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FISCAL IMPACT REPORT

SPONSOR SJC DATE TYPED 2/12/04 HB _____

SHORT TITLE Child Helmet Safety Act SB CS/135/aSJC

ANALYST Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	\$20.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department

Children, Youth and Families Department

DDPC--- Brain Injury Advisory Council

Department of Transportation, Traffic Safety Bureau

Department of Health

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Amendment to SB135 provides the following:

- elimination of the reference to “fines”;
- clarification that “warnings” need not be verbal;
- clarification that “warnings” are to be issued by a “law enforcement officer”; and
- simplified language referencing “county / municipality” action.

Synopsis of Original Bill

- The bill 135 would enact the Child Helmet Safety Act, requiring a person 17 years of age or younger, who is a user, operator or passenger of a bicycle, in-line or roller skates, non-motorized scooter or skateboard on a public roadway, public bicycle paths, public skateboard parks or other public rights of way, to wear a protective helmet that is fastened securely upon his head with the straps of the helmet at all times.

- The Act is intended to reduce the incidence of traumatic brain injury death and disability.
- Upon a first offense, a minor (12- years of age or older) shall be issued a written warning, and shall be required to view an appropriate safety video (if such a video is available) at a local police station or local community safety organization.

Upon a second violation, the minor (12-years old or older) shall be required to provide proof or purchase of a protective helmet; perform four hours of community services in exchange for a voucher to receive a free protective helmet, or be fined \$25.00.

- The parent or legal guardian of a minor under the age of 12 who violates the Child Helmet Safety Act shall, on the first offense, be required to view an appropriate safety video (if such a video is available) at the local police station or local community safety organization.

On a second or subsequent offense, the parent or legal guardian of a minor under the age of 12 shall be required to provide proof of purchase of a protective helmet, perform 4 hours of community services in exchange for a voucher to receive a free protective helmet, or be fined \$25.00.

- The bill addresses those who engage in the business of renting bikes, skates, skateboards, and scooters, requiring them to provide a helmet to anyone 17-years old or younger who does not already have a helmet in his possession. A reasonable rental fee may be charged for the helmet rental.

The bill expressly states those who rent bikes, skates, skateboards and scooters are not civilly liable for physical injuries sustained by, or as a result of, a customer's failure to wear a protective helmet.

Further, the bill provides the owner of a public skateboard park shall not be civilly liable for physical injuries sustained by, or as a result of, a customer's failure to wear a protective helmet.

- The bill provides that the failure to wear a protective helmet shall not be considered evidence of negligence and shall be inadmissible in an civil action.
- Finally, the bill appropriates \$20.0 thousand from the general fund to the Department of Health for FY05 for the following:
 - \$5.0 thousand for a statewide radio campaign and direct-mail campaign targeted at business owners; and
 - \$15.0 thousand to help community groups and foundations sponsor events promoting helmet safety and providing / distributing helmets.

Significant Issues

- The savings to families, and health and education entities, in avoiding head traumas and permanent brain injuries would be significant.
- The provisions relating to those in the business of renting bikes, skates, skateboards, scooters, and owning skate parks, are key, particularly those limiting liability.

The Department of Health notes:

