



MEMORANDUM

PIMA COUNTY SHERIFF'S DEPARTMENT

CLARENCE W. DUPNIK, SHERIFF

Date: March 5, 2009

To: Concerned Personnel

From: Lt. K. Woolridge, Special Operations

Re: **Bicycle Law ARS 28-815: Riding two abreast**

Recently, several incidents have arisen in which varying interpretations have been expressed regarding Arizona Revised Statute (ARS) 28-815. This statute pertains to bicycles on roadways and the issues concerning the matter of if they may be operated two abreast.

The County Attorney's Office has reviewed this statute. They have rendered the opinion that bicycles may be operated side-by-side (two abreast) on the portion of the roadway between the fog line (white line on the right) and the center line. Bicycles operated to the right of the fog line may ride in any configuration, including more than two abreast. However, once bicycles move to the left of the fog line, no more than two abreast in the actual travel lane is acceptable.

In addition, bicycles must be operated as far to the right as practicable with four exceptions:

- When making a left turn
- When passing another bicycle or car in the same direction
- When avoiding objects or hazards
- When the lane is too narrow for both a car and a bicycle to travel side by side

Bicyclists still have a duty not to impede the flow of traffic. ARS 28-704C requires a bicyclist, or any motorist for that matter, to move off the roadway and allow traffic to pass when a line of five or more cars forms behind them. This statute applies only on two-lane roadways.

Another statute, ARS 28-735A requires motor vehicles to leave a safe distance of at least three feet when passing bicycles travelling in the same direction. This statute should be used when citing motorists for not safely passing bicyclists, especially when a collision occurs.

In an effort to consistently enforce these statutes throughout Pima County, please abide by this interpretation when enforcing bicycle laws. If you have any questions regarding this matter, please contact Sgt. Copfer at 351-6204.

SHARING THE ROAD:

Enforcing Bicycle and motor vehicle laws

Tucson and Pima County have long been considered “bicycle friendly communities” based on the area’s efforts to provide safe accommodation and facilities for bicyclists. The mild climate and numerous bike paths, routes, and lanes afford excellent year round riding conditions and further encourage residents to bike for transportation and recreation.



Recently, several incidents have arisen in which varying interpretations of statutes pertaining to bicyclists and motorists have caused concern and confusion. The following is an overview of statutes that govern bicycle operation and the responsibilities of motorists while driving near bicyclists.

Drivers MUST give bicycles 3 feet while passing

Arizona Revised Statute (ARS) 28-735A states that a motorist must leave a safe distance of **at least three feet** when overtaking a bicycle travelling in the same direction. This statute should be used anytime that a motorist is at fault in a collision in which they strike the bicycle that they are passing. The law provides for increased penalties of a \$500 fine for causing serious injury or \$1000 if a death results. Please do not use *ARS 28-723 (Unsafe Passing)* for bicycle-motor vehicle crashes as *ARS 28-735A* was written and approved specifically for this purpose!

Bicyclists CAN ride two abreast (side-by-side)

The County Attorney’s Office has reviewed *ARS 28-815* and rendered an opinion that bicycles may be operated side-by-side (two abreast) on the portion of the roadway between the fog line (white line on the right) and the center line. Bicycles operated to the right of the fog line may ride in any configuration, including more than two abreast. However, once bicycles move to the left of the fog line, no more than two abreast in the actual travel lane is acceptable.

In addition, bicycles must be operated as far to the right as practicable with four exceptions:

- When making a left turn
- When passing another bicycle or car in the same direction
- When avoiding objects or hazards
- When the lane is too narrow for both a car and a bicycle to travel side by side

Bicyclists still have a duty not to impede the flow of traffic. *ARS 28-704C* requires a bicyclist, or any motorist for that matter, to move off the roadway and allow traffic to pass when a line of five or more cars forms behind them. This statute applies only on two-lane roadways.

Bicyclists Under 18 years of age MUST wear helmets

Pima County Ordinance 10.43.010 requires that any person under eighteen years of age who is riding a bicycle, is a passenger on a bicycle, who is riding in a restraint seat, or who is riding in a trailer attached to a bicycle must be wearing a properly fitted helmet. This is a civil violation that results in a fine of \$50 that can be waived if the person shows proof of obtaining a helmet after the violation.

Other Bicycle/Motor Vehicle Statutes

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|---------|--|
| 28-756 | Bicyclist must give hand signals when turning |
| 28-813 | Bicycle cannot carry more occupants than it was designed for; seats required |
| 28-814 | Bicyclist cannot cling to a vehicle |
| 28-815A | Bicyclist must ride as close to the right as practicable |
| 28-815B | Bicyclist cannot ride more than two abreast |
| 28-815D | Motorist cannot drive, stop, or park on a bike path or bike lane |
| 28-816 | Bicyclist cannot carry items that prevents one hand on handle bars |
| 28-817A | Bicycle must have headlight and red reflector to rear at night |
| 28-817C | Bicycle must have brakes |

In addition, other traffic statutes, such as red light violations, stop sign violations, and speed limits apply to bicyclists. When citing for these violations, use the same statute and verbiage as you would with a motor vehicle, but note (BICYCLE) next to the statute verbiage as these violations will not result in points against the bicyclist's driver's license.

If you have any questions regarding these statutes, please contact a Traffic Deputy or Sgt. Copfer (351-6108).



SHARE THE ROAD: Bicycle and motor vehicle laws

Tucson and Pima County have long been considered “bicycle friendly communities” based on the area’s efforts to provide safe accommodation and facilities for bicyclists. The mild climate and numerous bike paths, routes, and lanes afford excellent year round riding conditions and further encourage residents to bike for transportation and recreation. Occasionally, it is important to review a few of the laws pertaining to both bicyclists and cars as they significantly contribute to everyone’s safety!



