

Tinti, Elisa

From: Shaut, Andrea
Sent: Tuesday, May 23, 2023 10:06 AM
To: Alderman
Subject: Fw: [EXTERNAL EMAIL] Kingston's proposed new bike law

Good morning,

Please see below for an email meant for the full council.

Elisa - can you please add this to our official comments on the website?

Thank you,

Andrea Shaut

Council President, City of Kingston

From: Shaut, Andrea <ashaut@kingston-ny.gov>
Sent: Tuesday, May 23, 2023 10:05 AM
To: jc <janine.connell@gmail.com>
Cc: Rich Romano <romanorich2@gmail.com>
Subject: Re: [EXTERNAL EMAIL] Kingston's proposed new bike law

Good morning,

Thank you for your thoughts. Considering you addressed council members, I will pass this along to the full council. The vote on the proposed bike law is scheduled for Tuesday June 6. The meeting begins at 7:30 pm. There is public speaking allowed at the meeting.

Sincerely,

Andrea Shaut

Council President, City of Kingston

From: jc <janine.connell@gmail.com>
Sent: Tuesday, May 23, 2023 8:35 AM
To: Shaut, Andrea <ashaut@kingston-ny.gov>
Cc: Rich Romano <romanorich2@gmail.com>
Subject: [EXTERNAL EMAIL] Kingston's proposed new bike law

Dear Council Members:

I read a recent blog post about an apparently undisclosed "Bike Law" being proposed by Kingston Common Council and I have the following comments.

The law attempts to outlaw trick riding in the City of Kingston and it reminds me of the skateboard wars in Philadelphia in the 90s. After many attempts to outlaw skateboarding at various tourist destinations, Phila City Council finally embraced the skateboard culture in Philly (which created a lot of tourism for the City and resulted in many pro boarders from the Philly area) and converted a 20000 sq foot area under I-95 into a supercool family friendly skateboard park. Not only did this wipe out what used to be a drug using area but it solidified Philly's reputation as a great place to board - further enhancing tourism and creating an avenue for young boarding athletes in the city to showcase their talents in a positive way. [Skate Parks and Skateboarders - Encyclopedia of Greater Philadelphia \(philadelphiaencyclopedia.org\)](http://philadelphiaencyclopedia.org)

If Kingston has that many trickriders that the City feels a need to police them, maybe rather than prohibiting trickriding you can showcase these athletes and funnel their talents into tourist attracting arenas throughout the city. Many Central and South American cities have done just this and created a new and exciting sports event known as urban downhill racing that is sweeping Central and South American and Europe. Urban downhill racing that integrates the talents of urban bikers into their cities and creates a ton of tourism and a lot of fun. RedBull is a huge sponsor of this sport. I'm actually traveling to Medellin Colombia next year just to see one of these races live. [Urban downhill mountain bike racing – what is it? \(redbull.com\)](http://redbull.com)

Trickriders are some really talented athletes and I think Kingston is better off promoting and supporting their talents, rather than trying to outlaw what is essentially a sport. Don't we want kids to be athletic, even if it is a little dangerous? That's what makes it exciting.

Finally, if the blog post accurately describes the law at issue, there is a strong argument that it is unconstitutionally vague under the Fifth Amendment, particularly with respect to the subsections J (preventing people from riding mechanically deficient bikes); K (banning "trick riding"); and L (banning "unreasonable speeding"). An enactment may be attacked on its face as impermissibly vague if it fails to establish standards for the police and public that are sufficient to guard against the arbitrary deprivation of liberty. *Kolender v. Lawson*, 461 U. S., at 358. I did a very cursory review of both criminal and civil traffic laws with residual clauses and prohibitions on traveling at an unreasonable speed and they were more often than not found to be unconstitutional. I have referenced below the specific subsections that I believe are especially problematic from a constitutional perspective.

Kingston's City Council's efforts are better spent promoting and harnessing the talents of bike riders and promoting more bike lanes for safe passage of bikes through the city, as opposed to creating a legal fight with cyclists - which is exactly what this law, if passed, is going to do.

Thanks for spending some time thinking about this issue.

Happy riding! (Riding a wheelie, handstands on your bike, no hands riding, backflips on the bike are great skills and superfun! Don't outlaw this!)

Thanks for reading!

--

Janine Connell

janine.connell@gmail.com

267.968.2975 (mobile)

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Tinti, Elisa

From: Shaut, Andrea
Sent: Tuesday, May 23, 2023 10:07 AM
To: Tinti, Elisa
Subject: Fw: [EXTERNAL EMAIL] Comments on Bike Law

Can you include the below email in our official comments on the website?

Thanks!

