

September 7, 2012

TO: Members of the MAG Bicycle and Pedestrian Committee

FROM: Reed Kempton, Scottsdale, Chair of the MAG Bicycle and Pedestrian Committee

SUBJECT: MEETING NOTIFICATION AND TRANSMITTAL OF TENTATIVE AGENDA

Tuesday, September 18, 2012 at 1:30 p.m.  
MAG Offices, Ironwood Room, Second Floor  
302 North First Avenue, Phoenix

A meeting of the MAG Bicycle and Pedestrian Committee will be held at the time and place noted above. Committee members may attend the meeting either in **person, by video conference or by telephone conference call**. Those attending by videoconference must notify the MAG site five days before the meeting. Those attending by telephone conference call are requested to call (602) 744-5840 and the meeting I.D. is 2453.

If you are attending in person, please park in the garage under the building. Bring your ticket to the meeting and parking will be validated. For those using transit, the Regional Public Transportation Authority will provide transit tickets for your trip. For those using bicycles, please lock your bicycle in the bike rack in the parking garage.

Pursuant to Title II of the Americans with Disabilities Act (ADA), MAG does not discriminate on the basis of disability in admissions to or participation in its public meetings. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting Maureen DeCindis at the MAG office. Requests should be made as early as possible to allow time to arrange the accommodation.

Please be advised that under procedures adopted by the MAG Regional Council on June 26, 1996, all MAG committees need to have a quorum to conduct business. A quorum is a simple majority of the membership. If you are unable to attend the meeting, please make arrangements for a proxy from your jurisdiction to represent you. If you have any questions, please contact Maureen DeCindis at (602) 452-5073, or send email to [mdecindis@azmag.gov](mailto:mdecindis@azmag.gov).

## TENTATIVE AGENDA

1. Call to Order

2. Approval of the July 17, 2012 Meeting Minutes of the Bicycle and Pedestrian Committee

3. Call to the Audience

An opportunity will be provided to members of the public to address the committee on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Members of the public will be requested not to exceed a three minute time period for their comments. A total of 15 minutes will be provided for the Call to the Audience agenda item, unless the Committee requests an exception to this limit. Please note that those wishing to comment on action agenda items will be given an opportunity at the time the item is heard. Please fill out blue cards for Call to the Audience and yellow cards for Action Items.

4. Staff and Member Agency Reports

Staff and committee members are invited to provide an update of pedestrian and bicycle-related activity in their agencies.

5. Moving Ahead for Progress in the Twenty First Century (MAP-21)

Teri Kennedy will give a general overview of Federal Highway Administration program changes and funding levels under the new Surface Transportation Authorization Act: Moving Ahead for Progress in the Twenty First Century (MAP-21) and its implications for MAG.

2. For information, discussion and action to approve the meeting minutes of the July 17, 2012 Bicycle and Pedestrian Committee meeting.

3. For information.

4. For information and discussion.

5. For information and discussion.

6. Bicyclists in Crosswalks

Reed Kempton will lead a discussion to explore the possibility of adding bicyclists to the definition of crosswalk. Include bicyclists as someone a motorist must yield to when in a crosswalk. Currently, legal duties and obligations of persons on bicycles are not defined in the law. See Attachment 1.

7. Bicycle Education Program

Bob Beane will give a status update on the Bicycle Education Program and request assistance in scheduling "Ready to Ride" classes. There will also be a request for contacts of interested Law Enforcement Departments/Officers to review planned content, and input on web based and/or classroom based presentation and case study approaches.

8. Status Update on the MAG Regional Bikeway Map

MAG staff will give an update on the printing and production of the MAG Regional Bikeway Map.

9. Request for Future Agenda Items

Members will have the opportunity to suggest future agenda topics.

10. Next Meetings

All meetings will be on the third Tuesday of the month in the Ironwood Room at 1:30 p.m., except where otherwise noted.

