

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

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

Melbourne — 21 June 2016

Members

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Witnesses

Mr Rob Salvatore, Chair, and

Professor Richard Huggins, Victorian Motorcycle Council.

The CHAIR — I will begin by declaring open the Standing Committee on the Economy and Infrastructure public hearing and welcome all who are present here this morning. I will just begin by explaining that today we are hearing evidence in relation to Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015. Today's evidence is being recorded.

All evidence 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.

I will thank our witnesses who have come along to provide evidence to us this morning with regard to this inquiry. I might hand over to you, gentlemen. I will ask you to introduce yourselves and say which groups you are representing, and then you can move on to your presentation and we will move on to some questions after that. Over to you.

Mr SALVATORE — Thank you, Chair. Thanks, committee members. My name is Rob Salvatore. I am the chair of the VMC. Just by way of a quick introduction, I am a cyclist, I am a motorcyclist, I am a driver, so along with my two road craft instruction qualifications I hope to bring the benefit of all that experience to the committee today. With me today — —

Prof. HUGGINS — I am Richard Huggins. I am a statistician, but I am not here as a statistician; I am here as a rider. I ride regularly around the Yarra Ranges on weekends as a recreational rider, sharing roads with recreational bicycle riders, and I have some videos and comments on the situation out there.

The CHAIR — Very good. So you have a presentation for us?

Visual presentation shown.

Mr SALVATORE — Yes, we have a short presentation. Can I just say that whenever I mention the word 'motorcycle' or 'motorcyclist' today I am also talking about scooter riders as well, so collectively. It just cuts down the number of words I need to say.

Just briefly, a quick run through and introduction about the VMC. We are the state's peak motorcycle advocacy body, and we are nationally networked with other state bodies through the Australian Motorcycle Council. We directly represent eight affiliated clubs, with some promises of further affiliations throughout the year, plus some 250 individual riders. By extension we argue that we represent Victorian motorcyclists.

We are also recognised as subject matter experts and the go-to organisation for motorcycle stakeholder input from the likes of Victoria Police, TAC, VicRoads and the current road safety camera commissioner as well. We are recognised by local councils — the City of Melbourne, the City of Port Phillip, Wyndham and various others — and we are also recognised by non-government organisations such as Maurice Blackburn lawyers, CityLink Transurban, RACV and several others, so we are quite active in this space.

There are two fundamental principles of the VMC. In representing motorcyclists. We are trying to represent motorcyclists through credible, respectful, diplomatic and cooperative advocacy, so it is all about trying to reach a pragmatic, common-ground solution. We are also all about the promotion of motorcycling's benefits and advantages, its freedoms and its liberties but balanced against road safety. On the point of road safety, we have two fundamental principles that we apply, and that is that road safety is a shared responsibility. That is absolutely fundamentally important to us. The second one is that the road safety advantage of one road user should not come from the disadvantage of or at the expense of another road user, so it is about all of us together using a limited resource called the roads in the safest possible way.

Having said that, I will get onto our position on the minimum distance overtaking laws, the MDOLs. I think it is fair to say that based on that second point, the VMC cannot support the MDOLs as they are currently proposed. Instead we are actually supporting the status quo, the existing road rules, because we feel that they are actually more consistent with motorcycle design, the unique characteristics of motorcycling and the task of riding, which I think is quite important. However, we are not against what the MDOLs are trying to achieve. I think that is really important. As a cyclist myself, I would appreciate a safer road environment also, but I think that most of the MDOLs' goals could be achieved through a targeted awareness campaign, an extensive one, and I think there should be quite a lot of thought given to that.

However, should the MDOLs come to pass if the law is actually enacted, the VMC would strongly argue for a complete exemption to the MDOLs for motorcycles on the basis that motorcycles are the most compatible vehicle to share the road with bicycles, and as a result there is no need for a minimum distance overtaking law on motorcycles. Let me explain that a little further. First of all, motorcycles and bicycles share many common attributes. We are both exposed, vulnerable road users. We both ride single track vehicles that we sit astride. We are both subject to the vagaries of the elements and road surfaces. We both share many common road hazards, particularly one which is called SMIDSY, ‘Sorry, mate, I didn’t see you’. I will put it on record that research is showing that that is more of a human cognitive failing rather than a conspicuity failing of riders. I am happy to wax lyrical about that another time. We also employ many similar hazard management strategies on the roads — for example, looking well ahead, maintaining our lanes, riding positively, confidently, predicting the traffic situation around you — so there is more in common with bicycles than not in common.

