

2009 SENATE TRANSPORTATION

SB 2349

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2349

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 29, 2009

Recorder Job Number: 8215

Committee Clerk Signature

*Judy Hauge*

Minutes:

**Vice Chairman Senator Nodland** opened the hearing on SB 2349 relating to operation of bicycles.

**Senator G. Lee** introduced SB 2349 and urged a Do Pass. The purpose of the bill is to get rid of the sentence, "Whenever a usable path for bicycles has been provided adjacent to a roadway; bicycle riders shall use such path and may not use the roadway" For the commuter or serious bike riders it would be safer to ride on the roads than sharing the path with walkers, runners, children and slower bikers. There are 35 states that agree.

**Arnold Thomas** a private citizen and a bicyclist testified in support of SB 2349. Written Testimony #1.

**Grant Levi**, Deputy Director for Engineering for the ND Department of Transportation testified in support of SB 2349. Written Testimony #2.

**Senator Potter** asked Mr. Levi to clarify a question on bikers riding on the sidewalk.

**Levi** answered that the way the law reads today, if a path is adjacent to a roadway the bicyclist by law has to drive on that path. He said this is the concern. Paths have become multipurpose paths and there lies the danger. This bill would allow the true bicyclist to get back on the roadway. These bicyclist are traveling anywhere from 20 to 30 MPH.

**Senator Nodland** asked if the bicyclist could still ride on bike paths.

**Levi** said that was correct. This change would allow a choice where to ride.

**Senator Potter** asked the history of the law.

**Levi** said he didn't know but could get the answer for him.

**Keith Berndt**, County Engineer from Cass County testified in support of SB 2349. Written Testimony #3.

**Senator Nodland** asked if there were bicyclist laws on roadways.

**Berndt** replied yes, and said it would be the same laws as any other vehicle.

**Senator Lee** asked if there were any funding issues or Federal dollars of concern if we do or don't do this.

**Berndt** said he thought it would be hard to get funding.

**Senator Lee** asked a question on safety if there were any greater risk of bikers on the roadway verses these paths.

**Berndt** said that the faster bikers are safer on the street and explained the danger at intersections.

**Mark Liebig** as a representative of two bicycling organizations testified in support of SB 2349. Written testimony #4. He also answered Senator Potter's question when he said the original rule was developed over thirty years ago in the early seventies. Most states have repealed this.

**Senator Lee** asked that if bicyclists are on the roadway how we deal with safety.

**Liebig** said that bicyclists are held to same rules and responsibilities as motorist of any vehicle on the road.

**Senator Lee** asked if the number of bikers have increased.

**Liebig** said that there has been no data on this but we are seeing more commuters.

**Robert Stein**, a Senior Planner for the City of Fargo and representing Jeremy Gorden, Transportation Engineer for the city of Fargo testified in support of SB 2349. Written Testimony #5.

**Lorne Campbell**, a resident of Bismarck testified in support of SB 2349. He said he liked the bike paths in Bismarck but there are some issues of shared usage. If you are using your bike for transportation and going at a higher speed, you are probably not compatible with the people strolling with their dogs or children. He encouraged a Do Pass on SB 2349.

**Spencer Ulvestad**, a resident of Bismarck testified in support of SB 2349. He said that some walking and bike paths are designed for the landscape and not necessarily for the enthusiastic biker. Many of the paths are designed for recreational walking paths.

Opposing Testimony.

**Sandy Clark, NDFB** was not present to testify but offered a written testimony opposing SB 2349. #6

Senator Lee closed the hearing on SB 2349.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2349

Senate Transportation Committee

Check here for Conference Committee

Hearing Date: January 30, 2009

Recorder Job Number: 8216 (6:54)

Committee Clerk Signature

*Jody Hauge*

Minutes:

Committee Work on SB 2349.

**Senator Nodland** had some concern on county roads and state highways.

Discussion followed on whether bikers are allowed on interstate highways. Very few county roads have biking paths.

