In the interest of time, I am designating a copy of this letter for Senator Rettig. I hope he will not be offended that I have not written to him separately.

Sincerely,

William J. Moran
Chairman

cc: Honorable Ron Rettig
Senate Commerce Chairman

Pouch V
Juneau, Alaska 99801

January 21, 1972

Richard Wheatley, Esquire
University Bank
Post Office Box 1067
Stillwater, Oklahoma 74074

Re: HB 174 - Uniform Consumer Credit Code
HB 453 - Relating to Consumer Transactions

Dear Mr. Wheatley:

This letter will confirm our telegraphic invitation and request of this date for your appearance before a joint meeting of the House Commerce and Judiciary Committees of the Alaska Legislature on January 28 and 29 to testify and otherwise participate in the consideration of the above-named bills, now before the House Commerce Committee. Both bills have a second referral to the House Judiciary Committee. HB 174 is the Uniform Consumer Credit Code as prepared by the National Conference of Commissioners on Uniform State Laws; HB 453 is a proposal in the same area of legislative concern which was prepared at the Boston College Law Center pursuant, as we understand, to a grant from the Office of Economic Opportunity. Copies of both bills are enclosed.

The joint meeting will convene at 1:30 p.m. on January 28 in the House Conference Room, Second Floor, Capitol Building, and will continue into the following day as may be required. Because of the interest in the subject, as well as its complicated nature, a second day of testimony will undoubtedly be necessary. (Norman C. Banfield, Esquire, of the Juneau Bar, will appear on January 27 to permit him to meet a commitment elsewhere; a sponsor of HB 453 has requested that witnesses for his bill also be heard approximately one week later.) All members of the Legislature will be invited to attend and to participate in the hearings. The Senate Commerce and Judiciary Committees will undoubtedly be present.

We are grateful to you for your willingness to participate in these important hearings and to give us the benefit of your expertise; we are grateful to the National Conference for their support of your attendance; and, we are grateful to Frederick O. Eastaugh, Esquire, Alaska's Commissioner to the Conference, for his, as always, generous assistance.

Please let us know if we can be of help with respect to your accommodations or other amenities while you are in Juneau. Our addresses are as above; we can be reached telephonically at (AC 907) 586-5288 (Chief Clerk); 586-6614 (Commerce); or 586-6795 (Judiciary). Please note that Juneau is on Pacific Standard Time, that is, Oklahoma is two hours earlier.

Please again accept our thanks for your kind assistance.

Sincerely,

William J. Moran
Chairman, Judiciary Committee

Jalmar M. Kerttula
Chairman, Commerce Committee

Enclosures - Copies of HB 174
and HB 453

cc: Frederick O. Eastaugh, Esquire
Post Office Box 1211
Juneau, Alaska 99801

WJM:JMK:mm

Pouch V
Juneau, Alaska 99801

January 21, 1972

Richard Wheatley, Esquire
University Bank
Post Office Box 1067
Stillwater, Oklahoma 74074

Re: HB 174 - Uniform Consumer Credit Code
HB 453 - Relating to Consumer Transactions

Dear Mr. Wheatley:

This letter will confirm our telegraphic invitation and request of this date for your appearance before a joint meeting of the House Commerce and Judiciary Committees of the Alaska Legislature on January 28 and 29 to testify and otherwise participate in the consideration of the above-named bills, now before the House Commerce Committee. Both bills have a second referral to the House Judiciary Committee. HB 174 is the Uniform Consumer Credit Code as prepared by the National Conference of Commissioners on Uniform State Laws; HB 453 is a proposal in the same area of legislative concern which was prepared at the Boston College Law Center pursuant, as we understand, to a grant from the Office of Economic Opportunity. Copies of both bills are enclosed.

The joint meeting will convene at 1:30 p.m. on January 28 in the House Conference Room, Second Floor, Capitol Building, and will continue into the following day as may be required. Because of the interest in the subject, as well as its complicated nature, a second day of testimony will undoubtedly be necessary. (Norman C. Banfield, Esquire, of the Juneau Bar, will appear on January 27 to permit him to meet a commitment elsewhere; a sponsor of HB 453 has requested that witnesses for his bill also be heard approximately one week later.) All members of the Legislature will be invited to attend and to participate in the hearings. The Senate Commerce and Judiciary Committees will undoubtedly be present.

We are grateful to you for your willingness to participate in these important hearings and to give us the benefit of your expertise; we are grateful to the National Conference for their support of your attendance; and, we are grateful to Frederick O. Eastaugh, Esquire, Alaska's Commissioner to the Conference, for his, as always, generous assistance.

Please let us know if we can be of help with respect to your accommodations or other amenities while you are in Juneau. Our addresses are as above; we can be reached telephonically at (AC 907) 586-5268 (Chief Clerk); 586-6614 (Commerce); or 586-6795 (Judiciary). Please note that Juneau is on Pacific Standard Time, that is, Oklahoma is two hours earlier.

Please again accept our thanks for your kind assistance.

Sincerely,

William J. Moran
Chairman, Judiciary Committee

Jalmar M. Kerttula
Chairman, Commerce Committee

Enclosures - Copies of HB 174
and HB 453

cc: Frederick O. Eastaugh, Esquire
Post Office Box 1211
Juneau, Alaska 99801

WJM:JMK:mm

Pouch V
Juneau, Alaska 99801

January 21, 1972

Neil Butler, Esquire
2450 Colorado State Bank Building
16th & Broadway
Denver, Colorado 80202

Re: ✓HB 174 - Uniform Consumer Credit Code
HB 453 - Relating to Consumer Transactions

Dear Mr. Butler:

This letter will confirm our telegraphic invitation and request of this date for your appearance before a joint meeting of the House Commerce and Judiciary Committees of the Alaska Legislature on January 28 and 29 to testify and otherwise participate in the consideration of the above-named bills, now before the House Commerce Committee. Both bills have a second referral to the House Judiciary Committee. HB 174 is the Uniform Consumer Credit Code as prepared by the National Conference of Commissioners on Uniform State Laws; HB 453 is a proposal in the same area of legislative concern which was prepared at the Boston College Law Center pursuant, as we understand, to a grant from the Office of Economic Opportunity. Copies of both bills are enclosed.

The joint meeting will convene at 1:30 p.m. on January 28 in the House Conference Room, Second Floor, Capitol Building, and will continue into the following day as may be required. Because of the interest in the subject, as well as its complicated nature, a second day of testimony will undoubtedly be necessary. (Norman C. Banfield, Esquire, of the Juneau Bar, will appear on January 27 to permit him to meet a commitment elsewhere; a sponsor of HB 453 has requested that witnesses for his bill also be heard approximately one week later.) All members of the Legislature will be invited to attend and to participate in the hearings. The Senate Commerce and Judiciary Committees will undoubtedly be present.

