

2011 SENATE TRANSPORTATION

SB 2177

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2177
January 20, 2011
13134 and 13185

Conference Committee

Hauge

Explanation or reason for introduction of bill/resolution:

Bill sponsored at the request of ND Central Dakota Cyclists.

Minutes:

Attached testimonies

Vice Chairman, Senator Oehlke opened the hearing on SB 2177 relating to overtaking a bicycle.

Senator Murphy introduced the bill and testified in support of it. He stated that this bill is about safety. He said that sixteen other states already have this in law. He stated that mostly it was about awareness. North Dakota is a state that is not as aware of bikers as most other states. One reason is that it is extremely rural. And he said that we are use to having the road to ourselves. One of things he hopes will come of this bill is that it will raise our consciousness to be safer and more respectful. Senator Murphy stated, "The point of this bill would help us think a little more and be aware of our mortality when it comes to bikes on the road." He addressed the concern that this bill has raised some worries about high traffic areas like in the oil patch where road aren't good and traffic is heavy. He said that is why we need to be careful and respectful.

Senator Mathern said he lived out east for awhile and he has to be more careful in North Dakota. He asked if there was any statue that gives further difference to passengers and bicycles in eastern states than in western states. Or, he asked, is this just a matter of culture.

Senator Murphy said he didn't know the particulars of the states. He did say in his testimony he referred to our culture of not being as aware of bicycles.

Senator Sitte said that she spoke to the NDDOT and that they have money for an awareness campaigns. She alluded to the fact that he had stated it was mainly about awareness. She asked if he would consider an awareness campaign by DOT to help satisfy the worries of people.

Senator Murphy felt it was important to have this law in place.

Representative Gruchalla, District #45 testified in support of SB 2177. He said that by statute a bicycle is considered a vehicle and has the full rights of a motor vehicle and should follow the same traffic laws as a motor vehicle. He said that is usually not the case. People treat bicycles like they are not on the roadway. By statute they should be treated like another motor vehicle. This bill would help. He gave an example of a young lady that was hit on her bike and she had done everything right. He concluded that motorists just don't treat the biker as they should. He said this bill is a good effort to try to improve bike safety and encourage exercise.

Senator Oehlke asked about enforcement.

Representative Gruchalla said it would be treated like any other violation of a citizen having a complaint. It would be investigated.

Senator Nodland asked if there was a penalty.

Representative Gruchalla said there was no penalty put in the bill but it will probably fall back to the twenty dollar fine that is standard in the chapter 39 code.

Senator Nodland said he was from the western oil counties and that the county roads have different required widths and township roads have different required widths. The widths get narrower. He asked if anyone thought about the cost of trying to require the 3 feet or more rule on some of these county and township roads. He said about 70% of the traffic on these roads is overweight vehicles. He said they already have a safety issue meeting traffic on these roads.

Representative Gruchalla said he didn't think that he would see more bicycles on the road by passing this bill. He thinks the awareness will be the result.

Senator Mathern asked if there were any education programs if he wanted to start a biking group.

Representative Gruchalla answered that maybe NDDOT could answer that question better.

Jason Doerr testified in support of SB 2177. Written testimony #1

Allen Thompson testified in support of SB 2177. Written testimony #2

Pat Saltsman testified in support of SB 2177. Written testimony #3

Senator Lee asked what her sense of the enforcement of current laws on the books was.

Ms. Saltsman gave an experience of when she took down a license plate number and went to the police department. She said there wasn't much they could do and it went absolutely nowhere. She said she had talked to a police officer yesterday and he said this law would give him an opportunity to go back to the motorist. It would give enforcement the opportunity to enforce a law.

Senator Lee asked if bicycles are expected to follow the rules of the road like any other vehicle. He asked if bicyclists are held to the same standards and enforcement as motor vehicles and gave the example of signaling or going through a stop sign.

Ms. Saltsman answered yes and said the rules of the road apply to both a vehicle and a bicyclist.

Senator Lee asked Ms Saltsman if she was saying that enforcement is equal between the motor vehicle and the bicycle. "They are enforced equally by law enforcement?"