Bicycle laws

Bicyclists have the same rights and responsibilities as other motorists. Arizona law allows bicycles to be operated side-by-side (two abreast) on the portion of the roadway between the fog line (white line on the right) and the center line. In addition, bicycles must be operated as far to the right as practicable with four exceptions:

- When making a left turn
- When passing another bicycle or car in the same direction
- When avoiding objects or hazards
- When the lane is too narrow for both a car and a bicycle to travel side by side

Bicyclists have a duty not to impede the flow of traffic. State law requires a bicyclist, or any motorist for that matter, to move off the roadway and allow traffic to pass when a line of five or more cars forms behind them. This statute applies only on two-lane roadways. Bicyclists must always ride with the flow of traffic. Motorists do not expect dangerous wrong way riders and frequently turn into their paths which often results in collisions.

Nearly 85 percent of brain injuries suffered in bicycling collisions could be prevented by wearing a helmet. Both City of Tucson and Pima County ordinances require all riders under the age of 18 years to wear a bicycle helmet. Additionally, state law requires that bicycles operated at night be equipped with a white front headlight and red rear reflector. Bicyclists should wear reflective clothing to further increase their visibility to motorists and help prevent collisions. Hand signals are also required for turns and lane

movements. These signals serve to warn other motorists of the bicyclists' intentions and can prevent many collisions.

Motor Vehicle Laws

Another state statute requires motor vehicles to leave a safe distance of **at least** three feet when passing bicycles travelling in the same direction. This passing distance is very important to a bicyclist's safety as their path may require a sudden adjustment or swerve to avoid road debris or other hazards that are not easily perceptible to a motorist. This distance is critical in the event that a bicyclist should fall for any reason; therefore, giving additional space while passing a bicycle provides even more safety.

Motorists should exercise extra caution when turning near bicyclists. Cyclists may be travelling faster than expected and turning into their path could lead to a crash. State law further prohibits the operation of motor vehicles in bike lanes.

See and Be Seen

Whether daytime, dawn, dusk, foul weather, or at night, a bicyclist needs to be seen by other motorists. Wearing white has not been shown to make you more visible. Rather, always wear neon, fluorescent, or other bright colors when riding day or night. Also wear something that reflects light, such as reflective tape or markings, or flashing lights. Remember, just because you can see a driver does not mean the driver can see you.

Many bicycle-related crashes resulting in injury or death are associated with the bicyclist's behavior, including such things as not wearing a bicycle helmet, riding into a street without stopping, turning left or swerving into traffic that is coming from behind, running a stop sign, and riding the wrong way in traffic. To maximize your safety, always wear a helmet and follow the rules of the road!



Records Maintenance Unit

Fee Worksheet

Name of Requestor: Law Office of Eric Post, PLLC
Address: 1801 East Broadway Blvd.
Tucson, AZ 85719

Telephone: (520) 207-9601

Date: May 20, 2009

Tasks Performed

Reports (First 15 pages): _____ @ \$5.00 each	Cost: _____
Additional Pages: _____ @ \$.25 (cents) each	Cost: _____
Video Tapes reproduced: _____ @ \$10.00 each	Cost: _____
Audio Tapes reproduced: _____ @ \$5.00 each	Cost: _____
CD's reproduced: _____ @ \$5.00 each	Cost: _____
Standard Photos reproduced: _____ @ \$4.00 each	Cost: _____
Enlarged Photos reproduced: _____ @ \$12.00 each	Cost: _____
Hours of labor associated: _____ @ \$15.00 per hour	Cost: _____
Miscellaneous: Bicycle Memo's FOIA request	Cost: <u>\$5.00</u>

**Please remit a copy of this worksheet
with your payment. Thank you. Mail to:
Pima County Sheriff's Dept.
1650 E. Benson Hwy., Suite C
Attn: Records – Iona
Tucson, AZ 85714**

Total Costs: \$5.00

Amount Received: \$00.00

Total Due: \$5.00

Law Office of Eric Post, P.L.L.C.
1801 East Broadway Boulevard
Tucson, Arizona 85719

Aviation
Bicycle
Motor Vehicle

Ofc: 520-207-9601 - FAX: 520-207-8244
Eric@ericpostlaw.com

State Bar of Arizona
Federal District of Arizona

M.Div., J.D.
L.A.B./L.C.I. #1730
A&P/IA/CFI-ASEL&RH

May 6, 2009

Lt. Karl Woolridge
Pima County Sheriff's Office
601 N. La Canada Drive
Green Valley, Arizona 85614-3440

Re: Bicycle Memo's FOIA request

Dear Lt. Woolridge,

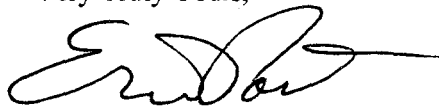
Thank you for attending the GOHS meeting on March 3, 2009. I thought it was productive and an agreement was reached that riding two abreast was permissible. However, a number of riders that were cited for violation of A.R.S. 28-815(a) have appeared in court and more have court dates coming up, so perhaps the meeting was not as productive as we thought.

It is my understanding that the Justice of the Peace in Green Valley has referred to a memo from you and possibly from Bruce Chalk at the county attorney's office on the matter. Apparently there are two memo's and one deals with the 3-foot rule and one with the two-abreast issue.

I would like a copy of those memos so that I can effectively defend two riders who were cited for not being as far right as "possible." This request is made pursuant to Arizona's Freedom of Information Act statutes under A.R.S. 39-121 et. sec.

Thank you for your cooperation.

Very Truly Yours,



Eric Post

ETP/etp