

MOTORCYCLE REGS

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

April 23, 1971

M E M O R A N D U M

TO : William J. Moran, Chairman, House Judiciary Committee

FROM : Arthur H. Peterson, ^{Act} Revisor of Statutes

SUBJECT: Motorcycle regulations

During the 1970 legislative session, the House Judiciary Committee heard a good bit of testimony concerning the then recently adopted motorcycle regulations of the Department of Public Safety. Rather than introduce a bill or resolution on the subject, the committee sent a letter (dated May 29, 1970) to the commissioner of public safety, requesting him to "hold hearings and consider revision or repeal" of specified regulations (13 AAC 04.280, 285(b), 290, 295 and 300). One of the main problems was that these regulations were defended by the department on the basis of the requirements of the federal Highway Safety Program Standards (23 C.F.R., Part 204 -- specifically Standard 3), yet they contained provisions that went considerably beyond the federal requirements. The committee was not convinced of the necessity of some of the provisions, and was concerned about the type of enforcement they would receive.

A copy of the letter is attached; however, the only copy I could locate has three corrections noted on it, and I'm sure that these corrections were made before the letter was sent. The hearings, review and revision may have taken place, but I'm not aware of any of these actions being taken in response to the committee's request. It would probably be a good idea to follow up on this.

AHP:hg
Enclosure

April 27, 1971

Emery W. Chapple, Jr., Commissioner
Department of Public Safety
Pouch "N"
Juneau, Alaska 99801

Dear Commissioner Chapple:

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Sincerely,

William J. Moran, Chairman
House Judiciary Committee

WJM:mm

Emery W. Chapple, Jr., Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99801

Dear Commissioner Chapple:

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↳ What is the status of these regulations?

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Yours truly,

William J. Moran, Chairman
House Judiciary Committee

STATE OF ALASKA

WILLIAM A. EGAN, Governor

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

POUCH N, CAPITOL BUILDING
JUNEAU 99801

May 5, 1971

The Honorable William J. Moran
Representative
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

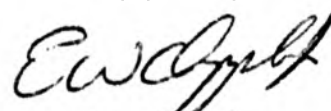
Dear Representative Moran:

In reply to your letter of April 27, 1971 concerning motorcycle regulations adapted by the Department of Public Safety, I submit the attached memorandum to me from Lieutenant H. J. Sydnam and the substantiating materials he has furnished.

I believe Lieutenant Sydnam lays out our position and the circumstances of that position very well, and I would suggest that if it is the desire of the legislators that changes be made, that those desires be specifically laid out.

Please note that both Lieutenant Sydnam and myself stand ready and willing to assist your committee in these matters at any time.

Very truly yours,



Emery W. Chapple, Jr.
Commissioner

Attachments

MEMORANDUM

State of Alaska

TO: Emery W. Chapple, Jr., Commissioner
Department of Public Safety

DATE : April 30, 1971

FROM: Lieutenant H. J. Sydnam, Director
Alaska Traffic Safety Bureau

SUBJECT: Motorcycle Regulations 13 AAC
File 362.7

The question of "holding hearings and consider revision or repeal" is addressed to the sections concerning 2 rear view mirrors, windshield-goggles-face shield, protective helmet, rental to unhelmeted person, maximum height for handlebars, and helmet-goggles-face shield standards.

The regulations were drawn up in consideration of the Uniform Vehicle Code, the National Highway Traffic Safety Administration Standards, adaptation of other state laws and with the active assistance of the Department of Law and the Legislative Affairs Agency. Publication of notice of hearings were made on October 13, 1969 in Anchorage; October 17, 1969 in Juneau; October 10, 1969 in Fairbanks. A notice of change was mailed to each legislator on October 7, 1969. The hearing was held in Juneau on November 17, 1969, as announced.

Former Commissioner Personett discussed Rep. Jackson's letter of June 1, 1970, with the Attorney General. It was their decision that as the letter constituted an opinion of request and not an order and concerned an issue that had become effective under compliance of law, that no further action be taken. Subsequently, and prior to the effective date of these sections, a suit was brought against Personett by a man in Anchorage which challenged these same points. The Commissioner and the Attorney General then felt that it would be much better to be guided by the judicial decision rather than another public hearing. The case in question has not yet been decided and I would suggest that we await that decision before initiating any administrative action.

To comment upon the regulations themselves, you will find from the attachments that the equipment regulations do follow NHTSB (now NHTSA) recommendations, except for the second rear view mirror. We have no real objection to only one mirror, however the contention that any mirror is useless at speeds over "..." mph is no excuse for not requiring at least one. Where the mirror sees its greatest need and use is in urban driving where at reasonable speeds it permits knowledge of other traffic without turning the head.

As to the issue of constitutionality, I include the Wisconsin case of Bisenius vs Karns (1969). This case was appealed and the U.S. Supreme Court dismissed appeal attacking the constitutionality of the Wisconsin Statute "for want of a substantial Federal question." Local courts have ruled on the constitutional issue, but to date the U.S. Supreme Court has not questioned that helmet laws are legal measures. There will be a "split of judicial opinion" on any law and magistrates, judges and lawyers delight in issuing pronouncements of constitutionality which preempt the right of due process.

Memorandum
Emery W. Chapple, Jr.

-2-

April 30, 1971

It is my understanding that the Deputy Commissioner and Assistant Attorney General Robert Mahoney are moving on the #2 mirror question at present.

Windshields and mirrors on trail bikes are not required - so long as they are operated off-highway.

Handlebar height is specified for the purpose of eliminating the need to quibble over what is and what is not "safe control."

The regulations are based upon valid safety measures and are not designed as "a means of harassing a particular segment of the population," unless such "harassment" could be construed as to mean trying to reduce injury to the bike rider and his loss of control which most likely to involve other motorists who, although they are (or should be) properly protected by weight of steel, safety glazing and occupant restraints, still have some right to assume the bike rider is qualified and equipped to operate his machine. That he will not ram them because a bee got in his eye, or his arm had to reach too high in gripping the bars to steer. That because the bike struck the car and the reason they have a manslaughter charge and civil suit was because the rider's bare head was not up to ASA Z 90.1.

Attachments



Alaska State Legislature
House

JUNEAU ALASKA

April 27, 1971

Emery W. Chapple, Jr., Commissioner
Department of Public Safety
Pouch "N"
Juneau, Alaska 99801

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Sincerely,

William J. Moran, Chairman
House Judiciary Committee

WJM:mm

Alaska State Legislature

REPRESENTATIVE
BARRY JACKSON
P. O. BOX 340
FAIRBANKS, ALASKA 99701

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99801



REPRESENTING FAIRBANKS
AND INTERIOR ALASKA
CHAIRMAN, JUDICIARY COMMITTEE
MEMBER, HEALTH, WELFARE,
AND EDUCATION COMMITTEE

House of Representatives

May 29, 1970

Mel J. Personett, Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99801

Dear Commissioner Personett:

After hearing testimony on both sides of the matter, and after reviewing the material you submitted, the House Judiciary Committee requests that the Department hold hearings and consider revision or repeal of the following regulations pertaining to motorcycles: 13 AAC 04.280, 285(b), 290, and 300.

While not taking a position on the constitutionality of any of these regulations, the committee is aware that there is a split of judicial opinion and that in some states the helmet requirement has been held invalid as an invasion of the right to privacy. Moreover, during the recent hearings held on these regulations by this committee, no evidence was presented which conclusively established that these requirements promote either individual safety or the public safety. To the contrary, although examples were given of situations in which a helmet or face shield might be helpful, other examples were given of when they would be a definite hazard; also, windshields and mirrors on "trail bikes" appear to be hazards rather than safety features. There was testimony that a mirror on a motorcycle was of little utility because of vibration; and you agreed that the requirement of two mirrors in 13 AAC 04.280(a) (1) is unnecessary.

The regulation on the height of "handlebars or grips" (13 AAC 04.290) is ambiguous as well as being subject to ~~interpretation~~^{interpretation} as an undue restriction on design variations. If there is a certainty that a design variation will result in motorcycles with a steering arrangement that poses a clear threat to the public safety, a regulation something like the following would be more appropriate: "No person may operate a motorcycle or motor scooter on which the handlebars are at a height which does not reasonably allow for safe control of the vehicle." When the present language is read in conjunction with the regulation on windshields (13 AAC 04.295) some ludicrous regulations can occur.

With regard to 13 AAC 300, the committee believes it is a good idea, and a proper action in the benefit of the public, to specify standards

May 29, 1970

for the construction of protective headgear, goggles, etc. When a person decides that he wants to wear a helmet, for example, he should be able to rely on the safety of those offered for sale or rent. Since this section refers to the requirement that these items be worn at all times and in all circumstances, this section should be re-written. Also, the reference to sec. 280(a) (3) in 13 AAC 04.205(a) should be deleted.

The committee notes that the federal safety standard on motorcycles (1) does not require a windshield, face shield or goggles--just "eye protection"; (2) does not specify handlebar height or windshield height; and (3) does not require two mirrors.

The committee is concerned about the fact that these regulations, of at least questionable validity, of questionable benefit to the safety of the public and even to the individual, may be selectively enforced to provide a means of harassing a particular segment of the population. We do not believe that this is sound state policy. We expect that the revised regulations will be clearly valid and protective of the public safety, and that to the extent they are designed to protect the individual, due consideration has been given to the right to privacy and the policy which underlies that constitutional right.

Yours truly,

Barry W. Jackson, Chairman
Judiciary Committee
Alaska House of Representatives

BWJ:tmc

Alaska State Legislature

REPRESENTATIVE
BARRY JACKSON
P. O. BOX 248
FAIRBANKS, ALASKA 99701
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99801



REPRESENTING FAIRBANKS
AND INTERIOR ALASKA
CHAIRMAN, JUDICIARY COMMITTEE
MEMBER, HEALTH, WELFARE,
AND EDUCATION COMMITTEE

House of Representatives

June 1, 1970

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Department of Public Safety
Pouch "N"
Juneau, Alaska 99801

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With regard to 13 AAC 04.300, the committee believes it is a good idea, and a proper action for the benefit of the public, to specify standards

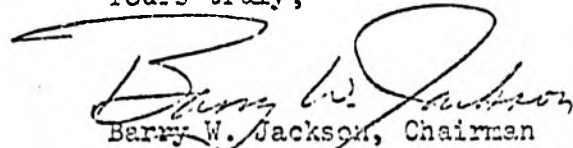
June 1, 1970

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Yours truly,



Barry W. Jackson, Chairman
Judiciary Committee
Alaska House of Representatives

BWJ:trc

Memorandum

National Highway Safety Bureau
222 S. W. Morrison Street
Portland, Oregon 97204

DATE: September 25,

SAFETY DIRECTORS:
TO : Lt. Harold J. Sydnor, Juneau, Alaska
Mr. Mark Gibson, Boise, Idaho
Mr. Robert A. Shea, Helena, Montana
Mr. Gil W. Bellamy, Salem, Oregon
FROM : Mr. Glenn L. Crawford (Acting), Olympia, Washington
Wm. L. Hall, Director,
Highway Safety Program Office,
Portland, Oregon

In reply refer to: 08-00.2

SUBJECT:

Repeal of Motorcycle Safety Helmet Laws

This will supplement our memorandum of September 17, 1969, concerning the Repeal of Motorcycle Safety Helmet Laws. Attached is a copy of an article that appeared in the October 1969 issue of Cycle Magazine.

Cycle has a circulation of about 250,000. This article serves well as an advance warning of the vigorous attacks on helmet laws that we can anticipate in the coming legislative session.

Attachment



BUY U.S. SAVINGS BONDS REGULARLY ON THE PAYROLL SAVINGS PLAN

WE CAN OWN THE WORLD!

What's a government but silly putty? It can be pushed any direction and spreads out where there's no resistance. Bike power advocates in Illinois proved that it can be done: here's their 3-step formula for helmet law repeal.

BY FRANK CONNER

Government is like Silly Putty: push against it hard enough at one point, and it will recede from that point, flabbing out someplace else where there is less resistance. A blueprint for the successful, lawful combat of motorcyclists against government can be drawn from the activities of Illinois riders to repeal the Mandatory Helmet law.

Illinois riders were less than enchanted with the helmet ruling. Several groups had been formed to work against restrictive legislation, and had done much valuable spadework to stir up the riders, so the climate was right for revolution,

but nobody had been successful at focusing rider-discontent against the forces of government in Illinois. Then eight riders casually decided to get together to see what they could do to get the helmet law overturned. They called themselves the "Committee on Legislation," and they decided that if they wanted to succeed, they should run their campaign like a business. First they needed a product: organized enraged motorcyclists. Then they needed to get their product to the market, which was the Illinois Legislature. Finally, they needed a good sales-feature for their product. Since legislators need to get reelected periodically, the votes of the riders made the best-possible selling-feature.

How good was their product? Well, there were 110,000 registered motorcycles in Illinois, which meant that about 250,000 people (including friends, wives, or parents) were predisposed to like motorcycles and could possibly be enlisted into the fight. Potentially, the committee had a very strong product; even a tiny fraction of 250,000 votes is something that most state politicians regard with great care. How to get the product to the market? The committee didn't have enough money to contact all 110,000 riders in the state, so they decided to work through groups.

