

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015

Melbourne — 30 May 2016

Members

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Witness

Mr Charles Brown, Senior Research Specialist and Adjunct Professor, Rutgers University, New Jersey (*via videoconference*).

The CHAIR — I declare open the Standing Committee on the Economy and Infrastructure public hearing, and I welcome all those who are present here today. I will begin by explaining today that the committee is hearing evidence in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015, and the evidence today is being recorded. All evidence taken today is protected by parliamentary privilege. Therefore you are protected for what you say, but if you repeat the same things, these comments may not be protected by this same privilege. Once again I thank you, Mr Brown, for taking the time on a Sunday evening to provide evidence to our committee. I will hand over to you at this point and ask you to go through any introductory comments that you might like to state, and then we will follow with some questions from the committee. Over to you, Mr Brown.

Mr BROWN — Thank you, Mr Chair. First, I would like to say good morning, Chair, Deputy Chair and all the members of the economy and infrastructure committee. My name is Charles Brown. I am a senior researcher at the Alan M. Voorhees Transportation Center as well as an adjunct professor at the Edward J. Bloustein School of Planning and Public Policy, both at Rutgers, The State University of New Jersey. I want to go on record and state that my physical address is 33 Livingston Avenue, New Brunswick, New Jersey, 08901.

In terms of the study's overview and methodology, due to the significant number of bicyclist fatalities and injuries that occur as a result of crashes with motorists on New Jersey's roadways, we were commissioned by the New Jersey Department of Transportation to document the current state of knowledge regarding the 3-foot law as well as highlight its perceived strengths, weaknesses and overall effectiveness in protecting bicyclists.

To do so, firstly, we conducted a review of national literature on the 3-foot law and other comparable national and international bicycle laws and policies. Secondly, we conducted 23 interviews with 20 bicycle advocates from each of the 20 states that had passed a 3-foot law at the time, and we did this of course to document their practices and to understand the barriers and challenges associated with passing such legislation. Lastly, we conducted interviews with three nationally recognised bicycle experts. These interviews focused on the value, effectiveness and perceived shortcomings of each state's respective law.

In terms of its definition here in the US, the 3-foot law requires motorists approaching a bicyclist travelling in the same direction to provide a minimum passing distance of 3 lateral feet between the vehicle and the bicyclist. Here the purpose of a 3-foot law is to enumerate the distance required to safely pass a bicyclist and to detail the potential penalties for infraction. The penalty for violating the 3-foot law is a civil penalty, typically entailing a monetary fine. The severity of the monetary fine varies of course by state. The modification and additions to the law include further regulation of speed of motorists, inclusion of other classes of road users and requirements for state agencies to provide educational programs.

In terms of some of the study's findings, advocates in the states that have passed the 3-foot law have largely considered the law to be a success for the cycling community. They claim the strength of the law lies in its application as an educational tool that can be utilised to encourage shared road usage between cyclists and motorists. They argue that the law provides a tangible cushion that cyclists feel they can rely on and acts as a clear guidance to motorists on how they should pass a cyclist safely. The intended result is more cyclists on the roadway and an increased number of positive interactions between them and educated motorists.

The chief benefits of implementing the 3-foot law, of course, are an increased level of safety for bicyclists and an increased awareness that bicyclists are legitimate road users. So setting the concrete standard of 3 feet establishes a bicyclist's right to space and potentially improves their interaction with motorists. Also increasing the bicyclists' safety on roads, or even the perception of improved safety, leads to an increase in the number and scope of bicyclists within a community.

The implementation of the law can lead to increased opportunities also to train police officers on bicycle safety and the enforcement of bicycle-related laws in general. When it comes to some of what I would say cons or the negative feedback on the law, the perceived shortcomings included difficulty of enforcement, lack of education and awareness once it was adopted and sort of rigid delineation of road space.

Enforcement of citations of the law often occur post collision, thereby limiting its preventative effect. Some bicyclists and advocacy groups also believe that the distance is simply not enough, the 3-foot. They would like 4 or 5 feet. Some states, such as Pennsylvania, have adopted or passed a 4-foot law. New Jersey is currently considering the same.

