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## **The Slow Cyclist Political Problem: the California Highway Patrol's Policy of Motorist Supremacy**

### **1 Introduction**

It has long been obvious that reform of American bicycle transportation requires returning to cyclists the rights of drivers of vehicles that were taken from them by the laws restricting cyclists to the edge of the roadway, the far to the right laws (FTR laws). These laws were enacted by the motoring organizations that it is convenient to call motordom. These laws were part of motordom's program of creating motorist supremacy, making slower traffic subservient to motor traffic and requiring it to stay out of motorists' way, lest it be crushed. Motordom ensured that motorists would not be blamed for hitting slower traffic by blaming the slower drivers for not staying out of motorists' way.

In California, the most powerful advocate of motorist supremacy over cyclists has been the California Highway Patrol (CHP). Each time that the CHP has been involved in issues concerning bicycle traffic, the CHP has abandoned its responsibility for the safety of all road users and has chosen to advocate the convenience of motorists over the safety of cyclists. While the CHP is considered to be the guardian of California's traffic law, its motorist supremacy over cyclists activities have involved the CHP in defying the part of traffic law enacted by the Legislature for the safety of cyclists.

**It is time for the Legislature to reform the CHP's motorist supremacy policy by repealing the anti-cyclist motorist-supremacy parts of traffic law, CVC 21202 and CVC 21208.**

### **2 Brief History**

By 1950, on nearly all of America's roads, the only significant slower traffic was bicycle traffic. Therefore, bicycle traffic became the target of motordom's pursuit of motorist supremacy. In 1944, the FTR rule entered the Uniform Vehicle Code, and in 1963 California adopted it into its Vehicle Code as CVC 21202. In 1970, California's motordom decided it needed stronger enforcement than CVC 21202 provided, and proposed using bike lane stripes and an equivalent statute, CVC 21208.

This raised a storm of protest from California's cyclists, which produced the world's first high-level examination of bicycle traffic operation. This examination proved that motordom's cyclist-safety arguments for its FTR policy were false, and that obeying the rules of the road for drivers of vehicles (RRDV) was safer than obeying FTR. Without a valid safety argument, motordom was reduced to hiding its politically-suspect motorist-supremacy argument and might have been beaten in the legislature. However the anti-motoring environmentalists plunged into full support of the motorist supremacy ideology. With motorists in supreme power, clearly cyclists needed the protection afforded by bikeways, and that protection would persuade a great many motorists to switch from motor to bicycle transport. The apparently opposed combination of motordom and anti-motoring environmentalists overwhelmed legislatures across the nation.

Over the 21st century, the political situation of those cyclists with the knowledge that obeying

the RRDV is better than obeying the FTR has entered greater jeopardy. The California discussions about the need for getting repeal of CVC 21202 and 21208 have always foundered on the need for persuading the CHP to stand aside and fail to oppose the change. It is felt that the CHP must be persuaded to this stance because the Legislature has always considered the CHP to be its chief advisor in matters of traffic law.

### 3 Discussion

The major political problem concerning bicycle traffic is not safety (despite the clamor about the danger of the streets), but that bicycle traffic is generally slower than motor traffic. The presence of a cyclist in a traffic lane will, in many cases, require motor traffic in that lane to overtake the cyclist, which often requires waiting until the overtaking movement can be done safely and lawfully. Because of this supposed problem, motoring society has produced several ways of prohibiting cyclists from exercising the normal right of drivers of vehicles to occupy a traffic lane. These ways push cyclists to the edge of the roadway, or off the roadway onto sidepaths. All of these ways present problems, legal, physical, or both, turning cyclists into second-class road users subservient to motorists.

Advancing motorist supremacy has been the policy of the American motoring organizations, call them motordom, since the 1920s. Considering the benefits of having an efficient highway transport system, facilitating motor transport is a reasonable policy. However, when that policy becomes prohibiting traditional, slower, means of travel upon the public roads, it contradicts much older policy that all users have the right to use the public roads, so long as they don't damage those roads.

In California, the organizations most active in maintaining motorist supremacy laws have been the California Highway Patrol (CHP), sometimes assisted by the Automobile Club of Southern California (ACSC). The California Legislature considers the CHP to be the guardian of traffic law and rarely goes against the CHP's advice. That Legislature also tends to consider the ACSC to be an authoritative voice in road and traffic affairs. The ACSC is a private organization which has a right to promote motorist supremacy, but when it does so it should be recognized as speaking for motordom rather than for the public. The CHP is a governmental organization which, supposedly, has responsibility for the welfare of all road users, and

is recognized as having a high reputation in its field. However, in the matter of bicycle traffic the CHP falls from its legal responsibility for the safety of all road users into promoting motorist supremacy over cyclists in ways that contradict its proper responsibility and the law.

