



## ANNOTATED VERSION OF 29-A M.R.S.A. §2063 BICYCLES, ROLLER SKIS, TOY VEHICLES AND SCOOTERS

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### §2063. BICYCLES, ROLLER SKIS, TOY VEHICLES AND SCOOTERS

**1. Definitions.** For the purpose of this section, "bicycle" includes a motorized bicycle, a motorized tricycle<sup>1</sup> or a motorized scooter.<sup>2</sup>

**2. Riding to the right.** A person operating a bicycle or roller skis upon a roadway<sup>3</sup> at a speed less than the normal speed of traffic<sup>4</sup> moving in the same direction at that time and place<sup>5</sup> shall operate on the right portion of the way<sup>6</sup> as far as practicable<sup>7</sup> except when it is unsafe to do so as determined by the bicyclist<sup>8</sup> or roller skier or:<sup>9</sup>

A. When overtaking and passing another roller skier, bicycle or other vehicle proceeding in the same direction;<sup>10</sup>

B. When preparing for or making a left turn at an intersection or into a private road or driveway;<sup>11</sup>

C. When proceeding straight in a place where right turns are permitted;<sup>12</sup> and

D. When necessary to avoid hazardous conditions, including, but not limited to, fixed or moving objects, vehicles, bicycles, roller skiers, pedestrians, animals, broken pavement, glass, sand, puddles, ice, surface hazards or opening doors from parallel-parked vehicles, or a lane of substandard width that makes it unsafe to continue along the right portion of the way.<sup>13</sup> For purposes of this paragraph, "lane of substandard width" means a lane that is too narrow for a bicycle or roller skier and a vehicle to travel safely side by side in the lane.<sup>14</sup>

This subsection does not apply in a municipality that, by ordinance approved by the Department of Public Safety and the Department of Transportation,<sup>15</sup> makes other provisions regarding the operating location of a bicycle or roller skier on a roadway.

**2-A. Bicycle or roller skier traveling on shoulder.** Notwithstanding subsection 2, a person operating a bicycle or roller skis may travel on paved shoulders.<sup>16</sup>



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**3. Seating.** A person operating a bicycle may not ride other than upon or astride a regular and permanently attached seat.

**3-A. Number of persons.** A bicycle may not be used to carry more persons than the number for which it is designed and equipped.

**4. Hitching rides.** A person riding on roller skis, a bicycle or a scooter may not attach it to a moving vehicle on a way.

**5. Rights and duties.** A person riding a bicycle or scooter or operating roller skis on a way has the rights and is subject to the duties applicable to the operator of a vehicle,<sup>17</sup> except as to:

A. Special regulations<sup>18</sup>; and

B. Provisions in this Title that by their nature can have no application<sup>19</sup>.

**6. Speed.** A motorized bicycle or motorized scooter may not be operated in excess of 20 miles per hour.<sup>20</sup>

**7. Penalties.** A person 17 years of age or over who violates subsection 2, 3, 3-A, 4, 6, 9, 10, 11, 12 or 13 commits a traffic infraction for which a fine of not less than \$25 and not more than \$250 may be adjudged.<sup>21</sup> A person under 17 years of age is not subject to a fine under this section.

**8. Impoundment.** The chief of police of a municipality, or if there is no chief of police, the chair of the local legislative body, when satisfied that a juvenile under the age of 17 years has ridden a bicycle or scooter or has operated roller skis in violation of this section, may impound the bicycle, scooter or roller skis for a period not to exceed 5 days for the first offense, 10 days for a 2nd offense and 30 days for a subsequent offense.

**9. Passing a school bus.** A person operating a bicycle or roller skis on a way, in a parking area or on school property, on meeting or overtaking a school bus from either direction when the bus has stopped with its red lights flashing to receive or discharge passengers, shall stop the bicycle or roller skis before reaching the school bus. The person may not proceed until the school bus resumes motion or until signaled by the school bus operator to proceed.

