

North Carolina Helmet Ticket Defense Packet

Dear Fellow Freedom Fighter,

You are being sent this package of materials to help in your defense of your no helmet ticket or improper helmet ticket. Enclosed you will find a sample brief, a copy of North Carolina's helmet law. Additionally you will find a letter stating there is no list of approved helmets in North Carolina. Copies of two different decisions in states with helmet laws similar to the helmet law in North Carolina are also provided.

Read through the brief carefully and it will help you understand and be familiar with the arguments. Plan ahead as you will have to write your own "Statement of the Case." When you go to court the first time it will be an arraignment hearing where you plead guilty or not guilty. It is suggested you submit your "Statement of Case" and a "Motion of Discovery" at your arraignment hearing. When you plead not guilty a trial date will be set. North Carolina does not allow you a jury trial for infractions until you lose in district court and appeal your case to the superior court. Be careful as the District Attorney may try to trick you or talk you out of pursuing your case during the arraignment hearing. You can present the brief to the prosecutors when you plead not guilty.

It may be wise to determine your own agenda first. Is your intention to get the ticket dismissed or are you prepared to go for the constitutional challenge. If your intention is to get the ticket dismissed the points made in the brief should be adequate to achieve dismissal or at least get found not guilty. If you have the resources for the constitutional challenge you must be found guilty and then appeal the decision.

Only one attorney has been located at this time who is interested in handling helmet cases.

Robert Alan Donat
Attorney at Law
7810 Ballantyne Commons Parkway
Suite 300
Charlotte, NC 28277
(704) 602-3040
Fax: (704) 602-3041 or 3042

If you know of any other interested attorneys please let us know.

Please keep us informed of the outcome of your ticket. If you have not done so please make sure we have the following information: date ticket was issued, the county or city where the ticket was issued and whether it was a city, county, or state officer who issued the ticket, and your court date. We also need to try to get people to show up for court dates for moral support.

We are hopeful this information will be of assistance to you and our common cause. If you have questions call 843-345-5926 or visit BikerEzine.com to make contact.

Disclaimer: The information and opinions presented in this package are based upon the research of biker rights activists in the Carolinas and Georgia. We believe that it is the right of the citizens of this country to disseminate and obtain such information. Readers should understand that there is no guarantee that any one approach will always produce the desired outcome because each person and situation is unique. It is therefore urged that people always use caution and responsibility in dealing with legal matters including consultation with qualified professionals. Readers who are in doubt about their legal situation should seek appropriate professional help. BikerEzine.com and the contributors to this package take no responsibility for any misunderstandings or outcomes resulting from anyone's actions based upon the information and opinions contained in this package.

Happy Freedom Fighting!

Please keep in mind this project is on going and not complete at this time. Check back for updates and more materials to be provided later. If you are ticketed and wish to have source documents and word documents to speed the development of your own brief please make contact.

1 Joseph Fred Ruddock Jr, Pro Se,
8793 Deerwood Drive
2 North Charleston SC, 29406

3 State of North Carolina Swain County District Court
4

5 STATE OF NORTH CAROLINA,) Case No.: E654293
6 Plaintiff,)
7 vs.) BRIEF OF DEFENDANT
8 JOSEPH FRED RUDDOCK,)
9 Defendant)
10

11
12 STATEMENT OF THE CASE

13 On Saturday September 9, 2006 at about 11:16 a.m., I, Joseph Fred
14 Ruddock, was riding a 2003 Harley Davidson FLHT Electra Glide Standard
15 motorcycle on US 441 southbound near US 19 on the Cherokee Reservation. I was
16 stopped by Officer Crisp and issued citation #E654293 alleging violation of
17 G.S. 20-140.4(A). He asked me if I had a helmet; I was wearing a cover on my
18 head. I stated I may have another helmet in my saddlebag. He then asked me if
19 I had any weapons and quickly patted down my vest. Afterwards he politely
20 asked me not to open my saddlebags. I gave the officer all of my paperwork
21 including my license, both motorcycle registrations and proof of insurance
22 for both of my motorcycles. Officer Crisp was pleasant and professional
23 throughout the incident.