**October 23, 2012 (12:30 - 4:00 p.m.)**  
**November 13, 2012 (12:30 - 4:00 p.m.)**  
**December 11, 2012 (noon)**

6. For information and discussion.

7. For information and discussion.

8. For information and discussion.

9. For information and discussion.

MINUTES OF THE  
MARICOPA ASSOCIATION OF GOVERNMENTS  
BICYCLE AND PEDESTRIAN COMMITTEE

Tuesday, July 17, 2012 at 1:30 p.m.  
MAG Office Building, Ironwood Room  
302 North First Avenue, Phoenix

MEMBERS ATTENDING

Reed Kempton, Scottsdale, Chair of Bicycle and Pedestrian Committee	Joe Schmitz, Goodyear
Margaret Boone, Avondale, Vice-Chair of Bicycle and Pedestrian Committee	Julius Diogenes for Michael.Carlsonis, Litchfield Park
Michael Sanders, ADOT	Denise Lacey, Maricopa County
Tiffany Halperin, ASLA, Arizona Chapter	Jim Hash, Mesa
Robert Wisener, Buckeye	Brandon Forrey, Peoria
D.J. Stapley, Carefree	Katherine Coles, Phoenix
* Bob Beane, Coalition of Arizona Bicyclists	* Rich Purcell, Queen Creek
Jason Crampton, Chandler	Dawn Coomer, RPTA
^ Mark Smith, El Mirage	Karen Savage, Surprise
^ Nicole Dailey, Gilbert	Eric Iwersen, Tempe
^ Steve Hancock, Glendale	Mark Hannah, Youngtown

\*Members neither present nor represented by proxy

^Attended via audio-conference

OTHERS PRESENT

Vince Lopez, Maricopa County Public Health	Lee Jimenez, MCDOT
Brian Sager, Kimley Horn	Leticia Vargas, Phoenix
Susan Conklu, Scottsdale	Anissa Jonovich, Valley Metro

1. Call to Order

Reed Kempton called the meeting to order at 1:30 p.m.

2. Approval of the June 19, 2012 Meeting Minutes of the Bicycle and Pedestrian Committee

Denise Lacey moved to approve the meeting minutes of the Bicycle and Pedestrian Committee for June 19, 2012. Jim Hash seconded the motion. The motion passed unanimously.

3. Call to the Audience

An opportunity was provided to members of the public to address the MAG Bicycle and Pedestrian Committee on items not scheduled on the agenda that fall under the jurisdiction of MAG, or on items on the agenda for discussion but not for action. Members of the public were requested not to exceed a three minute time period for their comments. A total of 15 minutes was provided for the Call to the Audience agenda item, unless the Bicycle and the Pedestrian Committee requests an exception to this limit. Please note that those wishing to comment on action agenda items were given an opportunity at the time the item was heard.

4. Staff and Member Agency Reports

Maureen DeCindis explained that the new legislation entitled MAP-21 will change the Enhancements process starting this year. The exact details will be known when Federal Highways releases the interpretation of the law.

Reed Kempton reported that Eric Iwersen and Joe Perez were on the Channel 8 Horizon program talking about bicycling in the Valley.

5. MAG Bicycles Count Project

MAG has developed a new Request for Proposal (RFP) for this project. The new Disadvantaged Business Enterprise (DBE) paperwork was submitted to ADOT two weeks ago. By the next meeting, more will be known about the schedule.

6. Transportation Improvement Program (TIP) 2015, 2016, 2017 Applications

Maureen DeCindis noted that the committee meetings will change due to the TIP schedule. The meeting on October 16, 2012 is changed to October 23<sup>rd</sup>, 2012. The originally scheduled meeting on November 20, 2012 is changed to November 13, 2012. The time is changed from 1:30 p.m. to 12:30 p.m.- 4:00 p.m. for both the October and November meetings to accommodate the review and ranking process.

Maureen DeCindis referred to the forms on the MAG website:

- Bike/Pedestrian Facility application
- Facility construction schedule
- Application criteria
- Cost Estimate

Reed Kempton asked if the committee members had any questions. Brandon Forrey suggest that number 3 and 5 are redundant questions on the CMP Qualitative evaluation sheet. Brandon Forrey suggested that the 50% mode split and 50% regional mode don't fit well. Monique del los Rios Urban offered a clarification on the process. The questions developed can be changed by the committee. If the qualitative are split, they can also be weighted. Brandon Forrey suggested dividing this into three categories. As long as there is a system and methodology, then the committee can choose. Reed Kempton asked Brandon Forrey to draft the qualitative questions. Joe Schmitz asked if these are yes/no

answers or numerical points. DJ Stapley asked if sense of place and community values could be included. Reed Kempton agreed that sense of place should be included. Maureen DeCindis provided a basic explanation of the new system for scoring and ranking of projects. Joe Schmitz asked if it will be three years before the next round of funding. Maureen DeCindis said that it is uncertain when the next round will occur.