Ms. Saltsman answered yes.

Brian Beattie testified in support of SB 2177. Written testimony #4

Mark Liebig testified in support of SB 2177. Written testimony #5

Senator Oehlke said that the culture in his area where he would bike is very friendly and courteous. He asked what should be our approach to the awareness aspect of this.

Mr. Liebig said that awareness is a key issue. In the area of awareness, what they are doing now is more focused on urban areas and what they can do with volunteer help. He said DOT does want to do a PSA with respect to bike safety but he questioned when it would be a high enough priority for them to do it.

Three addition written testimonies:

Carmen Voigt, Burlington, ND

Chris Potter, Fargo, ND

Teri Fremling, Fargo, ND

No opposing testimony.

Senator Lee closed the hearing on SB 2177.

SB 2177 Job # 13185, 10:45 AM

Senator Lee opened discussion on SB 2177.

Senator Oehlke said that he believed that the awareness part of the program was real important.

Discussion followed on awareness, liability and enforcement.

Senator Lee will forward an e-mail to the committee that he received from Police Chief of Fargo.

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2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2177
January 21, 2011
13204

Conference Committee

Hansen

Explanation or reason for introduction of bill/resolution:

Minutes:

Committee discussion

Senator Lee asked if there was additional discussion on SB 2177.

Senator Mathern asked if we could wait to act on this until next week.

Senator Oehlke said that he liked the idea of creating a better awareness program. Ideas surfaced to add an amendment or take out the 3 feet width and add an awareness program. He said DOT does have money for an awareness program and that they have done that with motorcycles in the past.

The committee will continue with SB 2177 next week.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SB 2177
January 27, 2011
13536

Conference Committee

George

Explanation or reason for introduction of bill/resolution:

Minutes:

Vote

Senator G. Lee summarized the hearing on SB 2177.

Senator Mathern moved a **Do Pass**.

Motion died for lack of a second.

Senator Nodland moved a **Do Not Pass**.

Senator Oehlke seconded the motion.

Senator Nodland said that he had received information from three police chiefs in three different cities and they explained it quite well. The biggest issue is that they don't know how they could enforce this. They all agreed an awareness and education program would be good. He said that personally he couldn't see passing a bill that law enforcement can't enforce.

Senator Oehlke said he visited with bikers in his area and they said there is so much more than the three feet clearance. If a big vehicle goes by and they are up to speed, you could be 5 or 6 feet away and get sucked into their wheel. He believes we have to concentrate on awareness and encourage DOT to use their money for awareness and education and make this a priority but do this without passing more legislation.

Senator Mathern said that this bill does advance the cause of biking, which is good for the development of our health and development of our energy consciousness. In addition, the bill could be good for development of our law enforcement in terms of developing skills to enforce this. He stated that he will vote no on Senator Nodland's motion.

Roll call vote 5-1-0. **Motion passed.**

Senator Lee is the carrier.

Date: 1-27-11
Roll Call Vote # 1-27-11

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2177

Senate Transportation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Senator Nodland Seconded By Senator Oehlke

Senators	Yes	No	Senators	Yes	No
Chairman Gary Lee	✓		Senator Tim Mathern		✓
Vice Chairman Dave Oehlke	✓				
Senator Dave Nething	✓				
Senator George Nodland	✓				
Senator Margaret Sitte	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Lee

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

REPORT OF STANDING COMMITTEE

SB 2177: Transportation Committee (Sen. G. Lee, Chairman) recommends DO NOT PASS (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2177 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

SB 2177

①

SENATE BILL NO. 2177
Overtaking a bicycle
North Dakota General Rules of the Road
Century Code Section 39-10-11

Chairman and Committee Members:

My name is Jason Doerr and I have an interest in this bill because I am bicycle commuter in Bismarck, North Dakota. I use the bicycle not only for recreation but as a mode of transportation as do others in Bismarck and the state.

