

H.209
MOTOR VEHICLES; VULNERABLE USERS

1/15/2014

Rep. Jim McCullough

Authorized by 42 additional consignees

Thank you Mr. Chair and committee members for your excellent vulnerable users work of 2 biennia ago. Thank you for hearing me today.

Thank you VT Bicycle and Pedestrian Coalition for your support.

Thank you Green Mountain Bicycle Club for your support.

Thank you to the 22 other states that have similar vulnerable user language.

H.209

Brushed back, though not mentioned in the bill, is a term commonly used to describe intimidation by motor vehicle operators driving, usually at speed, usually loudly (horn or revved engine), always within inches of the cyclist or pedestrian.

I dedicate my presentation today to Herb Painter, a consummate cyclist, mentor and dear friend. Herb was "brushed back" and killed by an unknown yahoo motorist.

Would this bill have saved Herb? No. There were no witnesses. Had there been a witness, that person could have clearly testified, "Yahoo was in complete violation of 23VSA ss1033 (b)". Absent the proposed language addition (pg. 3; lines 13-18), there would have been a significant opportunity for a subjectivity argument by Yahoo's attorney. This additional language would clarify the vulnerable user's right of way.

Jim, read lines 9-18

Even so, Herb would have still been dead, but we would have been one clear step closer to meting out justice to Yahoo.

H.209 has 9 pages; leading one to believe it is may be somewhat lengthy and surely complicated. Nothing could be farther from the truth. Lines 13-18 on page 3 are the heart of the bill. They are, frankly, the only policy decision in the bill. The rest of the bill is good housekeeping by Legislative Council, facilitating your good work of 4 years ago.

Some will say this will be hard to enforce.

We have many motor vehicle laws which are hard to enforce... speeding, driving w/o a license, texting while operating, DUI... This does not mean we should never have enacted these laws or should abandon them. They are important.

My bill is important!

In H.209, hard to enforce could mean a police officer (upon witnessing a possible infraction) may be uncertain if the motorist actually intimidated the vulnerable user as described in the bill. Was it closer than 3' or more like 3.5'? Did the motorist travel at 30MPH or was it more like 37 MPH.

I get this. But please remember, **all law enforcement is discretionary.**

Motorists are often, not always, passed by for ticketing for “non-egregious” violations such as 3-5 MPH over the limit or a rolling stop at a stop sign.

Enforcement is discretionary.

When those same violations are amped up to clearly excessive, the officer recognizes the deadly nature of the offense and acts to protect the public safety. This is how reasonable law enforcement will respond to my bill.

Some of the 42 House Members who cosigned this bill first asked me, “Jim, what happens when I come up behind a person, there is a truck coming in the opposite lane, the road is narrow and I don’t have the specified clearance to pass?” I always responded, “Take 1.5 seconds off your life and slow down, then pass safely”. With that logic, to the person, they signed on to this bill.

I believe most Vermonters will always want to do the right thing and follow the law. This bill will help educate them. It will help convict others. It will protect many.

Assault and battery with one’s fists is one thing; a 50MPH brush back with a 3,500 pound vehicle is surely another.

Remember, Vulnerable Users are *people*.

Please take this bill up; giving it your usual careful, due diligence. It is a good thing to do.

Again,
Thank you,
Jim McCullough