In terms of educational and operational opportunities, people have used visible displays, such as bumper stickers, posters and cycling jerseys to widely educate the public. These bumper stickers are often handed out at bicycle events, or you can order them through various websites. Oftentimes cyclists placed the decals in places where motorists are frequently located, such as gas pumps. They also use billboards and other public service announcements to educate and reach a wider audience.

A drivers education curriculum is being developed around the 3-foot law, and that is going to be for when motorists are taking their drivers exam. They are to learn more of the 3-foot law there along with some of the other laws. Many advocates are also developing training manuals for police officers so that they could educate them during their trainings at the state police academy.

That concludes my opening comments. Thank you, Chair, for your time.

The CHAIR — Thank you, Mr Brown, for your very in-depth summary. Thank you for that. I was going to kick off with an initial question with regard to the view of the community when such laws have been introduced anywhere, whether it be in New Jersey or others. We have heard from some of the critics of these types of laws that this is just further regulation that is not necessarily required and that it is an impost on motorists and the like. I am just wondering how is it that the community took to this law in the first instance when it was initially proposed and implemented?

Mr BROWN — I would to start by staying right now the law has not been adopted in the state of New Jersey, but it has been adopted in more than 20 states throughout the US. I would say that, as to be expected, there is always some sort of resentment to a new bill being passed. However, I think through our research we have learnt that both sides have agreed that the 3-foot law has served as a great educational tool to alert motorists that cyclists have rights on the road, or at the very least it has led to more discussion about motorists' rights and the rights of all road users, so that is really a positive at this point.

The CHAIR — Indeed. One other question from myself: with regard to road infrastructure, there has been much discussion already in our inquiry about the need for, where there are narrow roads where it would be difficult for a car to pass a cyclist, giving them either 3 feet or a metre. Have there been any upgrades to road infrastructure that you are aware of where these laws have been implemented to ensure that motorists can overtake cyclists without breaking the law?

Mr BROWN — Yes. When it comes to narrowing roads in Jersey or in the US in general, along with the 3-foot law movement, there is a movement here called Complete Streets. If you are not familiar with Complete Streets, Complete Streets are streets that are designed, operated and maintained with all users in mind. There are approximately 900 Complete Street policies that have been adopted at the municipal, state and county level. When you are embracing Complete Streets, Complete Streets is not about widening the road. It is actually about narrowing the road, because we understand that there is a strong correlation between wide streets and speed, which leads to death in many cases. Those who are advocates of the 3-foot law are also advocates of Complete Streets — understanding, however, that you allow motorists to cross the yellow line when it is safe to do so. If there is a double yellow line, currently it is illegal to cross that line in the state of New Jersey. So in modifying the 3-foot law here, many states have given motorists the right to cross the double yellow line when it is safe to do so. That way you move past the issue of widening the street and you allow everyone to do that safely by doing so.

The CHAIR — Thank you for that answer. I think that Complete Streets, which you spoke of there, is something that we would be very interested in looking into further because the crossing of double white lines, as they are in Australia, is something that is also proposed with this bill. So I am very pleased that you raised that. That is something else for the committee to follow up on.

Mr LEANE — Thank you. Your initial statement was quite comprehensive, and I think it answered the things that I was going to ask you. I just want to touch briefly on you mentioned cyclists being legitimate road users. That might be a problem in the minds of some of our motorists in Victoria. Have you found in the 20 states — including New Jersey — that have adopted it that it was identified as a problem?

Mr BROWN — Absolutely, even though many of the states have passed 3-foot laws. I should also add that in the States you can adopt a law at the state level as well as the municipal level. So we do have some municipalities, some cities, that have adopted their own law. In every case there is always the conflict between

the motorist and the cyclist, but we do have cities such as Portland, Seattle, New York and others where that tension is less. You are starting to see, because there are a large number of cyclists, where people are starting to share the road a little more now. So initially, yes, there were a lot of people against the 3-foot law but now they see the benefits of it in most of those states.

Mr LEANE — Just a follow-up on that: you have found the process in itself has been beneficial in actually breaking down that angst about legitimate road users?

