UCSD UNDERGRADUATE LAW REVIEW

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Enforcement of California Vehicle Code Pertaining to Cyclists

ABSTRACT. For the past decade, cyclist deaths have steadily increased because of a general lack of awareness and enforcement of vehicle code. Additionally, there is no current legislation pertaining to the mechanics of operating a bicycle. This causes three issues. Firstly, new road hazards are created for motor operators. Secondly, otherwise avoidable crashes involving motor vehicles and cyclists occur. Lastly, there is pushback from both the cyclist community and the motor vehicle community where cyclists increasingly demand more freedoms on the road while the motor vehicle community increasingly demands more restrictions on cyclists and other non-motor vehicles. Despite varying opinions on vehicle restrictions, the official statistics provided by the US Department of Transportation Fatality Analysis Reporting System (FARS) are indisputable: 843 cyclist deaths have occurred across the nation in 2019 with California as the lead contributor with 20% of these deaths, which is how it has been for the past decade. This is no longer an issue of fault between cyclists and motor vehicles but now an issue of enforcement and outdated legislation. This paper will analyze how the lack of enforcement of California Vehicle Code 21200 and 21202 from law enforcement and legislative powers to combat on-road negligence such as riding antiparallel to traffic and disobeying traffic signals negatively impacts the current state of driving on the highway for both motor vehicles and cyclists. The article aims to propose new legislation, namely requiring cyclists to have a license or permit to ride a bicycle to mitigate future deaths and improve the level of safety on-road.

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INTRODUCTION

I. The Necessity Of Stricter Enforcement

Over 800 cyclists died in 2019, according to the report by the US Department of Transportation Fatality Analysis Reporting System (FARS). As the report follows, this mortality rate is not improving, showing steady increase over the 2009–2019 decade. Additionally, a majority of these deaths have occurred on streets—the exact roads shared by drivers and other vehicles. This leads to two thoughts: Is this number increasing as a result of an increased cyclist population? Or are drivers steadily getting worse over the years? Both are true: the number of cyclists and motor vehicles on-road has increased since 2009 and this influx has caused greater on-road liability for both cyclists and motor vehicle operators.[1] Additionally, as with any increase in population, the amount of negligent behavior like rolling stops, failure to completely yield to pedestrians, etc. has increased; this behavior is becoming normalized in driving culture.

However, while these statistics support evidence that the streets are not safe for cyclists, it can be observed that cyclists are also at fault at times due to improper conduct on the road.[2] In the same FARS report, over 60% of these deaths have involved a cyclist not wearing a helmet and over 20% involved a cyclist riding under the influence. This raises the question of whether it is that the streets are indeed unsafe for cyclists or if cyclists are putting themselves in harm's way.

In California alone, cyclist deaths contributed to over three percent of total vehicle fatalities in the state.[3] While the number may seem negligible, it accounts only for reported incidents, thus the total actual number of deaths is unknown. Furthermore, during the 2018–2019 year, California observed an overall five percent increase in total vehicle deaths compared to Florida, another state consisting of high cyclist deaths, which observed a two percent decrease. California's trend remains largely true for other leading states like New York and Texas: while overall deaths have increased, California

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1 Motor (vehicle) operators refers to any non-cyclist vehicle (i.e., car, truck, motorcycle). 18 U.S.C. § 31(a)(6).

2 Pedalcyclists are cyclists. *FARS Encyclopedia*, Nat'l Highway Traffic Safety Admin., https://www-fars.nhtsa.dot.gov/Main/index.aspx (last visited Jul 3, 2022).

3 Representing total incidents in 2019 in California. *California Annual Report 2019*, California Office of Traffic Safety (2019), https://www.ots.ca.gov/wp-content/uploads/sites/67/2020/02/Annual_Report_Final_WEB_back_1-28-20.pdf.

observed the largest vehicle death increase.[4] It is important to note, however, that compared to the total cyclist deaths in California during the same year (133), other states' cyclist fatality rates pale in comparison.

