

Cyclists say there's a pro-motorist bias when tragedy strikes

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By Abigail Curtis, BDN Staff
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BELFAST, Maine — Two weeks ago on a stretch of U.S. Route 2 that runs through the tiny western Maine community of Hanover, tragedy struck.

A cyclist in the annual Trek Across Maine charity ride was killed when he lost control of his bike as a tractor-trailer passed him. So far, the driver of the truck has not been charged by police in connection with the accident. But other cyclists, many in Maine and others from as far away as Oregon, said they believe that the way Maine law enforcement officers handled the death of David LeClair shows a pro-motorist bias.

"Essentially, the police are motorists. They're not cyclists. The motorists come up with a version of the events that put the blame on the cyclist who's not there to defend themselves," said Bob Mionske of Portland, Ore., a former professional cyclist and attorney specializing in bicycle law. "Who's to say any different?"

But in LeClair's death, it's different because there were witnesses, Mionske said on Monday. The 23-year-old from Watertown, Mass., was pedaling with half a dozen of his athenahealth cycling teammates on the first morning of the 180-mile ride to raise money for the American Lung Association. They were among more than 2,000 cyclists who had left Sunday River Resort in Newry, just 10 miles to the west, earlier that day.

When LeClair grabbed his water bottle to take a drink, he and his teammates were passed by a tractor-trailer from Quebec that was hauling corn to Augusta. Lt. Walter Grzyb, a Maine State Police commander, said later that the draft created when Michel Masse-Defresne, 24, of Quebec, drove by caused LeClair to lose his balance and fall over. The cyclist hit his head and was partially run over by the truck, Grzyb said.

The trucker kept going, telling police who stopped him six miles down the road that he had passed hundreds of bikes and hadn't noticed anything unusual.

Police investigating the accident have not lodged any charges against Masse-Defresne, whom other cyclists said passed them with three and a half to four feet to spare. Maine law requires that motorists give cyclists at least three feet of clearance when passing. Maine State Police Spokesman Stephen McCausland said Tuesday that there is little likelihood charges will be lodged against the trucker. Police looked at physical evidence at the scene and on the truck and interviewed witnesses to the accident.

"This was thoroughly investigated," McCausland said. "There is nothing to indicate the truck driver was in any way at fault here, and he had passed hundreds of bicyclists at that point."

Nancy Grant of the Bicycle Coalition of Maine, an advocacy group which works to make Maine better for cycling, said she's not surprised to see police take the side of the motorist when accidents happen.

"Very often, the motorist has made an obvious mistake, and yet the police officer who is creating the report does not give a citation," she said. "We've had cyclists call us to say police officers told them [cycling] is simply too dangerous — they should stay off the road."

She said that although a lot of law enforcement officers and drivers "get it," there are still some that don't, but concern around LeClair's fatal accident might help change that.

"One of the terrible realities of bicycling accidents are that the cyclists are very often really damaged, especially if there's a car involved. More especially if there's a giant truck involved," Grant said. "The fatality was so tragic and the whole accident was so sad, I do think it's been a huge wakeup call for both cyclists and motorists."

John Parke, president of the Augusta-based industry group Maine Motor Transport Association, said that it's every truck driver's obligation to drive professionally and safely. He also said that truck drivers and cyclists need to work together for roadway safety.

"We think that the vast majority [of truck drivers] take that responsibility very seriously," Parke said. "Do I think that every single truck driver is 100 percent in the right, 100 percent of the time? No. Do I think that every cyclist is? No."

Grant said she believes that new laws may come about in the wake of the accident. In other states there is legislation on the books that increases the distance between cyclists and motorists depending on the speed of the passing vehicle. In those states, she said, at 30 miles per hour, the clearance is three feet, but it's four feet at 40 miles per hour and five feet at 50 miles per hour.

Mionske said most states don't have a range of legal consequences for drivers who operate carelessly or dangerously. There's vehicular manslaughter, which requires gross negligence such as driving drunk or going 100 miles per hour in a neighborhood. But for drivers in violation of the three-foot passing law, the legal consequence might be just a \$100 ticket — even when a cyclist's life is lost.

"In Oregon, we have a vulnerable user law, which tries to fill in that gap. It has higher consequences for seriously injuring or killing someone out on the highway," he said. "A vulnerable user is someone who's not encased in a metal cage."

In Europe, many countries take an even stronger pro-cyclist tack, Mionske said.

"They have a presumption of guilt on the driver. The presumption is you shouldn't have done it," he said. "[In the U.S.], what happens is there are no witnesses and the cyclist is dead. In practice, what happens is the police don't charge."

Matthew Littlefield is an avid cyclist from Waldo who has ridden in the Trek Across Maine before. He said that he, too, has noticed that motorists are generally more accepting of cyclists, but he's had some close calls with what he calls the "truck suck" — the wall of wind caused by a truck passing fast and too close.

He said he knows truck drivers are doing a job, but taking 30 extra seconds to safely pass a cyclist is worth it.

"It is getting a lot better, but for every hundred motorists out there that wave to you, smile and do what they're supposed to do, there are those who honk and pass too close," he said Tuesday. "All it takes is one person to make a bad decision, and someone gets hurt."