7. MAG Bike Map

MAG staff explained that the bids from the printers are due July 18, 2012. Maureen DeCindis displayed a copy of the new map asking members to identify the exact location of the photo by placing a corresponding number on the front of the map. Members were asked to give approval to print the map. Maureen DeCindis distributed the master list of distribution contacts for committee members to review and correct. Reed Kempton asked if any committee members had any changes to the map. The committee agreed that the map is ready to go to print. The map had been displayed on the MAG website for one month.

8. Design Assistance Program

Applicants were instructed to give a three minute presentation on their project followed by questions and answers. Members will then rank the projects and recommend approval. There is \$200,000 available for this round of Design Assistance.

Maureen DeCindis explained that the Chandler Regional Rail Crossing Guidelines project is to be taken on by MAG. Eric Iwersen asked Jason Crampton if Chandler has contacted the railroad. Jason Crampton explained that there have been on-going discussions with the railroad.

• Chandler: Regional Rail Crossing Guidelines	\$70,000
• Glendale: 55 <sup>th</sup> Ave Bike Route Spot Improvement	\$69,300
• Mesa: Crosscut Regional Connector	\$80,000
• Phoenix: 32 <sup>nd</sup> St Repurposing Study	\$90,000
• Scottsdale: Crossing Loop 101 at CAP	<u>\$50,000</u>
	\$289,300

Glendale: 55<sup>th</sup> Ave Bike Route Spot Improvement

Steve Hancock explained that Glendale will widen a segment on 55<sup>th</sup> Avenue from 20 feet wide to 42 feet wide. 55<sup>th</sup> Avenue south of this project is already a designated bike route. This segment is 623 feet long and is the only place where the roadway is too narrow for bikes and cars to safely share the road. The project will add 22 feet of curb and gutter. There is an existing irrigation ditch that probably will have to be piped. There are small bridges across the ditch. Highly replicable project because many other MAG cities have ditches running parallel to the roadway and private access driveways cause issues. Brandon Forrey asked if there are any safety issues because 55<sup>th</sup> Ave is a very low volume street. Steve Hancock noted that the roadway is only 22 feet wide therefore cyclists do not have room to share the road with vehicles. Margaret Boone asked if Steve had contact with private property owners. Steve Hancock replied that is part of the assessment.

### Mesa: Crosscut Canal - West Mesa Connector

Jim Hash explained that this is a regional pathway along the Rio Salado and connecting to the Cross Cut Canal. The project uses existing right of way corridor and an existing golf course to provide this connection. Salt River Project approached Mesa saying that all canal banks need to be available for use by the public. Mesa would create a pathway away from but part of the golf course at Mesa Country Club. This pathway will ultimately connect to Mesa to Phoenix, Scottsdale and Tempe. The source of local funds will come from the bond project. DJ Stapley asked about the demographics. Jim Hash explained that as the consolidated canal heads south it does affect lower economic demographic. There is a retirement home and variety of neighborhoods. Joe Schmitz asked if the canal path is already built. Jim Hash explained that the pathway through the golf course is grass.

### Phoenix: 32<sup>nd</sup> St. Repurposing Study

Leticia Vargas explained that the 32<sup>nd</sup> Street Study is from State Route 51 to Reach 11. The street once functioned as a thriving busy arterials but since the extension of SR51 there is a lot less traffic going from 58,000 in 1999 to 21,000 vehicles per day now. Businesses and residential communities have approached the city requesting this repurposing study. There are many land uses in this corridor including the Phoenix Mountain Preserve and the north Reach 11 recreation area. The community wants this arterial to be more bicycle and pedestrian friendly. There are two park and ride lots and many schools in the area. This a very replicable project. Phoenix would like this study to look at residential and commercial segments. DJ Stapley asked about vehicle counts. Tiffany Halperin asked how this project was brought forth from the community. Leticia Vargas explained that business owners and residents approached a city councilmember. The councilmember then came to staff after receiving calls from business and residents. Brandon Forrey asked if the community wants increased traffic. The roadway is 64 feet wide and a road diet might be the solution. Eric Iwersen asked how many lanes were on this arterial. Leticia Vargas responded that there are three lanes northbound and two lanes southbound and two turning lanes and some frontage roads. Jason Crampton asked if they are looking at pedestrian friendly land use policies. Tiffany Halperin asked what support Phoenix will offer. Leticia Vargas said that management is excited about the project and ready to support it.