- Brain injuries are the leading cause of death and disability among children, teenagers and young adults (NM Brain Injury Advisory Council). Given the steady increase in the popularity of scooters, skateboards, and in-line skates, in addition to the consistent volume of bicycle use among children and adolescents, injury and death rates for minors continue to be significant. The steady increase in automobile congestion on public roadways, in addition to the even more dramatic increase in the number of public skateboard parks are contributing factors.
- For skateboard users, injuries increased more than 100% between 1994 and 1999, and the large majority of hospitalizations were for head injuries. Twenty nine percent (29%) of serious scooter injuries in 2000 were head injuries (Consumer Product Safety Commission); 25% of those head injuries resulted from a collision with an automobile (Consumer Product Safety Commission). Helmets reduce the risk of head injury by 85% and brain injury by 88% (Insurance Institute for Highway Safety and CDC). An estimated 76,000 minors were injured seriously enough while in-line skating in 1996 to require emergency medical care (American Academy of Pediatrics, 1998). It was estimated that if all bicyclists in the United States had worn helmets between 1984 and 1988, approximately 2500 deaths and 750,000 head injuries would have been prevented (CDC, 1993).
- The average traumatic brain injury incidence rate is 95 per 100,000 population (Center for Disease Control and Prevention, 2002). Twenty-two percent of people who have traumatic brain injuries die from their injuries. The risk of having a traumatic brain injury is especially high among adolescents, young adults, and people older than 75 years of age.
- There are 508,574 people living in New Mexico under the age of 18 years (2000 Census). Between 1996 and 2000, traumatic brain injury was the cause of 3.74 hospitalizations per 1,000 population in New Mexico. Across these same years, the rate of traumatic brain injury hospitalizations was 2.84 per 1,000 children under 15 years of age.
- According to a 1998 report by the National Institutes of Health, there are 5 million new head injuries in the United States each year. Of that number, 2 million sustain brain injuries that result in lifelong difficulties in areas of work, school and family. About 100,000 of the most severely injured never return to meaningful, productive lifestyles (Brain Injury Resource Center).
- Dr. C. Everett Koop, Sc.D, former Surgeon General and Chairman of the National SAFE KIDS Campaign states that brain injury is the leading killer and disabler of children. New research unveiled by the National SAFE KIDS Campaign (NSKC) this year reveals that 47% of children hospitalized for bike-related injuries suffer from a traumatic brain injury. However, less than half of those surveyed wore a helmet every time they rode a bicycle, and less than a third wore a helmet while riding scooters, skateboards or inline skates (National SAFE KIDS Campaign, 2003). SAFE KIDS urges parents and kids to wear a helmet on any wheel-related activity. It can reduce the risk of brain injury by 88%.
- Eleven states currently have state helmet laws. Most are for bicycle helmets: Alabama (under 16), Arizona (Tucson, Yuma, under 18), California (Rider under 18, scooters,

skateboards, in-line skates), Connecticut (under 16), Delaware (under 16), District of Columbia (under 16), Florida (under 16), Georgia (under 16), Hawaii (under 16), Illinois (Barrington, Inverness--under 17 and 16, Chicago--all ages), Kentucky (Louisville--under 12), Louisiana (under 12), Maine (under 16), Maryland (under 16), Massachusetts (Passenger under 5, Riders under 13), Michigan (4 communities--ages 16 to all ages), Missouri (2 communities--all ages and under 17), Montana (Billings--under 16), Nevada (2 communities--under 17), New Jersey (under 14), New York (State law--passengers under 5 and riders under 14, some other areas all ages), North Carolina (under 16), Ohio (varies by community--ages 6 to under 18), Oregon (under 16), Pennsylvania (passengers under 5, riders under 12), Rhode Island (under 16), Texas (varies by community--under 18 to all), Tennessee (under 16), Virginia (mandated by community--under 15 for all that mandate), Washington state (mandated by community--all ages to under 16), West Virginia (mandated by community--15 to all ages), Wisconsin (Port Washington--under 17),

- Canada, Finland, Iceland, New Zealand and Australia have helmet laws. A helmet law for bicyclists in Victoria, Australia increased helmet use from 31% to 75% in only one year (1991), resulting in a decrease in the death or head injury rate by 51%.
- It is estimated that every \$10 bike helmet saves the United States taxpayers \$30 in direct health costs, \$95 in other tangible costs, and \$270 in quality of life, a total of \$395 dollars in potential savings for taxpayers for every helmet worn (National SAFE KIDS Campaign). Skating helmet standards have merged with bicycle helmet standards (BHSA and New England Journal of Medicine).
- In the case of permanent disability, the cost is continuous for a lifetime. Hospital treatment for the first year may cost \$125,000 to \$150,000, and much of this expense is often passed on to the taxpayers (NM Brain Injury Advisory Council). It also currently costs New Mexico taxpayers \$56,000 per year to provide even a mildly disabled person employment, and this does not begin to calculate the related costs to the immediate family (Brain Injury Advisory Council).

The Human Services Department notes:

- SB 135 states failure to wear a protective helmet shall not be considered evidence of contributory negligence and shall be inadmissible in any civil action.

The Transportation Department, Traffic Safety Bureau notes:

- The use of helmets has shown to reduce the severity of head injuries. Therefore, requiring the use of helmets would likely have a positive impact on NM-DOT's goal of reducing injuries related to bicycle crashes.

FISCAL IMPLICATIONS

The appropriation of \$20 thousand contained in this bill would ultimately be a recurring cost to the general fund because, as benefits are realized, there will be a desire to continue the program and services beyond the end of FY05.

Any unexpended or unencumbered balance remaining at the end of FY05 shall revert to the general fund.

ADMINISTRATIVE IMPLICATIONS

Agencies note the likelihood of positive administrative implications. No agency noted concerns for staff time or operational resources.

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