



Courtesy NHTSA

In the U.S., city planners have typically designed streets to enhance the comfort of the driver. Unfortunately, the very qualities that serve this goal tend to discourage foot traffic, bicycles, and transit use. The result is that standard street design tends to encourage activities that increase greenhouse gas emissions, and discourage more efficient ways to move around.

In a new report from the [City Streets Project](#) (an initiative from Berkeley Law's Center for Law, Energy and the Environment) the authors examine the historical basis for these regrettable design habits, and consider the feasibility of choosing a better way. The traditional design approach stems from a reliance on industry standards — not required by statute or regulation, but long thought to provide protection from tort liability. It is hard to prove negligence when the planners relied on prevailing industry standards. The [report](#) shows that exposure to liability has not proven to be a critical problem. At the same time, cities can employ design approaches better tailored to a pedestrian, bicycle, or transit experience without creating greater risk of liability from a resulting accident. Specifically, California law provides design immunity - protection from tort liability for cities that carefully consider the implications of a creative design approach before using it, and that have found reasonable arguments suggesting that the new approach will be safe.

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