Because we sit astride our vehicle, because we can see where the edge of our vehicle actually is, as compared to a driver of a car, bus, truck, we can readily judge a safe and sufficient passing distance. That is just inherent of motorcycle design. There is no evidence right now of a clear and present danger to bicycles from overtaking motorcycles, so we would argue that an exemption to the MDOLs will not reduce cyclist safety in any way; rather, an exemption means less likelihood of riders having to cross over solid white lines into danger to make a legal MDOL overtake, which in most cases that overtake is unnecessary because there is sufficient space within the lane on that road if we are allowed to maintain the judgement of sufficient space.

However, should the MDOL bill not pass, the VMC would not actually be unhappy about that because it will directionally keep the frequency of vehicles crossing over the centre line into oncoming traffic — so it will keep that frequency quite low to today’s levels. I think there is one danger if the MDOLs are approved. There is a chance that drivers will take the opportunity or they will consider that it is legal to cross the white line to manage any hazard at any time, and that will increase the frequency of riders needing to respond to an oncoming hazard.

Just before I hand over to Professor Huggins to talk about the 12-second video clips that demonstrate some of these concerns and observations, I just want to make one final comment. Nowhere in all of the online discussion that I have looked at on this topic, and nowhere in all the earlier transcripts I have happened to have had a look at related to this hearing, does any MDOL supporter make any comment about the incompatibility of motorcycles and bicycles. To me that suggests that there is not an issue there. I think that is really telling, that is really important. I have not seen any discussion anywhere about it, so I really appreciate that we are here today to put that point on the table. I will hand over to Richard.

Prof. HUGGINS — When we said we were doing this, I organised some little videos.

Video shown.

Prof. HUGGINS — This is a bicycle peloton out on the road. It is an 80-kilometre-per-hour road. What we can see is that, as I approach the peloton, they pull over and get out of the way. I can go up the hill without crossing the double white line. Even with oncoming traffic, everybody is safe and happy. Under the laws you are proposing, if I wanted to overtake there, I would have to cross the double lines.

This is a narrow mountain road. On this one you can see what happens when cars are overtaking a couple of cyclists into a blind corner. This is a bit tricky because he actually came out and overtook when I was trying to overtake, but you can see motorcycles are manoeuvrable. We can cooperate with these guys, get past quite easily, we do not have to cross the lines and there is no friction. What you saw there with the cyclist, that happens a lot, because when the cars go past they cannot hear the motorbike coming behind. They tend to pull out, and you have to watch for them pulling out, so it is just something that happens.

This next one is just an example of going past motorcyclists going uphill. Probably the feature of that is the speed at which the other cyclists are coming down the hill, but if a car goes out, you have got a bike coming at 50 kilometres an hour. They do not have big brakes. They are basically in trouble. I will skip to the next one.

This one is where there is a problem. I was following this car. He has gone out, crossed the double lines around the bicycle and down the hill comes a motorbike who has had to swerve to avoid him. Apart from our argument that the minimum distance should not apply to us — we can safely get past the cyclists — the other one is it is potentially forcing cars out over the double lines and putting us in danger.

This is another one illustrating the same point. This is a ute going out across double lines around the cyclist — a blind corner coming up, he has just done it without looking. That was a 60-kilometre-an-hour road. It is quite possible for motorcyclists to do 60 kilometres an hour on that road, which would put them in danger coming down the hill.

The point of the videos is that we can safely coexist with cyclists on these roads anyway, so there is no need for a minimum distance law. The other thing is by imposing the minimum distance law, we are getting cars coming across the centre lines and putting us in danger. I do not have videos of that happening to me. It happens once or twice a year on those roads. You saw from the second video that that is quite a narrow road with lots of blind corners. It is quite common to be ducking for the edge of the road as the cars come out to pass the cyclists. I will finish there. We can coexist.

The CHAIR — Very good. We might have some questions from the committee now. I am curious. If you have read the transcripts of previous hearings, you have probably heard Mr Leane doing some calculations on lane widths and the like.

Mr SALVATORE — Correct. Yes, I read those with interest.

The CHAIR — He is very good at those.

Mr LEANE — He is about to steal my question.

The CHAIR — One of the concerns that has been raised and that Mr Leane has done very well is obviously that the width of lanes and the practicalities of leaving a metre for cyclists in certain scenarios can be difficult. I would imagine that it would be much easier for a motorcycle to be able to give a cyclist a metre, whether or not there is the need to cross over those white lines just by the sheer fact that a motorcycle is nowhere near as wide as a car. In that knowledge, is it a real issue in terms of a motorcyclist giving a cyclist a metre, given that the size of a motorcycle is nowhere near as wide as a car?

