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HOUSE BILL 408

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Dayan Hochman-Vigil and Elizabeth "Liz" Stefanics

AN ACT

RELATING TO ROADWAYS; REQUIRING A PROTECTED BICYCLE LANE BE  
INCORPORATED WHEN MAKING A ROADWAY IMPROVEMENT WITHIN THE  
LIMITS OF A MUNICIPALITY WITH A POPULATION OF AT LEAST TEN  
THOUSAND; PROVIDING EXCEPTIONS; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] PROTECTED BICYCLE LANES--  
ROADWAY IMPROVEMENTS.--

A. As used in this section:

(1) "permanent non-physical barriers" includes  
buffer space, parking spaces and street markings;

(2) "permanent physical barriers" includes  
concrete, granite, raised curbs, bollards, flexible delineator  
posts, trees or vegetation;

(3) "protected bicycle lane" means a bicycle

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1 lane adjacent to a roadway and separated from motor vehicle  
2 traffic by a barrier that remains in place year-round and  
3 includes permanent physical barriers, permanent non-physical  
4 barriers and temporary physical barriers;

5 (4) "roadway" means that portion of a street  
6 or highway improved, designed or ordinarily used for vehicular  
7 travel, exclusive of the berm or shoulder. When a highway  
8 includes two or more separate roadways, "roadway" refers to  
9 each roadway separately but not to all of the roadways  
10 collectively;

11 (5) "roadway improvement" means the  
12 construction of a new road or intersection and the  
13 reconstruction, rebuilding, expanding or alteration of an  
14 existing road or intersection, excluding routine maintenance,  
15 repairs, preservation and restriping;

16 (6) "secretary" means the secretary of  
17 transportation; and

18 (7) "temporary physical barriers" includes  
19 traffic cones, traffic barrels and non-permanent posts.

20 B. When a roadway improvement is made within the  
21 limits of a municipality with a population of at least ten  
22 thousand according to the most recent federal decennial census,  
23 a protected bicycle lane with permanent physical barriers shall  
24 be incorporated into the roadway, unless:

25 (1) the department of transportation district

.223666.1

1 engineer of the district in which the improvement is being made  
2 approves the use of permanent non-physical or temporary  
3 physical barriers; or

4 (2) the secretary or the secretary's designee  
5 approves a municipality's or county's written analysis  
6 demonstrating that it is impractical to incorporate a protected  
7 bicycle lane due to:

8 (a) the existence of a bicycle lane,  
9 pedestrian facility or alternative on or near the roadway that  
10 is sufficient to provide a protected lane for bicyclists,  
11 including a shared-use path or multi-use trail;

12 (b) the unique characteristics, physical  
13 features or usage of a roadway or neighborhood;

14 (c) prohibitive financial constraints,  
15 including that the incorporation of a protected bicycle lane  
16 would require condemnation or moving a utility line; or

17 (d) environmental or cultural resources.

18 C. A protected bicycle lane built pursuant to this  
19 section need not provide separation between the bicycle lane  
20 and motor vehicle traffic when accommodating intersections,  
21 crosswalks, accessible parking and accessible loading.

22 D. For work done to a roadway that is not a roadway  
23 improvement, such as routine maintenance, repairs, preservation  
24 or restriping, any existing bicycle lanes shall remain  
25 unaffected. If it is impracticable or unfeasible to perform

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1 the roadway work without affecting a bicycle lane, the bicycle  
2 lane shall be restored or improved immediately after the work  
3 is complete.

4 E. The secretary shall promulgate rules and  
5 procedures to implement the provisions of Subsection B of this  
6 section.

7 SECTION 2. APPROPRIATION.--Five million dollars  
8 (\$5,000,000) is appropriated from the general fund to the local  
9 government division of the department of finance and  
10 administration for expenditure in fiscal year 2024 and  
11 subsequent fiscal years for the construction of protected  
12 bicycle lanes in municipalities. Any unexpended or  
13 unencumbered balance remaining at the end of a fiscal year  
14 shall not revert to the general fund.

15 SECTION 3. APPLICABILITY.--The provisions of this act  
16 apply to roadway improvements that begin on or after January 1,  
17 2024.