**Senator Nething**, as a walker, talked about the safety issue of walkers sharing a path with serious bikers. We are forcing these bikers to stay on those paths. It is a safety issue.

As far as rural areas there are no bike trails along these roads.

**Senator Fiebiger** moved a Do Pass.

**Senator Potter** seconded.

Roll call vote: 6-0-0.

Senator Lee will carry the bill.

Date: 1-30-09  
Roll Call Vote #: {

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2349

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Other

Motion Made By Senator Fiebiger Seconded By Senator Potter

Senator	Yes	No	Senator	Yes	No
Chairman Senator Gary Lee	✓		Senator Tom Fiebiger	✓	
Senator George Nodland	✓		Senator Richard Marcellais	✓	
Senator Dave Nething	✓		Senator Tracy Potter	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Lee

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 30, 2009 1:00 p.m.

**Module No: SR-19-1284**  
**Carrier: G. Lee**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2349: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2349 was placed on the  
Eleventh order on the calendar.

2009 HOUSE TRANSPORTATION

SB 2349



# 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2349

House Transportation Committee

Check here for Conference Committee

Hearing Date: 03/13/09

Recorder Job Number: 10878

Committee Clerk Signature

*Janette Cook*

Minutes:

**Senator Gary A. Lee, District 22**, introduced SB 2349. See attachment #1.

**Representative Weiler:** Has there been some problems with bicyclists that have used the roadway when there is an adjoining path, and they have been fined?

**Senator Gary A. Lee:** I don't know that they have been fined, but that action does take place now. Especially some the serious bikers recognize that it is difficult to move around some of these winding pathways that are usually designed as a scenic walkway rather than a bicycle path. These riders have been using the roadways. This would make legal what they are already doing.

**Representative Weiler:** So, if they are using the roadways when they should use the path, is there a penalty? If so, has it been enforced?

**Senator Gary A. Lee:** Yes, there is a fine. I don't know the numbers, and I think the penalty is a minor infraction of some kind, possibly \$5 fine.

**Mark A. Liebig, a private citizen and a representative of two North Dakota bicycling organizations**, spoke in support of SB 2349. See attachment #2.

**Representative Thorpe:** For the avid bicyclist on the roadway, do most of them carry a liability policy?

**Mark A. Liebig:** You mean specific to our biking activities?

**Representative Thorpe:** If bicyclists are negligent, it could cause an accident. We ask everyone else that uses the roadways to be insured.

**Mark A. Liebig:** I am not aware of any specific liability insurance related to bike riding.

**Representative Thorpe:** If you are operating on your own and you get injured, then isn't a problem. But, if there is another person involved and the biker caused the accident, then he should be liable. I would hate to be out there on a bicycle and get in an accident and not have any coverage.

**Mark A. Liebig:** I can appreciate that concern. It brings up a complication, but usually not the bicyclists that are causing accidents, we have had the reverse of that.

**Representative Thorpe:** I have been on the highways, and there have been groups that are spread out. I have seen them get tired and start drifting around the road, and it is not entirely safe.

**Mark A. Liebig:** There are two other parts of the Century Code that deal with behavior, and one has to do with individuals needing to stay as far to the right practicable. Riding in the middle of the lane is not a wise thing to do when there is traffic. There is also the two abreast issue. You can't ride more than two abreast. When you see traffic, you need to ride single file and move over to the right.

**Representative Weiler:** Is this a problem? Are people getting picked up for riding on the roadway next to a sidepath?

**Mark A. Liebig:** No, and he was correct in saying that it is a \$5 fine. It doesn't seem to be enforced.

**Representative Delmore:** This law would be the same as it is now for bicyclists if there wasn't a path, correct? If there is no bike path, you follow along this right now?

**Mark A. Liebig:** Yes.

**Representative Frantsvog:** If this bill passes, that means that from now on you can use the roadway or the path, whichever you choose. Correct?