Thus, the question arises—why is California leading in the number of sheer deaths? Most states not only in 2019 but even in 2022 have relatively similar vehicle codes, of course with regional exceptions (e-bikes and e-scooters still remain a largely urbanized phenomenon compared to more rural states) which are not significant for this paper. For instance, most states have laws regarding occupant restraints, motorcycle helmets, and appropriate blood-alcohol level.[5] Additionally, some US territories also have similar laws.[6] It is not necessarily a disconnect in legislation across the states because these laws are standardized.

The heart of this analysis is this: enforcement of law varies between regions and is underenforced in California. One LA Times article states that historically, small infractions by bikers on the road result in getting stopped by law enforcement, and stops find that fewer than ten percent of all bikers actually carry contraband.[7] In the same article, an unnamed sergeant reinforced that, especially for rookie cops, making a successful bust is a numbers game: the more stops and checks made, the greater the likelihood of reporting something actionable. This has previously created incentives for cops to over-police bikers, which they now avoid for the above reason. Due to this flaw in the social workings of law enforcement, bikers nowadays tend to receive a sort of "immunity" due to law enforcement officers wanting the stigma of cops vs. bikers to dissipate.

However, while the statistic is that less than 10% of cyclists actually carry contraband, this does not negate the fact that there are cyclists that routinely disobey other laws of the road, prompting law enforcement to stop them. As stated before,

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4 Florida and California switch off for biggest contributor. All other states contribute to less than 5% of deaths each. *FARS Encyclopedia*, Nat'l Highway Traffic Safety Admin., https://www-fars.nhtsa.dot.gov/Main/index.aspx (last visited Jul 3, 2022).

5 By 2007, all 50 states ratified the .08 BAC limit. *Legislative History of .08 Per Se Laws*, Nat'l Highway Traffic Safety Admin., https://one.nhtsa.gov/people/injury/research/pub/alcohol-laws/08history/1_introduction.htm#:~:text=Twenty%2Dfive%20states%2C%20plus%20the,10%20BAC%20per%20se%20limit (last visited June 3, 2022).

6 The District of Columbia and Puerto Rico also have a .08 BAC limit. *Id.*

7 Alene Tchekmedyian and Ben Poston, *Why do L.A. sheriff's deputies stop and search so many bicyclists? Insiders cite culture and training*, Los Angeles Times (Dec. 24, 2021), https://www.latimes.com/california/story/2021-12-24/bike-stops-culture-la-sheriff (last visited June 15, 2022).

cyclists are not guilt free but rather equally guilty in sharing fault of road hazards accompanying the usual motor vehicles. What is needed is for cyclists to be held more accountable and more liable for the danger they themselves enable. This report aims to analyze *Toscano v. City of Fresno* (2015) and *Berton v. Cochran* (1947) in relation to CVC 21200 and CVC 21202 and proposes a potential solution of standardized testing in conjunction with permits and licensing for cyclists.

II. Current CVC Regarding Cyclists

California Vehicle Code or CVC, outlines 42,277 different codes ranging from general provisions, weight limits of vehicles, accidents, etc. Of this, only two very clearly and explicitly apply to cyclists: CVC 21200 and CVC 21202, which outline how cyclists ought to conduct themselves on the road. Similar guidelines can be found on the California Department of Motor Vehicle website.[8] These two pieces of code as well as other code specific to bicycles can be found under Division 11 Article 4 titled Operation of Bicycles.

