

SUBJECT: Requiring bicycle helmets, promoting safety and regulating electric bicycles

COMMITTEE: Transportation — committee substitute recommended

VOTE: 7 ayes — Alexander, Hawley, Y. Davis, Edwards, Hamric, Hill, Pickett

0 nays

2 absent — Noriega, Swinford

WITNESSES: For — Hill Abell; Barbara Brown; Gayle Cummins; Andrea L. Dunn; Dr. Diana Everett, Texas Association for Health, Physical Education, Recreation and Dance; Charles Gandy; Dr. Paul K. Nolan; Ashley Meeder Quinn; Lt. Tom Woods; *Registered but did not testify*: Karen Akins, Trans Texas Alliance; Sparky Anderson, Texas Community Project; Linda Armstrong; Jerry Bark, Texas Recreation and Parks Society; Tommy Eden; Harold Freeman, Texas Medical Association; Donice Hiatt; Dick Kallerman; Dennis Kearns; Trevor Reichman; Robin Stallings, Texas bicycle industry members of Texas Bicycle Coalition; Craig Tounget, Texas Parent-Teacher Association; W. Preston Tyree, Texas Bicycle Coalition; Lisa Wiedman; Chuck Rice, Jr., Texas Bicycle Coalition

Against — None

On — Andrew Goldbloom, Kevin Good, Texas Parks and Wildlife Department; *Registered but did not testify*: Carlos Lopez, Texas Department of Transportation

BACKGROUND: In 1993, the 73rd Legislature added Health and Safety Code, sec. 758.002 to authorize the Department of Public Safety (DPS) to establish a statewide bicycle safety education program for children 10 years old or younger to include instruction on:

- ! the safe handling and use of bicycles;
- ! high risk traffic situations;
- ! bicycle and traffic handling skills;
- ! on-bike training;

- ! correct use of bicycle helmets; and
- ! traffic laws and regulations.

DIGEST:

CSHB 2203 would create the Matthew Brown Act to allow localities to require children to wear bicycle helmets, establish a fee-based trails account with Texas Parks and Wildlife, create a Safe Routes to School program, and regulate electric bicycles.

Requiring bicycle helmets. The bill would add sec. 370.004 to the Local Government Code allowing municipal and county governments to require bicyclists younger than 16 to wear bicycle helmets. Local governments only could do so if the Department of Public Safety (DPS) determined that all school districts in the municipality or county had adopted bicycle safety education programs for elementary schools equivalent to the statewide DPS program authorized by Health and Safety Code, sec. 758.002; and that the local governments had adopted programs or were working with organizations to provide helmets to low-income children.

Violations would be punishable by a civil penalty of up to \$20. The penalty would have to be waived for first offenders who acquired helmets within 12 months.

Texas Parks and Wildlife trails account. The Parks and Wildlife Code would be amended to create a fee-based trails account in the general revenue fund. Merchants selling bicycles for \$50 or more would have to charge a \$5 fee to buyers. The Comptroller of Public Accounts could retain 5 cents per fee for administrative costs. Deposits to the trails account could be appropriated only to build multi-use trails and bicycle facilities approved by the Parks and Wildlife Commission and built or contracted for by the Parks and Wildlife Department (PWD).

Safe routes to school program. The Texas Department of Transportation (TxDOT) would have to create and administer a Safe Routes to School Program. It would distribute federal grants under the Hazard Elimination Program to political subdivisions for safety improvement projects in and around school areas. Eligible projects could include:

- ! bike lanes and multi-use trails;

- ! construction and replacement of sidewalks;
- ! implementation of traffic-calming programs around schools; and
- ! construction of wide outside lanes for bike routes.

TxDOT would adopt rules and establish funding priorities which considered demonstrated need and potential for reducing child injuries and fatalities, among other criteria.

Regulation of electric bicycles. CSHB 2203 also would amend the Transportation Code to regulate electric bicycles, defined as electric-motored bicycles weighing less than 100 pounds that could not attain a speed over 20 miles per hour. Local authorities could require them to be registered and licensed. The Texas Transportation Commission and local authorities, but not DPS, could prohibit their operation on highways and other roadways. DPS and local authorities could prohibit their use on pedestrian walkways.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

On a Sunday afternoon in 1998, 11-year-old Matthew Brown of Plano was riding a bicycle across a residential street near his suburban home when a pickup truck that had been stopped at a stop sign struck him, killing him instantly. He was not wearing a helmet. CSHB 2203 would honor his memory by naming after him this bill promoting bicycle safety.

The bill is needed to address the needs of the growing number of cyclists on the roads. As the state's population increases, especially in large metropolitan areas, more pressure is being exerted on suburban and exurban roads. More traffic is straining the capacity of these roads, meaning less and less room for bicyclists and pedestrians. Texas must allocate more money for their needs.

CSHB 2203 would create what amounts to a user fee to provide money for safer streets and better bicycle access. Providing for this aspect of the transportation network has been neglected for too long.