### Scottsdale: Crossing Loop 101 at CAP

Susan Conklu reported that this project would design a non-motorized crossing of the Loop 101 freeway and access roads at the Cental Arizona Project. It includes east/west grade-separated crossings. The only alternative crossing is Frank Lloyd Wright Blvd that has 75,000 cars per day. It is not pedestrian friendly and has no bike lanes. The city estimated that the design cost would be \$50,000. The city has local funding and would seek federal funding. This project is part of the 336 mile CAP trail. The intent is to create connectivity with major employment center such as the Airpark and two community centers, libraries, schools, and resorts. Scottsdale needs to know what design would work the best and an accurate cost estimate. Eric Iwersen asked if there has been any communication with ADOT. Reed Kempton said that ADOT is okay with this project. Michael Sanders agreed that the district is supportive. Joe Schmitz said that the map shows planned pathways. Susan Conklu said that right-of-way has been accrued but this lack of crossing is the biggest hindrance. Reed Kempton said the pathways would be built if the bridge is built. DJ Stapley asked what the proximity to the nearest residential is? Susan Conklu replied that the community is one half to one mile away. Most are single and multi family developments.

After the presentations, Maureen DeCindis instructed committee members to consider the presentations and then submit a ranking sheet. Maureen DeCindis incorporated all the ranking results into an excel spreadsheet and announced the rank order as:

#1	Mesa: Crosscut Regional Connector	\$80,000	\$80,000
#2	Scottsdale: Crossing Loop 101 at CAP	\$50,000	\$50,000
#3	Glendale: 55 <sup>th</sup> Ave Bike Route Spot Improvement	<del>\$69,300</del>	<del>\$70,000</del>
		\$199,300	\$200,000

The committee made a motion to add \$700.00 to the Glendale project bringing its request to \$70,000. Denise Lacey made a motion to approve ranking of the Design Assistance Projects and add \$700 to Glendale project. Brandon Forrey seconded the motion. The motion passed with Katherine Coles voting nay.

9. Request for Future Agenda Items

Members had the opportunity to suggest future agenda items.

Eric Iwersen expressed an interest in periodic updates on the Chandler railroad crossing project.

Margaret Boone asked that the committee discuss developing training on implementing complete streets policy to local agency staff.

10. Next Meetings

All meetings will be on the third Tuesday of the month in the Ironwood Room at 1:30 p.m., except where otherwise noted.

- ~~August 21, 2012~~ cancelled
- September 18, 2012
- October 16, 2012 October 23, 2012 (12:30 p.m. - 4:00 p.m.)
- November 20, 2012 November 13, 2012 (12:30 p.m. - 4:00 p.m.)
- December 18, 2012 December 11, 2012 (noon?)

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Supreme Court of Arizona, In Division.  
 Charles J. MAXWELL, next of friend of Jeffrey Jon  
 Maxwell, Appellee,  
 v.  
 Celia Sharon GOSSETT and Thomas G. Gossett,  
 husband and wife, Appellants.  
**No. 14676.**

June 2, 1980.

Action was brought for injuries sustained by ten-year-old bicyclist in intersectional collision with defendants' automobile. The Superior Court of Maricopa County, Cause No. C-351976, Rufus C. Coulter, J., instructed the jury on contributory negligence by a child, but refused defendants' instructions concerning alleged violation of traffic laws. Defendants appealed from an award of damages for the injuries to the bicyclist. The Supreme Court, Cameron, J., held that the trial court properly refused to give defendants' requested instructions.

Affirmed.

Hays, J., concurred specially and filed statement.

West Headnotes

**[1] Automobiles**  **201(1.1)**  
[48Ak201\(1.1\) Most Cited Cases](#)  
 (Formerly 48Ak201(1))

**[1] Automobiles**  **246(35)**  
[48Ak246\(35\) Most Cited Cases](#)

There was no causal connection between possibility that ten-year-old boy may have been riding bicycle on wrong side of street and collision with automobile which occurred while he was in crosswalk at intersection; thus, trial court, in action for injuries sustained in the accident, did not err in refusing to instruct jury as to statute requiring that bicycles be ridden on right side of street, since it was immaterial to whether he was negligent while riding his bicycle in crosswalk. [A.R.S. § 28-815.](#)

**[2] Automobiles**  **162(7)**  
[48Ak162\(7\) Most Cited Cases](#)

Safety zone statutes had no application to facts in action for injuries sustained by ten-year-old bicyclist when struck by car while riding in crosswalk. [A.R.S.](#)

[§ § 28-101](#), subd. 40, 28-602, subds. 2, 2(a, b), 28-831.

