

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

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

Melbourne — 31 May 2016

Members

Mr Joshua Morris — Chair

Ms Colleen Hartland

Mr Khalil Eideh — Deputy Chair

Mr Shaun Leane

Mr Nazih Elasmr

Mr Craig Ondarchie

Mr Bernie Finn

Participating Members

Ms Samantha Dunn

Staff

Secretary: Dr Christopher Gribbin

Witness

Mr Andrew Smeal.

The CHAIR — I declare open the Standing Committee on the Economy And Infrastructure public hearing and welcome everybody who is present today. Today the committee is hearing evidence in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015. The evidence is being recorded. All evidence taken today is protected by parliamentary privilege. Therefore you are protected for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by the same privilege. Welcome. Thank you for coming along to present to our committee. At this point I will hand over your good self, and I believe you have a presentation to go through and then we will move into some questions from the committee.

Mr SMEAL — Great. Thank you for having me. My name is Andrew Smeal. I am a community member. I am an avid commuter cyclist, have been for the last four years. I also race on the weekends and do recreational rides in the Macedon Ranges. I am a Bicycle Network member.

Visual presentation.

Mr SMEAL — I will start off by saying that I support the bill in its entirety, with no exceptions. The reason I say this is because when people talk about exceptions or exemptions, the suggestion is that the cyclist should adopt the risk when they are presented with an imperfect situation for the examples you have been talking about and I do not believe that that is a reasonable thing.

When I started cycling a couple of years ago as a commuting exercise I was trying to get from A to B by bike entirely and I was presented with some infrastructure concerns, but these are gradually being addressed, but the moments that truly terrified me and almost convinced me to stop cycling completely were the close passes. I have had a couple that are notable. One in fact to the point that you were talking about earlier, Shaun, where cyclists do not claim the lane. Well, I claim the lane every day where that circumstance requires it, so in some circumstances it is safer to do that. In one instance, I did not claim the lane where I normally would have and was rewarded with a very close pass where I was riding entirely in the gutter — I had my left hand on the brakes and my right hand bashing against the side of the car. That is the sort of thing that you can expose yourself to if you are not assertive on the road.

Why am I here? I am here to represent another cyclist. Her name is Jenica Brooke. She is my sister. She could not be here because she is overseas, but she did present a submission earlier. She is also a Bicycle Network member, an avid commuter cyclist, works in finance — I am an engineer. This is the case study that I would like to talk about.

For a bit of context, that is a screenshot from a video from the rearward-facing video camera mounted on her bicycle. This was taken in March this year as she rode home from work and that is approximately half a kilometre from her home, so previous to this she was riding on the Moonee Ponds Creek Trail but this is one of the few parts of her commute that requires her to ride on the road. The individuals in this car chose to put her safety at risk and pass her unreasonably closely. Just as a detail that you might note from this you can see on the right there is a lamppost and that is distorted. That is because it is a wide-angle lens, so this is actually closer than it looks. You can also see the hand outstretched from the passenger window in an attempt to hit her on the way through.

This is a series of measurements that were taken by revisiting the road. In yellow there you can see 120 centimetres to the edge of the wheel. That was verified with a measuring device and the markings on the road. She was riding approximately where that orange mark is — approximately 60 centimetres width for the bike. I would like to make note as well at this point that VicRoads is not a cycling body — it recommends that you ride a metre from the curb, not any closer.

When we assess all the measurements here, we can see that the side mirror of the car was less than 15 centimetres from her elbow, and there was quite obviously some speed involved as well. This was a moment that shook her up and made her question whether she wanted to ride again. But she did the only thing she could do and took the evidence to the police to see if there was some sort of action that they could take. The response from the police was that because sufficient distance to avoid a collision was maintained at all times, no offence had occurred and there was nothing they could do. That is not an uncommon experience for cyclists.

Mr LEANE — Do you mind if I ask while you have that slide? So the vehicle in relation to the middle lines or the rest of the lane — did they have more space to their — —

Mr SMEAL — Yes, I appreciate that it is difficult to see from there. There are parked cars on the other side of the road, and there was oncoming traffic at the time.

Mr LEANE — So did they have any space in the lane at all, or is it hard to say?

Mr SMEAL — I think it is hard to say.

Mr LEANE — Because they are actually determined to be — I cannot say the word. They are determined not to be good people in that situation. I am trying to understand. They could have actually given some space, but it seems to me that they have veered towards your sister on purpose.

Mr SMEAL — Yes. If you would like to get some context around the lead-up to it, in the submission there is actually a link to a YouTube video in which you can watch the full event take place. There was no attempt to make any sort of room. The road is quite narrow, and often there is not actually room for two vehicles passing in oncoming directions because of the parked cars, but if you have a situation where there is a cyclist and a motorist trying to travel in the same direction, there is no reason why a safe pass could not occur, and in fact the two vehicles prior to this one passed with plenty of room.

Mr EIDEH — Was that in Sunbury?

Mr SMEAL — No, this was in Pascoe Vale. I live in Sunbury.

Mr EIDEH — In Pascoe Vale?

Mr SMEAL — This was in Pascoe Vale, yes. It is a quiet suburban street.

