

**HB**

**48**

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO: HB 48**

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Motorcycle Safety BRU: Motor Vehicles  
 Component: Driver Services  
 Sponsor: Representative Brice  
 Requestor: H. TRANS. COMPONENT SERIAL NO. 0500

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL	1.4					
CONTRACTUAL	2.5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>3.9</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE	3.9					
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
<b>TOTAL</b>	<b>3.9</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**  
 This bill will require the Department to promulgate regulations regarding motorcycle safety programs and motorcycle training classes. Cost analysis is as follows:

Hearings would be held in Anchorage, Fairbanks, Soldotna/Kenai and Juneau. Travel = \$980.00 Airfare from Juneau to Anchorage, Anchorage to Fairbanks, Fairbanks to Soldotna and return to Juneau. Per-diem = \$336.00, Car Rental in Anchorage, Fairbanks, Soldotna \$75.00. Total of travel = \$1.4.

Contractual = Publishing cost to publish notice of regulations 2 times in 6 different newspapers = \$2.1. Cost of contracting with the Legislative Information Offices to hold public hearings \$25.00 an hour, 4 hours in each location = \$04. Total cost of contractual is \$2.5.

Prepared By: Juanita M. Hensley Phone: 465-2650  
 Division: Motor Vehicles Date: 2/12/95  
 Approved by Commissioner: Ronald L. Otte Date: 2/13/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 48

Revision Date: \_\_\_\_\_ Dept. Affected: DOT & PF  
 Title: Motorcycle Safety BRU: Commissioner's Office  
 Component: Commissioner's Office  
 Sponsor: Representative Brice  
 Requester: Fred Pascoe/Brices Office COMPONENT SERIAL NO. 530

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

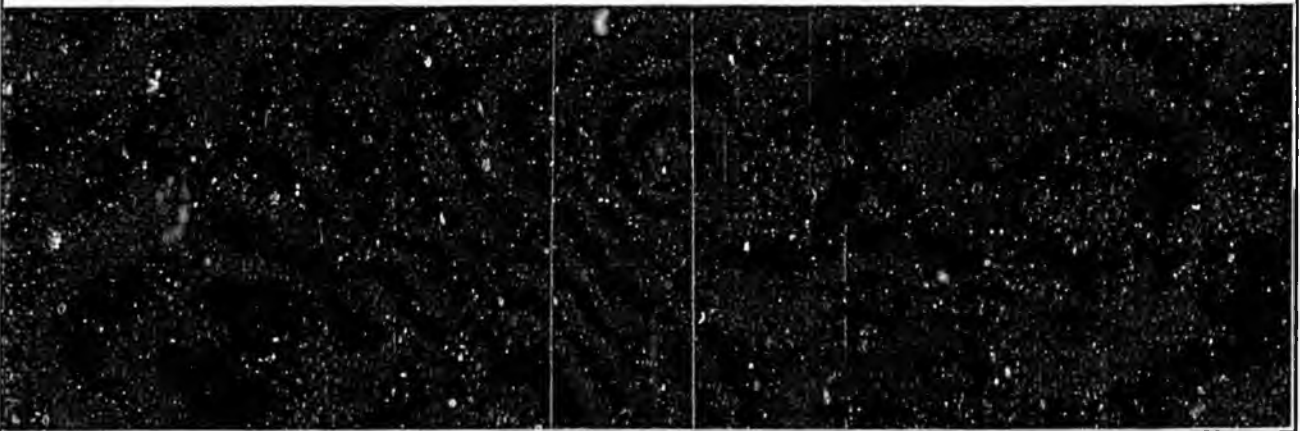
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)



Prepared by: Sam Kito III Phone: 465-3904  
 Division: Commissioner's Office Date: 2/13/95  
 Approved by Commissioner: *Joseph L. Durbin* Date: ?/13/95  
 Agency: Department of Transportation and Public Facilities

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: HB 48

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: Motorcycle Safety Highway Safety Planning Agency  
 Component: Federal Grants  
 Sponsor: Representative Brice  
 Requestor: (H) Transportation COMPONENT SERIAL NO. 0499

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**  
See Attached Analysis

Prepared By: Lorn Campbell Phone: 465-4371  
 Division: Highway Safety Planning Agency Date: 2/13/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 2/14/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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DPS

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Fiscal Analysis  
HB 48

Section 153 of the Intermodal Surface Transportation Efficiency Act of 1991 required that every state have in place a mandatory helmet use law by FFY 95. Failure to enact a mandatory helmet use law would initiate a transfer of funds from the Department of Transportation and Public Facilities to the Alaska Highway Safety Planning Agency in the amount of one and one half percent for the first year and three percent each year thereafter.

Transferred funds come from three discrete highway programs: The Surface Transportation Program, the National Highway System, and the Congestion Mitigation and Air Quality Improvement Program.