The eight members of the committee listed the various groups whose names and addresses were readily available. The committee then wrote to these groups and asked for the names of any groups or dealers who weren't as yet on the list. In such manner, the committee collected the names of about 600 dealers, AFA-affiliated clubs, outlaw clubs,



dealer-associations, etc. Now the committee had enough contacts to reach a large percentage of the riders in Illinois.

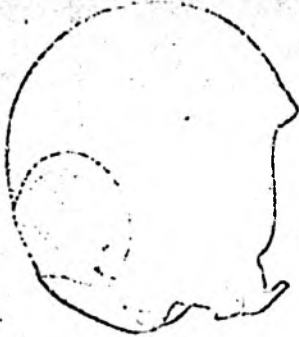
As a next step, the committee put together a map of the state, showing each of the political districts, and listing the names and addresses of the three state representatives and the one state senator from each district. Thus, any rider receiving a copy of the map would know whom to write.

The committee sent quantities of these maps to each of the 600 groups, along with a request to distribute the maps to the riders in

that area. Along with the map went a letter asking the rider to write to each of the three representatives and the senator from his district, requesting repeal of the helmet law. The letter to the riders suggested some reasons why the law was unsatisfactory, but the committee felt that the campaign would be successful only if the riders wrote their own letters, stating their own beliefs. In addition, the committee got as many of the 600 groups as possible to send two members each to visit all of the legislators from their respective districts. This would give the legislators an unmistakable indication as to the amount of voting power that Illinois riders could swing.

Having gotten this far, the Committee on Legislation found that they had all sorts of access to news media. At first, they began to make use of the media. But then they decided that they should leave it strictly alone, because they would be hurting—not helping—their enterprise by attracting the attention of the public to their cause. The general public either doesn't care about motorcycling, or is opposed to it; the committee decided to let sleeping dogs lie.

As the next step, the committee needed to get somebody in the legislature to introduce a bill to repeal the helmet law. Who better than the man who had originated the helmet law? That particular legislator happened to live in the same town as one of the eight committee members, so the committee went to work there right away, getting the local motorcycling groups to begin visiting and writing to that legislator to inform him of their displeasure. (Continued on page 10)



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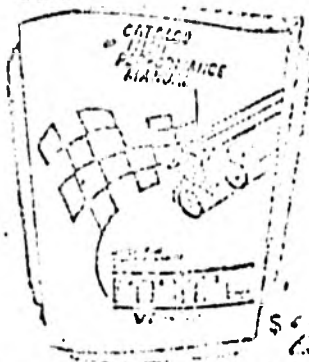
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World Continued from page 43

with his law. He saw the light of day and introduced a new bill to repeal his helmet law.

The committee then sent to each state legislator a rational list of reasons why the helmet law was unsatisfactory. The committee said, in effect: "We don't have our hands out for anything; all we want is not to be discriminated against. Repeal of the helmet law will have no adverse effect upon the state. We feel so strongly about this issue that if you disregard us, you will not like what happens at the next election."

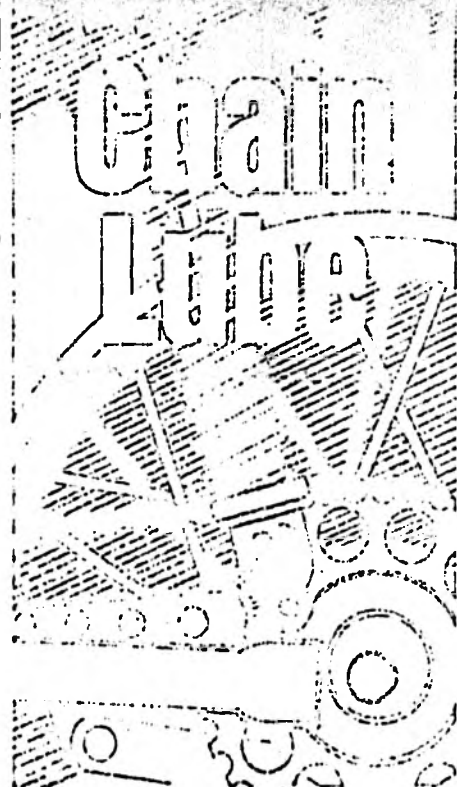
Then the letters from riders began to pour in. Some of the riders who wrote to their legislators made no attempt to mince words in expressing their dissatisfaction with the helmet law. The committee was not at all unhappy with that state of affairs; it gave the legislators a much better understanding of the riders' and voters' unhappiness. Then began the personal confrontations between riders and legislators. The committee felt that the outlaw groups were particularly effective in getting their message across. The legislators were amazed and appalled; they hadn't even been aware of the existence of motorcyclists before, except as scapegoats who could be put down with impunity. Now the scapegoats were threatening to bite them. Taking a leaf from the SDS handbook, various motorcycle groups were murmuring about putting 50,000 motorcyclists into Springfield during the summer if the helmet law were not repealed. It was not—apparently—an empty threat.

The repeal bill went first to the Illinois Senate. Forty-three voted "aye," 11 voted "nay." In the House of Representatives, only eight of approximately 160 legislators voted against the bill.

The repeal bill was ready to be signed into law. Then, the state judiciary found in favor of Donald Freeze, who had brought suit previously to test the constitutionality of the helmet law, and the offending law was declared unconstitutional in Illinois.

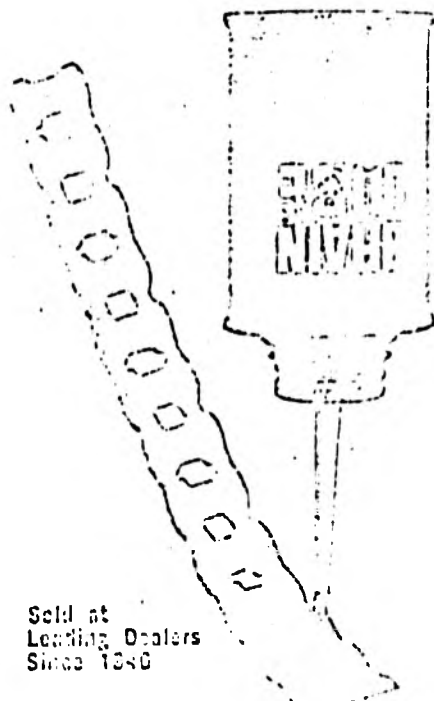
However, courts in other states have upheld the helmet law, and some valuable lessons can be learned from the activities of the Committee on Legislation. Politicians respect organized voting-power (lots of loud voices). Reed Ehrlich, one of the eight members of the committee, has this to say about getting the repeal bill into and through the legislature: "It was so easy to do. It can be done anywhere else just as easily. All you have to do is organize carefully at the beginning. If we—the riders—are ever threatened seriously with restrictive national legislation, all we have to do is organize nationally the way the Illinois riders did regionally. We can own the United States."

That would be a change.



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On Regulations

- 1 New driving rules went into effect Jan. 1 throughout Alaska. Motorists were informed by the Alaska Department of Public Safety several hours before the rules became law.
- 2 But copies of the regulations are not available and won't be for several months.
- 3 In the meantime, we have not noticed any decrease in the number of hitchhikers along Water Street and Tongass Avenue in Ketchikan. The hitchhikers usually are high school kids bound to or from studies or activities up on The Hill.
- 4 The new road rules say that hitchhiking is illegal. Also declared illegal is Ketchikan Rotary Club's method of operating the Salvation Army Christmas kettle. It is illegal to ask any passing motorist for a donation.
- 5 Another habit we note Ketchikan motorists have has been declared illegal. That is driving with parking lights on. If lights are required at all headlights must be included.
- 6 Of interest to local motorists, too, is the requirement that parking lights be on at any time a vehicle is parked within six feet of the roadway. Along North and South Tongass there are few places a vehicle can get more than six feet from the roadway.
- 7 We can presume that the state troopers will be issuing warnings in the next few months instead of making arrests for violations of a code not yet generally available.
- 8 There are some good points in the new rules. There are some of doubtful value. There are some about which the public may have an opinion.
- 9 We believe the department failed the public in not advertising the proposed regulations before they went into effect. It is possible that a public hearing on the rules would have revealed better solutions to the problems.
- 10 We also believe it is possible that the validity of the department's rules may be questioned because of the procedure used to put them into effect. For example, members of the Alaska Legislative Council, a portion of the state's official lawmakers, were uninformed on the contents of the new driving regulations. Failure to properly advise the lawmakers of new rules is not good sense, even if it is legal.
- 11 This incident, together with the problems attending the emergency announcements of the fish and game department during the summer, leads us to believe that regulations should have a rider that they are not effective until some many days or hours after publication by a newspaper of general circulation in the area. This is a standard clause in a lot of city ordinances.

LMW, Jr.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

TO: Captain Richard L. Burton

DATE : January 9, 1970

FROM: Captain James H. Barkley

SUBJECT: News Media - File 8052

This is in answer to your inquiry concerning the editorial which appeared in the January 6, 1970, edition of the Ketchikan Daily News. The journalist could have checked each and every allegation by merely asking.

To assist you with the problem of answering the inquiries from the public which this editorial has generated, the following facts are documented:

Paragraph 1 - The enclosed copy of a news release issued to the AP on or about December 12, 1969, set out every regulation which was new. Few papers were interested enough to print any of the material, and those who did, printed minor excerpts.

Paragraph 2 - Copies of the regulations were mailed to law enforcement agencies, attorneys and courts and a limited number of copies are available to those who have a real need.

The Drivers' Manual, which is a summarization of the motor vehicle laws is currently being printed. The contract calls for a March 1, 1970, delivery date. This is the publication which is distributed to the public and which is written in non-legal terms.

Paragraph 3 - The hitchhiking law has been in effect since before 1959, and there is no reason to believe any great change is going to occur.

Paragraph 4 - This has also been a law since before 1959.

Paragraph 5 - This is a new provision and was promulgated in order that parking lights alone, means a parked vehicle to approaching drivers.

Paragraph 6 - This regulation is not new, but was revised to be less restrictive and more realistic than the previous wording. The six foot requirement is applicable only on highways outside cities or suburban districts.

Paragraph 7 - This assumption may be wrong depending on the violation and the circumstances. There are really only 14 regulations.

Paragraph 8 - Profound statement!

11/7/69

Page 2

Paragraph 9 - The regulations were published in newspapers in Juneau, Anchorage and Fairbanks. The law requires publication in only one paper.

Publication was made on October 13, 1969, in Anchorage; October 17, 1969, in Juneau; October 19, 1969, in Fairbanks, and public hearing was held on November 17, 1969, at Juneau, as was concerned in the notice. Hearing was 30 days after the latest publication date, as is required by law.

Written comment was also solicited in the notice.

Paragraph 10 - Every legislator received a copy of the notice as is required by law. These were mailed on October 7, 1969.

The Legislative Affairs Agency, which is the executive branch of the Legislative Council, reviewed and re-reviewed the regulations and assisted with the drafting. This procedure began during July of 1968.

During the 1969 session of the legislature, numerous legislators were advised of the revisions taking place.

Paragraph 11 - A "rider" as he calls it is not necessary in view of the fact that the law does not become effective until 30 days after filing with the Secretary of State, and they cannot be filed until 30 days after publication.

So, if a regulation could go through the procedure without any delay, the minimum amount of time from publication to effective date is 60 days.

These regulations required 73 days from latest publication date.

It might be well to emphasize the fact that the new regulations are, in the large part, merely revision of regulations which have been in effect since 1953. The revisions, in fact, made many existing regulations less restrictive than they previously were. There are in fact only 37 new regulations out of a total number of 165. Of these 37, nine do not become effective until 1971; eight concern snow vehicles; ten restrict the actions of the police and other government agencies; four control the sale of equipment to the public. This leaves six which are new regulations directed at the individual driver. To these, of course, can be added those concerning snow vehicles which makes a total of 14.

Enclosure

Attachment

*Copies to each
Reg. mailed on Oct 7, 1969*

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given that the Department of Public Safety, under authority vested by AS 28.05.030-050; 28.20.020; and 28.15.130, proposes to adopt, amend and repeal regulations in Title 13 of the Alaska Administrative Code as follows:

GENERAL: A complete revision of the regulations governing rules of the road; equipping of vehicles; inspection of vehicles; safety responsibility; definitions of words and phrases used in the traffic regulations; and adoption of a complete set of regulations governing the issuance or denial of school bus driver permits, is being made. Revisions include the deletion of various existing provisions, the addition of new provisions and the technical amendment of wording throughout the regulations. Adoption of these regulations will repeal 13 AAC 01.101; 103; 104; 105; and 106 and will adopt 13 AAC 02 (Rules of the road); 13 AAC 04 (Vehicle lighting, brakes and other equipment); 13 AAC 06 (Inspection of vehicles); 13 AAC 08 (Driver licensing and safety responsibility) and 13 AAC 10 (Definitions - traffic regulations). The provisions of these regulations concern the following:

A. RULES OF THE ROAD:

- (1) Traffic signs, signals and markings;
- (2) Use of the roadway;
- (3) Right-of-way;
- (4) Pedestrian rights and duties;
- (5) Turning, starting and signals on stopping or turning;
- (6) Special stops required;
- (7) Speed restrictions;
- (8) Stopping, standing or parking;
- (9) Bicycles;
- (10) Snow vehicles (equipment, restrictions on use, etc.);
- (11) Miscellaneous provisions - governing leaving vehicles unattended, backing, riding on cycles and scooters, obstructing driver's view, opening and closing doors, livestock on roadway, riding in trailers, coasting, following emergency vehicles, crossing fire hose, littering, carrying or towing persons on outside of vehicle, embracing while driving, drinking while driving and leaving child in vehicle;

- (12) General provisions - governing application of traffic regulations, obedience to police officer, riding animals or animal-drawn vehicles, fireman's private vehicle and emergency vehicles.

