



September 29, 2014

Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

Re: Bicycle and Motor Vehicle Collision Recovery Amendment Act of 2014

Please accept these comments on behalf of the Coalition for Smarter Growth. The Coalition for Smarter Growth is the leading organization working locally in the Washington, D.C. metropolitan region dedicated to making the case for smart growth. Our mission is to advocate for walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to support those communities.

We are submitting comments in support of the Bicycle and Motor Vehicle Collision Recovery Amendment Act of 2014 and for Councilmember Grosso's amendment to cover pedestrians in addition to cyclists with this bill. The District of Columbia's continued use of contributory negligence presents major barriers for cyclists and pedestrians alike to recover damages in the event of a collision, and widespread misunderstanding and uneven enforcement of bicycle and pedestrian laws only compounds the problem.

According to a report by the National Complete Streets Coalition, 133 pedestrians were killed in D.C. between 2003 and 2012, representing 36.1% of all traffic-related fatalities during that time. In a crash between a motor vehicle and a pedestrian or cyclist, it is almost always the pedestrian or cyclist who is injured, and to a graver extent. Bicyclists and pedestrians are the least protected by the city's infrastructure and enforcement officials, and thus need fair protection under the law because of their vulnerability compared to drivers.

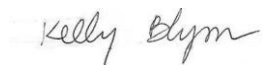
For those on foot, construction sites lacking pedestrian accommodation, a lack of painted crosswalks where legal crosswalks exist, and a lack of sidewalks in some places are examples of situations where our infrastructure leaves pedestrians with little option but to take a risk. If struck by a car in these situations, a pedestrian could be construed as partially at fault by lawyers, jurors, or insurance agents, even though the odds were clearly stacked against them. Often this means that damages and insurance claims are awarded to injured pedestrians and cyclists only in the most egregious and clear instances, such as those involving a drunk driver.

Because pedestrians and cyclists taken together represent the most vulnerable users of our roadways, the Council should ensure fairness for their recovery in the event of a crash by applying comparative fault principles rather than contributory negligence. D.C. would be in good company: it would join the 46 states that have already moved beyond contributory negligence to comparative fault principles.

Please abolish the contributory-negligence principle for crashes involving pedestrians or cyclists in the District, and replace it with a more modern and appropriate comparative negligence system.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Blynn". The signature is written in dark ink on a light-colored background.

Kelly Blynn
Campaign Manager
Coalition for Smarter Growth
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Washington, D.C. 20002