

# 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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Ms Colleen Hartland

Mr Khalil Eideh — Deputy Chair

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#### Witness

Mr Kipp Kaufmann, CEO, Cycling Victoria.

**The CHAIR** — I will reopen our Standing Committee on the Economy and Infrastructure public hearing and welcome you, Mr Kaufman. Thank you for coming along today. We are hearing evidence in regard to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015. Today's evidence is being recorded. All evidence being taken today is protected by parliamentary privilege. Therefore you are protected for what you say in here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. Mr Kaufman, I will hand over to you now for a presentation, which you obviously have prepared for us, and then we will move into some questions from the committee once you have completed that.

### **Visual presentation.**

**Mr KAUFMAN** — Fantastic. Thank you so much for having me today for this really important topic and bill for us at Cycling Victoria. I am quite pleased to be able to present a unified view of all those organisations that are backing our position around the country. It has combined a unified voice of 40 000 members and over 100 000 participants and programs each year, so fairly powerful. I also hope to give you a position as a cyclist myself who has been hit by a car passing too closely straight down St Kilda Road, so hopefully that provides a unique perspective both from an organisational and a personal perspective on the issue today.

Our cycling community that we represent is quite broad, starting from the youngest and most vulnerable all the way through to some of the world's best athletes. Some of our programs go from schools, under-represented groups, communities and we also work in the cycling safety space around the code of conduct of the training cyclists which we worked on, the Leading Rider program and others that have helped build safe cycling communities. Central to all of this and ensuring this participation happens is safety, so that is underlying it.

As we know, all levels of government are focused on increasing cycling participation because of its value for health, transport and the economy. We feel that providing a safer cycling environment is a critical factor in increasing this participation, which in turn increases the number of people on bikes and leads to greater safety.

Looking at some of the research, even those who do not use their bike, over 60 per cent of them show that many are just too scared to get on their bike and that is one of the reasons that they are not participating. So as such we feel that there is a unified goal, even with the government outcomes around transport, health and safety, which are around increasing participation.

Our position on this issue is that the legislation should be adopted as it is presented. It establishes, as our last presenter showed or discussed, as a legitimate road user, it clarifies the ambiguity in the current legislation and it is easily able to be communicated. We know that it has been adopted in around I think it is 26 states now and in a number of countries in Europe and throughout a number of jurisdictions in Australia.

We believe that any deviation from this proposal will just lead to greater risk and will just confuse drivers and cyclists, and so it should certainly be as proposed. Also the legislation along with education and enforcement will continue to build Victoria as a world-class cycling community and will align with the government strategy of improving cycling safety.

So why the minimum passing distance? Central to the safety of every cyclist is the need to have that safe space. Anyone who has been on the road certainly can attest to that, and certainly that is one of the main reasons why people will not get onto the road.

Critical to this, the citizens jury in South Australia agreed that 'sufficient distance' was ambiguous and likely resulted in an unsafe environment. If I can quote from Mr Mark Parnell, who introduced a bill in South Australia, his wording was quite powerful so I thought I would steal his words, which were:

The phrase 'sufficient distance' is only defined in terms of the outcome. In relation to cyclists, if as a motorist did not actually collide with a cyclist or obstruct his or her progress, then the distance must have been sufficient. Clearly that is not good enough. A motorist does not have to actually hit a cyclist to force them off the road or, worse ... A rule that effectively says you can get as close as you like provided you do not collide is clearly inadequate.

Certainly cyclists and the attitudes of some drivers are concerning. There are a couple of examples up here, but what we do know is that cyclists always come off second best in a collision. If you can just imagine a motorist dying on one of our roads and people making comments like this, it certainly shows that there is a terrible view and we need to legitimise cyclists as road users.

I thought I would just quickly touch on the issue of cyclists two abreast. I know that has been brought up, and there are some suggestions in the submission from VicRoads around this issue. There is also a video there; I am not sure if it will come up, but I am sure you can look at it in your time. Cycling two abreast certainly increases cyclists' visibility and decreases the time, as that video shows really well, around passing, so it actually makes a safer environment and it is more likely that the driver will allow proper distance, so they will not push the cyclists into the gutter. What we do advocate, though, is a common-sense approach and that cyclists should be practical and polite and understand their environment. We work together and have a shared environment on the road, and everyone should work in that way.