24 ARGUMENT

25 This case is about the State's failure to give fair notice of behavior
26 proscribed, failure to implement adequate safeguards to prevent arbitrary
27 enforcement and the generally and facially vague nature of Statute 20-
28 140.4(A), violative of the Ninth Amendment and Fourteenth Amendment of the

1 United States, as well as Article 1, Section 5, Paragraph 1 and Section 19,
2 Paragraph 1.

3 In 1968, the legislature passed a requirement that motorcyclists wear
4 safety helmets. The North Carolina Department of Motor Vehicles has failed to
5 create a list of safety helmets of a type approved by the Commissioner of
6 Motor Vehicles (Defense Exhibit I). Additionally Statute 20-140.4(A) makes no
7 reference to FMVSS 218. Furthermore 20-140.4(A) does not state that "a DOT
8 label must be affixed to the center, lower back of each approved helmet." The
9 full text of that statute is set forth herein.

10 20-140.4. Special provisions for motorcycles and mopeds.

11 (a) No person shall operate a motorcycle or moped upon a highway
12 or public vehicular area:

13 (1) When the number of persons upon such motorcycle or moped,
14 including the operator, shall exceed the number of persons which
15 it was designed to carry.

16 (2) Unless the operator and all passengers thereon wear safety
17 helmets of a type approved by the Commissioner of Motor Vehicles.

18 The Commissioner of Motor Vehicles has failed to approve any safety helmets.
19 Judge Wynn gave standing to challenge the approved type requirement in State
20 v. Barker, 138 NC App 304 (99-798) 06/06/2000:

21 ... the more challenging issue remains--is N.C. Gen. Stat. § 20-
22 140.4 unconstitutionally vague because neither the Legislature
23 nor the Commissioner for the Division of Motor Vehicles has
24 clearly set forth what constitutes a helmet that meets the
25 requirements of the statute?

26 Judge Wynn continues and points out the vagueness of the statute and
27 additional questions surrounding the standard in State v. Barker, 138 NC App
28 304 (99-798) 06/06/2000:

1 Although the State argues that the Commissioner has adopted the
2 federal guidelines on helmet safety standards, questions remain
3 as to whether the Commissioner formally adopted the standards;
4 whether the Commissioner informally adopted the standards; and
5 whether the public has received consistent information about the
6 federal standards. An issue also remains as to whether the
7 federal guidelines are sufficiently clear to avoid a challenge on
8 the grounds of vagueness.

9 The US Department of Transportation NHTSA has not created a list of approved
10 helmets (Defense Exhibit II). NHTSA does have a list of recalled helmets but
11 states it is the responsibility of the manufacturer not the consumer for
12 remedying noncompliance. Following this logic it would only be possible to be
13 found in noncompliance if found to be wearing a helmet on the recalled list
14 and even then it would be the responsibility of the manufacturer not the
15 consumer.

16 Page 44 of the North Carolina Highway Safety Plan current as of March
17 2007 also notes the current NC mandatory helmet use law requires clarifying
18 (Defense Exhibit III). North Carolina's helmet use law G.S. 20-140.4(A) is
19 unenforceable as written according a Motorcycle Safety Strategy document
20 created by a group led by John Stokes of the Governor's Highway Safety
21 Program:

22 The problem occurs due to the fact that there is no guidance from
23 the Commissioner on this law. There is no list, or directive
24 explaining what type of safety helmet is approved and acceptable.
25 This leaves the door open to any type of head covering to be
26 worn. This creates a law that is unenforceable... (Defense Exhibit
27 IV)

1 The problem is a well documented fact that G.S. 20-140.4(A) is vague and
2 lacking of clarity.

3 State of Washington Vs. Maxwell and Sanasky 878 P.2d 1220, 74 Wash.App
4 688,. addresses promulgation of standards rather than a list. I have also
5 found similar decisions in two other southern states with similarly
6 constructed statutes. I have put copies of the opinions with the exhibits
7 (Attachments A & B) in case you wish to consider them as both judges did
8 pretty thorough investigations.

