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• Take the lane

Posted on January 6th, 2010 azbikelaw [3 comments](#)

*** a *third* win, see [Another Appellate win for bicyclists in Pima County](#). [Here](#) is the order. ***

Educated cyclists know that they not only can (legally), but should (for safety) occupy an entire lane when conditions dictate. One of these conditions is when the lane is narrow.

Arizona law is quite strong and plain in this regard. Here is the relevant law, (I intentionally clipped the part about the cyclist's speed, which is briefly treated later).

[§28-815](#). Riding on roadways... A. A person riding a bicycle... shall ride as close as practicable to the right-hand curb or edge of the roadway, except... 4. If the lane in which the person is operating the bicycle is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

So this law creates a duty in part A for cyclists, but there are enumerated exceptions to this duty, the 4th one being the subject of this article.

We are reminded that from time to time, cyclists are targeted by law enforcement for "taking the lane". This sometimes takes the form of mis-guided paternalism — "you should always ride to the extreme right so you don't get hit". It also can take an uglier tone of *faux*-paternalism, really just a thinly-veiled automobile-superiority attitude, the sub-text being "cyclists must always get out of the way of cars".

And disappointingly sometimes cyclists are found guilty (actually "responsible" is the correct term, I am told) by compliant lower courts.

Happily, Arizona cyclists can point to not one but two relatively recent Superior Court decisions which reversed on appeal these wrongful convictions.

The first case, [Arizona V. Goren](#), occurred in Tempe (Maricopa County). In the second case the rider was riding two abreast, but that isn't relevant to the case; [Arizona V. Piscopo](#), Pima County (see more generally at [Two Abreastness](#)). Also see the case at [TBL](#), the blog of the lawyer who represented Piscopo).

I would encourage everyone to read both of these decisions because they are brief, well-written, and illustrative.

How narrow is narrow?

This can be a grey area; it is not (directly) specified in the law. In *Goren*, Officer Robinson maintained that 12'10" (his measurement) was more than ample. He was, however, not aware of the concept of usable space; and thus incorrectly counted the gutter as lane width. In the end, the court accepted that the defendant's measurement approximately 11' usable width was both accurate and clearly narrow. Much the same conclusion was reached in *Piscopo*: "credibility was not at issue and the salient evidence — the dimensions at play — appear undisputed", the dimension according to the defendant were "no more than 11 feet wide".

Both cases counted on using the minimum 3' passing distance specified in [§28-735](#) as an entitlement to the cyclist when determining narrowness. (see [Three-Foot Laws](#) for more generally about this law including other states who have a passing-distance law)

From an engineering perspective, the authoritative [AAHSTO Guide for the Development of Bicycle Facilities](#), 1999 says *minimum* 14' usable width for side-by-side sharing:

In general, 4.2 m (14 feet) of usable lane width is the recommended width for shared use in a wide curb lane... (the gutter pan should not be included as usable width).

You can play with the dimensions, e.g. if you allow a minimum of 1 foot both to the left of the (8')

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The Issue of Speed

Neither of the aforementioned cases dealt with whether or not the cyclists were “at less than the normal speed of traffic”. In a nutshell: some courts (but none in Arizona, that i know of) have held that normal means normal for a bicycle. See e.g. [State V Patrick](#) , which references the *Selz* decision; both out of Ohio.

But what about Impeding?

This was not at issue in either of these cases, for some more general discussion of impeding see [Bicycles are not Motor Vehicles and Why it Matters](#).

[bikelaw case law](#)

3 responses to “Take the lane”



[John Romeo Alpha](#) [January 6th, 2010 at 20:08](#)

Delivery trucks parked in the bike lane on a residential street during “No Parking in the Bike Lane” hours almost always compel me to take the lane. They fill not only the bike lane but stick out into the street. I would prefer that they not park in the bike lane during the “No Parking in the Bike Lane” hours, but, for example this morning, with a water delivery truck doing that, I glanced behind me, signaled, and took the lane. A car also in my lane came up behind me about the same time I was riding past the truck, allowed me time to reenter the bike lane, then passed me. I took the lane not only to get around the truck safely, but also because there was oncoming traffic in the opposite lane, and saw no alternative. Any thoughts on this situation? Should I have done differently, generally speaking?

*Hi John
sounds like you and the driver did exactly the right thing.
—ed*



[BB](#) [January 7th, 2010 at 05:42](#)

Thank you so much.

Can you pass this onto Biketempe.org Please or else I will.



[Serge Issakov](#) [January 29th, 2010 at 12:15](#)

At some point the argument needs to be made that the only purpose these bike-specific laws serve is to allow biased law enforcement officers (and lower court judges) to misinterpret them per their anti-bike bias, and wrongfully charge and fine bicyclists.

Many states do not have bike-specific laws (Pennsylvania and North Carolina are two examples), and there is no chaos or mayhem as a result. The laws that govern the behavior of drivers of slow moving vehicles are appropriate and sufficient for governing the behavior drivers of bicycles when they are moving slower than other traffic.

To eliminate anti-bike bias in law enforcement, how about starting a campaign to abolish traffic laws that restrict the behavior of bicyclists specifically?

And no, we don’t need to have bike-specific law to give us the right to “take the lane” – all drivers, including those operating slow moving vehicles, have the right to control marked lanes – and so would bicyclists if there was no bike-specific law calling for “far right as practicable” (FRAP) behavior in marked lanes.

FRAP should only apply to bicyclists on roads without marked lanes, as it does to all drivers of slow-moving vehicles, which it would if there were no bike-specific restrictive laws.

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