



Feedback on Proposed Regulations for Traffic Safety Act



5516 Spring Garden Rd

To whom it may concern:

Bicycle Nova Scotia (BNS) represents recreational, commuter, and competitive cyclists in Nova Scotia and works in partnership with provincial departments to increase the participation rate of cycling in the province. BNS has focused for the past number of years on advancing the Blue Route, a 3,000+ km route of connected cycling infrastructure that we oversee in partnership with the Department of Transportation and Infrastructure Renewal (DTIR).

We are submitting feedback on the proposed 'Rules of the Road' regulations for the Traffic Safety Act, which are based on the expertise of our board and staff. We co-hosted two engagement sessions in December 2020, which were attended by a total of 167 participants. Discussions from those engagement sessions have also helped to guide these recommendations. Our focus is on improving safety and reducing barriers to cycling in Nova Scotia and helping to establish Nova Scotia as a cycling destination for residents, visitors, and tourists. Our overarching goals include:

- Increased road safety for all
- Promote and prioritize walking & wheeling
- Remove barriers to walking & wheeling, including legal penalties that create barriers for BIPOC communities
- Increase responsibility of drivers toward vulnerable road users
- Expand tools available to create continuous connected networks for walking & wheeling
- Improve experience of visitors riding bicycles on the Blue Route

The proposed regulations include some suggestions that have previously been made by Bicycle Nova Scotia and our partners with the Atlantic Active Alliance. We are pleased with the commitment TIR has shown to improving conditions for walkers and cyclists through this act. BNS is interested in continuing to work with DTIR on these regulations to ensure we achieve our shared vision. We appreciate the opportunity to provide feedback on the regulations and we are available for any questions or clarifications you may have regarding our recommendations. Call us at (902) 802- 3702 or email alison.carlyle@bicycle.ns.ca

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INTRODUCTION

Bicycle Nova Scotia (BNS) represents recreational, commuter, and competitive cyclists in Nova Scotia, and works towards increasing the participation rate of cycling in the province. We work in partnership with a number of provincial government Departments to increase and improve cycling across Nova Scotia. This includes our work on advancing the Blue Route, a 3000+km route of cycling infrastructure, which is co-led by the Department of Transportation and Infrastructure Renewal (DTIR).

The proposed regulations include suggestions that have been made by BNS and our partners Halifax Cycling Coalition, Ecology Action Centre and Walk 'n' Roll Halifax (the Atlantic Active Alliance). We are pleased with the commitment DTIR has shown to improving conditions for walkers and cyclists through this legislation and have outlined areas we believe still need to be addressed to further advance the safety of vulnerable road users.

This report is split into three sections: our over-arching recommendations, which impact a large number of regulations; priority recommendations with a significant impact on the safety of cyclists and that seek to remove barriers to encourage more people to cycle; and recommendations to help establish Nova Scotia as a cycling hub in Canada, for both residents and visitors.

SCOPE FOR FEEDBACK

BNS is submitting feedback on the proposed 'Rules of the Road' regulations under the Traffic Safety Act based on the expertise of our board and staff. We co-hosted two engagement sessions with the Active Alliance with 167 people in attendance. The discussions at these consultation sessions, as well as the follow-up survey sent to participants, have also helped to guide these recommendations.

Our focus for this feedback is on the articles relating to cycling, including cycling for transportation, competition, recreation, and tourism. In addition to our competition and recreation events, BNS has been working closely with municipalities across Nova Scotia over the last few years to advance infrastructure, which has given us a strong understanding of cycling in urban and rural areas.

BNS recognizes that the province supports active transportation through their funding of the Blue Route, legislation such as the *Accessibility Act*, policies such as Nova Scotia's [Sustainable Transportation Strategy](#), Nova Scotia's [Shared Strategy for Trails](#), Nova Scotia's [Let's Get Moving](#) plan, and much more. We have considered these policies, plans, and frameworks to help guide our feedback, and to ensure that these regulations support the province in reaching these goals.

