

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on February 18, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. John Harp (R)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 416, SB 415, SB 365
Executive Action: SB 415

HEARING ON SENATE BILL 416

Opening Statement by Sponsor:

SEN. BRUSKI-MAUS stated SB 416 would require that tax payments to the Department of Transportation (DOT) in the amount of \$200,000 or greater be made through electronic funds transfer. She added SB 416 would amend MCA 15-1-801 and provide an effective date.

Proponents' Testimony:

William Salisbury, Administrator, Administration Division, DOT, stated SB 416 was a housekeeping measure. He spoke from written testimony in support of SB 416 (Exhibit #1).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. BRUSKI-MAUS closed.

HEARING ON SENATE BILL 415

Opening Statement by Sponsor:

SEN. STANG, Senate District 26, opened on SB 415 because the bill's sponsor, SEN. FRITZ, was unable to attend the hearing.

SEN. STANG stated SB 415 would prohibit the indiscriminate use of outdoor advertising along Montana's highways.

Proponents' Testimony:

Jerry Covault from Missoula said in the past few months the number of billboards had mushroomed on Montana's highways, especially near cities. He stated the billboards have reached the point where they detract from Montana's desirability. He explained these billboards are eroding Montana's scenic beauty as seen from the highways and, because of their numbers, are no longer informing travelers. He added the signs are also becoming a safety hazard; they divert a driver's attention at precisely those places where traffic increases. According to Jerry Covault, too many billboards gives Montana a tacky image and sends the message that Montanans do not care enough about their state's scenic beauty to protect it.

Jerry Covault stated the time was opportune to pass SB 415; the federal Intermodal Surface Transportation Efficiency Act (ISTEA) contains a provision which would allocate money for the removal of billboards along highways. He stated if Montana adopted a proactive law in this area, those federal monies would be more readily available for the state. He added that Montana's problem had not yet reached uncontrollable proportions. He noted that billboard control is also supported by some members of the business community, and, as an example, distributed a letter from a KOA campground owner and President of the Montana Campground Owners Association (Exhibit #2). Jerry Covault read a "key sentence" from this letter: "Businesses are forced to put up bigger and bigger signs to compete with other signs and the only benefactor is the sign company". He said the logo sign program authorized during the last legislative session provides businesses in the state with a viable alternative to billboards. He noted that the state law dealing with billboards is ineffective because it contains a provision which allows any commercial operation to erect a billboard any place along the highway within sight of their business. He stated under this statute the number of billboards along state roads is assured to increase.

Jerry Covault informed the Committee that SB 415 is patterned after a Vermont law which has been in effect since 1968. He added that Oregon, Alaska, Hawaii, Virginia, Maine and some other states have also enacted legislation to control billboards. He distributed other pieces of written information to committee members and concluded Montana's scenic landscapes are important to Montanans and are being taken away from highway travelers (Exhibits #2a, #2b, #2c).

Phyllis Bureson stated that many myths exist about the control of billboards. She outlined six of these myths as they were presented in a text which she distributed to committee members (Exhibit #3). She stated if a law is not passed to stop the proliferation of billboards, the state will be forced to spend more money later to "buy people out". She noted that at the present time federal money might be made available for this purpose. She added if SB 415 is not adopted, the issue would be heard again next session. She informed the Committee that people feel strongly about this issue and many of the people who would have attended the hearing could not because of the short notification time. She urged the Committee to support SB 415 and "stop the visual pollution that is taking our beautiful Montana from us in the name of big business".

Opponents' Testimony:

Aidan Myhre, Owner/Operator, Myhre Advertising spoke from written testimony in opposition to SB 415 (Exhibit #4).

Doug Abelin stated he was opposed to SB 415 because the City of Cut Bank would not be able to use the billboard at the edge of town to record the number of barrels of oil it produced. He added other towns on the highline would remain unknown if billboards were not allowed, since the roads go around them. He concluded that the billboards also help to control the wind problem in that area.

Stuart Doggett, Montana Innkeepers Association, stated his organization opposed SB 415 because it imposes regulations on a valuable form of marketing and advertising for its industry and consumers. He said billboards provide a necessary means to get people off the highway to the smaller locals.

David Owen, Montana Chamber of Commerce, expressed his opposition to SB 415. He stated a qualitative difference exists between those billboard problems within urban areas and those billboard problems along Montana's highways. Speaking from first hand experience as director of the Missoula Chamber of Commerce, **Dave Owen** noted he remembered many more people asking for information about services they had seen advertised on billboards than complaining about the billboards. He agreed that the state should not be ruined with too many billboards, but added the "outright ban" SB 415 would impose goes too far. He admitted that sign ordinances have their limitations and are "fairly tricky to do in a proper manner". He noted there is "enough

concern in local chambers of commerce and within the industry itself" to resolve the issue. He stated SB 415 "is a bad bill at this time".

Tom Hopgood, Montana Association of Realtors, noted that SB 415 was "loaded" with legal problems. He stated property owners have a constitutionally protected right to devote their real property to advertising. He added that advertising is also a legitimate business and the right to engage in any lawful business or occupation carries with it the right to advertise. He stated the deprivation or limitation of that right should not be permitted without ample justification. He stated advertising is inherently neither dangerous nor a nuisance and as such cannot be prohibited under the constitution, only regulated. He added that "arbitrary regulations which amount to a denial of the right to advertise cannot be imposed under the guise of the state's police power". **Tom Hopgood** admitted there was some tendency in the court cases to give some credence to aesthetic reasons for placing restrictions on the right to advertise. He added, however, he had found no case which upheld a statute which "goes as far as SB 415 would appear to go". He explained most of those cases dealt with enabling statutes and the enactment of local ordinances applying to very specific areas and stated many cases which absolutely refused to allow the government to interfere with property rights in the regulation of outdoor advertising also existed. He emphasized that SB 415 had substantial legal problems and would probably be vigorously and successfully challenged in court if adopted.

Greg Bryan, Montana Tourism Coalition, spoke in opposition to SB 415. He stated highway signs play an important role in directing visitors to available goods and services.

Informational Testimony:

Nick Roterling, Attorney, DOT, stated he was speaking neither for nor against SB 415 but had prepared an impact statement on the bill. (Exhibit #5). He read his informational testimony and said he was available to answer any technical questions on SB 415.

Questions From Committee Members and Responses:

SEN. HARP asked if SB 415 would create an eminent domain problem concerning signs. **Nick Roterling** replied yes. He added that several years ago, when there was federal funding available for the purchasing of outdoor advertising, the Highway Commission had designated certain counties in the state in which outdoor advertising was to be condemned and purchased. He noted that in most cases the state had been successful with its negotiations, but said DOT is currently in litigation procedures prompted by the condemnation of some of those signs. He stated that the biggest legal question is which method should be used in appraising the value of billboards.

SEN. HARP asked about the time spent and the legal expenses incurred by DOT as a result of eminent domain questions. **Nick Rotering** replied the time and cost varied. He said DOT had one eight year case involving four gas station signs in Gallatin county. He stated the primary issue of contention is the appraisal method; DOT supports appraising the signs' replacement costs, but the owner wants the signs' income value to be appraised.

SEN. SWYSGOOD cited "DOT may use available appropriated highway funds not to exceed \$300,000" from page eight of SB 415. He asked from which fund that money would be taken. **Marv Dye, Administrator, DOT**, replied he was not certain which specific funds were being referred to. He added, however, he thought the reference was to the federal matching funds "which are to be used for the purpose of carrying on DOT activities".

SEN. SWYSGOOD asked if highway construction programs would be jeopardized if the funds for highway construction were used. **Marv Dye** replied he was not certain and offered to provide that information at a later date.

SEN. SWYSGOOD noted SB 415 read "for the purpose of matching federal funds". He asked if federal funds were available for the condemnation of these signs. **Marv Dye** deferred to **Rich Monger, Sign Program, DOT**. **Rich Monger** replied some federal funding which could be used for the removal of "non-conforming signs" was currently available through the enhancement funds in the ISTEA program. He stated approximately 750 of the 3,200 outdoor advertising structures permitted in Montana would qualify for this use of federal funds.

SEN. SWYSGOOD noted that SB 415 represented a "total rewrite of the outdoor advertising statutes". He asked if \$300,000 would be enough to satisfy all the potential claims which could arise if SB 415 were approved. **Rich Monger** replied he had developed a fiscal note for SB 415. He said that the fiscal note was based on some assumptions, but added he had estimated that the total dollar figure of potential claims would exceed \$28 million.

Closing by Sponsor:

SEN. STANG said he knew from personal experience that good sign locations are difficult to find. He noted that the sign problem is particularly bad in the Missoula area, where in the last six months at least 15 signs between the Idaho border and Missoula and probably 10 between Albion and Missoula have been erected. He stated the current regulation is not working; these locations were vacant for years because of the strict regulation of the Highway Department. He stated DOT seems to have bent the rules for one company which has put up a great number of ugly signs in scenic locations. He noted that this company is not as careful as Myhre Advertising to ensure that the signs conform to the landscape. He stated the proponents of SB 415 are here because DOT has ignored their pleas for information about these signs and

this company. **SEN. STANG** admitted SB 415 probably would not pass. He added, however, the Committee should be aware of the fact that DOT does not appear to be doing its job in regulating billboards especially in regards to one particular company.

EXECUTIVE ACTION ON SENATE BILL 415

Motion/Vote: **SEN. HARP** moved TO TABLE SB 415. The MOTION CARRIED with **SEN. STANG** voting NO.

HEARING ON SENATE BILL 365

CHAIRMAN WEEDING informed the people present of the Senate's procedure for hearing bills and asked those planning to testify to avoid redundancy in their statements.

Opening Statement by Sponsor:

SEN. BROWN, Senate District 2, said DOT had requested SB 365 and referred to SB 365 as "a simple bill requiring motorcyclists of all ages to wear protective headgear". He explained he had no personal interest in this legislation but was sponsoring it because DOT had confronted him with the fact that Montana would lose \$4-6 million in highway construction money if SB 365 were not to pass.

SEN. BROWN said one of the provisions in the federal Intramodal Surface Transportation Efficiency Act (ISTEA) of 1991 mandates that all states require both seatbelts for all automobile users and protective headgear for all motorcycle riders by October 1, 1993. He said if a state fulfills both of these requirements, that state will receive more federal highway money. **SEN. BROWN** stated meeting these requirements would give Montana about \$200,000 additional highway dollars. He explained if a state fails to meet either or both of these requirements, a portion of the federal highway monies allocated to the state for highway construction would instead have to be used for highway safety programs. **SEN. BROWN** stated this portion is 1 1/2 percent of the state's total allocation in the first year and 3 percent in the second year after this provision of ISTEA goes into effect. He said in Montana's case those percentages would amount to \$1.5 million and \$3 million respectively. He noted that this potential loss of millions of dollars for highway construction was the primary reason to consider SB 365.

SEN. BROWN informed the Committee that a coalition of U.S. representatives and senators had attempted to repeal the penalty requirements contained in ISTEA in 1992. He stated those efforts were unsuccessful, and, as a result, the Committee needed to assume that these penalties would affect Montana this coming October.

Although the issue in Montana is primarily one of highway construction funding, **SEN. BROWN** stated the secondary issue addressed by SB 365 was safety. He noted the issue of safety was the reason for the federal requirement. He said he expected both proponents and opponents of SB 365 to cite statistics pertaining to the effectiveness of motorcycle helmets and to discuss some of the ramifications of requiring them. He took the opportunity to cite some DOT statistics for the periods before, after and during the period from 1972-1974 when Montana had an all-inclusive motorcycle helmet law which reflected a statistically significant decrease in deaths while the helmet law was in place.

SEN. BROWN addressed what he understood would be the primary argument presented against SB 365; the institution of a motorcycle helmet law would represent a violation of personal liberty. He stated he had initially found this argument convincing as it applied to legislating seatbelt use. He said he finally voted for the seatbelt measure in 1987 because a proponent of the measure confronted him with the statistical evidence that a certain number of people wear seatbelts just because it was the law and, as a result, fewer people would be killed if safety belts were legally required. **SEN. BROWN** informed the Committee that those statistics were borne out; ever since the enactment of the safety belt law significantly fewer people have died on Montana's highways annually. **SEN. BROWN** emphasized that free choice must be weighed against the fact that people would die because libertarian ideals were imposed upon them.

Based on the seatbelt law example, **SEN. BROWN** stated he believed such safety laws do make a difference. He also asserted there must be valid safety considerations weighing in favor of a motorcycle helmet law since 26 states do have a such a requirement.

SEN. BROWN said DOT estimated Montana has approximately 20,000 active cyclists which amounts to less than 3 percent of the total state population. He assured those present he would not argue that the personal rights and liberties of less than 3 percent of the population were less important than the rights and liberties of any other minority group. He stated, however, SB 365 was not an unprecedented measure and would not unjustly single out motorcyclists. He said the same people who object to making motorcycle helmets mandatory must abide by the safety belt law when they ride in their automobiles, have life jackets in boats when they go boating, and comply with the speed limit.

SEN. BROWN stated the important thing to consider was the millions of dollars Montana could use for highway construction programs benefitting everyone in the state, motorcyclists as well as automobile operators, which would be diverted to highway safety education if SB 365 did not pass. He stated the choice is the Legislature's. He expressed his belief that this provision in ISTEA did not amount to federal blackmail, since, no matter

what decision was made, Montana would not receive less money. According to **SEN. BROWN**, the ISTEA provision meant Montana could either spend the money for education or for construction. He reminded the Committee that federal restrictions and strings are attached to money that state government currently receives for many programs. He concluded "it is our choice, not blackmail and we have until October 1, 1993 to make up our minds".

