



Brisbane Central Business District Bicycle User Group

CBD BUG

GPO Box 2104, Brisbane 4001

brisbanecbdbug@gmail.com

<https://www.facebook.com/cbdbug/>

The Honourable Mark Bailey MP
Minister for Transport and Main Roads:
GPO Box 2644
BRISBANE QLD 4001

Via email to: transportandmainroads@ministerial.qld.gov.au

Dear Minister

1 February 2020 fine increase for using a phone while cycling

I write to you regarding the \$1,000 on-the-spot fine coming into effect from 1 February 2020 for people who use their mobile phone while driving or riding a bicycle.

This letter seeks your urgent action to reverse this increase in the mobile phone use fine for bicycle riders.

The first reason for the need to reverse the application of this increased fine to cyclists is the vague wording of Queensland's *Transport Operations (Road Use Management—Road Rules) Regulation 2009*, (TORUM 2009) in which S300 (Use of mobile phones) states "the driver of a vehicle must not use a mobile phone while the vehicle is moving, or is stationary but not parked".

However, due to there being no definition in the TORUM 2009 the question now arising is - when is a bicycle parked? Is it when the rider is stopped with only one foot on the ground, having both feet on the ground, or must they not be astride the bicycle? In contrast to motor vehicles equipped with a parking brake that can be applied and an engine that can be switched off the situation for cyclists is quite unclear. This uncertainty raises the very likely prospect of fines being inconsistently issued to bicycle riders for using mobile phones. On a similar issue, in 2019 we were unable to get you to explicate the meaning of "as far left as practicable" in S129 of TORUM 2009.

We would also point to the inconsistency of fines to now occur for mobile phone use by cyclists compared to people travelling on a scooter; with the fine for people using a mobile phone while riding their scooter remaining at \$133. (<https://www.qld.gov.au/transport/safety/rules/wheeled-devices/personal-mobility-devices>) Hence, it will now be possible when two people are traveling together along a footpath using their phones – one riding an scooter and the other pedaling their bicycle – for substantially different fines to be applied even though the fundamental nature of their infringements, and the resulting risk, are identical. This situation highlights the illogical and arbitrary nature of this fine increase for cyclists.

The fine for mobile phone use is currently AU\$150 in the Netherlands for cyclists and AU\$390 for motorists. The ratio for the bike fine/car fine (2/5) is the same as it used to be in Queensland before the 2014 "quid pro quo" equalisation of fines. The rationale for the equalisation was that Queensland would be imposing a minimum distance passing law (that police are not enforcing). The Netherlands' traffic death rates per 100,000 people and per billion kilometres travelled (cycling or driving) are much lower than in Australia. This indicates their approach (separating travel modes, different fine levels) is more effective and rational than ours (absurdly punitive levels of fines).

We are pleased to note that Bicycle Queensland is also not in favour of fine equalization.
(<https://www.facebook.com/bicycle.qld/posts/2663218297057318>)

Another reason for the need to reverse this fine increase for cyclists is the potential for children to be issued \$1,000 fines. Other vulnerable / low income groups who ride bicycles as a cheap transport alternative include the homeless, Indigenous people asylum seekers, non-English speaking people and food delivery riders. Imposing such a significant penalty on people who are likely to have little (and even no) capacity to pay compared to adults driving motor vehicles is grossly inequitable and will have a seriously disproportionate financial impact.

Finally, CBD BUG members hope this fine increase for cyclists is in fact an administrative error that can be corrected. We would point to Queensland's penalty for mobile phone use on a scooter staying at one penalty point (\$133), being approximately in line with the fine in the Netherlands for cyclists and reflective of the actual danger posed by the offence. The punitive fines imposed on bike riders in New South Wales under the former minister Duncan Gay, and the "fine equalization" approach in Queensland since 2014 have not led to statistically significantly safer cycling in either state. In fact, the National Cycling Participation Survey (running biennially from 2011 to 2019) has shown that the number of Australians who regularly ride a bike is declining, decreasing the "safety in numbers" effect.

At the CBD BUG's meeting on 29 January 2020 members unanimously passed the following motion calling for this fine increase for cyclists to be reversed.

This meeting of CBD BUG members

- deplores people dangerously using a mobile phone when riding a bicycle
- notes the vastly less risk posed by people riding a bicycle compared to people driving a motor vehicle, including when they are using a phone at the same time, a difference which is clearly borne out by road crash data
- notes that accordingly Queensland's fines for cyclist road rule infringements were significantly less than those for people driving motor vehicles until 2014 when the former Minister for Transport and Main Roads the Honourable Scott Emerson MP brought fines for cyclists and motorists into alignment based on his misrepresentation of recommendation 31 in Report No. 39 - Inquiry into Cycling Issues by the then Transport, Housing and Local Government Committee, and therefore
- calls on the Honourable Mark Bailey MP, Minister for Transport and Main Roads to not increase the fine for using a mobile phone while riding a bicycle to \$1,000.

We look forward to your advice that this unfair and erroneous increase in the fine for people using a mobile phone while cycling will at least be reversed.

Yours faithfully



Paul French
Co-convenor
Brisbane CBD BUG
31 January 2020

Cc: Bicycle Queensland
Space4Cycling Brisbane