A. CVC 21200

> A person riding a bicycle or operating a pedicab upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division, including, but not limited to, provisions concerning driving under the influence of alcoholic beverages or drugs . . . except those provisions which by their very nature can have no application.[9]

Very clearly stated, CVC 21200 requires that all persons operating a bicycle must obey all the rights and provisions applicable to the driver. The first half states that any and all rules applied to a driver of a motor vehicle with exception to those that do not literally apply (i.e., code that specifically references motor vehicles) also apply to the operator of a bicycle. This means that signaling, stopping at appropriate stop signs and stop lights, yielding to pedestrians, etc., all apply to cyclists. In fact, the only exception made to cyclists other than the codes that do not directly apply are towards peace officers on

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8 *Sharing the Road*, California DMV, https://www.dmv.ca.gov/portal/driver-education-and-safety/educational-materials/fast-facts/sharing-the-road-ffdl-37/ (last visited July 10, 2022).

9 Cal. Veh. Code § 21200 (West 2022).

duty. Law enforcement with the inclusion of a few other civil workers are peace officers, for example police officers and marshals (see footnote 11 for more in-depth description of peace officer).[10]

The latter half addressing drugs and alcohol is consistent with laws from all 50 states including a few US territories ratifying the 0.08 BAC limit. Additionally, as mentioned in the introduction, over 20% of total cyclist deaths occurred due to riding under the influence. 20% in the scope of the California mortality rate (less than 200 deaths in California in 2019) is by no means large, however 20% in the scope of a steady incline in cyclist deaths poses a greater issue once dealing with numbers reaching upwards of 200 in California and upwards of 1,000 nationwide.[11]

B. CVC 21202

CVC 21202 is a straightforward code that states that cyclists not riding at the speed of traffic must ride "as close as practicable to the right-hand curb or edge of the roadway."[12] However, the reality of driving on the road proves cyclists do otherwise. One radio show host Susan Carpenter analyzes CVC 21202 and how the interpretation by the public and law enforcement all depends on how you interpret California Vehicle Code 21202.[13] She goes on to cite that although it is true that cyclists are required to ride in the rightmost part of the rightmost lane, the ruling is more nuanced than what meets the eye. Specifically citing the streets of Los Angeles as substandard, Carpenter states that this invokes the 'road hazard' rule in which cyclists are then permitted to take the full lane.[14]

In the same report, Colin Bogart, LA County Bicycle Coalition Education Director, states that "[S]treets haven't been designed to accommodate bicyclists very

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10 2022 Cal. Legis. Serv. Ch. 416 (A.B. 2735) (West 2022).

11 This only accounts for reported deaths. Total deaths may exceed this estimate. *FARS Encyclopedia*, Nat'l Highway Traffic Safety Admin., https://www-fars.nhtsa.dot.gov/Main/index.aspx (last visited Jul 3, 2022).

12 Cal. Veh. Code § 21202 (West 2022).

13 *When Can a Bicycle Take the Entire Lane?*, Southern California Public Radio, https://archive.kpcc.org/programs/the-ride-special/2016/05/20/49059/when-can-a-bicycle-take-the-entire-lane/ (last visited July 10, 2022).

14 Substandard streets measuring less than 12 ft. wide. *When Can a Bicycle Take the Entire Lane?*, Southern California Public Radio, https://archive.kpcc.org/programs/the-ride-special/2016/05/20/49059/when-can-a-bicycle-take-the-entire-lane/ (last visited July 10, 2022).

well". Taking his observation into account, this proves to make for potentially numerous avoidable accidents between cyclists and motor vehicles.

C. Enforcement And Awareness

This section will discuss the impending issue of lack of knowledge and enforcement. Attorney Chris Burns comments on the fact that it's common for police officers to be unaware of which laws apply to cyclists.[15] This can work both towards and against the benefit of cyclists in that officers may be laxer and more lenient towards road violations or the exact opposite and aggressively ticket cyclists. This creates an inconsistency not only to fellow officers but also the cyclist community and the public at large in that there is no clear-cut transparency on what is and is not allowed as a cyclist.

Former Minnesota police officer Kirby Beck affirms this noting that "Bicyclists fare best when they act and are treated as drivers of vehicles! Traffic laws are created to make travel safer and more predictable for everyone. Laws used properly save lives. They are far less effective if they aren't reinforced."[16] Beck's comment here sums up the essence of the current issue regarding obeying traffic laws and associated rules: laws are not used properly and are not reinforced.