Mr BROWN — Absolutely, because now we have both cyclists and motorists at the table talking about a law that will benefit them both. Any time you want to improve the conditions of a particular group, it is always beneficial or prudent to get them at the table, to kind of talk about the issues that they are facing. I should say that New Jersey is considered one of the most dangerous states for both pedestrians as well as bicyclists, so we had to do something to provide protections for all road users. So that has been the impetus for many states, this issue of bicycle and pedestrian safety, which led to the 3-foot law being adopted — because they had to do something.

Ms HARTLAND — Thank you very much. That was very comprehensive. My question goes back to the issue that some groups are saying that we should not do this because it is not enforceable. What I am getting from your presentation is that even though it may be difficult to enforce, the education aspect of it and changing the culture of the way motorists see cyclists has actually had quite a significant effect?

Mr BROWN — Absolutely. When we did the study, at the time there was no technology available or we did not know of any technology that would allow police officers to actually enforce this law, but recently technologies have been developed to assist in monitoring or enforcing the 3-foot law. I can submit to you a written statement later which will direct you to this technology, but there are police departments throughout the US now that are looking into this and receiving training to actually enforce the law. We actually are going to late this year start a curriculum ourselves at Rutgers, working with the New Jersey Department of Transportation, to see if this law is actually enforceable using the technology that I spoke about.

Ms HARTLAND — You were saying that New Jersey has not actually adopted the law but they have adopted the educational process?

Mr BROWN — Yes. There has been a lot of discussion around it. The law has actually been introduced at the state level several times in the past couple of years. There is a lot of momentum for it. I think currently New Jersey is the only state in the north-east, when it comes to our surrounding states, that has not adopted a policy, but there is a lot of movement here and we are hopeful that it is going to happen soon.

Ms HARTLAND — You also talked about the fact that something had to be done because of the numbers of accidents. Can you give us any kind of rough figure, or maybe take it on notice, of how many cyclists there are and how many collisions or how many serious injuries or deaths occurred from those collisions?

Mr BROWN — I cannot tell you how many cyclists there are because we do not actually count the number of cyclists, but what I can do is tell you that the Federal Highway Administration, the federal oversight, has deemed New Jersey a pedestrian-focused state, which means that in order to receive that designation you have to be really bad in protecting pedestrians and bicyclists. I think our fatality rank is almost twice the national average, so that is just how bad things are in this state in terms of pedestrian and bicycle injuries and fatalities.

Ms HARTLAND — So if we were to adopt such laws in Victoria, what are the things that you have seen from your research and the practical on-the-ground work that you think that we should be looking at?

Mr BROWN — Could you repeat that question for me?

Ms HARTLAND — In Victoria, if we were to adopt such laws, what are the things that you think that we should be looking at before we adopt the laws, and what research do we need to do?

Mr BROWN — Going back to my initial comment, I think it would be great if you all look into Complete Streets. Even though New Jersey has not adopted or passed a 3-foot law, New Jersey currently leads the nation when it comes to Complete Street policy adopted at the state, county and city level. We have 137 municipalities or cities that have adopted Complete Street policies. Seven of our 21 counties have, and the state DOT has a

Complete Street policy. So right now currently that is providing the infrastructure, while the policy is necessary to lead to the infrastructure that will protect cyclists.

If you adopt it, I think first and foremost it is always best to hear from the cycling community, and I do not mean just vehicular cyclists but recreational cyclists as well. I think that their concerns are valid, so starting a conversation with them is always beneficial. I would also reach out to the police community to receive their feedback on such a law. I think it is also important, if you are going to pass the law, to somehow ensure that there are educational opportunities not only for the police officers but also for the public in general. In addition to that, just starting the conversation is going to educate and make everyone aware of the rights of cyclists as legitimate road users, so I think you have taken a great first step already. I would be assured to follow up via email with you if you need more in regards to that question.

Ms HARTLAND — What other measures would you suggest actually work together — not just the education program? Are there other things that in your you think experience would make the Metre Matters laws work better? Sorry, you call them the 3-foot laws.