B. VEHICLE LIGHTING, BRAKES AND OTHER EQUIPMENT:

- (1) Scope and effect of regulations;
- (2) Lamps and other lighting equipment;
- (3) Brakes;
- (4) Other equipment - including horns, muffler, mirrors, windshield, tires, safety glazing material, flares and warning devices, air conditioning equipment, television viewers, anti-spray devices, seatbelts, safety chains, motor-cycle and scooter requirements concerning goggles; face shields; helmets; handlebars, and standards for same, and required equipping of vehicles for sale, lease or rental.

C. INSPECTION OF VEHICLES:

- (1) Vehicle equipment condition;
- (2) Inspection by officer;
- (3) Owner or driver to comply with inspection requirements;
- (4) Roadside inspections;
- (5) Inspection stickers;
- (6) Prohibited practices - (repairs, etc.);
- (7) Notice and approval of repair or adjustment.

D. DRIVER LICENSING AND SAFETY RESPONSIBILITY:

- (1) School bus driver permits - (Article 1);
 - (a) Application of regulations;
 - (b) Denial of permit - (grounds)
 - (c) Application and examination requirements - (scores, composition and frequency);
 - (d) Medical standards;
 - (e) Permit to be carried;
 - (f) Restricted permit;
 - (g) Cancellation of permit - (grounds);
 - (h) Suspension or revocation of permit - (grounds and duration);
 - (j) Re-examination - (grounds).
- (2) Safety Responsibility - (Article 2);
 - (a) Application of regulations;
 - (b) Reports required - (time limits);
 - (c) Security deposit - (form and beneficiary);
 - (d) Release from liability - (notarization required);
 - (e) Agreement for payment of damages - (Notarization required);
 - (f) Form of notice - (delivery and time limit).

E. DEFINITIONS - TRAFFIC REGULATIONS:

This chapter defines various words and phrases used in the traffic regulations and in certain sections of AS 28.

Since the regulations are so extensive as to preclude inclusion in this notice, interested persons may inspect them at a regional headquarters office of the Alaska State Troopers, Anchorage or Fairbanks, or obtain a reasonable number of copies by a written request addressed to the Department of Public Safety, Pouch N, Juneau, Alaska

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held at Room 423, Capitol Building, Juneau, Alaska, at 9:00 o'clock a.m. on November 17, 1969.

The Department of Public Safety, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as above set out without further notice.

DATE October 10, 1969



Commissioner
Department of Public Safety

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

(4) Motorcycle license renewal.

States should consider the following suggestions in the establishment of procedures for motorcycle license renewal:

(a) Renewal should be required at least once every four years.

(b) A motorcycle license reexamination, consisting of a vision screening and a knowledge test, should be part of the renewal.

(c) No renewal license should be granted unless the applicant has at some time passed a suitable motorcycle license examination.

4. MOTORCYCLE OPERATION

a. Introduction.

There are certain actions which should be instituted by the State to promote safe motorcycle operation and eliminate unsafe practices of motorcycle operators.

b. Unsafe practices.

There are several unsafe practices currently in widespread use by motorcycle operators, including:

(1) Carrying passengers or materials in front of the operator which interfere with operator control.

(2) Sidesaddle riding by passengers.

(3) Riding between lanes of moving traffic.

(4) Riding between the traffic lane and parked cars.

(5) Passing other vehicles in the same lane.

(6) Use of same traffic lane by more than two motorcycles abreast.

(7) Carrying more passengers than the motorcycle's capacity.

(8) Passing other motor vehicles on the right where prohibited.

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c. Implementation.

The following action should be considered by the State to encourage safer motorcycle operation:

- (1) Enforce laws controlling unsafe practices.
- (2) Educate operators and the public in proper vehicle operation procedures through training courses, public education, and community action programs.
- (3) Emphasize proper operation of motorcycles in motorcycle license examinations.
- (4) Ensure that highway warning signs are sufficient to cover the needs of motorcyclists, especially signs designating areas that may be particularly hazardous to motorcyclists.
- (5) Permit renting of motorcycles by licensed operators only.
- (6) Establish performance standards, such as minimum speed limits, for motorcycle operation on limited access highways.

5. MOTORCYCLE PERSONAL PROTECTIVE EQUIPMENT

a. Requirements.

Because of the high probability of injury resulting from motorcycle crashes the following requirements have been developed:

- (1) Each motorcycle operator and passenger shall wear an approved safety helmet securely fastened on his head.
- (2) Motorcycle operators shall wear approved eye protection devices.

b. Recommendations.

The Department of Transportation has not set performance specifications for safety helmets and eye protection devices. In the absence of Federal specifications, the State should set its own.

(1) Safety helmets.

(a) Safety helmet specifications.

The following specifications are recommended for consideration as a basis for State safety helmet performance specifications:

1 U. S. A. Standards Institute, Specification for Protective Headgear for Vehicle Users (Z90.1-1966).

2 The Z90.1-1966 specification modified to require only one impact per test site.

3 Motorcycle, Scooter and Allied Trades Association (MS&ATA), Specifications for Motorcycle Safety Helmets.

(b) Identification of approved helmets.

Helmets approved by the State should be labeled for identification by purchasers and enforcement officers. This label, indicating the helmet manufacturer's name or brand name and the model name or number, should be placed in a permanent manner at the outside lower rear of each helmet in letters of not less than one-quarter inch in height.

(c) Reflectorization.

While not required currently under the Motorcycle Safety Standard, it is recommended that each helmet have a reflectorized surface or have reflectorized material securely affixed on the left side, right side, and rear. This reflectorization should cover an area of at least 10 square inches at each of the specified sites and should preferably cover the entire helmet.

(2) Eye protection devices.

A satisfactory eye protection device can be goggles, a face shield, or safety glasses (excluding contact lenses).* Windshields are highly recommended as an additional measure. These eye protection devices should meet performance specifications established by the State.

(a) Eye protection approval.

1 State standard for motorcycle windshields should comply with the requirements of Federal Motor Vehicle Safety Standard 205:

* Whenever the motorcyclist wears corrective lenses, even though other eye protection devices may be worn, the use of safety glass or plastic lenses is recommended.

ttal 2
17, 1969

Transmittal 2
January 17, 1969

Vol. 3
Chap. IV.
Par. 5

Glazing Materials - Passenger Cars, Multipurpose Passenger Vehicles,
Motorcycles, Trucks, and Buses.*

2 Two standards developed under the auspices of the U. S. A. Standards Institute may be consulted for the development of performance specifications for other eye protection devices. These standards are:

a Standard Z26.1-1966: Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways.

b Standard Z2.1-1959: Head, Eye and Respiratory Protection.

(b) Night use of eye protection.

Eye protection used at night should not be tinted.

(3) Other personal protective equipment.

Safety helmets and eye protection devices are the only personal protection equipment specified under the initial Motorcycle Safety Standard. Additional items, including protective footwear, gloves, jackets, and trousers should be encouraged in motorcycle operator education courses and public information programs.

6. MOTORCYCLE VEHICLE EQUIPMENT

a. Rearview mirror.

The State program should ensure that each motorcycle is equipped with at least one rearview mirror which provides the operator with an adequate field of vision at least 200 feet to the rear.

b. Passenger seat and footrests.

The State program should ensure that a passenger is carried only on a motorcycle designed to carry a passenger and that the motorcycle is equipped with a seat and footrests designed and located for use by the passenger.

* Excerpts from this Safety Standard, 23 C.F.R. 255.21, are reproduced as Appendix G of this volume.

c. Lamps and reflective devices.

State standards for lamps, reflective devices, and associated equipment should comply with the requirements of Federal Motor Vehicle Safety Standard 108: Lamps, Reflective Devices, and Associated Equipment -- Passenger Cars, Multipurpose Passenger Vehicles, Trucks, Buses, Trailers, and Motorcycles.*

d. Other.

Each motorcycle should be equipped with such other equipment as may be required by the State.

7. MOTORCYCLE VEHICLE INSPECTION

a. Introduction.

(1) Each motorcycle should successfully pass a safety inspection at the time the motorcycle is initially registered and at least annually thereafter, or at such other time as may be designated under an approved experimental, pilot, or demonstration program implemented by the State.

(2) Recommendations for implementing motorcycle vehicle inspection set forth in this volume are intended to supplement, not supersede, recommendations set forth in Volume 1, of this Manual, Periodic Motor Vehicle Inspection.

b. Implementation.

(1) General.

(a) U. S. A. Standards Institute, American Standard Inspection Requirements for Motor Vehicles, Trailers, and Semitrailers Operated on Public Highways (D7.1-1963) indicates inspection procedures which should be used as a guide whenever practical.

(b) Training given to motor vehicle inspectors should include training on motorcycle inspection procedures.

(c) The motorcycle inspector should have passed an examination demonstrating his knowledge of *motorcycle inspection procedures.*

* Excerpts from this Safety Standard, 23 C.F.R. 255.21, applicable to motorcycles manufactured after December 31, 1968, are presented as Appendix F of this volume.

(d) A licensed motorcycle operator should perform all motorcycle operations that may be required as part of the inspection.

(2) Recommended inspection.

The items inspected in the State motorcycle inspection should include, but not be limited to, those listed below. It is not intended that this list require removal of wheels or disassembly of major components.

(a) Steering and wheel alinement.

1 Frame and front fork should not be bent or damaged.

2 Wheels should not be out of line.

3 Components should not be broken, loose, excessively worn, or missing.

4 Steering head bearing should not be loose, broken, or defective.

5 No portion of the handlebars may extend more than 15 inches higher than the level of the seat.

6 Handlebars should not be loose, bent, broken, or damaged.

(b) Suspension.

1 Motorcycle should not have broken, excessively worn, missing, defective, disconnected, or malfunctioning shock absorbers or other suspension components.

2 Motorcycle should not have broken or sagging springs.

(c) Tires, wheels, and rims.

1 Tires should not have less than 2/32 of an inch of the tread design remaining, or any part of the ply or cord exposed.

2 There should not be any tread cut or snag on the outside of the tire deep enough to expose the body cords.

3 Sidewalls should not be scuffed, cut, or snagged to the extent that body cords are damaged.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.



Published in the interest of greater traffic safety by the Ontario Department of Transport, Hon. Irwin Haskett, Minister

New Laws Will Affect Snowmobilers this Winter

From the time that first snowflake falls, and doesn't melt, thousands of Ontario residents start getting ready for the snowmobiling season.

If you're a snowmobiling enthusiast, there are some new laws you should brush up on before heading out this winter.

The scope of the laws regarding snowmobiling are outlined in a comprehensive new pamphlet now available from Department of Transport. "Motorized Snow Vehicles in Ontario" is a compact guide to the operation of your machine. The Motorized Snow Vehicles Act is also free upon request from the Highway Safety Branch, Ontario Department of Transport, Ferguson Block, Queen's Park, Toronto M8Z 1B2.

Here are some of the new laws you should know about in brief:

- Snowmobilers must now report any collisions on or off the highway which involve personal injury or damage exceeding \$200 to property other than that of the owner or driver.
- The driver of a snowmobile must hold a driver's licence

to take his machine on highways where snowmobile operation is permitted.

- The owner of a snowmobile is to be held responsible for any infractions committed by persons using his machine this owner responsibility is in addition to that of the operator.



Try to avoid driving your snowmobile on roads where the snow is hard-packed, icy, or where the roadway is dry and handling is difficult. Fully 78 percent of the 185 collisions which were reported on Ontario highways last year happened under these conditions. Drivers who mixed alcohol and snowmobiling accounted for 21 percent of the 185 collisions.

Forty percent of collisions occurred during the weekend in hours of darkness.

Don't venture out on ice-covered lakes until well into the winter months. Even then, currents from streams flowing in or out of the lake will make the ice thinner in some places. Another hazard for snowmobilers is barbed wire several cases were reported last year of snowmobilers who didn't see farmer's fences until it was too late.

New licence plates for motorized snow vehicles went on sale October 1st across Ontario. The new, chrome yellow and blue plates are good for two years and the registration fee is \$4.00.

Motorcycle Deaths Down Since Helmet Law Passed

In Ontario, all motorcyclists have been required to wear crash helmets since September 1 of 1968.