The operator of a bicycle or roller skis on a way separated by curbing or other physical barrier need not stop on meeting or passing a school bus traveling in a lane separated by the barrier from the lane in which that person is traveling.

1. **10. Duty to yield.** A bicyclist, roller skier or other nonmotorized traffic must yield the right-of-way to a pedestrian crossing the way in a marked crosswalk who is proceeding in accordance with a traffic-control device as provided in section 2057 or who is proceeding without a traffic-control device in operation. For purposes of this subsection, "yield the right-of-way" means to slow or stop to avoid colliding with or causing other harm to a pedestrian.<sup>22</sup>



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**11. Traffic-control devices.** A person operating a bicycle or roller skis shall obey a traffic-control device, unless otherwise directed by a law enforcement officer. A traffic-control device conforming to the requirements for these devices is presumed to comply with this chapter.

**12. Stop signs.** Unless directed to proceed by a law enforcement officer or traffic-control device, a person operating a bicycle or roller skis approaching a stop sign shall stop<sup>23</sup> and:

A. Yield the right-of-way to a vehicle that has entered the intersection or that is approaching so closely as to constitute an immediate hazard; and

B. Having yielded, a person operating a bicycle or roller skis may proceed. All other operators approaching the intersection shall yield the right-of-way to the person operating a bicycle or roller skis so proceeding.

**13. One-way road.** On a public way posted for one-way traffic, unless directed to proceed by a law enforcement officer or traffic-control device, a bicycle may be ridden only in the direction designated.

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<sup>1</sup> "Motorized bicycle or tricycle" means a bicycle or tricycle that: A. May have pedals to permit human propulsion; and B. Has a motor attached to a wheel that is rated at no more than 1.5 brake horsepower and has a cylinder capacity capable of propelling the vehicle unassisted at a speed of 25 miles per hour or less on a level road surface. 29-A M.R.S. § 101 (41). This statute, therefore, applies to electric bikes that travel at 25mph or less, but not those that have cylinders with capacities to propel the electric bike unassisted at a speed above 25mph.

<sup>2</sup> "Motorized scooter" means a scooter that has 2 or 3 wheels less than 10 inches in diameter in ground contact or is powered by a motor having a maximum piston displacement of less than 25 cubic centimeters or an electric motor with a capacity not exceeding 750 watts. "Motorized scooter" does not include an electric personal assistive mobility device. 29-A M.R.S. § 101 (41-B).

<sup>3</sup> Section 2063 does not define the term "roadway", nor does the definition section of the Maine Motor Vehicle and Traffic Code (29-A M.R.S.A. § 101) define the term "roadway." However, the Uniform Vehicle Code defines "roadway" as set forth below:

§ 1—186—Roadway — that portion of a highway improved, designed or ordinarily used for vehicular travel, **exclusive of the sidewalk, berm or shoulder even** though such sidewalk, berm or shoulder is used by persons riding bicycles or other human powered vehicles. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

National Committee on Uniform Traffic Laws and Ordinances, Uniform Vehicle Code, § 1-186 (2000 ed.) (emphasis added) (available at: <http://bikeleague.org/sites/default/files/UVC%20Definitions.pdf>) [last accessed December 9, 2016]. *Importantly, the UVC definition of roadway does not include the sidewalk, berm or shoulder, even if bicyclists and pedestrians are traveling on these surfaces.* Maine has not adopted the UVC. However, a strong argument can be made that the UVC definition of the term "roadway" is the definition intended to be used in section 2063. See fn. 6, *infra*.



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<sup>4</sup> The term “traffic” is not defined within section 2063. However, the definitions section of the Motor Vehicle and Traffic Code, states:

"Traffic" means pedestrians, ridden or herded animals, vehicles, bicycles and other conveyances either singly or together using public way for travel.