On October 1, 1994, \$2.8 million was transferred for FFY 95. The estimated transfer for FFY 96 will be \$5.5 million.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 48

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to motorcycle safety and the use BRU: Prosecution  
of helmets by operators of motorcycles." Component: Criminal Justice Litigation  
 Sponsor: Representative Brice  
 Requester: House Transportation Committee COMPONENT SERIAL NO. 0089

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/14/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/14/95  
 Agency: Department of Law

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# Representative Tom Brice

## ALASKA STATE LEGISLATURE

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Fairbanks, AK 99701  
907-456-7423 / Fax: 451-9293

*While in Juneau*  
State Capitol  
Juneau, AK 99801-1182  
907-465-3466 / Fax: 465-2294

### REPRESENTATIVE TOM BRICE HB 48 Sponsor Statement

The federal highway safety act, ISTEA, requires each state to adopt a mandatory helmet law. The penalty for noncompliance in the first year (FY95) is 1.5 % of federal transportation funding which must be transferred from DOT&PF to the 402 fund for safety, training, and enforcement. In October 1994 (FY95) \$2.6 million was transferred to the 402 fund. Each year thereafter for the remaining four years of the act 3% will be moved. Depending on whether the act is fully funded by the US Congress, \$5.2 million will be moved to 402 each year. Over the life of ISTEA the total would be approximately \$23.5 million.

During the summer and fall of 1993, the state's Attorney General's office, in an attempt to bring Alaska into compliance with ISTEA mandates, issued an opinion supporting the state's ability to mandate the use of a helmet for motorcycle operators. The opinion's argument revolved around the use of "singularly licensed to drive a motorcycle." Although the opinion has been withdrawn, this is a new interpretation of a statute that has been on the books since 1976, and is contrary to legislative intent and current enforcement policy.

To address this, HB 48 clarifies the statute To ensure that some of these funds would be used for improving motorcycle safety, a motorcycle safety program would be established under DPS.

Sponsor Statement

District 30



SECTIONAL ON HB 48

SECTION 1. GIVES THE DEPARTMENT THE AUTHORITY TO PROMULGATE REGULATIONS FOR THE CREATION OF A SAFETY PROGRAM FOR MOTORCYCLE RIDERS.

SECTION 2. CLARIFIES THAT NO LICENSED RIDER MAY BE REQUIRED TO WEAR A HELMET.

COMMENTS: GENERALLY MOTORCYCLE RIDERS SUPPORT THE IDEA OF CHOOSING WHETHER OR NOT TO WEAR A HELMET. THERE ARE OTHER PEOPLE WHO BELIEVE GOVERNMENT SHOULD TAKE CARE OF EVERYONE BY REQUIRING SAFETY MEASURES AS A RULE OF LAW.

THIS IS STRICTLY A PHILOSOPHICAL QUESTION, HOWEVER IT SHOULD BE NOTED MOTORCYCLE RIDERS ARE WELL ORGANIZED AND VERY VOCAL ON THIS ISSUE. A NO VOTE PROBABLY WILL BRING SOME COMMENTS FROM THEIR GROUP.

THIS HAS NEVER BEEN A HUGE ISSUE WITH THE GENERAL PUBLIC.

February 20, 1995

Representative Gary Davis  
Chairman House Transportation Committee  
State Capitol  
Juneau, Alaska 99801-1182

Re: Position Paper on HB48

A.B.A.T.E. of Alaska, Anchorage Chapter would like to take this opportunity to thank the Chairman and the Committee for letting us have the chance to comment on this bill.

We would like to start off by saying we support HB48 and it's principles 100%.

AS 28.35.245 Motorcycle Helmets

We really feel that paragraph (b), (line 1 of page 2) changes the language of the law in such a way as to align the law with the actual current enforcement of the law regarding licensing.

The old language left too many questions and the need for a separate license to operate a motorcycle. Today DMV, to my knowledge, only issues an endorsement on existing drivers licenses.

Section 1. Policy

Alaska is one of seven states that currently does not have a Motorcycle Safety Program. We feel that this reflects badly on the state for two reasons.

1. As A.B.A.T.E., (Alaska Bikers Advocating Training and Education) we know that no matter what safety gear is available, or mandated to wear, none of it does any good if the rider does not know how to use it properly.

We also know from experience the most important piece of gear is knowledge. The ability to avoid the accident does more good than any piece of safety gear.

2. Sec. 153 PENALTIES OF ISTEA. Presently there is a bill in the Senate (S.234) introduced by Senator Ben Nighthorse Campbell from Colorado that would exempt states without helmet laws from penalties if the state had a motorcycle safety program.

Our own Senator, Frank Murkowski, understands the value of this and has just recently announced he is signing on to this bill.