9 State of Florida Vs. Stephen Yasko, Jr. In the County Court of the
10 Seventeenth Judicial Circuit in and for Broward County Florida, Case # 93-
11 006972TI10A, addresses the same "No List? No Law!" argument. In fact, in
12 addition to striking down the statute, structured similar to 20-140.4(A),
13 Judge Skelnik certifies the following question as one of great public
14 importance.

15 Whether Florida Statute Section 316.211, which incorporates 49
16 CFR 571.218 and Florida Department of Transportation
17 Administrative Order 15.B-1.006, is unconstitutional as a
18 violative of due process clause because; Citizens are not
19 afforded fair warning of proscribed conduct due to the
20 unavailability and lack of the statutorily required current list
21 of approved helmets; the statutory imposition of self
22 certification by helmet manufacturers that helmets meet
23 performance requirements cannot be relied upon with certainty by
24 consumers as compliance; and/or judicial determination that a
25 specific helmet is in compliance cannot be relied on with
26 certainty as compliance.

27 Lewis Vs. Freeland in the Circuit Court for St. Mary's County, Maryland Case
28 # CA95-1165, covers the same issues as the Florida decision above. "Vagueness

1 of a criminal law rests on a constitutional principle that procedural due
2 process requires fair notice and proper standards for adjudication", stated
3 Atlanta Circuit Judge Lewis R. Morgan in Gable vs. Jenkins 309 F.Supp 998
4 (1969), referring to Lanzetta Vs. New Jersey 306 U.S. 451, 59 S.Ct. 618, 83
5 L.Ed. 888 (1939). Lanzetta vs State further states that, "Persons may not be
6 required at peril of life, liberty, or property to speculate concerning of
7 penal statute, but all are entitles to be informed what the state commands or
8 forbids."

9 In the absence of a list, law enforcement has adopted a policy of
10 indiscriminate stops and approving or citing motorcyclists based upon
11 personal preference of the individual officer. I no explanation as to why the
12 legislature chose to use the term "safety helmets of a type approved by the
13 Commissioner of Motor Vehicles" rather than "motorcycle helmet" or "crash
14 helmet," but it appears that other forms of "safety helmets" can satisfy the
15 requirement of this statute. Statute 20-140.4(A) fails to refer to the
16 Administrative Code that contains the "Standard."

17 Safety - the state of being safe from risk of experiencing or
18 causing injury, danger, or loss. (Webster's College Dictionary)

19 Helmet - anything resembling a helmet in form or position.
20 (Webster's College Dictionary)

21 The term "safety helmet" is vague in the context of statute 20-
22 140.4(A). This term may include such types of helmets as dive helmets,
23 football helmets, hockey helmets, rugby helmets, space helmets, kayaking
24 helmets as well as motorcycle helmets. Many of these items are likely to be
25 capable of passing testing in accordance with FMVSS 218. The tact taken for
26 some time has been to demand that all helmets carry a D.O.T. label affixed to
27 the center, lower back of each approved helmet. However statute 20-140.4(A)
28 does not mention or reference any labeling requirement.

1 In Lanzetta Vs. State Supreme Justice Butler further states:

2 A penal Statute creating a new offense must be sufficiently
3 explicit to inform those subject to it what conduct will render
4 them liable to its penalties, and a forbidding or requiring doing
5 of an act in terms so vague that a man of ordinary intelligence
6 must necessarily guess at its meaning and differ at to its
7 application is repugnant to due process clause.

8 This is also applied in DeKalb Real Estate Board vs. Chairman and Board of
9 Commissioners of Roads and Revenues for DeKalb County, Georgia, et. Al. 372
10 F.Supp 748 (1973).

11 In Kolendar vs. Lawson 461 U.S. 352, 103 S.Ct. 1855 75 L.Ed. (1983) the
12 Supreme Court states:

13 "Although void-for-vagueness focuses both on actual notice and
14 arbitrary enforcement, more important aspect of vagueness
15 doctrine is not the actual notice, but requirement that
16 legislature establish general guidelines to govern law
17 enforcement."

