

Sending The Wrong Message

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[Three feet to pass](#). Increasingly, it's [becoming the standard](#) for the minimum distance at which motorists should pass cyclists—and increasingly, it's [becoming becoming the law](#). When a state passes a “3 foot law,” the existing legal requirement to pass at a “safe passing distance” is changed to a requirement to pass at a “minimum safe passing distance”—typically 3 feet, but sometimes more, some times less, depending on the state. When a state establishes what a minimum safe passing distance means, motorists, police, courts, and juries are all given guidance about the bare minimum requirement for making a safe pass. Even with a minimum safe passing distance, overtaking drivers are still required to pass cyclists at a “safe distance,” and depending on conditions, that “safe distance” may be greater than the minimum distance specified by the law. But no driver can pass closer than the minimum distance specified in the law and argue in court that the pass was legal.

Well, that's the idea, at least. But changing the law is just the first step in changing driver behavior. When law enforcement agencies [refuse to enforce the law](#), they send the wrong message to drivers about the importance of observing a safe passing distance, and nothing changes. Thus, in addition to educating the driving public about the law, it's also necessary to educate the officers and agencies that are charged with enforcing the law.

This point was recently brought home once again, this time in Loveland, Colorado, when a cyclist riding in the bike lane was hit from behind by a passing motorist. The investigating officer interviewed the motorist, who claimed that as she passed the cyclist, he suddenly swerved from the bike lane out into her lane, where she hit him. The officer also interviewed the cyclist, who claimed that as he was riding in the bike lane, the driver drifted into the bike lane, hitting him from behind. Diligent accident investigations include gathering and preserving evidence at the accident site. Not this one. Seeing no need to collect evidence in a case involving conflicting stories, the officer decided that the motorist was telling the truth. Case closed.

The cyclist and his family thought there was something wrong with this decision. After all, Colorado has a 3 foot passing law, and the driver was supposed to pass with a minimum 3 feet of passing distance. However, when the cyclist's family raised this issue with the Loveland Police Department, they received a puzzling response. According to the Loveland police, the 3 foot law had not been violated, because it didn't apply in this situation. The reason? The cyclist had been riding in the bike lane, and thus, the driver had no obligation to pass with a minimum 3 foot passing distance.

If that sounds odd to you, your instincts are right. In fact, the Loveland

Police Department's interpretation of Colorado's 3 foot passing law was deeply confused, and dead wrong. Here's why: Loveland police referred the family to a statute providing that when there is oncoming traffic, a driver shall not pass a cyclist traveling in the same direction and the same lane unless the driver can allow the cyclist at least 3 feet when passing. Because the cyclist was riding in the bike lane, police reasoned, he was in a separate lane, and therefore, based on the above language, the 3 foot passing law was not violated.

The problem with this interpretation is that the police have only looked at one small part of the 3 foot passing law, apparently unaware that there is much more to the 3 foot passing law. In fact, in Colorado, the requirement to leave a minimum 3 foot distance when passing a cyclist is present within 4 separate sections of the traffic laws:

- The first section, [CRS 42-4-1002](#), is the one Loveland police referred to, and requires overtaking motorists to leave 3 feet of passing distance for a cyclist in the same lane when there is oncoming traffic.
- The second section, [CRS 42-4-1003](#), requires an overtaking motorist to leave 3 feet of passing distance at all times for a cyclist traveling in the same direction.
- The third section, [CRS 42-4-1004](#), requires motorists passing to the right of a cyclist waiting in a left hand turn lane to leave—you guessed it, 3 feet minimum passing distance.
- And the fourth section, [CRS 42-4-1005](#)? That permits an overtaking motorist to cross over a double yellow line in order to pass a cyclist with a minimum 3 foot passing distance.

So, read together, Colorado law requires overtaking drivers to leave cyclists 3 feet of passing distance at all times, and when traffic is oncoming, the law requires drivers to wait until it is safe to pass, either by crossing over the double yellow line, or by leaving at least 3 feet of minimum passing distance between their vehicle and the cyclist. Even when the cyclist is in a separate lane—say, a bike lane, or another vehicular travel lane, or a left turn lane—an overtaking motorist is still required to pass with a minimum 3 feet of passing distance.

But to understand what the law requires, you have to read it in its entirety; reading one small part of the law out of context with the entire law leads to a misunderstood and misinterpreted law, as happened in Loveland.

As [Brad Tucker](#) of [ColoBikeLaw](#) observed, this situation "*illustrates not only the importance of law enforcement understanding the law, but also the importance of investigating the scene of the accident to resolve discrepancies between competing accounts of what happened.*" If Loveland police had understood and interpreted the law correctly, and had investigated the scene of the collision for corroborating evidence, we'd know whether the driver had violated the law and should be cited, or whether the cyclist was indeed at fault. Instead, all we know now is that by failing to understand the law, Loveland police are sending drivers the wrong message about observing a

safe passing distance. The law in Colorado has changed, but until law enforcement is on the same page with those changes, driver behavior is likely to remain the same.

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