OVERALL OBJECTIVES:

Our focus is on improving safety and reducing barriers to cycling in Nova Scotia and helping to establish Nova Scotia as a cycling destination. The following objectives, shared with the Active Alliance, have guided our recommendations on the proposed regulations:

- Increased road safety for all
- Promote and prioritize walking & wheeling
- Remove barriers to walking & wheeling, including legal penalties that create barriers for BIPOC communities
- Increase responsibility of drivers toward vulnerable road users
- Expand tools available to create continuous connected networks for walking & wheeling

Additionally, as co-chairs with the Department of Transportation and Infrastructure Renewal (TIR) on the Blue Route Committee, Bicycle Nova Scotia focuses on the safety and experience of people riding bicycles on the Blue Route.

- Improve experience of visitors riding bicycles on the Blue Route

OVERARCHING RECOMMENDATIONS

The following section outlines three overarching recommendations for the ‘Rules of the Road’ section. By changing the name of the Act from the *Motor Vehicle Act* (MVA) to the *Traffic Safety Act* (TSA), TIR has signaled its intention to focus on the safety of all road users. We have identified three things that should be included when finalizing the recommendations, to better incorporate the needs of vulnerable road users in these regulations and to reflect the change in focus from vehicles to road users.

I. HIERARCHY OF RESPONSIBILITY

We are asking that the TSA identify a hierarchy of responsibility, which outlines that people operating the largest vehicles, and therefore with the most potential to do harm, bear the greatest responsibility to reduce the danger they pose to others. Vulnerable road users, pedestrians, in particular children, older adults, and disabled people would be at the top of this hierarchy, followed by cyclists. A truck or bus driver would have greater responsibility than vulnerable road users, such as cyclists and pedestrians. It would not remove the need for all users to behave responsibly or give priority to pedestrians and cyclists in every situation, but it would ensure that their needs were considered first.

A hierarchy of responsibility is not a new concept. In fact, one was recently introduced in the United Kingdom. A version of the hierarchy of responsibility is also used on waterways in Canada by the *Canadian Shipping Act*, which outlines which vessels should yield to other vessels¹.

II. SECTION FOR CYCLING

In our work on bicycle incidents, we see an inconsistency by law enforcement in understanding how the MVA relates to cyclists. A section of the TSA that pulls together all bicycle-related clauses would improve the understanding of these regulations.

III. IDENTIFY BICYCLES AS MOBILITY AIDS

The regulations should identify a bicycle as a mobility aid and ensure that these types of bicycle users are considered when finalizing the regulations. There are some physical conditions that make it more difficult for people to walk than to ride a bike. An organization in the UK called Wheels for Wellbeing found that 75% of disabled cyclists use their bike as a mobility aid.

Section 116, for instance, requires that a cyclist dismount from their bicycle to use a crosswalk. This regulation should be updated to reflect that in some instances, bicycles are used as mobility aids and some cyclists may have physical difficulties walking across the road. This change would support the goals of the *Accessibility Act*.

¹ Rule 18, Responsibilities between vessels in Collision Regulations of Canada Shipping Act, 2001

KEY RECOMMENDATIONS

This section outlines the regulations identified by Bicycle Nova Scotia (BNS) as the most important changes required to increase overall safety on roads and other pathways and reduce barriers to active transportation. They are ordered by section number, rather than importance, to make it easier to review.

1. PASSING DISTANCE [SECTION 30(7)(B)]

To increase safety for both residents and visiting cyclists, BNS believes that the passing distance on roads where vehicles are travelling at speeds higher than 50 km/h should be increased to 1.5m. This is the requirement in Quebec, and creates a safer and more comfortable experience for cyclists. The Blue Route currently includes some sections on the road where there are no paved shoulders. To attract cycling tourists, a safe experience on our higher speed roads is important for word-of-mouth tourism. If we are hoping to compete for tourism dollars with the Route Verte in Quebec, Nova Scotia should be aiming for an equal experience of perceived and real safety for people cycling on the road.

2. RIGHT HOOK [SECTION 30(9) & SECTION 122(3)]

We propose that the regulations clarify that priority should always be given to people walking or cycling straight ahead across their path, unless traffic signs, signals, or markings say otherwise. In both Section 30(9) and Section 122(3) the current language does not reflect the status of vulnerable road users, and instead places the onus on people riding bicycles to keep themselves safe. For instance, where there is slow moving vehicle traffic, the motor vehicle should still be checking to ensure that they will not collide with someone on a bicycle to enter a driveway, and at intersections. This should help reduce 'right-hook' collisions (where a vehicle turning right hits a cyclist who is travelling straight through the intersection) and make it easier to maintain priority of bicycles at intersections. We recommend that Section 30(9) read as follows:

"A driver shall not make a right turn unless the turn can be made safely and without impeding the cyclist's movement."