29-A M.R.S.A. § 101 (83). Further, section 101 starts by saying, “[a]s used in this Title, unless the context otherwise indicates, the following terms have the following meanings. 29-A M.R.S.A. § 101. Thus, one can make an argument that the term “traffic” as used in section 2063 includes all traffic, including bicycle traffic. This is especially so where section 2063 explicitly references and discusses bicycles as part of the traffic system in subsections 2(A) & 2(D). See 29-A M.R.S.A. § 2063 (2)(A) & (2)(D).

<sup>5</sup> When interpreting the phrase “the normal speed of traffic moving in the same direction at that time and place” one should not rely solely on speed limit signs or the posted or presumed speed limit in an area. Maine has multiple speed statutes. Importantly, the “Rates of Speed” statute states:

An operator shall operate a vehicle at a careful and prudent speed not greater than is reasonable and proper having due regard to the traffic, surface and width of the way and of other conditions then existing.

29-A M.R.S.A. § 2074. So, if on a Saturday night traffic is moving slowly down a roadway because a baseball game or concert just got out, the normal speed of traffic at that time and place may be 10mph, despite a speed limit sign of 35mph. Likewise, if there is a string of motor vehicles traveling at 45mph and one car in that string slows to prepare for a left-hand-turn, and traffic traveling behind the car slows to accommodate the turning vehicle, the normal speed of traffic moving in the same direction at that time and place may be 15mph. Similarly, if a roadway is under construction, is icy, or if there is an emergency vehicle or group of children on the shoulder, the normal speed of traffic at those times and places will be less than the posted speed limit.

Section 2063 could also be read to argue that if there is a group of bicyclists traveling at 18-21mph on a roadway and those bicyclists make up the bulk of traffic at that time and place, 18-21mph is “the normal speed of traffic moving in the same direction at that time and place,” despite any posted speed limit in the area. However, if other traffic, such as a string of motor vehicles, a faster group of bicyclists, a pair of motorcyclists, etc., comes up behind the group of bicyclists traveling at 18-21mph, and if that other traffic is moving much faster than 18-21mph, ALL TRAFFIC on the roadway has an obligation to operate at a speed that is “prudent” and “careful” in light of the other traffic, the surface and width of the way and other conditions then existing. For the bicyclists, this may or may not mean changing their positions on the roadway. For the motor vehicle operators, this may mean slowing down until a safe pass can be made of the bicycle traffic. In the meantime, the motor vehicle operators should remain far enough behind the bicyclists on the roadway so as not to harm or endanger them. See 29-A M.R.S.A. § 2074 (speed statute); see also 29-A M.R.S.A. § 2070(1-A)(passing statute); and see 29-A M.R.S.A. § 2066(1)(prohibition on following too closely statute).



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<sup>6</sup> The term “way” is not defined in section 2063, but it is included in the general definition section of the Motor Vehicle and Traffic Code and defined therein as follows:

**Way.** "Way" means the entire width between boundary lines of a road, highway, parkway, street or bridge used for vehicular traffic, whether public or private.

See 29-A M.R.S.A. § 101 (92) (emphasis added). Arguably, the term “way,” like the UVC’s definition of “roadway,” should not be read to include shoulders, berms or sidewalks, even if such sidewalks, berms or shoulders are used by persons riding bicycles or other human powered modes of transport. This is so because shoulders, berms and sidewalks are not “used for vehicular traffic.” See 29-A M.R.S.A. § 101(92)(referencing vehicular traffic—not all traffic) *together with* 29-A M.R.S.A. § 101(83) (defining “traffic” as requiring travel).

Reading “shoulders, berms and sidewalks” into the definition of the section 2063 (2) definition of “way” would also render section 2063 (2-A), which immediately follows section 2063 (2), superfluous. That subsection provides:

**2-A. Bicycle or roller skier traveling on shoulder.** Notwithstanding subsection 2, a person operating a bicycle or roller skis may travel on paved shoulders.