I am in favor of Senate Bill No. 2177 (Overtaking a bicycle) regarding a minimum three foot clearance as a safe distance when overtaking a bicycle. I believe this Bill better defines the relationship of a bicycle, as a vehicle on the roadway, with other types of vehicles using the North Dakota roadways.

The benefit of the bill is it would educate and promote to the public about how far is a safe distance to pass bicyclists. Many motorists believe just avoiding contact with a bicyclist or a pedestrian is all that is required. Most motorists are often unaware of the danger of passing a bicyclist too closely and can result in hitting or startling the bicyclist and possibly leading to an accident.

I do not envision the law enforcement to use some sort of special distance-measuring equipment to see if the motorist is within 36 inches. Rather, the point is to communicate that the motorist needs to pass a bicyclist or even a pedestrian safely, and 3 feet would better define a "safe distance." This benefits law enforcement officers by providing a simple standard they can explain. Also the use of numeric distances to educate the public is not uncommon in the North Dakota Century Code's General Rules of the Road statutes.

The three-foot law has been enacted in at least 14 states (Louisiana (2009), Colorado (2009), New Hampshire (2009), Connecticut (2008), Illinois (2008), Tennessee (2007), Arkansas (2007), Maine (2007), Oklahoma (2006), Florida (2006), Utah (2006), Arizona (2000), Minnesota (2004), Wisconsin (1973)) and the District of Columbia (2009).

I believe with this Senate Bill 2177, bicycling would continue to more safely contribute to the vitality of North Dakota's improved public health, cleaner air, improved transportation choices and multi-modal access.

Sincerely,

Jason H. Doerr,

1802 Hanaford Avenue
Bismarck, ND 58501
(701) 222-8082
email: sansui3@msn.com

get copy for SN

(2)

Members of the Senate Transportation Committee
Senators: Lee, Oehlke, Mathem, Nething, Nodland, Sitte

RE: Proposed Three Foot Passing Rule (SB2177)
North Dakota General Rules of the Road
Century Code Section 39-10-11

Honorable Sirs and Madam:

When gasoline went over \$2.00 a gallon, I began conserving fuel by combining trips, taking public transportation, and commuting by bicycle. My wife had been bicycle commuting for 2 years and my children were old enough to drive themselves around. My doctor encouraged me to get more exercise since heart disease and excess weight is part of my genetic makeup. For the last eight years, I have averaged over 3,000 miles a year commuting and on bicycle tours in the state of North Dakota. For the most part I find commuting by bicycle safe and less boring than a gym. Some motorists however believe that they own the entire road. I utilize all manners of safety equipment; gloves, helmet, front and rear lights. None of this safety equipment however can compete with more than 2 tons of steel. Concentrating on the practicability of keeping to the right side of the road is not feasible when the wake from passing vehicles tosses you around.

These are existing applicable sections of the ND Century Code:

39-10.1-02. Traffic laws apply to persons riding bicycles. Every person riding a bicycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this title and except as to those provisions of this title which by their nature can have no application.

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

1. 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.

Exercising due care requires keeping a three feet distance from all obstacles moving and stationary.

Senate Bill 2177, proposing a three-foot passing clearance when passing or overtaking a bicycle, deserves your consideration and a do pass vote. As individuals strive to be healthier, and reduce spending by utilizing their bikes as a form of transportation, we are seeing more and more bikes on the road. More clearly defining the relationship between motor vehicles and human powered vehicles is a very real safety issue to those of us who use bicycles as a regular form of transportation. The main purpose of the proposed three-foot passing clearance is to educate the public about the importance of allowing a safe distance between automobiles and bicyclists/pedestrians during passing.

I believe with this three foot passing legislation, bicycling and walking would continue to more safely contribute to the vitality of North Dakota's improved public health, cleaner air, and improved transportation choices.

Sincerely, Allen O. Thompson
309 5th Ave NW
Mandan, ND 58554-3034

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Mr. Chairman and members of the committee,

When God commissioned Moses to tell Pharaoh "let my people go", Moses enlisted the help of his brother, Aaron, as he was an eloquent speaker. Right now I am wishing Aaron was around but since he isn't I will make this short.