Andrea Shaut

Council President, City of Kingston

From: Ella Ray Kondrat <ellaraykondrat@gmail.com>
Sent: Tuesday, May 23, 2023 6:50 AM
To: Shaut, Andrea <ashaut@kingston-ny.gov>; Hill, Barbara <ward1@kingston-ny.gov>; Frankel, Carl <ward2@kingston-ny.gov>; Scott-Childress, Reynolds <rscott-childress@kingston-ny.gov>; Worthington, Rita <ward4@kingston-ny.gov>; Muhammad, Naimah <Ward5@kingston-ny.gov>; Davis, Tony <tdavis@kingston-ny.gov>; Olivieri, Michael <ward7@kingston-ny.gov>; Schabot, Steven <sschabot@kingston-ny.gov>; Hirsch, Michele <mhirsch@kingston-ny.gov>
Cc: Noble, Steve <SNoble@kingston-ny.gov>
Subject: [EXTERNAL EMAIL] Comments on Bike Law

Hello all,

I wanted to attach my thoughts on the proposed bike law. (This was originally published on my blog, sweetenesthestreets.substack.com)

My main point regarding the law is this:

What data and research are you relying on when creating this bike law? (Please scroll towards the end of this email to see the sections of the law that I take issue with.) Is the law responding to a real, measurable problem, or is it a reaction to unexamined fears and prejudices? If the law is responding to a real problem, what are the potential solutions to that problem? Criminalization is just one solution, and often it is not the most effective way to solve problems.

Thank you for reading.

-Ella Kondrat, MS CCC- SLP, Member of Kingston Complete Streets Advisory Council

Kingston Bike Law Has Racial Implications

Good news! There's a new traffic safety law proposed in Kingston. Oh, you ask what it's about? Well, it's not a law banning dangerous lifted trucks. It's not an ordinance mandating that if you hit someone with your car, you get a drug and alcohol test and ticket (recent bike-car fatalities have resulted in no alcohol test and no tickets). Nor is it outlawing the deadly right-on-red. Nope- this proposed law wants to outlaw *wheelies*, among other things. (Please scroll to the end of the article for a full breakdown of the proposed law.)



This person seems to have had their front wheel stolen, and soon could be guilty of a criminal offense.

The ordinance, focused on bike rider behavior, has far-reaching racial and social implications. It has been under review by Kingston's Common Council, the elected body that governs the legislative branch of the city.

Draft legislation was initially presented to three citizens advisory councils in November 2022 by City staff, as an ordinance for bike and scooter share companies. It did include some minimal language targeted at cyclist behavior, but only pertained to those using shared bike systems. In January 2023, when the Common Council took over its review, the ordinance was changed to include a larger section on rider behavior, and this time it applied to all cyclists in Kingston. This was done without public discussion or input, and no data or research supporting the creation of this law has been supplied.

Safe Pass Ulster, a local transportation advocacy group, has made Common Council members aware of numerous issues in the proposed ordinance. Despite this, the ordinance has passed through the Laws and Rules committee with the sections for rider behavior virtually unchanged, and will now proceed to be voted on by the full Common Council.

What Is the Actual Problem?

Let's get one thing straight - people, including cyclists, should be held accountable for their actions. If a cyclist hits another person and injures them, the cyclist should be ticketed and perhaps more severe penalties levied, as appropriate. However, the proposed bike law does not reflect the proportions of the problem.

Cyclists are, if anything, a danger to themselves, much more so than they are a danger to others. This is in stark contrast to driver behavior; cars kill tens of thousands of people annually. In recent years, cars have killed one or two people per year in Kingston, most of them on bikes.

Traffic laws were first created a century ago, when cars were killing children in droves and were perceived as a public menace. Compared to cars, bicycle collisions with pedestrians and other bicycles very rarely result in death. The proportion of the harm caused by different types of vehicles must be accounted for when we write and enforce our laws.

Our question for the common council is this: what data and research are you relying on when creating this bike law? Is the law responding to a real, measurable problem, or is it a reaction to unexamined fears and prejudices? If the law is responding to a real problem, what are the potential solutions to that problem? Criminalization is just one solution, and often it is not the most effective way to solve problems.

(By the way, Kingston used to have an old bike registration law which was repealed in 2021, due to it standing in the way of bicycle use.)

Racialized Policing

Research shows that granting police more discretion results in racially discriminatory policing. In the podcast "Arrested Mobility," Daniel Lambright of the NYCLU says, "Extensive research shows that when police officers have more discretion, they aggressively and disproportionately target communities of color."