Our recommendations: there is the implementation of the minimum passing distance in the bill as it has been proposed; an education campaign for all road users, similar to those at the Amy Gillett Foundation and some that have been shown in Australia so far that have been done very well, and even overseas; and the driver training that we just spoke about, even some of the classes that our last presenter did not share but some in Oregon that are around road safety for those who breach the laws. There is some good work being done there. Certainly on enforcement: simple reporting through some of the technology that is now available, and cracking-down periods, as Victoria Police have done before with both motorists and cyclists alike.

Thank you for having me today. We believe cycling safety and participation are inextricably linked. Cycling promotes health, environment and economic outcomes for Victoria, and this bill will be one step in continuing to grow that shared environment.

**The CHAIR** — Excellent. Thank you, Mr Kaufmann. You stated in your initial introduction that you were going to share a story, a personal story of yours, with regard to an incident. Did you want to do that?

**Mr KAUFMANN** — Yes, certainly. One December afternoon — it was a beautiful day — I was riding from Sandringham to the city, or just past the city, on St Kilda Road, and a car came up on St Kilda Road and clipped me. I still have the scar on my arm. You can see here. I went to the hospital with a broken wrist and arm, and that was reconstructed. So certainly I understand. Hopefully I was coming from that environment of understanding both — not just representing our members and organisation but having been in that situation before.

**The CHAIR** — Indeed. I am very sorry that has happened. One of the things we have been talking about is different road infrastructure and if there is a requirement for the separation of bikes and cars in certain scenarios. Do you think it would be wise for certain roads to be effectively banned for cyclists, for their safety, rather than placing people in harm's way?

**Mr KAUFMANN** — No. I think that all road users should work together and be safe on all roads, and cyclists should also understand what their capabilities are. But certainly we are supporters of people. The laws are that it is a shared environment. Cyclists have a right to the road, and we certainly support that.

**The CHAIR** — An implementation period if this law was to be passed: what would you see as the best way for that to occur in terms of the law passing Parliament and coming into effect. What would you like to see, whether it be by way of education or a grace period where warnings are given to motorists rather than infringements? How do you see that playing out?

**Mr KAUFMANN** — Certainly I would see that there needs to be that education period, that that happens. It has certainly been done by organisations like the Amy Gillett Foundation, which started that. Obviously that is the brand name, if you will, around the Metre Matters. Some of that has come through, and obviously I think there needs to be some time for people to understand that and to work cohesively, as has been brought up before, ensuring that the whole environment — so cyclists and motorists — is working in a cohesive fashion, understanding that legislation.

**The CHAIR** — I think that is important. I think there are obviously two facets of education in these types of scenarios, where motorists need to be educated but also cyclists need to be educated too about their responsibility. Specifically about that cyclist education, do you see any specific methodologies or ways of going about ensuring that cyclists are behaving appropriately and being responsible for their own safety in scenarios, as well?

**Mr KAUFMANN** — I guess the fundamental is that most cyclists know that to take the leap out onto the road you do know you have to be safe and you do think about it. So I think we are probably talking about a very, very, very small number — as in many things — of people who are not thinking about that or are perhaps misbehaving or whatever might be happening. It is, I would say, a very small number who bring the whole group into — for there to be issues. But certainly I think there is a number of cycling organisations that would work collaboratively and bring that message out to people and work with government, which is able to bring the message to masses. I think there are a number of ways, but certainly communication and training where necessary and certainly bringing in some of the programs that are already happening out in schools and other places is a great way to bring learning through.

**The CHAIR** — I certainly agree. I think you are right that it is a small minority of cyclists, just as there are motorists who behave in a dangerous way, but unfortunately all cyclists are going to be painted with the actions of the very few. I think that with cyclists as well it is good to see a community that is willing to engage with each other and point out behaviour that is unacceptable and address it and say, 'This is not acceptable. This is giving everybody a bad name if you go about doing that'.

**Mr LEANE** — Thanks, Mr Kaufmann, for assisting us with our reference today. I completely agree that legitimate road users, whether on a bike, a motor car, a truck or anything, should be treated safely and with respect.

I just want to go to the issue of cyclists riding two abreast. This is something that I have thought about a bit, I have got to say. I brought this up in a previous hearing: my maths is that a standard road lane is 3½ metres, a sedan is 1.8, so there is still that ability for there to be a metre distance and then for the cyclist to have 700 millimetres or whatever — the best part of a metre — to keep away from the gutter. Would cyclists even consider that in certain parts of the CBD it might not be appropriate or the best practice to have two cyclists side by side? I do not even know if that actually happens, if it is common sense that they do not do it anyway, in certain times of the day in certain times in the CBD, whether it happens anyway. To be honest, I do not know.