My name is Pat Saltsman and I am an avid bicyclist here in Bismarck and am in favor of the 3 ft law. Due to a car cutting a corner I have had to take the ditch, I have been yelled at as cars pass, I have dental implants, a wrist joint replaced and a pending shoulder replacement from being hit by a pickup and I have had a vehicle pull up so close to me that in order not to bite the dust, I had to hold on to the window frame while the passenger yelled obscenities telling me to get off the road. After she was done, she must have had second thoughts as 50 ft down the road she stop again, opened her door and yelled at me again with more obscenities telling me to get off the road. Apparently she must have thought I didn't get the point the first time

While training for an ironman, 42 yr old Connie Wold of Watford City lost her life on the road after being hit by a pickup, leaving behind a husband and daughter.

I don't know if people are aware that there is a law giving bicycles a right to be on the road and what happens when they pass us so close that we can adjust their side mirror. I don't know if people are aware that when they pass so close to us it causes a draft and the effect of that draft. I don't know if people realize that many riders have been injured and even killed by side mirrors as they pass us.

Most of us don't ride around town as we bike anywhere from 20-40 miles a day at speeds up to 20+ mph, but we need to ride in town to get out on the road. So this will not only affect us in town but also on the highway. It will give people an idea of how much space needs to be between us while passing. Common sense would tell you at least a half a car width..

We try to make ourselves very visible wearing bright colored clothing with reflective tape, having lights on our bikes and obeying the rules of the road.

With gas prices on the rise, more and more people will be biking. Passing this law will make the road safer, will educate those that don't ride, and will help prevent collisions.

I am asking that you pass this 3 ft law to help keep us safe while enjoying our passion.

Testimony SB 2177

Brian Beattie
3218 Crocus Ave
Bismarck, ND 58501
701 391 7532

The law before you is to require motorists to pass a bicycle rider with at least 3 feet of clearance between their vehicle and the cyclist.

I support this bill and encourage your support. There are no laws that apply specifically to this situation at present. The law considers a bicycle as a vehicle. That means that a bicycle has to be overtaken in the same manner as a car. Does it make sense to have a car follow a slow moving bike until the car is in a no passing zone? This is not practical since this would mean long lines of frustrated drivers. A law that makes it clear how law enforcement and judges should treat this situation and allows vehicles to pass safely makes sense.

I see this bill helping define what is expected of a vehicle driver. It gives a way to address non-attentive or belligerent drivers. It also opens up an avenue for educating drivers about what is safe and expected in the situation of passing a bicycle. It does not give the cyclist any more rights to the road than what they presently have.

I would like to tell you of just 2 incidents that have happened to me that make this law a valuable tool.

I was riding with 2 other riders on a 2 lane road with no shoulder and a 45 mph speed limit. There was a car approaching from both the front and from behind. We lined up single file near the right edge of the road. The car from behind slowed only slightly and passed us and the other car at the same time. The driver timed his pass so that we were 3 abreast, 2 cars us on our bikes. We had less than 18 inches of room and a speed difference of about 20 mph.

I was riding alone on state highway 1804 south of Bismarck. I was riding in the right wheel track since there is no shoulder on the road. The road was straight and level with no sight obstructions and was marked as a passing zone. There was no other traffic in either direction. The car passing me from behind moved over only slightly, less than 2 feet away, and was traveling 20 to 30 mph faster than me. After recovering from the shock of something passing that close I made a motion with my arm that he should have moved over. I made no other gestures. The driver gave me a universal obscene gesture. I estimate that the driver was 75 years old and his wife was riding with him.

Whenever mention is made of drivers interacting with bicycles we always here of the bike rider who did something wrong, was belligerent, made obscene gestures or yelled at a driver. I too am frustrated by cyclist that don't ride in a safe and predictable manner. Drivers and cyclists can not use a previous incident as an excuse for driving or riding in a dangerous way. This bill is not about who is more wrong. It is about having a clear requirement for passing and thus an avenue for enforcement and education.