Proponents' Testimony:

Marv Dye read from prepared testimony in support of SB 365 (Exhibit #6).

Jim Smith, Montana Head Injury Association, expressed his organization's strong support of SB 365. He noted the Association had provided DOT with much of the information and statistics that **Marv Dye** had used in his testimony. **Jim Smith** stated \$14 million in Medicaid funds were spent in 1992 on the care and treatment of people in Montana who had suffered a traumatic brain injury. He said the biggest single cause of that is automobile accidents, and added that motorcycle accidents "come in a close second". He commented that people have argued that the best way to cap health care expenditures is to have no helmet law because fatality instead of long-term care would be the result of most accidents. **Mr. Smith** stated the most recent study of any national scope contradicted that argument. He explained the U.S. General Accounting Office reviewed 46 other studies of motorcycle helmet laws in 1991 and concluded that "non-helmeted riders are more extensive users of medical services and long-term care and are more likely to lose earning capacity through disability".

Paulette Kohlman, Executive Director, Montana Council for Maternal and Child Health, said Montana needs a helmet law and the individual motorcycle riders perspective is not the only important voice in this matter. She stated she had been working to fund health prevention programs for Montanans and had just been informed that the state's budget did not have enough money to give health care to those people who really need it. She added that Montanans cannot afford to continue paying for health care which would be unnecessary if people would follow basic safety measures. She stated her organization includes pediatricians, family practitioners, obstetricians, and hospitals whose purpose is to ensure "that prevention is first and intervention is second". She stated while most prevention programs require funding, SB 365 is free. She added that millions of dollars in misery and state money could be saved if motorcycle riders would wear helmets and added the costs of providing health care to uninsured people is shifted to the insured patients and taxpayers. She noted that 140,000 Montanans have no health insurance which indicates that proportionally 12 percent of motorcycle riders do not have health insurance. She stated SB 365 would be beneficial for everyone and concluded that "wearing a helmet is plain common sense, not an imposition".

Albert Goke, Administrator, Highway Traffic Safety Division, Department of Justice (DOJ), stated the use and non-use of motorcycle helmets for those who choose to ride motorcycles on Montana's public roadways is a legitimate safety concern. He distributed and summarized a brief compilation of motorcycle accident information in Montana (Exhibit #7).

Jerome Loendorf, Montana Medical Association, said the statistics show that bareheaded motorcyclists face a greater risk of injury than those who wear helmets and that their accidents are going to require more attention, more equipment, more hospitalization, more insurance reimbursement and more injury. He said if bareheaded motorcyclists suffer serious disability they and their family will expect and have to be supported by the state. He stated everyone will pay for this in terms of increased health insurance premiums, more Medicaid and other welfare benefits. He said that the Montana constitution not only sets forth the inalienable rights of all residents, but also stipulates that everyone has corresponding obligations in exercising those rights. He cited the observation of traffic regulations as an example and classified a motorcycle helmet requirement as another reasonable traffic regulation. **Jerome Loendorf** stated SB 365 would result both in greater safety for motorcycle riders and in less cost for everyone else. He stated his Association believes SB 365 is a good bill regardless of the highway funding issue. He concluded that the passage of SB 365 would "result in Montanans not having obligations to pay for the foolishness of the few".

Steve Turkiewicz, President, Montana Highway Users Federation, expressed his organization's concern about the precariousness of funding for Montana's highways and roads and urged the Committee to support SB 365.

Drew Dawson, Chief of the Emergency Medical Services Bureau, Department of Health and Environmental Sciences, read from prepared testimony (Exhibit #8).

Glenna Wortman-Obie, Manager for Public Relations and Safety, AAA Montana, read from prepared testimony (Exhibit #9).

Hank Honeywell, Division Administrator, Federal Highway Administration, said he was charged with the monitoring and overseeing of the expenditure of federal aid funds for Montana as well as the administration of part of the fund transfer which the failure of SB 365 would effect. He urged the Committee to pass SB 365 and termed it a "win-win situation for the state". He explained Montana has a very large need for construction funds and noted that passage of SB 365 would maintain the construction funds in the state for the purpose that they were given. He stated Montana would be wise to pass SB 365 and gain additional funds rather than to face a transfer of needed construction funds to the 402 safety program.

Colonel Bob Griffith, Montana Highway Patrol, said his department's data shows that motorcycle accidents in Montana are safer with helmets than without. He stated the Highway Patrol's business is highway safety and urged the Committee to pass SB 365.

Opponents' Testimony:

Dal Smilie, Chair, Montana Motorcycle Safety Advisory Committee and Vice-Chair, American Motorcyclist Association (AMA), spoke from prepared testimony and included some proposed amendments to SB 365 (Exhibit #10). He also provided committee members with other articles in opposition to a helmet law (Exhibits #10a, #10b, #10c).

Jill Z. McGuire, American Bikers Aiming Toward Education (ABATE) read from prepared testimony in opposition to SB 365 (Exhibit #11).

Glenn M. Fengstad, State Coordinator, ABATE of Montana, read from prepared testimony (Exhibit #12).

Michel Hand read from prepared testimony (Exhibit #13) in opposition to SB 365. She referred to helmets she had brought with her to illustrate the points she made in her testimony.

Linda Ellison, Montana Trail Vehicle Riders Association (MTVRA), spoke from prepared testimony in opposition to SB 365 (Exhibit #14). She noted SB 365 would affect more individuals than most people would assume and illustrated that point by mentioning examples from each committee member's constituency.

Doug Abelin, President, Capitol Trail Vehicle Riders Association (CTVRA), spoke in opposition to SB 365. He stated the members of his organization advocate the use of helmets but believe each individual should be allowed to make their own choice.

Charles Martin said he was a volunteer firefighter and a first responder to medical emergencies. He stated motorcycle helmets can endanger a motorcycle rider in a wreck, and added helmets can have a "hangman's noose" effect, separating the skull from the spinal cord. He said that first responders need to be able to establish an airway for injured patients, and noted that establishing an airway is a difficult task if the patient is wearing a helmet. He stated the training available to teach medical responders how to remove motorcycle helmets is "totally inadequate", and noted it was necessary to fund better training. He asked part of the safety funds which Montana would receive upon the failure of SB 365 could be allocated to such a training program.

George Ochenski rejected the argument comparing safety belts to motorcycle helmets. He stated motorcycle helmets are designed to cut down road noise and, as a result, diminish the ability of motorcycle riders to see, hear, react to traffic or other

elements of their surroundings and thereby avoid accidents. He noted anybody who has ridden a motorcycle is aware that cars do not always stop at red lights and motorcyclists have to "keep their eyes and ears open and try to avoid the accident". He stated helmets reduce motorcycle riders' abilities to avoid wrecks.

Lee Bridges, Medical Trainer for First Responder Course, East Missoula Volunteer Fire Department, said head injuries are not the only cause of fatalities in motorcycle accidents and added that by limiting access and care of the injuries, helmets can also cause the death of patients. She stated helmets can result in the inability of first responders to establish an airway. She informed the Committee that as an instructor she is not authorized to train volunteers in helmet removal on the first responder level. She stated she was bareheaded and covered by insurance at the time she was seriously injured in a motorcycle accident. She noted she had lived and walked away from that experience, but added that, given the nature of her accident, a helmet would probably "snapped her neck" and made her one of the statistics mentioned by the proponents of SB 365. She stated those proponents of SB 365 were "using construction costs against individual freedoms" and added "she hoped that individual freedom was worth a lot more than that".

Terry Roubideaux stated she believed that adult motorcyclists were mature enough to make logical decisions affecting their safety. She noted that the motorcycle safety program, which motorcyclists started, was an example of this maturity. She said motorcyclists do care about safety and minimizing the risk of motorcycling, and added helmets do not prevent accidents. She stated if accident injuries, insurance rates and medical costs are to be reduced, it would be accomplished through education not helmet legislation. She noted that if the medical profession and the insurance industry were truly concerned with the safety of motorcycle riders, there would be mention and support for motorcycle safety education and training. She concluded the responsibility for the nation's health care crisis does not belong to American motorcyclists.

Kelly Kenyon, Great Falls ABATE, submitted written testimony in opposition to SB 365 (Exhibit #15).

Tim Lindeborg submitted written testimony in opposition to SB 365 (Exhibit #16).

Nancy Pfaff submitted written testimony in opposition to SB 365 (Exhibit #17).

Palmer Hardeland expressed his opposition to SB 365.

Todd Westlie, ABATE, submitted written testimony in opposition to SB 365 (Exhibit #18) and stated "those who would trade freedom for security deserve neither".

Matt Hutcheson submitted written testimony opposing SB 365 (Exhibit #19).

Dave Daughtry expressed his opposition to SB 365.

J.A. Wilberscheid expressed his opposition to SB 365.

Crazy Fullmoon Eagle expressed his opposition to SB 365.

Bill McGuire submitted written testimony in opposition to SB 365 (Exhibit #20).

Leeanna Spath, ABATE, expressed her opposition to SB 365.

Phyllis Eckersley, ABATE, expressed her opposition to SB 365.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. KOEHNKE asked **Lee Bridges** if, as an instructor of first responders, she would teach motorcycle riders not to wear helmets. **Lee Bridges** replied that she advocated freedom of choice. She said she would choose to ride without a helmet because she liked to be aware of all of her surroundings when riding a motorcycle.

SEN. KOEHNKE asked **Lee Bridges** if she would advocate not wearing a motorcycle helmet for safety reasons. **Lee Bridges** responded she did not care to influence people in either direction. She added she would like to present people with both sides of the issue and let them choose for themselves.

SEN. STANG asked **Al Goke** if he thought that the effective date in SB 365 needed to be changed to September 30, 1993 as **Dal Smilie** had argued. **Al Goke** responded yes; in order for Montana to comply with the provisions of ISTEA, the effective date would need to be changed.

SEN. STANG asked **Al Goke** if Attorney General Joe Mazurek favored or opposed SB 365. **Al Goke** said he had not "secured" any opinion from Attorney General Mazurek.

SEN. STANG stated that programs for motorcycle safety training had applied to the Highway Traffic Safety Division for safety funds and had been denied. He asked **Al Goke** why those funds had been denied and asked if those programs could qualify for any safety funds. **Al Goke** replied those requests were denied because it was thought that Montana had greater needs in some other area. He explained he prepares a three-year plan for safety expenditures which is reviewed by the governor and other department heads. He noted that some of the subjects and programs dealing with motorcycle safety would qualify to receive safety money if there was enough to go around.

SEN. STANG asked which areas were deemed more important and if the additional safety money Montana might receive could be used for those other "more important" areas. **Al Goke** said emergency medical care, police traffic services, traffic engineering services were areas which had received safety funds. He stated that clearly that money which would be transferred if SB 365 were not to pass would "be spent as Montana chose to spend it".

Closing by Sponsor:

SEN. BROWN indicated he would agree to amending SB 365 to make failure to wear a motorcycle helmet a secondary offense and added SB 365's effective date needed to be changed. He said that some of the opponents had admitted they wear motorcycle helmets and believe they are safe which seemed to contradict the evidence presented by others which questioned the safety of helmets. He stated national statistics seem to bear out that helmets were safe. He added that no opponent had disputed the fact helmets reduce head injuries by 300 percent and that 62 percent of the cost of those head injuries are borne by the general public. According to **SEN. BROWN**, society does pay a price for what opponents to SB 365 have called "personal freedom". He reminded the Committee that the same people who object to this intrusion on their personal freedom were subject to wearing a safety belt, abiding by the speed limit, and stopping at stop signs whenever they operate an automobile. He stated the passage of the motorcycle helmet law depends on whether the Committee deems it an "additional reasonable restriction which should be imposed". **SEN. BROWN** questioned the appropriateness of the term "federal blackmail" in reference to SB 365. He stated the federal government is not withholding money, but attaching restrictions which are comparable to those attached to many federal programs in which Montana participates. He said if Montana chooses to enact a motorcycle helmet law, those federal dollars could be spent on highway construction while simultaneously reducing head injuries and medical costs.

ADJOURNMENT

Adjournment: 3:05 p.m.


SENATOR CECIL WEEDING, Chair


BETH E. SATRE, Secretary

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION DATE February 18, 1993

[illegible]

Date: February 18, 1993

SENATE HIGHWAYS

EXHIBIT NO. 1

DATE Feb 18, 1993

BILL NO. SB 416

Senate Bill 416

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR
ADMINISTRATION DIVISION
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT REQUIRING TAX PAYMENTS TO THE DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF \$200,000 OR GREATER TO BE MADE BY ELECTRONIC FUNDS TRANSFER".

This bill requires taxpayers to electronically transmit payments of \$200,000 or greater to the Montana Department of Transportation to expedite deposits.

The Montana Department of Transportation appears before this committee to offer our support for Senate Bill 416.

As a result of the creation of the Montana Department of Transportation, some of the components of the Motor Fuels Tax Division of the Montana Department of Revenue did not transfer to the Montana Department of Transportation. The ability to require payments of \$500,000 or more to be transmitted electronically was one of these components. Due to post office, banking, and mail room procedures, some payments take up to 14 days before they are realized by the state. Electronic transfers guarantee deposits that same day, resulting in up to two weeks of earned interest otherwise lost in delivery. Senate Bill 416 would allow the Department of Transportation to require electronic transfers on payments of \$200,000 or more.

The Montana Department of Transportation urges this committee to give this proposal a pass recommendation.



ELMER
AND
MARGIE
FRAME
(YOUR
HOSTS)
549-0881

El-Mar KOA

Franchisee of Kampgrounds of America, Inc.