18 The legislature has failed to establish guidelines within G.S. 20-140.4 to
19 govern law enforcement.

20 The adoption of FMVSS 218 is meaningless, at least to the motorcyclist,
21 as it is designed for manufacturers whose desire is to meet those minimum
22 standards and wish to hold out their product as meeting those standards. No
23 action has been taken to apply the equipment standard to individual
24 motorcyclists as determined in Rauh vs. Jensen, Supreme Court of Montana, 507
25 P.2d 520 (1973):

26 In order to completely understand and analyze the problem one
27 must start with appellants original charge: defendant
28 (respondent) violated section 211, Federal Motor Vehicle Safety

1 Standards. The Vehicle Safety Standards are the result of the
2 National Traffic and Motor Vehicle Safety Act of 1966, 15
3 U.S.C.A. 1381-1426. In particular, 1391 of the Act defines the
4 terms used in the act, and nowhere is the term "owner" used or is
5 a duty placed on the owner to protect others. The law is designed
6 to protect the general public from misdesign by automobile
7 manufacturers, distributors or dealers.

8 The Standard, when read in context, is clearly directed at the manufacturer
9 and not the consumer. It must be observed that this standard purports to be
10 an industry self-policing measure. There is a labeling requirement which is
11 nothing more than the manufacturer's certification or representation that
12 headgear meets the standard.

13 In the absence of a published list of safety helmets, any enforcement
14 of 20-140.4(A) is necessarily arbitrary by nature. FMVSS 218 is a highly
15 technical standard requiring very specialized laboratory equipment as well as
16 highly trained personnel to implement it to test a helmet for compliance.
17 NHTSA's TP-218-06 is 70 page highly technical laboratory procedures manual
18 for testing FMVSS 218 motorcycle helmets (Defense Exhibit V). There is no way
19 for a law enforcement officer to implement this standard on the roadside to
20 determine compliance, yet that is the position that we are placing them in.

21 Kolendar Vs. Lawson further states:

22 "Void-for-vagueness doctrine requires that penal statute define
23 criminal offense with sufficient definiteness that ordinary
24 people can understand what conduct is prohibited and in a manner
25 that does not encourage arbitrary and discriminatory
26 enforcement."

27 It would appear determining compliance without a proper laboratory is
28 arbitrary if not discriminatory.

1 Have you heard the news that air bags have been killing people? Even
2 the safety advocates agree that this particular "safety" item has been the
3 cause of many deaths and serious injuries. It seems that air bags were only
4 tested with crash dummies of average height and weight, therefore testing was
5 incomplete 49 CFR 517.208. Had they been test with crash test dummies of
6 varying height and weight, some of these deaths and injuries might have been
7 prevented. Federal Motor Vehicle Safety Standard 218 does not include the use
8 of a crash test dummy. It does not include the use of a motorcycle. It does
9 not simulate accident conditions above 13.66 miles per hour.

10 Motorcycle helmets are designed to pass a test in a laboratory on a
11 head form, one with no neck. They may, or may not protect you anytime a six
12 pound ten ounce "penetration striker" landed on your helmet from a distance
13 of 118.1 inches, presuming your neck does not snap from the impact. That is
14 what helmets are designed to protect you from. At least air bag testing had
15 the benefit of the use of a vehicle due to necessity.

16 The laws of physics state that a five pound helmet traveling at sixty
17 miles per hour is equivalent to a three hundred pound weight on impact. The
18 neck being the structurally weakest part of the body makes it highly
19 susceptible to injury with this additional weight, doubling the weight of
20 one's head. Although helmets may be helpful within and near the range they
21 are designed to operate, this creates a major hazard for motorcyclists at
22 highway speeds. You cannot amend repeal, or void the laws of physics.