I, like many others, enjoy riding a bike on the uncrowded roads of our state. Please help us by giving us the right to return home safely to our families. We need to establish our right to space on the so we can begin educating the motoring public of how to safely pass a bicycle.

20 January 2011

Testimony provided by Mark A. Liebig in support of Senate Bill No. 2177

Dear Members of the Committee:

I would like to thank you for providing a forum for discussing Senate Bill No. 2177, which if passed, will create and enact a new section to the North Dakota Century Code relating to overtaking a bicycle.

As a bicyclist and advocate of bicycling safety, I have a vested interest in the passage of a bill that would require a passing distance of at least three feet between a motorist and bicyclist.

As a bicyclist, I support this bill because:

- It will reduce my risk of being passed too closely by a motorist. I have had multiple experiences where I've been 'buzzed' by motorists, which is not only frightening, but downright dangerous when forced into a ditch at high speed.

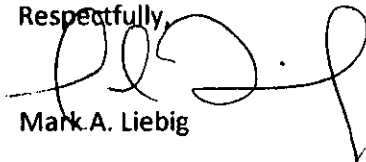
As a bike safety advocate, I support this bill because:

- It creates a clear and quantifiable standard for passing that can be easily understood by motorists.
- By clearly defining a minimum passing distance, it will bring greater attention to safe interactions between motorists and bicyclists, as well as help 'legitimize' the rights of bicyclists on North Dakota roadways.
- It will help to prevent collisions between motorists and bicyclists, thereby decreasing injuries and/or deaths.
- It creates a consistent passing rule with a neighboring state (Minnesota), and sends a message to long-distance touring cyclists throughout the world that North Dakota values the safety of bicyclists.

In consideration of this bill, I think it's important to recognize an increasing number of people are bicycling for a variety of reasons (e.g., health, cost savings, environmental awareness, and fun). Accordingly, North Dakota would be well served to develop rules that protect the safety of bicyclists.

I urge you to support Senate Bill No. 2177. 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)
- Chair, Central Dakota Cyclists (2010 – present)
- North Dakota State Rep., International Mountain Biking Association (2004 – 2009)
- Facilitator, Bismarck/Mandan Bicycle Commuting Group (2006 – 2009)

SB 2177
Copy for Record

January 17, 2011

Dear Committee Members:

I am writing to encourage you to submit the upcoming bill requiring motorists to pass at a 3-foot distance from bicycles to the legislature for a vote.

Because of the increased traffic in the Western part of the state, specifically oil traffic, bicyclists have been in increased danger. This summer I was on a bike tour, riding my bike to Lignite, North Dakota. Because there was no shoulder on that road, the oil companies in the area had been warned ahead of time that we would be on the road. In spite of that, the semis were passing dangerously close to us. One semi passing me came within inches of hitting my bike and after passing me the draft was so strong my bike wobbled considerably and it took everything I had to stay upright.

Another hazard for us is large motor homes. My friend, Barb Kuhlemeier, while riding her bike in the Prairie Rose Games this summer, was hit by a motor home mirror as it was passing her. She also was able to keep her bike upright, but suffered painful bruises. I am sure you are also aware that a bicyclist on a tour was killed in our area this summer.

These are recent experiences that I know of. I am sure there are many more. Many other states have passed this law, and for the safety of all, I hope your committee recommends this bill for a vote.

Thank you.

Carmen Voigt
Burlington, ND

701-721-0630

Chris Potter
School Resource Officer
Fargo South High School
1840 15th Avenue South
Fargo, ND 58103

Office - 701-446-2025
Cell - 701-730-8863
cpotterc@fargo.k12.nd.us

From: Chris Potter

Sent: Tuesday, January 18, 2011 12:03 PM

To: 'galee@nd.gov'; 'doehlke@nd.gov'; 'dnething@nd.gov'; 'glnodland@nd.gov'; 'tmathern@nd.gov'; 'msitte@nd.gov'

Subject: SB 2177 - 3 Foot Passing Rule

Dear Senators Lee, Oehlke, Nething, Nodlan, Sitte and Mathern –

Thank you for this opportunity to express and explain my support for the “3-foot passing rule” in SB 2177. I have a unique perspective on this bill as both a life-long cyclist and 18 year law enforcement officer, currently serving as a School Resource Officer. I strongly encourage a DO PASS recommendation for SB 2177.