I. EXAMINED CASES

Two cases will be examined, *Toscano v. City of Fresno* (2015) and *Berton v. Cochran* (1947). The first case, *Toscano v. City of Fresno* details how negligence of both cyclist and law enforcement resulted in an avoidable death investigating where fault resides on both parties. The second case *Berton v. Cochran* details how failure to yield to thru traffic on the part of the cyclist lead to an avoidable death. In both instances, neither plaintiff nor defendant is in the right but rather both share the blame for the cause of the accident. Applied in both cases are the aforementioned CVC 21200 and CVC 21202.

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15 *Advice for Receiving a Bicycle Traffic Ticket or Citation*, Christopher G. Burns, ESQ., https://floridacyclinglaw.com/blog/bicycle-ticket-advice.

16 *Enforce Bicycle Riding Laws*, Int'l Police Mountain Bike Ass'n, https://ipmba.org/blog/comments/enforce-bicycle-riding-laws (last visited June 3, 2022).

A. Toscano v. City Of Fresno (2015)

i. Background

In 2013, plaintiffs Angel Keith Toscano (deceased) and a friend were riding bicycles in Fresno when Toscano rode through a traffic stop and consequently was chased by officer James Lyon, of whom was operating a motor vehicle. Toscano led Lyon in a chase that eventually wound up in an alley where Lyon bumped Toscano's bike and accidentally ran over him, killing Toscano.

The facts of the case are as follows:

1. Officer Lyon initially chased Toscano for failure to stop at a stop sign and for riding on the wrong side of the road;
2. Toscano actively fled from Lyon;
3. Officer Lyon conducted the chase without use of lights and siren;
4. Officer Lyon, despite having knowledge and training regarding protocol on pursuit, still bumped Toscano while on his bicycle;
5. Officer Lyon was deemed the primary collision factor in the accident.

The conclusion of the case was that the defendants' invocation of the Fourth and Fourteenth Amendment rights under intention to harm and negligence against the City of Fresno was granted but denied against Officer Lyon.

ii. Applications

Both Toscano and Lyon had some part to play in the outcome. Looking at the initial start of the issue, Toscano failed on three counts: failure to stop at a traffic stop, failure to stop at a stop sign, and failure to ride on the right side of the road.

All three of these accounts can be summed up with CVC 21200 which, very briefly, paraphrased states that all persons riding a bicycle are subject to the same provisions as a driver of a motor vehicle except those that do not apply. Here, it is well within reason that Toscano, as someone riding a bicycle, was required to stop at the conducted traffic stop, stop at the stop sign, and ride on the correct side of the road. There are no exceptions here. Drivers are required to follow these rules and hence, they also apply to individuals on bicycles.

Additionally, the case does not state that Toscano was a peace officer, thus the specific exceptions made to peace officers did not apply. Consequently, Toscano was in the wrong for those three counts, not including the fact of evading authority in a chase. According to the California DMV, all persons mounting a bicycle are required to stop at stop signs as well as ride in the same direction of traffic.

Taking a look on Officer Lyon's part we see that he too is not innocent and in fact broke several codes including but not limited to: conducting a chase without the use of lights or a siren and bumping Toscano while on his bike.

When looking into CVC 22350, it is clear that Lyon should not have been going fast enough to 'accidentally' run over Toscano; this is a direct violation of CVC 22350.[17] It is clear that Lyon violated the law, but he violated them in more ways beyond the scope of CVC 21200 and CVC 21202.