CSHB 2203 would improve safety on Texas streets, which are dangerous for children on bicycles. In 1999, more than 45 percent of the state's bicycle fatalities and 73 percent of bicycle injuries involved children 15 years old or

younger. Helmets would help reduce the severity and frequency of head injuries, the most life-threatening and costly to treat. Taxpayers eventually pay for care of bicycle injuries because most bicyclists do not carry liability insurance. Texas already is paying the price in higher health-care costs for repealing the motorcycle helmet law in 1997. It should learn from that mistake and use its regulatory power to encourage safe cycling by children and teen-agers.

The helmet requirement would be a permissive local option entirely at local entities' discretion. There are no funds tied to its adoption. Sparsely populated areas having few bicyclists, or places where such ordinances would be impractical, could opt not to do it. The helmet requirement would be offset by two provisions: a first-offender waiver for subsequent compliance, and mandated access to helmets by children from low-income families. And it would be universal so kids would not feel "different." The penalty would be civil in nature, so cycling sans helmet would not be criminalized, avoiding a stigma for young children.

The helmet requirement would be part of an integrated approach involving education, public awareness, and traffic engineering and safety. Improvements would be paid for by bike sales fees and federal grants, at no cost to the state.

Requiring helmets would not interfere with parental control, but it would encourage parental involvement in protecting their children. Parents should be held accountable for their children's actions. The bill would reinforce those who insist that their kids wear helmets. It would not discourage bicycling any more than seat belts discourage driving. The issue is public safety, not personal freedom. Requiring helmets would be an excellent way to teach children personal responsibility in a public context.

Along with encouraging bike safety, the bill would provide the means to do so through funding of bike trails. The bill would help address the neglected issue of child mobility in residential neighborhoods. This also could encourage alternative modes of transportation for shoppers and commuters. Texas should follow Europe's example and use its ample space to provide more bike lanes. This bill would stimulate such innovations.

Americans young and old are becoming less fit and more obese. Encouraging bicycling and other forms of recreational exercise would only serve to lower health care costs in the long run.

OPPONENTS
SAY:

This bill has too many parts that do not entirely mesh. Cities and counties would not be able to enact helmet ordinances until DPS verified school safety programs. The comptroller would collect fees for urban trails, while TxDOT would dole out federal grant funds to pay for street and road improvements done under PWD's auspices. Helmet availability to low-income children would add another layer of bureaucracy involving the private nonprofit sector. The multiplicity of agencies involved would dilute the bill's impact and make implementation unwieldy and ineffective.

Rather than encourage safe bicycling, the bill would take a punitive approach and have the opposite effect by requiring the expense of buying a helmet. This is a matter for parents, not the government, to address. Despite the presence of assistance programs, the requirement inevitably would have the most adverse impact on low-income families, especially those with no vehicles. If they could not afford helmets, they certainly would not be able to afford penalties for not wearing them.

Bicycle-related deaths are rare, and although tragedies do occur, the number of children dying from head injuries is not sufficient to warrant a helmet law. Besides, bicycle helmets are not failsafe. It is possible to suffer a serious head injury even while wearing one, especially if it not worn properly. On the other hand, many children ride bicycles without helmets and never get hurt. Applying a law to every child would infringe on some children's rights.

Helmet laws in general have been acknowledged widely to infringe on personal rights. In 1997, the Legislature recognized this fact and repealed mandatory helmet use for motorcycle riders over 21. Enacting another such law would create a double standard for one class of citizens. To be consistent, Texas should not require young bicyclists to do something it does not require of adult motorcyclists.

Enforcement of the helmet laws could be discriminatory or arbitrary. Police departments also could use this law as a type of revenue source, since fining children and their parents would be relatively easier than catching speeders

or other violators. Regardless, law enforcement has more important priorities than pursuing and fining helmetless children on bikes.

The revenue stream for bike and multi-use trails would be unpredictable based on bike sales fees. This would not provide enough money consistently to make much of an impact in high-growth neighborhoods. If the Legislature enacted an open container law, the Hazard Elimination Program would have much less grant money to disburse in fiscal 2002-03 than in the current biennium because it no longer would have to divert highway construction funds into the program.

OTHER
OPPONENTS
SAY:

HB 2203 also should apply to children using roller skates, in-line skating equipment and skateboards. Beyond that, based on injury and fatality rates, there is a stronger case to be made for reinstating the motorcycle helmet law and requiring motorists to wear helmets.

NOTES:

The bill as filed contained no helmet requirements. It would have required TxDOT to allocate 10 percent of Hazard Elimination Program funds to the Safe Routes to School Program. The substitute created the supplemental bicycle and pedestrian facilities fee. It removed the bicycle and pedestrian facilities account and the amounts to be deposited into it and the trails account.

Similar bills involving bicycle helmet requirements have failed to pass in the three previous sessions. In 1995, the House by 68-73 rejected SB 337 by Zaffirini on second reading. In 1997, the House by 56-77-2 rejected HB 797 by Carter on second reading. In 1999, the Senate by 14-16 refused to accept the conference committee report on HB 673 by Carter.

The companion bill, SB1240 by Moncrief, was considered in public hearing and left pending before the Senate State Affairs Committee April 23.