We are grateful to you for your willingness to participate in these important hearings and to give us the benefit of your expertise; we are grateful to the National Conference for their support of your attendance; and, we are grateful to Frederick O. Eastaugh, Esquire, Alaska's Commissioner to the Conference, for his, as always, generous assistance.

Please let us know if we can be of help with respect to your accommodations or other amenities while you are in Juneau. Our addresses are as above; we can be reached telephonically at (AC 907) 586-5268 (Chief Clerk); 586-6615 (Commerce); or 586-6795 (Judiciary). Please note that Juneau is on Pacific Standard Time, that is, Colorado is one hour earlier.

Please again accept our thanks for your kind assistance.

Sincerely,

William J. Moran
Chairman, Judiciary Committee

Jalmar M. Kerttula
Chairman, Commerce Committee

Enclosures - Copies of HB 174
and HB 453

cc: Frederick O. Eastaugh, Esquire
Post Office Box 1211
Juneau, Alaska 99801

WJM:JMK:mm

January 18, 1972

Norman C. Banfield, Esquire
Faulkner, Banfield, Doochever
& Doogan, Attorneys
Suite 201 - 311 Franklin Street
Juneau, Alaska 99801

Re: SB 42 - Amending Retail Installment Sales Act
SB 242 - Interest on Loans
SB 174 - Uniform Consumer Credit Code
SB 353 - Consumer Transactions

Dear Norm:

Confirming our conversation today concerning your letter to me of January 10, it is my intention to delay further action on SB 242 and SB 42 pending consideration of SB 174 and SB 353. The latter two bills are scheduled for joint public hearing before the House Commerce and Judiciary Committees on January 26, at 1:30 p.m., in the House Conference Room. It is expected that these hearings may continue into January 27. I know also that Representative Farrell, co-sponsor of SB 353, may request that additional hearings be held the following week, probably on February 4.

Mr. Karttula is scheduled to testify on SB 174 and SB 353 a bit earlier to accommodate your departure from Alaska. Since our present plan is not to have a calendar on Thursday, a meeting with you immediately on adjournment on January 27 seems the most practical. I should think that you could conclude your presentation by noon that day. Please let me know.

Sincerely,

William J. Moran

cc: Rep. Karttula
Rep. Farrell
Mr. Eastaugh

File HB 174

LAW OFFICES OF
FAULKNER, BANFIELD, BOOCHEVER & DOOGAN
SUITE 201, 31 FRANKLIN STREET
JUNEAU, ALASKA 99801
TEL. 586-2210
AREA CODE 907

HERBERT L. FAULKNER
NORMAN C. BANFIELD
ROBERT BOOCHEVER
FRANK M. DOOGAN
AVRUM M. GROSS
MICHAEL M. HOLMES
SANFORD SAGALKIN

January 20, 1972

The Honorable William J. Moran
Chairman, Judiciary Committee
House of Representatives
Juneau, Alaska 99801

Re: HB 42 - Amending Retail Installment Sales Act
HB 242- Interest on Loans
HB 174 - Uniform Consumer Credit Code
HB 453- Consumer Transactions

Dear Bill:

Thanks for your letter of January 18, 1972, regarding the above bills. I will be ready after the House adjourns on January 27th and will give you a summary of the contents and purposes of HB 174. It is possible that more qualified persons may appear later but I will give you a resume of the bill which will help you to understand a more detailed analysis which may be made by others as you will have a picture of the scheme developed by the Code.

At the present time I have inquired as to whether Household Finance Corporation can have one or more persons present who have followed the development of the Code much more closely than I have. I will let you know if they can be present for the hearings on January 28th and 29th.

Yours very truly,

N. C. Banfield

NCB:db

cc: Jalmar M. Kerttula
Marty Farrell
F. O. Eastaugh

HB453

SB239

HB-453

ALASKA RETAIL ASSOCIATION, INC.
P.O. BOX 1727
ANCHORAGE, ALASKA

POSITION STATEMENT - NATIONAL CONSUMER ACT, H.B. 453

The Alaska Consumer Act, (H.B. 453 and S.B. 239) is modeled after the National Consumer Act (NCA). The NCA was promulgated by the National Consumer Law Center located at the Boston College Law School in Brighten, Massachusetts. The NCA is reputed to be the consumer movement "answer" to the Uniform Consumer Credit Code (UCCC), a statute drafted by the National Conference on Uniform State Laws and under consideration by this same committee as H.B. 174. The UCCC has been adopted in six states and has been introduced in several other states, including Hawaii and, of course, Alaska. The NCA has not been adopted by any state.

The Alaska Retail Association has already testified in support of the UCCC (H.B. 174). We are here today to register our opposition to the NCA (H.B. 453). Basically, we support the UCCC because we feel that it is a balanced piece of legislation which gives due consideration to the interests of consumers and to the need for regulation which will not substantially impede the operations of legitimate businesses. Furthermore, the remedies contained in the UCCC would add significant consumer protection not found in existing Alaska law. We oppose the NCA (H.B. 453) because, in our view, it fails to strike such a healthy balance and in fact, is extremely unrealistic in some of its proposals to correct alleged abuses.

The NCA (H.B. 453) would set up an elaborate administrative machinery with unprecedented powers to interfere in consumer transactions of every conceivable nature regardless of their significance. The NCA purports to cure every imaginable abuse against consumers and totally ignores the needs of legitimate business interests. The Alaska Retail Association certainly agrees that consumer abuses should be stopped and that those responsible should pay the penalty. However, the proposed Act simply would have a regressive effect upon Alaska's economy by overburdening and stifling legitimate business in this State. Moreover, considering only its credit features, we believe that rather than encouraging fair and economically sound consumer credit practices, the NCA (H.B. 453) could well result in limiting the availability of legitimate consumer credit in the State of Alaska.

At the outset, we think it is important to recognize that the UCCC (H.B. 174) and the NCA (H.B. 453) are considerably different in their scope. Unlike the UCCC, which deals only with consumer credit transactions, the NCA goes considerably beyond credit transactions and would also regulate many other types of consumer transactions, including cash sales. If enacted, the National Consumer Act, would also bring about substantial changes in many existing laws and, in fact, would substantially revise several Alaska laws just enacted after consideration in great detail by the 1970 Alaska Legislature. We believe that the UCCC is a more reasonable and well-balanced approach to consumer credit transactions. Presently existing federal and Alaskan laws more effectively and realistically cover the other areas which the NCA (H.B. 453) would seek to change.