Jerry Covault
521 Hartman
Missoula, MT

1/18/93

PHONE (406) 549-0881
3695 TINA AVENUE
MISSOULA MONTANA 59802

Dear Jerry

SENATE HIGHWAYS

I couldn't agree with you more. One of my pet peeves is the proliferation of billboards, especially in Montana where we have so much open space where they can be seen so far.

EXHIBIT NO. 2

DATE February 18, 1993

When you get the bill number give me a call or if you have it now send me a copy.

BILL NO. SB 415

I worked 5 years to get LOGO sign legislation passed, only to have it delayed 2 years by a sign company in Helena. We do have the directional signs up now. A 2 x 3 sign along the highway shoulder serves the traveler better than our 10 x 30 billboard did. The big board cost us \$400 per month and we only used it about 6 months yet we paid for 12 months. Businesses are forced to put up bigger and bigger signs to compete with other signs and the only benefactor is the sign company.

I could go on and on about highway signs. We have a daughter living in Vermont, another rural state, where billboards have been eliminated yet people do find where they want to go. My dream is to completely eliminate billboards in Montana. I would call it my goal but I know it will never happen and I like to meet my goals. Dreaming is safer.

I liked your letter Jerry. How did you get so much space in the paper?

Elmer

Elmer Frame
3695 Tina Ave
Missoula, MT 59802

SENATE HIGHWAYS

BIT NO.

2a

February 18, 1993

BILL NO.

SB

415

PO Box 45, Coram

Ugly sig is are tempting targets

I find it difficult to sympathize with the businesses that have lost billboards to the "monkey wrench gang" operating in the Flathead Valley. Over the past few years, I have noticed a proliferation of billboards on our scenic highways.

The drive to Glacier National Park has been detrimentally affected by signs touting the Big Sky Water Slide, Big Mountain, the Maze, Great Bear Adventure, House of Mystery, North American Wildlife Museum, live zoos, go-carts, miniature golf, motels, rafting companies, the Marlboro Man ... the list continues to grow.

Obviously, state and local agencies are not interested in regulating this mess. Perhaps private citizens could provide an alternative. A fund-raising drive aimed at citizens with similar concerns could compensate landowners adjacent to scenic highways for not allowing or renewing billboards on their property. Eventually, billboards would be located only on the site where the business operates.

We need some creative, legal solutions to this problem. Highway 2 need not look like the business loop to Anywhere, USA.

— Jan B. Metzmaker,
915 Dakota, Whitefish

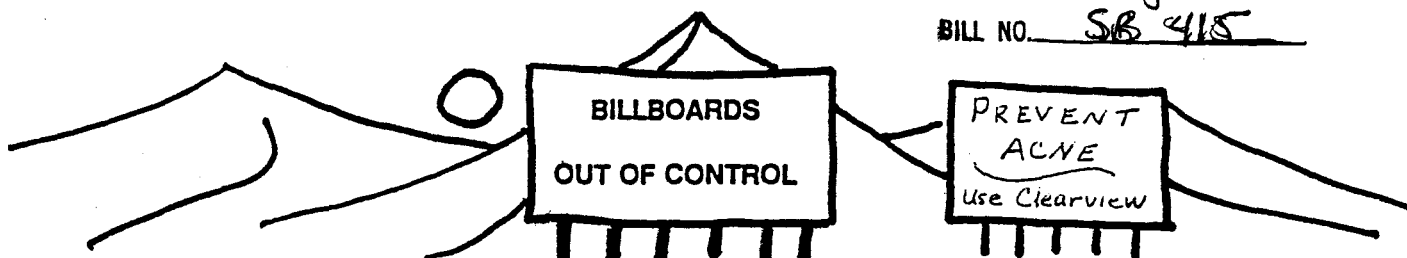
CND played hand...

SENATE HIGHWAYS

EXHIBIT NO. 26

DATE February 18, 1993

BILL NO. SB 415



Billboards along Montana highways are increasing rapidly over the past several months. This trend may be associated with increasing importance of tourism in our economy.

These billboards have passed the threshold of serving the highway users with information and now, because of their numbers are:

- 1) Eroding Montana's scenic beauty, a basic resource in the State's economy and an important reason why many of us live here.
- 2) No longer informing travelers, simply because of their numbers. When a traveler has seen half-a-dozen (or dozens, as the case may be) signs for different places or products, it is unlikely the traveler remembers any of them or how to get to them.
- 3) A safety hazard because they divert the attention of drivers, and probably makes them mad!

Too many billboards are giving Montana a tacky image. The obvious message is "Montanans don't care enough about the scenic beauty of the landscapes to protect them and present a good image of the State". Why should a tourist think that Montana facilities, or services, or people are better than the impressions presented from our highways?

There are alternatives to billboards for efficient tasteful distribution of information to highway users:

The blue information signs used by Highway Departments with the logos of businesses accessible at that exit are being used in Montana and other states to inform the traveling public in a useful and tasteful way.

Oregon and many other states have gained control of "billboard blight" and to drive the highways and byways of those states is significantly more pleasurable than here in Montana. And the Highway traveler has all the information necessary to make decisions.

The Montana legislature will consider a "Montana Motorist Information Act of 1993" that will regulate billboards in Montana. This Act is patterned after the Oregon act that has been in effect for 20 years and has been very successful.

This issue is timely because the "Intermodal Surface Transportation Efficiency Act" (ISTEA) signed by the President in December 1991 allows Federal funds for use in controlling billboards.

If you are willing to go to the Legislature and testify in favor of limiting billboards along Montana's Highways and By-ways please contact your legislator and stay informed as to when testimony will be given, develop your network of those who are interested in the issue and go tell the committee what you think.

OPINION/LETTERS

SCENERY POLLUTION

Proliferation of billboards is a bad sign for Montana

By JERRY COVAULT

Billboards along Montana highways have increased in number rapidly over the past several months. This trend may be associated with increasing importance of tourism in our economy, or it may be related to a 1991 federal law that will allow money to take down billboards along interstates and highways. Whatever the reason the number of billboards are increasing — dramatically.

These billboards have passed the threshold of serving the highway users with information and now, because of their numbers are:

- Eroding Montana's scenic beauty, a basic resource in the state's economy and an important reason why many of us live here.

- No longer informing travelers, simply because of their numbers. When a traveler has seen half-a-dozen (or dozens, as the case may be) signs for different places or products, it is unlikely the traveler remembers any of them or how to get to them.

- A safety hazard because they divert the attention of drivers (and probably makes them mad).

Too many billboards are giving Montana a tacky image. The obvious message is Montanans don't care enough about the scenic beauty of the landscapes to protect them and present a good image of the state. Why should a tourist think that Montana facilities, or services, or people are better than the impressions presented from our highways?

There are alternatives to billboards for efficient, tasteful distribution of information to highway users: The blue information signs used by highway departments with the logos of businesses accessible at that exit are being used in Montana and other states to inform the traveling public in a useful and tasteful way.

Oregon and many other states have gained control of billboard blight, and to drive the highways and byways of those states is significantly more pleasurable than here in Montana. And the highway traveler has all the information necessary to make decisions.



Artwork by D. B. Johnson. Copyright © 1992, D. B. Johnson.
Distributed by Los Angeles Times Syndicate.

There is a Montana law on the books now that addresses outdoor advertising, but, obviously, it isn't working and needs to be amended if we value the appearance of our state as seen from our highways.

The Montana Legislature this session will consider an amendment providing stronger regulation of billboards. This amendment is patterned after the Oregon act that has been in effect for 20 years. The Oregon law says simply, "a person may not erect or maintain an outdoor advertising or directional sign visible to the traveling public from a state highway, except where permitted..." It then goes on to outline the few exceptions permitted and how permits are allowed and administered. The act provides for the purchase and removal of certain signs and prohibits the maintenance of existing signs.

This issue is timely because the "Intermodal Surface Transportation Efficiency Act" (ISTEA) signed by the president in December 1991 allows federal funds for use in controlling billboards.

Now is an effective time to contact your state legislators and

let them know this is an important issue and how you feel about it.

If you really want to have an influence in limiting billboards along Montana's highways and byways, plan to go to the Legislature and testify in favor of a law to do that. Contact your legislator and stay informed as to when testimony will be given, develop your network of those who are interested in the issue and go tell the committee what you think.

The companies that are putting up the billboards are certainly going to be doing this and a lot more to prevent any controls. Without controls it is all too evident what our highways will look like.

The next time you are driving on an Oregon highway or byway and enjoying the scenery, think about a similar experience in Montana and what we are losing. Our scenery is better; we are losing more.

Jerry Covault lives in Missoula.

Whenever citizens seek to protect their community's character and improve its appearance, they are opposed by the billboard, alcohol, and tobacco industries. Below are some of the major industry-created billboard myths, and facts you can use to debunk these false claims.

MYTH: Only a small group of vocal critics favors billboard control.

FACT: The American public has long favored control of billboards. Hawaii banned them in 1927, Alaska in 1958, Vermont in 1968, and Maine in 1984. Over 1,000 cities and counties have passed billboard bans or restrictions. These ordinances reflect the will of the people, as do the results of at least five recent voter referenda and numerous independent surveys and public opinion polls.

Since 1985, over 200 U.S. newspapers have called for tougher controls on billboards. Nationally, over 100 business, professional, and conservation organizations have joined Secretary of Transportation Elizabeth Dole, the U.S. General Accounting Office, and numerous elected officials in advocating billboard controls. These groups have over six million members nationwide and include such diverse organizations as the National Wildlife Federation, the American Institute of Architects, the National League of Cities, and the American Lung Association.

MYTH: Billboard controls violate the U.S. Constitution.

FACT: Federal and state courts have long held that government has a right to control billboards to protect the public safety and welfare. In the case of *Metromedia v. San Diego*, 453 U.S. 490 (1981), the U.S. Supreme Court ruled that a community may constitutionally ban all commercial billboards if it so desires. Three years later in *City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984), the Supreme Court upheld the aesthetic interest in community appearance as a legitimate basis for billboard regulation.

These decisions reinforce the clear trend in the majority of recent state court decisions, which have upheld land-use regulations based on aesthetic considerations. Moreover, virtually all state courts are likely to uphold regulations based on the aesthetic interest in community appearance when linked with such non-aesthetic public purposes as traffic safety, protection of property values, or tourism.

SENATE HIGHWAYS

36

EXHIBIT NO. 3

DATE Feb. 18, 1993

BILL NO. SB 45

MYTH: Motorists need billboards to find gas, food, and lodging.

FACT: Over 85 percent of all billboards advertise products and services that have nothing to do with roadside information. Statistics supplied by *Advertising Age* magazine indicate that tobacco companies are the leading advertisers on billboards.

What's more, alternatives to billboards can provide directional information without destroying our scenery. For example, standard motorist-information signs, such as those found in Virginia, Maine, and New York, charge far less than billboards, thereby helping small businesses while at the same time preserving our scenic heritage.

MYTH: Billboard control hurts businesses, particularly tourism.

FACT: In Houston, Philadelphia, Miami, and Mobile, the business community is leading the fight against blight. In Houston, the U.S. city with the most billboards, the Chamber of Commerce has made cleaning up billboard pollution a top priority. In Lancaster County, Pennsylvania, the tourist bureau is leading an effort to clean up billboards.

Evidence suggests that property values, tourism, and aggregate consumption of goods and services go up, not down, when billboards are controlled. Strict sign controls have been successfully combined with rapidly growing, healthy economies in Montgomery County, Maryland; Fairfax County, Virginia; Boulder, Colorado; Raleigh, North Carolina; and Marin County, California.

MYTH: The 5th Amendment to the U.S. Constitution requires that companies be paid cash to relocate nonconforming billboards.

FACT: Cash payments for billboard removal are wasteful, unfair, and not constitutionally necessary. The cash-payment requirement of the 1965 Highway Beautification Act has been used to defeat the purposes of the law. The cash-payment requirement has also stymied state and local efforts to remove nonconforming billboards. In fiscal year 1985, states acquired only 623 billboards out of 124,000 eligible for removal. According to the General Accounting Office, "Accomplishing the goals of the Highway Beautification Act will require either additional federal funding or a change in the compensation requirement of the Act."

The 5th Amendment requires "just compensation" whenever private property is taken for a public use. However, the courts have long held that billboard regulation is not the taking of private

37



SENATE HIGHWAYS
BILL NO. 4
DATE February 18, 1993
BILL NO. SB 415

FACTS

SENATE BILL 415 ELIMINATES THE OPPORTUNITY FOR LOCAL BUSINESSES TO PURCHASE AN AFFORDABLE ADVERTISING MEDIUM TO REACH THE TRAVELLING PUBLIC

A STUDY BY THE U.S. TRAVEL DATA CENTER FOUND THAT 93% OF ALL TRAVELERS IN 1991 AGREED THAT BILLBOARDS ARE IMPORTANT WHEN LOOKING FOR TOURIST ATTRACTIONS AND SERVICES

OVER 1000 CLIENT UTILIZE OUTDOOR ADVERTISING EVERY YEAR IN MONTANA

THE MONTANA MOTORIST INFORMATION SIGNS (LOGO SIGNS) DO NOT SUBSTITUTE THE USE OF BILLBOARDS. THE LOGO SIGNS ARE LIMITED IN SIZE, NUMBER OF QUALIFIED BUSINESSES AND MERELY ALERT MOTORISTS THAT TOURISTS FACILITIES SUCH AS GAS, FOOD, LODGING AND CAMPING ARE LOCATED OFF AN EXIT RAMP. ALSO, MANY LOCAL BUSINESSES ARE NOT NATIONALLY RECOGNIZED AND THUS MUST COMPETE MORE AGGRESSIVELY WITH NATIONALLY IDENTIFIED COMPANIES

THE OUTDOOR ADVERTISING INDUSTRY CONTRIBUTES THOUSANDS OF DOLLARS EVERY YEAR TO LOCAL AND NATIONAL NON PROFIT ORGANIZATIONS FOR COMMUNITY SERVICE ANNOUNCEMENTS

THE OUTDOOR ADVERTISING INDUSTRY DIRECTLY AND INDIRECTLY EMPLOYS 150 PEOPLE IN THE STATE OF MONTANA

MYHRE ADVERTISING

70 S PARK • P.O. BOX 151, HELENA MT 59624 • 406/442-0387

4225 2ND AVE N. • P.O. BOX 1067 • GREAT FALLS, MT 59403 • 406/453-6591

315 E MAIN • BILLINGS, MT 59105 • 406/252-7181



I would like to state my opposition to Senate Bill 415 to amend and repeal sections of Montana's existing outdoor advertising law. With due respect for the bills desire to protect Montana's scenic beauty and maintain the state's appeal to tourists, this bill unjustly imposes drastic restrictions and eventual prohibition on a viable, effective and responsible industry in Montana.