The previous drafting includes too many elements and a very narrow set of facts to which the section is applicable. It also does not apply to a case where the driver turns right and collides with the rear tire of a cyclist because a driver has not "passed" the cyclist. These two sections should be updated together with the intention of clarifying the responsibility of drivers of motor vehicles to take precautions that increase road safety for all users.

3. SPEED [SECTION 59(3)]

Bicycle Nova Scotia proposes that the Act be updated to allow municipalities to set speed limits below 50 km/h. Lower speed limits cause fewer and less serious accidents, with a drastic difference in fatality rates to vulnerable road users. In our consultation sessions, 92% of our participants agreed that municipalities should have the authority to lower default speed limits below 50 km/h.

4. SPEED LIMIT IN SCHOOL ZONES [SECTION 61(3) & (4)]

Of particular concern to participants in our consultation sessions was the proposal to only require drivers to slow to a reduced posted speed in school zones when children are visibly present. Drivers may not see a child before they drive by, but that does not mean that a child is not there. When polled at the public discussion sessions on December 8th and 9th of 2020, 80% of respondents supported the following statement: The reduced school zone speed limit should not depend on a child being visibly present. We recommend that the reduced speed limit in school zones not be dependent on the presence of a child.

5. HELMET EXEMPTIONS [SECTION 111(2),(3) & (4)]

We recommend the requirement to obtain a certificate for a religious exemption to wearing a helmet be removed. When polled during the December 8th and 9th public discussion sessions, 68% of people agreed with the following statement: The religious exemption for wearing an approved bicycle helmet should not require a certificate from the registrar. A participant in this session also mentioned the difficulty in promoting the bike share at Cape Breton University because of this requirement. As well, this requirement is a deterrent for tourists who may want to travel to Nova Scotia to cycle on the Blue Route, or even rent a bicycle to tour downtown Halifax. We recommend establishing an automatic exemption from wearing a helmet if it would interfere with a person's religious practices based on the assertion of same by the rider.

6. BICYCLE IN BICYCLE LANE [SECTION 114 (1)]

People cycling should not be required to cycle in a bike lane if one is provided. Cyclists should be able to determine the safest and most practicable option. Poorly designed cycling infrastructure might not feel safe or convenient and people cycling should be able to determine what position they should take on the road. Alternatively, new infrastructure such as the bicycle boxes on Halifax's South Park Street, while a great option for cyclists who may not feel comfortable making a left turn with traffic, can be less direct and convenient for cyclists. We recommend removing the requirement for people to cycle in a bicycle lane where provided.

7. BICYCLE NOT IN A BICYCLE LANE [SECTION 115]

A person cycling who is not travelling in a bicycle lane may not be able to travel on the far-right side of the roadway for several reasons. These reasons could include: avoiding a hazard like a crack in the pavement or debris that has accumulated by the curb; a narrow street with no space for a vehicle to pass regardless of the position of the bicycle; where there is a line of parked cars to avoid colliding with opening doors; if they feel their safety is at risk due to an aggressive driver, etc. We recommend allowing people on bikes to choose their cycling position based on their comfort and the safety of the road conditions.

The regulations should define the ‘primary’ and ‘secondary’ positions and identify when cyclists should consider riding in the center of the lane, to make themselves as visible as possible (primary):

- On quiet roads or streets, moving over to the right if a faster vehicle comes up behind them, but only if they can do so safely.
- At the approach to intersections or where the road narrows, where it would be unsafe for drivers to overtake them.
- At roundabouts.

8. CROSSRIDES [SECTION 116(1)]

A crossride permits people who are cycling to stay on their bikes while crossing through intersections. They may be located where multi-use pathways or bike lanes cross a road. The Rules of the Road Regulations do not clarify whether or not crossrides are permitted. We recommend allowing municipalities to install crossrides to support a safe and convenient cycling network, including crossrides with RRFBs.