**Mr KAUFMANN** — I think you have probably hit on it. Most of the time common sense is that if there are lots of cars around moving, you do not see people travelling in packs through the CBD.

**Mr LEANE** — Not really, no.

**Mr KAUFMANN** — It is ones and twos who are going to work generally or going to a place as a transport option or passing through. I have never seen that; I always see that common-sense approach that is happening. Again, most cyclists, 99.9 per cent, are cognisant of the environment, are taking their safety very seriously and ride to their ability, so they know what is happening there. So I do not see it happening.

**Mr LEANE** — Yes. I have got to say I might have seen a cyclist pass a slower cyclist when I have travelled into the CBD a number of times. That is probably what I have seen. Would cyclists push back on — and I am not saying the part of the law; I am saying a recommendation — something around prescribing to cyclists that on certain roads, particularly in peak hour and particularly in the CBD, the recommendation is to just stay one cyclist rather than two abreast on the road?

**Mr KAUFMANN** — I think what would be difficult is setting a rule that is just for one area and how that would apply everywhere else. I think what we need to do is train people into what is your ability, how do you ride to that and how do you understand the environment that you should be riding in and what is the safest in that particular environment for your ability?

**Mr LEANE** — I do not want to put words in your mouth, so you tell me, but you might see it as part of an education program that would go with a law or whatever it becomes, and part of the education program would be around those sorts of suggestions as well?

**Mr KAUFMANN** — I guess it is etiquette around best etiquette and riding ability and understanding the environment.

**Mr LEANE** — Because I think — and this is a comment as well, so you can disagree with it — some of the angst among motorists and whether they should be sharing the road with cyclists and the like or how they share

it might be decreased if there is this position that we are all in it together. And if there is a practice that cyclists use that motorists find difficult to navigate themselves, then maybe that can be considered.

**Mr KAUFMANN** — I certainly think that the mature view is that we are in it together, and that is where we should be heading. Certainly those social media comments were pretty far from that, but that is where we should all be heading, and mutually together. Ultimately the person who might be on the road on their bike might actually be the person two doors down that you actually know and is a pretty good guy and all these things, so I think it becomes very emotive that it is cyclists versus rather than, ‘How together are we actually all benefiting?’.

**Mr LEANE** — It might become emotive, but I think that is an extreme. Like you have said, there is a bit of a chasm and there is an extreme, and maybe the extreme will be hard to deal with, but for everyone in between there is a real opportunity. Thanks.

**The CHAIR** — Perhaps that could be the new name for the bill — ‘We are All in This Together’, Mr Leane.

**Ms HARTLAND** — Thanks very much for your submission. How strongly do you think A Metre Matters will help cyclists stay safe?

**Mr KAUFMANN** — As has been said a number of times this morning, it legitimises that space and really puts a concrete area for the cyclists to be — both as a motorist and a cyclist, so there are the two parts to that. Certainly myself — driving this morning, riding many other mornings — you can feel when you have that space. You have a good driver who goes around or a number of them and you feel very safe, versus the truck that comes by and passes you nice and close. Many people do not get on their bikes as a result of that. I think it creates that environment where there will be that respect and there is the legitimacy that is created.

**Ms HARTLAND** — I have to admit I am not a cyclist because I live in Footscray and I do not feel safe. Part of a lot of this is trying to figure out how we make it safe for everybody. Can we talk a little bit about culture shift? I had the opportunity to be in Belgium last year; I was in Ghent, which is a mediaeval city, tiny cobblestone road with a tram running up the middle of it. What I saw was if the cyclist was in front of the tram, that is the speed everybody went. It was just the way it worked. How do we get that culture change? All right, you have got to wait an extra 20 seconds for the bike to clear the space. Do we actually have to always try to overtake or try to be speeding et cetera?

**Mr KAUFMANN** — I think that is a great point. I guess this state has always pushed that the driver, the motorist, has been the most important. The roads department, all these departments are set up in terms of the no. 1 priority is the person who is buying the car and out. So obviously in those countries the cyclist or the pedestrian has become the no. 1. Certainly it is going to take time, investment and culture change. The cities of this country have not been set up quite the same. Obviously there are distances in the states. That will take time, that will take change and that will take government shift and people shift, but I think things like this are a first step in that direction. It is one of many steps that will have to happen over a journey.

**Ms HARTLAND** — The issue about some councils asking for an exemption if they have already got a bike path. What is your feeling about that?