**Mark A. Liebig:** Absolutely, take River Road for instance. It is full of potholes. It would not be wise to be riding on that road until things are smoothed out. I envision that bicyclists are going to be on that path; they have that choice. But, once things are safe; they have the opportunity to go on the road.

**Representative R. Kelsch:** They must not cite adults, but I know that when my kids were younger, they got cited for riding on the street. I know that it does happen. I have seen what you are talking about on River Road, where people have almost gotten hit by a cyclist.

**Representative Weiler:** Are the avid bicyclists riding on the paths because they feel that they have to? Are we all of the sudden going to see a bunch of bicyclists on the roads?

**Mark A. Liebig:** I don't see much of a change. The diehard cyclist that you speak of is already on the road. It just won't be required if this bill passes.

**Tim Solberg, Cass County Planner spoke in support of SB 2349** and also spoke in behalf of **Keith Berndt, Cass County Engineer** who supports the bill. See attachment #3.

**Representative Frantsvog:** The third bullet in your testimony seems somewhat contradictory to the last testimony. The last testimony said that you could ride where you wanted to. This seems to imply that the local political subdivision makes the decision. Is that correct?

**Tim Solberg:** I believe that what Keith intended in his testimony was that it will give the people that design the corridors the opportunity to push the commuters onto the curb lane, and the recreational riders a place to go on that path. So, I think that the wording is wrong on that.

**Representative Schmidt:** In Cass County is the fine the same, \$5.00 if you are on the wrong road with your bike?

**Tim Solberg:** I am told that the city of Fargo has never given a ticket for that. This came up last year when gas was four dollars per gallon and more people were commuting. Then the riders were doing something illegal.

**Spencer Ulvestad, citizen from Bismarck and works with bike commuter groups,** spoke in support of SB 2349. See attachment #4.

**Dave Leftwich, Interim Office of Transportation Program Director for the North Dakota DOT,** shared prepared testimony in support of SB 2349.

**Arnold Thomas, a private citizen and bicyclist,** provided written testimony in support of SB 2349.

**There was no opposing testimony on SB 2349.**

The hearing was closed on SB 2349.

**Representative R. Kelsch moved a Do Pass** on SB 2349.

**Representative Weiler** seconded the motion.

A roll call vote was taken. **Aye 12 Nay 1 Absent 1**

**The motion passed.**

**Representative Delmore will carry SB 2349.**

Date: 03/13/09

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**

BILL/RESOLUTION NO. 2349

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do pass  Don't Pass  Amended

Motion Made By Kelsch Seconded By Weiler

Representatives	Yes	No	Representatives	Yes	No
Representative Ruby - Chairman	✓		Representative Delmore	✓	
Rep. Weiler - Vice Chairman	✓		Representative Griffin	✓	
Representative Frantsvog		✓	Representative Gruchalla	✓	
Representative Heller	✓		Representative Potter	✓	
Representative R. Kelsch	✓		Representative Schmidt	✓	
Representative Sukut			Representative Thorpe	✓	
Representative Vigesaa	✓				
Representative Weisz	✓				

Total Yes 12 No 1

Absent 1

Bill Carrier Delmore

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 13, 2009 11:20 a.m.

**Module No: HR-45-4790**  
**Carrier: Delmore**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2349: Transportation Committee (Rep. Ruby, Chairman) recommends DO PASS**  
(12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2349 was placed on the  
Fourteenth order on the calendar.

2009 TESTIMONY

SB 2349

Arnold R. Thomas

Bismarck, ND

January 29, 2009

*Same  
given to  
House*

*II*

## TESTIMONY ON SENATE BILL NO. 2349

Mr. Chairman - Members of the Committee:

My name is Arnold Thomas and I am appearing before you today as a private citizen and a bicyclist.