I would like to begin by reminding all of us of the purposes of the 1965 Highway Beautification Act. This Act was intended to preserve the beauty of federal aid highways in scenic and rural areas and to prevent the undue proliferation of outdoor advertising in commercial and industrial areas. The Act established guildlines for zoning requirements, spacing and size limitations and using those clearly defined objectives as the guidelines, it is apparent that the HBA has worked, is working, and if given the opportunity will continue to work in the future.

Senate Bill 415 states that outdoor advertising is an "ineffective method of providing information to tourists about available facilities." Yet, 85 % of our clients are local Montana businesses who choose to purchase and integrate outdoor advertising into their marketing plan. Moreover, many of these clients find that outdoor is the most cost effective and advantageous way to reach the traveling motorist.

This bill also falsely states that outdoor advertising is hazardous to highway users. Yet, there is no conclusive empirical research demonstrating that a relationship between traffic safety and billboards exists.

MYHRE ADVERTISING

70 S PARK • P.O. BOX 151, HELENA MT 59624 • 406/442-0387
4225 2ND AVE. N. • P.O. BOX 1067 • GREAT FALLS, MT 59403 • 406/453-6591
315 E. MAIN • BILLINGS, MT 59105 • 406/252-7181

The primary objective of this bill is to prohibit the indiscriminate use of outdoor advertising; however, I would like to impress upon you that Billboards, provide a primary information link to highway travelers by disseminating important messages about places to stay, eat, shop and other vital services. Billboards are signs of economic vitality. Besides providing evidence that businesses are strong and marketing themselves, the economic impact of the sign industry in regards to jobs, taxes and contributions is substantial. Hundreds of jobs are provided by this industry. In addition, companies like Myhre Advertising donate thousands of dollars every year to local non profit organizations like United Way, Girl Scouts, YMCA and the Montana Cowbells. Furthermore, we work with State agencies like the Transportation department; Fish, Wildlife, & Parks and the Commerce Department to promote campaigns for boating and snowmobile safety, seat belts, Invite a Friend and Drive Safe on Icy Roads.

The Outdoor Advertising Industry is a traditional advertising medium with a long history. We are a controlled medium subject to extensive regulation at the local, state and federal levels. Today, as a result of the myriad of regulations, there are relatively few sites available for the construction of new billboards. As an industry we see our potential not to net new structures but in the improvement of our current inventory through new technologies, new clients and maintenance.

As part of being a responsible industry, I believe that we must constantly review our operations, look for ways of improvement, and maintain our structures so that our medium enhances the local aesthetics and exemplifies a thriving local economy.

In concluding, I would like to recognize the fiscal note of this bill as substantial. Senate Bill 415 establishes measures to compensate sign owners for the removal or take down of their structures. However, this figure of \$300,000 is unrealistic.

Instead the state would be forced to pay millions of dollars in compensation to owners of off-premise signs, on-premise signs and lessors for their loss of potential revenue.

I urge you to oppose Senate Bill 415 by considering the detrimental effects on local businesses, the sign industry as well as the State of Montana.

MONTANA DEPARTMENT OF TRANSPORTATION
Helena, Montana 59620-1001

SENATE HIGHWAYS

MEMORANDUM

EXHIBIT NO. 5

DATE February 18, 1993

BILL NO. SB 415

TO: Senate Highways and Transportation Committee

FROM: Nick A. Roterling, Attorney
Legal Services

Nick A. Roterling

DATE: February 18, 1993

SUBJECT: IMPACT STATEMENT - SB 415

An act prohibiting the indiscriminate use of outdoor advertising along highways of Montana, providing for certain exemptions, compensation of owners of prohibited signs, repeal of the existing Outdoor Advertising Act and providing for an immediate effective date.

This act is a sweeping change from the existing Montana Outdoor Advertising Act. The Department takes no official position on the bill, but would like to point out several technical legal problems with the bill that could create enforcement difficulties for the Department of Transportation.

Section 3. The definitions used in Section 3 are not sufficient to give clear guidance of what is a "permitted sign." Also in (1), the use of the term "highway or other public right-of-way" has a very expansive meaning and goes beyond the existing outdoor advertising control for Interstates and primary highways. There is no definition of the term "permitted sign" which is used in Section 7 of the bill. If it means existing permitted signs under the present law, this is going to be repealed and the Department would have no authority to continue permitting or controlling those signs if sufficient funding to buy them isn't available. In (4) it indicates that a sign is "any advertising device that is visible from any highway or other right-of-way." That too is a very expansive term and could mean city streets, railroad right-of-ways, etc.

Section 7. The term "permitted sign" is used and yet the authority to control permitted signs is being repealed. If, in fact, the Department does not receive adequate funding to remove signs, is it still the intention that we control them by permits?

Section 8, part (3) allows the Highway Commission to adopt rules for awarding compensation for illegal signs and indicates that federal regulations for compensation would be employed as guidelines. However, that section would have to yield to Article II, Section 29 of the Montana Constitution which states that where

there is a taking of private property, the owner must be paid "just compensation" as required under eminent domain statutes. Further, the federal act, 23 U.S.C. § 131(g) also requires "just compensation" for the removal of outdoor advertising.

Further, even the removal of supposed illegal signs placed in the future can be viewed as a taking of private property which requires minimal due process protections. The present law allows contested case provisions under the Montana Administrative Procedures Act, which are not preserved in this bill.

Section 11. In (2), it indicates that Section 11 does not apply to any sign that is required to be removed by virtue of the Highway Beautification Act of 1965. Yet this does not necessarily comport to the other provisions of the bill and is confusing.

The Department is not granted any right of entry to inspect illegal signs on existing landowner's property in this act which is presently available. This bill does not provide adequate rulemaking authority for the Department to either enforce the act or provide contested case due process provisions.

The repealing of the existing Outdoor Advertising Act, specifically sections 75-15-104 and 75-15-105, MCA, could abrogate the federal-state agreement that was entered into in 1972. This repeal could create further problems because that agreement is still valid at this time. The Department has not had sufficient time to discuss the impacts of this proposed legislation with representatives of the Federal Highway Administration of the U.S. Department of Transportation.

NAR:jw

SB 365, Motorcycle Helmet
Requirement

Testimony of Transportation Director Marv Dye
Senate Highways and Transportation Committee
February 18, 1993

- I'm here to comment on two aspects of this bill and to give you two perspectives. First, as the Director of Transportation, I'd like to give you an idea of the cost to the state transportation program if this bill isn't passed. And second, I'd like to describe to you, based on personal experience, the costs to our society of not requiring helmets for motorcyclists.
- The most current estimate is that roughly \$7.3 million will be lost in three of the state's core construction programs if the required legislation is not on Montana's books by October of this year. That's a lot of money by any standard.

Let me give you some examples of what we won't be able to do if that money is lost. These are just examples and the final decision rests with the Montana Highway Commission. But maybe I can give you an idea of what the effect would be.

In fiscal year '95, the amount is about \$1.46 million. The department is designing projects now for construction in '95. For roughly that amount we intend to build:

- two or three brand new rest areas on our primary highways, *or*
 - the Libby-Northeast project, paving 9 miles of Montana Highway 37, a road that's worn out and hasn't had attention in 25 years, *or*
 - a project reconstructing a troublesome mile and a half section of Montana 200 in the town of Sidney, *or*
 - a project to install guardrail and pave a seven mile section of Montana 59 north of Cohagen, a road that was built 60 years ago and has to be pieced back together every spring so that traffic can continue to move on it. For \$1.46 million, we can complete that project and make a good start on the next project, Rock Springs North.
- In each of fiscal years '96 and '97, the amount is doubled to \$2.9 million, or \$5.8 million total. Again, these are just examples, but maybe I can give you an idea of what the effect would be. With the funding that potentially will be lost in '96, we could build:
 - the White Sulphur Springs-North project on US 89, about 10 miles of repaving, *or* the Wise River-West project on Montana 41, 14 miles of repaving, *or*
 - four or five of the new rest areas planned to be built that year.

- In '97, the impact is similar. Some examples of projects planned for that year that might be lost due to the lost funding:
 - with the \$2.9 million in question and state match of about \$400,000, in '97 we'd build the Eureka-North project on US 93, 6.5 miles of complete reconstruction of Highway 93 north to the Canadian line.
 - in more general terms, that annual amount would pave about 40 miles of two lane road or completely rebuild a 11 or 12 mile section of outdated, worn out highway.

Some argue the funding isn't lost to Montana, since it would be transferred to Highway Traffic Safety education programs. But that suggests the need to try to persuade motorcyclists who don't wear a helmet on the highway is greater than the need to maintain and improve the roads all of us, including motorcyclists, use.

With about 21,000 registered motorcycles and 30 percent of riders not using helmets for highway driving, the education cost "per head" is about \$1100. We could teach them calculus for that.

Another way to look at that statistic is that 70 percent of riders are wearing helmets. Obviously, many riders believe helmet use makes sense.

There are about 600,000 licensed drivers in this state. I submit that money is better spent improving our roads for those drivers and countless visitors to Montana, rather than focusing attention on the few who resist wearing a helmet.

In fact, passing this bill is a win-win situation. Getting legislation on the books in a timely way qualifies Montana for a traffic safety program grant to educate, train, monitor and enforce the use of seat belts and helmets. So highway traffic safety programs still stand to benefit if Montana *passes* this legislation.

The other part of this legislation I'd like to talk about is something you don't realize until you're directly affected.

In 1981, my son was involved in a serious motor vehicle accident. He suffered a head injury, and for the next 4 months, I sat with him at Columbus Hospital in Great Falls. And I watched with the families and loved ones of many, many other young adults.

I saw countless victims of head injuries go through that hospital. Many of them were the victims of motorcycle accidents. And I had ample time to reflect on what those terrible injuries mean for those whose loved ones are victims.

One of the most troublesome parts of that for me was watching other families have to make a decision on whether or not to turn off life support. Or make a decision on whether they can take care of a loved one at home or have them institutionalized.

A unique aspect of head injuries is that you don't know—can't know—what to expect. With a broken bone, no matter how severe, they can tell you what the probability of recovery is. With head injury, the victim is often in a coma, and the best they can tell you is that progress comes day by day. You just wait.

It's wrong to suggest the issue is one of individual choice or individual preference. To a large degree, the pain and suffering is that of the family and loved ones—not just the victim of the injury.

I truly believe many of those who choose to exercise what they see as their right to not wear a helmet would make a different decision if they could only see the impact on those who suffer at the loss or debilitation of a loved one.

This legislation is based on a simple premise—that helmets save lives and to a large degree prevent serious head injuries.

The statistics we have in Montana in this area aren't very helpful—I'm told only a handful of states track these accidents in sufficient detail. What we do know is that last year in Montana, there were 12 fatal accidents involving motorcycles and 375 injury accidents. Of those 375 injury accidents, 38 percent resulted in incapacitating injuries. That translates to over 140 incidents—last year alone—of a horrible situation none of us can imagine unless we become personally involved.

Useful statistics *are* available from Colorado. Their Department of Health coordinated with the DOT to track accidents and accident factors. One of the most telling is their conclusion helmet use reduces the chance of head injury 300 percent.

If you add alcohol to the equation, that helmetless rider is 9 times as likely to experience head injury as a sober, helmeted rider.

Nearly 80 percent of motorcyclists admitted to hospital for head injuries were not wearing helmets.

So the notion helmets are part of the problem in head injury cases is myth, pure and simple.

Nebraska passed a law similar to this one and saw a 32 percent reduction in motorcycle-related fatalities in the first year.

And of course the cost to society in strictly dollar terms is staggering. Maryland found in a study conducted last year the cost of hospital acute care alone was \$31,000 per incident higher for those not wearing helmets.

A study reported in the Journal of the American Medical Association found 63 percent of the costs of care were paid for with public funds. Medicaid picked up the tab for *more than half*.

So the cost of freedom is very high. And we all pay it.

I sympathize with the idea the feds shouldn't be telling us what to do. But that kind of dictating is nothing new and in most cases you have to conclude it's for our own good. Whether it be environmental law, land use, occupational safety or any of a number of areas, we've found it makes sense to dictate certain requirements to individuals to protect the public good.

We resisted mandatory seat belt laws, but we've proven now it's a positive program. It's a success.

It's not right that one group, motorcyclists in this case, should single out preserving what they see as their right when that right comes at the expense of many, many others.

6
2/18/93
SB 365

One last point. This measure ought to be treated as a secondary offense, as the seat belt law is. In that way, the law-abiding individual maintains some freedom, while those who are cited for safety or traffic violations or the like bear some responsibility for their actions.

Our interpretation is that the law allows it, but proposed federal rules don't. That's something I'm pursuing with Senator Baucus' staff and intend to pursue with this legislature.

