"A Driver's" (Windshield) Perspective

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Related Categories: Cyclists' right to the road

Any cyclist who has ever read an online news story about cycling is familiar with this phenomenon—the comments section, where drivers vent their fury at cyclists, regardless of facts or circumstances. In fact, the actual facts of the news story are as irrelevant to these internet-ragers as the law. The article could be about a law-abiding cyclist being hit by a law-breaking motorist, for example, or it could be about a law-abiding cyclist being assaulted by a motorist in violation of the law. No matter. The inevitable Pavlovian reaction from these rageaholics will be to recount how "this one time I saw some other cyclist break the law."

Well, actually, that's a bit of an exaggeration. Usually they will claim that all (or almost all) cyclists always break the law.

Whatever. Apparently, that assertion completely explains why some other cyclist who was obeying the law should be run off the road. (Note to would-be vigilantes: This isn't the wild west. It's not your job to enforce the law, or worse, to enforce what you mistakenly *believe* the law to be, or what you think the law *should be*. That's a job for the police. It's your job to just focus on your driving.).

An example: Recently, WCTV (Thomasville, Georgia) posted a story about cyclists "[reminding] everyone on the road to be careful." A reasonable person might think that would be a fairly non-controversial message, but predictably, it was just red meat to the cyclist-hating contingent. One commenter, with the nom de plume "A Driver," observed

> *"As I do a bit of driving, buying gas and tags that pay for the roads, why should I give ride-of-way to something that doesn't. Buy a tag and help pay for the roads then you can have equal rights on the roads"*

This is a common argument in internet comments. The driver buys gas and tags "*that pay for the roads*." Obviously, a cyclist doesn't buy gas and tags. Therefore, the cyclist doesn't pay for the roads (the argument goes).

Oh, where to begin?

First, note to "A Driver": Well, at least you weren't foaming-at-the-mouth internet-raging, but…it's "right-of-way," not "ride-of-way." It means that a person who has right-of-way has a *legal right* to proceed in their direction of travel that others have a *legal duty* to respect. For example, when somebody has the right-of-way in an intersection, others at that intersection have a duty to yield to the person with the right-of-way. This isn't a "cars-vs-bikes"

issue, it's a matter of the law governing the right of travel on public thoroughfares. This right of travel on public thoroughfares belongs to everybody, regardless of their mode of travel; rules on right-of-way establish who gets to proceed first. Thus, for example, a pedestrian legally crossing in a crosswalk has the right-of-way over any vehicles; a cyclist proceeding straight through an intersection has the right-of-way over an oncoming motorist making a left turn; and a motorist who has arrived at a four-way stop first has the right-of-way over a cyclist who arrives there second. Right-of-way is based upon the rule of law, not upon the vehicle—and that is true whether the person is a motorist, a cyclist, or a pedestrian.

Furthermore, right-of-way doesn't belong to a motorist just because the motorist has "tags" and the pedestrian or cyclist doesn't. It's a legal right; sometimes you have the right-of-way, sometimes the other person has the right-of-way. It's based on the law, not your personal beliefs about what the law *should be*. This means that the law, and not you, decides who has right-of-way. Of course, you could disregard the law and steal the cyclist's right-of-way—which would make you, and not the cyclist, the law-breaker.

So, to answer your question: "*Why should I give ride-of-way to something that doesn't* [buy gas and tags]," because the law says that when somebody else has the right-of-way, you must yield. Not "should" yield, but *must* yield.

Which brings us to your concluding argument: "*Buy a tag and help pay for the roads then you can have equal rights on the roads*."

Actually, cyclists have a right to the road, regardless of whether or not you think they should, because the law says they have a right to the road. You don't decide who has rights, the law decides, and under the law cyclists have had a legal right to the road since the 1880s. Not only that, but it was cyclists that led the way to pave the nation's roads, beginning in 1880 with theGood Roads Movement. And today, cyclists pay for the roads just like everybody else, because just like everybody else, cyclists pay income tax, sales tax, property tax, and yes, even gas tax when they put gas in their cars.

It's true that bicycles don't have "tags," but it's also true that "tags" generally don't pay for the roads. And while local and state governments are increasingly tacking additional fees onto vehicle registration fees in order to pay for road maintenance, let's remember that bicycles don't subject the roads to wear and tear. In these jurisdictions, motorists pay extra fees for wear and tear because the wear and tear on our roads is caused by motor vehicles.

And here's something else that's true: As soon as motor vehicles began to appear on our nation's roads, pressure began to mount for motor vehicles to be registered, and their drivers to be licensed. Why? Because motorists began racking up a shockingly high body count from the moment they began appearing on our roads, and licensing requirements were seen as a way to limit the carnage inflicted upon the public. Cyclists were never subject to similar licensing requirements, because they never presented the samehazard to public health and safety. And that is still the case today. The argument that motor vehicle "tags" give motorists a legal right to the road that others don't have gets the law exactly backwards: Motor vehicles, and their

operators, have a revocable *privilege* to use the public thoroughfares. Cyclists, pedestrians, and other unlicensed travelers have an irrevocable *right* to use the public thoroughfares.

Now, in light of these facts, does it still seem unreasonable to remind everybody—both those with the irrevocable right of travel on the roads, and those with the revocable privilege of travel on the roads—to "be careful"?

by Rick Bernardi, J.D.