California Bicycle Law
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Under California law, a bicycle is not considered a vehicle in the matter of traffic rules and regulations, but bicycle operation is still governed by many of the same traffic laws. Bicycle riders are considered to have the same rights as drivers to use of the streets, but the specifics regarding bicycle rights and responsibilities can be confusing. By statute, "*Every person riding a bicycle upon a highway has all the rights and is subject to all the provisions applicable to the driver of a vehicle by this division ... except those provisions which by their very nature can have no application.*" (See California Vehicle Code Section 21200).

Those who choose to avoid main thoroughfares by taking to trails and bikeways may be at even greater risk, however, because no city, county or state government entity in California bears *any* legal responsibility for maintaining safe riding conditions on a Class I or Class II bikeway. This odd result stems from court rulings that define the word "trail" to include paved bike paths. In the case of *Prokop v. City of Los Angeles* (2007) 150 Cal.App.4th 1332, David Prokop pursued litigation against the City of Los Angeles when a flawed design for a bike trail caused him to collide with a chain link fence, resulting in a severe laceration to his forehead, loss of consciousness, and neck pain.

The City sought summary judgment asserting, among other defenses, that it is immunized from liability under Government Code section 831.4, which provides that public entities are not liable for injuries caused by a condition of any unpaved road that provides access to, among other activities, "riding, including animal and all types of vehicular riding," and of "any trail used for" those purposes. [see California Government Code, § 831.4, subds. (a) & (b)]. Section 831.4 has been interpreted, in a series of cases, to apply to bike paths, both paved and unpaved, to trails providing access to recreational activities, and to trails on which the activities take place. (E.g., *Carroll v. County of Los Angeles* (1997) 60 Cal.App.4th 606, 609-610 [paved bicycle path is a trail under § 831.4, subd. (b); immunity under subd. (b) is not limited to access trails, but extends to a trail whose use is the object of the recreational activity (citing cases)].)

In opposition to the motion, Prokop argued that the City was not immune from liability because the bicycle path was a "Class I bikeway" under California Streets and Highways Code section 890.4, and therefore the City was required to conform to Chapter 1000 of the California Highway Design Manual, entitled Bikeway Planning and Design, which it did not do.

The trial court granted summary judgment in favor of the City, concluding the matter was controlled by *Farnham v. City of Los Angeles* (1998) 68 Cal.App.4th 1097, which held that a class I bikeway, as defined in Streets and Highways Code section 890.4, is a "trail" under section 831.4, subdivision (b).

Because of this absolute immunity held by the government in regard to paved bikeways and trails, our law office was unable to help a person in a similar case who was seriously injured by the poor design and maintenance of a paved bike path in Oceanside, California

Bike lanes in streets, however, are governed by different laws than bike paths. The Kohn Law Office won an $80,000 recovery for a woman who had sustained facial wounds and tooth fractures when she encountered a raised utility manhole in the bike lane of a busy street in Carlsbad, California, which caused her to lose control and be thrown off her bicycle. In another case, the Kohn Law Office won a $125,000 recovery for a woman who suffered a fractured elbow when she rode her bicycle over an unmarked speed bump on a road in a mobile home park in Oceanside, California, which caused her to lose control and be thrown off her bicycle.

When operating a bicycle, it is important to remember that the State laws overrule local regulations, because bicycle operation falls under the category of vehicle operation. The California Vehicle Code preempts the entire field of traffic control in California. The California Vehicle Code Section 21 provides:

> "*Except as otherwise expressly provided, the provisions of this code are applicable and uniform throughout the State and in all counties and municipalities therein, and no local authority shall enact or enforce any ordinance on the matters covered by this code unless expressly authorized herein.*"

When operating a bicycle on a roadway, one of the most controversial issues is interpretation of the law that governs how far to the right of a roadway a bicycle rider is obligated to ride. When it comes to cyclist behavior, non-cyclist and casual cyclist expectations vary greatly from that of experienced cyclists, but the primary confusion comes from law enforcement personnel, who frequently misinterpret the law.

In roadways without bike lanes, there are two primary rules governing positions on the roadway. First, all traffic on the highway, including bicycles, must travel on the right-hand half of the highway. Second, all slower traffic, including bicycles, must keep farther to the right. California Vehicle Code Section 22100 states:

> "*Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:*
>
> *(1) When overtaking and passing another bicycle or vehicle proceeding in the same direction.*
>
> *(2) When preparing for a left turn at an intersection or into a private road or driveway.*

(3) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge, subject to the provisions of Section 21656. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane."

Local authorities may establish bicycle lanes separated from vehicular lanes upon any roadways. Bicycle lanes are within the paved area of a roadway, and are considered distinct and separate from shoulders, bicycle paths, and sidewalks. Where bicycle lanes exist, rules governing their usage take precedence. Namely:

Whenever a bicycle lane has been established on a roadway pursuant to Section 21207, any person operating a bicycle upon the roadway at a speed less than the normal speed of traffic moving in the same direction shall ride within the bicycle lane, except that such person may move out of the lane under any of the following situations:

(1) When overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane.

(2) When preparing for a left turn at an intersection or into a private road or driveway.

(3) When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

The wording of these two codes is essentially the same, the main difference being that on roads <u>without</u> bicycle lanes, cyclists must stay as far to the right as practicable, whereas on roads <u>with</u> bicycle lanes it is sufficient to ride within the lane itself.

If the road has a paved shoulder, it may be preferable to ride on that instead of within the lane itself. This is neither required nor prohibited by law, and is instead up to the individual bicyclist's choice, depending on traffic flow and safety considerations.

The purpose of traffic law is to promote safe and efficient traffic flow. What is most important to society is preserving bicyclists' rights to share the roadways, and preventing local authorities from limiting such rights.

Please contact the Kohn Law Office at (760) 721-8182 should you desire a free initial consultation with an attorney concerning an injury sustained in a bicycle accident.