Mr BROWN — Yes, the 3-foot laws. What would make it work better, was the question?

Ms HARTLAND — Yes.

Mr BROWN — In addition to education, I think that it is important to, as we discussed, include it in the drivers test. When it comes to people getting their licence, it would be great if the language was included on that test. Also reaching out to individuals when they are young. Here we have safe routes to school. That is another form of educational opportunities, but the reason I bring that up is that you are reaching people at a young age so you are starting to change the culture early on.

Another thing you could do is have performance measures in place. I think it is important for police officers to document their citations and report that to the public so that people are aware that the law is actually being enforced. Another thing that could be done is increasing the penalty. Having a different penalty for an injury or a near miss and of course a fatality is important as well. We have seen examples throughout the state where some have only a penalty for an injury and not a penalty for a death, so I think it is important to recognise that a near miss is a violation. Of course hitting someone is a violation and then a fatality is a different discussion altogether. So having those penalties in place is important. I think that is all I can think about at the moment.

Ms HARTLAND — Thank you.

Mr BROWN — I like your glasses, by the way.

The CHAIR — Flattery will get you everywhere apparently.

Mr ONDARCHIE — Hey, Charles. Thanks for giving up your Sunday night for us. I want to ask you about behavioural change — not necessarily just behavioural change of the drivers but of the cyclists as well. One of the other states in Australia has started these minimum passing distance laws and the police report that it has changed some of the behaviour of cyclists because they have become less cautious because they just assume that there is going to be a 3-foot, or 1-metre in our case, distance from them. Have you seen any of that sort of change in behaviour or attitude manifest itself through those 20 states?

Mr BROWN — That is a very, very difficult question to answer, because if I answer, I would only be speaking anecdotally. What I can point to is a previous law that was passed, which is the law that requires motorists to stop and stay stopped for all pedestrians that are in crosswalks in New Jersey. To clarify, if a pedestrian is in a crosswalk, a motorist must stop and stay stopped for that pedestrian. Since we do not have the 3-foot law in New Jersey, I would like to use that as a comparison, and I can say that we have heard of instances where motorists have complained that they have seen an increase in the number of pedestrians that simply walk out into the street assuming that they are going to stop because of this law. Because I am a researcher I can say that I do not have any data to back that claim, but I can tell you we are seeing both sides. We are seeing people say that of course they are not walking out into the street, motorists are not adhering to the law, and then you have motorists who are saying that pedestrians are simply walking out into the street, so I can say there is a mixed bag. But what I have seen is an increase in the number of people that are walking and I have seen an increase in the number of people that are biking in this state. I cannot say that it is directly related to them

believing that the law is going to be passed, but there is a lot of movement and a lot of support for the law here. That is the only thing I can speak about in regard to behavioural change.

Mr ONDARCHIE — Could you talk to us about the initial period of when these laws were introduced — the 3-foot laws — in terms of enforcement? Did the police go straight to a process of fining people for breaking the law or was there a warning period or some warnings issued initially? How did it work?

Mr BROWN — So consistent with what I just mentioned about that previous law as well as the 3-foot law, my experience is that there has always been a warning period and they use that warning period to educate motorists as well as cyclists for breaking the law. Yes, there is always a warning period. I cannot say in the 20 states that we have interviewed that they all have used it, but for the most part most have, yes, Sir.

Mr ONDARCHIE — Thank you.

The CHAIR — Mr Brown, I just have one further question with regard to the current law that we are looking at with this inquiry. There is a recommendation that there be a 1-metre buffer when the speed limit is 60 kilometres per hour or lower and a 1.5-metre buffer in a speed-limited area of above 60 kilometres per hour, so a differential of that half a metre when the speed increases above 60 kilometres per hour. I am interested to hear whether or not similar types of increases in buffer space have been implemented in any states in the United States, and your view on having the two different distances as a result of the relative speed limit for a particular area.

Mr BROWN — To answer your question, those states that are much more progressive have definitely had a differential in speed associated with their 3-foot law, so yes, there has been a difference. Your second question was you were interested in whether or not I think that is a good idea?

The CHAIR — Yes.

