁷

Model statute drafted by the League of American Bicyclists

Infliction of Serious Injury or Death to Vulnerable Road Users	
Section 1.	As used herein, the term “vulnerable road user” includes:
	(a) A pedestrian, including those persons actually engaged in work upon a highway, or in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; or

¹¹ Oregon.gov, Bicycle and pedestrian program, Laws and regulations, http://www.oregon.gov/ODOT/hwy/bikeped/Pages/laws_regs.aspx

¹² Thomas, R. Pedal Power: A legal guide for Oregon cyclists, <http://www.stc-law.com/pdf/pedal-power.pdf>

¹³ § 12-1-35 Vulnerable road users, http://www.ci.austin.tx.us/publicworks/downloads/city_code_12_1_35_vulnerable_road_users.pdf

¹⁴ Vermont Statutes, Title 23: Motor vehicles, <http://www.leg.state.vt.us/statutes/fullchapter.cfm?Title=23&Chapter=013>

¹⁵ Washington State Legislature, RCW 46.61.526, <http://apps.leg.wa.gov/rcw/default.aspx?cite=46.61.526>

¹⁶ The League of American Bicyclists, http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/programs/bicyclefriendlyamerica/bicyclefriendlystate/bfs_report_cards/bfs2013_reportcard_arkansas.pdf
http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/programs/bicyclefriendlyamerica/bicyclefriendlystate/bfs_report_cards/bfs2013_reportcard_georgia.pdf
http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/programs/bicyclefriendlyamerica/bicyclefriendlystate/bfs_report_cards/bfs2013_reportcard_oklahoma.pdf
http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/programs/bicyclefriendlyamerica/bicyclefriendlystate/bfs_report_cards/bfs2013_reportcard_oklahoma.pdf
http://www.bikeleague.org/sites/bikeleague.org/files/bikeleague/bikeleague.org/programs/bicyclefriendlyamerica/bicyclefriendlystate/bfs_report_cards/bfs2013_reportcard_tennessee.pdf

¹⁷ Szczepanski, C. Justice for Bicyclists, New League committee writes model vulnerable road user statute. <http://blog.bikeleague.org/content/model-legislation>

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- (b) A person riding an animal; or
- (c) A person lawfully operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:
 - 1. Bicycle;
 - 2. A farm tractor or similar vehicle designed primarily for farm use;
 - 3. A skateboard
 - 4. Roller skates;
 - 5. In-line skates
 - 6. A scooter;
 - 7. A moped;
 - 8. Motorcyclists;
 - 9. Horse-drawn carriage drivers;
 - 10. A person on an electric personal assistive mobility device; or
 - 11. A person in a wheelchair

Section 2. A person who operates a motor vehicle in a careless or distracted manner and causes serious physical injury or death to a vulnerable user.

Section 3. A person issued a citation under this section shall be required to attend a hearing before a court of appropriate jurisdiction.

Section 4. A person found to have committed an offense under this statute shall be required to:

- (a) Have his or her driving privileges suspended for a period of no less than 6 months; and one or more of the following:
- (b) Pay a monetary penalty of not more than two thousand dollars; or
- (c) Serve a period of incarceration which may not exceed thirty days; or
- (d) Participate in a motor vehicle accident prevention course; or

Perform community service for a number of hours to be determined by the court, which may not exceed two hundred hours.