This statement does not attempt to comment on each and every section of the NCA (H.B. 453). There are, however, a few sections of the Act on which we believe comment is appropriate to emphasize its short-sightedness and unfair aspects.

CONTRACT CANCELLATION:

The Act distinguishes between "inside" and "outside" consumer approval transactions. An "inside" consumer approval transaction means a sale made at the merchant's place of business for which the price is over $50, whether the sale is for cash or for credit. An "outside" consumer approval transaction is a sale in any amount, whether by cash or by credit, consummated outside of a merchant's place of business.

In both the "inside" and "outside" transaction, the sale is not final until certain conditions are satisfied. If it is an "outside" transaction, the consumer must send a notice, the notice to be provided by the merchant, within three days after receipt of the notice, stating that he is affirming the transaction. If the transaction is "inside," the consumer has three days to send a notice to the seller cancelling the transaction.

These provisions, we feel, are not in the best interests of either the consumer or the merchant. We question, for example, whether consumers want to have a duty imposed on them of sending an affirmation notice on every "outside" transaction, especially in cases where the sale is for cash. This does not mean that we are opposed to a three-day "cooling off" period when the sale occurs in the consumer's home, on the contrary, we support the provisions

of the UCCC which permit the consumer to send a cancellation notice to the seller within three days of the purchase as good protection to the consumer.

Under the provisions of the NCA (H.B. 453), there would no doubt be many instances in which the consumer has no desire to cancel the contract, but through simple oversight forgets to send the affirmation notice to the seller. The seller, thinking the consumer has cancelled the sale, sends someone to the consumer's home to pick up the goods. The consumer says it is all a mistake, that he forgot to send the notice and that he really wants the goods. But can the seller accept this explanation? Under other provisions of the Act, the consumer cannot waive his rights. Thus, even though he wants to affirm the contract, he cannot waive his right to get back his money and return the purchased property. No doubt the matter could be resolved by entering into a new contract, but this seems to be a burden that is neither satisfactory to the seller nor to the consumer. Surely it is not asking too much to require a consumer to send a cancellation notice if he desires to cancel the transaction. In this way consumers are protected and the many problems that would result from the provisions of the Act would be avoided.

Even more questionable is the right of the consumer to cancel "inside" transactions. In this regard, one glaring defect of the Act as it is presently drafted is the lack of any section dealing with what happens when the consumer cancels an "inside" transaction.

There is a section which provides that if the "outside" transaction is not affirmed, the seller must return the money received from the consumer at his home and pick up the purchased property. There is no similar provision dealing with the "inside" cancellation, unless the Act is to be interpreted in such a way that the same provision applies to both "inside" and "outside" transactions. If this is true, it would, we feel, impose a most unfair burden on the seller. It would mean that even though the transaction resulted from the consumer voluntarily going into the seller's place of business, the seller, upon cancellation, has a duty to seek out the consumer at his residence, return his money, and pick up the merchandise.

Perhaps even more important is the concept of allowing a person to cancel an "inside" transaction. Why, for example, should a person be able to buy an expensive dress at the seller's store, use it for one day, and then cancel the sale? The fact that the dress has been used would not seem to make any difference, since there are no provisions that the property must be returned in an unused or even satisfactory condition. Moreover, the seller will not be able to sell the dress as a new item again since the Act (and the existing Alaska Consumer Protection Act) also has provisions that make it unlawful to represent an item as new when it is used or secondhand.

It is well known that most reputable merchants will accept returned merchandise where it has not been used or damaged in any way by the customer. But, this Act would require the merchant to accept any returned merchandise if the transaction is cancelled

within three days, even if the merchandise has been used or damaged by the consumer.

The UCCC recognizes that the consumer currently has a need for a period of time within which to reflect and off-set the high pressure tactics of door to door salesmen. However, the NCA's method of dealing with the problem is a classic illustration of its many "overhill" features for the purported benefit of consumers. It is submitted that their method would substantially nullify the certainty of business transactions in the State of Alaska.

CREDITOR'S REMEDIES:

Another major area in which the Act is unrealistic and unfair to the merchant is that of creditor's remedies. The Act provides that a consumer is not in default until he misses three successive monthly payments. Moreover, if the seller has a security interest in the property, the consumer may surrender the property to the seller in full satisfaction of the obligation without regard to the condition or current value of the property in relation to the balance due. The seller is not entitled to any deficiency judgment if the unpaid balance is under $2,000. The seller may not repossess the property until after the three months have lapsed, and then only through a lengthy and costly court procedure.

The net effect of these provisions is that a person could buy a colored television set, not make any payments for three months, and then simply surrender the set to the seller in full satisfaction of his obligation. The seller could not take any steps during that

three months to obtain the property and must accept the property at the end of the three months, regardless of its condition. Moreover, the seller would be stuck with a used television set, which as previously indicated, could not be sold as a new item. Thus, the merchant has lost both his profit from the sale and the set from his inventory, while the consumer has had the use of the set for three months free of charge. How much must the retailer raise his prices to others to give the freeloader his color television? It is hard to know, but certainly some considerable amount.

MISCELLANEOUS PROVISIONS:

The above sections are by no means exhaustive of the unfair measures of this proposal. There are other provisions in the Act which if enacted would greatly disrupt modern consumer transactions.

The Act, for example, places a maximum rate on consumer credit transactions at 18% per annum. This rate while in conformity with the present rate on retail installment revolving accounts, would also be applicable to the small loan business. In setting this rate, the Act completely ignores the specific needs of the small loan industry and the rates that are required in order to allow the less credit worthy a legitimate source of money.

Another problem with the Act is its failure to seek exemption from Federal Truth in Lending as provided in Section 123 of the Federal Consumer Credit Protection Act. This means that all consumer credit transactions in Alaska would be subject to both Federal and State regulations, a situation that is obviously more confusing and complicated than if consumer credit transactions were regulated solely by local law.

It should also be pointed out that the Act goes well beyond existing Alaska law regarding unfair and deceptive trade practices. The 1970 Alaska Legislature devoted much time and effort to drafting and enacting a law that effectively and justly governs unfair trade practices. The Act would now displace this law with broader and vaguer terms that by their very lack of precision can accomplish little but to create problems of interpretation and, thus, of compliance for the honest merchant. In short, Alaska already has effective legislation dealing with deceptive and unfair trade practices and this law should not be replaced with the provisions in this Act.