**[3] Automobiles**  **212**  
[48Ak212 Most Cited Cases](#)

Statute which applies same traffic laws to bicyclists as to drivers of motor vehicles does not prohibit riding of bicycle in crosswalk. [A.R.S. § § 28-602](#), subd. 2, 28-812, 28-831.

**[4] Automobiles**  **246(35)**  
[48Ak246\(35\) Most Cited Cases](#)

Issue whether ten-year-old boy was negligent in riding bicycle in crosswalk was question of general contributory negligence for which jury was properly instructed, not negligence based on violation of statute which applies same traffic laws to riders of bicycles as it does to drivers of motor vehicles. [A.R.S. § 28-812.](#)

**\*98 \*\*1061** Burch, Cracchiolo, Levie, Guyer & Weyl, P. A. by Barry A. MacBan, Daniel P. Jantsch, Thomas G. Bakker, Phoenix, for appellee.

Hoffman, Salcito & Stevens, P. A. by Gene C. Stevens, James W. Evans, James W. Fritz, Phoenix, for appellants.

CAMERON, Justice.

This is an appeal by the defendants from an award of \$15,250 for injuries to Jeffrey Jon Maxwell, a minor, as a result of an intersection accident. We have jurisdiction pursuant to Rule 19(e), Rules of Civil Appellate Procedure, 17A A.R.S.

Defendants contend on appeal that the trial court erred in refusing to give instructions relating to various statutory duties and responsibilities of one who operates a bicycle on the public streets.

The facts necessary for a determination of this matter on appeal are as follows. The intersection of 8th Avenue and Alma School Road is located in Mesa, Arizona. 8th Avenue runs east and west, and Alma School Road runs north and south. At the northwest corner of the intersection is a U-Totem convenience market, and to the east of the intersection, on the south side of 8th Avenue, is the Ida Redbird School. **\*99 \*\*1062** From the northwest corner, where the U-Totem Market is located, to the northeast corner, is a

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clearly marked crosswalk. On the morning of 1 February 1977, ten year old Jeffrey Maxwell was on his way to the Ida Redbird School. He stopped for candy at the U-Totem Market, put the candy in his pocket, and proceeded to ride his bicycle from the northwest corner to the northeast corner, in the marked crosswalk. At about the same time, the defendant, Mrs. Gossett, was proceeding west on 8th Avenue intending to make a right (north) turn onto Alma School Road, at the same intersection. The traffic light was green, and she made her right turn, ran into Jeffrey, and he was injured.

The court instructed the jury on contributory negligence by a child of Jeffrey's age, but refused defendants' instructions concerning alleged violation of the Arizona traffic laws. Defendants' offered instructions were as follows:

"R.A.J.I. Negligence 7 Violation of Statute

"If you find that any party to this suit violated any of the following laws, then that party is negligent. You should then determine whether that negligence was a cause of the Plaintiff's injury.

"[s 28-812, A.R.S.](#), Traffic laws apply to persons riding bicycles

"Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article, and except as to those provisions of this chapter which by their nature can have no application.

"[s 28-101, A.R.S.](#), Definitions

"In this title, unless the context otherwise requires:

"40. 'Safety-zone' means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

"[s 28-831, A.R.S.](#), Driving through safety zone prohibited

"No vehicle shall at any time be driven through or within a safety zone.

"s 28-815 A., A.R.S., Riding on roadways and bicycle paths; prohibition of motor vehicle traffic on bike paths

"Every person 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."

We will consider the failure to instruct as to each of the statutes cited by defendant.

[A.R.S. s 28-815\(A\)](#)

(1) This statute requires that bicycles must be ridden on the right side of the road or with the traffic. Jeffrey was riding his bicycle in the crosswalk at the intersection. Whether he had been operating the bicycle on the left side, contrary to the statute, before he entered the crosswalk, whether he intended to continue operating his bicycle on the roadway, contrary to statute, after he left the crosswalk, or even whether he intended to ride his bicycle on the available sidewalk on the north side of 8th Avenue, is immaterial as to whether he was negligent while riding his bicycle in the crosswalk. We agree with the New Mexico Court of Appeals which stated in a similar case:

"The accident occurred at the intersection of Chelwood, a north-south street, and Menaul, an east-west street. The trial court found that decedent was proceeding in a southerly direction on Chelwood at the time of the accident. The Wylie vehicle was traveling in an easterly direction on Menaul. Even if we accept defendants' contention that decedent was operating his bicycle on the left side of Chelwood in violation of the statutes alluded to, we must uphold the trial court's finding of absence of contributory negligence.