Although motorcyclists in accidents comprise a small percentage of all persons involved in accidents, these persons are at much greater risk when involved in an accident. A larger percentage of motorcycle than other motor vehicle passengers result in fatalities or serious injuries. Table 1 shows the number of motorcycle accidents and their fatal and injury results over the last 23 years.

SENATE HIGHWAYS

EXHIBIT NO. 7

DATE February 18, 1993

BILL NO. SB 365

Table 1
MOTORCYCLE FATAL AND INJURY ACCIDENTS

| <u>Year</u> | <u>Accidents</u> | <u>Percent of Total</u> | <u>Fatal Acci- dents</u> | <u>Percent of Total</u> | <u>Injury Acci- dents</u> | <u>Percent of Total</u> |
|-------------|------------------|---------------------------------|----------------------------------|---------------------------------|-----------------------------------|---------------------------------|
| 1970 | 291 | 1.9% | 9 | 3.6% | 251 | 5.5% |
| 1971 | 454 | 2.5% | 17 | 6.2% | 393 | 6.6% |
| 1972 | 471 | 2.9% | 24 | 7.7% | 424 | 7.3% |
| 1973 | 486 | 3.1% | 9 | 3.3% | 441 | 7.8% |
| 1974 | 471 | 3.0% | 11 | 4.5% | 419 | 7.6% |
| 1975 | 430 | 2.3% | 15 | 6.0% | 384 | 6.4% |
| 1976 | 404 | 2.0% | 19 | 7.6% | 352 | 5.7% |
| 1977 | 458 | 2.1% | 8 | 3.1% | 388 | 5.9% |
| 1978 | 546 | 2.3% | 20 | 8.5% | 475 | 7.1% |
| 1979 | 595 | 2.7% | 20 | 7.3% | 516 | 7.6% |
| 1980 | 667 | 3.2% | 24 | 8.7% | 557 | 8.5% |
| 1981 | 656 | 3.1% | 22 | 7.6% | 550 | 7.8% |
| 1982 | 547 | 2.8% | 17 | 7.9% | 463 | 7.6% |
| 1983 | 557 | 3.0% | 22 | 8.7% | 471 | 7.7% |
| 1984 | 525 | 2.8% | 26 | 12.7% | 457 | 7.4% |
| 1985 | 461 | 2.6% | 29 | 14.9% | 379 | 6.5% |
| 1986 | 436 | 2.5% | 15 | 7.8% | 374 | 6.8% |
| 1987 | 391 | 2.6% | 23 | 11.6% | 321 | 5.8% |
| 1988 | 419 | 2.6% | 18 | 9.8% | 364 | 6.6% |
| 1989 | 296 | 1.7% | 15 | 9.2% | 255 | 4.4% |
| 1990 | 389 | 2.4% | 15 | 7.9% | 331 | 6.0% |
| 1991 | 344 | 2.0% | 10 | 5.8% | 300 | 5.4% |
| 1992 | 366 | 2.1% | 12 | 7.1% | 308 | 5.2% |

Motorcycle accidents and injury accidents have been decreasing in recent years. Fatal motorcycle accident totals have also decreased, but at a slower rate. Motorcycle accidents accounted for 2.1% of all accidents in 1992. This percentage has decreased slowly over the last eight years. Motorcycle fatality accidents account for 7.1% of all fatal accidents. No definite trend emerges since this percentage varies considerably from year to year, though it appears to be lower than in the mid-1980's.

Of the accidents involving motorcycles in 1992, 60 of the drivers had no license or had a revoked, suspended or expired license. An additional 46 drivers had no motorcycle endorsement. Drivers license problems were present in 29% of the accidents.

Tables 2 and 3 below show helmet usage for drivers and passengers in motorcycle accidents. The data show that usage was quite low for all ages except for those under 18 where usage was somewhat higher and required by law.

Table 2
MOTORCYCLE DRIVERS AGE BY HELMET USE
(1992 Accident Data)

| <u>Driver Age</u> | <u>Used</u> | <u>Not Used</u> |
|-------------------|-------------|-----------------|
| 14 & under | 4 | 4 |
| 15 to 17 | 10 | 25 |
| 18 to 19 | 11 | 33 |
| 20 to 24 | 18 | 77 |
| 25 to 34 | 6 | 70 |
| 35 to 64 | 31 | 69 |
| 65 and over | 1 | 4 |

Table 3
MOTORCYCLE PASSENGER AGE BY HELMET USE
(1992 Accident Date)

| <u>Passenger Age</u> | <u>Used</u> | <u>Not Used</u> |
|----------------------|-------------|-----------------|
| 14 & under | 1 | 5 |
| 15 to 17 | 0 | 17 |
| 18 to 19 | 0 | 9 |
| 20 to 24 | 3 | 8 |
| 25 to 34 | 0 | 19 |
| 35 to 64 | 9 | 11 |
| 65 and over | 0 | 1 |

Table 4 shows a history of helmet usage for fatalities and non-fatalities occurring from motorcycle accidents.

EXHIBIT 7
DATE 2/18/93
SB 365

Table 4
HELMET USE IN MOTORCYCLE ACCIDENTS

| Year | Fatalities | | | Non-Fatalities | | |
|------------------|------------|----------|-------|----------------|----------|-------|
| | Used | Not Used | % | Used | Not Used | % |
| 1982 | 3 | 15 | 16.7% | 121 | 533 | 18.5% |
| 1983 | 9 | 15 | 37.5% | 131 | 529 | 19.8% |
| 1984 | 5 | 22 | 18.5% | 136 | 488 | 21.8% |
| 1985 | 3 | 31 | 8.8% | 120 | 400 | 23.1% |
| 1986 | 5 | 10 | 33.3% | 131 | 381 | 25.6% |
| 1987 | 5 | 20 | 20.0% | 101 | 342 | 22.8% |
| 1988 | 6 | 12 | 33.3% | 136 | 345 | 28.3% |
| 1989 | 3 | 12 | 20.0% | 83 | 256 | 24.5% |
| 1990 | 2 | 13 | 13.3% | 111 | 337 | 24.8% |
| 1991 | 3 | 7 | 30.0% | 79 | 311 | 20.3% |
| 1992 | 3 | 9 | 25.0% | 92 | 346 | 21.0% |
| 1982-92 Total | 47 | 166 | 22.1% | 1241 | 4268 | 22.5% |

Motorcycle injury severity compared to injury severity of all accidents is shown in Table 5 for 1991.

Table 5
MOTORCYCLISTS AND ALL PERSONS INJURY SEVERITY
(1991 Accident Data)

| | <u>Fatal</u> | <u>Incap.</u> <u>Injuries</u> | <u>No</u> <u>Incap.</u> | <u>Possible</u> <u>Injuries</u> | <u>No</u> <u>Injuries</u> | <u>Total</u> |
|---------------|--------------|----------------------------------|----------------------------|------------------------------------|------------------------------|--------------|
| Motorcyclist | 10 | 189 | 98 | 62 | 41 | 400 |
| (Percentage) | 2.5% | 47.3% | 24.5% | 15.5% | 10.3% | |
| All Accidents | 200 | 2160 | 2638 | 3651 | 25273 | 33922 |
| (Percentage) | 0.6% | 6.4% | 7.8% | 10.8% | 74.5% | |

An obvious interpretation of these data indicated that the risk of fatality and injury for a motorcyclist is very high. For so few accidents, motorcyclists as drivers and passengers are killed and incapacitated at substantial percentages. By comparison, all motor vehicle accidents show percentages for fatality and serious injury at rates far lower.

Since the Helmet Law was repealed, motorcycle fatalities have been higher per registered motorcycle than in the years that the law existed.

Persons killed/10,000 Registered Motorcycles:

| | | |
|-------------------|-------------|------|
| Before Helmet Law | (1970-1972) | 5.67 |
| During Helmet Law | (1974-1976) | 3.90 |
| After Helmet Law | (1979-1981) | 6.92 |
| | (1990-1992) | 6.02 |

DATE 2/18/93
 FILE SB 365

Montana Motorcycle Accident Data

| | Accidents | | | Injury | |
|------|-----------|-------|--------|--------|----------|
| | Total | Fatal | Injury | Fatals | Injuries |
| 1978 | 546 | 20 | 475 | 24 | 588 |
| 1979 | 595 | 20 | 516 | 20 | 652 |
| 1980 | 667 | 24 | 557 | 24 | 679 |
| 1981 | 656 | 22 | 550 | 22 | 688 |
| 1982 | 547 | 17 | 463 | 17 | 594 |
| 1983 | 557 | 22 | 471 | 22 | 618 |
| 1984 | 525 | 26 | 457 | 27 | 598 |
| 1985 | 461 | 29 | 379 | 36 | 487 |
| 1986 | 436 | 15 | 374 | 16 | 476 |
| 1987 | 391 | 23 | 321 | 26 | 408 |
| 1988 | 419 | 18 | 364 | 18 | 458 |
| 1989 | 296 | 15 | 255 | 16 | 329 |
| 1990 | 389 | 15 | 331 | 15 | 420 |
| 1991 | 344 | 10 | 300 | 11 | 373 |
| 1992 | 366 | 12 | 308 | 12 | 399 |

declaration provided for in paragraph (a)(1)(i) of this section will not be required for a shipment covered by an informal entry, the district director may require such other evidence of country of origin as deemed necessary.

(c) *Verification of documentation.* Any evidence of country of origin submitted under this section shall be subject to such verification as the district director deems necessary. In the event that the district director is prevented from obtaining the necessary verification, the district director may treat the entry as dutiable.

PART 123—CUSTOMS RELATIONS WITH MEXICO AND CANADA

1. The authority citation for part 123 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

Section 123.4 also issued under 19 U.S.C. 1434, 1498;

2. Section 123.4(c) is amended by removing the reference “§ 10.1(f)” and adding, in its place, the reference “§ 10.1(i).”

PART 145—MAIL IMPORTATIONS

1. The authority citation for part 145 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

Sections 145.35 through 145.38, 145.41, also issued under 19 U.S.C. 1498;

§ 145.35 (Amended)

2. Section 145.35 is amended by removing the words “an importer’s declaration on Customs Form 3311” and adding, in their place, the words “the declarations provided for in § 10.1(a) of this chapter”.

Carol Hallett,
Commissioner of Customs.

Approved: January 8, 1993.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 93-1016 Filed 1-14-93; 8:45 am]

BILLING CODE 4820-02-04

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1215

RIN 2127-AE50

[Docket No. 92-40 Notice 1]

Use of Safety Belts and Motorcycle Helmets—Compliance and Transfer-of-Funds Procedures

AGENCY: National Highway Traffic Safety Administration, Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to implement the penalty provisions contained in section 153 of title 23, United States Code, as enacted by section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991. Section 153 provides that a State that fails to adopt and put into effect motorcycle helmet and safety belt use laws before October 1, 1993 is subject to having the Secretary of Transportation transfer obligation authority from the State's Federal-aid highway programs to its apportionment under the section 402 safety program. This proposed rule sets forth the criteria to be used to determine a State's compliance with the Act and proposes the mechanism by which NHTSA will inform States of their compliance status.

DATES: Comments are due no later than March 1, 1993.

ADDRESSES: Written comments should refer to the docket number of this notice and should be submitted to: Docket Section, room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 am to 4 pm.)

FOR FURTHER INFORMATION CONTACT: Adele Derby, Associate Administrator for Regional Operations, room 5238, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2121) or Kathleen Demeter, Office of the Chief Counsel, room 5218, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1834). Also, Milla Plosky, Office of Highway Safety, room 3407, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 366-8902 or Wilbert Baccus, Office of the Chief Counsel, room 4236, Federal Highway Administration, 400 Seventh Street,

SW., Washington, DC 20590 (202) 366-0780.

SUPPLEMENTARY INFORMATION:

Background

Wearing safety belts and motorcycle helmets are two of the most effective actions the motoring public can take to reduce the incidence of death and serious injury from highway crashes. The best approach to increase safety belt and motorcycle helmet use is to pass effective State laws requiring motorcycle helmet and safety belt use, educate the public about the benefits of these safety devices, train law enforcement officers, and enforce use laws.

Section 1031 of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) (the Act) adds a new section 153 to Title 23 of the United States Code which authorizes a three year incentive grant program designed to promote the passage of, and compliance with, motorcycle helmet and safety belt laws. To be eligible for funding under the Act in the first year, a State must have in effect both a law requiring all individuals on a motorcycle to wear helmets and a law requiring individuals in the front seat of passenger vehicles to wear safety belts (or be secured in child passenger safety systems).

Continued eligibility for the grants is conditioned upon meeting specific compliance rates. To be eligible in the second year a State must achieve at least 75% compliance with its motorcycle helmet law and 50% compliance with its safety belt law. For the third year, a State must achieve at least 85% compliance with its motorcycle helmet law and 70% compliance with its safety belt law.

If a State fails to adopt and put into effect motorcycle helmet and safety belt use laws before the first day of fiscal year (FY) 1994 (October 1, 1993), section 153(h) directs the Secretary of Transportation to transfer funds from the State's Federal-aid highway programs under each of subsections 104 (b)(1), (b)(2), and (b)(3) of title 23, U.S.C., to the State's highway safety program under section 402 of that title. The transfer will take place in the fiscal year succeeding the year in which the State is in non-compliance. A State not in compliance at the beginning of FY 1994 will experience transfer of 1 1/2% of its Federal highway construction funds for FY 1995. For non-compliance in FY 1995 and beyond, the transfer will rise to 3%. Any obligation limitation applicable to the transferred construction funds prior to transfer will

EXHIBIT 7

DATE 2/18/93

SB 365

apply proportionately, to those funds after transfer.