23 This can hardly be considered a safety item as the definition of "safe"
24 is the absence of risk. If the consideration here were truly motorcyclists'
25 safety such testing would at least involve a crash test dummy in motion. You
26 see, even when the resources of the Department of Transportation, National
27 Highway Traffic Safety Administration actually does spend the money to test a
28

1 helmet at about \$1200 per test of the four required per helmet what they
2 learn is of little value when applied to payment.

3 Additionally, the testing is woefully incomplete, most years very few
4 helmets are tested in relation to the number on the market. In 1994, one of
5 NHTSA's more active years, they published a brochure entitled "Does Your
6 Helmet Pass the Test?" (Defense Exhibit VI). I am unable to find a more
7 current publication on the subject of helmets passing a test. FMVSS 218
8 requires that a helmet be able to withstand four tests, yet as you see, their
9 publication clearly states that not all of the tests are applied to the tests
10 that are done.

11 On the reverse side of NHTSA's brochure, they clearly state "The
12 Department of Transportation's National Highway Traffic Safety Administration
13 (NHTSA) does not approve helmets or any other motor vehicle equipment." I
14 point this out not only for relevant to the issue of the safety of helmets
15 use, but in relation to the use of the term "approved" in 20-140.4(A). If the
16 Federal Government is not going on the "hook" to "approve" helmets, it would
17 certainly imprudent for the state of North Carolina to "approve" helmets.

18 NHTSA's brochure also points out that there have been 4 recalls, all
19 voluntary, and one helmet determined to be in non compliance in the past six
20 years.

21 More recent Helmet Test Data from 2006 and 2005 seem to confirm the
22 trend has remained unchanged (Defense Exhibits VII & VIII). NHTSA's document
23 "FMVSS 218 Helmet Test Data For FY 2006" shows of the helmets tested 20 were
24 found to pass while 19 were found to fail but only 8 have been recalled.
25 During 2005 of the helmets tested 23 were found to pass and 17 failed but
26 apparently none were recalled. Links provided for searching for recalled
27 helmets did not lead to a list. There is no way for a reasonably intelligent
28 person to determine if a helmet has been recalled or even tested.

1 Dr Joseph L. Burton, Chief Medical Examiner for the city of Atlanta
2 (Dekald Co.) testified in Sheckels vs. AGV-USA Corp. 987 F2d 1532, that
3 Department of Transportation and Snell Memorial Foundation Impact Tests are
4 conducted at speeds of 15-20 miles an hour, and that no motorcycle helmet
5 marketed today provides any assurance of protecting the wearer from facial or
6 brain injury at speeds of 30 or 45 miles an hour. "... the helmet, which was
7 described in the consumer information as the 'the single most important piece
8 of safety equipment you own' would provide no significant protection at
9 speeds of over 30 to 45 miles an hour;" he further opined that the average
10 purchaser of a helmet would not know these facts.

11 With considerable risk indicated by archaic testing methods, lack of
12 complete testing, publication of erroneous data from the Federal Government,
13 the lack of testing at the state level and the Laws of physics, I do not see
14 how helmets or helmet laws can be considered "Safe" for either motorcyclists
15 or the public at large. In short helmets are not safe. This has been
16 demonstrated more than once in personal injury cases such as Coy Vs. Simpson
17 Marine Safety Equipment, Inc. 787 F. 2d. 19, Sexton vs. Bell Helmets, Inc.
18 926 F. 2d. 331.

19 I assert that it is not in the State's Interest to tie State Statute to
20 such a "Safety Measure."

21 CONCLUSION

22 Certain compliance is indeed impossible for any motorcyclist using any
23 type of "Safety Helmet" under the provisions of this statute in the absence
24 of a list. 20-240.4(A) is vague on it's face.