" \* \* \* Here the evidence sustains an inference that the collision would not have been avoided even if the decedent had been obeying the statutory mandates \*100 \*\*1063 relating to traffic flow. The violation of the statutes, if any, did not even cause or contribute to the accident in fact. \* \* \* " [Wilson v. Wylie, 86 N.M. 9, 12, 518 P.2d 1213, 1216 \(1973\)](#).

Causation is still a part of the law of negligence, [Pacht v. Morris, 107 Ariz. 392, 489 P.2d 29 \(1971\)](#), and we find no causal connection between the fact that Jeffrey may have been riding on the left hand side of the street before he stopped at the U-Totem Market and the accident which occurred while he was in the crosswalk at the intersection.

"In this state, it is reversible error to give an instruction on a legal theory as to which there is not substantial evidence, (citations omitted) and it is equally reversible error not to give an instruction on a legal theory within the issues of the case which is supported by substantial evidence." [Newman v. Piazza, 6 Ariz.App. 396, 398, 433 P.2d 47, 49 \(1967\)](#).

The instruction, if given, would have been error.

[A.R.S. s 28-831](#)

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(2) This statute states "no vehicle shall at any time be driven through or within a safety zone." By definition, a safety zone is set apart for the exclusive use of pedestrians, [A.R.S. s 28-101\(40\)](#), and, assuming a bicycle is a vehicle for the purposes of the statute, it would have been equally violative of the statute for either Jeffrey or Mrs. Gossett to drive or ride their vehicles in such a safety zone. We are not concerned in the instant case with a safety zone, however. Jeffrey was not crossing the street in a safety zone. He was crossing the street in a crosswalk as defined by [A.R.S. s 28- 602\(2\)\(a\) and \(b\)](#), and the safety zone statutes have no applicability to the facts in this matter. We find no error.

[A.R.S. s 28-812](#)

(3)(4) Finally, defendants contend that by this statute, [A.R.S. s 28- 812](#), the automobile traffic laws apply to persons riding bicycles, and that, when read with [A.R.S. s 28-831](#) defining safety zones and [A.R.S. s 28- 602\(2\)](#) which defines crosswalks, it is unlawful to ride a bicycle in a crosswalk. We agree that this section generally applies the same traffic laws to riders of bicycles as it does to drivers of motor vehicles. The statute excludes, however, provisions "which by their nature have no application." We do not read the cited statutes as prohibiting the riding of a bicycle in a crosswalk.

We are aware that teachers and concerned parents regularly instruct their children to dismount and walk their bicycles through the crosswalks or major intersections, and that their children, just as regularly, ignore this sound advice. However, this is a question of general contributory negligence for which the jury was properly instructed. It was not negligence based upon a violation of the statute. We find no error.

We note also that some courts have held that a crosswalk is not a part of the roadway for the purposes of the statute. In a case wherein a minor was hit by an automobile as she was riding her bicycle in an intersection, the Washington Court of Appeals, construing a Washington statute almost identical to ours, has stated:

" \* \* \* Miller contends that at the time of the accident, Kelley Ann was a bicyclist subject to the requirements of the Motor Vehicle Code, [RCW 46.61.755](#); the Crawfords contend that she was a pedestrian. [RCW 46.04.400](#). The instruction directed the jury to determine which law applied. [RCW 46.61.755](#) reads as follows:

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle

by this chapter, except as to special regulations in [RCW 46.61.750](#) through [46.61.780](#) and except as to those provisions of this chapter which by their nature can have no application.

"This statute does not apply because it governs the rider of a bike in a 'roadway,' which is defined as 'the paved, improved, or proper driving portion of a public highway \*101 \*\*1064 designed, or ordinarily used for vehicular travel.' [RCW 46.04.500](#). A crosswalk is not a roadway." [Crawford v. Miller, 18 Wash.App. 151, 152-53, 566 P.2d 1264, 1265-66 \(1977\)](#).

Judgment affirmed.

STRUCKMEYER, C. J., concurs.

HAYS, Justice, specially concurring:

I concur in the result. However, I am disturbed by the fact that the legal duties and obligations of persons on bicycles are not defined in the law. Some bicyclists ride with traffic, others ride facing traffic, and of course some ride in the crosswalk. Our statutes give no indication of what is and what is not appropriate. I think this is a matter for the legislature and I hope that they will take the time to determine what should be the rights and the obligations of those who use bicycles in today's heavy traffic.

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