A similar objection to the Act is the fact that it provides as a remedy for violation of the unfair and deceptive trade practices section, as well as for other violations of the Act, the unlimited private class action. Again, we would point out that the private class action as a consumer remedy is one which was carefully considered by the 1970 Alaska Legislature. Recognizing that such actions are often used to harass legitimate retailers without accomplishing much toward eliminating the unconscionable practices of a small percentage of businesses responsible for consumer abuses, the 1970 legislature wisely imposed reasonable restrictions on such actions.

The Act would also substantially revise the present law under the Uniform Commercial Code in the area of warranties and representations. It is our feeling that the UCC, a statute that has been adopted by all but one of the 50 states, is an adequate statute as to the substance of consumer warranties. To the extent disclosure and minimum standards might be thougnt necessary, the NCA (H.B. 453)

offers little help. The Federal Congress, after several years of study appears on the verge of passing some such consumer warranty bill. It should be a good deal better, and probably would pre-empt some or all of any state effort.

Finally, we are also corcerned with the provisions of the Act which relate to credit reporting agencies. The Act goes well beyond the requirements of the Federal Fair Credit Reporting Act, which was implemented on April 25, 1971. A major difference is that the Act would require that derogatory information be deleted as obsolete after three years, while the Federal law sets the deletion period at seven years. This means that Alaska reporting agencies would be completely out of phase with the rest of the country. Consumer reporting agencies, by their very nature, are involved in interstate commerce and their contacts with agencies in other states are quite important. Should this Act be enacted, it would place Alaska consumer reporting agencies in the untenable position of reporting substandard information. This would affect the Alaska consumers' ability to obtain credit from national firms such as major oil companies and national credit card companies.

In summary, the NCA (H.B. 453) is not the type of legislation that is either necessary or proper for regulating consumer credit and consumer protection. The philosophy underlying the Act seems to be that all merchants are out to take advantage of the consumer, while consumers are always honest and always pay their bills. In fact, as we all know, neither side has a monopoly upon virtue. There are admittedly some unscrupulous merchants, but it is equally

true that there are a number of consumers who are not always honest and forthright in their commercial dealings. A law which purports to govern the area of consumer credit and protection must recognize the needs and problems of both the consumer and the merchant. The NCA (H.B. 453) certainly does not recognize the needs of the merchant, and it is questionnable whether in the long run it recognizes the needs of the average consumer since many of its provisions can only result in increasing the cost of goods to the consumer.

ALASKA RETAIL ASSOCIATION
P.O. BOX 1727
ANCHORAGE, ALASKA 99501

January 26, 1972

Honorable William Moran
Chairman
House Judiciary Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Dear Mr. Moran:

Two acknowledged experts on the Uniform Consumer Credit Code have agreed to testify before the joint hearing which has been scheduled for Friday, January 28th. They are Mr. Richard Wheatley, former administrator of the Code in Oklahoma, and Mr. Neil Butler, Education Director of the National Conference of Commissioners on Uniform State Laws. Mr. Butler is also the former acting administrator of the Code in Colorado. We know that these gentlemen will be able to supply your committees with a great deal of valuable information on this comprehensive measure.

Subject to your approval, the Alaska Retail Association's portion of the testimony will be ordered in the following manner. Dean Ehrich -- To make a very brief introductory statement; Fred Eastaugh, who is a commissioner from Alaska -- To introduce Mr. Wheatley and Mr. Butler who will provide the bulk of our testimony and who will be available for specific questions by yourself and members of your committee.

We wish to thank you for this opportunity to comment on what we feel to be the best proposal ever drafted in the area of consumer credit. Passage would be of great benefit to all Alaskans.

Sincerely,

ALASKA RETAIL ASSOCIATION

Dean Ehrich
Legislative Agent

DE/kd

HB-453

JUDICIARY COMMITTEE
Pouch V
Juneau, Alaska 99801

January 26, 1972

Honorable Robert H. Ziegler, Sr.
Senate Judiciary Chairman
Pouch V - Capitol Building
Juneau, Alaska 99801

Re: HB 174 - Uniform Consumer Credit Code
HB 453 - Relating to Consumer Credit

Dear Senator Ziegler:

The House Commerce and Judiciary Committees are sponsoring a joint public hearing on House Bill 174 (Uniform Consumer Credit Code) and House Bill 453 (Relating to Consumer Credit). As the title of House Bill 174 suggests, it is the draft prepared by the National Conference of Commissioners on Uniform Laws. I have been informed that House Bill 453 was drafted at the Boston College Law Center pursuant to a grant from the Office of Economic Opportunity.

The hearings will be held in the House Conference Room, beginning at 1:30 p.m. on Friday, January 28, and will continue over into Saturday as need may require.

The National Conference has made available Neil Butler, Esquire, of Denver, Colorado, and Richard Wheatley, Esquire, of Stillwater, Oklahoma. I understand that those members of the bar are particularly qualified to discuss House Bill 174.

Norm Banfield will be leaving for Europe this weekend. As a courtesy to him, Jay Kerttula and I have agreed to convene our respective committees immediately upon adjournment of the House on Thursday, January 27. It is my understanding that Mr. Banfield wishes to testify in favor of House Bill 174 and in opposition to House Bill 453. We hope to have Mr. Banfield's testimony taken also in the House Conference Room.

On the assumption that the Senate Commerce and Judiciary Committees will have some bill under consideration pursuant to House action, Mr. Kerttula and I invite the attendance and participation of your committee members at the above session. We also request that you make the fact of such hearings known to other members of the Senate by announcement on the floor.

In the interest of time, I am designating a copy of this letter for Senator Rattig. I hope he will not be offended that I have not written to him separately.

Sincerely,

William J. Moran
Chairman

cc: Honorable Ron Rattig
Senate Commerce Chairman

Pouch V
Juneau, Alaska 99801

January 21, 1972

Richard Wheatley, Esquire
University Bank
Post Office Box 1067
Stillwater, Oklahoma 74074

Re: HB 174 - Uniform Consumer Credit Code
HB 453 - Relating to Consumer Transactions

Dear Mr. Wheatley:

This letter will confirm our telegraphic invitation and request of this date for your appearance before a joint meeting of the House Commerce and Judiciary Committees of the Alaska Legislature on January 28 and 29 to testify and otherwise participate in the consideration of the above-named bills, now before the House Commerce Committee. Both bills have a second referral to the House Judiciary Committee. HB 174 is the Uniform Consumer Credit Code as prepared by the National Conference of Commissioners on Uniform State Laws; HB 453 is a proposal in the same area of legislative concern which was prepared at the Boston College Law Center pursuant, as we understand, to a grant from the Office of Economic Opportunity. Copies of both bills are enclosed.