B. Berton v. Cochran (1947)

i. Background

Berton v. Cochran is another case of negligence on both parties, unfortunately this time involving the injury of a seven-year-old minor. On August 13, 1945, Cochran (defendant) was driving his automobile on a public highway and Berton (plaintiff), the minor, was riding his bicycle on a private driveway that intersected the public highway Cochran was driving on.[18] According to testimonies by the defendant and associated parties, it is evident that Cochran was about 20 feet away from the intersection when he first observed Berton, from which he immediately applied the brakes and collided with Berton who is said to have driven straight into the highway without making a turn either left or right.[19]

From the plaintiff's side, we have that Berton did in fact make a turn to the right and actually traversed roughly 8 feet before the crash. Other testimonies from the plaintiff's side concur with this and add that the defendant was further back, roughly 60 feet, before impact and upon collision explained that it was fault on his part. This of course, the defendant refuted, claiming that he made no such claims. This case ruled in

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17 Cal. Veh. Code § 22350 (West 2022).

18 Type of automobile driven is not specified in the report.

19 Testimonies give a range of 10-30 feet, exact distance is not recorded.

favor of the defendant where Cochran was not held liable for the incident on count of the last clear chance doctrine.[20]

ii. Applications

It is first important to discuss the "Last Clear Chance" doctrine and its relation to this case. The defendant argues that at a rate of roughly 37 feet per second and seeing the boy at a distance of 15 feet, Cochran in theory could have stopped twice within a 30 feet difference.[21] However, he brings up the fact that from the application of the brakes to the brakes becoming in effect, there exists an interval of time in which the brake mechanic operates, thus making it so that a stop without collision would be 'impossible' at the distance of 15 feet. Through the testimonies, there also seems to be a general agreement that Cochran applied his brakes immediately. Thus, the Last Clear Chance doctrine observing fault on the party that could have avoided the accident does not fall on Cochran.

The document does not continue on to say that the doctrine not applying to Cochran implies that fault falls on Berton, however we can infer that Cochran not having the Last Clear Chance to avoid collision means that there is at least partial fault on the plaintiff that he could have avoided the collision.

That aside, it is important to recall CVC 21200 as it is the most applicable of the two analyzed codes. Without going into technicalities, it is clear that Berton should have avoided riding into the intersection, regardless of making a turn or not, as it was not a safe distance to merge into oncoming traffic. By CVC 21200, all persons riding a bicycle must adhere to the provisions to that of an operator of a motor vehicle except those that do not apply. Knowing this, the situation can be reimagined with two motor vehicles, one turning right to merge into oncoming traffic with only the distance of roughly 20 feet between the cars. Also considering that there exists an interval of time between application of the gas pedal and acceleration to match oncoming traffic, it is clear that fault does not reside on Cochran but rather Berton here. This is also excluding the physiological limitations of a seven-year-old minor in relation to operating a bicycle at the level of safely merging into oncoming traffic.

CVC 21202 is of lesser relevance as it only adds onto the analysis of CVC 21200 rather than bringing new perspective. Berton, clearly not going the speed of oncoming

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[20] This considers which party had the 'last clear chance' to avoid the accident and observes fault on them. *Last Clear Chance,* Legal Info. Inst., https://www.law.cornell.edu/wex/last_clear_chance.

[21] Case file equates this to roughly 25 miles per hour.

traffic would need to ride as close as possible to the right curb in order to be following suit with CVC. Assuming Berton did indeed ride as close to the right, this does not negate the fact that the distance would still not be adequate for Cochran's brakes to bring the vehicle to a complete stop. Additionally, this does not negate the fact that it was still not a safe distance for Berton to merge onto the highway. Thus, it can be concluded that fault is not on the defendant Cochran but rather Berton.

II. TESTING AND LICENSING

It is pertinent that testing and consequently licensing be implemented for all cyclists as with all operators of motor vehicles regardless of age.[22] As can be easily observed in the past decade, the entry level device to be on the road has slowly become less sophisticated. First were just motor vehicles with occasional cyclists. However, nowadays with the introduction of e-bikes, e-scooters, etc., it has become increasingly easier for people to access public roads, and access them unsafely. As it stands, in most regions of California, you do not need a license, permit, or any other certification of sorts to operate a non-motor vehicle on the road (bicycle, e-bike, etc.). This causes several problems, both in the present and in the foreseeable future.