Since 1975, our law has contained a "sidepath" rule. That is -- when a usable path for bicycles has been provided adjacent to a roadway, bicyclists must use the path and not the road. For those of you who are familiar with Bismarck, the path along the river qualifies as a "sidepath."

On a beautiful Sunday afternoon this winding, sidewalk-size path, with numerous blind corners, will contain walkers and runners and roller-bladers - Mom's with strollers and kids on training wheels, dogs - sometimes unleashed - often on long leashes - and people with I-pod headphones in their ears. The elderly, the young, and the young at heart use this path because it is a lovely place to be. They are truly using the path as it was intended. What they do not need in their midst is a bicyclist or a group of bicyclists riding at 20 or 25 mph.

And yet - that's where the current law requires us to ride.

Senate Bill No. 2349 recognizes that bicyclists who can ride at or near the speed limit should not be required by law to ride on a sidewalk. The bill recognizes that requiring such is not safe or appropriate for the bicyclists and it is equally unsafe for the non-bicyclists.

Senate Bill No. 2349 is very much needed and I hope you will give it a DO PASS.

Mr. Chairman, I'd be happy to answer any questions.



**SENATE TRANSPORTATION COMMITTEE**

**January 30, 2009**

**10:15 a.m. – Lewis and Clark Room**

# 2

**North Dakota Department of Transportation  
Grant Levi, P.E., Deputy Director for Engineering**

**SB 2349**

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Good morning, Mr. Chairman and members of the committee. I'm Grant Levi, Deputy Director for Engineering for the North Dakota Department of Transportation (NDDOT). I'm here today to support SB 2349.

If SB 2349 passes bicycles would be able to ride on the roadway even when a path is adjacent to the roadway. The Department believes this modification to state statute is appropriate because of the changes that have occurred in the use of paths adjacent to the roadway. Today's paths are utilized for a wide range of activities including: walking, rollerblading, running, and wheelchair use. We commonly refer to today's paths as multi-use paths.

Consequently, today's multi-use paths are not conducive for the operation of faster paced bicycles and their riders. Conflicts occur between the faster paced riders and the slower users of the multi-use path. Trained bicyclists often maintain speeds of 20 miles per hour. When operated on the roadway, bicyclists must follow the same rules as a motorist operating a vehicle.

For the committee's information, 35 states have already made the changes in their laws to allow bicycles to ride on roadways, even when adjacent paths are available. The bicyclist should have the option of riding on the roadway even when a path is adjacent to the roadway

Mr. Chairman, that concludes my testimony and I will be happy to answer any questions the committee may have.

#3

January 30, 2009 testimony to  
**THE SENATE TRANSPORTATION COMMITTEE**  
**SENATE BILL 2349**

By Keith Berndt, PE, Cass County Engineer

Good Morning Chairman Lee and members of the Senate Transportation Committee. I'm Keith Berndt, the County Engineer from Cass County. I support SB 2349 to repeal the prohibition on bicyclists using the roadway when a pathway exists.

NDCC 39.10.1-05 mandates: "Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and may not use the roadway". In other words, if there is sidewalk type facility that allows bicycles on it adjacent to the street, it is illegal to ride in the street. Many other states had similar laws but most have repealed the laws in response to cyclist objections and liability exposure.

The side path law should be repealed for a number of reasons:

- Repealing this law would give bicyclists the freedom to make common sense choices about the best place to ride.
- Repealing the law would improve safety for bicyclists and pedestrians.
- Repealing the law would give local authorities the choice to decide where they wanted bicyclists to ride in their communities.

Shared use pathways are intended for a wide range of activities such as walking, running, and rollerblading, as well as bicycling. Consequently, they are not intended for faster pace bicycle rides.

In addition to the safety conflicts between faster bicycle riders and other users, bicycle-motor vehicle collisions often occur at intersections. This is especially problematic with right turning motor vehicles that may not see the adjacent bicyclists due to their blind spot, parked cars, trees, or the fact that many drivers don't look for or expect bicycles on the sidewalk. If bicycles stop at every intersection to reduce this risk, it may make using a bicycle as a mode of transportation impractical.

