



# Submission to Standing Committee on Economy and Infrastructure

## Road Safety Amendment (Car Doors) Bill 2012

### About Melbourne Bicycle User Group

Melbourne Bicycle User Group (Melbourne BUG) campaigns for safe and convenient cycling conditions in the City of Melbourne. We are, and represent, cyclists who live in, work, and visit the City of Melbourne. This year we have advocated for a number of bike safety improvements, in particular, bike lanes on St Kilda Road and Latrobe Street. As a user group, we have a community focus, spending much of our time speaking to cyclists about their thoughts and ideas, encouraging advocacy and raising awareness of cycling issues in the wider community. We are part of the City of Melbourne's Bicycle Reference Group and the working group for the Road Safety Action Group Inner Melbourne, which is currently working on Operation Doorknock, a campaign to reduce the incidence of car dooring.

### This submission

This submission has two parts:

1. The *Road Safety Amendment (Car Doors) Bill* (the Bill)
2. How to reduce car dooring injuries.

## 1. The Road Safety Amendment (Car Doors) Bill

**Melbourne Bicycle User Group supports the Bill and recommends some changes.**

'Car dooring', or dangerously opening a door in the path of a cyclist or any other road user, is a serious risk to cyclist safety, with the potential to cause serious injury or even death. Aside from the actual collision with the car door, cyclists may swerve to avoid a collision with a door by veering into traffic. In inner Melbourne from 2006 to 2010, a quarter of all reported car dooring collisions result in serious injuries, requiring admission to hospital.

The current penalties for car dooring are inadequate. They fail to reflect the seriousness of the offence and are lower than penalties for comparable road traffic offences. Melbourne Bicycle User Group therefore supports the Bill and recommends some minor changes to it, namely increasing the traffic infringement fine to 3 penalty points.

In summary, Melbourne BUG asks Victorian Government to commit to, within six months:

- increasing the maximum court penalty for dooring from 3 to 10 penalty points, ie from \$366 to \$1221
- increasing the traffic infringement penalty from 1 to 3 penalty points, ie from \$122 to \$366 (Schedule 7 of the *Road Safety (General) Regulations 2009*)
- introducing a penalty for car dooring of 3 demerit points.

These are straightforward changes that it is within the Victorian Government's power to do right now. While we make suggestions below, we are ultimately not really concerned about what particular laws or regulations are amended, as long as the outcomes listed above are achieved.

**It is appropriate to increase the court penalty and introduce demerit points.**

*The Committee seeks input on whether it is appropriate to*

- *increase the penalty for dooring from 3 to 10 penalty points*
- *attach demerit points to the offence of car dooring*

At present, drivers can be fined 1 penalty point (\$122) for car dooring, while a court can impose a maximum fine of 3 penalty points (\$366). These penalties are inadequate given that carelessly opening a car door can seriously injure or kill cyclists. To put it into context, the fine for cyclist not having a bell or reflector is higher: \$153 infringement fine, with a \$610 maximum court fine.

The Bill increases the maximum court penalty for car dooring from 3 penalty points to 10 penalty points, and attaches 3 demerit points to the offence. Melbourne BUG supports these changes as commensurate with the seriousness of the offence. We note that the police and courts have discretion about whether to pursue the maximum penalties.

**The infringement penalty should continue to be available and should be increased.**

We note that the Bill does not increase the traffic infringement penalty, and this also needs to be done. We understand it is easy for the Victorian Government to gazette changes to the *Road Safety (General) Regulations 2009* to increase the traffic infringement penalty.

*The Committee seeks input on whether it is appropriate to:*

- *make 'car dooring' an offence under legislation rather than regulations*
- *change the process for enforcing 'car dooring' offences and have the matter dealt with by the Magistrates Court*

Melbourne BUG believe that the option of simply imposing an infringement penalty should continue to be available to police. This enables ease of enforcement, as it is not always

appropriate for drivers to be prosecuted by police. However, as outlined above, the infringement penalty should also be increased.

### **The increase in penalties is comparable with equivalent offences.**

The car dooring penalties provided for in the Bill are similar to penalties for comparable offences:

- A driver can lose 3 demerit points for using a mobile phone while driving, failing to display P plates, or carrying a passenger not wearing a seatbelt.
- A maximum court penalty of 10 points can be imposed for as running a red light or driving past a stationary tram with its doors open.

As the death of James Cross shows, opening a car door in the path of a cyclist can be equally as serious as the above offences. The higher penalties should be available if necessary, and police and courts will issue their discretion in enforcement.

In relation to Melbourne BUG's recommendation to also increase the infringement penalty, it is entirely reasonable to impose a fine of \$366 for an avoidable action that can injure or kill vulnerable road users. Penalties for other serious offences endangering vulnerable road users, such as failing to give way to pedestrians (1.75 points) or passing a stopped tram (2.5 points) are also disproportionately low, and may need to be increased.