The transferred funds shall be approved by the State for the program. The Federal share of the cost of any project carried out under section 402 with the transferred funds shall be 100%.

Proposed Compliance Criteria

To regulate the transfer process for FY 1995 and later years, the agency is proposing to apply criteria that are derived from the criteria that it employed in awarding incentive grants for FY 1992. A State that qualified for an incentive grant for FY 1992 would be considered in compliance for transfer purposes and any State not meeting those criteria on October 1, 1993, would be in non-compliance and subject to the transfer.

The law provides that, in order to avoid the funds transfer, a State must have in effect by October 1, 1993, a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet and a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

Section 153(i) contains the following definitions:

"Motorcycle" means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface;

"Motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails;

"Passenger vehicle" means a motor vehicle which is designed for transporting 10 or fewer individuals, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal Motor Vehicle Safety Standard to be equipped with a belt system;

"Safety Belt" means: (a) With respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and (b) with respect to other

passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

Except for children in child restraint systems, the statute does not provide for any exemptions from application.

However, NHTSA believes that all States' exemptions written into the or both of the State's helmet and safety belt laws. NHTSA believes that Congress' intent to aid States in their efforts to achieve higher safety belt and motorcycle helmet use and enact and maintain use laws would not be served by reading the statute so literally as to impose a penalty upon all States whose laws contain any exemptions. On the other hand, some exemptions are either incompatible with the language of the statute or would so undermine the safety considerations underlying the statute that States whose laws contain such exemptions should be subject to the penalties contained in the Act.

NHTSA has reviewed current State laws and proposes to permit all of the existing exemptions, except those specified below. The exemptions that the agency proposes to permit cover persons with medical excuses; postal, utility and other commercial drivers who make frequent stops in the course of their business; emergency vehicles operators and passengers; persons riding in positions not equipped with safety belts; persons in public and livery conveyances; persons riding in parade vehicles; persons in the custody of police; persons in vehicles not required to have shoulder belts in front and passengers of certain larger, heavier vehicles. NHTSA also proposes to permit exemptions from current motorcycle helmet laws, such as for riders in enclosed cabs. In NHTSA's view these exemptions apply to situations in which the risk to occupants is very low or in which there are exigent justifications. NHTSA proposes to consider the following exemptions incompatible with the statute:

1. Motorcycle helmet laws of less than universal application, such as laws which apply only to minors or novice motorcycle operators;

2. Safety belt laws which exempt vehicles equipped with air bags.

A motorcycle helmet law that exempts a significant percentage of riders from its coverage is wholly inconsistent with the statute, and would result in large numbers of riders being exposed to serious risk. A law exempting persons in vehicles equipped with air bags would leave large numbers of persons at risk in side impact and rollover crashes, crashes for which air

bags provide little or no protection, and would diminish occupant protection even in frontal crashes.

NHTSA further proposes that any State considering an exemption other than those listed above should anticipate that the agency will review the exemption in accordance with these principles. An example of such an exemption would be a provision calling for secondary enforcement of a motorcycle helmet law. Under such a system the rider could not be cited for failure to wear a helmet unless stopped by a law enforcement officer for another reason. To date all motorcycle helmet use laws have been primary enforcement laws. NHTSA would consider a State helmet law with only secondary enforcement provisions non-complying because it is likely that helmet use in a jurisdiction with such a law would be significantly lower than the rate that is typical in States with primary enforcement laws. Every percentage point that is lost represents riders who will be at greater risk of fatal or serious injury.

Notification of Compliance

NHTSA proposes to notify all States of initial assessments of compliance with section 153 for FY 1994, by September 30, 1993. Each State initially found not to comply would have an opportunity to rebut this initial determination. The agency would notify all States by January 31, 1994, of its final determinations of compliance or noncompliance with section 153 for FY 1994.

For fiscal years 1995 and beyond, the agency proposes to notify States of initial assessments of compliance by September 15 of the fiscal year prior to the fiscal year for which compliance is being assessed (e.g., September 15, 1994 for compliance in FY 1995). Each State initially found not to comply would have an opportunity to rebut this initial determination. The agency would notify all States by October 10 of the fiscal year for which compliance is being assessed of its final determinations of compliance or noncompliance with section 153 for that fiscal year (e.g., October 10, 1994 for FY 1995).

Written Comments

Interested persons are invited to comment on this notice of proposed rulemaking. It is requested, but not required, that ten copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. (49 CFR 553.21.) This limitation is intended

to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by March 1, 1993. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Following the close of the comment period, NHTSA and FHWA will publish a final rule responding to the comments. NHTSA and FHWA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 92-40; Notice 1 of the NHTSA Docket Section in room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Federalism Assessment

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it will have no federalism implication that warrants the preparation of a federalism assessment.

This proposed rule would not have any preemptive or retroactive effect. It imposes no requirements on the States, but rather encourages States to consider enacting and enforcing legislation requiring the use of safety belts and motorcycle helmets through the potential transfer of Federal-aid highway funds to the 402 program. Any transfer of funds would not take place until FY 1995, and States can avoid the transfer of funds by enacting and enforcing conforming legislation. The statute does not establish a procedure for judicial review of the final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration nor is there any other administrative proceeding required before they may file suit in court.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not

"major" within the meaning of Executive Order 12291, but that it is "significant" within the meaning of Department of Transportation regulatory policies and procedures. A Preliminary Regulatory Evaluation describing in detail the expected costs and benefits from the implementation of the Act has been prepared and placed in the docket. In short, NHTSA estimates that if all of the States without safety belt or helmet use laws were to pass such laws to avoid the transfer of funds 296 lives would be saved and there would be 7539 fewer injuries, including 4041 fewer serious injuries, each year. In terms of costs to the States, the States with conforming laws will incur no costs. States penalized will accrue a loss of highway construction funds, but these monies will remain in the State to be used in the State's 402 highway safety program. For many States this will result in a doubling (or more) of the States's available 402 funding. In any event, any costs to States resulting from the fund transfer are a result of the statute, not this rule and are avoidable by passage of the requisite usage laws.

The agency has evaluated the effects of this proposed rule on small entities. Based on the evaluation, we certify that this rule will not have a significant economic impact on a substantial number of small entities. The preparation of a Regulatory Flexibility Analysis is, therefore, unnecessary.

The agency has also analyzed this action for the purpose of the National Environmental Policy Act. The agency has determined that this action will not have any effect on the human environment.

List of Subjects in 23 CFR Part 1215

Safety belts, Motorcycle helmets, Transportation, Highway safety.

In accordance with the foregoing, part 1215 of title 23 of the Code of Federal Regulations would be added as follows:

PART 1215—USE OF SAFETY BELTS AND MOTORCYCLE HELMETS—COMPLIANCE AND TRANSFER-OF-FUNDS PROCEDURES

Sec.

1215.1 Scope

1215.2 Purpose

1215.3 Definitions

1215.4 Compliance Criteria

1215.5 Notification of Compliance Status

1215.6 Transfer of Funds

1215.7 Use of Transferred Funds

Authority: 23 U.S.C. 153, delegation of authority at 49 CFR 1.50.

§1215.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 153, for

determining compliance with the requirement that States not having safety belt and motorcycle helmet use laws be subject to a transfer of Federal-aid highway apportionments under 23 U.S.C. 104 (b)(1), (b)(2), and (b)(3) to the highway safety program apportionment under 23 U.S.C. 402.

§1215.2 Purpose.

The purpose of this part is to clarify the provisions which a State must incorporate into its laws to prevent the transfer of a portion of its Federal-aid highway construction and highway safety construction funds to the section 402 highway safety program apportionment.

§1215.3 Definitions.

As used in this part:

Motor Vehicle means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

Motorcycle means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

Passenger Vehicle means a motor vehicle which is designed for transporting 16 or fewer individuals, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

Safety Belt means: with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

§1215.4 Compliance criteria.

(a) In order to avoid the transfer specified in §1215.6 a State must have a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet.

(b) In order to avoid the transfer specified in §1215.6, a State must have a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

EXHIBIT 7
DATE 2/18/93
56365

(c) A State that enacts the laws specified in paragraphs (a) and (b) of this section will be determined to comply with 23 U.S.C. 153, provided that any exemptions or exceptions are consistent with the intent of paragraphs (a) and (b) of this section and apply to situations in which the risk to occupants is very low or in which there are exigent justifications.

§ 1215.5 Review and notification of compliance status.

(a) Review of each State's laws and notification of compliance status with 23 U.S.C. 153(h) for fiscal year 1994 shall occur in accordance with the following procedures:

(1) NHTSA will undertake, independently, to review appropriate State laws. NHTSA will notify States by certified mail of NHTSA's initial assessment of compliance with 23 U.S.C. 153(h) by September 30, 1993.

(2) If NHTSA initially finds that a State does not comply, the notice shall state the reasons for the noncompliance and shall inform the State that it may, within 30 calendar days of its receipt of the notice, submit documentation showing why it is in compliance. Such documentation shall be submitted to the Associate Administrator for Regional Operations, NHTSA, 400 Seventh Street, SW., Washington, DC, 20950.

(3) NHTSA will notify each State by certified mail of NHTSA's final determination of the State's compliance or non-compliance with 23 U.S.C. 153(h) by January 31, 1994.

(b) Review of each State's laws and notification of compliance status for fiscal year 1995 and beyond shall occur in accordance with the following procedures:

(1) NHTSA will undertake, independently, to review appropriate State laws. NHTSA will notify States by certified mail of NHTSA's initial assessment of compliance with 23 U.S.C. 153(h) by September 15 of the fiscal year prior to the fiscal year for which compliance is being reviewed.

(2) If NHTSA initially finds that a State does not comply, the notice shall state the reasons for the noncompliance and shall inform the state that it may, within 10 working days of its receipt of the notice, submit documentation showing why it is in compliance. Such documentation shall be submitted to the Associate Administrator for Regional Operations, NHTSA, 400 Seventh Street, SW., Washington, DC, 20950.

(3) NHTSA will notify each State by certified mail of NHTSA's final determination of the State's compliance or non-compliance with 23 U.S.C. 153(h) by October 10 of the fiscal year for which compliance is being reviewed.

§ 1215.6 Transfer of funds.

(a) If, at any time in fiscal year 1994, a State does not have in effect the laws described in § 1215.4, the Secretary shall transfer 1½ percent of the funds

apportioned to the State for fiscal year 1995 under 23 U.S.C. 104 (b)(1), (b)(2) and (b)(3) to the apportionment of the State under 23 U.S.C. 402.

(b) If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect the laws described in § 1215.4, the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under 23 U.S.C. 104 (b)(1), (b)(2) and (b)(3) to the apportionment of the State under 23 U.S.C. 402.

(c) Any obligation limitation existing on the transferred construction funds prior to transfer will apply, proportionately, to those funds after transfer.

§ 1215.7 Use of transferred funds.

(a) Any funds transferred under § 1215.6 may be used for approved projects in any section 402 program area.

(b) Any funds transferred under § 1215.6 shall not be subject to Federal earmarking of any amounts or percentages for specific program activities.

(c) The Federal share of the cost of any project carried out under section 402 with the transferred funds shall be 100%.

Thomas D. Larson,
Administrator, Federal Highway
Administration.

Issued on: January 11, 1993.

Marion C. Blakely,
Administrator, National Highway Traffic
Safety Administration.

[FR Doc. 93-964 Filed 1-12-93; 10:44 am]

BILLING CODE 4910-55-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 52

[PS-89-91]

RIN 1545-AQ23

Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Notice of proposed rulemaking
and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to taxes imposed on exports of chemicals that deplete the ozone layer, taxes imposed on ozone-depleting chemicals used as

medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ozone-depleting chemicals. The proposed regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, and the Energy Policy Act of 1992 and affect persons who manufacture, import, export, sell, or use chemicals that deplete the ozone layer. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments and requests to speak at the public hearing scheduled for Thursday, May 27, 1993, must be received by March 18, 1993. Outlines of oral comments to be presented at the hearing must be received by May 6, 1993.

ADDRESSES: Send submissions to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attention: CC:CORP:T:R (PS-89-91), room 5228). In the alternative, submissions may be hand delivered to: CC:CORP:T:R (PS-89-91), Internal Revenue Service, room 5228, 1111 Constitution Avenue, NW., Washington, DC 20224. The public hearing will be held in the Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Ruth Hoffman, (202) 622-3130; concerning the submissions, Carol Savage, (202) 622-8452 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224.

The requirements for collection of information in this proposed regulation are in §§ 52.4682-2(b) (3) and (4), 52.4682-2(d) (4) and (5), 52.4682-2(d) (1), (3) and (4), and 52.4682-2(f)(3). This information is required by the Internal Revenue Service to verify compliance with sections 4681 and 4682 of the

SENATE HIGHWAYS

EXHIBIT NO. 8

DATE February 18, 1993

BILL NO. SB 365

SENATE BILL 365
Testimony of Drew Dawson

Mr. Chairman and members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences.

I am pleased to support Senate Bill 365. My bureau is responsible for training of emergency medical services providers and licensing of emergency medical services. I also have been a volunteer Emergency Medical Technician for nearly twenty years. We see the devastation caused when non-helmeted motorcyclists are involved in accidents. Despite the best efforts of our emergency medical responders, the injuries are frequently so severe there is a lifetime of disability and medical bills.

In the ten year period from 1982-1992, 78% of those persons killed in motorcycle accidents were not wearing a helmet. My offices manages the Montana Trauma Register. During the first year of data collection from the major Montana hospitals, it was demonstrated that approximately 70% of the seriously injured motorcyclists were not wearing helmets.

The statistics speak for themselves. The wearing of helmets improves the rider's chance of survival and reduces the probability of serious, debilitating and costly injury.