29-A M.R.S.A. §2063(2-A). Elaborating further on this point, if subsection 2 of section 2063 was really intended to require bicyclists to operate on the far right portion of the shoulder, there would be no reason for the Maine Legislature to add an entire subsection of 2063 that explicitly states that notwithstanding the obligation to travel on the far right of the way/roadway, a person operating a bicycle or roller skis may travel on paved shoulders. See *Koch Refining Co. v. State Tax Assessor*, 1999 ME 35, 724 A.2d 1251 (in determining the plain meaning of a particular statute, the court will “consider the whole statutory scheme for which the section at issue forms a part so that a harmonious result, presumably the intent of the Legislature, may be achieved.”)

<sup>7</sup> “Practicable” is not defined anywhere in the Maine Motor Vehicle and Traffic Code. However, the Law Court has discussed what the term means in the context of pedestrian cases. See *e.g. Stearns v. Smith*, 99 A. 2d 340 (Me. 1953). Generally, in those cases, the court looks at whether the actions of the pedestrian were reasonable in light of the time, the place, and the surrounding circumstances.

<sup>8</sup> This is an important part of the statute. It is critical for law enforcement officers and others to understand that it is the bicyclist that gets to make the call about whether riding on the far right of the way is unsafe. There are myriad reasons why a bicyclist may want to use ride in a portion of the roadway other than the far right—including making himself/herself more visible to traffic entering or on the roadway. Importantly, when bicyclists are riding in groups, they may decide that it is safest to occupy a large section of the roadway/travel lane as a unit, as opposed to stringing themselves out over the course of an eighth of a mile. They may feel as if the latter positioning on the roadway is exponentially more dangerous for everyone on the roadway and, as such, the statute suggests that they may—independently and/or collectively—lawfully elect to ride two or more abreast outside of the far right portion of the way.



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<sup>9</sup> Note the use of the word “or” and its context. Even before we get to the list of exceptions outlined in 2063(2)(A)-(D), there are already at least three situations where a bicyclist may ride somewhere other than on the far right of the way: (1) when the bicyclist is riding at the normal speed of traffic at that time and place, (2) when it is not practicable for the bicyclist to be on the far right of the way, and (3) when the bicyclist determines it is unsafe to operate on the far right of a way. Also note that all of the allowances and exceptions discussed in 2063 offer riding location options to bicyclists and are not mandates requiring bicyclists to ride in set locations under certain circumstances. *See Semian v. Ledgmere Transportation Co.*, 2014 ME 141, ¶¶ 25-27 (holding that to read 29-A M.R.S.A. § 2063 as prohibiting a bicyclist from riding on the right in a place where right turns are permitted is “a misapprehension of the plain meaning of section 2063.”).

<sup>10</sup> This suggests that if group riders are riding two abreast in a pace line, they should not be cited for a violation of 2063, as each bicyclist on the outer edge of the pace line is in the process of passing and/or overtaking another bicyclist to his/her right.

<sup>11</sup> The language here is plain and simple. Bicyclists should know about the signaling requirements set forth in section 2071, which include, but are not limited to, the duty to use hand signals and the duty to signal a turn at least 100 feet before an intersection. Drivers must be aware of the obligation not to make an unsafe turn in front of a bicyclist. This includes an obligation not to cut off, unsafely attempt to pass and/or overtake a bicyclist when the bicyclist is making the same turn the driver intends to make. *See* 29-A M.R.S. A. § 2060(1-A); *see also* 29-A M.R.S.A. § 2070 & § 2071.

<sup>12</sup> Again, this is an obvious one. Law enforcement officers need to be aware that many of the complaints directed at bicyclists involve bicyclists exercising the right to control the travel lane when there is traffic in front or behind the bicyclist turning right. Often motorists will honk or yell at bicyclists or pass them dangerously on the left rather than respecting the bicyclists’ right to control the lane under this exception.

<sup>13</sup> Law enforcement officers and motorists need to understand that bicyclists often act in advance of hazards to avoid causing undue surprise to motorists. For example, if there is a line of parked cars obstructing a bicyclist’s path of travel 500 feet ahead, a bicyclist may take control of the travel lane before reaching the parked cars so as to avoid the more dangerous situation of having to swerve into the roadway to avoid the hazard of the parked cars at the last minute.

