What is a vulnerable user law or an anti-harassment ordinance and what is the difference?

- The anti-harassment ordinance, most often adopted by cities, is focused on intentional threats, assaults or other behavior that endangers cyclists.
  - Normally, the anti-harassment law makes the harassment and assault of a person who bikes a civil offense, in addition to a criminal offense.
  - The burden of proof is lower for civil cases thus making it easier for people who bike to be properly compensated.
  - Typically, this allows an injured or harassed bicyclist to seek treble damages and attorney’s fees in civil court.

- The vulnerable user law is more commonly adopted at the state level, and seeks to protect vulnerable road users from motorist behavior that puts them at risk, whether intentional or not.
  - The vulnerable user law focuses on situations in which a traffic error that is negligent, but not criminal, results in the injury or death of a pedestrian or bike rider.
  - The penalties are designed to ensure that the person responsible for the collision is held accountable, either through financial penalties, license suspensions, driving education, or community service.
  - In California, state law limits local governments’ ability to pass laws regulating behavior on public roads and establishing penalties for violations. Thus, a true vulnerable user law could only be passed at the state level.

Why do cities, counties and states use these laws?

- In collisions between motorized vehicles and non-motorist road users (such as cyclists and pedestrians), the non-motorist road user is at much greater risk of life-altering injury or death. In many states and local jurisdictions, some incidents go unpunished because of a lack of recourse for the injured party, nominal penalties, a dearth of appropriate laws or the lack of enforcement of existing laws.

- Current law dictates that a motorist who kills another person as a result of a traffic law violation is subject to a prison term of a minimum of one year and up to 10 years with a maximum fine of $10,000. However, if the victim is injured and not killed, then the only criminal penalty besides the traffic violation is a nominal offense of unsafe operation of a motor vehicle with bodily injury. This is punishable by a fine of $70 for bodily injury or $95 for great bodily injury, regardless of extent.

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1 Treble damages is a legal term that simply means triple the amount of actual damages.
Which jurisdictions have already done it?

- Oregon was the first state to pass a vulnerable user law, in 2007. Since then, a number of cities and states have followed suit. Many have used the Los Angeles anti-harassment ordinance, passed in 2011, as a model.

The following table shows jurisdictions within California that have passed similar ordinances:

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Type</th>
<th>Type of Law</th>
<th>Year Passed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sonoma County</td>
<td>County</td>
<td>Vulnerable user law</td>
<td>2013</td>
</tr>
<tr>
<td>Los Angeles, CA</td>
<td>City</td>
<td>Anti-harassment</td>
<td>2011</td>
</tr>
<tr>
<td>Berkeley, CA</td>
<td>City</td>
<td>Anti-harassment</td>
<td>2012</td>
</tr>
<tr>
<td>Sunnyvale, CA</td>
<td>City</td>
<td>Anti-harassment</td>
<td>2012</td>
</tr>
<tr>
<td>Sebastopol, CA</td>
<td>City</td>
<td>Anti-harassment</td>
<td>2012</td>
</tr>
<tr>
<td>Santa Rosa, CA</td>
<td>City</td>
<td>Anti-harassment</td>
<td>2013</td>
</tr>
</tbody>
</table>

See Appendix B for a table on state laws.

Appendix A

League of American Bicyclists - Vulnerable Road User Law model legislation

INFLICTION OF SERIOUS INJURY OR DEATH TO VULNERABLE ROAD USERS

Section 1: As used herein, the term “vulnerable road user” includes:

(a) a pedestrian, including those persons actually engaged in work upon a highway, or in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; or
(b) a person riding an animal; or
(c) a person lawfully operating any of the following on a public right-of-way, crosswalk, or shoulder of the highway:

1. A bicycle;
2. A farm tractor or similar vehicle designed primarily for farm use;
3. A skateboard;
4. Roller skates;
5. In-line skates;
6. A scooter;
7. A moped;
8. Motorcyclists;
9. Horse-drawn carriage drivers;
10. a person on an electric personal assistive mobility device; or
11. a person in a wheelchair.

Section 2:
A person who operates a motor vehicle in a careless or distracted manner and causes serious physical injury or death to a vulnerable road user shall be guilty of infliction of serious physical injury or death to a vulnerable user.

Section 3:
A person issued a citation under this section shall be required to attend a hearing before a court of appropriate jurisdiction.

Section 4:
A person found to have committed an offense under this statute shall be required to
(a) have his or her driving privileges suspended for a period of no less than 6 months; and one or more of the following:
(b) pay a monetary penalty of not more than two thousand dollars; or
(c) serve a period of incarceration which may not exceed thirty days; or
(d) participate in a motor vehicle accident prevention course; or
(e) perform community service for a number of hours to be determined by the court, which may not exceed two hundred hours.