Since that ruling went into effect, there's been a substantial reduction in the number of motorcyclists killed or injured in collisions.

There were 76 deaths in the 12 months before the law was passed. Those injured while drivers or passengers on motorcycles totalled 3,302.

In the 12 months following the introduction of the new law, deaths decreased by 35.5 percent. There were 2,714 persons injured in motorcycle collisions — a reduction of 17.8 percent.

Figures for the following 12 months show that from September, 1969 to August 1970,

deaths decreased by yet another 8.2 percent.

In comparison, the state of Michigan rescinded the law which required all motorcyclists to wear crash helmets in 1968 and deaths jumped 165 percent that year in comparison to the year 1967 when the helmet law was in force.

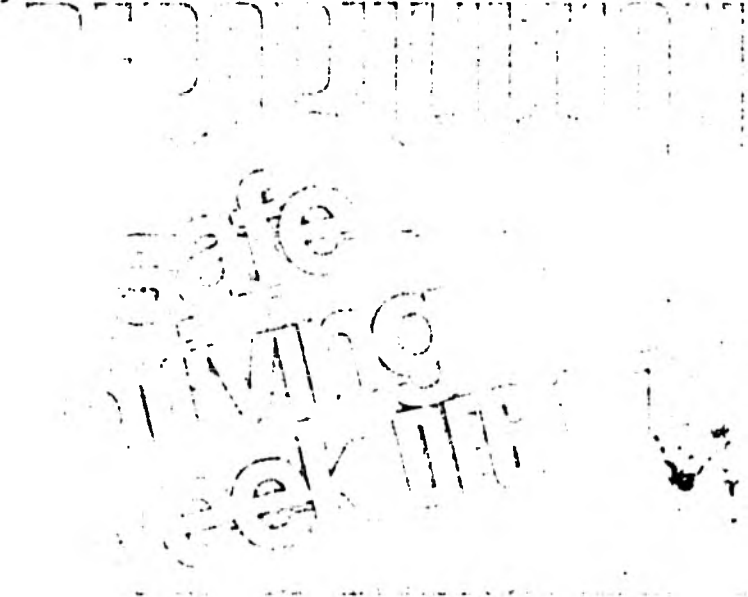
Ontario Traffic Safety reminds motorcyclists to look for the CSA sticker next time they're buying a helmet. Canadian Standards Association helmets are regulation helmets for Ontario motorcyclists. There's only one exception — helmets which conform to the requirements of the Snell Memorial Foundation or British Standards Institute are permitted, but only until December 31, 1971.

Traffic Deaths Still Down From '69

The number of deaths due to traffic collisions took a sharp drop in Ontario during the first six months of 1970, showing a decrease of 14.7 percent over the previous year.

But at the end of August, the figures backslid a bit, with the over-all decrease for the eight months at 11.6 percent.

Ontario Traffic Safety asks motorists to take special care during the early winter months, a time of increased driving hazards. Help us beat the numbers.



Safety experts say that if everyone spent a few seconds thinking about driving before starting up his car, we'd have a lot fewer traffic deaths.

That's exactly what the Canada Safety Council hopes you'll do during Safe Driving Week, December 1-7, and in the following weeks and months. Safe

Driving Week represents a major attack on traffic collisions, the main cause of accidental deaths in Canada.

The work for Safe Driving Week begins now, involving hundreds of groups and individuals working for greater driving safety across Canada. They're counting on your support.



The State of Wisconsin

EXECUTIVE DEPARTMENT
DIVISION OF HIGHWAY SAFETY COORDINATION
26 S. CAPITOL BUILDING
MADISON 53702

WARREN P. KNOWLES
GOVERNOR

840
MAY 27 10 30 AM '68
DEAN VAN GORDON
HIGHWAY SAFETY COORDINATOR

May 24, 1968

Mel J. Personett
Commissioner
Department of Public Safety
P.O. Box 2719
Juneau, Alaska 99801

Dear Mr. Personett:

The 1967 Wisconsin Legislature passed a law requiring motorcycle operators to wear helmets. This law was recently challenged.

You will notice from the enclosed decision that our Circuit Court in Dane County upheld the law. We thought you might be interested in this information.

Should it be appealed to the Supreme Court in Wisconsin, we will also forward the results of that action.

Sincerely,

DEAN VAN GORDEN

DVG:bdr

Enc.

JAMES DISENIUS,

+

124423

Plaintiff, +

v. +

JAMES L. KARNIS,
Commissioner of Motor Vehicles, +

Defendant. +

Before: Hon. W. L. Jackman, Circuit Judge

Hearing May 13, 1968

Appearances: Plaintiff in person and by S. A. Schapiro
Defendant by Albert Harriman, Assistant Attorney
General.

- - -

The plaintiff in this case challenges the validity of Section 64, Chapter 292, Laws 1967 which enacted, among other things, Sections 347.485, Stats. 1967. The challenge extends to subsections (1), (2) of Sec. 347.485 relating to requiring protective headgear and eye protection, and to Sec. 347.486 requiring handlebars to be not over 15 inches above the seat. Attack is also leveled against Section 45, Chapter 292, Laws 1967 enacting Sec. 346.595 (5) requiring motorcycles to have lights while being operated.

These statutes are attacked as violating the due process and equal protection clauses, presumably of both United States and state constitutions.

It is obvious that the purpose of requiring helmets is to protect against head injuries. It is likewise obvious that the reason eye protection is not only to protect the face from damage but to prevent objects from getting in the eyes to affect eyesight and to control the motorcycle. The purpose of the handlebar requirement is not so obvious. It is a well known fact that a vehicle with its lights on is easier to see, even in the daytime.

I. Due Process - Protective devices - helmets and eye guards.

The purpose of the helmets and eyeguards being primarily to protect the motorcycle rider, is attacked as an unreasonable interference with the personal liberty of the individual to endanger himself. Motorcycles may be driven at high speeds, they afford no protection to the rider if he loses control or if he collides with another vehicle or object. We recognize that some cases do hold that helmets and similar safety devices designed to protect the individual against himself. *Everhardt v. New Orleans*, 203 So. 2d 423 (La.App.); *People v. Carmichael*, 273 N.Y.S. 2d 272; *People v. Smallwood*, 277 N.Y.S. 2d 272. These cases seem to proceed on the theory that everyone has a constitutional right to take any risks he wishes with his person and that self-destruction is not a matter of public concern.

In our modern day the state has a concern for the health and well being of each individual. The plaintiff argues that the regulation of personal conduct by use of the police power to be valid must affect the interests of the public at large, and the means used must be reasonably necessary to accomplish that purpose and not be unduly oppressive.

The inquiries to be solved in testing an enactment purporting to be for promotion of public health are these: Does a danger exist? Is it of sufficient magnitude? Does it concern the public? Does the proposed measure tend to remove it? Is the restraint or requirement in proportion to the danger? Is it possible to secure the object sought without impairing essential rights and principles? *State v. Redmon*, 134 Wis 89, 112.

There can be no question that as to the riders of motorcycles a danger does exist. We need go no further than to refer to the literature incorporated into the stipulation of the parties which is part of the record and which includes the conclusions of the U. S. Department of Health, Education and Welfare, Public Health Service. The recognition of the existence of the problem of head and face injuries to motorcyclists and of its magnitude is recognized by every authority that has made inquiry into the subject.

The incidence of vehicle accidents and the resulting injuries and the severity of such injuries does affect the public. It affects insurance rates, the requirements of public hospital service, lost manhours of employment with resulting loss of income tax revenues, public services to the disabled, and the widows and orphans of the deceased victims, and, since so many motorcyclists are young men, disability to serve in the armed forces. 16 Am Jur 605. The recognition of public interest in traffic accidents is manifest in Sec. 1, Chapter 292, Laws 1967. The plaintiff says that the interest of the public in the social consequences of injury to any one person or class is so indirect that the interest is not a true public interest. We do not consider the position of the plaintiff to be well taken. The consequences of head injuries to individuals do directly affect the public interest. The health and safety of individuals or groups of individuals are proper concerns of the legislature. *Boden v. Milwaukee*, 8 Wis 2d 318.

The provisions of Sec. 347.485 are calculated to, and, from the literature appended to the parties' stipulation, does tend to minimize the danger of head and face injuries, and in case of the eye protection in addition does tend to prevent interference with lookout due to dust, insects and debris being blown into the eyes. This is particularly true at the speeds motorcycles may be driven. The helmet is recognized by athletes, soldiers, and workmen in trades where the danger of head injuries from falling objects are a hazard, such as welders and operators of grinders, when safety glasses are required. We are of the opinion that the requirements of head and face protection are not disproportionate to the hazards to be guarded against. It is true that one of the hazards of motorcycling accidents

is the incidence of severe injuries to the limbs, especially the lower limbs. But the legislature in its wisdom need not provide a complete solution to every problem in order to make a partial solution to some of the problems valid legislation. *Forest Home Lodge v. Kears*, 29 Wis 2d 78.

Just how one can protect himself against head and face injuries without some protective gear is not clear. On a motorcycle the rider has no protection whatever such as an automobile or truckdriver has from the construction of the vehicle. We do not see how protection can be furnished without either enclosing the vehicle or the driver and the helmet and face protection does exactly that.

The operation of vehicles on the highway is not an unlimited constitutional right. It is a privilege subject to reasonable regulations under the police power and the privilege may be withheld unless the driver complies with reasonable regulations. *State v. Stehlok*, 262 Wis 642; *State v. Seraphino*, 266 Wis 113. We see nothing unreasonable about the requirements of head and face protection required of motorcyclists.

But the plaintiff claims that since the requirements are solely for the protection of the rider and the rider has an inherent right to take any risks he wishes. While the protection afforded is for the rider, we do not accept this as for his benefit alone. As we have pointed out ante, the riders' welfare affects others. But accepting the contention at face value, the argument that the law must affect the public at large to be valid is not sound. The same may be said of every regulation to protect employees in the trades. The state has an interest in the health and welfare of each of its citizens, no matter how reckless he may be and has the power to enact legislation to protect the reckless citizen against himself, especially if he is a member of a substantial class of persons subjected to a similar hazard. *Holden v. Hardy*, 169 U.S. 366, 391-392; 42 L. Ed. 780; see also *N.Y.C. RR Co. v. White*, 243 U.S. 183, 61 L. Ed. 667. We see no difference in substance between requiring the use of protective devices by a class of persons, motorcyclists, and the requirement that certain tradesmen use protective devices. The persons affected are single individuals, but there is a large number of them; enough to constitute a substantial class of the persons who make up the public.

In conclusion we need only quote 16 Am Jur 605: "Protection of the safety of persons being one of the principal uses of the police power of the states, measures designed to protect and further safety of the individual are proper exercises of the power."

We find no justification for the plaintiff's complaint that the requirements of Sec. 347.435 are unreasonable or deny due process or unduly interfere with the freedom of the individual.

The plaintiff attacks Sec. 347.485 as discriminating against motorcycleists, while not applying the same standards to bicycles and automobiles. The power-driven cycle is a unique machine. It is capable of moderate to high speeds by motor vehicle standards, with the hazards inherent in speeds at which the vehicle is driven. A bicycle is limited in its speed by the nature of the power which propels it. An automobile differs from a motorcycle in providing a shell surrounding the motorist. Both bicycles and automobiles can be dangerous to the riders, but the hazards of speed on the one hand and lack of an enclosure for the driver on the other hand do distinguish the motorcycle from both the bicycle and the automobile and make the hazard of operation distinguishable from both the bicycle and the automobile. Just because both the bicyclist and the motorist are subjected to hazards of head and face injuries does not mean that in order to make Sec. 347.485 valid it must apply to bicyclists and motorists. The degrees of hazard differ and therein lies the distinction. A classification is not unreasonable because it does not affect everyone who has any exposure to an evil. *Forest Home Dodge v. Karns*, 29 Wis 2d 78.

The rules governing classification are: It must be based on substantial distinctions which make real differences; it must be germane to the purposes of the law; it must not be limited to existing conditions only; and must apply equally to each member of the class. *Borgnis v. Falk Co.* 147 Wis 327, 354. "The question is not whether there may be some on one side of the line whose situation is practically the same as that on the other side, but whether there is a 'distinction between the classes as classes, whether there are characteristics which, in a greater degree, persist through the one class than in the other which justify legal discrimination between them.'" *Borgnis v. Falk Co.* 147 Wis 327, 356. *State ex rel Boen v. Milwaukee*, 33 Wis 2d 624. We are satisfied that the tests of what is proper discrimination between the classes suggested by the plaintiff is met in this case and that there is no unlawful discrimination in Sec. 347.485.

III. Vagueness of Section 347.485.

There is no vagueness of the statute. True the statute does not specify exactly what helmets or face guards are required, but delegates this duty to the Motor Vehicle Department. No complaint is raised by plaintiff's brief on this issue. The proposed regulations of the Motor Vehicle Department submitted with the parties' stipulation indicates that the requirements will be definite and certain with standards based upon tests to be made of the various headgear. The delegation of the making of such regulations has so long been considered proper as to afford no need for citation or argument. *Verbeten v. Huettl*, 253 Wis 510. We see nothing vague or indefinite about the statute. The regulations which will supplement the statute are not before us, but as proposed they are not vague or indefinite. We see no evidence presented that compliance with the statute will of necessity increase the hazard of motorcycle operation.