Prof. HUGGINS — The metre and a half bit gets a bit trickier on some of those narrow roads.

Mr LEANE — But a metre is not?

Mr SALVATORE — We would argue that if you are enforcing an arbitrary limit, then when a rider needs to make a judgement call and manage various hazards and passes sufficiently safely but illegally closer to a cyclist, he is opening himself up to an infringement which does not exist right now and the cyclist and the motorcyclist have passed each other quite safely. If a motorcycle hits a cyclist, they are both going to have a bad day — they are both going to destabilise and they are both going to fall over — so there is a vested interest in the rider avoiding a collision.

In general, the 1 metre is probably not an issue, and in general you are taking that distance, if not greater, because the road space is there. But on narrow roads, not every road is 3.5 metres; 2.5 metres is sometimes a luxury on some of the C-class roads around the Kinglake road and that kind of thing.

Mr EIDEH — Would you support the introduction of a mandatory passing distance if motorcyclists were exempt?

Mr SALVATORE — Broadly, yes.

Prof. HUGGINS — There is still the problem with the cars coming across the centre line.

Mr EIDEH — Another question is regarding education. In your view what method of communication do you consider as being most beneficial in Victoria? What time frames would you expect from a \$400 000 education campaign?

Mr SALVATORE — I am not an expert in the media, but I would say that whoever is watching a commercial or reading the ad, if that person could get themselves into the shoes of a cyclist, then I think you will find some empathy and you will find that these laws, or the benefit of the laws, will start to come out. I would say that, given some of the angst I have heard from drivers on the road about cycling and lycra lizards, I think you are looking at 6 to 18 months sort of thing. I really do.

Mr EIDEH — Thank you.

Ms HARTLAND — I have got a number of questions. Some of them you can take on notice if you cannot supply the information today. I would like to start around some of your videos. What I was really interested in is that you were talking about how cars are crossing double lines illegally and unsafely.

Mr SALVATORE — That is correct. They are doing it now.

Ms HARTLAND — With the fact that they are doing it unsafely and illegally, why would you then want motorbikes to be exempt? It sounds like from that statement that you actually do not think that this law should be for motorists as well as motorcyclists?

Prof. HUGGINS — The problem is cars crossing the double lines illegally puts us at risk. We see that increasing if the MDOL laws go through. The problem is we will have more people on our side of the road driving at us. That is an expectation.

Ms HARTLAND — Does that mean you do not support this legislation at all, or you are only looking for exemptions for motorcycles? I am sorry, but that statement is a bit confusing for me.

Mr SALVATORE — It is qualified support. We believe that motorcyclists should be exempted from the minimum distance overtaking laws. If we are exempt, that is at least half of the hazards that we are able to manage directly ourselves by not being forced to cross over lines onto oncoming traffic to make progress.

Prof. HUGGINS — But we are also worried about what the legislation is allowing cars to do.

Ms HARTLAND — Safely. Those cars were not doing it safely.

Prof. HUGGINS — They were not doing it safely.

Ms HARTLAND — No, so if you actually had legislation, you would then have an ability to deal with those drivers.

Prof. HUGGINS — But there is legislation now. They should be getting 3 points.

Ms HARTLAND — But there would be an extra piece.

So anyway, a couple of other things from your submission. Most of the examples you gave or in the photos of motorcycles overtaking bicycles at close distance are actually from bicycle competition events.

Prof. HUGGINS — No.

Ms HARTLAND — In your photos.

Prof. HUGGINS — These ones? No, they are all — —

Ms HARTLAND — No, the photos in your submission.

Mr SALVATORE — There are a couple. That is correct.

Ms HARTLAND — Are you aware that the peak body for cycle events, Cycling Australia, has given evidence that they strongly support minimum passing distance?

Mr SALVATORE — We use those photos to demonstrate that motorcycles and bicycles can coexist on the same stretch of road quite happily. In one of the photos there is an oncoming bus.

Ms HARTLAND — That is an English photo, is it not?

Mr SALVATORE — Correct, but I was drawing upon evidence where I could find it. In that photo there, the MDOLs would have required the motorcycle to stay behind the peloton of bicycles because they would have been forced to the wrong side of the road.

Ms HARTLAND — With that photo, these are clearly photographers taking photos of the race. That is not the way you would normally see cyclists and motorcycles on the road together.

Mr SALVATORE — That is right.

Ms HARTLAND — So that is quite an unusual photo to give as evidence as to why you should not do this.