On behalf of the Department of Health and Environmental Sciences, I urge your support of Senate Bill 365.

Thank you for the opportunity to testify.

SENATE HIGHWAYS

EXHIBIT NO. 9DATE February 18, 1993BILL NO. SB 365

Testimony Before Senate Highways Committee
RE: SB 365

Mr. Chairman, members of the committee, my name is Glenna Wortman-Obie, manager of public relations and safety for AAA Montana. I am here to support Senate Bill 365. You have heard how this law is needed in order to protect Montana's federal highway construction funding. AAA Montana has long been and continues to be deeply committed to a strong highway construction, repair and maintenance program and for this reason alone we are interested in seeing this legislation pass. But you also know that AAA Montana is equally committed to safe motoring for all Montanans and the plain fact is that motorcycle helmets save lives. We urge your concurrence with Senate Bill 365.

SENATE HIGHWAYS

EXHIBIT NO. 10

DATE February 18, 1993

BILL NO. SB 365

February 18, 1993

TO: SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE
FROM: DAL SMILIE, Chairman, Montana Motorcycle Safety Advisory
Committee
Vice Chairman, American Motorcyclist Association
RE: TESTIMONY IN OPPOSITION TO SB 365

I am a motorcycle enthusiast with 400,000 road miles. I always wear a helmet and other appropriate safety equipment. I believe such safety equipment is safer. I believe that adults should be free to decide whether to utilize this equipment and not the government.

I adopt the written testimony of the American Motorcyclist Association which was sent to the committee members by Federal Express.

MONTANANS DO NOT WANT A HELMET BILL

Since 1976 a mandatory motorcycle helmet bill has been introduced in all but two sessions. A very few "safetycrats" have proposed and supported these bills while great numbers of citizen/voters have opposed them.

There are currently about 60,000 Montanans with motorcycle endorsements on their drivers licenses. Industry figures estimate that there are another 22,400 off road motorcyclists in the state. See the 1992 Motorcycle Statistical Annual prepared by the Motorcycle Industry Council. Polls by the 200,000 member American Motorcyclist Association show that about 75% of motorcyclists are opposed to mandatory helmet laws, even though a majority of them voluntarily wear helmets. Potentially then, 61,800 motorcycling Montanans are opposed to this bill. How many are for it?

These citizen/voters have been very active registering to vote, talking to and working for legislative candidates and taking voluntary safety training. They care very much about this issue. Many have lost over a days pay to be here to testify.

MONTANANS RESENT DIMINUTIONS OF THEIR FREEDOM

Montanans have lived with less regulation of their daily lives than many. They resent undue government regulation. Requiring some Montanans to wear special protective clothing is a diminution of their freedom. For some the feeling of wind is part of the enjoyment of motorcycling.

Many Montanans see a mandatory helmet law as another step towards taking other freedoms. The feos recently forced us to lower our drinking age. In England helmets are required for horsemen, helmets for skiers are being proposed in some places. Animal rights safetycrats are proposing safety restraints for pets in cars and in pickup trucks. Naderite Joan Claybrook, ex chief of DOT's

National Highway Traffic Safety Administration (NHTSA) and now head of the insurance industry's International Institute for Highway Safety (IIHS), has proposed day-glo vests for pedestrians and 35 mph speed limits for which crash safe cars could be built. Will those be the next legislation we will see? We don't want or need that kind of thing in Montana.

MONTANA SHOULD NOT YIELD TO FEDERAL BLACKMAIL

The federal government recently passed the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). It transfers a small percentage of federal highway match to in-state safety programs if no helmet bill is in effect by September 30, 1993.

Montana should join the growing rebellion against this federal blackmail like North and South Dakota, Arizona, Colorado, Oklahoma and Utah. Motorcyclists in New Hampshire and Illinois have the votes to kill similar bills there. Why would Montana give in to intrusive federal blackmail when so many other states are openly rejecting it?

MONTANA WOULD LOSE NO MONEY

Federally mandated "penalties" will probably be repealed at the federal level. If they are not the funds will go to "402" programs where it is needed in these cash short times. The funds can be used for programs like EMS, drunk driving education and enforcement, DARE and even motorcycle safety.

Montana's rider funded safety training program was put in place three sessions ago. Even though motorcycle safety is one of the priorities for "402" funds the program was rejected any further funds by the Department of Justice. SB 378 proposes to turn over about \$30,000 of earmarked rider paid funds to the general fund. That one third reduction will gut the program. An infusion of "402" funds could save the program. A program which has given Montana a lower fatality rate than the national average.

MONTANA MAY GAIN MONEY

Depending on whether or not ISTEA receives full funding for FY 94 and FY 95 there may not be enough state general fund match to receive that full finding. This is especially true for FY 95.

The ISTEA penalty for no helmet bill transfers federal funds only. No state match is required for the "402" programs. In the situation where Montana could not otherwise avail itself of all possible ISTEA funds then the effect of the penalty would be to increase the amount of ISTEA federal funds into the state. Albeit for "402" safety purposes only.

Without the penalty in effect these federal funds would be lost to Montana. The 54th Montana Legislature could reconsider adopting a helmet bill if it is still mandated and the state has adequate

EXHIBIT 10

DATE 2/18/93

SB 365

general fund match for the upcoming biennium.

SB 365 IS TECHNICALLY FLAWED

Federal penalties will be in force if such a law is not in place by September 30, 1993. The effective date of this bill is October 1.

Justice must make rules concerning helmet standards. They have no rulemaking authority presently. Their last adoption was in 1973. See ARM 23.3.417. They are in violation of 2-4-307(3) and (5), MCA which requires MAPA notice of later adoptions of referenced federal regulations.

Allowable exceptions have not been incorporated into the bill.

Legislation adopted due to federal blackmail should have a sunset date and a termination date based upon the federal repeal of the federal sanctions.

The Montana Legislature should request the US Congress to cease such blackmail tactics. Senator Harry Fritz was quoted, concerning federal blackmail over the drinking age (SB 391), in the Helena Independent Record today as saying "[I]f we want to sell our rights to the federal government, maybe we ought to figure the price." Let the states decide their own policy.

Independent Record, Helena, Mont., Thursday, February 18, 1993—3A

53rd SESSION

Senator seeks to lower drinking age ■

A Missoula senator is trying to lower the drinking age in Montana from 21 to 18.

Sen. Harry Fritz, a Democrat, said 18-year-olds are adults in every other aspect of the law — except consuming alcohol.

Federal law says a state must have a legal drinking age of 21 or face loss of part of its federal highway money. But when asked about the cost of his bill, Fritz replied: "If we want to sell our rights to the federal government, maybe we ought to figure the price."

Senate Bill 391 is scheduled for a hearing Saturday.

AMEND SB 365, AS FOLLOWS:

1. Title, line 7.
Following: "MCA"
Insert: "PROVIDING FOR A SUNSET DATE; PROVIDING FOR RULEMAKING AUTHORITY; PROVIDING FOR A RESOLUTION TO THE US CONGRESS; PROVIDING FOR AN EFFECTIVE DATE"
 2. Page 1, line 15.
Following: "head."
Insert: "Headgear is not required for persons; having a valid medical or religious excuse or who are riding in enclosed cabs or parades."
 3. Page 1.
Following line 16.
Add a new Section 3.
"The department of Justice shall adopt rules governing the standards for helmets. The department shall utilize standards adopted by the federal government."
- ****(NOTE: A STATEMENT OF INTENT MUST BE ADOPTED)
4. Add a new Section 4.
"This act will automatically be repealed on July 1, 1995 or upon the effective date of repeal by the federal government of financial sanctions against a state for not having a mandatory helmet law for adults."
 5. Add a new Section 5.
"The 53rd Montana legislature adopts a mandatory helmet law for adults solely because of federal financial sanctions. Such federal blackmail is resented by this and other states. The legislature urges its congressional delegation and the Congress to seek a repeal of such federal legislation."
 6. Add a new Section 6.
"This act shall be effective September 30, 1993."
 7. Codification instruction.
Section 5 is not intended to be codified in the MCA. It is intended to be communicated to the Montana congressional delegation and the US Congress.



EXHIBIT 10
DATE 2/18/93
SB 365

P.O. Box 6114, 33 Collegeview Road, Westerville, Ohio 43081-6114

Telephone (614) 891-2425

Fax: (614) 891-5012

February 16, 1993

The Honorable ^F1^ ^F2^^F3^
Highways and Transportation Committee
State Capitol
Helena, Montana 59620

Dear Senator ^F2^:

The American Motorcyclist Association (AMA) is a national organization representing 199,954 enthusiasts. On behalf of our Montana members, we write in opposition to SB-365, a bill which would require helmet use for adult motorcyclists.

The AMA strongly supports comprehensive motorcycle safety programs and encourages all motorcyclists to wear appropriate protective gear and ride responsibly. However, we support the right of adults to evaluate safety issues for themselves free from governmental interference.

THE ISSUE IS NOT ONE OF SAFETY. Helmets do not prevent accidents! Montana has used less personally intrusive strategies emphasizing self-funded rider education courses and imposed licensing and testing to promote motorcycle safety. These efforts have worked! Motorcyclist accident rates in Montana have dropped 21 percent, and fatality statistics have plummeted 31 percent in the past five years. According to our most recent figures, the number of fatalities per 10,000 registrations is currently below the national average (5.2 vs. 6.87). These encouraging statistics were attained without Montana having to mandate helmet use for adult motorcyclists.

THE ISSUE IS NOT ONE OF SOCIAL BURDEN. Two recent studies released by the University of North Carolina's Highway Safety Research Center demonstrate that injured motorcyclists are no more likely to require public help with their medical bills than any other class of injured motorist. The social burden justification for adult helmet laws has no basis in reality. Motorcycles comprise only 9/10 of 1 percent of all the crash involved vehicles nationwide and the costs of treating motorcycle related injuries are similar to the costs associated with other injured road users. Social burden proponents ignore costs to society that far exceed any imposition that may result from injuries or accidents involving motorcycle operators.

THE ISSUE IS ONE OF STATES' RIGHTS AND PERSONAL FREEDOMS. Recently passed federal legislation, known as the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), includes language

The Honorable ^F1^ ^F2^
February 16, 1993
Page 2

intended to coerce states into passing mandatory helmet laws. The penalties defined within the act would not cost the state of Montana one federal dollar. A small percentage of federal highway construction funds would be diverted into highway safety programs within the state. We are vigorously supporting repeal efforts at the federal level. We believe the proper forum for the debate of issues such as those embodied in SB-365 is the state legislature free from federal interference.

Motorcyclists have a vested interest in their own safety. Ultimately, the issue is not the efficacy of helmet use but a question of whether adults should be free to make personal decisions regarding their own safety. A recent Motorcycle Industry Council survey identified the average motorcyclist as being 32 1/2 years of age, married, college educated, with an income slightly in excess of \$33,000 a year. These demographics define the type of individual who is capable of evaluating personal safety issues for themselves.

For the reasons noted above, we respectfully request that you oppose SB-365. Thank you for your consideration.

Sincerely,

AMERICAN MOTORCYCLIST ASSN.

Christopher Kallfelz
Legislative Affairs Specialist
Government Relations

CK/tp

EXHIBIT 10
DATE 2/18/93
SB 365

March 31, 1992

Mr. Albert Goke, Administrator
Highway Traffic Safety Division
Department of Justice
Room 162, Scott Hart Building
303 North Roberts
Helena, MT 59620-1422

RE: Federal 402 Funds for Motorcycle Safety

Dear Al:

I write to you as both Chairman of the Montana Motorcycle Safety Advisory Committee and as a concerned citizen. Montana motorcyclists banded together and passed a rider funded safety program which is located at the Office of Public Instruction.

During the first two years of that program's operation you recommended approval for federal "402" funds to help us start the program. The federal government makes these funds available for priority categories, one of which is motorcycle safety.

You indicated to Curt Hahn and I that you did not intend to grant funds on an ongoing basis for motorcycle safety because you thought; (1) that the low death numbers in Montana did not justify further funds and (2) that you had more needy programs where the workers were all volunteers. I told you that we would continue to request funds for new aspects of the program.

Jim Bernet, Coordinator of the Montana Motorcycle Safety Education Program, applied for a 402 grant for the present federal fiscal year. You rejected the grant application. Bernet's impression at the time from your verbal communication was that you wanted to see if motorcycle safety was going to remain a priority. At the time that was a real question.

We worked very hard with our congressional delegation to assure that the federal highway bill contained the necessary language. The final version signed into law contained the required language.

The Montana Motorcycle Safety Advisory Committee instructed Mr. Bernet to ask you to reconsider his earlier application. We were disappointed when we were finally turned down formally. We are told we are not eligible for funds for either this fiscal year or the next.

I personally want to get a lot more involved in this process. Your stance, as I understand it, is that we will never get 402 funds again, even though we are a fledgling program. I keep going to conferences and seminars where NHTSA officials tell me we need to apply and many of our programs would be eligible. They give many examples from other states.

page 2

I am puzzled by your statements that our safety record does not merit funds for safety training and education but you constantly support mandatory and unpopular equipment legislation. You have been outspoken for years about safety helmet legislation. Is it Attorney General Marc Racicot's position to support such legislation? Does your division seek authority before you take political stances that are extremely unpopular with thousands of Montana citizens?

I would like to request some information from you so that the Montana Motorcycle Safety Advisory Committee can plan for the future. I understand from NHTSA that we can seek an amendment of your current plan to seek funds. I would like information on programs for which you approved funds for the current and the next fiscal year. Are all of those programs in the first priority category? If any were not in the first priority which ones are they? How much was granted to them?

Do you or NHTSA provide an information handbook or guide on how to apply for these funds? Can we have one?