9. CROSSWALK [SECTION 116(1)]

Prohibiting people who are cycling from crossing a crosswalk while on their bike puts an unnecessary burden on people who use their bicycle as a mobility aid. People using bikes as mobility aids cannot physically get off their bike to walk across a crosswalk.

This is an example of where urban and rural contexts differ. At rural trail crossings, people should be able to use a crosswalk while still on their bicycle. The lower pedestrian traffic means that the risk of pedestrian-cyclist conflict is lower. People should have the same ability to use a crosswalk on a bike as on an ATV, while still considering the safety of people walking. A hierarchy of responsibility would be the easiest way to make this type of crossing safe, placing the burden of responsibility on ATVs, then on cyclists, requiring both to yield to pedestrians. A speed limit of 12 km/h could also be considered to ensure pedestrian safety. Outside of Halifax, the sidewalks and crosswalks are less busy, and the regulations should be less restrictive regarding cyclists in crosswalks, allowing municipalities to enforce stricter rules where pedestrian traffic is higher.

10. BICYCLE OR OTHER CONVEYANCE ON SIDEWALK [117(5)(B)]

The current default speed limit for cyclists of 7 km/h on facilities shared between cyclists and pedestrians is unworkable as it is far too slow – it being actually difficult to operate a bicycle at that speed. Additionally, people can run and sometimes walk faster than this speed. The three facilities identified are very different, with different uses and needs, requiring separate regulations for effectiveness. Bicycle Nova Scotia recommends that a speed limit of 12 km/h be used for sidewalks, 15 km/h for shared-use sidewalks, and that the word ‘trails’ be removed from Section 117 (5) (b) entirely. We recommend the following update to Section 117 (5)(b):

“drive at a careful and prudent speed in the circumstances and, unless permitted by a municipal by-law or traffic control device, no faster than 12 km/h on sidewalks or 15km/h on shared-use sidewalks”

SET DEFAULT MAXIMUM SPEED OF CYCLISTS ON SIDEWALKS AT 12KM/H.

Bicycles cannot safely travel at a consistent speed of below 7 km/h. This regulation would effectively ban cycling on all sidewalks, multi-use sidewalks, and trails until a by-law was put in place by local municipalities. The minimum speed a cyclist can travel is 12 km/h. At speeds lower than that a bike will start to ‘wobble’. [PRESTO Cycling Policy Guidelines](#) suggest that where bicycles travel slower than 12 km/h, such as after stopping at a stop light, additional width may be needed to account for the ‘wobble’. This would effectively make cycling on these trails dangerous for cyclists and pedestrians, particularly on narrow paths.

SET DEFAULT MAXIMUM SPEED OF CYCLISTS ON SHARED-USE SIDEWALKS AT 15KM/H

TAC guidelines outline that urban bicycle facilities with a variety of users should be designed for a speed of 15 km/h². On multi-use pathways, TAC guidelines recommend designing for 30 km/h, with the minimum design speed of 20 km/h. While 20 km/h would be an appropriate default speed to accommodate existing infrastructure, Bicycle Nova Scotia supports a 15 km/h speed limit on shared-use sidewalks. Where TAC guidelines cannot be followed, municipal by-laws can be used to lower the speed limit of these facilities to an appropriate speed.

A default speed limit of 7 km/h places an unnecessary burden on municipalities with existing infrastructure already designed for a higher speed, to pass by-laws that would allow cyclists to legally use the infrastructure.

REMOVE DEFAULT SPEED LIMIT FROM TRAILS

We are asking for more clarity on the scope of the word ‘trails’ as used in Section 117(5)(b). Many trails in Nova Scotia already have a speed limit of 20 km/h, posted by the Department of Lands & Forestry, and it is unclear how the use of this word relates to the current structure of trail ownership in Nova Scotia.

Having a default speed limit lower than 20 km/h on trails, where there is less risk of conflict due to lower pedestrian use and fewer access points, would create an unnecessary burden on municipalities to pass by-laws to raise the default speed limit to a more appropriate speed for trails. For most rural municipalities there are legal costs associated with the drafting of by-laws resulting in a budget impact.