Mr SALVATORE — It is the perfect photo to demonstrate the physics and the logistics of the size of the single-track vehicle bicycle as compatible with the single-track vehicle motorcycle.

Ms HARTLAND — This is a cycle race. This is not the way commute cyclists would travel.

Mr ONDARCHIE — It is on Beach Road.

Ms HARTLAND — There is usually also then not motorcycles with photographers, so I am just a bit concerned that the image you are putting across there is not real life commuter travelling.

Mr SALVATORE — As I said, I am not concerned about that aspect of the photo, because it demonstrates the physics — the physical size comparison between the two and how compatible they are to fit on the same stretch of road.

Ms HARTLAND — You say the incidence of motorcycle sideswiping bike is extremely rare. That is on page 4. Do you have any stats for that, or could you supply the committee with what the stats are?

Mr SALVATORE — I can dig those out.

Ms HARTLAND — That would be great. When you supply those stats, could you talk about how many near misses or how many accidents you think would be required before we should change the legislation? I think that is really important, that over the years these things only happen when it gets to a critical mass, and I personally would like to see us avoiding that kind of idea that you have to get to so many crashes or sideswipes or whatever before you actually change the legislation.

Mr SALVATORE — If I understand correctly, we are to provide some evidence of a rare occurrence and then also provide an opinion on how much of that rare occurrence should be a trigger for these MDOL laws.

Ms HARTLAND — That would be great.

Mr ONDARCHIE — I do not get it either.

Mr SALVATORE — All right. I just want to understand the — —

Ms HARTLAND — No, I think that would be extremely helpful.

Mr SALVATORE — We will give it our best shot.

Ms HARTLAND — Lovely. Also, your photo on page 8, that also looks like a competition.

Mr SALVATORE — Could you refresh my memory about the photo?

Ms HARTLAND — On page 5. I am just asking because they are all wearing a jersey, so I am presuming that is also another competition. They are riding two abreast.

Mr SALVATORE — From my understanding, that photo there is not from a competition. That is a group going on a training or recreational ride. A motorcyclist needing to overtake that group would need to at least leave 1 metre, and if it is an 60-kilometre-an-hour road, 1.5 metres would put them over the white line.

Ms HARTLAND — Also with that, if a cyclist was on that road — I am presuming this is a regional road in Victoria. Do we know where this is?

Mr SALVATORE — I do not recall.

Ms HARTLAND — Maybe if you could supply that too, that would be really helpful, because what a lot of the country cyclists have said to us is that one of the problems with country roads is if they are overtaken or pushed over there is actually literally nowhere for them to go because there is no hard shoulder. So how would you suggest we deal with that issue?

Mr SALVATORE — If the opportunity is there to provide a safe, sufficient overtaking distance, then that is exactly the situation we have today. I actually suggested in our submission that one of the suggestions for managing two riders abreast on some of these narrow roads is to actually legislate that they should be riding in single file as a possible countermeasure. I am not saying that we would push that, but —

Prof. HUGGINS — There is a sign on the Mountain Highway that says, ‘Cyclists, single file’, which is totally ignored. So there are signs that can say this.

Mr SALVATORE — When I cycle in a group, I listen for the guys at the back who say, ‘Car back’, and so in the group that I ride in, we just fall in line in a single line, the car overtakes us and we go back into our two abreast, which we are allowed to do, and continue our ride. That is not a discipline that every cyclist uses, though.

Ms HARTLAND — Chair, I have a couple more questions, but I have one main question. Do you just want me to go to the main question?

The CHAIR — Just considering time, I think that might be good.

Ms HARTLAND — I would like to talk about the evidence that we received from the Queensland Department of Transport and Main Roads that told us that third-party trauma claims from cyclists was actually down by a third in 2015 compared to the previous two years, so it was about 100 fewer claims. To me that actually indicates that there is quite a significant reduction in injuries to cyclists, and I am not saying that the Queensland situation was perfect. The evidence we heard was that they actually highlighted to us a lot of faults and that if we were to do this, we need to make sure that we do not do the same things. You talk about Queensland in your submission, so what would you say to the comments from the department?

Mr SALVATORE — I am sure Richard will have a more informed opinion.

Ms HARTLAND — On page 8.

Prof. HUGGINS — Is this the department or Professor Haworth? I have read Professor Haworth’s submission.

Ms HARTLAND — Yes, we have got that; that information came to us from the Queensland department of transport and roads.

Prof. HUGGINS — Okay. I have not read that one.

Mr SALVATORE — Did they have a baseline prior to the MDOLs coming in?

