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SENATE BILL 397

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO CHILD SAFETY; ENACTING THE CHILD HELMET SAFETY ACT;  
PROVIDING CIVIL 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. DEFINITIONS.--As used in the Child Helmet  
Safety Act:

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

1 tricycle;

2 B. "minor" means a person under eighteen years of  
3 age;

4 C. "operator" means a person under eighteen years  
5 of age who travels on a bicycle seated on a saddle seat from  
6 which that person is intended to and can pedal the bicycle, or  
7 who propels himself by way of using inline skates, roller  
8 skates, a skateboard or a scooter;

9 D. "other public right of way" means a right of way  
10 other than a public roadway or public bicycle path that is  
11 under the jurisdiction and control of the state or a local  
12 political subdivision;

13 E. "passenger" means a person under eighteen years  
14 of age who travels on a bicycle or scooter in any manner except  
15 as an operator;

16 F. "protective helmet" means a piece of headgear  
17 that meets or exceeds the impact standard for protective  
18 helmets set by the United States consumer product safety  
19 commission federal safety standard and those standards  
20 developed by the American national standards institute, the  
21 Snell memorial foundation or the American society for testing  
22 and materials;

23 G. "public bicycle path" means a right of way under  
24 the jurisdiction and control of the state or a local political  
25 subdivision for use primarily by bicyclists and pedestrians;

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1           H. "public roadway" means a right of way under the  
2 jurisdiction and control of the state or a local political  
3 subdivision for use primarily by motor vehicular traffic;

4           I. "public skateboard park" means an area of public  
5 property set aside, designed and maintained for recreation by  
6 persons using bicycles, scooters, skateboards or skates;

7           J. "scooter" means a wheeled vehicle, regardless of  
8 the number or placement of those wheels, that has handlebars,  
9 designed to be stood on by the operator or passenger and used  
10 to glide or propel the operator or passenger over the ground;

11           K. "skateboard" means a set of wheels attached to a  
12 platform or flat surface, regardless of the number or placement  
13 of those wheels, and used to glide or propel the operator over  
14 the ground; and

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

19           Section 3. HELMET USE REQUIREMENTS--CIVIL PENALTY.--

20           A. It is unlawful for a parent or legal guardian of  
21 a minor to knowingly permit that minor to operate or be a  
22 passenger on a bicycle, skates, scooter or skateboard unless  
23 that minor wears a well-fitted protective bicycle helmet,  
24 fastened securely upon the head with the straps of the helmet,  
25 while on the bicycle.

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1           B. Except as provided in Subsection C of this  
2 section, a parent or legal guardian found guilty of violating  
3 Subsection A of this section shall pay a civil penalty of not  
4 more than ten dollars (\$10.00). Magistrate and municipal  
5 courts shall have concurrent jurisdiction.

6           C. If a violation of Subsection A of this section  
7 is a first offense, the magistrate or municipal court may issue  
8 a verbal warning or require, in lieu of the fine imposed in  
9 Subsection B of this section, that the person found in  
10 violation provide proof that a protective helmet has been  
11 purchased for use by the minor found on the bicycle, skates,  
12 scooter or skateboard without a protective helmet.

13           D. A municipal court may issue only a verbal  
14 warning for a first or later violation.

15           Section 4. EQUIPMENT SALES OR RENTALS.--

16           A. A person engaged in the business of renting  
17 bicycles, skates, scooters or skateboards shall provide a  
18 protective helmet to a minor who will be an operator of or  
19 passenger on a rented bicycle, skates, scooter or skateboard if  
20 the minor does not already have a helmet in the minor's  
21 possession. A reasonable fee may be charged for the protective  
22 helmet rental.

23           B. A person engaged in the business of selling or  
24 renting bicycles, skates, scooters or skateboards who complies  
25 with the Child Helmet Safety Act shall not be liable in a civil

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1 action for damages for physical injuries sustained by or as a  
2 result of a minor customer's failure to wear a protective  
3 helmet in violation of the provisions of the Child Helmet  
4 Safety Act.

5 C. The owner of a public skateboard park shall not  
6 be liable in a civil action for damages for physical injuries  
7 sustained by or as a result of a minor customer's failure to  
8 wear a protective helmet in violation of the provisions of the  
9 Child Helmet Safety Act.

10 Section 5. NEGLIGENCE.--No negligence or liability shall  
11 be assessed on or imputed to any party on account of a  
12 violation of the Child Helmet Safety Act, and failure to wear a  
13 protective helmet shall not limit or apportion damages.

14 Section 6. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2007.