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SENATE BILL 637

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

INTRODUCED BY

Linda M. Lopez

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 wear protective
helmets.

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

underscored material = new
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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 who travels on a
11 bicycle seated on a saddle seat from which that person is
12 intended to and can pedal the bicycle, or a person who propels
13 himself by way of using inline skates, roller skates, a
14 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 who travels on a
20 bicycle or scooter in any manner except as an operator;

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

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1 Snell memorial foundation or the American society for testing
2 and materials;

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

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

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

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

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

22 Section 4. HELMET USE REQUIREMENTS. --

23 A. A person who uses, as an operator or passenger,
24 a bicycle, skates, a scooter or a skateboard on a public
25 roadway, public bicycle path or other public right of way shall

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1 at all times wear a protective helmet fastened securely upon
2 his head with the straps of the helmet.

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

9 C. A local unit of government may adopt rules as
10 strict or more stringent than the requirements 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 who will be an operator of or
2 passenger on the bicycle, skates, scooter or skateboard in an
3 area requiring a helmet, if the person does not already have a
4 helmet in his possession. A reasonable fee may be charged for
5 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. CONTRIBUTORY NEGLIGENCE. -- Failure to wear a
13 protective helmet shall not be considered evidence of
14 contributory negligence and shall be inadmissible in any civil
15 action.

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

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

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

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

1 (2) perform four hours of community service in
2 exchange for a voucher to receive a free protective helmet, if
3 available, from a safe kids organization or a discounted
4 protective helmet from a local retailer participating in the
5 safe kids program; or

6 (3) be fined twenty-five dollars (\$25.00); and
7 C. fines assessed to a violator aged seventeen and
8 under will be the legal responsibility of the violator's parent
9 or guardian.

10 Section 8. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 2003.

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