My opinion as a cyclist, high school bike club advisor, MS-150 bike team co-captain, League Cycling Instructor (LCI) and member of the MetroCOG Bike-Pedestrian Advisory Committee is obvious - I have a vested interest in the safety of cyclists and pedestrians as this issue directly affects the activities I have dedicated my life to.

My cyclist perspective on the 3-foot passing rule:

- More cyclists and pedestrians are taking to the roadways due to a number of factors – increased health awareness; aging populations seeking low-impact physical activities; environmental awareness (going green); increased costs of personal vehicles and fuel – so more cyclists and pedestrians on the roads means more opportunity for user conflicts
- Ongoing encouragement of children to walk and ride bikes to school (National Safe Routes to Schools Program) is often hampered by parents who perceive safety issues as the #1 reason they drive their children to school - *Fargo Safe Routes to School Study* – December 2009, available at http://www.fmmetrocog.org/index.php?option=com_docman&task=cat_view&gid=28&Itemid=3

1

- I have had personal experience being intentionally “buzzed” by motorists, who passed by me within literally inches, with absolutely no reason to do so (sending me into the ditch on one occasion)
- A motor vehicle passing too closely by a cyclist or pedestrian creates a serious hazard, especially at higher speeds, by the vehicles draft and potential “startling” effect on a rider or walker
- 3-foot laws (now passed in several states) clearly define a minimum clearance guideline for motorists passing cyclists and pedestrians, and help “legitimize” the rights of those users to be on the roads

As a police officer, I also value the addition of this rule to traffic law:

- Clear definition of traffic law is preferable to “judgment”; 3-feet to pass is a clear, reasonable minimum standard and easily understood by drivers – about the same width as a car door
- The 3-foot rule will help increase awareness of bikers and pedestrians by motorists, helping prevent collisions, injuries and deaths
- In cases of collisions between passing cars and cyclists/peds, a 3-foot passing rule will more clearly define responsibility and contributing factors for property damage and injury
- By no means do I expect to measure the distance of every car passing a pedestrian or cyclist (those opposing the 3-foot passing rule may carry this torch); The rule will not create more “work” for law enforcement – in fact, in cases of collisions and near-miss “buzzing” incidents reported, it makes our job easier to investigate and take appropriate action when appropriate

Flakoll, Tim

From: Teri Fremling [terifremling@pcifargo.com]
Sent: Thursday, January 20, 2011 9:03 AM
To: Flakoll, Tim
Subject: Bike Accident

Hi Tim – Dan asked that I put together a short statement for Senate Bill 2177:

Preface: I was training for Ironman distance triathlon (2.4 mile swim, 112 mile bike & 26.2 mile run) to take place on November 21, 2010 in Tempe, AZ – unfortunately because of this accident I was not able to compete.

On Sunday October 3, 2010 I was heading North on Highway 81 towards Grand Forks on a 4 hour bike ride. A few beet trucks were on the road that morning all but one took an outside lane to pass me, unfortunately one beet truck did not do that and because of his speed, weight & tail wind created by his truck, I was sucked into the side of his truck and then thrown to the pavement at 25+ mph. The driver never stopped that morning. I sustained injuries to my head, neck, shoulder, hip, hand, & forearm. I have spent the last 3½ months doctoring for injuries sustained because the truck didn't share the road with a biker that morning. I truly believe that had he moved over and shared the road this accident could have been avoided.

I have incurred \$10,000+ in medical bills & counting; and I am still being treated to regain the strength in my right shoulder & arm. This accident also destroyed my \$5,000 triathlon bike.

Thank you & the other senators for bringing awareness to sharing the road with my fellow cyclists.

Teri Fremling
Senior Vice President, Operations
PERFORMANCE CENTERS, INC.
701-293-9500 Office
701-371-1460 Cellphone
terifremling@pcifargo.com

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