

SUBJECT: Requiring minors to wear bicycle helmets

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 5 ayes — Oakley, Driver, Carter, McClendon, Olivo
4 nays — Keel, Keffer, Madden, E. Reyna
0 absent

WITNESSES: For — Bill Lewis, Mothers Against Drunk Driving; Bruce Todd, City of Austin; Ed Berger, Seton Health Care Network; Clift Price, Texas Pediatric Society; Kim Davies, Dallas Area Safe Kids Coalition; Larry C. Driver, TMA Foundation; Nancy E. Holman, Texans Care for Children; Susan M. Douglass, Emergency Nurses Association; Robyn A. Shapiro, Texas Osteopathic Medical Association; Larry Swift, Texas Brain Injury Association; Sam Sanchez, San Antonio Metropolitan Health District; Robin Worthington, Tarrant County Safe Kids Campaign; Ronald M. Stewart and nine others.

Against — H.W. “Sputnik” Strain and Nick de la Cruz, Texas Motorcycle Riders Association; James Damon, Bikes Not Bombs of Texas; Daniel Goldman; A. Brownsworth

On — David Zane and Johnny Humphreys, Texas Department of Health; Jack McGehee, Texas Trial Lawyers Association; Theresa Gross, Texas Department of Public Safety; Shirley Ogletree

DIGEST: CSHB 797 would require bicycle operators and passengers younger than 18 years to wear a properly fitted bicycle helmet while on public roadways, bike paths, or other public right-of-way. A violation would be a misdemeanor punishable by a \$25 fine. The fine would increase to \$50 for a subsequent offense. Courts could waive the fine for first time offenders presenting evidence that they had obtained a bicycle helmet since the violation occurred. A juvenile court also could defer adjudication for the offense if the violator completed a teen court program.

Parents and legal guardians could not knowingly or recklessly allow persons younger than 18 years of age to operate or be a passenger on a bicycle without a helmet. Helmets would have to meet or exceed impact standards set by the American National Standards Institute, the Snell Memorial Foundation, or an appropriate state agency.

Businesses or persons renting out bicycles would have to provide to each renter a written explanation of the bicycle helmet law and could not rent bicycles to persons younger than 18 unless they possessed a helmet at the time of rental or the rental agreement provided a helmet. Violations of these provisions would incur a \$25 fine, increasing to \$50 for subsequent violations.

Counties could keep one-half of the fines collected, and remit the other half to the comptroller for deposit into the bicycle safety fund now maintained by the Texas Department of Public Safety for training low-income children in bike safety and providing them with bike helmets.

Local authorities could adopt and enforce stricter regulations on bicycle helmets.

The bill would take effect September 1, 1997, except for the provisions relating to criminal penalties and fines, which would take effect January 1, 1998.

**SUPPORTERS
SAY:**

CSHB 797 would reduce the number of bicycle-related deaths and injuries among children. More than 40 percent of all deaths from head injuries and 76 percent of all head injuries — the highest rate in the United States — are due to bicycle accidents involving children younger than 15. Despite these alarming statistics, only about 10 percent of all children in Texas wear bicycle helmets.

Much of the juvenile reluctance to wear a bike helmet comes from fear of being different. CSHB 797 would leap over this barrier and make helmets the law: everyone has to wear one. This blanket regulation would remove the stigma of wearing a helmet. Rather than interfering with parental oversight, the bill would encourage parents to properly protect their

children by giving them an irrefutable reason for wearing a helmet — the law.

Children should wear helmets at all times, even when riding in their neighborhood, because most injuries occur within five blocks of home. Almost one-half of all bicycle accidents occur in driveways and sidewalks. Most bicycle related injuries result from falls not related to collisions with motor vehicles.

Public awareness, education and safety campaigns designed to increase the use of bicycle helmets have been shown to plateau or level out absent legislation mandating usage. Seven Texas cities and 15 other states have passed bicycle helmet laws for children with successful results. One informal survey for the Austin helmet ordinance found helmet use soared from 38 percent to 74 percent after the ordinance was enacted. The biggest increase came among cyclists aged 11 to 14, precisely the most difficult group to sway with safety messages, as evidenced by the fact that bicycle death rates are highest in the 10 to 14 year age group.

Numerous studies in well respected medical journals have shown that bicycle helmets reduce the risk of head injury by 67 to 88 percent. Repeated studies also have proven that helmets do not increase neck injuries. Bicycle helmets serve two important functions during an impact. The outer plastic shell distributes the crash impact throughout the entire helmet rather than allowing it to be concentrated in one spot. The main foam body of the helmet supplies enough force to the head to slow it to a gentle stop.

In contrast to these studies, there is no hard evidence that bicycle helmet laws decrease the number of cyclists. Some studies purporting to show this were flawed by failure to take into account changing traffic patterns and new traffic laws.

Bicycle-related deaths, although small in number by comparison to motor vehicle deaths, are still fully deserving of our attention because many of these deaths are preventable. Furthermore, the majority of motor vehicle occupants killed in crashes were not restrained with safety belts or child restraints, proving once again that safety devices do help save lives. Recent

national surveys by the National Highway Safety Administration found that the public strongly supports a broad array of traffic safety laws, including child bicycle helmet laws.