IV. Validity of Handlebar Statute - Section 347.486(1)

What we have previously said as to discrimination is applicable to Section 347.486 (1). There is no invalid classification.

The question of reasonableness of the statute does, however, raise a doubt. The burden is upon the plaintiff to demonstrate in what respect the law is unreasonable or arbitrary. We find no reference to this subject in plaintiff's brief. The complaint suggests that the matter of height of handlebars is not a proper subject of regulation and creates a hazard.

It is obvious that proper steering apparatus is essential equipment for any motor vehicle. 7 Am Jur 2d 706. Just what is proper equipment may be debatable and if it is it is for the legislature to make the choice in the absence of a showing that the choice is unreasonable or arbitrary.

The statute was enacted to prohibit the use of the high handlebars that are sometimes seen and which appear to be clumsy and to some extent obstruct peripheral vision when used by persons of ordinary height operating motorcycles. Just because in the case of riders of unusual height the high handlebar may not be inappropriate does not make the regulation invalid, especially in the absence of a showing that the extremely tall person cannot be accommodated in some other way as by longer handlebars. The objection voiced in the complaint is not to the law as it applies to one extraordinary person, but to all motorcyclists.

We are of the opinion that the plaintiff has not demonstrated that the regulation of the height of handlebars is arbitrary or unreasonable, nor is it discriminatory.

V. Headlights - Section 346.595 (5)

The statute requiring headlights of motorcycles to be lit at all times when the machine is in operation is attacked by the plaintiff "because it is arbitrary and invalid by imposing such restrictions on operators of motorcycles but not on operators of bicycles or automobiles."

Lighted headlamps do more than show the way at night. They are warnings at night and by day of the approach of a vehicle. It might very well be required of automobiles to have headlights lit in the daytime. However, by virtue of the size of automobiles alone, their presence should be obvious. A motorcycle is a small machine covered to a large degree by the rider and it is easy for the machine and rider to blend into the background and not be seen by other travelers. The statute is designed to prevent this. Anyone who has had experience in the trial of accident cases involving motorcycles with automobiles has heard the motorist in almost every case complain that he did not see the motorcycle. This is such a common complaint, even in the daytime.

that it is almost universal. Here again, the bicycle is different in that it is slow-moving and hence more easily controlled by the cyclist. The automobile differs in size. So the classification is not unreasonable nor is the regulation one without a sound basis in experience, as well as reason.

VI. Conclusion

The court concludes that Sections 347.385, 347.486(1) and 346.595(5) are all valid enactments.

Therefore, it is

ORDERED: That the Attorney General will prepare the necessary findings of fact, conclusions of law and judgment declaring that Sections 347.485 (1)(2), 347.486, and 346.595 (5) are valid and enforceable and dismissing the complaint, and after submitting the same to opposing counsel for approval as to form, present them to the court for entry.

Dated May 14, 1968.

BY THE COURT:

W. L. JACKMAN

Judge

DEC 2 10 46 AM '68

DEPT. OF PUBLIC
SAFETY

Committee on Medical Aspects
of Automotive Safety

Medical Aspects of Motorcycle Safety

In recent years physicians have seen more and more injuries and deaths as a result of the increase in motorcycling. Physicians with patients who drive motorcycles or who have children who drive, or plan to drive, have an unusual opportunity to practice preventive medicine by giving counsel concerning the safe operation of such vehicles. This guide has been compiled by the American Medical Association's Committee on Medical Aspects of Automotive Safety to give physicians general background information and suggestions which should be of help in cutting down the tragic and increasing toll of injury and death.

In the decade following 1956, the number of motorcycles registered in the United States has more than quadrupled, and the trend shows every indication that it will continue to rise. In 1956 there were 400,000 registered motorcycles, but by 1967, the figure reached 2 million. If the trend continues, by 1970 there will be more than 5 million such vehicles in use. The word "motorcycle" as used in this guide means all two-wheeled motor-powered vehicles. A number of three-wheeled (sidecar) motorcycles are used primarily by police departments and package-delivery firms, and the suggestions in this guide apply to these as well.

The rapid increase in motorcycle popularity can be traced to the introduction of the small, lightweight vehicle. The cost of these smaller vehicles has placed them within reach of hundreds of thousands of young adults. Motorcycling may seem to those not familiar with accident records to be merely a harmless sport and an efficient means of transportation, but statistics prove that it can be hazardous and that lives and limbs are being sacrificed at an increasing rate.

The Committee on Medical Aspects of Automotive Safety: H. A. Fenner, Jr., MD, *Chairman*, Hobbs, NM; Richard C. Dillihunt, MD, Portland, Me; Arthur H. Keeney, MD, Philadelphia; William K. Keller, MD, Louisville; Abraham J. Mirkin, MD, Cumberland, Md; Paul L. Weygandt, MD, Akron, Ohio; and Lee N. Hames, *Secretary*, Chicago.

Reprint requests to Secretary, Committee on Medical Aspects of Automotive Safety, 535 N Dearborn St, Chicago 60610.

Safety authorities are deeply concerned over the more than 2,000 persons who were killed in motorcycle crashes in 1966¹ and even more so by the predictions that about 5,000 will be killed yearly by 1970 if the present trend continues. In addition, the National Safety Council estimates that approximately 250,000 motorcyclists were injured in 1966. As with the fatalities, the number of injuries also undoubtedly will continue to increase. The medical profession is concerned not only with the number of injuries, but with the type of injury that often results. Severe head injury, with permanent brain damage, is a¹ too common, and fractured extremities, while not ordinarily critical, often do result in permanent disability.

Although automobile crashes are of concern to all, the "packaged" automobile occupant has a much greater chance of not being injured or killed. Death rates from motorcycle crashes per 100,000 registered vehicles are more than double those for automobile crashes, and when in a crash, the motorcyclist is injured 80% to 90% of the time, often very seriously. This is due largely to the fact that when he loses control of his vehicle, he almost always is thrown onto the road or into surrounding solid objects, and when he collides with another vehicle, there is even a greater danger of serious injury or death. Although many collisions undoubtedly are the fault of an automobile driver, it is the cyclist who bears the brunt of the crash because he has very little protection.

During recent years there has been a growing interest in finding ways to reduce these deaths and injuries. The motorcycle problem is attacked in the highway and traffic safety legislation now being implemented. Many states are cooperating in searching for ways to reduce the unnecessary toll. The American Medical Association and many of the state and large county medical associations are devoting efforts to this problem. The motorcycle industry itself is concerned about safety in cycling.

To help reduce the alarming toll and to help

make motorcycling a safe means of transportation, as well as a safe and pleasurable sport, the following suggestions are given:

Concerning the Health of the Driver

1. The physical and mental condition of the motorcyclist must be at least as good as that of the automobile driver: regular medical examinations are advisable.

2. Known handicaps, such as those connected with vision, must be compensated. Patients with cardiac problems must be evaluated most carefully if they intend to drive a motorcycle.

3. A proper mental attitude must be developed by the driver: every effort must be made to avoid carelessness, recklessness, irresponsibility, and anger.

4. Drugs and narcotics must not be used before or while driving, unless under medical prescription, in which case, the physician should be informed that his patient intends to drive while using these prescriptions.

5. The use of alcohol adds tremendously to the normal hazards of motorcycling and should not be used if the individual intends to drive. If the driver does drink, a one-hour wait before driving for every drink consumed will help to keep the driver from becoming intoxicated.

Concerning the Vehicle

1. The driver should learn all he can about the motorcycle he intends to purchase.

2. Instructions in its operation should be obtained from a qualified instructor.

3. Different sizes and types have different handling qualities, and the driver should not switch to other machines without learning about their characteristics.

4. The importance of upkeep cannot be overemphasized: it can easily be the difference between life and death.

Concerning Vehicle Operation

1. All state and community motor vehicle laws, both as to licensing and operation, should be learned and obeyed.

2. New drivers have the most crashes. The operation of a motorcycle requires special skills, which are learned only through adequate instruction and extensive experience.

3. Public roads should not be used until the driver is completely familiar with the operation of his vehicle.

4. Night driving is extremely dangerous, even for the experienced driver, and alertness is especially necessary at dusk. Special care must be taken, also, when unfavorable road or weather conditions exist.

5. A safe distance must be kept between the motorcycle and any vehicle in front—at least twice the one-vehicle length for each 10 miles per hour, which is recommended for automobiles.

6. Since the automobile driver may not give the motorcyclist adequate space, or may not even see it, the motorcyclist must always be alert.

7. Passengers should not be carried unless the motorcycle is equipped to do so, and never more than one.

8. Driving abreast should be avoided. Not only is it usually illegal, but it cuts down on the "safe maneuvering" area.

9. A "tailgating" vehicle should be encouraged to pass at the first safe opportunity.

10. Motorcyclists should be meticulous in signaling for slowing, stopping, or turning.

11. Brakes should be used before entering a curve—not after the vehicle is in it.

12. The motorcycle should never be driven between traffic lanes, or on the "shoulder," since a suddenly swerving automobile may be difficult or impossible to avoid.

13. Objects which prevent both hands from being on the handlebars at all times should not be carried.

14. Motorcyclists should slow down and be especially alert if dogs and other animals are in the vicinity. The same applies to pedestrians, especially children and older persons, who often do the unexpected.

15. Defensive driving can be successful in reducing the number of automobile crashes: it probably can be just as successful as far as motorcycle crashes are concerned. (The National Safety Council, Chicago, sponsors a national defensive-driving course.)

Concerning Clothing and Equipment

1. Approved protective headgear should always be worn by driver and passenger. (Helmets should meet the specifications [Z90.1-1966] set by the USA Standards Institute, New York.)

2. Eye protection should be used at all times.

3. Clothing should be heavy enough to protect—preferably of a highly visible color. Bare arms and legs are an invitation to unnecessary injury.

Concerning Courtesy

1. Noise should be kept to a minimum. The motor should never be revved up unnecessarily and original muffler equipment should not be removed or altered.

2. Special care should be taken in residential areas, especially at night.

Concerning Emergency Care.—Even if the above suggestions are followed, the motorcyclist may still become involved in a crash. Severity of the injuries may be minimized and lives may be saved by summoning emergency medical care immediately. However, when the victim is in obvious need of immediate care, as in the case of heavy bleeding, first-aid care should be provided on the spot. Injured persons should be kept warm and made as comfortable as possible, but should not be moved unless necessary for their safety.

Reference

1. *Accident Facts: 1967 Edition*, Chicago: National Safety Council, 1967, p 56.

name missel 7.23.69

Child Without Crash Helmet Dies of Motorcycle Injuries

A novice motorcycle rider from Unalakleet died of her injuries here Saturday night after doctors fought unsuccessfully to save her life.

The victim was Gloria Millie Kayourkluk, 13, daughter of Mr. and Mrs. Lawrence Kayourkluk of Unalakleet.

Trooper Chuck Miller of the Nome post of the Alaska State Troopers, said the child was not wearing protective head gear and added that she had learned to ride the motorbike only the day before. The vehicle was the property of one of her brothers.

Riding tandem with Gloria at the time of the accident was a friend, Della Katchatag, who received minor injuries.

Della told Trooper Miller that just before the accident occurred at 9 o'clock in the evening she cried out to Gloria, asking her to slow the machine. The Trooper estimated the speed at 40-45 miles an hour at the time the vehicle left the road. It crashed into two upright four by four pieces of lumber used to mark the location of a utilidor.

Trooper Miller said the girl apparently turned the throttle the wrong way when her passenger pleaded to slow down.

They had ridden past the school and were headed for the Federal Aviation Agency housing area when the fatal accident occurred.

The body was returned to Unalakleet today.

Man Dies When Hit On Cycle

ADT 11-2-70

An Anchorage man was killed about 2:30 a.m. Sunday when the motorcycle he was riding was struck from the rear as he was stopped for a red light.

Ronald Peter LaFramboise, 18, of 2603 29th Ave., received massive internal injuries, a brain concussion and hemorrhaging of the brain in the accident. He died a few hours after the accident in Providence Hospital.

City police meanwhile arrested Larry Allen Austermaal, 29, of Kaslof. He was charged with driving while intoxicated and with failure to remain and render assistance, a felony.

Police Sgt. Ron Otte said LaFramboise was stopped for a red light at Spenard Road headed west on Northern Lights Boulevard when the incident occurred. The Austermaal vehicle continued through the intersection after the impact.

Otte said witnesses followed the vehicle to the Minnesota Bypass, where it turned right. Austermaal was apprehended at 26th Avenue and the bypass, Otte said.

The injured man was taken to Providence Hospital for treatment. He died a few hours later, Otte said. There was no indication that the motorcycle rider was wearing a safety helmet.

Austermaal was lodged in state jail pending arraignment on the charges.

