

**Testimony in Support of SB 895
before the House Judiciary Committee
by Doug Parrow
May 9, 2023**

Senate Bill 895 clarifies the issue of whether it is legal to pass a bicyclist or other slow-moving vehicle by crossing the centerline in a no passing zone. When the legislature passed ORS 811.065 in 2007, legislators were told that it is legal for a motor vehicle operator to do so. However, there is considerable debate as to whether that information is accurate.

During the last several years, I have spoken with several law enforcement officers who have advised me that crossing the centerline to pass a bicyclist in a no passing zone is a violation. While these officers have acknowledged that a citation is unlikely, they have maintained that passing under these circumstances is illegal. (I have also seen multiple law enforcement officers cross the centerline in a no passing zone to pass me while I was riding my bicycle.)

When I was an instructor in the AARP Driver Safety Program, using information vetted with the Oregon State Police, we advised participants that it is permissible to pass a bicyclist in a no passing zone, just as it is permissible to pass a farm tractor or other slow-moving equipment. This is a view that is also shared by many others who have considered the issue.

The driver information materials produced by ODOT do not lend clarity to the issue. The Driver Manual indicates that “The same rules for passing other vehicles apply to people riding bicycles.” When the “The Driver’s Field Guide to Sharing Oregon’s Roads” was being developed by ODOT staff, I was provided an opportunity to review and comment on a draft. Despite my request that the guide clarify the issue, the final version merely states that “If it is safe—and legal—you may cross the centerline to pass a rider.” This ignores the issue of when it is legal. It is also somewhat misleading by using the permissive “may” when realistically a motorist must cross the centerline in order to provide a safe passing distance on most rural roads.

The lack of clarity is endangering bicyclists. Some motorists have cited the “prohibition” on crossing the centerline as the reason that they have passed bicyclists too closely. Other motorists have followed too closely and otherwise harassed bicyclists instead of safely passing. Some jurisdictions have designated no passing zones on long stretches of rural, low-traffic roads without regard to sight distances—presumably as a method to control motor vehicle speeds. This creates a conundrum for a motorist overtaking a bicyclist—follow the bicyclist for miles, commit what may or may not be a technical violation of the law, or pass too closely.

The changes proposed in SB 895 would clarify the legality of passing and should prompt ODOT to include recognition of the legality in its driver education materials. It would specify that vehicles traveling slower than half the speed limit constitute an obstruction under ORS 811.420. They would also specify that the passing vehicle do so at a speed at least five miles an hour under the speed limit. This would help to assure that the motorist slows and assesses the safety of crossing the centerline and is consistent with the speed requirements for passing a stopped vehicle under ORS 811.147.