



#

Riding a Bicycle on the Sidewalk is Dangerous and the Laws are a “Jumble.”

Woodland Hills Personal Injury Attorney Barry P. Goldberg has analyzed the laws on sidewalk bicycle riding and advises his friends, family and clients to not ride on the sidewalks even if legal in certain places. Bicyclists are vulnerable to accident and injury even in the best of traffic circumstances. The injuries can be life changing or even deadly. Sidewalk bicyclists are even more vulnerable because drivers do not expect them and there is no set traffic pattern because bicyclists often travel in both directions. The drivers always contend that the bicyclist “came out of nowhere!”

Over the years, most personal injury attorneys encounter bicycle versus automobile cases and the question invariably arises whether it is “legal” to even ride a bicycle on the sidewalk in the first place. A recent Court of Appeal case from the Second District helped to shed some light on this dilemma. The Court found it perfectly legal to ride on the sidewalk in that case. However, it penalized the bicyclist by not reversing a defense trial verdict which gave the jury a “negligence per se” instruction regarding the bicyclist. (See, *Spriesterbach v. Holland* (April 9, 2013) (B240348))

California Vehicle Code Sections 21650 and 21650.1 govern the riding of bicycles on sidewalks in the absence of local ordinance. The City of Los Angeles neither prohibits bicycle riding on the sidewalk nor prescribes the direction of such bicycle travel. Los Angeles Municipal Code section 56.15(1) provides: “No person shall ride, operate or use a bicycle, unicycle, skateboard, cart, wagon, wheelchair, roller skates, or any other device moved exclusively by human power, on a



sidewalk, bikeway or boardwalk in a willful or wanton disregard for the safety of persons or property.”

Vehicle Code Section 21650 provides that bicycles may be ridden on a sidewalk: It says that vehicles must be driven on the “right half of the roadway,” but that bicycles may be operated “*on any sidewalk, on any bicycle path within a highway, or along any crosswalk or bicycle path crossing, where the operation is not otherwise prohibited by this code or local ordinance.*” (Italics added.)

Section 21650.1 governs the direction of bicycle travel in the absence of local ordinance. It provides that a bicycle operated “on a *roadway, or the shoulder of a highway, shall be operated in the same direction as vehicles are required to be driven upon the roadway.*” (Italics added.)

Section 21650.1 does not define “roadway” or “highway.” Those terms are defined elsewhere in the Vehicle Code, however. Specifically:

A “*highway*” is “a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.” (§§ 360, 590.)

A “*roadway*” is “that portion of a highway improved, designed, or ordinarily used for vehicular travel.” (§ 530.)

A “*sidewalk*” is “that portion of a highway, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.” (§ 555.)

A “highway” thus has two distinct parts: a “*roadway,*” intended for vehicular travel, and a “*sidewalk,*” intended for pedestrian travel. While a “highway” includes a “roadway,” the two terms are not synonymous. Instead, a “highway” is composed of both a “roadway” and a “sidewalk.”



Accordingly, because section 21650.1 requires bicycles to travel in the same direction as vehicular traffic only when ridden on “a roadway” or the “shoulder of a highway,” it does not by its plain language require bicycles to travel with the flow of traffic when ridden on a “sidewalk.” The *Spriesterbach v. Holland* Court correctly held that a bicyclist can legally ride in any direction on a sidewalk where it is also legal to ride on the sidewalk.

The Court also rejected the argument that a sidewalk is a “shoulder of a highway” within the meaning of section 21650.1. The Vehicle Code defines “sidewalk” as the portion of the highway set apart by curbs or barriers, and intended for pedestrian travel. (§ 555.) The highway shoulder (which the Vehicle Code does not define) is, as commonly understood, neither set apart by curbs nor intended for pedestrian travel. Further, section 21650, subdivision (g) distinguishes between the “shoulder of a highway” and a “sidewalk”—a distinction that would not make sense if a highway shoulder and sidewalk were synonymous.

Bicyclists and attorneys should note that local regulations concerning bicycle riding on sidewalks vary tremendously by jurisdiction. According to the “L.A. County Sidewalk Riding Guide” maintained by the Los Angeles Department of Transportation (LADOT) Bike Blog, sidewalk riding is permitted in 12 cities in Los Angeles County and is prohibited in 32 cities and the county itself. In 25 cities, sidewalk riding is not permitted in “business districts;” in another 19 cities, there is no clear language in the municipal code concerning sidewalk bicycle riding. (<http://ladotbikeblog.wordpress.com/2010/09/22/la-county-sidewalk-riding-epilogue/> [as of Mar. 27, 2013].)

The LADOT Bike Blog observes as follows: “If you take a close look at the sidewalk riding map, you’ll see quite a jumble of rules and regulations across LA County. Think about if that jumble were applied to another moving vehicle, like, say, a car. What would it be like were the “right turn on red” law to be applied city by city instead of state by state? Endless accidents by drivers unsure of what to do next; lawsuits; deaths; lots and lots of tickets for moving violations; it would be



total chaos. Traffic rules demand a certain amount of uniformity, which is why most guidelines governing how cars move through space are dictated at the state level. [¶] . . . [¶] If bicycles are supposed to be considered vehicles with responsibilities and rights equal to automobiles, like [California Vehicle Code section] 21200 states, then bicyclists deserve to have rules for their operation that are at least as uniform as the rules for operating an automobile.”
(<http://ladotbikeblog.wordpress.com/2010/09/22/la-county-sidewalk-riding-epilogue/> [as of Mar. 27, 2013].)

Personal injury attorney Barry P. Goldberg and the Court of Appeal echoes the sentiments of the LADOT Bike Blog and urge the California Legislature to adopt uniform legislation governing bicycle riding on sidewalks. In the absence of such uniform legislation, terrible bicycle versus automobile collisions will continue to occur on a regular basis.

Mr. Goldberg also reminds all of his bike riding colleagues to secure sufficient Underinsured Motorist Coverage which applies and can adequately protect them from automobile versus bicycle accidents.

For more information about blog author and attorney Barry Goldberg's Uninsured Motorist expertise, please visit his web page, [Los Angeles Uninsured Motorist Attorney. *http://www.barrygoldberg.com/Practice-Areas/Los-Angeles-Uninsured-Motorist-Attorney.aspx*](http://www.barrygoldberg.com/Practice-Areas/Los-Angeles-Uninsured-Motorist-Attorney.aspx)

Call Mr. Goldberg today for a free consultation. (818) 222-6994