

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7524

BILL NUMBER: SB 553

NOTE PREPARED: Jan 14, 2009

BILL AMENDED:

SUBJECT: Bicycles and Traffic Safety.

FIRST AUTHOR: Sen. Broden

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes various changes concerning bicycle operation and traffic laws.

It requires a bicyclist under 18 years of age to wear protective headgear, and it requires a bicyclist to carry personal identification.

The bill deletes language: (1) prohibiting a bicyclist from carrying packages; and (2) requiring a bicycle to be equipped with a bell or other audible signal device. It provides that the failure to comply with certain equipment and identification requirements of a bicyclist does not constitute fault, does not limit the liability of an insurer, and that evidence of the failure to comply with the requirements may not be admitted in a civil action to mitigate damages.

The bill provides that a person who causes bodily injury to a person riding a bicycle while knowingly, intentionally, or recklessly operating a motor vehicle in the commission of certain traffic infractions commits a Class C misdemeanor, or a Class B misdemeanor if the operation causes serious bodily injury.

It makes a technical correction.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Summary* - This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund by increasing penalties for

violations of the motor vehicle code that result in bodily injury or serious bodily injury to a bicycle rider. Also, local expenditures could increase if offenders are incarcerated in local jails instead of being only fined.

The bill may increase the state General Fund revenues, as well, by applying the motor vehicle code to bicyclists and adding to the requirements for bicyclists for which most violations are Class C infractions. The bill also creates a Class A and Class B misdemeanor for harassment of a bicyclist.

The bill makes the following changes:

- For violations concerning

- Traffic lights,
- Flashing lights,
- Control signals,
- Motormen of street cars,
- Stopping at railroad crossings,
- Obeying signs and markings,

the bill increases the penalty from a Class C infraction to a Class C misdemeanor if the violation results in bodily injury to a bicyclist and a Class B misdemeanor if it results in serious bodily injury to the bicyclist.

- For most violations concerning vehicle operations, the bill increases the penalty from a Class C infraction, to a Class C misdemeanor if the violation results in bodily injury to a bicyclist and a Class B misdemeanor if it results in serious bodily injury to the bicyclist.

- It adds provisions for overtaking a bicycle and requires the vehicle operator to not block bicycle lanes and to yield to a bicycle at a bike lane crossing. Violations are Class C infractions.

- The bill establishes a Class B misdemeanor for harassment of a bicyclist if the offender throws an object with intent to impede or harm, and a Class A misdemeanor if it involves a motor vehicle.

- The bill establishes Class C infractions for riding a bicycle without identification, or riding without a helmet for someone under 18 years of age, subjects a bicycle rider to a Class C infraction for violations concerning hand and arm signals, and it requires a bicyclist to ride in a bike lane, with certain exceptions.

- The bill deletes requirements that a bicyclist be seated to ride, not carry things and keep both hands on the handlebars, have a bell or audible device, and it modifies the hours for using a light and brake requirements. It allows a bicyclist to treat a steady red light as a flashing light if a traffic control sensor is not activated in a reasonable time. It allows a bicyclist to ride in the roadway if no bike lane exists.

Criminal Penalties - Enhancements: Currently, the maximum judgment for a Class C infraction is \$500, which is deposited into the state General Fund, while the maximum fine for a Class C misdemeanor is \$500 and for a Class B misdemeanor is \$1,000, which is deposited into the Common School Fund. Besides the issuance of fines, the sentencing court may assess a criminal costs fee if a guilty verdict is entered.

The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are

deposited into the state General Fund.

If a criminal action, infraction, or ordinance violation involves a traffic violation, including these proposed offenses, a highway work zone fee of either 50 cents or \$25.50 is assessed.

Criminal Penalties - New Offenses: If additional court cases occur and fines are collected from new offenses, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction, or ordinance violation involves a traffic violation, including these proposed offenses, a highway work zone fee of either 50 cents or \$25.50 is assessed.

Explanation of Local Expenditures: *Criminal Penalties:* A Class C misdemeanor is punishable by up to 60 days in jail, while a Class B misdemeanor is punishable by up to 180 days, and a Class A misdemeanor is punishable by up to one year. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: *Criminal Penalties:* Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors or if there are additional court cases. Twenty-seven percent of criminal costs fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the criminal costs fee while the city or town general fund receives 25%. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected:

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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