

# BUSINESS TIMES®

February 10-16, 2023

Proudly serving Santa Barbara, Ventura and San Luis Obispo counties

Vol. 23, No. 48

## OPINION

### *Jaywalking is now legal, but Californians still need to be cautious*

**By Logan Quirk**

Californians woke up the morning of Jan. 1 with the right to legally jaywalk – an activity many already engaged in regularly.

The “Freedom to Walk Act,” (AB 2147) signed by Gov. Gavin Newsom in September, reverses one of the strictest jaywalking laws in the country. For decades, pedestrians crossing against the light or outside of a designated crosswalk (the definition of jaywalking) could be stopped by a traffic officer and issued a fine of up to \$250. Now, officers cannot stop or fine people for jaywalking, unless a “reasonably careful person” would realize there is an immediate chance of a collision with a moving vehicle.

Supporters have heralded the law change as a victory for pedestrians, and for people living in low-income communities of color who, statistics show, are more likely to be cited for jaywalking than people in whiter, wealthier neighborhoods.

The new law has also been championed as a way to discourage drivers from acting aggressively toward pedestrians out of an assumption that cars have the right of way.

What the law does not do, however, is absolve pedestrians of the need to be cautious while crossing the road nor does it address the ongoing safety problems on our streets and roadways that put pedestrians in danger.

The amendments to California’s jaywalking laws are enshrined primarily in California Vehicle Code 21955. Pedestrians crossing outside of a crosswalk are permitted to do so if there is no imminent danger of a crash, but they do not have the absolute right to jaywalk. Pedestrians must still yield the right of way to cars when crossing the street outside of a controlled crosswalk.

And a person can be ticketed \$196 plus court fees for jaywalking dangerously – for example, by crossing in front of a moving car or without checking for oncoming traffic. Dangerous jaywalking infractions do not incur DMV points, however.

So, what happens if a pedestrian gets hit by a vehicle while jaywalking under the new law? This will be handled on a case-by-case basis. You can still file a lawsuit against the driver of a vehicle if you are injured. But just because you weren’t cited for jaywalking does not automatically mean you are blame-free in the event of a collision. California’s comparative fault laws mean that a factfinder can attribute fault to both parties involved, which will determine whether the pedestrian is fully or partially to blame for the accident.

For example, say a pedestrian suffers injuries after being hit by a car while crossing the road outside of a designated crosswalk, resulting in \$100,000 in medical expenses.

The pedestrian files a personal injury lawsuit against the driver demanding compensation for damages including those medical expenses, arguing that the operator of the vehicle should have seen him crossing the road and slowed down. But the driver counters that the pedestrian was looking at his phone when he crossed and stepped into the road without checking for traffic. A jury could decide that the pedestrian is 50 percent to blame for the accident; therefore, an

award of \$100,000 for the medical expenses would be reduced by the pedestrian’s comparative fault to \$50,000

Many people view decriminalizing jaywalking as common sense. After all, so many of us jaywalk, what’s the point in citing people for something so routine? And shouldn’t pedestrians be trusted to know when and where it is safe to cross? What’s more, the disproportionate citing of low-income people of color for jaywalking arguably exacerbated economic hardship in communities that were already struggling, and essentially punished them for a lack of crosswalks and other pedestrian-friendly features in their neighborhoods.

But the Freedom to Walk Act does not, by itself, make pedestrians any safer. In fact, the California Sheriff’s Association opposed the legislation, arguing that it would simply reduce law enforcement’s ability to help keep people safe while using the state’s roadways. Indeed, around 1,000 pedestrians are killed in traffic accidents each year in California, according to data from the National Highway Traffic Safety Administration. Thousands more are injured. These tragic deaths and injuries are likely to continue. The Sheriff’s Association argues they could even increase because of the new jaywalking law.

To stay safe as pedestrians, it’s important to remember that this new law does not change the fact that crossing the street outside of a crosswalk can still be dangerous. Always use your common sense and caution when crossing the street.

Be aware of your surroundings. If you cannot find a crosswalk, make sure the road is clear of all hazards before crossing. This includes looking out for cars, bikes, and other vehicles, and not assuming the operator of a vehicle can see you. Always be safe and yield, even if you think you have the right of way. Remember, physics dictates that the pedestrian will almost always be the one most injured in any collision.

In conclusion, California’s new jaywalking law, the Freedom to Walk Act, offers pedestrians who jaywalk safely the peace of mind that they won’t be cited for doing so.

It will also hopefully reduce policing practices that disproportionately targeted people of color. At the same time, it’s important for pedestrians to be aware of the limitations of this law and understand that unsafe jaywalking can still result in a fine or other legal consequences. And while the Freedom to Walk Act legalizes jaywalking, it does not eliminate the need for pedestrians to use caution and yield to cars when crossing.

• Logan Quirk is licensed to practice in CA, NV, & MT and is the owner and lead attorney at Quirk Accident & Injury Attorneys, APC, a personal injury law firm with offices in Thousand Oaks, Los Angeles, San Diego, Oakland and Las Vegas.

## Viewpoint