Ms HARTLAND — No, this was a really big problem with what they did, and they advised us strongly to make sure that we had good baseline, but they are taking it from the numbers of injuries that have occurred to cyclists, so they say there were actually 100 fewer claims than there had been in 2015, and they were able to track that through other means, rather than the problem that they had with the baseline.

Mr SALVATORE — Is it indicative of a trend? Is the underlying trend reducing, or is it just a one-off aberration? If you had two or three years of that kind of reduction, then I guess that is a great outcome. I would also argue, is it the laws or is it the awareness of the laws that has actually contributed to that reduction?

Ms HARTLAND — Clearly I would think that that is actually part of it, but the issue was that there had been a reduction, and that appears to have been not just around education to tell people to stop doing it, but obviously having that distance has meant that there have been fewer sideswipes and crashes.

Mr SALVATORE — Has that attribute been repeated in, say, the 20 states in America that have the same kind of law?

Ms HARTLAND — I am talking about Queensland. I am talking about local information. You have talked about it in your submission, so I am asking you a question about your submission.

Prof. HUGGINS — Professor Haworth in her CARRS-Q submission said it was not statistically significant what happened to bicycles. There was a drop in cars as well, so it could also just be an overall trend across cars and bicycles, a general safety trend. She did not think there was strong evidence that there was an effect of the change of laws.

Ms HARTLAND — I am just quoting from the actual figures, and so to have 100 less — —

Mr ONDARCHIE — Chair, can others ask some questions?

The CHAIR — I am just conscious of time, Ms Hartland. We might move on.

Mr ONDARCHIE — I want to talk about the photos you have submitted around inner city and that mix of cars, cyclists, motorcyclists and bike lanes. Do you think that in the inner city motorcyclists should be allowed to use the bike lanes?

Mr SALVATORE — Oh, boy. I say that because in our submission to the filtering laws we argued a very limited access to the bicycle lanes. There was another group that argued full-time access, and it got the cycling lobby up in arms. I think there is an argument for some limited access, so long as the cyclist has all the onus and all the rights, because we are on a powered vehicle, so we need to protect them. It is like power gives way to sail, so to speak. I think there might be an argument that there is some limited access, but I think that is a very, very delicate conversation.

Mr ONDARCHIE — That is fair enough, Rob. I would say one accident between a cyclist and a motorcyclist is one too many in terms of stats.

Mr LEANE — I have one quick question. In your submission you talk about an education campaign, and in one of the previous submissions RACV were open enough to say that they did not believe their members really understood what to do now when passing a cyclist. I appreciate it is a different category of vehicle that your members transport in, but do you feel the same? Do your members know at the moment what responsibilities they have got and what the law is and so forth when passing a cyclist?

Prof. HUGGINS — I think a lot of us just assume there is a metre law and try to give a metre.

Mr LEANE — Yes, and as your evidence says, the nature of the vehicle you are on affords that a lot easier than — —

Prof. HUGGINS — Than a car.

Mr LEANE — Than a car.

Mr SALVATORE — Can I just say, as a demographic what I have noticed is that motorcyclists tend to be more up to speed on the laws, the road rules, than the general, average, everyday car driver. I cannot say that every rider would appreciate the laws around cycling. The Australian Road Rules have some 600 mentions of the word 'bicycle' or variations, so there is quite a lot in there about cycling, and only about 100 related to motorcycling. So we are stacked towards protecting the vulnerable road user, which I think is a great thing.

Mr LEANE — Yes.

Prof. HUGGINS — The other thing is on a motorcycle you can slow down to quite a slow speed and then get back up to road speed very quickly, so we have got the manoeuvrability to work around cyclists, whereas cars struggle a bit.

Mr SALVATORE — It does not mean we do not get frustrated, but I think because of our accelerating abilities we are less frustrated than a driver who is stuck behind a conga line of other cars or bicycles.

Mr FINN — Just one question. Thank you for those videos in particular, because I found them very illuminating. From what we have seen today, particularly on the videos, would you agree with me that this law would make it more dangerous for both motorcyclists and motorists alike?

Prof. HUGGINS — Yes.

Mr SALVATORE — I would have to say yes.

Mr FINN — Thank you.

The CHAIR — I think that covers it all off. At this point, gentlemen, I thank you very much for your contribution there this afternoon. I remind you that you will receive a copy of the transcript of today's hearing for proofreading. The transcripts will ultimately be made available on the committee's website. Once again, thank you for coming along today and providing evidence.

Mr SALVATORE — Thank you, Mr Chair; thank you, committee members.

Witnesses withdrew.