A speed limit of 20 km/h is still too low to attract people on cycling holidays if applied to a majority of the Blue Route trails. In Montreal, there are urban parks with speed limits of 20 km/h on shared pathways, which would have much higher pedestrian traffic volumes than some of the trails in Nova Scotia.

² TAC Bicycle Integrated Design Guide: Section 5.5.1 – Design Speed (p,5-37)

SPEED LIMITS COULD BE ENHANCED OR REPLACED BY HIERARCHY OF RESPONSIBILITY

Creating a hierarchy of responsibility for roads and sidewalks would allow cyclists and pedestrians to use shared infrastructure, requiring cyclists to yield to pedestrians on sidewalks, trails, and roads. In [Whitehorse](#) cyclists are allowed to use the sidewalk but must pass pedestrians at “walking speed”³. This would be a better option for a number of reasons, including the difficulty for cyclists to monitor their speed while cycling. This option to remove speed limits would extend to protect cyclists in a situation where no sidewalk exists, and pedestrians and cyclists are both using a paved shoulder.

11. BICYCLE FLAG REQUIREMENT [SECTION 118(3)]

Requiring a bicycle driven by a person shorter than 1m when seated on the bicycle to be equipped with a flag creates an unnecessary barrier for people who want to cycle. This specifically will impact children less than 1m high when seated on their bike and riding on a sidewalk, who may not have access to a flag system as described in the regulations. Bicycle Nova Scotia is interested in learning more about the research that guided this regulation. For some recumbent cyclists in the province, strobe lights are preferred to flags, as flag visibility is dependent on the wind, with flags often flowing directly behind a bicycle at higher speeds. We recommend removing this requirement, and we also request more information as to how this regulation was developed and the relevant research.

12. RIDING TWO-ABREAST [SECTION 122(1)]

Section 122(1) requires people cycling to ride single file. We recommend allowing people riding bikes to ride two-abreast. Allowing people to ride two-abreast makes group riding with new riders including children feel much safer. This helps to build confidence in cycling and expand access to those who might otherwise feel unsafe.

Riding two-abreast makes passing people on bikes safer and quicker. When passing a person on a bike, a person driving needs to cross over into the oncoming traffic lane. If the driver has to pass two cyclists in a row, they need to be in the oncoming traffic lane for double the length of time, increasing the risk of a collision with oncoming traffic. Riding two-abreast is safer for people riding bikes, and makes overtaking easier and safer for people driving. We recommend amending Section 122(1) to read as follows:

“Cyclists’ may ride two abreast. Cyclists shall switch to single file where safe to do so to allow drivers to overtake.”

³ City of Whitehorse, Bylaw 2013-35 Section 10 (3), <https://whitehorse.ca/home/showdocument?id=108>

ADDITIONAL RECOMMENDATIONS TO BUILD A CULTURE OF CYCLING, AND ESTABLISH NOVA SCOTIA AS A CYCLING DESTINATION

Recommendations made in this section would help to create a better environment for people on bikes, help to strengthen the cycling culture, and help to establish Nova Scotia as a leading cycling destination in Canada and around the world.

13. RENAME THE REGULATIONS

The draft regulations are titled “Regulations Respecting Rules for the Use of Highways by Drivers and Pedestrians”. Specifying only drivers and pedestrians in the title of the regulations excludes many other road users, such as people cycling, skateboarding, using a scooter, or using a mobility device. We recommend re-naming the regulations to “Regulations Respecting Rules for Use of Highways”.

14. CYCLISTS YIELDING TO TRAFFIC [SECTION 13(3) AND SECTION 114(4)]

We are requesting more information on Section 13(3) and Section 114(4). It is unclear whether this also applies to intersections where bike lanes continue on the other side of the intersection.

15. DRIVERS IN A BICYCLE LANE [SECTION 14(3)(F) AND SECTION 19(2)]

We recommend that the exceptions allowing drivers to drive motor vehicles in bike lanes as per Section 19(2) be removed from the regulations. A driver behind another vehicle signalling a left turn should not be permitted to drive in a bike lane. Doing so gives the vehicle priority in the bicycle lane and would create an unsafe and inconvenient condition for people cycling. We recommend that no one shall be permitted to drive in a bike lane except those listed in Section 14(3). While we agree with most of the exceptions listed, we do not think that construction vehicles should be permitted in bike lanes (Section 14 (3) (f)). The language should be changed to match the wording in Section 19, identifying that only construction vehicles involved in maintenance or construction of the highway be permitted, with a requirement for construction mitigation that identifies a new path for cyclists.