In some jurisdictions across the Country, widened curb lanes on streets are used to allow extra width for bicyclists in addition to sidewalks adjacent to the street. With the current prohibition on bicycles using the street, it would be impractical to consider provisions for on-street bicycles if a sidewalk is included.

Studies have shown that faster bicycle riders are considerably safer riding on the street with traffic than on the paths. This conclusion may seem surprising at first. However, the vast majority of car-bicycle collisions involve turning and crossing movements. Sidepaths complicate these movements by placing the bicyclist and motorist out of sight of each other and on conflicting paths at junctions and streets with driveways. Sidepath laws are oftentimes based on the false belief that car-overtaking-bicycle collisions are the predominate car-bicycle collision type. This results in the false idea that placing all bicyclists on sidewalks will improve safety.

Thank you for the opportunity to testify before your committee.

30 January 2009

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#4

**Testimony provided by Mark A. Liebig in support of Senate Bill No. 2349.**

Dear Members of the Committee:

I would like to thank you for providing a forum for discussing Senate Bill No. 2349, which if passed, will remove the sidepath rule from the North Dakota Century Code.

As a bicyclist, as well as a representative of two North Dakota bicycling organizations, I believe it is time to amend the Century Code to remove the sidepath rule. This rule, originally developed over 30 years ago, was established at a time when paths adjacent to roadways were intended exclusively for bicyclists. Over time, these paths have evolved into multi-use paths, where slower-paced users, such as walkers, runners, rollerbladers, children on bikes, as well as individuals in wheelchairs, are frequent users.

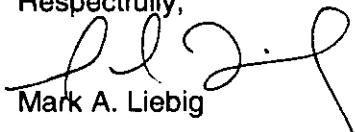
The problem with the sidepath rule is that it requires faster-paced bicyclists to use paths that are no longer used exclusively by bicyclists, but other slower-paced users as outlined above. Experienced bicyclists can easily maintain speeds of 15-20 mph, which is too fast for a multi-use path. As one might expect, this increases the likelihood of accidents arising from conflicting uses of these paths.

Bicycles are classified as vehicles and their operators are subject to the same rules and responsibilities as motorists. Numerous studies have shown bicyclists are safest on roads, where they are in view of motorists and their actions are made more predictable by the markings and the rules of the roadway. Consequently, faster-paced bicyclists in North Dakota are often using the roadway even where adjacent paths exist. It's faster, it's safer, and it reduces conflicts with other users of multi-use paths.

Most states have already repealed the sidepath rule in response to objections of bicyclists and the liability exposure which results from mandatory use of facilities known to be hazardous. Wyoming was the most recent state to pass legislation to eliminate the sidepath rule. Given the reasons stated above, I hope North Dakota is the next state to eliminate this rule. I urge you to support Senate Bill No. 2349.

Thank you for your attention and consideration of my comments.

Respectfully,

  
Mark A. Liebig

Mark A. Liebig  
3238 Impala Lane  
Bismarck, ND 58503

- Bicyclist (1968 – present)
- Resident of North Dakota (1999 – present)
- Board member, North Dakota Cycling Federation (2004 – present)
- North Dakota State Rep., International Mountain Biking Association (2004 – present)
- Facilitator, Bismarck/Mandan Bicycle Commuting Group (2006 – present)