This is a public safety issue and not a personal freedom issue. A bicycle helmet is no more an invasion into someone's personal freedom than other traffic safety laws, such as the mandatory seat belt law. Texas has enacted many protections for children, including mandating the use of car seats. Violators can be fined for failure to comply with these provisions. A mandatory helmet law would be no different.

The public has a right to insist on proper safety for those who use public thoroughways. Many of the catastrophic financial costs incurred by a cyclist who suffers a brain injury are paid by the public. Taxpayers foot the bill for uninsured cyclists initially when they are treated at county hospitals and then again through higher insurance premiums passed along by insurance companies. The lifetime cost of care and treatment of a child with a serious head injury is about \$4.5 million. The cost of one reported head injury of \$1.317 million would be equivalent to housing 79 criminals in Texas prisons for one year, or hiring 49 teachers, or even purchasing 131,700 bicycle helmets.

CSHB 797 is not a punitive bill. The \$25 fine for first-time offenders could be waived if a helmet was subsequently purchased. Bicycle helmets are available for an average of \$8. Furthermore, many organizations, including the Texas Department of Public Safety, provide free helmets to low income children. During the past three years, more than 42,000 helmets have been distributed to children in low income families. This bill also would provide that half of the fines collected go to the DPS program to assist in bike safety education and helmet give-aways.

**OPPONENTS
SAY:**

Mandatory helmet ordinances represent a punitive approach to safety that discourages and criminalizes cycling. A bicycle helmet law can significantly decrease the number of bicyclists as much as 30 to 50 percent, according to one Australian study. By decreasing the number of youth cyclists, the net effect of this law will be to promote a sedentary lifestyle, leading to increases in future deaths from heart disease, obesity, stroke and diabetes and other related diseases. Bicycling is healthy because it promotes

physical fitness and lowers air pollution. Bicycling is an inexpensive mode of transportation that reduces traffic congestion and costs for road construction.

For every bicycle death, there are 40 automobile deaths. Bicycling was responsible for less than 2 percent of reported traumatic brain injuries in Texas for the period of 1993 to 1996.

Mandatory bicycle helmet laws are discriminatory against cyclists. Based on fatality rates, there is a much better case to support a helmet ordinance for car occupants. The same argument could be made for requiring pedestrians to wear helmets, since they suffer many more times the number of head injuries as bicyclists.

Mandatory bicycle helmets laws restrict personal freedom, with little or no benefit. While there is good evidence that mandatory seat belt laws save many lives, seat belts do not reduce car use. In contrast, bicycle helmet ordinances reduce the number of bicyclists by 30 to 50 percent, and lead to a greater loss of life overall, taking into account the health benefits of bicycling.

Enforcement of a bike helmet law would likely be discriminatory or arbitrary. Police have more important priorities and citizens do not want police officers chasing down and confronting innocent bicyclists when there are obviously much more pressing public safety problems.

Claims of 85 percent efficacy made by proponents may be greatly exaggerated. Epidemiological studies are subject to various biases and errors, which proponents fail to mention. The helmet studies have been criticized in the scientific literature. Among other problems, they do not adequately control for important risk factors, such as road conditions, traffic patterns, speeding and drunk-driving laws, decreased numbers of bicyclists following passage of an ordinance, the number of hours spent bicycling vs. other modes of transportation, and the cycling behavior of the individuals studied. Studies in Australia and Oregon that take into account reduced ridership did not show reductions in bicycle injuries and deaths after passage of helmet ordinances.

Analogies to motorcycle helmet or seat belt ordinances are misleading. Riding a motorcycle or driving a car is more dangerous than riding a bicycle. Also, studies clearly show that motorcycle helmet and seat belt laws cut down on large number of injuries and deaths. In contrast, the relatively few injuries and deaths prevented by bicycle helmet ordinances are outweighed by the increased numbers of disabilities and deaths from sedentary lifestyle.

Economic arguments also are exaggerated. Proponents have cited a figure of \$4.5 million for each head-injured bicyclist, but that represents the costs for extreme cases. Austin Brackenridge Hospital reported the total cost for 23 bicycle head injuries to be \$259,982 for 1995, an average of about \$11,304. Every injury is tragic, but bicycle head injuries and their costs are only a small proportion of hospital admissions and expenditures.

Personal testimonials are not a good basis for making policy even if every injury or death is tragic. However, cycling is relatively safe when compared with driving a car or riding a motorcycle. It is not appropriate to base public policy on isolated anecdotes and personal stories. The government should not be in the business of telling parents how to raise their children. Parents for the most part love their children and know what is best for them.

OTHER
OPPONENTS
SAY:

Rollerbladers and skateboarders should also be required to wear helmets because these activities are just as dangerous as bicycle riding.

NOTES:

The companion bill, SB 340 by Zaffirini, has been referred to the Senate State Affairs Committee.

The committee substitute required business renting bikes to provide a written explanation of the law and stipulated the helmet requirement for renters would only apply to individuals under the age of 18.

SB 99 by Patterson, which would eliminate the mandatory motorcycle helmet requirement for persons age 21 and older, has passed both houses and is pending in conference committee.