It is clearly absurd for the Legislature to seriously consider the CHP's view about repealing CVC 21202 (and the similar 21208). Of course the CHP will oppose repeal of those statutes, because they provide the CHP's legal excuse for its desired policy of motorist supremacy and convenience over cyclists' safety. It is the CHP's responsibility to look after the safety of all road users rather than trying to establish a California State policy of favoring motorist convenience over cyclist safety. Policy in such matters is the province of the Legislature.

### 4 Traffic-Law History

Traffic law had always regarded cyclists as drivers of vehicles, equal in status to all other drivers of vehicles. In California, CVC 21200 gives cyclists all the rights and duties of drivers of vehicles. But the motorist supremacy ideology required that the rights stated in this law be denied.

#### 4.0.1 The Far Right Law, Early Version

The easiest way to shove cyclists aside, clearing the way for motorists, is to limit them to the right-hand edge of the roadway. This law was inserted into the Uniform Vehicle Code (UVC) in 1944. It required cyclists to stay as close as practicable to the right-hand edge of the roadway, with exceptions for overtaking even slower traffic and when preparing for a left turn. This did not get into the California code until 1963, when it was adopted as CVC 21202. When it was being considered, the CHP advocated it as being so simple that children could understand and obey it to keep themselves safe. (The falsity of this argument will be shown later.) The CHP had used the child safety card to impose a restriction upon cyclists sufficiently mature to understand cycling in accordance with the rules of the road for drivers of vehicles. Rather than work for the safety of all road users, as is its responsibility, the CHP instead had followed the motorist supremacy ideology to keep traditional non-motorized traffic off the roadway.

#### 4.0.2 Bikeways

By 1970, California's motordom feared that

the increasing numbers of young adult and mature adult cyclists would plug up the roads, despite the restrictions of CVC 21202. They decided that stricter restrictions to bikeways would be necessary to rescue motorists from being delayed by bicycle traffic. Accordingly, they got California to contract with UCLA's Traffic Studies to prepare designs for bikeways, and to establish a committee, the California Statewide Bicycle Committee, to prepare restrictive bikeway laws. The most active organizations in this effort, its sparkplugs, were the CHP (with its traffic-safety subsidiaries) and the ACSC. Unfortunately for them, their activities were discovered by cyclists, resulting in the world's first high-level scientifically based examination of bicycle traffic operations. Motordom advanced two arguments for motorist supremacy.

- 1: The greatest danger to cyclists was same-direction motor traffic
- 2: Cyclists were unable to obey the rules of the road

Both of these arguments were completely disproved, and in return, it was shown that cycling in accordance with the rules of the road for drivers of vehicles (RRDV) was safer than operating in the cyclist-inferiority manner required by CVC 21202 and the similar bikelane law. Despite the evidence, in this matter the CHP failed in its duty to work for the safety of road users, because it continued to support motorist supremacy ideology instead of accepting the accuracy of the scientific and engineering facts.

#### **4.0.3 Far-Right Law, Modern Version**

This world's first high-level scientifically based examination of bicycle traffic operations also examined the FTR law, CVC 21202, in its early version. This version had two exceptions to the requirement to stay far right: overtaking even slower traffic and preparing for a left turn. This examination demonstrated that there are a great many situations in which it is much safer for the cyclist to obey the RRDV than to obey the FTR requirement. This demonstration was so persuasive that the California Legislature enacted an admittedly partial list of situations in which the cyclist is required to obey the RRDV instead of the FTR. This new version of the FTR law adds the following exceptions to the FTR requirement:

“(3) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width

lanes) that make it unsafe to continue along the right-hand curb or edge, subject to the provisions of Section 21656. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

(4) When approaching a place where a right turn is authorized.”

The complete collection of exceptions makes CVC 21202 practically unenforceable, because there are very few locations in which none of these exceptions apply. Very few traffic lanes exceed the standard 12 foot width, many are less than that, and that width is “too narrow for a bicycle and a vehicle to travel safely side by side within the lane.” Yet traffic officers, led by the CHP, issue citations based on CVC 21202, and CHP states its support for the principle of the FTR law without stating its statutory limitations. The result is that only those cyclists who are well-informed about the law and choose to fight citations are not convicted. In these cases the CHP and other officers are unlawfully imposing motorist supremacy upon ill-informed road users rather than working for the safety of all road users.

#### **4.0.4 Minimum Speed Law**

CHP has threatened cyclists by stating that cyclists are subject to the law prohibiting impeding traffic, CVC 22400. “No person shall drive upon a highway at such a slow speed as to impede or block the normal and reasonable movement of traffic unless the reduced speed is necessary for safe operation, because of a grade, or in compliance with law.” In most states this law applies only to drivers of motor vehicles, because it is accepted that non-motorized traffic cannot travel at typical speed limits, and even in these states it is accepted that some motor vehicles are so constructed that they cannot travel at typical speed limits. Even the California version accepts this because it has an exception for vehicles, including bicycles, that, because of grade, cannot travel at typical speed limits.