First, the integration and presence of e-bikes, e-scooters, etc. is a relatively new development. In fact, popular adult cartoon South Park plays folly on this phenomenon denoting how "[T]hey just appeared out of nowhere."[23] Though the episode may have been an exaggeration, it does present a somewhat correct reality: drivers are unsure how to navigate the roads with the e-bike presence. In fact, frequent retesting for driver's licenses is not required in the State of California—assuming a clean record—meaning that unless you are of the age 70 or above in which case you are required to retest, those definitions of pedestrian and other terminology that appeared in earlier tests may have changed or been expanded upon in current tests.[24] Thus, there is a gap of knowledge between older test versions and newer test versions, presumptuously that newer tests include information regarding e-bikes and such. Additionally, because licenses are not required for this type of transportation, there also exists a gap of knowledge in the demographic that chooses these transportation methods in how to safely operate such a device on the road. As aforementioned, not

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[22] Consider *Berton v. Cochran* (1947). A minor not only does not have the capacity to be responsible for themselves according to California Civil Code 1714.1 but also cannot, for obvious reasons, even remotely match the speed of a motor vehicle in motion. Cal. Civ. Code § 1714.1 (West 2022).

[23] *South Park: The Scoots* (Comedy Central television broadcast Oct. 31, 2018).

[24] Cal. Veh. Code § 313 (West 2022).

even all law enforcement can accurately recall vehicle code that applies to bicycles; it may be even less accurate for e-devices.

Second, focusing on a future issue: the entry level device to be on the road continues to get less sophisticated. With e-scooters now on the road as well as the occasional e-skateboard, it gets increasingly harder to both justify why other modes of transportation cannot be allowed on the road (i.e., regular skateboards and scooters) and to draw the line of what is and isn't acceptable. As explained, it can be observed that the line continues to get pushed further and further back, potentially meaning that in the next decade, regular scooters and skateboards may be allowed on the road as well. This adds on to the existing hazards on the road which can be attributed to the rising incline in cyclists' deaths not only in America as a nation but in California as a singularity.[25]

Hence testing and licensing needs to be implemented for these non-motor vehicles. As touched upon earlier, there is a gap in knowledge for both motorists and non-motorists on how to interact with each other. This can be mitigated with testing on both parties. Feasibility of testing aside, current California Driving Tests and Permit Tests need to be updated with information regarding these non-motor vehicles.[26] This not only will breed a new generation of motorists that are more familiar with laws regarding non-motorists, but also allow them to have a heightened awareness of how a motorist and non-motorist should interact on the road.

Additionally with testing on the non-motorist side, it becomes increasingly important nowadays that non-motorists know the laws regarding how motorists and non-motorists should interact on the road. This not only will keep motorists who are unable to pass said test off the streets but also non-motorists who are unable to pass, thus leading to a safer driving and riding experience for both motorist and non-motorist alike. By having such testing, this creates an atmosphere within both

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[25] As explained, the road is already dangerous for motorists and cyclists. This takes into account that e-vehicles, like e-bikes, can reach somewhat comparable speeds to that of a motor vehicle. This problem will only be exacerbated with the introduction of non-electric non-motor vehicles like standard skateboards and scooters on the road that *cannot* reach comparable speeds to that of a motor vehicle.

[26] The entirety of how feasible regular testing is not relevant to this paper, however seeing as this solution would mainly be government-sponsored, it is expensive. This is the same reason why you are not required to retake the driving test—assuming no driving infractions on your record—until the age of 70 in California: the expenses of regular testing all drivers for potentially safer roads are outweighed by the money saved with no regular testing and the current state of "okay" to unsafe roads.

communities that vehicle code and related laws are serious and exist for a reason. By not having such testing, the limit of road safety will continue to be pushed further and further back, potentially becoming like the reality South Park presents.