Mr BROWN — Absolutely, I think it is a good idea, because we cannot treat all speeds as if they are the same, especially when you are dealing with large trucks, as you have on many roads in the States. I think it is important to give people a little more room as vehicles are travelling much faster, so yes, I think both are the way to go if you are going to do it.

The CHAIR — Excellent. Thank you. Mr Leane, do you have any further questions?

Mr LEANE — Just one. I imagine our jurisdiction here would probably be very similar to yours in the 20 states that have implemented the law in that people are actually being encouraged to cycle to work because of the congestion. Is that a similar situation with the jurisdictions that you have done research on?

Mr BROWN — Could you repeat that for me? I am not sure.

Mr LEANE — Yes, sorry. In Melbourne, because of congestion, we are encouraging people to get on their bikes to come into the CBD. I am wondering if the jurisdictions you have done research on have been in a similar situation.

Mr BROWN — Absolutely. Nationwide there is a push to have more people bicycle to work and to bicycle in general. I do not know if you have it in Melbourne yet, but we have bike share here. We have had bike share now in the States for a couple of years. Bike share is where you can rent out a bike at different stations or pods throughout the city. New York launched theirs a few years ago, and there has been in excess of a million trips and no fatalities. Most of these are located within the central business districts, and so encouraging people to bike to work and bike more often is certainly the movement here in the States, especially in a place like New Jersey — this is the most densely populated state in the nation, so we need people choosing alternative modes of transportation.

Mr LEANE — Do those jurisdictions have a compulsory helmet law, where you have to wear a bike helmet to cycle?

Mr BROWN — That is only the law for individuals under age 17 in the state of New Jersey. So adults do not have to wear a helmet in the state, but children do.

The CHAIR — Ms Hartland, do you have any further questions?

Ms HARTLAND — No; it was very helpful.

The CHAIR — Indeed. Mr Ondarchie.

Mr ONDARCHIE — Charles, I think Rutgers needs to send you to Melbourne just to do a bit of an examination of what we are doing down here. Do you think that is a good idea?

Mr BROWN — I was going to say the same. I have so much to share with you all; actually, I was hoping that this presentation would have been in person. Let us make that happen.

Mr ONDARCHIE — The question I have for you — you have talked about your Complete Streets program, the policy, the bumper stickers; I like the idea of them being issued at gas stations for motorists.

Mr BROWN — Yes.

Mr ONDARCHIE — But I have to say to you: if that is the program, could we not deal with this through a combined advertising awareness program rather than just change the law?

Mr BROWN — No, at least not in the States.

Mr ONDARCHIE — Why is that?

Mr BROWN — If there is no penalty associated with it, it is not going to be respected. You need more than just education. Some people need to understand that there are repercussions for their actions, especially when we are talking about people losing their lives. So that is very important. It should not be considered any different than speeding which leads to death, so we enforce a speeding law. We could simply put up a sign saying, ‘No speeding’ and not actually have a law backing that, right? We both know that people will continue to drive fast. But the great thing about having a no speeding law is that there is policy law backing that. Too many people are losing their lives for it just to be an educational thing only. Some people are criminal in their behaviour, and I think that needs to be dealt with separately.

The CHAIR — Very good. Any final questions from the committee? No? If not, thank you very much, Mr Brown for, as Mr Ondarchie says, giving up your Sunday evening. We very much appreciate it. Your testimony has certainly been very worthwhile and informing of what we need to be able to do. Are there any final comments you would like to make before we close the hearing?

Mr BROWN — Yes, I would like to thank you, Mr Chair, Mr Deputy Chair, and everyone there for giving me an opportunity to speak to you all. Any time you are considering such issues as this, please feel free to reach out to myself at Rutgers. This was truly an honour. Thank you.

The CHAIR — Thank you, Mr Brown. I will just remind you that you will receive a copy of the transcript for proofreading in the coming days. Those transcripts will ultimately be made public on the committee’s website. Once again, thank you very much for your time, and we certainly look forward to seeing you in person in Melbourne.

Mr BROWN — Thank you, Sir. Take care.

Witness withdrew.