This statute can legitimately be applied to cyclists only where the traffic lane is wider than 12 feet, wide enough for bicycle and motor vehicle to safely travel side by side, but CHP intends to apply it generally. Consider the typical scenario. A cyclist is riding in a lane too narrow for lane sharing, say the typical 12 feet in width. He is lawfully, by CVC 21202, riding in the center of the lane. The CHP officer drives up behind the cyclist. Rather than waiting his turn to lawfully and safely

overtake the cyclist in the adjacent lane, he claims that the cyclist is impeding him. So he stops the cyclist and cites him for disobeying CVC 22400.

Construed in this manner, CVC 22400 prohibits all means of slow-moving travel. But the CHP knows that it cannot do this. The CHP threat shows that the CHP intends to defy the narrow lane exception in CVC 21202, by asserting the motorist supremacy claim that motorists have the right to squeeze, unlawfully and dangerously, between a cyclist and the traffic in the adjacent lane. If the cyclist does not abandon the safety right given him by CVC 21202, protecting him from this kind of dangerous overtaking, then he will be cited for disobeying CVC 22400.

The CHP justifies its position by claiming that it has to have a law to control what it calls “hooligans”, those who cycle very slowly to disrupt traffic for political reasons. This is mere motorist supremacy propaganda. Those who do intend to disrupt traffic get together in groups as unlawful parades under the name of Critical Mass; the idea that an individual cyclist would try this is absurd.

#### **4.0.5 Cyclist Safety Training**

During the time of that world’s first high-level examination of bicycle traffic operations, it was planned that one result would be courses that trained cyclists in safe cycling according to the rules of the road for drivers of vehicles. An education committee was established with subcommittees for different aspects. I was the chairman of the adult cycling subcommittee. Considerable work was done to determine content and means of delivery. However, the CHP killed the cyclist safety training program by saying that it would approve only training administered by CHP officers during short visits to schools. Obviously, those short visits would be used to impress on students the CHP’s motorist supremacy ideology.

#### **4.0.6 CHP To The Legislature**

At a time when the CHP’s legislative spokesman carried the nickname “Spike” (he later, I believe, headed the CHP), he spoke to the Assembly Transportation Committee in a hearing about bicycle traffic law. I heard him because I was present. Spike gave some current statistics about the number of cyclists killed and injured on California’s roads. The only explanation that he gave for these casualty numbers was: “This is all because they were trying to ride like drivers of vehicles.”

This was a falsehood, as demonstrated by

two sets of facts. The Cross statistics had appeared, demonstrating that something like half of car-bike collisions were caused by cyclists disobeying the rules of the road, and other sets of facts showed that cyclists most likely to obey the rules of the road had a much lower car-bike collision rate than the typical cycling public, who disobeyed the rules of the road. The CHP was misleading the Legislature about cyclist safety by testifying that cyclists obeying the rules of the road for drivers of vehicles were the major cause of car-bike collisions. In short, the CHP was proclaiming, as testimony, the motorist supremacy ideology.

#### **4.0.7 Personal Visits with CHP Officials**

Sometime in the 1980s the Commissioner of the CHP agreed to talk to a cycling delegation. As I remember, there were three of us. We were granted a twenty-minute slot, but the conversation became so technically interesting that the Commissioner extended the meeting to forty minutes. We were explaining why cyclists fared best when they obeyed the rules of the road for drivers of vehicles. The Commissioner appeared to agree with us while asking some questions. He could not afford to oppose us, for we were presenting the same knowledge on which he had based his career, but we were applying it to cyclists. His only reply could have been that the CHP opposed having cyclists obeying the rules of the road, and that would have been politically and legally unacceptable. So we felt that we had gained a better viewpoint from the CHP, but, of course, that interview produced no change in the CHP’s anti-cyclist policy.

## **5 Conclusions**

In each of the events described above, the CHP advocated the convenience of motorists above the safety of cyclists.

The CHP advocated the early version of the FTR law as so simple that children could understand it. But that’s not evidence that children could not learn proper cycling (their ability to do so has been proved), it was only the CHP’s statement of its desire for motorist supremacy. There never has been evidence that FTR obedience makes cycling safe, and, indeed, it makes cycling more dangerous because it prevents cyclists from learning proper and safe cycling.

At the time of the world’s first high-level examination of traffic cycling, the CHP champi-

oned bikeways regardless of the discovery that RRDV cycling was safer than FTR and bikeway cycling. Clear evidence of putting motorist convenience ahead of cyclist safety.