The joint meeting will convene at 1:30 p.m. on January 28 in the House Conference Room, Second Floor, Capitol Building, and will continue into the following day as may be required. Because of the interest in the subject, as well as its complicated nature, a second day of testimony will undoubtedly be necessary. (Norman C. Banfield, Esquire, of the Juneau Bar, will appear on January 27 to permit him to meet a commitment elsewhere; a sponsor of HB 453 has requested that witnesses for his bill also be heard approximately one week later.) All members of the Legislature will be invited to attend and to participate in the hearings. The Senate Commerce and Judiciary Committees will undoubtedly be present.

We are grateful to you for your willingness to participate in these important hearings and to give us the benefit of your expertise; we are grateful to the National Conference for their support of your attendance; and, we are grateful to Frederick O. Bestaugh, Esquire, Alaska's Commissioner to the Conference, for his, as always, generous assistance.

Please let us know if we can be of help with respect to your accommodations or other amenities while you are in Juneau. Our addresses are as above; we can be reached telephonically at (AC 907) 586-5260 (Chief Clerk); 586-6814 (Commerce); or 586-6795 (Judiciary). Please note that Juneau is on Pacific Standard Time, that is, Oklahoma is two hours earlier.

Please again accept our thanks for your kind assistance.

Sincerely,

William J. Moran
Chairman, Judiciary Committee

Jalmar M. Kerttula
Chairman, Commerce Committee

Enclosures - Copies of HB 174
and HB 453

cc: Frederick O. Eastaugh, Esquire
Post Office Box 1211
Juneau, Alaska 99801

WJM:JMK:mm

January 18, 1972

Norman C. Banfield, Esquire
Faulkner, Banfield, Boochever
& Doogan, Attorneys
Suite 201 - 311 Franklin Street
Juneau, Alaska 99801

Re: SB 42 - Amending Retail Installment Sales Act
SB 242 - Interest on Loans
HB 174 - Uniform Consumer Credit Code
HB 453 - Consumer Transactions

Dear Norm:

Confirming our conversation today concerning your letter to me of January 10, it is my intention to delay further action on SB 242 and SB 42 pending consideration of HB 174 and HB 453. The latter two bills are scheduled for joint public hearing before the House Commerce and Judiciary Committees on January 28, at 1:30 p.m., in the House Conference Room. It is expected that these hearings may continue into January 29. I know also that Representative Farrell, co-sponsor of HB 453, may request that additional hearings be held the following week, probably on February 4.

Mr. Kerttula is agreeable to hearing you on HB 174 and HB 453 a bit earlier to accommodate your departure from Alaska. Since the present plan is not to have a calendar on Thursdays, a meeting with you immediately on adjournment on January 27 seems the most promising. I should think that you could conclude your presentation by noon that day. Please let me know.

Sincerely,

William J. Moran

cc: Rep. Kerttula
Rep. Farrell
Mr. Eastaugh

MARRIAGE

[The excerpt from an article on Judicial Consent to Marry appearing below was taken from the December 1969 issue of the Family Law Quarterly, a law periodical published by the American Bar Association.]

Judicial Consent to Marry— Its Complex Demands†

WARREN W. WEISS*
Supervising Conciliation Counselor

HENRY B. COLLADA**
Conciliation Counselor

The Conciliation Court of the Superior Court of Santa Clara County, California

As early as 1926, social scientists were concluding that the risk of failure in marriages involving parties under age twenty was appreciably higher than those involving more mature partners.[1]

In 1953, Professor William G. Monahan of the University of Iowa published the results of an extensive investigation into the 52,722 marriages and the 3,040 divorces occurring in Iowa between 1945 and 1947.[2] His study revealed that 8.4% of the marriages under consideration involved males below age twenty and 33.3% involved females below twenty. In comparison, however, 15.1% of the divorces involved husbands under twenty and 50.9% of the divorces involved wives under twenty. Furthermore, Monahan found that where both parties

* A.B. 1955, M.A. 1956, San Jose State College.
** A.B. 1958, New York Univ.; M.S.U. 1966, Univ. of Calif. at Berkeley.

† The authors are indebted to Mr. David S. Murray, B.S.C. 1965, J.D. 1969, University of Santa Clara, for research assistance in the preparation of this paper.

1. Hart and Shields, *Happiness In Relation to Age at Marriage*, 12 J. Soc. Hygiene 403 (1926), reported that "Marriage in which either party is 19 or younger are from 10 to 100 times risky as are marriages at the ideal (24 to 29) ages."

2. Monahan, *Does Age at Marriage Matter in Divorce?* 32 Social Forces 18 (1953).

were sixteen years or under the divorce rate rose to four times that experienced by partners wed at the mean age, that is where the groom was twenty-five and the bride twenty-two. These statistics dramatically illustrate the disproportionate representation of youthful marriage in divorce actions.

More recent studies corroborate the earlier findings. In the first half of the present decade, the highest divorce rate involves parties married between the ages of fifteen and nineteen. The incidence of divorce appears two to three times higher among couples married in their teens than among those married at later ages.[3]

If we accept the seemingly inescapable premise that youthful marriages are particularly susceptible to divorce we must conclude that the state's interest in fostering the stability and permanence of a marriage is more than casually threatened by the youthful marriage.

This being the case, it is not surprising that many states have exercised their regulatory power over marriage with more proclivity in situations where minors are involved. Most states condition the issuance of a marriage license to minors on the written consent of their parents. If the minor is more than two years below majority, many states require that a member of the local judiciary give his approval to the proposed marriage. The latter procedure is normally referred to as requiring "judicial consent" to the marriage.

In considering the complex factors that must be dealt with in trying to determine whether a proposed marriage has the attributes of success or failure, it becomes apparent that a judge, sitting alone, is not equipped to do a complete and effective job. If state legislatures are sincerely concerned about stemming the ill-fated tide of the youthful marriage, they should seriously consider the Rhode Island plan which provides that a petitioner seeking judicial consent must make his application to

3. J. Landis and M. Landis, Personal Adjustment, Marriage and Family Living 151 (4th ed. 1966); *see also*, Health, Education and Welfare Indicators, Trends in Divorce and Family Disruption (Aug. 1963).

the Juvenile Court. The court is then required by statute[4] to request from the Social Welfare Department a complete investigation of and a report upon the advisability of the marriage. Subsequently, a hearing is held at which time the report and other evidence is heard. Upon a consideration of all the evidence, the judge will determine whether to grant or deny consent. A well-rounded staff of social workers and family counselors is placed at the judge's disposal. The court is thereby transformed from a rather ineffective team of one, forced to grant or deny consent on the basis of a highly subjective reaction, into a highly skilled decision making mechanism fully equipped to do a professional job.