A stop and frisk police campaign in Kingston back in 2020 resulted in Black community members arrested disproportionately. 37% of those arrested were Black, despite only 15% of Kingston's population being Black (data on the race of those stopped without arrest was not collected). This is a clear example of racial discrimination, enabled by ample discretion awarded to police.

I want to be clear on something - I am not anti-police officer. I see cops as humans working within a flawed system. I have even known some cops who felt they had a calling to serve the public, which I respect. But humans inevitably have biases, and when coupled with inordinate power and discretion, negative outcomes can occur.

It's the duty of lawmakers to understand the potential for unintended consequences of their legislation.

The proposed law would grant more discretion to the police, and increase the likelihood that over-policing would create a hostile environment for people of color in Kingston.

Problems In the Bike Law

Here is a selection of problematic sections of the proposed bike law; our comments are italicized. Some of the sections directly contradict New York State law. The proposed law has not been posted on the city's website as of this writing, however this file has the version which was approved in committee on May 17.

Please consider writing to the common council to let them know your thoughts on this proposed law.

Article I. Section 160-4. Operational requirements for bicycles.

A. When two or more persons in a group are operating bicycles on a roadway, they shall ride single file.

-This directly contradicts NYS Law ("Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast"). There are important safety reasons attached to riding two abreast. A cyclist by NYS law may use an entire lane on any roadway they are permitted on. How should parents ride with their children?

F. No person shall operate a bicycle while using a mobile telephone or a portable electronic device.

-This would make rules for cyclists more strict than those for drivers, who are permitted to use hands-free devices, for example for phone calls or use of mapping apps.

G. No person shall operate a bicycle while wearing any headset or headphones which cover both ears or with earbuds or while wearing earplugs in both ears.

-This is unnecessary. NYS says riders may have one earbud in.

J. No person shall operate a bicycle that, due to its mechanical condition, cannot be safely operated.

-As judged by whom? NYS says brakes must be working. How does a police officer judge this? For example: People of limited means often do not have fancy bikes but they are perfectly safe. Road bike tires look bald. Bikes are only required to have one functional brake, etc. This is a dangerously arbitrary rule with no clear standard. The potential for abuse and discrimination exists. If a bike is seized for being "unsafe" a person may lose their only transportation to work or vital services. Car drivers would receive a ticket. Bike riders would lose their way to work. This is an unfair double standard.



K. Any person operating a bicycle shall refrain from any trick riding and shall operate said bicycle with at least one hand on the handlebars. For the purposes of this chapter, 'trick riding' shall mean operating a bicycle on a roadway or occupied parking lot in a reckless manner or performing tricks or nonstandard bicycling maneuvers. This definition includes, but is not limited to, having all or more than one of the wheels of the bicycle not touching the ground, weaving in and out of traffic, spinning the bicycle or any of its wheels outside of the customary rotations associated with the standard operation of a bicycle, and any stunts, including acrobatic maneuvering of the bicycle or handstands.

-This lends itself the potential for law enforcement overreach and is also discriminatory. Suburban and rural children have mountain bike parks and trails for their athletic experimentation. This is the environment we created for these children. It behooves us all to keep them safe within it. This ordinance potentially criminalized a child's right to play and express themselves in a neighborhood where they are constrained due a lack of suitable playgrounds and green space. The streets are the playground of an urban environment. Children have as much right to them as disgruntled motorists. These laws have a tradition of heavy handedness and are known to racially target young people of color. Enforcement of these laws has led to dangerous interactions with law enforcement and children and were not a public safety issue. This is a broken windows law. Education and engagement would prove much more effective strategies for keeping Kingston's young people safe.

L. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.

-Arbitrary speed limits are unacceptable. Are we suggesting two separate speed limits for bikes and cars? Traffic law must not be vague. This gives police officers discretion.

Article IV Section § 160-16. Parking restrictions of bicycles and electric mobility devices

A. No user, operator, or agent thereof shall park a bicycle or electric mobility device on the private property of another without permission.

-This is overly restrictive, especially considering the dearth of public bicycle facilities. What accommodations can we expect at local stores?

C. No user shall leave a bicycle or electric mobility device lying on its side on or adjacent to any sidewalk or multi-use path, or park a bicycle or electric mobility device in any of the following locations:

2. Within a designated public transit stop, except in designated bicycle racks or designated bicycle or electric mobility device parking areas;

-Are we really trying to make life harder for bus riders? What about the many instances in which there are no bike racks?

10. in front of or within a public or private driveway or the entrance to an alley

-This is overly proscriptive. For example, I could have a driveway or alley that I want to allow bike parking in.

12. within 15 feet of a fire hydrant.

-Why? A bicycle has a much smaller footprint than an automobile, and should not be held to the same standards.

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