LaFramboise had attended West High School and was employed with a local car wash. He was born in Anchorage.

He is survived by his father, Philip J. LaFramboise, Anchorage; his mother, Mrs. Philomene Evans, Anchorage; five brothers, Anthony, Larry and Marcel, all of Anchorage, Philip J. Jr., Fairbanks, and Gregory, in the U.S. Marines in Australia, and nine sisters, Mrs. Shirle Schmidt, Mrs. Beverly Babbitt, Mrs. Linda Estabrook, Mrs. Diann Martin, Mrs. Charlotte Kendrick, Miss Therise LaFramboise, Miss Janice LaFramboise and Miss Patricia LaFramboise, all of Anchorage, and Mrs. Carol Williams, Amboy, Wash.

Funeral arrangements are pending at Green Funeral Chapel.

The death brought to 83 the number of motor vehicle deaths in Alaska this year, compared with 53 at this time in 1969.

It brought the number of traffic deaths in Anchorage to 10 this year.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
NATIONAL HIGHWAY SAFETY BUREAU
WASHINGTON, D.C. 20591

JAN 22 1970

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DEPT. OF PUBLIC
SAFETY

Mr. Mel J. Personett
Commissioner, Department of
Public Safety
Pouch N
Juneau, Alaska 99801

Dear Mr. Personett:

We are aware that State motorcycle protective headgear requirements, enacted to implement the Department of Transportation's Safety Program Standard No. 3 entitled Motorcycle Safety, are being challenged in many jurisdictions. In May of last year I provided the Governor of your State with a memorandum prepared by the legal staff of the Federal Highway Administration supporting the constitutionality of headgear legislation.

Subsequently the U.S. Supreme Court in Bisenius v. Karns, 89 S. Ct. 2033 (1969) dismissed an appeal attacking the constitutionality of the Wisconsin statute "for want of a substantial federal question." This is highly significant because such a disposition means that the Supreme Court viewed the Wisconsin court decision upholding constitutionality to be correct.

I enclose for your information a revision of the legal memorandum provided your Governor which has been updated to include Bisenius and other cases which have come to our attention in the interim.

In addition to court challenges, many States will be facing increased attempts to create legislative opposition to their helmet requirements. As mentioned in my letter of May 16 to your Governor, there is substantial evidence that strongly supports these requirements and hence argues against repeal actions. If opposition to the statutory requirement is developing in your State, you might want to make available to legislators or legislative committees the

enclosed memorandum along with other material, such as the information we sent you last year showing a reduction in motorcycle fatalities of 30% in those States adopting the helmet requirement. Pertinent materials are enclosed for your use. We would be glad to help you in this regard, including making more copies available to you.

If I can be of any further assistance, please do not hesitate to call me.

Sincerely,



Robert Brenner
Acting Director

Enclosures

cc: Coordinator
State Attorney-General
Regional Highway Representative

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



National Highway Traffic Safety Administration
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C. 20591

IN REPLY REFER TO:

42-13

January 13, 1971

AIRMAIL

Mr. Robert J. Mahoney
Assistant Attorney General
State of Alaska
350 K Street
Anchorage, Alaska 99501

Attention: Sanford Gibbs

Dear Mr. Mahoney:

Lt. H. J. Sydnan, Director of the Alaska Traffic Safety Bureau asked that I send you the enclosed staff memorandum on motorcycle helmet law constitutionality. The enclosed document dated January 1970 is the complete staff memo. The document dated November 1970 is the material needed to update the January 1970 memorandum. We are in the process of having the revised memorandum printed, but it won't be available for several weeks.

If the National Highway Traffic Safety Administration can be of further assistance, please let us know.

Sincerely,

Lewis S. Duchanan
Motorcycle Safety Specialist
Traffic Safety Programs

Enclosures

cc: Lt. Sydnan w/incl

STAFF MEMORANDUM
ON THE
CONSTITUTIONAL QUESTION PRESENTED BY
STATE MOTORCYCLE HEADGEAR REQUIREMENTS

JANUARY 1970

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
NATIONAL HIGHWAY SAFETY BUREAU

QUESTION PRESENTED

Whether a State requirement that any person riding upon or operating a motorcycle on the streets or highways of the State shall wear upon his head a protective head device of a type approved by the State is unconstitutional under the Fourteenth Amendment.

BACKGROUND

Twenty-three U.S.C. § 402(a) (P. L. 89-564, the Highway Safety Act of 1966) requires each State to have a highway safety program approved by the Secretary of Transportation and in accordance with uniform standards promulgated by him.

Highway Safety Program Standard 4.4.3 released by the Secretary on June 26, 1967, and entitled Motorcycle Safety, (23 C.F.R. Part 204) requires each State to have a motorcycle safety program providing as a minimum, inter alia, that when a motorcycle is being operated on streets and highways, each motorcycle operator and passenger shall wear an approved safety helmet. Latest available information ^{1/} indicates that as of September 1, 1969, 41 states had enacted motorcycle protective headgear statutes ("headgear legislation" hereafter) of this type providing criminal penalties upon violation. Additionally an unknown number of cities may have enacted similar municipal ordinances.

As of January 1, 1970, there have been decisions in response to 43 known separate court challenges of State and municipal headgear legislation. In 31 instances legislation has been upheld, and in 12 it has been declared unconstitutional. ^{2/} Headgear legislation has been upheld by 11 State Supreme Courts (Vermont, Missouri, Florida, Washington, Oregon, North Carolina, Rhode Island, Massachusetts, Louisiana, North Dakota, and Wisconsin), 12 appellate courts (three in New York, two in New Jersey, and one each in Hawaii, Pennsylvania, Texas, Maryland, Ohio, Washington, and Connecticut), and 8 trial courts (two each in Pennsylvania, Kansas and New York, one each in South Dakota and Minnesota). Headgear legislation has been declared unconstitutional by 1 State Supreme Court (Illinois), 3 appellate courts (one each in Idaho, Arizona and Michigan), and 8 trial courts (two in New York, and one each in Ohio, Florida, Missouri, Kentucky, Colorado, and Michigan).

^{1/} Insurance Institute of Highway Safety, Legislative Review 1970, p. 20.

^{2/} This figure is computed on the basis of the last known decision in each case. Such decision, of course, may represent an appellate reversal, or be subject to reversal on appeal.

Additionally, it is the opinion of the Attorney General of Oklahoma that the State's headgear legislation is unconstitutional and the opinion of the Attorney General of New Mexico that a proposed city ordinance would be invalid if applied to citizens over 18 years of age.

The Supreme Court has never agreed to review one of these cases on the merits. However, in June 1969 the Court in Bisenius v. Karns dismissed an appeal (89 S. Ct. 2033 (1969)) attacking the constitutionality of the Wisconsin statute "for want of a substantial federal question". Such a disposition means that the Court viewed the decision below, upholding constitutionality, to be correct.

THE UNITED STATES SUPREME COURT VIEWS A STATE SUPREME COURT DECISION UPHOLDING CONSTITUTIONALITY OF HEADGEAR LEGISLATION TO BE CORRECT

During its 1968-69 term, the United States Supreme Court denied two petitions for certiorari in cases upholding headgear legislation ^{1/} and dismissed an appeal in a third case "for want of a substantial federal question", Bisenius v. Karns, 165 N.W. 2d 377 (S. Ct. Wisc. 1969), appeal dismissed, 89 S. Ct. 2033 (1969). The appellant had attacked Wisconsin's headgear legislation (§ 347.485(1)(a) Stats.) as a restriction upon individual liberty and as exceeding the police power of the state, alleging that both violated the due process clause of the Fourteenth Amendment.

The Supreme Court's dismissal of appeal "for want of substantial federal question" means that the Court views the decision below to be correct, and that no substantial question on the merits was raised. ^{2/}

The issues raised in Bisenius are essentially the same as those raised in other suits challenging the constitutionality of headgear legislation.

^{1/} Everhardt v. City of New Orleans, 217 So. 2d 400 (S. Ct. La. 1968) reversing 208 So. 2d 423 (La. App. 1968), cert. denied 89 S. Ct. 1775 (1969); Mass. v. Howie, 238 N.E. 2d 373 (S. Jud. Ct. Mass. 1968), cert. denied 89 S. Ct. 485 (1968).

^{2/} Stern and Gressman, Supreme Court Practice 195 (3rd ed. 1962)

THE PRESUMPTION IN FAVOR OF THE CONSTITUTIONALITY OF
A STATUTE IS ESPECIALLY APPROPRIATE WHEN A STATE STATUTE
IMPLEMENTS THE EXPRESS COMMAND OF THE CONGRESS OF THE
UNITED STATES. •

There is a "long established presumption in favor of the constitutionality of a statute", Brandeis J., Ashwander v. Tennessee Valley Authority, 297 U.S. 288 at 354, (1936). This presumption has been recognized by the Supreme Court since the earliest days of the United States. Calder v. Bull, 3 Dall. 386, 399, (1795). In the words of Mr. Chief Justice Waite: "Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt." Sinking-Fund Cases, 99 U.S. 700, 718, (1879). Accord: Marshall C.J., Dartmouth College v. Woodward, 4 Wheat. 518, 625 (1818); Washington, J., Ogden v. Saunders, 12 Wheat. 213, 270 (1827).

This presumption applies to an Act of a State legislature as well as an Act of Congress, and "all reasonable doubts will be resolved in favor of the lawful exercise of their powers by the representatives of the people." State of North Carolina v. Anderson, 164 S.E. 2d 48 (1968) upholding that State's helmet legislation. The presumption extends to a city ordinance as well. Everhardt v. City of New Orleans 217 So. 2d 400 (S. Ct. La. 1968), reversing 203 2d 423 (La. App. 1958) cert. denied 89 S. Ct. 1775 (1969).

The presumption of constitutionality seems especially appropriate when a State enacts legislation as a complement to an Act of Congress. The Highway Safety Act of 1966 (P. L. 89-564) was enacted "To provide for a coordinated national highway safety program through financial assistance to the States to accelerate highway traffic safety programs" It requires that "Each State shall have a highway safety program . . . designed to reduce traffic accidents and deaths" These programs "shall be in accordance with uniform standards promulgated by the Secretary." 23 U.S.C. § 402(a)

Pursuant to the authority granted him by the Act the Secretary released Highway Safety Program Standard 4.4.3 (23 C.F.R. Part 204, Highway Safety Program Standard No. 3) title "Motorcycle Safety." The purpose of the Standard was,

"To assure that motorcycles, motorcycle operators, and their passengers meet standards which contribute to safe operation and protection against injuries."

The background of the Standard shows the imperative need for such a Standard:

"Deaths and injuries from motorcycle accidents doubled between 1963 and 1965. This fact is particularly alarming when it is understood that most of those killed and injured were young people under the age of 25. Motorcycle registrations have jumped from 574,080 in 1960 to 1,914,700 in 1966. By 1970 the annual increase is expected to reach 1 million per year. Motorcycle safety takes on grave dimensions in view of the fact that since 1960 the rate of motorcycle fatalities has increased at about the same rate as the number of motorcycles."

The Standard requires that "Each State shall have a motorcycle safety program to insure . . . that protective safety equipment for driver and passengers will be worn," specifically, "as a minimum," that

"B. Each motorcycle operator wears an approved safety helmet and eye protection when he is operating his vehicle on streets and highways.

"C. Each motorcycle passenger wears an approved safety helmet"

This, then, is the Federal Standard that the State legislation was enacted to implement at the express command of the Congress.

III

THE POLICE POWER OF A STATE INCLUDES THE POWER TO REQUIRE A MOTORCYCLIST TO WEAR PROTECTIVE HEADGEAR.

Headgear legislation stems from the police power of a State. The police power includes the power to enact laws within constitutional limits to promote the public safety and health, but from its nature it is incapable of exact definition. See e.g. Berman v. Parker 348 U.S. 26 (1954). It is one of the least limitable of governmental powers, and a proper exercise thereof may involve limitation of the use and enjoyment of private property without violation of the due process clause of the Constitution. See e.g. Queenside Hills Realty Co. v. Saxl, 328 U.S. 80 (1945).

The public streets, roads, and highways of a State are the property of all the people of a State, and a State has plenary power over the regulation of the use of such for the safety and best interests of the public. The Supreme Court has recognized and given sanction to the State exercise of its police power over use of the public way for more than 40 years:

"Motor vehicles are dangerous machines, and, even when skillfully and carefully operated, their use is attended by serious dangers to persons and property. In the public interest the state may make and enforce regulations reasonably calculated to promote care on the part of all . . . who use its highways."

Hess v. Pawloski, 374 U.S. 352, at 356 (1927).

Protection of a motorcyclist and his passenger while on the public roads then is within the legitimate concern of the State and not an area reserved to the individual. Legislation requiring the use of protective headgear by both cyclist and passenger is reasonably related to the end envisioned of reducing deaths and injuries to cyclists and passengers upon the public roads. Therefore State headgear legislation is a valid exercise of the police power by a State. See Massachusetts v. Howie, 338 N.E. 2d 373 (S. Jud. Ct. Mass., 1968); 89 S. Ct. 485 cert. denied 1968; State v. Edwards, Case No. 583370, Mun. Ct. Hennepin Cty. Minn. (1968).