25 The dividing line between what is lawful and unlawful cannot be
26 left to conjecture. The citizen cannot be held to answer charges
27 based upon penal statutes whose mandates are so uncertain that
28 they will reasonably admit of different constructions. A criminal

1 statute cannot rest upon an uncertain foundation. The crime, and
2 elements constituting it must be so clearly expressed that an
3 ordinary person can intelligently choose, in advance, what course
4 it is lawful for him to pursue. Penal statutes prohibiting the
5 doing of certain things, and providing a punishment for their
6 violation, should not admit of such a double meaning that the
7 citizen may act upon one conception of its requirements and the
8 courts upon another. (Connally vs. General Construction Co. S.Ct.
9 126, 269 U.S. 385)

10 The North Carolina Department of Transportation has yet to publish a
11 list of safety helmets of a type approved by the commissioner of motor
12 vehicles. Therefore the requirement is that motorcyclists wear safety helmets
13 that comply with a standard that is impossible for an individual motorcyclist
14 to implement, as well as unidentified steps removed from the statute.

15 Therefore, because the law is vague, indefinite, and uncertain,
16 and because it fixes no immutable standard of guilt, but leaves
17 such standards to the variant views of the different courts and
18 juries which may be called upon to enforce it, and because it
19 does not inform the defendant of the nature and cause of the
20 accusation against him, I think it is constitutionally invalid
21 and that the demurrer offered by the defendant ought to be
22 sustained. (United States Vs. Cohen Grocery Co. 65 L.Ed. 520)

23 The accepted law enforcement standard of requiring DOT stickers derives from
24 FMVSS 218's labeling requirement. Yet it is a self-certification system,
25 which makes no provision prohibiting individuals from certifying safety
26 helmets by the simple act of placing a "DOT" symbol on a shower cap.

27 In addition to, and as a result of the enforcement of, and the
28 vagueness in this law, I do believe that it has created too much of an

1 opportunity for police abuse over the past 39 years, to have not been subject
2 to it. It has become discriminatory.

3 20-140.4(A) is vague facially, and in concert with FMVSS 218. I can
4 find no official document or agency rule that shows the Commissioner of Motor
5 Vehicles has approved any safety helmets or formally adopted the federal
6 standard FMVSS 218. This law is disjointed and broken beyond repair and the
7 defect is clear and palpable. Defendant prays that you so find.

8
9
10
11 Dated this March 15, 2007

12 8793 Deerwood Drive
13 North Charleston SC 29406
14 Joseph Fred Ruddock Jr Pro Se





STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

DIVISION OF MOTOR VEHICLES

LYNDO TIPPETT
SECRETARY

January 26, 2007

Mr. Fred Ruddock, Jr.
8793 Deerwood Drive
North Charleston, SC 29406

Dear Mr. Ruddock:

Your letter to Commissioner George Tatum concerning compliance with the North Carolina helmet law was referred to my office for a response.

North Carolina General Statute 20-140.4 (a)(2) requires the operator and all passengers to wear safety helmets of a type approved by the Commissioner of Motor Vehicles. We do not maintain a list of approved helmets; however, it is and has been the policy of the Commissioner to approve any motorcycle helmet that meets or exceeds the standards issued by Federal Motor Vehicle Safety Standard No. 218 which are listed.

Federal Motor Vehicle Safety Standard No. 218 requirements:

- A DOT label must be affixed to the center, lower back of each approved helmet.
- Manufacturer's name or identification.
- Precise model or designation.
- Size of the helmet, month and year of manufacture.
- Instructions to the purchaser as follows:
 - “Shell and liner constructed of (types of materials spelled out).”
 - “Helmet can be seriously damaged by some common substances without being visible to the user. Apply only the following: (recommended cleaning agents, paints, and adhesives).”
 - Make no modifications. Fasten helmet securely. If the helmet experiences a severe blow, return it to the manufacturer for inspection or destroy it and replace it.”

If you have any questions or need additional assistance, please contact me at (919) 861-3166.

Sincerely,

J.I. Gardner, Jr., Assistant Director
DMV License and Theft Bureau

JIG/

cc: Commissioner George Tatum

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U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

400 Seventh St., S.W.
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FEB 13 2004

CERTIFIED MAIL

Mr. Fred Ruddock Jr.
8793 Deerwood Drive
North Charleston, SC 29406

Dear Mr. Ruddock,

I am responding to your inquiry addressed to Ms. Nicole Nason in which you ask for a current list of all FMVSS 218 compliant helmets.

