



Research | Education | Activism

drivinganddrinking.org

The Issue

In Ohio “*drunk driving*” laws apply to people riding bicycles, golf carts and lawn mowers; even people on their own property. The charge is called OVI, for Operating Vehicle under the Influence of alcohol or drugs.

The penalties for OVI are extremely harsh, up to and including felony convictions and serving 3 to 5 years of your life in a real prison for a fourth conviction. Even first convictions can be devastating. Legal fees, and fines can exceed \$2,500, and you lose your right to drive for six months, even for riding a bicycle. Many jobs that require you to drive a company vehicle can’t insure you if you have an OVI and you risk losing your job, even if the conviction happens away from the workplace on your own time. You don’t have to be driving badly, just stopped at a checkpoint or for some other reason such as a missing taillight or headlight on your bicycle, you don’t have to be over the BAC limit, you don’t have to cause, or be involved in an accident, you don’t have to cause damage or have a victim or cause any harm whatsoever, and now you don’t even have to be driving.

The Law

As a Substantive Due Process issue, laws for which there is no rational basis, which are wholly arbitrary and serve no legitimate purpose of government are unconstitutional.

To see if this constitutional test holds as it applies to bicycles golf carts and lawn mowers, you have to look no further than the data provided by the Ohio department of Public Safety. The Ohio Department of Public Safety annually issues traffic data in a document called “Ohio Traffic Crash Facts”. According to this document and additional detailed data as requested by DAD, you can’t find a single person who has been killed by an intoxicated person riding a bicycle, golf cart or lawn mower for at least the last five years. In fact, pedestrians cause and are involved in, far more alcohol-related accidents than bicycles and golf carts.

Ohio has a population of approximately 11.5 million people and has 8 million licensed drivers, and not a single person killed by a bicycle, golf cart or lawn mower, This means applying DUI laws to these vehicles is wholly arbitrary because these laws can’t possibly have any effect in reducing fatalities since the number is already zero. You could have the death penalty for drinking and riding a bike and it wouldn’t matter, you still can’t reduce zero.

Applying Ohio’s OVI laws to these vehicles is not rational and serves no legitimate purpose of government because use of these vehicles should be encouraged for a variety of reasons, not the least of which is because they pose no lethal threat to any body but the rider. As it stands there is no incentive for people to leave the car at home when they go out because the penalties for a car and a bike are exactly the same.

In Ohio, you can also be convicted of OVI even if your BAC is well below the legal limit of .08%. The courts in Ohio consider BAC just one of the factors against you. If a police officer says he believes that you were impaired then you can be convicted anyway regardless of state law, which violates the Common Law Doctrine of *Nulla poena sine lege*, or no punishment without law.

Put-in-Bay

Put-in-Bay is a small village on South Bass Island in Lake Erie in Ottawa County. It has a total population of 128 people, but has over 20 liquor permits. This is because it hosts over 2 million people a year who visit for the boating, the State Park, Perry's monument and to drink alcohol. It is the perfect laboratory to see the effects of large-scale alcohol consumption combined with prevalent use of bicycles, golf carts and mopeds. The result; Put-in-Bay is one of the safest places to travel in the world. According to the State of Ohio's own numbers, over the last five years they have had an average of five crashes and three injuries per year and show a single fatality during the entire period.

Put-in-Bay's safety record should come as no surprise if you understand the laws of physics, specifically Newton's second law of motion, "Force = Mass * acceleration". The potential force that could be generated by a three-ton Hummer traveling at 100mph is fundamentally different than a 15lb bicycle traveling at 20mph. A Hummer can crash through storefronts, take out telephone polls, or rip a school bus in half, a bicycle can't. Nobody has ever been killed on the highway by alcohol, people are not dying from spontaneous liver failure; they are dying because of blunt trauma, the kind of trauma that can only be generated by the size, weight and horsepower of motor vehicles. To apply these life-changing OVI laws to bicycles is grossly disproportionate to the offense.

Law enforcement has no shortage of "tools" it can use to punish obviously intoxicated bike riders such as public intoxication laws as well as current traffic offenses, remember with bicycles you have a "field sobriety test" built in.

The Need for Change

These laws must change, here's how:

- O.R.C, §4511.19 - Repeal the "OVI" language and use the "OMVI" language that was used prior to 2004.
- Confine "OMVI" to vehicles as defined in §4511.01(B)(C).

That's it. Simple, fair, just. Bicycles, golf carts, mopeds and lawn mowers, are not the cause of the death and destruction on the highways; they are the solution.