Although Rhode Island is the only state that has codified such procedures, some states have enacted enabling statutes whereby their individual county courts can develop similar programs utilizing county social agencies if they desire. California, for example, has given its counties such power and one county in particular, Santa Clara County, has developed a very practical and effective plan to aid the judge in his decision to grant or deny consent.

The Santa Clara County Plan

Because no criteria are set forth under California law, presumably if one judge refused to give his consent to an underage marriage, another and more liberal judge could be sought by the couple. In 1966 the nineteen judges of the Superior Court of Santa Clara County established one department as a Family Court in 1966. By creating a Family Court, the policy making for consent was allocated to the Family Court Judge. This eliminated the *ex parte* applications to any judge. While this was an improvement, the Family Court Judge felt that he was not competent to alone determine the future success of such marriages. Knowing that most teen-age marriages fail and that those which take place when the girl is pregnant often are more

4. *See*, Laws of R.I. § 15-2-11 (1956).

ill-fated than any others, the Judge felt the need for appropriate professional help. Many states which allow and encourage judicial consent on the basis of pregnancy[5] fail to consider the effects of such a marriage. Merely giving the child a name may solve one problem, but socially and emotionally it gives rise to many others, not the least of which is the misery of marital failure with multiple children, the need for public assistance and the emotional destruction generated and perpetuated by the parties on all concerned.

Note: Underscoring added.

MEMORANDUM

TO: Senator Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Representative William J. Moran
Chairman, House Judiciary Committee
All Legislators
Chief Justice of Alaska Supreme Court
Administrative Director of Courts
Judges of the Superior Court

Date: February 3, 1971

Subject: Recommended Changes in Alaska Marriage Code

FROM: Harold J. Butcher
Superior Court Judge
Family Court Division

Enclosed with this memorandum is a draft of a proposed change in the Alaska Marriage Code, Title 25, Alaska Statutes.

Our purpose in recommending the change was formed from the alarming incidence of divorce occurring amongst teenage couples who enter into marriages.

Divorce amongst couples who marry while teenagers (under 21 years of age) occurs with far greater frequency than those amongst couples who marry between 21 and 25. There is an even greater increase in divorce amongst couples who marry under 18 years of age, and where the marriage occurred at 16 or under, the failures are four times greater than in cases where the couples were between 21 and 25.

Many states have provided judicial consent to marry, especially where premarital counseling by professional marriage counselors in court settings, or welfare agency investigation is available, and where recommendations as to the advisability of consenting to teenage marriages may be made to and considered by the court prior to judicial consent.

It has been the personal experience of this writer, after three years on the bench of the Family Court, that marriages contracted by high school students invariably fail. The parties appear in the divorce court for dissolution of marriages contracted while in high school, and unfortunately, in many cases, the children born to such marriages, and the mothers, end up on welfare rolls at a cost of several hundred dollars per month per family.

We have caused to be copied, for the benefit of your committee and other legislators, some excerpts from an article published in the Family Law Quarterly, a law periodical published by the American Bar Association, furnishing statistical data as to the frequency of divorce in the age groups mentioned and containing also other persuasive material supporting judicial consent to teenage marriage, which I hope will be read by all persons, and particularly the legislators who are concerned with the increase in divorce. It is not only the failure of the marriage that is

a cause of public concern, but it is the children born to such marriages who end up on welfare, that causes even greater concern. When teenage marriages occur, there is rarely present the financial responsibility essential to a successful marriage. Married teenagers have not had an opportunity to complete educational goals looking toward future financial responsibility, and such young couples, in appreciable numbers, handicapped by unsurmountable marriage problems and children, never attain either future financial responsibility or worthwhile career goals. The possibilities of a marriage surviving without a solid financial base and a high degree of responsibility is indeed remote.

Our marriage code, as it presently stands, permits males under 21 and over 18, and females under 18 and over 16, to marry with parental consent, however, if one or both such persons seek to marry and have no parents or other person capable of consent, the decision as to whether to waive consent and permit the marriage is left to the discretion of a marriage clerk in the Vital Statistics section who, in our opinion, has not the competency or special training to make far-reaching decisions as to whether or not a proposed marriage would be in the best interest of the teenage applicants, or of society. The present statute permits males under 18 and over 16 and females under 16 to marry if they have parental consent, but only if the female is pregnant and a certificate of a competent physician is presented to the licensing officer certifying to such pregnancy.

In our opinion, this particular provision of the law, i.e. that the female under 16 must be pregnant, is often an invitation to parents and the couples, themselves, to arrange marriages where pregnancy occurs, when the fact of pregnancy is, perhaps the least reason why a girl under 16 should marry, considering our rather broad and liberal statutes with respect to legitimacy.

Where the pregnancy prompted marriage occurs for the sake of the child's legitimacy, the couples may stay together for a few years, and nature being what it is, additional children may be born, adding substantially to the problem. Such marriages seem doomed from the beginning.

The article from the Family Law Quarterly attached hereto will show that pregnancy as a reason for marriage generally increases the hazards and does not contribute to a life-long union.

The present pregnancy requirement has other basic defects. As it now stands, for instance, if the pregnant condition is deemed a ground for marriage, it fails to provide for the girl who, while not pregnant at the time of the application, has just been pregnant and has recently given birth to a child whom the other applicant has fathered. The marriage

in the last case would seem as justifiable, if any marriage of that kind is justifiable, as in the case of a present pregnancy.

The proposals made in the attached draft will eliminate altogether the pregnancy feature of the law as a reason to marry, and put teenage marriage, i.e. males under 18 years of age and females under 16, under the authority of the Superior Court where either through a Court attached marriage counselor or a family counselor from the Welfare Division there could be a premarital study made with, perhaps, recommendations to the Court as to the chances for marriage success if a teenage marriage is to be permitted. In the absence of such premarital counseling, the Court, upon a proper showing, could make a far more intelligent decision as to whether a marriage should or should not occur, than the procedure now in effect.

Since dictating the foregoing, I had occasion to talk by long distance telephone with Warren W. Weiss, co-author of the Family Law Quarterly article, and he advised me that a majority of the states have statutes providing for judicial consent to marriages where the male is under 18 and the female under 16. He further advised me that the California Legislature, in 1970, amended the California judicial consent law to cover all teenage marriages where the applicants were under the age of 18 years. This amendment was prompted by the simple proposition that teenage persons, male and female, are not equipped from the point of view of maturity or economics to make the adjustments necessary to a permanent and harmonious marriage.