In one result of that examination of traffic cycling, the legislature recognized many situations in which FTR was more dangerous than RRDV. The legislature then, for cyclist safety, enacted a list of exceptions to the old FTR law. The basic FTR law is so dangerous that one or more of the new cyclist-safety exceptions applies almost everywhere. Yet the CHP ignores the exceptions, whenever it can get away with this, thus defying statute law, for the purpose of enforcing motorist supremacy over inferior cyclists.

The CHP's threat to use the minimum speed law against cyclists reaffirms the CHP's defiance of the cyclist safety exceptions to the FTR law to enforce motorist supremacy over inferior cyclists. The cyclist either gives up the protection of the exception or he gets cited for not going as fast as he could.

The partly developed California State Cyclist Training Program was designed to teach cyclists of all ages how to cycle in accordance with the RRDV. The CHP killed the program by insisting that it would approve only training administered by CHP officers on short visits to schools. This format allowed only teaching motorist supremacy, the FTR law, instead of cyclist safety.

The CHP misled the Legislature by claiming that California's car-bike collisions were caused by cyclists pretending to be drivers. This is the standard motorist supremacy claim that cyclists must be restricted by the FTR law because they are not capable of obeying the RRDV.

When visited by cyclist delegates saying that cyclists should obey the RRDV, the CHP could not deny that legal requirement, but did nothing to implement it.

In each of the above situations, the CHP has refused to carry out its responsibility for the safety of all road users and has, instead, placed the convenience of motorists over the safety of cyclists. There are few, if any at all, instances in which CHP policy has placed cyclist safety over the convenience of motorists.

**The evidence shows that there is no reason for any person or any organization to rely on statements by the California Highway Patrol with respect to bicycle traffic or bicyclist safety. The California Highway Patrol has always placed motorist convenience above cyclist safety.**

**The time has come to draw the CHP's fangs in its motorist-supremacy-over-cyclists policy by repealing the legal excuses that enable the CHP's policy. That is, repealing the FTR laws, CVC 21202 and 21208.**

## 6 Appendix: Statutes

### 6.1 Laws Applicable to Bicycle Use

21200 (a) A person riding a bicycle or operating a pedicab upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division ... except those provisions which by their very nature can have no application.

### 6.2 Bicycle Operation on Roadway

21202 (a) Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at that time shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(1) When overtaking and passing another bicycle or vehicle proceeding in the same direction.

(2) When preparing for a left turn at an intersection or into a private road or driveway.

(3) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge, subject to the provisions of Section 21656. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

(4) When approaching a place where a right turn is authorized.

(b) Any person operating a bicycle upon a roadway of a highway, which highway carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of that roadway as practicable.

### 6.3 Slow Moving Vehicles

21654 (a) Notwithstanding the prima facie speed limits, any vehicle proceeding upon a highway at a speed less than the normal speed of traffic moving in the same direction at such time shall be driven in the right-hand lane for traffic or as

close as practicable to the right-hand edge or curb, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(b) If a vehicle is being driven at a speed less than the normal speed of traffic moving in the same direction at such time, and is not being driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, it shall constitute prima facie evidence that the driver is operating the vehicle in violation of subdivision (a) of this section.

(c) The Department of Transportation, with respect to state highways, and local authorities, with respect to highways under their jurisdiction, may place and maintain upon highways official signs directing slow-moving traffic to use the right-hand traffic lane except when overtaking and passing another vehicle or preparing for a left turn.

and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with law, when appropriate signs giving notice thereof are erected along the part of the highway for which a minimum speed limit is established.

Subdivision (b) of this section shall apply only to vehicles subject to registration.

#### **6.4 More Slow Moving Vehicles**

21656 On a two-lane highway where passing is unsafe because of traffic in the opposite direction or other conditions, a slow-moving vehicle, including a passenger vehicle, behind which five or more vehicles are formed in line, shall turn off the roadway at the nearest place designated as a turnout by signs erected by the authority having jurisdiction over the highway, or wherever sufficient area for a safe turnout exists, in order to permit the vehicles following it to proceed. As used in this section a slow-moving vehicle is one which is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place.

#### **6.5 Minimum Speed Law**

22400 (a) No person shall drive upon a highway at such a slow speed as to impede or block the normal and reasonable movement of traffic unless the reduced speed is necessary for safe operation, because of a grade, or in compliance with law.

No person shall bring a vehicle to a complete stop upon a highway so as to impede or block the normal and reasonable movement of traffic unless the stop is necessary for safe operation or in compliance with law.

(b) Whenever the Department of Transportation determines on the basis of an engineering and traffic survey that slow speeds on any part of a state highway consistently impede the normal