### **Car dooring is a significant contributor to cyclist injuries.**

According to the Vicroads CrashStats database, over the five years from 2006 to 2010, car dooring amounted to 9% of all cyclist injuries across Victoria, but 19.4% of injuries in inner Melbourne. In absolute terms, there were 616 reported injuries to cyclists from car dooring crashes. Most of these (433 or 70.2%) happened in inner Melbourne. Of these, the largest proportion occurred in the City of Melbourne (222 injuries, or 36% of all cyclist car dooring injuries). In inner Melbourne, the most frequent location for car dooring crashes was St Kilda Road (66 crashes, of which 18 involved serious injuries requiring admission to hospital), followed by Collins Street, Chapel Street and Elizabeth Street.

Vicroads CrashStats show that since 2000, the number of cyclist injuries has doubled in inner Melbourne. The gross number of cyclists has also increased over this time. While it is difficult to tell how the risk per cyclist has been affected, from a road safety perspective, it is unacceptable that injuries should simply be allowed to continue to grow as cyclist numbers grow. The result is the same: more vulnerable road users injured or killed. The government has a responsibility to fix the problem. One way they can do so is by tackling car dooring, a significant contributor to this growing injury burden.

The proportion of injuries due to car dooring collisions varied between 2000 to 2010 from 15% (2008) to 25% (2009), and higher in 2009 and 2010. The number of cyclist injuries from car

dooring crashes averaged around 63 per year from 2006 to 2008. The number of injuries jumped to 129 in 2009 and was 117 in 2010.

It is also probable that as these statistics only cover crashes reported to the police, they vastly underrepresent car dooring accidents and injuries. As cyclists, car dooring is a serious daily hazard for us. Most cyclists know someone who has been injured this way. In our experience, many of these crashes are not reported, and available studies support similar conclusions. In Western Australia, Meuleners et al (2007) found that police attended only 24% of cyclist crashes involving emergency department presentations. In New Zealand, only 22% of cyclist hospital admissions were identifiable in the police crash database.

## **2. How to stop car dooring**

Melbourne Bicycle User Group believe that increasing penalties is an important first step in raising awareness.

However, if it is to be effective, it must also be combined with:

- safe bike lanes and other infrastructure
- enforcement
- driver education
- road rules that allow safe cycling

### **Safe bike lanes and other infrastructure**

Safer infrastructure is the single most effective way to stop car dooring and protect cyclists, and indeed the only measure guaranteed to work. After the death of James Cross as a result of car dooring, the State Coroner recommended putting separated bike lanes on the kerbside, to the left of the parked cars, as we already have in Swanston St north of Victoria St; in Albert St East Melbourne; in Cecil St South Melbourne; and in Fitzroy St St Kilda. The State Coroner recommended Vicroads work with local councils to identify places where separated bike lanes are needed.

At the coronial inquest, Vicroads professed their support for kerbside lanes. They have funded some of those constructed on local roads (Vicroads administers 'declared' roads while councils maintain the rest – 'local' roads). However Vicroads is yet to build any kerbside lanes on declared roads which is where they are most needed – on busy roads with fast-moving traffic. Under Vicroads SmartRoads strategy, many declared roads will be prioritised for motor vehicles, with bicycles marginalised to back-streets. Cyclists are still awaiting for Vicroads to provide its updated Principle Bike Network, which was due for release in 2010.

In accordance with the need to reduce cyclist dooring and other injuries, Melbourne BUG has asked the state government to invest in separated bike lanes on St Kilda Road, which as discussed, has the highest incidence of car dooring in Victoria.

## **Enforcement**

We understand that it is difficult to draw conclusions from the publicly reported number of infringements issued under section 269(3) of the *Road Safety Rules 2009*, which contains the current car dooring penalty, as s269(3) also covers a number of other situations, including a driver or passenger opening a door and damaging an adjacent vehicle. As such, we request information about how many infringement notices have been issued to drivers who cause dooring crashes, and the extent

Melbourne BUG is not aware of any cases where the police pursued a higher penalty in court, even in cases where the offence has resulted in death or serious injury. Victoria Police inexplicably failed to charge the driver who caused the death of James Cross by carelessly opening their door. Andrew Tivendale, who ended up in a coma from a car dooring crash, was reportedly 'insulted', and rightly so, when the driver only received a fine of \$122. These drivers should have been charged.

At the first committee hearing, the concern was raised that heavier penalties were not appropriate for 'innocent' drivers who 'inadvertently' opened their cars onto drivers, or that older drivers with vision impediments might find it difficult to comply with the law. But would the same argument be made about someone running a red light, or speeding past a tram? The only difference is a lack of awareness, which will only be reinforced by failing to take the offence seriously. Car dooring should be treated like any other avoidable traffic offence capable of causing death or injury.