I had used the California Statute, as it stood prior to 1970, as a model for the proposed amendment to the Alaska Marriage Code, thus in the amendment we propose, judicial consent is required for the male under 18 and the female under 16, patterned after the <u>former</u> California law, and it now appears, as a result of the California experience with marriage and divorce in that age group, that that State has seen fit to provide judicial consent for all marriages where the parties are under 18 years. <u>The Alaska Legislature might, therefore, consider changing the Alaska law to correspond with the 1970 California amendment covering the age group under 18 years and not make a differentiation, age-wise, between male and female</u>.

Bvb
attach 2

cc Board of Governors
Judicial Council
Alaska Bar Association
Anchorage Bar Association
Fairbanks Bar Association
Juneau Bar Association
Ketchikan Bar Association

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

Josephson Legislature file

MEMORANDUM

TO: Senator Robert H. Ziegler, Sr.
Chairman, Senate Judiciary Committee
Representative William J. Moran
Chairman, House Judiciary Committee
All Legislators
Chief Justice of Alaska Supreme Court
Administrative Director of Courts
Judges of the Superior Court

Date: February 3, 1971

Subject: Recommended Changes in Alaska Marriage Code

FROM: Harold J. Butcher
Superior Court Judge
Family Court Division

HJB

Enclosed with this memorandum is a draft of a proposed change in the Alaska Marriage Code, Title 25, Alaska Statutes.

Our purpose in recommending the change was formed from the alarming incidence of divorce occurring amongst teenage couples who enter into marriages.

Divorce amongst couples who marry while teenagers (under 21 years of age) occurs with far greater frequency than those amongst couples who marry between 21 and 25. There is an even greater increase in divorce amongst couples who marry under 18 years of age, and where the marriage occurred at 16 or under, the failures are four times greater than in cases where the couples were between 21 and 25.

Many states have provided judicial consent to marry, especially where premarital counseling by professional marriage counselors in court settings, or welfare agency investigation is available, and where recommendations as to the advisability of consenting to teenage marriages may be made to and considered by the court prior to judicial consent.

It has been the personal experience of this writer, after three years on the bench of the Family Court, that marriages contracted by high school students invariably fail. The parties appear in the divorce court for dissolution of marriages contracted while in high school, and unfortunately, in many cases, the children born to such marriages, and the mothers, end up on welfare rolls at a cost of several hundred dollars per month per family.

see Josephson file for copy of article

We have caused to be copied, for the benefit of your committee and other legislators, some excerpts from an article published in the Family Law Quarterly, a law periodical published by the American Bar Association, furnishing statistical data as to the frequency of divorce in the age groups mentioned and containing also other persuasive material supporting judicial consent to teenage marriage, which I hope will be read by all persons, and particularly the legislators who are concerned with the increase in divorce. It is not only the failure of the marriage that is

a cause of public concern, but it in the children born to such marriages who end up on welfare, that causes even greater concern. When teenage marriages occur, there is rarely present the financial responsibility essential to a successful marriage. Married teenagers have not had an opportunity to complete educational goals looking toward future financial responsibility, and such young couples, in appreciable numbers, handicapped by unsurmountable marriage problems and children, never attain either future financial responsibility or worthwhile career goals. The possibilities of a marriage surviving without a solid financial base and a high degree of responsibility is indeed remote.

Our marriage code, as it presently stands, per its males under 21 and over 18, and females under 18 and over 16, to marry with parental consent, however, if one or both such persons seek to marry and have no parents or other person capable of consent, the decision as to whether to waive consent and permit the marriage is left to the discretion of a marriage clerk in the Vital Statistics section who, in our opinion, has not the competency or special training to make far-reaching decisions as to whether or not a proposed marriage would be in the best interest of the teenage applicants, or of society. The present statute permits males under 13 and over 16 and females under 16 to marry if they have parental consent, but only if the female is pregnant and a certificate of a competent physician is presented to the licensing officer certifying to such pregnancy.

In our opinion, this particular provision of the law, i.e. that the female under 16 must be pregnant, is often an invitation to parents and the couples, themselves, to arrange marriages where pregnancy occurs, when the fact of pregnancy is, perhaps the least reason why a girl under 16 should marry, considering our rather broad and liberal statutes with respect to legitimacy.

Where the pregnancy prompted marriage occurs for the sake of the child's legitimacy, the couples may stay together for a few years, and nature being what it is, additional children may be born, adding substantially to the problem. Such marriages seem doomed from the beginning.

The article from the Family Law Quarterly attached hereto will show that pregnancy as a reason for marriage generally increases the hazards and does not contribute to a life-long union.

The present pregnancy requirement has other basic defects. As it now stands, for instance, if the pregnant condition is deemed a ground for marriage, it fails to provide for the girl who, while not pregnant at the time of the application, has just been pregnant and has recently given birth to a child whom the other applicant has fathered. The marriage

in the last case would seem as justifiable, if any marriage of that kind is justifiable, as in the case of a present pregnancy.

The proposals made in the attached draft will eliminate altogether the pregnancy feature of the law as a reason to marry, and put teenage marriage, i.e. males under 18 years of age and females under 16, under the authority of the Superior Court where either through a Court attached marriage counselor or a family counselor from the Welfare Division there could be a premarital study made with, perhaps, recommendations to the Court as to the chances for marriage success if a teenage marriage is to be permitted. In the absence of such premarital counseling, the Court, upon a proper showing, could make a far more intelligent decision as to whether a marriage should or should not occur, than the procedure now in effect.

Since dictating the foregoing, I had occasion to talk by long distance telephone with Warren W. Weiss, co-author of the Family Law Quarterly article, and he advised me that a majority of the states have statutes providing for judicial consent to marriages where the male is under 18 and the female under 16. He further advised me that the California Legislature, in 1970, amended the California judicial consent law to cover all teenage marriages where the applicants were under the age of 18 years. This amendment was prompted by the simple proposition that teenage persons, male and female, are not equipped from the point of view of maturity or economics to make the adjustments necessary to a permanent and harmonious marriage.

I had used the California Statute, as it stood prior to 1970, as a model for the proposed amendment to the Alaska Marriage Code, thus in the amendment we propose, judicial consent is required for the male under 18 and the female under 16, patterned after the former California law, and it now appears, as a result of the California experience with marriage and divorce in that age group, that that State has seen fit to provide judicial consent for all marriages where the parties are under 18 years. The Alaska Legislature might, therefore, consider changing the Alaska law to correspond with the 1970 California amendment covering the age group under 18 years and not make a differentiation, age-wise, between male and female.