<sup>14</sup> In looking at this exception, one must consider the size of the motor vehicle sharing the lane with the bicyclist, the condition of the travel lane, and the language of the passing statute, which requires a vehicle to leave at least three feet between the bicyclist and the motor vehicle when passing. *See* 29-A M.R.S.A. § 2070(1-A).

<sup>15</sup> This language is important. Although there are municipal ordinances in Maine that prohibit two abreast riding and/or that dictate where a rider should ride, *see e.g.* Cape Elizabeth, Me Code §14---1---3 (Jan. 9, 1990), for such municipal ordinances to trump the state statute, they need to be approved by both the Department of Public Safety and the Department of Transportation.



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<sup>16</sup> As discussed above, this subsection of the statute is here for a reason. It must be taken into consideration when interpreting other parts of 2063 and interpreting 2063 as a whole. This subsection inferentially suggests that, in the context of 2063, there is a difference between the terms “roadway,” “way” and “travel lane” and the term “shoulder.” Section 2063 (2-A) can be reasonably read as stating that regardless of what 2063(2) says about where a bicyclist must travel on the roadway/way, a bicyclist also has a legal right to travel on paved shoulders. Further, it is important to note that 2063 (2-A) does not regulate the number of bicyclists that may ride alongside each other in a shoulder, nor does it require bicyclists to ride in a certain portion of the paved shoulder. It also does not require bicyclists to use the shoulder if they want to use the roadway/way. As such, where a paved shoulder is present, an argument can be made that two or more bicyclists may travel abreast in the shoulder and one bicyclist may travel on the far right of a travel lane, with all three bicyclists remaining in compliance with section 2063, regardless of whether they were traveling less than the normal speed of traffic on the roadway at that time and place.

<sup>17</sup> Bicyclists and motorists alike need to keep the “rights and duties” statute in mind and exercise mutual respect on the roadway. However, motorists need to be aware of the fact that bicyclists are vulnerable users and more susceptible to death or harm if a motorist is negligent and/or does not understand the rules of the road that specially regulate bicyclists and/or motorist operation near bicyclists. Of particular note on this point is driver understanding of § 2063(2) & (2-A) (discussed above), § 2060(1-A) (the statute addressing turning near bicyclists) and § 2070(1-A) (the statute addressing passing bicyclists).

<sup>18</sup> Examples of special regulations applicable to bicyclists are those that pertain to bicycle lighting and helmet use found in the Bicycle and Roller Skis Safety Education Act (29-A M.R.S.A. § 2321 et seq.).

<sup>19</sup> For example, operational laws that reference windshield wipers or car doors would not apply to bicyclists.

<sup>20</sup> There is no subsection of this statute that explicitly limits the speed of non-motorized bicycles. However, as noted above, section 2074, read together with 2063(5), requires all traffic, including bicycle traffic to operate at a careful and prudent speed not greater than is reasonable and proper having due regard to the traffic, surface and width of the way and of other conditions then existing. See 29-A M.R.S.A. § 2074 *together with* 29-A M.R.S.A. § 2063(5).

<sup>21</sup> A list of the current penalties is set forth in the 2016 Law Enforcement Reference Guide published on the Bicycle Coalition of Maine’s website. See 2016 Law Enforcement Guide (available at: <http://www.bikemaine.org/wp-content/uploads/2016/06/Law-Enforcement-Reference-Guide.pdf>) [last accessed December 9, 2016].

<sup>22</sup> A bicyclist should signal before slowing or stopping for a pedestrian, and to indicate a stop or a decrease in speed, the bicyclist’s hand and arm must be extended downward. See 29-A M.R.S.A. § 2071.

<sup>23</sup> "Stop," when required, means complete cessation of movement. 29-A M.R.S.A. § 101(73).