So the current law, based on this experience, does not allow for any sort of punitive measure or delivery of the message that it is not safe to pass a cyclist closely until an incident has occurred — that is, the cyclist has been hit, maybe killed, maybe injured. I think this is a massive shortcoming, because there is nothing that can be done to prevent an injury or a death. It is only once that has occurred that punitive measures can be taken. So that first point just reiterates that statement. ‘Sufficient distance’ is anything that does not result in a collision.

I would suggest that unless we adopt this minimum passing distance legislation we will continue to see cyclists being hit and killed because there is nothing we can do prior to that event occurring. I have got a screenshot there from the TAC ads for Towards Zero. I am sure you have all seen them. They ask the guy what a reasonable number is for the road toll. He comes up with something and then that number comes out but it has got his family members as part of this group. He comes to the conclusion that zero is the only acceptable number. I would say that that is correct. Jenica is my family member. I would very much prefer her not to be killed on the road. For cyclists to be included in the effort to go towards zero, we really need these laws to be put in place.

Some of the reasons why I believe that: a clear example, a clear expectation of what is required. No muddying the waters: it is not a guideline, it is a requirement. If we have exemptions from these requirements, it dilutes the message and therefore the message does not get through. I have said there that the Bicycle Network, RACV, TAC and VicRoads have suggested exemptions not in keeping with the wishes of cyclists, but I make particular reference to the Bicycle Network in that. I have mentioned that I am a Bicycle Network member, so is my sister. We have participated in their debates, and at no point did they mention any exemptions. That is certainly not something that we agree with. There is plenty of action. There is a petition at the moment that is gathering a lot of signatures from Bicycle Network members that do not agree with that.

If I can talk about exemptions a little bit further, some of those key exemptions are lower speed zones and areas with bicycle lanes. That is a screenshot from my forward-facing camera in Colleen’s stomping ground of the Seddon-Footscray area. That may actually be the primary school that you mentioned earlier. This is a bike lane that was installed on Bristow Street. As you can see, I do not have a precise measurement of how wide that is at the traffic island there, but that looks to me like not sufficient space to accommodate even a cyclist.

Being that this is outside a school, this is one of the areas that Bicycle Network would be suggesting is exempt from mandatory passing distance laws. I would say that that is very unwise, considering there could potentially be school students travelling in that bike lane. I did complain about this, and the council did rectify it, but during

the period where that was a bike lane, people, and in particular children, would not have been protected. I think that is about it.

The CHAIR — Thank you, Mr Smeal, for your presentation. I think it is terribly, terribly concerning that you had the experience that your sister went through. To think that even after it having been reported to the police no action was taken, I find that quite concerning. Obviously from the evidence that we have, it is certainly not a safe pass. The fact that whoever the car was registered to was not even contacted by the police I think is of some concern. As you have said, the law as it has been proposed would hopefully provide an opportunity to remedy that particular instance.

I am interested, obviously, in this particular scenario that we see here in the road infrastructure. That is something that we have heard a lot about. The road infrastructure there is not conducive to safe passing in many respects. Even if a bicycle was to be travelling in the lane there and a car was giving them that 1 metre of safe distance, the bicycle is likely to then have to shoot across closer to a car, which could be concerning. I know from your submission that the road infrastructure is something that has been of concern. Do you have any views on if there is an overall approach, what needs to be done to ensure that the road infrastructure is going to ensure that cyclists are kept safe?

Mr SMEAL — Well, obviously that is an example of bad infrastructure. With a fair amount of experience myself commuting, that would be a scenario where I would consider it would be important to be predictable and as early as possible move out towards the side of the lane so motorists know where I am about to be and, obviously, checking behind me to make sure that is safe to do. But you do not want to be ducking out at the last minute.

Look, infrastructure is a concern; it is a massive concern. I live in Sunbury; I work in Port Melbourne. Sometimes I get up very early and ride the full distance between those two and I cover a lot of ground on the western side of Melbourne. There are some very concerning locations. I do not think we are ever going to get to the point, or maybe it will take decades to get the point, where infrastructure alone keeps cyclists safe. Certainly in the regions that Margaret Douglas was talking about earlier, the regional areas, there never will be specific bicycle infrastructure for those places, which is why we need laws that ensure safety regardless of the circumstances.

The CHAIR — One of the things that I have probably raised more than anybody else is that obviously VicRoads is responsible for certain roads that carry a certain capacity of vehicle traffic per day. Do you have a view on whether or not VicRoads or an overarching state body like that might be better to have an overview of important cycling routes to ensure there are not gaps that may be left as a result of certain local councils not investing in that infrastructure as the need is driven upwards due to more and more cyclists using those routes?

Mr SMEAL — Yes, I definitely think it is important to have an overall understanding of where cyclists are travelling. If you understand where cyclists are travelling, that is a function of both the demand and the infrastructure, because we know that a lot of people who have bikes want to ride but are intimidated by the experience. So yes, it is important, I guess, to remove the broken links in the chain.