IV

A STATE STATUTE REQUIRING A MOTORCYCLIST AND PASSENGER TO WEAR PROTECTIVE HEADGEAR DOES NOT VIOLATE THE FOURTEENTH AMENDMENT.

A. EVEN IF THE PRIMARY OBJECT OF HEADGEAR LEGISLATION IS TO PROTECT AN INDIVIDUAL FROM HIMSELF, SUFFICIENT PUBLIC INTEREST EXISTS TO JUSTIFY THIS STATUTE AND THERE IS NO VIOLATION OF THE DUE PROCESS CLAUSE.

If headgear legislation bears no relationship to the general welfare but has the sole effect of requiring an individual to protect himself from himself, it will establish a restriction upon personal liberty such as to constitute a denial of due process.

But such legislation is based upon sufficient public interest to constitute a valid exercise of the State police power.

The unprotected motorist presents a potential traffic hazard to the public at large. Unlike the operator of an enclosed motor vehicle a cyclist without a helmet is unprotected against falling objects such as tree branches. He is also unprotected against flying stones or gravel from the wheels of other moving vehicles. If struck in the head an unprotected cyclist could be so affected as to lose control of the vehicle and be the cause of death or injury to himself and other users of the highway. Everhardt v. City of New Orleans, supra; State ex rel. Colvin v. Lombardi, 241 A. 2d 625 (S. Ct. R. I. 1968).

Further, once a cyclist, passenger, or other person is injured because of the action of an unprotected cyclist, there is a tangible effect upon the public. There is an effect upon insurance rates, public hospital services, income tax revenues because of lost manhours of employment, public services to the disabled, and national defense since many motorcyclists are young men.

Severe injuries may result in an individual becoming a public charge; his death may call into force the State's welfare responsibility for his widow and children. State v Lombardi, supra; People v. Newhouse, 287 N.Y.S. 2d 713 (1968).

The interdependence of the acts of an individual and the interest of the State has long been recognized. "The whole is no greater than the sum of all the parts, and when the individual health, safety, and welfare are sacrificed or neglected, the State must suffer."

New York Central R. Co. v. White, 243 U.S. 188 at 206-07 (1916).

Accordingly States have legislated in many situations where there is a demonstrable risk to an individual which can be substantially reduced by requiring him to take certain protective measures. State laws prohibiting self-maiming and attempted self-destruction are well known. Additionally many States require safety devices to be worn by window cleaners, eye protection for welders, hard hats for those involved in demolition work, life preservers to be worn while water skiing, and nets protecting aerial performers from the effects of accidental falls. Headgear legislation belongs to this class of legislation.

B. HEADGEAR LEGISLATION DOES NOT VIOLATE THE EQUAL PROTECTION CLAUSE SINCE THE DISTINCTION BETWEEN MOTORCYCLES AND OTHER VEHICLES IS BASED UPON SUBSTANTIAL DIFFERENCES AND THEREFORE REASONABLE IN LIGHT OF ITS PURPOSE.

Headgear legislation restricts the liberty of only one class of users of the public highway: motorcyclists and their passengers. There is no similar restriction upon the liberty of operators and passengers of other motor vehicles.

But headgear legislation does not violate the equal protection clause because the distinction between motorcycles and other vehicles such as bicycles and automobiles is based upon substantial differences and is reasonable in light of its purpose:

"The power-driver cycle is a unique machine. It is capable of moderate to high speeds by motor vehicle standards, with the hazards inherent in speeds at which the vehicle is driven. A bicycle is limited in its speed by the nature of the power which propels it. An automobile differs from a motorcycle in

providing a shell surrounding the motorists. Both bicycles and automobiles can be dangerous to the riders, but the hazards of speed on the one hand and lack of an enclosure on the other hand do distinguish the motorcycle from both the bicycle and the automobile and make the hazard of operation distinguishable from both the bicycle and the automobile. Just because both the bicyclist and the motorist are subjected to hazards of head and face injuries does not mean that in order to make Sec. 347.485 valid it must apply to bicyclists and motorists. The degrees of hazards differ and therein lies the distinction. A classification is not unreasonable because it does not affect everyone who has any exposure to an evil." Bisenius v. Karns, Case No. 124423 (Cty. Ct. Wisc. 1968).

C. HEADGEAR LEGISLATION DOES NOT VIOLATE THE DUE PROCESS CLAUSE SINCE IT IS CLEAR AND DEFINITE ENOUGH TO GIVE UNEQUIVOCAL WARNING OF THE RULE TO BE OBEYED.

even though headgear legislation may require the wearing of a helmet of a type approved by a designated State official, such a statute is sufficiently definite, clear, and positive to give unequivocal warning to citizens of the rule which is to be obeyed.

A statute does not have to specify precise helmet performance requirements in order to be clear and definite, since the use and nature of protective helmets in industry, athletics, and the military service is known generally to the public. People v. Schmidt, 54 Misc. 2d 702, 283 NYS 2d 290 (1967). It is sufficient that the regulations, or proposed regulations of the designated State official "indicates that the requirements will be definite and certain with standards based upon tests to be made of the various headgear." Bisenius v. Karns, Case No. 124423 (Cty. Ct. Wisc. 1968).

D. HEADGEAR LEGISLATION DOES NOT VIOLATE THE DUE PROCESS CLAUSE SINCE IT LAWFULLY DELEGATES POLICE POWER TO AN ADMINISTRATIVE OFFICIAL.

The established rule is that the legislature may delegate to a subordinate body the discretionary power to execute and administer a law, provided a reasonably clear standard is formulated to govern the exercise of discretion by the subordinate body. The test is the completeness of the statute so that no part of the legislative function is left to the judgment of a delegate. People v. Carmichael, 288 NYS 2d 931 (1968) rev. 279 NYS 2d 272 (1967). Even though a standard by its nature is a general one it is valid if it is capable of reasonable application under the circumstances. Headgear legislation constitutes a lawful delegation of the police power since it describes the job to be done, who must do it, and the scope of his authority. Bowles v. Willingham, 321 U.S. 502, 575 (1944).

Numerous examples of legislative delegation of powers pertaining to vehicle and traffic standards can be found in State laws. In New York, for example, the Commissioner of Motor Vehicles may make rules and regulations prescribing standards of brake efficiency, brake linings, hydraulic brake fluid, commercial vehicle lighting, emergency equipment, school bus equipment, splash guards, safety belts and shoulder harnesses, and traffic hazard warning devices. ^{3/}

^{3/} Subject to sec. 103(d) of P.L. 89-563 (The National Traffic and Motor Vehicle Safety Act of 1966).

APPENDIX

I

MOTORCYCLE PROTECTIVE HEADGEAR STATUTES

A typical statute requiring use of protective headgear by motorcycle operators and/or passengers might read:

No person shall ride upon or operate a motorcycle on the streets or highways of this State (city) without wearing upon his head a protective head device (crash helmet, safety headgear, protective helmet) of a type approved by the Director of Public Safety (Commissioner, City Council Department of Health).¹

The following 40 States have enacted statutes of this type:

Alabama	Kentucky	North Dakota
Arizona	Louisiana	Ohio
Arkansas	Maine	Oklahoma
Colorado	Maryland	Oregon
Connecticut	Massachusetts	Pennsylvania
Delaware	Minnesota	Rhode Island
Florida	Missouri	South Carolina
Georgia	Nebraska	South Dakota

¹ The legislature of Michigan, in response to a decision of the Court of Appeals on April 30, 1968, holding its protective headgear statute unconstitutional, enacted a new statute on June 12, 1968, which reads:

A motor driven cycle shall be operated with, and carry when it is being operated, a number of crash helmets equal to the number of drivers and passengers carried during operation. Helmets shall be approved by the department of State police. The department shall promulgate rules for the implementation of this section in accordance with the provisions of [here follows thy citation]

Hawaii	New Hampshire	Tennessee
Idaho	New Jersey	Texas Utah
Illinois	New Mexico (under 18)	Vermont
Indiana	New York	Washington
Kansas	North Carolina	Wisconsin

The factual situations in the cases are virtually identical: the operator of a motorcycle was apprehended while operating a motorcycle upon the public streets without wearing on his head a protective head device as required by law.

APPENDIX

II

Courts and Cases

The following is a listing and citation of motorcycle protective headgear legislation opinions known as of January 1, 1970

I. United States Supreme Court

1. Krafft v. New York, 90 S. Ct. 198 (1969), certiorari denied.
2. Bisenius v. Karns, 89 S. Ct. 2033 (1969), appeal dismissed "for want of a substantial federal question."
3. Everhardt v. City of New Orleans, 89 S. Ct. 1775 (1969), certiorari denied.
4. Massachusetts v. Howie, 89 S. Ct. 485 (1968), certiorari denied.

II. State

A. Supreme or Highest Courts

1. State v. Solomon, _____ A. 2d _____ (S. Ct. Vt. 1969) upholding § 1256.
2. State v. Darrah, _____ S.W. 2d _____ (S. Ct. Mo. 1969) upholding § 301.010 R.S. Mo. and reversing 1968 decision of Sedalia Mun. Ct.
3. State v. Eitel, 227 So. 2d 489 (S. Ct. Fla. 1969), reversing Small Claims - Magistrate Cts., Palm Beach Cases Nos. 68M-7013/14, 68M-7234 (1968) and upholding F. S. 317.981.
4. State v. Iaitinen, 459 P. 2d 789 (S. Ct. Wash. 1969) holding constitutional RCW 46.37.530(3).
5. State v. Fetterly 456 P. 2d 996 (S. Ct. Oreg. 1969), holding constitutional ORS 483.443(1).
6. People v. Fries, 250 NE. 2d 149 (S. Ct. Ill., 1969) Docket No. 41624, holding unconstitutional Ill. Rev. Stat. 1967, ch. 971/2 Par. 189c(a).
7. State v. Anderson, 166 S.E. 2d 49 (S. Ct. N.C. 1969), affirming 164 S.E. 2d 48 (1968) reversing decision of Superior Ct., Guilford Cty., and upholding G.S. 20-140.2(b).
8. Bisenius v. Karns 165 N.W. 2d 377 (S. Ct. Wisc., 1969) upholding § 347.485 (1) and (2), Stats., 1967. Appeal dismissed, 89 S. Ct. 2033 (1969).

9. State v. Odegaard 165 N.W. 2d 677 (S. Ct., N.D., 1969), upholding N.D.T.C. § 39-21-48.
10. Everhardt v. City of New Orleans 217 So. 2d 400 (S. Ct. La. 1968), reversing 203 So. 2d 423 (La. App. 1966), upholds city ordinance which is similar to state statute, R.S. 32:190. Cert. denied 89 S. Ct. 1775 (1969).
11. Massachusetts v. Howie, 238 N.E. 2d 373 (S. Jud. Ct. Mass., 1963), Memorandum decision upholding Massachusetts statute. Cert. denied 39 S. Ct. 485 (1968).
12. State ex rel Colvin v. Lombardi 241 A. 2d 625 (S. Ct. R. I., 1968), upholding G. L. 1956, § 31-10.

B. Appellate Courts

1. Commonwealth v. Arnold, (Pa. Super. Ct. 1969) upholding P. L. 58, section 29.1 as amended, and reversing Clearfield Cty. Ct. (1969) decision.
 2. State v. Betts (Warren Cty. Ct., Ohio, 1969) holding unconstitutional § 4511.53 Revised Code.
 3. People v. Krafft (Onondaga Cty. Ct. 1969) upholding subdivision 6, section 381 of Vehicle and Traffic Law; cert. denied, 90 S. Ct. 193 (1969).
 4. People v. Thoreson, (Maricopa Cty. Ct. 1969), holding Arizona law unconstitutional.
 5. State v. _____ (Seneca Cty. Ct., Ohio, 1969) upholding § 4511.53 Revised Code (See Cycle News East, Nov. 4, 1967, p. 30).
 6. People v. Albertson, Dist. Ct. (1969) holding Idaho statute unconstitutional, reversing Cty. Ct.
 7. State v. Krammes, 252 A.2d 223 (1969) upholding N.J. S.A. 39:3-76.7.
 - **** 8. Ex Parte Smith, 441 S.W. 2d 544 (1969) upholding Art. 6701c-3 V.A.C.S., Texas.
 9. State v. Myers, (Balto. Cty. Ct. 1969), affirming 1968 decision of Magistrate Ct. upholding Md. headgear and goggle legislation.
 10. State v. Buraycki, 37 Law Week 2443, Conn. Cir. Ct. App. Div. (1967) File No. EV 10-63528 AP upholding Conn. Gen Stat. § 14-289(e), petition for appeal to S. Ct. Conn. denied, 252 A2d 812 (1969).
- **** This case should be listed under Section A. Supreme or Highest Courts.
The Texas Appellate Court serves as the Supreme Court in criminal matters.