Coinciding with testing is licensing: it further officiates the testing aspect making it so that there is backing behind the testing. It is indeed all about the environment created by these two solutions because non-motorists will be required to have licensing for operating a non-motor vehicle, there comes with that a sense of responsibility, less than or equal to that of a driver, that by riding on the road, there is the risk that serious injury and even death is possible. This also prevents cases like *Berton v. Cochran* from occurring in the future where young minors like Berton incur serious injuries from riding their bicycle.

Licensing is also a way to keep non-motorists more accountable to the rules of the road. By carrying specific licenses, the process of stopping non-motorists becomes more efficient for law enforcement and infractions can actually stack up on a violator's record; like a regular license, too many infractions may lead to a revocation of a license. While there will always be incidents like *Toscano v. City of Fresno* in which both parties actively and knowingly violated the law, licensing and testing at the very least minimizes the number of similar cases.

In effect, this makes enforcing CVC 21200 and CVC 21202 easier as it would be common knowledge that certain things apply to certain people on the road while others don't. I want to make clear that the nature of CVC 21200 and CVC 21202 do not need to be changed. In fact, these are two very clear-cut pieces of vehicle code that can be accessed by the public. What does need to be changed is rather the enforcement of this code and closing the aforementioned information gap.

CONCLUSION

Though the future proves to be unpredictable, statistics point to the same conclusion: cyclists' deaths will continue to increase through the 2020 decade.[27] And the FARS trend supports this conclusion. This number might even increase exponentially with the popularity of non-motor vehicles rising. *Toscano v. City of Fresno* and *Berton v. Cochran* are not unique cases. There are hundreds of similar cases involving motorists and non-motorists not knowing how to interact on the road.

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[27] *FARS Encyclopedia*, Nat'l Highway Traffic Safety Admin., https://www-fars.nhtsa.dot.gov/Main/index.aspx (last visited Jul 3, 2022).

Testing and licensing need to be implemented into the current driving situation. It seems as though it is the only surefire way to mitigate the current mortality rate of non-motorists and more specifically cyclists. Recall that the problem is not necessarily influenced by geographical disposition nor by the laws themselves, as these have been shown to have little to no influence over mortality rate. What is the root of the issues themselves is the enforcement of the laws.

A point to consider is the framework for liability in the Netherlands regarding cyclists and motorists. "Strict liability" in which the motorist is held liable in a cyclist versus motorist incident regardless of fault falls on the motorist who intends to scare drivers into being more cautious around cyclists.[28] However, this takes a more consequentialist approach to the situation at the expense of the motorists. Yes, drivers will presumably be more cautious around cyclists but this gives cyclists license to act intentionally careless on the road knowing that they will never be liable should they get into an accident with a motorist. The complete opposite side is also unreasonable as motor vehicles are expensive and completely banning non-motor vehicles like bicycles and the like from the road feeds into classism. This is why I feel as though testing and licensing is a middle ground solution to the above issues as it provides a framework that is neither lax nor debilitating to both motorists and cyclists.

As it stands, the roads are not safe for bicycles, and by induction they are also not safe for e-bikes, e-scooters and other such transportation. It is unfair and dangerous to both motorists and non-motorists should the current state of affairs remain the same. The standards are not acceptable and not on-par with current regulation and modes of transportation. If no change happens, countless more *Toscano v. City of Fresno* cases will happen and countless more young minors will get seriously injured as in the case of *Berton v. Cochran*. While there is hope for change, it seems limited in scope as mentioned earlier, such testing and licensing is not feasible nor practical from a legal standpoint. But it is a necessary inconvenience and a necessary expenditure not only in California, but in America as a nation at large.

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[28] *Cycling Law: Would the Dutch System of Strict Liability Work in the United States?,* CBVN Law, https://cvbnlaw.com/2012/04/19/cycling-law-would-the-dutch-system-of-strict-liability-work-in-the-united-states/ (last accessed Mar.5, 2022).