A.B.A.T.E. of Alaska, Anchorage Chapter, presently sponsors beginner and experienced rider courses developed by, and certified by the Motorcycle Safety Foundation. We trained over 150 riders in the three day beginners course last year alone. Each year we have more and more people signing up for these beginner classes. It seems our only limitation is time to hold enough classes.

We would also like to say that we would be honored and eager to assist the legislature and any other agency or department tasked with building a safety program!

If I can be of any other assistance, please don't hesitate to contact me.

Boyd McFail  
Legislative Affairs Officer  
A.B.A.T.E. of Alaska, Anchorage Chapter  
423 Lynnwood Drive  
Anchorage, Alaska 99518  
Phone:  
(907) 562-5906 home  
(907) 264-8464 work  
(907) 561-5369 fax

Ride Free, Ride Safe

Sincerely,

Boyd McFail

# MEMORANDUM

State of Alaska  
Department of Law

TO: The Honorable Bruce Campbell  
Commissioner  
Department of Transportation  
and Public Facilities

DATE: September 28, 1993

FILE NO.

TEL. NO. 465-3603

SUBJECT: Motorcycle Helmet Law

FROM: Deborah Vogt *DV*  
Assistant Attorney General  
Transportation Section-Juneau

You have asked for an interpretation of the statutory and regulatory requirements for motorcycle helmets in Alaska.

AS 28.35.250 provides:

(b) A person who has reached the age of majority as defined by AS 25.20.010 may not be required to wear a helmet while operating a motorcycle if the person is the holder of a license that, under regulations adopted under AS 28.15.041, is classified singly as a license to operate a motorcycle.

The classes of licenses are set out in 13 AAC 08.150, which is "adopted under AS 28.15.041." While many classes license the driver for any motor vehicle, class M1 licenses the driver only for "motorcycles, motor-driven cycles, and motorized bicycles, singly or in combination with trailers or sidecars designed to be used with these vehicles." 13 AAC 08.150(b)(2)(B). Thus, it is my opinion that only a Class M1 license is "classified singly as a license to operate a motorcycle."

The requirement for a helmet is set out in 13 AAC 04.350. That regulation provides:

(a) Except as otherwise provided by statute, a person operating or riding upon a motorcycle or motor-driven cycle upon a public roadway must wear protective headgear . . . .

Thus, this regulation makes helmets mandatory unless "otherwise provided by statute . . ." The only statute that qualifies the helmet requirement is AS 28.35.250(b), set out above, prohibiting the requirement of a helmet when an adult holds a license classified singly for motorcycles.

/DV:ae

28.35.235

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MOTOR VEHICLES

§ 28.35.251

(2) the motor vehicle displays a special license plate issued to disabled or handicapped persons under AS 28.10.181(d); or

(3) the motor vehicle displays a special license plate or permit issued to disabled or handicapped persons by another state, province, territory, or country.

(b) A person who violates this section is guilty of an infraction. Upon conviction the court shall impose a fine of not less than \$100. (§ 2 ch 11 SLA 1987)

*Sec. 28.35.240. Duty to obey school patrol. [Repealed, § 3 ch 68 SLA 1964.]*

**Sec. 28.35.245. Motorcycle helmet.** (a) After January 1, 1978, motorcycle helmets may not be manufactured or sold in Alaska that do not conform to standards established by regulation by the commissioner of public safety. The regulations must provide for helmets that allow normal peripheral vision and hearing and minimize neck injuries to the wearer potentially caused by the helmet. The adoption of these regulations shall be under the provisions of the Administrative Procedure Act (AS 44.62).

(b) A person who has reached the age of majority as defined by AS 25.20.010 may not be required to wear a helmet while operating a motorcycle if the person is the holder of a license that, under regulations adopted under AS 28.15.041, is classified singly as a license to operate a motorcycle. (§ 1 ch 230 SLA 1976)

*Collateral references.* — 7A Am. Jur.  
2d, Automobiles and Highway Traffic,  
§ 210.

*Sec. 28.35.250. Application of law. [Repealed, § 20 ch 241 SLA 1976.]*

**Sec. 28.35.251. Contained or confined loads.** (a) A person may not drive a motor vehicle loaded with sand, gravel, rock, or similar materials on a highway unless

(1) the load is contained or confined to prevent the load from dropping, shifting, leaking, or escaping, except that sand or other substances may be dropped, sprinkled, or sprayed for the purpose of cleaning or maintaining the highway or providing traction; and

(2) the load is subjected to treatment by methods, approved by the commissioner by regulation, designed to settle the load or remove loose material before the vehicle is driven on the highway.

(b) If a cover is used to contain or confine a load being driven on a highway, the cover shall be securely fastened to prevent the cover from becoming loose or detached, or from being a hazard to other users of the highway. (§ 1 ch 62 SLA 1986)