The National Highway Traffic Safety Administration does not maintain a list of helmets that are compliant with Federal Motor Vehicle Safety Standard (FMVSS) No. 218. The law establishes a self-certification process in which the vehicle and equipment manufacturers themselves certify that their products are in compliance with all applicable FMVSS, which establish minimum criteria that the product must meet. In accordance with FMVSS No. 218 S5.6.1(e), the symbol DOT applied to a helmet constitutes the manufacturer's certification that the helmet conforms to all applicable standards. Furthermore, each manufacturer is responsible for ensuring that its products are free of safety-related defects. If an item is found not to comply with applicable standards or is found to have a safety defect, the manufacturer is responsible for remedying the noncompliance or defect at no cost to the customer.

You may review our recall database on the internet to identify noncompliant helmets. The web site is <http://www-odi.nhtsa.dot.gov/cars/problems/recalls/recallsearch.cfm>. To identify helmets, select "equipment" and the make of the helmet.

I hope this information has been helpful. If you have any questions, please contact Claudia Covell of the Office of Vehicle Safety Compliance at claudia.covell@dot.gov.

Regards,

Claude H. Harris, Director
Office of Vehicle Safety Compliance



VEHICLE SAFETY HOTLINE
888-327-4236

North Carolina's Strategic Highway Safety Plan

Last Revised:
March 2007



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Motorcycles

IN GENERAL

North Carolina has had an independent group actively pursuing motorcycle safety for the past several years. Since motorcycle safety is a growing concern in North Carolina, in July 2005, this group was brought under the guidance of the Executive Committee to address highway safety issues as they pertain to motorcycles.

THE PROBLEM

Motorcycle registration has increased by over 76% in the last ten years and along with this, North Carolina has experienced an increase in motorcycle related crashes, fatalities and injuries. Over this same time period, while motorcycle registration has accounted for only 1.3 % of all registered vehicles, motorcyclist have comprised over 5% of all fatalities.

DATA HIGHLIGHTS

- ◆ Motorcycle fatality rate is 4.5 times higher than other vehicles
- ◆ 9 out of 10 motorcyclists killed are male
- ◆ 50% of motorcycle fatalities are young (16-29) males
- ◆ 56% of motorcycle crashes, the motorcyclist was at fault

STRATEGIES APPROVED BY THE ECHS:

Strategy:	Tighten the Requirements for a Motorcycle Operators Permit to Insure Riders Are Demonstrating Rider Skills in Shorter Time Frame
Description:	Presently, there are no limits on how long a person can operate a motorcycle with a learner's permit. To obtain such a permit requires only the successful completion of a written test and no demonstration of rider skills. This strategy proposes that the permit system be revised to allow a one year non-renewable permit by taking the DMV written test if they have held a valid NC drivers license for two years or more. Individuals with less than two years valid drivers license will be required to successfully complete the NC Motorcycle Safety Education Program. Individuals less than 18 years of age would be required to take and successfully complete the NC Motorcycle Safety Education Program course.
Group Lead	John Stokes, GHSP
ECHS Approval:	April 25, 2006
Host Agency:	Governor's Highway Safety Program
Agency Contact:	John Stokes
Notes:	
Status:	Pending Legislation.
Evaluation:	Awaiting sufficient data

Strategy – Clarifying the Current NC Mandatory Motorcycle Helmet Use Law to Increase Compliance of Legal Helmets

General Description

The popularity of motorcycles as a mode of transportation and recreation in North Carolina and across the United States has exploded. Motorcycle registration has increased from 65,247 in 1994 to 145,468 in 2004. Unfortunately, the number of motorcycle fatalities has also increased from 68 in 1994 to 134 in 2004. This increase in fatalities is unacceptable and has occurred despite increased rider training in the state. Many factors lead to motorcycle fatalities and injuries, including rider training, appropriate safety gear, alcohol use, speed, driver inattention, passenger car error, etc. All riders need to properly prepare themselves to ride including appropriate training and the wearing of safety gear.