Melbourne BUG requests that if possible, the committee find out:

- the number and proportion of car dooring crashes involving cyclists where police have issued drivers with an infringement fine
- the number and proportion of car dooring crashes involving cyclists where police have charged drivers
- a breakdown of the severity of injuries to the cyclist (serious, minor, no injury) where police have either issued no penalty or fine
- a breakdown of the severity of injuries to the cyclist where an infringement fine has been issued
- a breakdown of the severity of injuries to the cyclist where the driver has been charged (if ever)

More generally, the state government should work with Victoria Police for stronger enforcement against drivers who break the road rules and endanger cyclists and other vulnerable road users, including:

- drivers who fail to give cyclists a safe passing distance
- drivers who turn left or right across the path of cyclists travelling in a straight line
- drivers who park or stand in the bike lane
- drivers who park in the pedestrian crossing area, or the bike crossing area (ie Canning Street)

### **Driver education**

The Coroner also recommended both drivers and cyclists receive education about dooring. But it is drivers who cause doorings, drivers who lack awareness of the issues, and cyclists who are injured. Available studies indicate that the same is true of most bike-car collisions. This is not to blame drivers, but to recognise that driver behaviour results in the risk and to identify that addressing driver behaviour and raising driver awareness is essential to tackle the problem.

In relation to dooring, most experienced cyclists are aware of the hazard, and take defensive actions such as riding outside of the door zone (even where 'bike lanes' are painted there), slowing down where this is not possible, and watching out for signs of drivers getting in and out of their car.

Driver education campaigns could include the following:

- The state government could ask the Transport Accident Commission to undertake a campaign on cycling safety, including car dooring. The Commission has done safety campaigns for pedestrians, motorcyclists, drivers, but never cyclists. Such campaigns are likely to be more effective if they're personalised, direct and emotive, rather than dry recitations of dooring statistics and an instruction list of how to avoid them. An excellent example is the Netherlands' Drive With Your Heart advertising campaign [<http://www.copenhagenize.com/2009/11/drive-with-your-heart.html>].
- Change the drivers license educational materials and test to give a greater emphasis to cycling safety issues, including car dooring. Drivers license tests should include a number of situations involving cyclist safety, including at least one situation where the driver is confronted with a potential car dooring situation, with an instant fail if the driver fails to look.
- Make car dooring stickers mandatory on all cars. The government's existing sticker campaign is likely to be completely ineffective, as the only people who will get stickers who are those already aware of the problem
- Install driver awareness signs co-located with every parking time limit sign to remind drivers to look out for bikes.

## Road rules that allow safe cycling

The government should review the road rules to remove barriers to safe cycling. Such changes could include:

- Creating a civil law presumption of liability for drivers in bicycle-motor vehicle collisions, unless the motorist can show that the cyclist is at fault.
- Removing the requirement for cyclists to use bike lanes unless 'impracticable', as embodied in section 247(1) of the *Road Safety Rules 2009*, to clarify that cyclists should not have to use bike lanes that are unsafe. In some cases, 'bike lanes' even place cyclists in the car dooring zone, as on parts of Collins Street and Spring Street.
- Amending section 249 of the *Road Safety Rules 2009* to permit cyclists to ride on the footpath where it is unsafe to ride on the road. Cyclists should still have to give way to pedestrians, however, this allows cyclists to reduce the risk to their safety when travelling along long areas of road where there is no safe cycle infrastructure. Footpaths currently marked as shared paths are no different to other footpaths so the distinction is without merit. The offence should be replaced by a 'no cycling' designation requiring Vicroads to warrant that a safe bicycle facility exists on the same road.
- Permitting cyclists to travel straight ahead through an intersection from a lane marked 'left only'. This removes the current safety risk of cyclists being cut off by motorists turning left as they are trying to exit the left only lane.
- Removing disproportionate fines for bike riders without bells (maximum court penalty currently 5 penalty units, up to \$610.70, which is still more than car dooring). It is usually too noisy on the roads for cars to hear bells, and on shared paths, it is easy enough to call out to pedestrians (many pedestrians prefer this).

## Contact us

For more information about this submission, email Elizabeth Hennessy at [elizabeth.j.hennessy@gmail.com](mailto:elizabeth.j.hennessy@gmail.com) or Nik Dow at [nik@nikdow.net](mailto:nik@nikdow.net).

## More info

Website: [www.melbournebug.org](http://www.melbournebug.org)

Facebook: [facebook.com/melbournebug](https://facebook.com/melbournebug)

Twitter: [@bikemelbourne](https://twitter.com/bikemelbourne)