**Mr KAUFMANN** — We feel that exemptions and changes just confuse the issue.

**Ms HARTLAND** — We need it to be standard so everybody knows, no matter where they are driving or riding, that it is the same?

**Mr KAUFMANN** — That is right, and certainly pushes back to that cultural shift that you just spoke about.

**Mr ONDARCHIE** — Kipp, in your presentation one of your slides said ‘Enforcement — providing simple reporting solutions for cyclists’. Talk to me about that.

**Mr KAUFMANN** — It is similar to our last presenter, around some of the technology that is now available and using money for cyclists to have cameras on their bikes. Technology has advanced in such a way and is advancing so quickly that there should be able to be easy solutions rather than the police officer who is standing out here watching for the whole day for overtaking.

**Mr ONDARCHIE** — Okay. So they would use a camera to identify the vehicle?

**Mr KAUFMANN** — Similar to that. Using technology, essentially, has been part of our submission — that that should be part of the reporting process.

**Mr ONDARCHIE** — Just talk to us about how that would physically impact this.

**Mr KAUFMANN** — Using cameras on bikes — that could be reported back to Victoria Police.

**Mr ONDARCHIE** — By capturing the registration number of the vehicle or something like that?

**Mr KAUFMANN** — That is correct, yes. And the footage.

**Mr ONDARCHIE** — How would then a motorist be able to defend themselves if they are not able to identify the cyclist, for example?

**Mr KAUFMANN** — I do not think the motorist would need to defend themselves, because quite simply the vision will be what the vision is. It is either that they are in the wrong or they are not in the wrong, and that is for Victoria Police to be able to — —

**Mr ONDARCHIE** — I agree. How could then a motorist identify a cyclist who broke the rules?

**Mr KAUFMANN** — That would be same. Every day I see motorists breaking the law, on an ongoing basis. They do not get reported nor am I going to take the time to report them, unless they are so egregious. Our view is that there is a very small percentage of cyclists who do the wrong thing, we need to continue to educate them, and that cycling provides so many economic and health benefits to the state that the small number of those cyclists we will continue to educate and change their behaviour.

**Mr ONDARCHIE** — So do you have any method that Victoria Police or a motorist could use to identify cyclists who, for example, continue to ride through the red light at the pedestrian crossing on Smith Street?

**Mr KAUFMANN** — Not beyond Victoria Police being there and stopping the rider.

**Mr ONDARCHIE** — I take your point in your opening about this is a shared responsibility. I am just wondering how, as collective road users, we share that responsibility in terms of identification et cetera.

**Mr KAUFMANN** — I take the point but I guess with regard to the minimum passing distance we take that share of responsibility and cyclists do need to act appropriately, but with regard to this particular item, it is the driver who is going to create the issue. It is the cyclist who comes off second best and the motorist creates the injury.

**Mr ONDARCHIE** — I understand your point, Kipp. Let me give you an example. Let us use Smith Street, Collingwood, as an example. The average speed down there in the morning would be lucky to be 10 or 12 kilometres an hour. Cyclists are coming past cars within the metre space at a high speed. What do we do about the cyclists who do not observe the metre passing distance?

**Mr KAUFMANN** — The metre passing distance, to me, is not related to the cyclist passing. It is related to the car passing.

**Mr ONDARCHIE** — What would you say to a driver who got their mirror whacked on the way through, cannot move in the traffic and the cyclist keeps going?

**Mr KAUFMANN** — We will continue to work with the cycling community to improve behaviour. It is like a car that hits another car and you did not identify it — it hit you while you were parked there. Again, I do not think we are ever going to get everyone who behaves poorly, but the 1 or 2 per cent who do behave poorly we need to continue to educate. They are bringing everyone else's experience down.

**Mr ONDARCHIE** — I am just using that as an example. Picking up your point about enforcement, if a car does not observe the minimum passing distance on a road like Smith Street, Collingwood, the cyclist has the capacity to identify that car and make an appropriate report. What does the driver have to be able to identify a cyclist who similarly breaks the law?

**Ms HARTLAND** — Can I clarify something here? It is my understanding that this would actually not apply to cyclists; it would only apply to cars. I think the question is not actually relevant.

**Mr ONDARCHIE** — I was taking up Kipp's point about a shared responsibility. I am just interested in his views about how we do that.

