

SUBJECT: Requiring minors to wear bicycle helmets

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 6 ayes — B. Turner, Carter, Driver, Gutierrez, P. King, Najera
2 nays — Keel, Berman
1 absent — Hupp

WITNESSES: For — Linda Benefiel; Peggy Black, Texas Scottish Rite Hospital for Children; Susan Douglass, San Antonio Kids Coalition and Texas Emergency Nurses Association; Robert Feather, Children’s Hospital Association of Texas; Greg Hooser, Scott and White Hospital and Clinic; Danny Logan; Jim Lyde, Texas Municipal Police Association; Shelby Maddox; Karen Miller; Linsey Oates; Jerry Ann Robinson; Linda Rushing, Texas Conference of Catholic Health Facilities; Robert Simpson, State Farm Insurance; Larry Swift, Brain Injury Association of Texas; Dinah Welsh, Texas Hospital Association

Against — Anthony Brownsword; H.W. “Sputnik” Strain, Texas Motorcycle Rights Association; Preston Tyree, Texas Bicycle Association

On — Larry Camp, Texas Office for Prevention of Developmental Disabilities; Chris Elliott, Texas Trial Lawyers Association; Harry Hoelscher, Texas Department of Public Safety; Susan Warren, Texas Department of Health

DIGEST: CSHB 673 would amend the Health and Safety Code, chapter 758 to require a person younger than 18 to wear a secured, properly fitting protective helmet while operating or riding as a passenger on a bicycle on a public road, bicycle path, or other public right-of-way. The parent or guardian of a person under 18 could not knowingly or recklessly permit the youth to operate or be a passenger on a bicycle without wearing a helmet.

A person in the regular business of selling bicycles would have to provide a written explanation of the helmet requirement to every purchaser. A person could not rent a bicycle to another person unless each person expected to

operate or ride on the bicycle possessed a properly fitting protective helmet at the time the bicycle was rented or unless the rental agreement provided a properly fitting helmet for each person under 18.

The bill would create a criminal penalty for a person under 18 who failed to wear a helmet, for a parent or guardian who knowingly allowed a child to ride without a helmet, and for a person who sold or rented bicycles in violation of the law. An offense would be a misdemeanor punishable by a fine of \$25. If the offender had been convicted previously of the same offense, the fine would be \$50. A court could waive the fine for a first offense if the person presented proof that he or she had bought or obtained a protective helmet since the date of the violation.

The bill would not prevent a political subdivision from enforcing or adopting equal or more stringent local ordinances on helmet use.

A juvenile court could defer adjudication if a child fulfilled the requirements for dismissal of a misdemeanor charge on completion of a teen court program as outlined in the Code of Criminal Procedure, art. 45.55.

In a cause of action in which damages were sought for injuries or death resulting from the operation of a bicycle by a person under 18, failure of a parent or legal guardian to ensure that the child wore a helmet would not constitute liability on the part of the parent or guardian.

A person who sells bicycles would not be liable for civil damages resulting from the failure to provide written explanation of the helmet requirement or for a bicycle passenger's or operator's failure to wear a helmet. The immunity would not apply to a seller who provided false information regarding the requirement.

The bill would define "protective bicycle helmet" as headgear that meets or exceeds impact standards set by the U.S. Consumer Product Safety Commission, the Snell Memorial Foundation, or an appropriate state agency.

The bill also would remove the definition of "tricycle" from the Health and Safety Code, chapter 758.

The bill would take effect September 1, 1999, except that the criminal penalty provisions would take effect January 1, 2000.

SUPPORTERS
SAY:

CSHB 673 would reduce the number of bicycle-related deaths and injuries among children. Head injuries due to bicycle accidents have increased by 37 percent since 1996, and 20 children died from head injuries in 1997. Only about 10 percent of all children in Texas wear bicycle helmets.

The public has a right to insist on proper safety on public roads and rights-of-way. Because bicyclists do not carry liability insurance, taxpayers eventually pay for health costs resulting from bicycle-related injuries. Every \$1 that families are required to spend on a helmet could save taxpayers \$30 in health-care costs. The lifetime cost of treating a child with a serious head injury can be \$4.5 million.

Rather than interfering with parental control, the bill would encourage parents to protect their children. Holding parents accountable for their children's actions is one of the best ways to ensure that children wear helmets. Moreover, some parents try to make their children to wear helmets, but children do not always listen. A helmet law would help reinforce the parents' wishes.

CSHB 673 would eliminate one of the biggest causes of children's reluctance to wear helmets — the fear of being different. The law would apply to all children, therefore removing the stigma of wearing a helmet. The law would also promote safe, fun bicycling.

Public awareness, education, and safety campaigns have been shown to lose effectiveness without mandated helmet use. While these other programs are useful tools, they are no substitute for a helmet on a child's head.

Laws that address bicycle safety are imperative to reduce the number of needless deaths. Mandatory helmet use would not discourage bicycling any more than mandatory seat belt use discourages driving.

Mandated bicycle helmet use for children is an issue of public safety, not of personal freedom. Helmet laws are no more an infringement on personal liberties than are seat-belt laws or speed limits. Texas has many laws aimed at

protecting children, including one mandating special seats for children riding in vehicles.

Many organizations, including the Texas Department of Public Safety, provide free helmets to low-income children. Therefore, the requirement to buy or obtain a helmet should not burden anyone.

Although some cities have helmet ordinances, rural areas often do not. Also, rural roads are less likely to have bike lanes or wide shoulders. Children who ride their bikes on these roads especially need to wear helmets, and a state law might be the only way to get them to do it.

OPPONENTS
SAY:

CSHB 673 is a punitive approach to public safety and would criminalize children's actions. According to some studies, helmet laws only discourage bicycling. Mandatory bicycle helmet laws also discriminate against bicyclists. On the basis of fatality rates, there is a much better case to support helmet laws for motor vehicle passengers.

Bicycle-related deaths are rare, and although tragedies do occur, the number of children dying from head injuries is not sufficient to warrant a state law. Parents, not state government, should enforce rules for their children. Most parents know what is best for their children and want to protect them.

Bicycle helmets are not failsafe. It is possible to receive a serious head injury even while wearing a helmet. Many people wear their helmets too far to the back of the head or do not fasten the helmet. On the other hand, many children ride bicycles without helmets without getting hurt. Applying a law to every child would infringe on some children's rights.

Enforcement of the helmet laws could be discriminatory or arbitrary. Police should have higher priorities than spending their time reprimanding or fining helmetless children. Police departments also could use this law as a type of fundraiser, since fining children and their parents would be relatively less work than chasing speeders on the highway.

Helmet laws have been acknowledged widely to infringe on personal rights. In 1997, the Legislature repealed mandatory helmet use for motorcycle riders over 21.

Children in low-income families might not know how or where to obtain a free helmet and might not be able to afford to buy one. These children should not be prevented from riding their bikes simply because they cannot afford a helmet.

OTHER
OPPONENTS
SAY:

CSHB 673 also should apply to children using in-line skating equipment and skateboards.

NOTES:

The committee substitute added the provision that the failure of a parent or guardian to ensure that a child wore a helmet would not constitute liability for death or injury.

When the House first considered HB 673 on second reading on April 22, the bill failed to pass by 61-73. On April 23, the House adopted Rep. Carter's motion to reconsider that vote, and the bill was postponed until today.

A similar bill last session, HB 797 by Carter, failed to pass in the House on second reading by 56-77-2. In the 1995 session, another similar bill, SB 337 by Zaffirini, passed the Senate but failed to pass in the House on second reading by 68-73.