

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 664

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO CHILD SAFETY; ENACTING THE CHILD HELMET SAFETY ACT;
PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Child Helmet Safety Act".

Section 2. PURPOSE OF ACT.--The purpose of the Child
Helmet Safety Act is to reduce the incidence of death and
disability related to bicycle riding, skating, scooter riding
and skateboarding by requiring that, while riding a bicycle,
skating, riding a scooter or skateboarding on public roadways,
public bicycle paths, public skateboard parks or other public
rights of way, all operators and passengers aged seventeen or
under wear protective helmets.

Section 3. DEFINITIONS.--As used in the Child Helmet

1 Safety Act:

2 A. "bicycle" means a human-powered vehicle with two
3 wheels in tandem designed to transport, by the act of pedaling,
4 one or more persons seated on one or more saddle seats on its
5 frame and includes a human-powered vehicle designed to
6 transport by the act of pedaling, which has more than two
7 wheels when the vehicle is used on a public roadway, public
8 bicycle path or other public road or right of way, including a
9 tricycle;

10 B. "operator" means a person aged seventeen or
11 under who travels on a bicycle seated on a saddle seat from
12 which that person is intended to and can pedal the bicycle, or
13 who propels himself by way of using inline skates, roller
14 skates, a skateboard or a scooter;

15 C. "other public right of way" means a right of way
16 other than a public roadway or public bicycle path that is
17 under the jurisdiction and control of the state or a local
18 political subdivision;

19 D. "passenger" means a person aged seventeen or
20 under who travels on a bicycle or scooter in any manner except
21 as an operator;

22 E. "protective helmet" means a piece of headgear
23 that meets or exceeds the impact standard for protective
24 helmets set by the United States consumer product safety
25 commission federal safety standard and those standards

1 developed by the American national standards institute, the
 2 Snell memorial foundation or the American society for testing
 3 and materials;

4 F. "public bicycle path" means a right of way under
 5 the jurisdiction and control of the state or a local political
 6 subdivision for use primarily by bicyclists and pedestrians;

7 G. "public roadway" means a right of way under the
 8 jurisdiction and control of the state or a local political
 9 subdivision for use primarily by motor vehicular traffic;

10 H. "scooter" means a non-motorized wheeled vehicle,
 11 regardless of the number or placement of those wheels, that has
 12 handlebars, designed to be stood on by the operator or
 13 passenger and used to glide or propel the operator or passenger
 14 over the ground;

15 I. "skateboard" means a set of wheels attached to a
 16 platform or flat surface, regardless of the number or placement
 17 of those wheels, and used to glide or propel the operator over
 18 the ground; and

19 J. "skates" means a pair of devices worn on the
 20 feet with a set of wheels attached, regardless of the number or
 21 placement of those wheels, and used to glide or propel the user
 22 over the ground and may be either inline or roller.

23 Section 4. HELMET USE REQUIREMENTS. --

24 A. A person aged seventeen or under who uses, as an
 25 operator or passenger, a bicycle, skates, a scooter or a

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1 skateboard on a public roadway, public bicycle path, public
2 skateboard park or other public right of way shall at all times
3 wear a protective helmet fastened securely upon his head with
4 the straps of the helmet.

5 B. A parent or legal guardian of a person aged
6 seventeen or under shall not knowingly permit the person to
7 operate or be a passenger on a bicycle or to use skates, a
8 scooter or a skateboard on a public roadway, public bicycle
9 path, public skateboard park or other public right of way in
10 violation of Subsection A of this section.

11 Section 5. EQUIPMENT SALES OR RENTALS. --

12 A. A person regularly engaged in the business of
13 renting bicycles, skates, scooters or skateboards shall require
14 each person seeking to rent one or more of these items to
15 provide his signature either on the rental form or on a
16 separate form indicating the following:

17 (1) receipt of a written explanation of the
18 provisions of the Child Helmet Safety Act and the penalties for
19 violations; and

20 (2) a statement concerning whether a person
21 aged seventeen or under will be an operator or passenger on the
22 bicycle or use skates, a scooter or a skateboard in an area
23 where the use of a protective helmet is required.

24 B. A person regularly engaged in the business of
25 renting bicycles, skates, scooters or skateboards shall provide

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1 a protective helmet to a person aged seventeen or under who
 2 will be an operator of or passenger on the bicycle, skates,
 3 scooter or skateboard in an area requiring a helmet, if the
 4 person does not already have a helmet in his possession. A
 5 reasonable fee may be charged for the protective helmet rental.

6 C. A person regularly engaged in the business of
 7 selling or renting bicycles, skates, scooters or skateboards
 8 who complies with the Child Helmet Safety Act shall not be
 9 liable in a civil action for damages for any physical injuries
 10 sustained by or as a result of the failure to wear a protective
 11 helmet in violation of the Child Helmet Safety Act.

12 Section 6. NEGLIGENCE.--Failure to wear a protective
 13 helmet shall not be considered evidence of negligence and shall
 14 be inadmissible in any civil action.

15 Section 7. PENALTIES.--Violations of Section 4 of the
 16 Child Helmet Safety Act shall be penalized as follows:

17 A. on the first offense, the violator shall be
 18 issued a written warning and be required to view an appropriate
 19 safety video;

20 B. on the second offense and all subsequent
 21 offenses, the violator shall:

22 (1) provide proof of purchase of a protective
 23 helmet to the appropriate county or municipal office where the
 24 violation occurred;

25 (2) perform four hours of community service in

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1 exchange for a voucher to receive a free or discounted
2 protective helmet, if available; or

3 (3) be fined twenty-five dollars (\$25.00); and

4 C. fines assessed to a violator aged seventeen or
5 under will be the legal responsibility of the violator's parent
6 or guardian.

7 Section 8. MUNICIPAL ORDINANCE. -- A municipality may, by
8 passage of an ordinance, establish laws similar to the laws
9 established in the Child Helmet Safety Act; provided that any
10 ordinance passed requiring helmet use shall apply to persons
11 aged seventeen or under.

12 Section 9. EFFECTIVE DATE. -- The effective date of the
13 provisions of this act is July 1, 2003.

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