Bvb
attach 2

cc Board of Governors
Judicial Council
Alaska Bar Association
Anchorage Bar Association
Fairbanks Bar Association
Juneau Bar Association
Ketchikan Bar Association

THIS ☑ BILL ☐ RESOLUTION

has been prepared by the staff of the Legislative Council in response to the request and at the direction of the sponsor. The staff has attempted to place it in proper legal and clerical form subject to any special limitations or instructions of the sponsor. Member requests are kept confidential by the staff and any announcement of intent to have a document drafted or introduced remains the prerogative and responsibility of the sponsoring member in dealing with colleagues and other persons. The Council or its staff may not endorse or comment on policy matters involved in a bill or resolution. The substance and merits of a bill or resolution are the responsibility of the sponsor.

Delivered to sponsor: 2-15-71

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

February 19, 1971

The Honorable Harold J. Butcher
Superior Court Judge
941 West Fourth Avenue
Anchorage, Alaska 99501

Dear Judge:

I enclose a copy of a house bill which I propose to introduce pursuant to your recent request.

Please review the text and advise me whether it is acceptable and meets your requirements.

Best personal wishes

Sincerely yours,

Representative William J. Moran

Enclosure

WJM:mm

MOTORCYCLE REGS

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

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, 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:

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 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 for your convenience; however, the only copy we 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 am not aware of any of these actions being taken in response to the committee's request. What is the status of these regulations?

Sincerely,

William J. Moran, Chairman
House Judiciary Committee

WJM:mm

L
A
A

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

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

Dear Commissioner Chapple:

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 [redacted] 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 (for your convenience); however, the only copy I/we 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 am/~~I am~~ 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.~~ → What is the status of these regulations?

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 H, 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

FORM NO. 02-18

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 iniating any administrative action.

To comment upon the regulations themselves, you will find from the attachments that the equipment regulations do follow NHSB (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.

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

Dear Commissioner Chapple:

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 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 for your convenience; however, the only copy we 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 am not aware of any of these actions being taken in response to the committee's request. What is the status of these regulations?

Sincerely,

William J. Moran

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, 295, 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 promoted 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 "two-wheel 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~~ as an undue restriction on design variation. 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 handlegrips 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 results can occur.

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

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 04.285(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 348
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

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, 295, 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 promoted 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 criticism as an undue restriction on design variation. 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 handlegrips 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 results can occur.

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

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 04.285(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

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

BWJ:tmc

Memorandum

SAFETY DEPARTMENT:

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

TO : Lt. Harold J. Sydnar, Juneau, Alaska
Mr. Mark Gibson, Boise, Idaho
Mr. Robert A. Shea, Helena, Montana
Mr. Gil W. Bellamy, Salem, Oregon
Mr. Glenn L. Crawford (Acting), Olympia, Washington

DATE: September 25,

In reply refer to: 08-00.2

FROM : Wm. L. Hall, Director
Highway Safety Programs Office
Portland, Oregon

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

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


KEVIN CALLAHAN

o 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, AMA-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 their legislator to inform him of their displeasure (Continued on page 59)

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 than 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.

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.

TO: Captain Richard L. Burton

DATE : January 9, 1970

FROM: Captain James H. Dailey

SUBJECT: News Media - File 0052

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

To acquaint 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 22, 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 new regulations.

Paragraph 8 - Profound statement!

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 20, 1969, in Fairbanks, and public hearing was held on November 17, 1969, at Juneau, as was announced 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 1969.

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

Paragraph 12 - A "filler" 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 maintain 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.

Julie
Attachment

Copies to each Reg. mailed on Aug 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, motorcycle 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.

See page 9-10-11-2-13

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.

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.

VOLUME 13, NUMBER 11, NOVEMBER, 197(

TRANSPORT

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 182.

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. •

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 backslided 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. •

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.

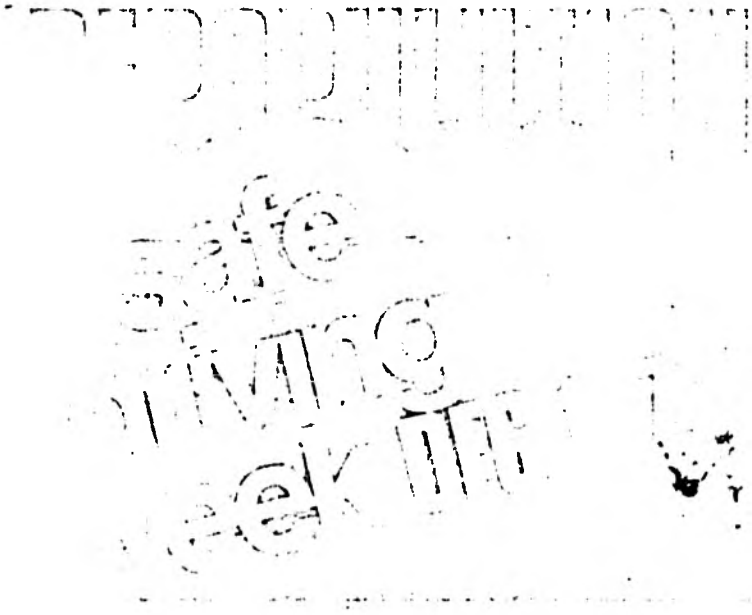
In the 12 months following the introduction of the new law, deaths decreased by 35.5 percent. There were 2,714 persons injured in motorcycle collisions — a reduction of 17.8 percent.

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 1965 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.



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 death 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.

SYD

The State of Wisconsin

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

WARREN P. KNOWLES
GOVERNOR

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.

STATE OF WISCONSIN | CIRCUIT COURT | DANE COUNTY

JAMES BISHIUS, Plaintiff, + 124423

v. +

JAMES L. HARRIS, 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 foreign objects from getting in the eyes to affect eyesight and ability 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, 278 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

in 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 Dodge v. Kemp, 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. Stehlek, 262 Wis 642; State v. Seraphine, 266 Wis 118. 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. 188, 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. 347.485 are unreasonable or deny due process or unduly interfere with the freedom of the individual.

II. Equal Protection as Applied to Sec. 347.485.

The plaintiff attacks Sec. 347.485 as discriminating against motorcyclists, while not applying the same standards to bicycles and automobiles. The power-driven cycle is a unique machine. It is capable of maneuvre 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 accomodated 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 dayti

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