**The sidepath rule should be removed from the North Dakota Century Code because:**

- The rule increases the potential for accidents arising from conflicting uses of multi-use paths.
- Advanced high-speed bicyclists should be allowed to remain on the roadway system in order to avoid such conflicts between beginner bicyclists and other path users.
- By mandating their usage, the state must insure their usability. To restrict bicyclists to a facility that does not meet design guidances set forth by federal and state agencies (e.g., AASHTO, FHWA) and/or to neglect maintenance (e.g., proper markings, patching, snow-removal) creates a liability for the state.
- Most states have repealed this rule in response to the objections of bicyclists and the liability exposure which results from mandatory use of facilities known to be hazardous.
- The rule is unclear as to the definition of a sidepath, so that bicyclists may know when they are required to use such a path.
- Numerous studies show that bicyclists (from beginners to seasoned riders) are safest on the roadways where they are in view of motorists and their actions are made more predictable by the markings and the rules of the roadway. Maneuvers such as bicyclists making left turns or motorists making right turns while crossing sidepaths are much safer when motor vehicle and bicycle are on the same roadway.
- The rule does not seem to be enforced anywhere in North Dakota.

**Testimony Presented on Senate Bill 2349 to the  
THE SENATE TRANSPORTATION COMMITTEE**

By Robert Stein, Senior Planner City of Fargo

January 30, 2009

Good Morning Chairman Lee and members of the Senate Transportation Committee.

Thank you for this opportunity. My name is Robert Stein, a Senior Planner for the City of Fargo. I am also here today representing Jeremy Gorden, Transportation Engineer for the City of Fargo. We support SB 2349 to repeal the prohibition of bicyclists using the roadway when a pathway exists. NDCC 39.10.1-05 currently mandates the use of an adjacent path for bicycles when present and it is our belief that the current law conflicts with the need and desire of bicyclists in our community.

It is our opinion that this law is not applicable and is no longer appropriate for all skill levels of bicyclists. The Federal Highway Administration classifies bicyclists into different categories based on their level of expertise and provides design considerations based on these. Placing all cyclists on the same type of bicycle facility, such as a pathway, is not safe for several reasons:

- 1) Bicyclists commuting and traveling at fast speeds can conflict with other users of the abutting pathway or shared use path.
- 2) When fast moving bicyclists are traveling on a pathway they are out of normal frame of visibility of motorists because they are placed on the pathway that is out of sight. By being out of sight conflicts exist, since bicyclists are unexpected by the motorist.
- 3) When an experienced bicyclist is on the street, they are following the rules of the road, and therefore are more predictable to the motorist.
- 4) In some situations, due to weather, poor paving conditions, or interruptions, sidewalks may be difficult to maneuver for bicyclists.

Besides safety concerns, we believe it is necessary to provide a choice of facilities for all levels of users. Pathways are appropriate for some recreational bicyclists; however, many experienced bicyclists are commuting, traveling up to 20 mph and choose to use an on-road facility; such as, a wide paved shoulder. We would like the opportunity to provide additional facilities at low cost to more appropriately accommodate these users. On-road bicycle facilities can often be retrofitted on existing roadways by adding striping and signage. With the current law in place, providing on-road bikeway facilities is not allowed on state funded or managed roadways when a sidepath is present; therefore; we support a recommendation for a "Do Pass" for this bill.



**North Dakota  
Farm Bureau**

*Bringing ag home*

1101 1st Ave. N., Fargo, ND 58102  
P.O. Box 2064, Fargo, ND 58107-2064  
Phone: 701-298-2200 • 1-800-367-9668 • Fax: 701-298-2210

#6

4023 State St., Bismarck, ND 58503  
P.O. Box 2793, Bismarck, ND 58502-2793  
Phone: 701-224-0330 • 1-800-932-8869 • Fax: 701-224-9485

## **Senate Transportation Committee**

*January 30, 2009*

### **Testimony on SB 2349 by North Dakota Farm Bureau**

*presented by Sandy Clark, public policy team*

Good morning, Chairman Lee and members of the Transportation Committee. My name is Sandy Clark and I represent the members of North Dakota Farm Bureau.

Due to a scheduling conflict it is not possible for me to attend your hearing this morning, but NDFB would like to voice our opposition to SB 2349.

