

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 damages¹ 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 unpenalized 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.

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:

Jurisdiction	Type	Type of Law	Year Passed
Sonoma County	County	Vulnerable user law	2013
Los Angeles, CA	City	Anti-harassment	2011
Berkeley, CA	City	Anti-harassment	2012
Sunnyvale, CA	City	Anti-harassment	2012
Sebastopol, CA	City	Anti-harassment	2012
Santa Rosa, CA	City	Anti-harassment	2013

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.