The most recent national helmet usage observational survey that was done in 2002 revealed that 14 percent of motorcyclists were wearing non-compliant “fake” helmets. However, random observations throughout North Carolina would appear to indicate that the use of non-compliant helmets is much higher today. It is not readily apparent how many severe head injuries and fatalities due to head trauma are occurring due to the proliferation of these novelty helmets. However, the helmets offer no protection to riders and one can assume that there are a significant number of riders that are being injured or killed due to the lack of properly worn and approved head gear.

In order to correct this situation, North Carolina needs to eliminate situation that the wording of our current law, G.S. 20-140.4, creates. The wording currently reads “No person shall operate a motorcycle or moped upon a highway or public vehicular area: ... (2) Unless the operator and all passengers thereon wear safety helmets **of a type approved by the Commissioner of Motor Vehicles.**” (emphasis added). The problem occurs due to the fact that there is no guidance from the Commissioner on this law. There is no list, or directive explaining what type of safety helmet is approved and acceptable. This leaves the door open to any type of head covering to be worn. This creates a law that is unenforceable and places motorcyclists in an unsafe situation. It also creates a situation that places all taxpayers at risk to cover medical expenses for motorcyclists that require long-term care that is a result of preventable head injuries.

The successful implementation of this strategy will result in a safer riding situation for motorcyclists and a law that has “teeth.” The purpose of this strategy is to provide a clear understanding for all parties involved of the requirement for motorcyclist to wear helmets that will offer them protection in the event of a crash. By eliminating the vague guidance currently created by the law, motorcyclist will be safer on each and every trip and law enforcement will be able to better enforce a very important traffic safety law.

Motorcycle Safety Strategy

Technical Attributes

Target	Motorcyclists that wear unsafe helmets or shells that compromise their safety due to vague wording in the current motorcycle helmet law.
Expected Effectiveness	With unsafe helmets being worn by more riders each year and the rider population increasing, it is anticipated that by clarifying the helmet requirements, safe and legal helmet usage will be more prevalent. This increase in safe helmet usage will translate into fewer and less severe head injuries and will lift some burden from taxpayers that are footing the medical bill for many riders that are being injured in motorcycle crashes.
Keys to Success	<ul style="list-style-type: none">• Development of a technical revision to G.S. 20-140.4 (2) that eliminates the phrase “of a type approved by the Commissioner of Motor Vehicles” and changes it to reflect that only helmets that meet Federal Motor Vehicle Safety Standard (FMVSS) Number 218 are approved for use in North Carolina.• Coordination between law enforcement agencies, prosecutors, legislatures and the courts that this technical revision has been made in order to clarify the current motorcycle helmet law.• Public education involving news and print media.• Education of motorcyclists, motorcycle dealers, and potential motorcycle buyers of the requirement that all helmets being worn in North Carolina, by law, must meet FMVSS #218.
Potential Difficulties	<ul style="list-style-type: none">• Passage of technical revision to G.S. 20-140.4.• Change in the compliance rates of helmets that meet this standard.
Appropriate Measures and Data	
Associated Needs	Mutual understanding and cooperation between the key players; Legislators, law enforcement, motorcyclists, dealers, and the judicial system.
Organizational, Institutional, and Policy Issues	Close working arrangements among traffic law enforcement, courts, and motorcycle dealers need to be in place. In many areas, cooperation between different police agencies (local police department, state highway patrol and/or sheriff’s department) may be required.
Issues Affecting Implementation Time	Early involvement of all stakeholders is a must. They should have as much warning as possible that the current law has been revised and clarified. Implementation time will be dependent on the passage of the technical revision and the effective date of the amendment. Once passed, time will be required to inform law enforcement, the courts, and motorcyclists of the change.
Costs	Cost for this strategy should be minimal.
Training	Training of law enforcement and prosecutors in identifying illegal helmets and the need for motorcyclists to be in compliance with the law. There will be a need to inform law enforcement officers of the revised law and educate them on the importance of issuing citations for motorcyclist that do not comply with the law.
Legislative Needs	Passage of technical revision to G.S. 20-140.4.