NDFB policy states, *"We believe that anyone riding bike or hiking on a roadway should be subject to a fine, if a biking/hiking trail is already available next to that particular roadway."*

This policy was brought from a particular NDFB member who lives near a larger city and frequently utilizes that city's major highway for personal travel, as well as to move farm products to market. Although a bike path is available, bicyclists often use the highway, rather than the bike path.

Our members are concerned for the safety of the bicyclists and the liability the motorist incurs should an unfortunate accident occur. Taxpayers have invested a great deal of money in biking paths for the safety and convenience of bicyclists and we believe they should be used when available.

Therefore, we hope you will consider a "do not pass" recommendation on SB 2349. Thank you for allowing us to present testimony today in written format.



# Attachment # 1

**March 13, 2009 – House Transportation**

## **SB 2349 – RELATING TO THE OPERATION OF BICYCLES**

**Committee Members for the record, I am Gary A. Lee, State Senator representing District 22. District 22 includes much of the greater parts of Cass County.**

**I am here to introduce SB 2349. It relates to the operation of bicycles on roadways & public, multi-use pathways. Current law states that: "wherever a usable path for bicycles has been provided adjacent to a roadway; bicycle riders shall use such path & may not use the roadway".**

**The proposal in SB 2349 would strike that language.**

**It seems clear by current state law that a bicyclist does not have the option of riding on a roadway when there is an adjacent path.**

**Shared path bicycle riding is not appropriate for all bicyclists. For the commuter or more serious cyclist, the street may be a far safer & better place to ride. Side paths & sidewalks are used by a variety of users such as walkers, runners, children & slower bikers. The presence of more serious bicyclists traveling at higher speeds creates safety issues for all users.**

**Repealing this section of NDCC would allow the cyclist the legal, common sense choice to use a safe road shoulder when a pathway is crowded with slower users, children, walkers or if the pathway is not maintained properly for safe use. Thirty-five other states agree.**

**With that, I will let others offer additional rational for the repeal of this section. I would stand for any questions.**

13 March 2009

## **Bullet points for repealing North Dakota's Sidepath Rule**

**Senate Bill No. 2349**

**Introduced by Senators G. Lee, Fiebiger, Mill**

**Representatives R. Kelsch, Pietsch, Vig**

**A BILL for an Act to amend and reenact section 39-10.1-05 of the North Dakota Century Code, relating to the operation of bicycles.**

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT. Sec. 39-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:**

### **39-10.1-05. Riding on roadway and bicycle path.**

1. ~~Every person~~ An individual operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
2. ~~Persons~~ A group of individuals riding bicycles upon a roadway may not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles.
3. ~~Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and may not use the roadway.~~

Attachment #3

March 13, 2009

**HOUSE TRANSPORTATION COMMITTEE**

**SENATE BILL 2349**

Testimony from

Tim Solberg, Cass County Planner

Good Morning Chairman and members of the House Transportation Committee. I'm Tim Solberg, the County Planner from Cass County and am also speaking on behalf of Keith Berndt, Cass County Engineer. I support SB 2349 to repeal the prohibition on bicyclists using the roadway when a pathway exists.

NDCC 39.10.1-05 mandates: "Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and may not use the roadway". In other words, if there is sidewalk type facility that allows bicycles on it adjacent to the street, it is illegal to ride in the street. Many other states had similar laws but most have repealed the laws in response to cyclist objections and liability exposure.

The side path law should be repealed for a number of reasons:

- Repealing this law would give bicyclists the freedom to make common sense choices about the best place to ride.
- Repealing the law would improve safety for bicyclists and pedestrians.
- Repealing the law would give local authorities the choice to decide where they wanted bicyclists to ride in their communities.

Shared use pathways are intended for a wide range of activities such as walking, running, and rollerblading, as well as bicycling. Consequently, they are not intended for faster pace bicycle rides.