**Mr KAUFMANN** — I think I have answered appropriately.

**The CHAIR** — Indeed. Following up on that, I think that those points about we are all in this together are something that I think the community does need to get on. Your point about saying that the motorist has been the no. 1 priority on our roads is something that has been very apparent in terms of the infrastructure and the way it is built, and the mindset in many of the communities. That shift to say that everybody is a legitimate road user, I think, is one I think we as a community certainly need to take on board. Any other further questions from the committee?

**Ms HARTLAND** — I have one final follow-up. You described your accident. I imagine that you were clipped and your bike went over.

**Mr KAUFMANN** — I will try to remember this as best as I can — it happened pretty quickly. The car started coming over like this and like that, and then we kind of clipped together, pretty well, and then I went over hands first.

**Ms HARTLAND** — And the seriousness — you were probably quite lucky in many ways, having seen several of my friends in what have been slow-moving — not deliberate — hits by motorists et cetera, but the injuries can be quite serious. So the need for separation between the car and the cyclist is, in my mind, quite pivotal to stop those injuries. If it is a higher speed, obviously the more serious the injury. Can you talk a little bit about how you think this may reduce the number of accidents of cyclists where injury is a result?

**Mr KAUFMANN** — Certainly most of the major injuries are where there is the single cyclist — a lot of the catastrophic ones are coming from the motorist hitting from behind at higher speeds. Certainly, how to reduce, where it is observed ensuring that a person goes around the cyclist appropriately and there is no clipping or hitting — that negative interaction that will happen. So there are all of the different things that happen, including in that statement where someone might not even be hit but it is so close that they go off the road or if it is something else, they hit another person or kerb, whatever that might be. What that is able to do is give that space, that safe space, for that reduction. What the reduction number is, I cannot speak to that specifically. However, there certainly will be that immediate safe zone that a cyclist can be riding within.

**Ms HARTLAND** — Just one last question. The TAC over the years has done some incredibly effective campaigns, and I am actually old enough to remember things like seatbelts and drink-driving and more recently having smaller but separate important legislation around mobile phones and texting et cetera. What kind of campaign could you envision the TAC running to actually educate people about these incidents?

**Mr KAUFMANN** — There is no doubt the TAC has done some campaigns that have had some incredible connection and really get that message across. I know that we say that those people are on the end of the spectrum, but a big number of people, motorists, are out there on that spectrum of, let me call it, anger, and it is really having them understand the devastation and the number of people that are affected by cyclist road trauma. I think you understand that very quickly through many of the TAC campaigns, and we need to ensure that that is understood around cyclists, which has never been a campaign.

**Mr ONDARCHIE** — As we get closer to the inner city, Kipp, the population of cyclists increases, and I am worried that there is going to be tragedy if we do not do something about this sooner rather than later. Is it a better solution to have dedicated bike trails or bike paths for cyclists rather than having them on the road with cars?

**Mr KAUFMANN** — I think there are a few things. One, the road is a legitimate space and I think the cyclists should be there, and that is around creating an environment for that; this would be a step to do that. Bike paths and trails are fantastic, and they are for a number of people. I use both roads and trails, personally, and I think it is fantastic. So there are parts of it that sit in the whole network. However, if we really, truly want that cultural shift, if we want more people really riding into the city, knowing that we are not going to be putting

trails through the city, then we want to have this type of legislation. We want to have an environment where cyclists can be on the road in a safe manner. So there is a space for both of them — there is no doubt about that — however, both need to work together.

**Mr ONDARCHIE** — That is fair enough. I am also a little bit worried about the increased number of car doorings or near misses that I have seen in the inner city, where motorists going about their business jump out of the car, not checking that right-hand mirror to see if a cyclist is coming down. Do you think we need to put more effort into making both drivers and cyclists aware of that?

**Mr KAUFMANN** — Without a doubt. Obviously there was some work done through this particular committee last year, and VicRoads and others have taken it on — the TAC has an important campaign — but I think we are only barely scratching the surface of that issue.

**Mr ONDARCHIE** — I remember we were all issued with these great little stickers to put inside your car — ‘Before you open the door, please check’ — —

**Mr KAUFMANN** — I do not think there has really been a sustained effort at looking at that.

**Mr ONDARCHIE** — That is something we should take on board. Thank you.

**The CHAIR** — Indeed. No further questions, committee members? If not, at that point, thank you, Mr Kaufmann, for your contribution this morning. I remind you that you will receive a copy of the transcript in coming days for proofreading, and that will ultimately be made available on the committee’s website. Once again thank you for providing your evidence this morning.

**Mr KAUFMANN** — Thank you for having me.

**Witness withdrew.**