16. SIGNALLING A STOP [SECTION 29(3)(A)&(B), SECTION 29(C)]

We recommend removing the requirement to signal throughout the stopping maneuver, and only require people cycling to signal a stop before the maneuver. There are several situations which make it difficult and unsafe to signal a stop, including while you are travelling downhill. This change would also be consistent with Section 29(3)(a) & (b), which only requires people cycling to signal before beginning the maneuver.

IDAHO STOP [SECTION 35]

The Idaho stop is the common name for a law that allows people cycling to treat a stop sign as a yield sign and a red light as a stop sign. The law originated in Idaho but versions of it have been passed in several US jurisdictions. The consensus amongst stakeholders such as transportation officials, urban planning staff, law enforcement, and cycling advocacy groups is that the Idaho stop law has helped to facilitate the ease and convenience of cycling without causing any risks to people cycling or increasing the number of collisions. We recommend permitting people cycling to treat stop signs as yield signs and red lights as stop signs. This change would make it easier and more convenient for cyclists by removing the burden to come to a complete stop when it is not necessary to do so for safety reasons.

17. HELMET REQUIREMENTS [SECTION 110]

Bicycle Nova Scotia agrees that helmets should be mandatory for people under 17 years old. While we would always encourage individuals to wear helmets, helmet restrictions may preclude some programs, such as a municipal bike share. These bike share systems, which are growing in popularity as both a commuter and a tourist activity, would not work with a mandatory helmet law. We recommend that it is mandatory for those under 17 to wear helmets, and that helmet use for adults is encouraged through education and awareness.

18. ROUNDABOUTS [SECTION 121]

We recommend that Section 121 clarify that cyclists should be permitted to travel in the centre of the lane. We recommend that the 'primary' and 'secondary' road positions be used to explain how cyclists should use roundabouts. Our recommended language is outlined above in recommendation 7 of this document.

19. CYCLIST LEAVING 1M TO PASS ON LEFT [122(2)]

We are requesting more clarity on Section 122 (2), including what the purpose is and how it relates to parked cars, and Section 114(1) and Section 103. It is unclear why someone on a bicycle is required to provide space to a vehicle it is overtaking, when the same is not required of a vehicle overtaking another vehicle. Where a bicycle is travelling faster than a vehicle, there is less danger the cyclist and 1m of space is not needed for the safety of the cyclist. More clarity on the purpose of this law and who it is serving is required.

If the purpose of Section 122(2) is for cyclists passing parked vehicles, to protect them from 'dooring' (when the door of a motor vehicle is opened without sufficient time for the cyclist to avoid a collision) this combined with section 103 could result in a double conviction for both an operator of the motor vehicle and a person riding a bicycle. It is important that cyclists are cautious of parked cars for their own safety, however BNS does not feel that penalizing cyclists following this injury is the appropriate way to keep cyclists safe. Additionally, there are many instances in Nova Scotia where the bike lane passes within 1m of a parked vehicle, which again creates confusion with Section 114(1) that requires cyclists to use a bicycle lane. Weaving in and out of traffic is incredibly dangerous for cyclists. We recommend these regulations should be updated together, to ensure there is clarity on what is expected of people riding bikes.

CONCLUSION

Bicycle Nova Scotia (BNS) is pleased that the Department of Transportation and Infrastructure Renewal (DTIR) has included previous recommendations made by walking and cycling advocacy groups, including BNS, and hope that these recommendations will help DTIR further advance the safety of vulnerable road users in Nova Scotia. Increasing the safety of cyclists on the road and removing financial barriers to people interested in cycling is incredibly important to encourage residents to cycle, and to attract visitors to the province. All the recommendations we have made work towards these goals.

We hope the final regulations will continue to advance the Blue Route, grow Nova Scotia as a hub for cycling in Canada, and help establish the province as a global destination for cyclists. BNS looks forward to continuing to work with DTIR to advance and support our shared vision.