In addition to the safety conflicts between faster bicycle riders and other users, bicycle-motor vehicle collisions often occur at intersections. This is especially problematic with right turning motor vehicles that may not see the adjacent bicyclists due to their blind spot, parked cars, trees, or the fact that many drivers don't look for or expect bicycles on the sidewalk. If bicycles stop at every intersection to reduce this risk, it may make using a bicycle as a mode of transportation impractical.

In some jurisdictions across the Country, widened curb lanes on streets are used to allow extra width for bicyclists in addition to sidewalks adjacent to the street. With the current prohibition on bicycles using the street, it would be impractical to consider provisions for on-street bicycles if a sidewalk is included.

Studies have shown that faster bicycle riders are considerably safer riding on the street with traffic than on the paths. This conclusion may seem surprising at first. However, the vast majority of car-bicycle collisions involve turning and crossing movements. Sidepaths complicate these movements by placing the bicyclist and motorist out of sight of each other and on conflicting paths at junctions and streets with driveways. Sidepath laws are oftentimes based on the false belief that car-overtaking-bicycle collisions are the predominate car-bicycle collision type. This results in the false idea that placing all bicyclists on sidewalks will improve safety.

Thank you for the opportunity to testify before your committee.

# Attachment #4

**Senate Bill 2349**

## **BICYCLES ON PATH OR ROADWAY**

**Date: 3/13/2009**

**House Transportation Committee**

**Robin Weisz – Chairman**

**Dan J. Ruby – Vice Chairman**

I approve the passage of this bill for the following reasons:

- Bicyclists are not allowed on many sidewalks so why are they required to ride on bike paths?
- Sidepaths are currently called shared use paths; they have a number of uses ranging from bikers, pedestrians, to rollerbladers.
- Many new paths built are used for recreation purposes.
- Studies have shown it is safer to bicycle on the roadway then on a bike path.
- When bicycles ride on a bike path there are more conflicts at intersections, vehicles are expecting slow moving pedestrians not bicycles.
- Many new paths are built as "landscaping enhancements" which are designed to complement the roadway and are not functional through routes for bicyclists.
- The new paths curve inconsistently towards the roadway at intersections and away from them, allowing only slow speeds and an uncomfortable ride for bicyclists.
- According to the ND Century Code, bicycles are considered vehicles and given the same rights and privileges.

Members of the House Transportation Committee, I encourage you to pass this bill to make a safer environment for bicyclists throughout the state.

Spencer Ulvestad  
Bismarck, ND

# Attachment #5

## HOUSE TRANSPORTATION COMMITTEE

March 13, 2009

9:20 a.m. – Fort Totten Room

North Dakota Department of Transportation  
Dave Leftwich, Office of Transportation Programs Director

SB 2349

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Good morning, Mr. Chairman and members of the committee. I'm Dave Leftwich, Interim Office of Transportation Program Director for the North Dakota Department of Transportation (NDDOT). I'm here today to support SB 2349.

If SB 2349 passes bicycles would be able to ride on the roadway even when a path is adjacent to the roadway. The Department believes this modification to state statute is appropriate because of the changes that have occurred in the use of paths adjacent to the roadway. Today's paths are utilized for a wide range of activities including: walking, rollerblading, running, and wheelchair use. We commonly refer to today's paths as multi-use paths.

Consequently, today's multi-use paths are not conducive for the operation of faster paced bicycles and their riders. Conflicts occur between the faster paced riders and the slower users of the multi-use path. Trained bicyclists often maintain speeds of 20 miles per hour. When operated on the roadway, bicyclists must follow the same rules as a motorist operating a vehicle.

For the committee's information, 35 states have already made the changes in their laws to allow bicycles to ride on roadways, even when adjacent paths are available. The bicyclist should have the option of riding on the roadway even when a path is adjacent to the roadway.

Mr. Chairman, that concludes my testimony and I will be happy to answer any questions the committee may have.