11. State v. Male, 247 A. 2d 176 (1968) upholding N.J.S.A. 39: 3-76.7.
12. American Motorcycle Association and Farnum v. Davids and State Police, 158 N.W. 2d 72 (Mich. Ct. of Appeals, 1968), reversing 1967 decision of Circuit Ct., Ingham Cty., and holding unconstitutional PA 1949, No. 300, § 6581(d) as added by PA 1966, No. 207 (CL 1948 § 257, 658[d]).
13. People v. Carrichael, 288 N.Y.S. 2d 931 (1968) reversing 279 N.Y.S. 2d 272 (1967) and upholding subdivision 6, section 381, of Vehicle and Traffic Law.
14. State v. Zektzer, Sup. Ct. King Cty. No. 47101 (Wash. 1967) upholding Ch. 232, Sec. 4 Sub^d 3, Laws of 1967, and reversing City of Seattle v. Zektzer, Seattle Mun. Ct. (1967).
15. People v. Schmidt, 283 N.Y.S. 2d 290 (Cty. Ct., Erie Cty. 1967) upholding subdivision 6, section 381 of Vehicle and Traffic Law. Appeal dismissed 295 N.Y.S. 2d 936 (1968).

C. Trial Courts

1. Sheneman v. Commonwealth (Dauphin Cty. Ct. Pa. 1969) upholding P. L. 58, section 625.1 as amended.
2. Commonwealth v. Molter, (Delaware Cty. Ct. Pa. 1969) No. S.A. #7, upholding P. L. 58, Section 625.1 as amended.
3. Colo. Motorcycle Ass'n v. Love, Hogan, (Denver Cty. Ct. 1969) holding Colo. law unconstitutional.
4. Commonwealth v. Coffman (Jefferson Cty. Ct., Ky. 1969) holding unconstitutional KRS 189.285.
5. City of Wichita v. White, Cases No. MC 150-151, (D. Ct. Sedgwick Cty. 1969) upholding city ordinance; on appeal Kansas Supr. Ct. (Case No. 45676).
6. S.D. Motorcycle Dealers Ass'n and Haight v. Parker, (S. D. Cir. Ct. 1969) upholding Section 4 of Chapter 215 of the 1967 Session Laws.
7. State v. Babbs, (Martin Cty. Ct., Fla. 1968) holding unconstitutional F.S. 317.981.
8. State v. Edwards, Case No. 582370 (Mun. Ct. Hennepin Cty., 1969) upholding Minn. Stat. 169.974, subd. (4)a.
9. People v. Newhouse, 287 N.Y.S. 2d 713 (Cty. Ct. of Ithaca, N.Y. 1969) upholding subdivision 6, section 381 of Vehicle and Traffic Law.

- 10. People v. Daugherty, (West Plains Mun. Ct. 1968) holding Missouri Law unconstitutional.
- 11. People v. Wattle, (Buffalo City Ct. 1967) holding unconstitutional subdivision 6, section 381 of Vehicle and Traffic Law.
- 12. City of Hutchinson v. Silvey, Case No. CR 8081 (D. Ct. Reno City., Kansas 1967) upholding city ordinance.
- 13. People v. Bielmeyer 282 N.Y.S. 2d 797 (Buffalo City Ct. 1967) upholding subdivision 6, section 381 of Vehicle and Traffic Law.
- 14. State v. Duncan, No. 44835 (Wayne Cty. 1967) holding Michigan statute unconstitutional.
- 15. People v. Smallwood, 277 NYS. 2d 429 (Ct. Spec. Sess., Irondequoit, Monroe Cty. 1967), holding unconstitutional subdivision 6, section 381 of Vehicle and Traffic Law.

III. Opinions of States Attorneys - General

- 1. Opinion of Attorney - General of New Mexico, No. 69-14 Feb. 25, 1969. In response to an Attorney for the New Mexico legislative Counsel, the opinion notes cases contra position taken in No. 66-15 but states "we are unwilling to completely abandon our past position."
- 2. Opinion of Attorney - General of Oklahoma No. 68-267, December 31, 1968, that 470. S. Supp. 1967, § 40-105(b), is unconstitutional.
- 3. Opinion of Attorney - General of New Mexico, No. 66-15, Feb. 1, 1966. Proposed city ordinance unconstitutional as to citizens over 18.

IV. Law Review Notes and Articles

- 1. Constitutional Law - Validity of Safety Helmet Requirements, 71 W.Va. L. Rev. 191 (1969).
- 2. Constitutional Law - Police Power - Motorcycle Crash Helmet Laws' Relation to Public Welfare, 1969 Wisc. L. Rev. 320 (1969).
- 3. Constitutionality of Mandatory Motorcycle Helmet Legislation, 73 Dick. L. Rev. 100 (1968).

4. Constitutional law - Due Process - Statute Requiring Motorcyclist to Wear Crash Helmet is Unconstitutional, (American Motorcycle Ass'n. v. Davids), 82 Harv. L. Rev. 469 (1968).

Mr. Buchanan

STAFF MEMORANDUM
ON THE
CONSTITUTIONAL QUESTION PRESENTED BY
STATE MOTORCYCLE HEADGEAR REQUIREMENTS

NOVEMBER 1970

U.S. DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY SAFETY BUREAU

QUESTION PRESENTED

Whether a State requirement that any person riding upon or operating a motorcycle on the streets or highways of the State shall wear upon his head a protective head device of a type approved by the State is unconstitutional under the Fourteenth Amendment.

BACKGROUND

Twenty-three U.S.C. § 402(a) (P.L. 89-564, the Highway Safety Act of 1966) requires each State to have a highway safety program approved by the Secretary of Transportation and in accordance with uniform standards promulgated by him.

Highway Safety Program Standard 4.4.3 released by the Secretary on June 26, 1967, and entitled Motorcycle Safety, (23 C.F.R. Part 204) requires each State to have a motorcycle safety program providing as a minimum, *inter alia*, that when a motorcycle is being operated on streets and highways, each motorcycle operator and passenger shall wear an approved safety helmet. Latest available information indicates that as of November 1, 1970, 42 States and the District of Columbia had enacted motorcycle protective headgear statutes ("headgear legislation" hereafter) of this type providing criminal penalties upon violation. Additionally an unknown number of cities may have enacted similar municipal ordinances.

As of November 1, 1970, there have been decisions in response to 48 known separate court challenges of State and municipal headgear legislation. In 38 instances legislation has been upheld, and in 10 it has been declared unconstitutional. ^{1/} Headgear legislation has been upheld 20 times by Supreme or highest Courts ^{2/} in 19 States (Arkansas, Minnesota, Idaho, Kentucky, Oklahoma, Hawaii, Colorado, Vermont, Missouri (twice), Florida, Texas, Washington, Oregon, North Carolina, Rhode Island, Massachusetts, Louisiana, North Dakota, and Wisconsin), 12 appellate courts (three in New York, two in New Jersey, and one each in Utah, Pennsylvania, Texas, Maryland, Ohio, Washington, and Connecticut), and 7 trial courts (two each in Pennsylvania, Kansas and New York, and one in South Dakota). Headgear legislation has been declared unconstitutional by 1 State Supreme Court (Illinois), 2 appellate courts (Arizona and Michigan), and 7 trial courts (two each in New York and Ohio, and one each in Florida, Missouri, and Michigan).

^{1/} This figure is computed on the basis of the last known decision in each case. Such decision, of course, may represent an appellate reversal, or be subject to reversal on appeal.

^{2/} In addition, the Supreme Court of Ohio has refused to consider an appeal from a decision upholding constitutionality of State legislation.

APPENDIX.

I

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No person shall ride upon or operate a motorcycle on the streets or highways of this State (city) without wearing upon his head a protective head device (crash helmet, safety headgear, protective helmet) of a type approved by the Director of Public Safety (Commissioner, City Council Department of Health). ^{1/}

The following 42 States and the District of Columbia have enacted statutes of this type:

Alabama	Louisiana	Ohio
Alaska	Maine	Oklahoma
Arkansas	Maryland	Oregon
Colorado	Massachusetts	Pennsylvania
Connecticut	Minnesota	Rhode Island
Delaware	Missouri	South Carolina
Florida	Nebraska	South Dakota
Georgia	North Dakota	
Kentucky		

^{1/} The legislature of Michigan, in response to a decision of the Court of Appeals on April 30, 1968, holding its protective headgear statute unconstitutional, enacted a new statute of June 12, 1968, which reads:

A motorcycle and a motor driven cycle shall be equipped with, and carry when it is being operated, a number of crash helmets equal to the number of drivers and passengers carried during operation. Helmets shall be approved by the department of State police. The department shall promulgate rules for the implementation of this section in accordance with the provisions of [here follows a lengthy citation]

Hawaii	New Hampshire	Tennessee
Idaho	New Jersey	Texas
Illinois	New Mexico (under 18)	Utah ^{2/}
Indiana	New York	Vermont
Kansas	North Carolina	Virginia
		Washington
		Wisconsin

The factual situations in the cases are virtually identical: the operator of a motorcycle was apprehended while operating a motorcycle upon the public streets without wearing on his head a protective head device as required by law.

^{2/} The Utah statute, however, does not require cycle riders to wear protective headgear while traveling on streets zoned below 35 miles per hour.

APPENDIX

II

Courts and Cases

The following is a listing and citation of motorcycle protective headgear legislation opinions known as of November 1, 1970.

I. United States Supreme Court

1. Krafft v. New York, 90 S. Ct. 198 (1969), certiorari denied.
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3. Byerhardt v. City of New Orleans, 89 S. Ct. 1775 (1969), certiorari denied.
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II. State

A. Supreme or Highest Courts

1. Fenney v. City of North Little Rock, 455 S.W. 2d 132 (S. Ct. Ark. 1970), upholding Ark. Stat. Ann. § 75-1703 [Supp. 1969].
2. State v. Edwards, 177 N.W. 2d 40 (S. Ct. Minn. 1970), upholding Minn. Stat. 169-974, subd. (4)a. /
3. State v. Cushman, 451 S.W. 2d 17 (S. Ct. Mo. 1970), upholding § 301-010 R.S. Mo.
4. State v. Albertson, 470 P. 2d 300 (S. Ct. Idaho 1970), upholding I.C. § 49-761A and reversing Dist. Ct. which had reversed Cty. Ct.
5. Commonwealth v. Coffman, 453 S.W. 2d 759 (Ky. Ct. of Appeals, 1970), upholding KRS 189.285 and reversing Jefferson Cty. Ct.
6. Elliott v. Oklahoma City, 471 P. 2d 944 (Ct. of Crim. Appeals 1970), upholding Okla. City Ord. 12,071.
7. State v. Lee, 465 P. 2d 573 (S. Ct. Hawaii 1970), upholding KRS § 286-81(1)(A).
8. People v. Ball, _____ P. 2d _____ (S. Ct. Colo. 1970), upholding CRS 1962, 14-8-159 and reversing Colorado Motorcycle Ass'n. v. Love, Moran (Denver Cty. Ct. 1969).

9. State v. Solomon, 260 A. 2d 377 (S. Ct. Vt. 1969), upholding 23 V.S.A. § 1256.
10. State v. Darrah, 446 S.W. 2d 745 (S. Ct. Mo. 1969), upholding § 301.010 R.S. Mo. and reversing 1968 decision of Sedalia Mun. Ct.
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19. Eberhardt v. City of New Orleans, 217 So. 2d 400 (S. Ct. La. 1968), reversing 208 So. 2d 423 (La. App. 1968), upholding city ordinance which is similar to state statute, R.S. 32:190. Cert. denied 89 S. Ct. 1775 (1969).
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4. People v. Thoreson, (Maricopa Cty. Ct. 1969), holding Arizona law unconstitutional.
5. State v. Craig, (Ct. of Appeals, Seneca Cty., Ohio, 1969), upholding § 4511.53 Revised Code. S. Ct. of Ohio dismissed motion to certify record (1969).
6. State v. Krammes, 252 A. 2d 223 (1969), upholding N.J.S.A. 39:3-76.7.
7. State v. Myers, (Balto. Cty. Ct. 1969), affirming 1968 decision of Magistrate Ct. upholding Md. headgear and goggle legislation.
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11. People v. Carmichael, 283 N.Y.S. 2d 931 (1968), reversing 279 N.Y.S. 2d 272 (1967) and upholding subdivision 6, section 381, of Vehicle and Traffic Law.
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13. People v. Schmidt, 283 N.Y.S. 2d 290 (Cty. Ct., Erie Cty. 1967), upholding subdivision 6, section 381 of Vehicle and Traffic Law. Appeal dismissed 295 N.Y.S. 2d 936 (1968).

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2. Constitutional Law - Police Power - Motorcycle Crash Helmet
Laws' Relation to Public Welfare, 1969 Wisc. L. Rev. 320
(1969).
3. Note, 37 U. Mo. K.C. L. Rev. 385 (1969).
4. Constitutionality of Mandatory Motorcycle Helmet Legislation,
73 Dick. L. Rev. 100 (1968).
5. Constitutional Law - Due Process - Statute Requiring Motor-
cyclist to wear Crash Helmet is Unconstitutional, (American
Motorcycle Ass'n. v. Davids), 62 Harv. L. Rev. 469 (1966).