

# Legislative Analysis



## THREE-FOOT DISTANCE WHEN PASSING A BICYCLE

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**House Bill 4185 as enacted**  
**Public Act 279 of 2018**  
**Sponsor: Rep. John Bizon, M.D.**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4265 as enacted**  
**Public Act 280 of 2018**  
**Sponsor: Rep. Holly Hughes**

**House Committee: Transportation and Infrastructure**  
**Senate Committee: Judiciary**  
**Complete to 6-20-19**

**BRIEF SUMMARY:** House Bills 4185 and 4265 amend the Michigan Vehicle Code to require the driver of a vehicle passing a bicycle to pass at a distance of three feet when practicable.

**FISCAL IMPACT:** The bills would increase revenues to the state. Revenue collected from payment of civil infraction penalties is deposited into the state Justice System Fund, which supports various justice-related endeavors in the judicial branch and the Departments of State Police, Corrections, Health and Human Services, and Treasury.

### **THE APPARENT PROBLEM:**

According to the Office of Highway Safety Planning (OHSP), Michigan bicycle fatalities doubled from 2012 to 2016, increasing from 19 deaths to 38. An OHSP analysis of crash data from 2010 to 2014 suggested that about one fourth of accidents involving bicycles and motor vehicles occur during overtaking and passing. (These data include crashes when a vehicle is overtaking a bicycle, as well as vice versa.) In addition, bicyclists are reportedly being routinely “buzzed”—passed from behind at an unsafe distance or unsafe speed—by impatient, aggressive, or oblivious drivers. Legislation has been proposed to prescribe safety standards for motor vehicles when they overtake and pass bicycles on the road.

### **THE CONTENT OF THE BILLS:**

House Bill 4185 requires the driver of a vehicle overtaking a bicycle going in the same direction and passing it on the left to pass at a distance of three feet to the left of the bicycle or, if that distance is impracticable, at a safe distance to the left at a safe speed. If safe to do so, the driver may cross the center line of the highway to pass the bicycle, even if the vehicle is in a no-passing zone at the time.

House Bill 4265 requires the driver of a vehicle overtaking a bicycle going in the same direction and passing it on the right—if otherwise allowed to pass on the right—to pass at a distance of three feet to the right of the bicycle or, if that distance is impracticable, at a safe distance to the right at a safe speed.

A person who violates these requirements is responsible for a civil infraction. [Improper passing is also a three-point violation for a driver's record.]

House Bill 4185 took effect September 27, 2018, and House Bill 4265 took effect October 16, 2018.

MCL 257.636 (HB 4185)

MCL 257.637 (HB 4265)

### ***BACKGROUND INFORMATION:***

Prior to enactment of these bills, Michigan was one of 11 states with no specific statutory standard regarding a vehicle passing a bicycle. As of June 2019, there are eight such states. Among the states with such a standard, 30 specify a three-foot distance; one specifies two feet; one specifies four feet; and one requires either three feet or six feet, depending on the posted speed limit. The remaining nine states have general “safe distance” language.<sup>1</sup>

In 2015 the city of Grand Rapids passed an ordinance requiring five feet of space when vehicles pass bicyclists. Other communities, including Kalamazoo and Ann Arbor, have followed suit. Battle Creek passed a three-foot requirement in 2017.<sup>2</sup>

### ***BRIEF DISCUSSION OF ISSUES AND ARGUMENTS:***

While there was general consensus about the importance of safety and the need for a variety of roadway users to share the roads, there were disagreements about how best to achieve these goals. Committee discussion of HB 4265 (initially the primary bill addressing this issue) largely centered on whether Michigan should prescribe a specific passing distance (five feet and three feet were the distances discussed) or should enact more general language requiring motor vehicles to keep a “safe distance” when passing bicycles.

Those who preferred the broader language, which would make it incumbent on the driver doing the passing to make sure that it is done safely, argued that specific distances are difficult to judge and therefore to enforce. It is easier, they argued, for an officer to see that a passing situation is unsafe than for him or her to see from a distance precisely how many feet of space separate two moving objects.

Those who preferred the Vehicle Code to mandate a specific passing distance argued that requiring simply that a driver be “safe” provided too much latitude for drivers who might not realize just how unsafe they are being. In addition to the tragic reports of crashes and fatalities, many cyclists described being often “buzzed” on the road by cars passing at distances or speeds that are too near or too fast. The sensation to a vulnerable roadway user is deeply unnerving—yet, in many cases, these drivers may have believed that they were being “safe.”

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<sup>1</sup> For an overview of state laws, see: <http://www.ncsl.org/research/transportation/safely-passing-bicyclists.aspx>

<sup>2</sup> See <http://michiganradio.org/post/assessing-bike-safety-michigan-after-deadly-year>

For many who argued for enacting a specific distance into law, mandating a passing distance was almost as much about driver education and awareness as about the law’s enforceability.<sup>3</sup> These advocates hope that having a specific passing distance—many preferred five feet—will make drivers think twice about their roadway behavior, and perhaps alter the impatience, aggression, or obliviousness of drivers for whom a “safe passing distance” might not always be that safe.

The bills as enacted mandate a three-foot distance, but allow cars to pass at a safe distance and safe speed when that minimum distance is impracticable. Some argued that a distance of less than three feet could not be considered safe at any speed.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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<sup>3</sup> Of note, HB 4198, enacted as 2018 PA 277, requires instruction for young drivers to include at least one hour that addresses laws pertaining to bicycles, motorcycles, and other vulnerable roadway users. See the HFA summary of HB 4198: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-4198-61483761.pdf>