As an example, if I was travelling through the Sunshine-St Albans area, most of that is pretty good. There are bike paths that have been installed as part of the regional rail link investment and Brimbank council has been quite good in nominating and designating recommended cycling routes that are not actually specific bicycle infrastructure; they are just quiet streets that suit themselves to people riding on them. But there is still the occasional narrow bridge with a blind crest. That one broken link in the chain stops people from taking up cycling, I guess.

The CHAIR — Indeed.

Mr SMEAL — The other point I guess you are getting at is that some councils are more concerned about cyclist safety than others and it is a big challenge to get councils and VicRoads to all collaborate.

The CHAIR — Indeed, thank you.

Mr EIDEH — A couple of questions, Mr Smeal. First, the police have certain difficulties in enforcing a potential passing distance. Do you have any suggestions on how this could be overcome?

Mr SMEAL — I have heard this concern before but I know that the evidence from Queensland in particular has indicated that prosecution is possible. I do not know that it is as significant a concern as we might think. Prosecution itself is not the goal. Prosecution is a means to an end where you want to effect behaviour change. So the fact that we set a clear example of the expectation and, in extremely overt examples such as this, that prosecution would be possible sends the right message and I think will keep people safe.

Mr EIDEH — You mentioned Queensland. Queensland police have suggested that the minimum passing distance rule may have made cyclists less cautious. What could be done to prevent this, in your view?

Mr SMEAL — I think cyclists are pretty well incentivised to keep themselves safe regardless. I do not think that is a concern at all.

Mr EIDEH — Do you support a standalone education campaign that has a focus on regional roads?

Mr SMEAL — An education campaign as part of the package would be obviously a good thing to deliver the message, definitely, yes. Regional roads have their own challenges, so, yes, absolutely.

Ms HARTLAND — You did have the right school. That is Hyde Street. Thank you for those photos. They do demonstrate the problem. In particular with Bicycle Network, can we talk a bit about why it is that you and a number of other members have taken an opposing view to the network?

Mr SMEAL — I guess there are two aspects to that. One is there was no consultation, so that may be the position the organisation have taken but they have no understanding of how that fits with the views of their membership. As I said, I was present for the Bicycle Network debate, and Jenica presented as part of the team that was on the positive side of that debate. The outcome of that was that the members supported the proposal for minimum passing distance legislation with no exemptions. But, I guess as evidenced by images like this, the exemptions where we are talking about lower speed zones and areas with bike lanes, these are two aspects of a lot of school zones. It seems as though those exemptions are going to most affect school-age children, which is obviously counterproductive, in my opinion, and I think there are a large number of Bicycle Network members that feel the same.

Ms HARTLAND — Just so that I have got it right in my head, there was a debate. The debate was around whether the membership supported minimum passing or not, but the idea of an exemption was never raised during that and members found out that that was the position of Bicycle Network when you read the submission.

Mr SMEAL — That is absolutely correct.

Ms HARTLAND — How do you feel about that?

Mr SMEAL — I feel that Bicycle Network does not represent the views of its members and cyclists in general.

Mr LEANE — Thanks for helping us, Andrew. You could probably tell from previous witnesses that I really enjoy the measurements and trying to understand that. I appreciate it and I appreciate your evidence that sometimes it is safer to actually control a lane, as you said. I do appreciate that statement as well. Something that struck me yesterday was that a witness from New South Wales, from their roads authority, I think, gave quite interesting evidence. They stated that before they implemented what they did up there they surveyed and came to a belief that motorists did not really understand their responsibilities in interacting with cyclists, particularly in passing, before they changed their regulations and rules. It might be a hard question for you to answer, but I just want to ask you, as someone who is on your bike on the road a lot, whether you would say that that is the case in our jurisdiction — that motorists do not really understand their responsibilities around interacting with cyclists?

Mr SMEAL — I think that broadly motorists treat cyclists very well. There are a large number of motorists that give plenty of respect to cyclists. I am not sure if they understand specifically what their requirements are, but they certainly — —

Mr LEANE — Common sense tells them.

Mr SMEAL — Exactly. But there are some who do not, and sometimes I think that is through malice. I think there are some people who do not like cyclists being on the road and they would like to demonstrate that to the cyclists in question, but also sometimes I think it is just ignorance and inattention, and we need to be protected from both.

Mr LEANE — Yes. So your experience, being on the road, on your cycle on a weekly basis, is that there could be with some people, like you said, ignorance and not understanding their responsibilities with their interaction with the different type of road user.

Mr SMEAL — Yes, I think that is probably a true statement.

Mr LEANE — Yes, but without surveying and all that, it is hard to say which. That is what New South Wales did.

The CHAIR — And I think it is a good point that you make. Obviously this is a malicious circumstance, isn't it? This is not just negligence. I suppose that understanding of what road users need to do is about removing that negligence from cyclists. If there are no further questions from the committee, I will thank you, Mr Smeal, for your presentation today.

Ms HARTLAND — If I can say that your photos — this in particular — were extremely helpful.

The CHAIR — Yes. I am going to look forward to getting onto the YouTube site and seeing the way it has occurred. I remind you that you will receive a copy of the transcript for proofreading, and that transcript will ultimately be made available on the committee's website. Once again, thank you for your testimony today.

Mr SMEAL — Thank you.

Witness withdrew.