Lou DeCarolis, of NHTSA, was amazed that we in Montana will get no 402 funds. He thought we had failed to ask you for them. He supports funding this priority. We are lucky to have a motorcycle enthusiast like him as Regional Director in our region.

Al, we are going to pursue this matter. I support safety, you support safety. I have this nagging feeling that we will not get your support for motorcycle safety because some of us believe in freedom of choice on the helmet issue. I for one always wear a helmet. I believe in educating other adults about wearing safe gear. I do not believe in legislating such personal choice away. I know that a lot of people in Montana do not support a diminution of their freedoms. Please do not discriminate against our program because of the political beliefs of some of our leaders. Please support us in our efforts to educate.

We will be working with you in the future.

Sincerely,



Dal Smilie, Chairman
Montana Motorcycle Safety Advisory Committee

cc

AG
Jim Bérnet
MMSAC

Information from:

1991 Motorcycle Statistical Annual produced by the Motorcycle Industry Council

1990 Estimated Economic Value of the Retail Motorcycle

Market Place (in Montana) -- \$51,530,000

New Units Sold -- 3,050

Total value of new units sold -- \$10,820,000

SENATE HIGHWAYS

JIT NO. 10 a

L. E. February 18, 1993

Motorcycle Registrations in 1990 -- 21,094

BILL NO. SB 365

(Each of the registered motorcycles was responsible for \$2,442 as a part of the total Motorcycle Market place)

Estimated Montana Motorcycle Population (this includes non-registered off-road motorcycles)

Total population -- 42,700

On-highway -- 11,100

Off-highway -- 23,100

Dual Purpose -- 8,500

or 5.3 motorcycles per 100 people.

New Motorcycle Registrations in Montana in 1990

2,291

Total 1991 Motorcycle Retail Outlets

Number of outlets -- 86

Estimated number of employees -- 555

Estimated Annual Payroll -- \$10,021,000

It would be hard to estimate the exact effect of passing a mandatory helmet law on the state of Montana. However, if we took just 10 percent negative effect on the total market place figure there would be a **loss of \$5.15 million dollars** of economic activity.

If 10 percent were applied to other figures, some **55 persons would loose employment** in the motorcycle industry with a **one million dollar loss of payroll and loss of tax revenue**.

There would be a decrease of somewhat over **2000 registrations** of motorcycles with the corresponding loss of registration revenue to the state.

We also cannot estimate the loss of revenue from tourists headed to the annual Black Hills Motorcycle Rally in Sturgis, S.D. each August.

Suffice it to say that the loss of Highway construction funds (actually only a transferal to 401 Safety programs) is not the only consideration when determining the cost of a mandatory helmet law for adults in Montana!

Please vote NO on SB - 365, keep motorcycling FREE in Montana!



SENATE HIGHWAYS

EXHIBIT NO. 106

DATE February 18, 1993

BILL NO. SB 365

A SPATE OF PUBLICITY OVER HEAD INJURIES HAS RAISED THE QUESTION

SHOULD SKIERS WEAR HELMETS?

By JANET NELSON

As if they haven't got enough hands to carry all their gear, wear it and worry about it, now skiers are facing an issue that could force them to use their heads.

At the urging of a physician whose daughter was killed from a blow to her head while skiing, a New Jersey state senator has introduced legislation that would require skiers under 14 years of age to wear helmets. Coincidentally, a study prepared by Vermont's deputy chief medical examiner, Dr. Paul Morrow, surfaced after a skier died of a head injury suffered when he struck a tree. The study showed that of the 22 deaths among skiers in Vermont from 1979 through 1988, 15 of the victims suffered head injuries. The study and the fatal accident were the subject of an Associated Press wire service article in January suggesting that Dr. Morrow said helmets might have prevented these fatalities. "What I said was, 64 percent (of those who died) would have been protected by helmets," explained Dr. Morrow. "Whether the injuries would have been prevented by helmets is not known."

But the two news items had a snowball effect. More articles appeared. There was television coverage and the only U.S. company that makes helmets, Bell Helmet, saw a demand on the horizon.

"We're putting together a new line for the junior racers, school-age kids who are required to wear helmets to race," said Dean Fisher, senior vice president of the company. "They need less expensive helmets than those used by the U.S. Ski Team, and these could be added for recreational skiers."

Bell supplies helmets

for U.S. Ski Team members who are required to wear them for downhill and Super-G races, and for giant slalom events if conditions warrant. The helmets, which must meet impact standards set by the Snell Foundation, are made of fiberglass and cost from \$115 to \$165. Those designed for junior racers would be made of injection-molded plastic—ABS, polycarbonate or nylon—according to Mr. Fisher. They probably would not meet Snell standards, but would cost \$35 to \$70.

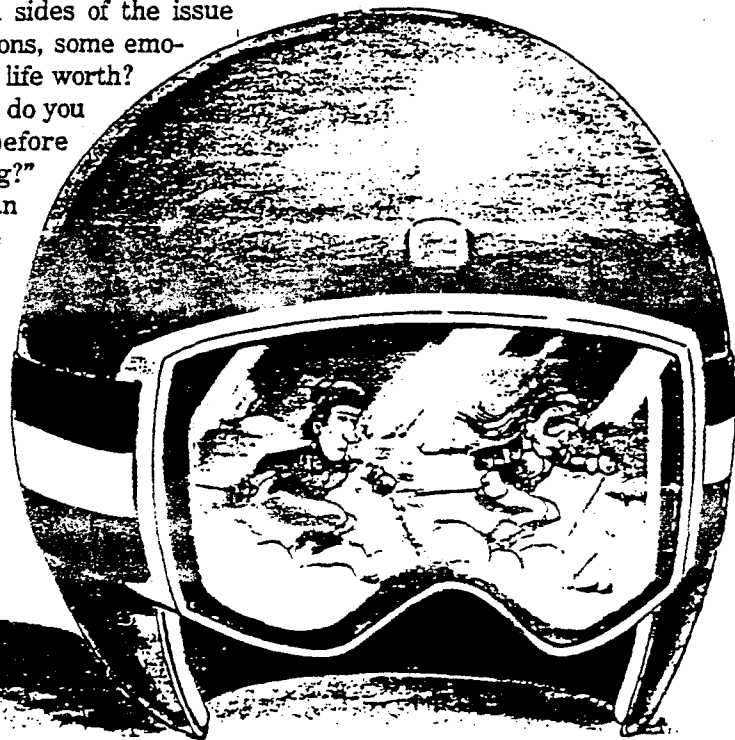
According to Chris Stoddard, safety expert for the National Ski Areas Association (NSAA), the majority of fatalities in skiing involve head and neck injuries. "The trouble is, there's no research on whether helmets would protect these people," says Stoddard. "Other areas of skiing, I think, should be the focus of research. Knee injuries, for instance, are a more common injury. It's a matter of priorities."

People on both sides of the issue have taken positions, some emotional. "What is a life worth? How many bodies do you have to count before you do something?" asks Dr. Norman San Agustin, the

father of the New Jersey girl who died. "Everybody who skis should wear a helmet, but some people oppose any legislation that restricts freedom."

Freedom comes at a cost. Even as the ski injury issue surfaced, the national press was dealing with the irony of a motorcyclist/actor Gary Busey who, after lobbying against California legislation that would have compelled him to wear a helmet, received a serious head injury in a motorcycling accident. The pain is more than physical. Each year hundreds of millions of dollars of public funds are used to care for head-injured motorcyclists who are uninsured or otherwise unable to pay their medical bills.

Skiers, however, have cause to worry why they would be singled out for a new law. Motorcycle accidents cause 4,000 deaths a year, compared to about 30 ski-related fatalities. Roughly half



all head injuries involve motor vehicle accidents, according to the National Head Injury Foundation in Boston. Another third stem from falls and assaults. One tenth of head injuries arise out of sports or recreation, including football and hockey. Skiing, overall, is a less than significant statistic, however tragic the personal consequences of serious head injury.

*Rather than impose
helmets on the entire
skiing population, a more
even-handed approach
would be to target
the high-risk group.*

An opponent of helmets for skiing, New Jersey state Senator Paul Contillo, says, "If you required helmets on drivers of cars, that would certainly save lives. Where do you stop? Why not require protection for skiers' knees?"

There is also the sticky issue of product liability for the manufacturers and distributors of helmets. When asked about the insurance premiums for Bell helmets, Mr. Fisher simply said, "Tremendous!" He said there used to be 50 companies in this country that made helmets, but now there are only two and one works for Bell.

Jeff Garlick, U.S. manager for the Uvex Optical Company, which imports sunglasses and goggles as well as ski accessories, says, "We have a terrific helmet that we sell in Europe and Canada, but not here. We looked into it and found that the insurance premiums would equal our total sales." But Marshall Irving, director of engineering at the Snell Foundation, says that meeting the Snell's strict standards will help a manufacturer of any kind of helmet. "It answers the basic question: Why did you build a sec-

ond-class helmet?"

Obviously, people do die from skiing accidents. There is a risk to the sport. NSAA statistics show that there have been 128 skiing fatalities since 1984, which amounts to about one fatality per two million skier visits. Only in the last two years have these statistics been broken down by age and sex: Of 60 fatalities in that time period, there have been no fatalities among children under 10 years old, fifteen fatalities among males 10 to 18 years old and five among females in that age group. Eighteen males and four females 19 to 30 years of age have died.

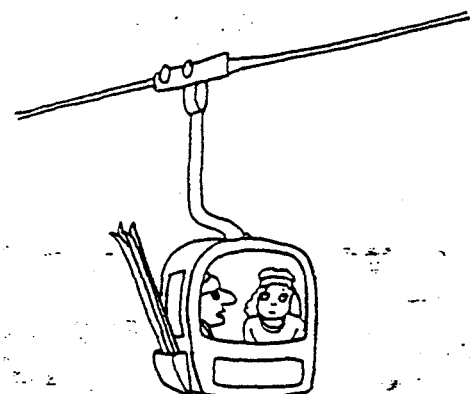
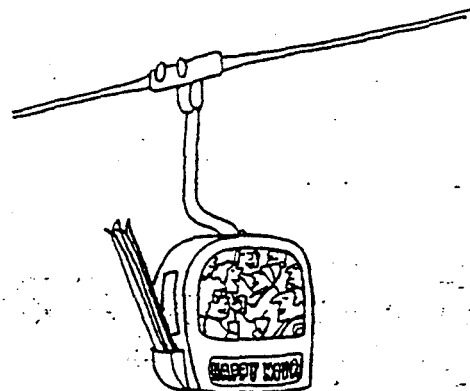
Clearly, in skiing, young males are the high-risk group, a profile that correlates with fatalities in automobile and motorcycle accidents. Rather than impose helmets on the entire skiing population, a more even-handed approach would be to target the high-risk group and try to get those people to ski in a more responsible manner, by persuading them not to ski so close to the edge.

Dr. Morrow says his research shows that only four of the fatally-injured skiers in the Vermont study were skiing on trails above their ability; the others were on trails at or below their ability and one of the skiers was a racer in training who was wearing a helmet. He died of a neck injury. "This points toward speed as the lethal factor," said Dr. Morrow. "To prevent accidents, I think we should take a different tack. Loss of control, along with skiing too fast, is the real problem.

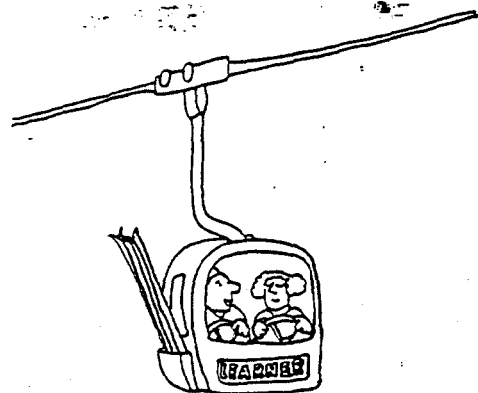
Conceivably, ski helmets could be made fashionable as well as protective. But what would it be like to wear a helmet for recreational skiing?

"I don't think it would be great," says Anna Tarisien, a highly-ranked junior skier who attends Burke Mountain Academy in Vermont and wears a helmet for Super-G racing. "They're heavy and you feel locked in—kind of closed in. My ears get cold because the air gets in the sides and sounds are kind of muffled. My goggles are out farther from my face so I can't see to the sides and it lets snow get in. I don't think I'd choose to ski with a helmet." △

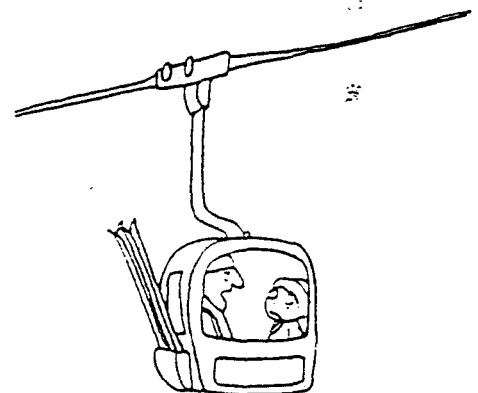
Janet Nelson is ski editor of The New York Times.



What's the movie?



You're doing fine.



*You'll have to wait 'til
we get to the top.*

6A

Big Brother steps in again

Big Brother (Congress) can't keep its own house in order but it is constantly telling us what is good for us.

During the Arab oil embargo in the mid-'70s Congress imposed a 55 mile per hour speed limit to force us to decrease our consumption of oil. The crisis went away, but it took a lot of prodding to persuade Congress to increase the speed limit. It finally did raise it to 65 mph, but only on interstate highways.

When many states lowered the drinking age to 18 after the Supreme Court ruled that 18-year-olds were adults, Congress once again stepped in. It told the states to raise the drinking age to 21 or face the loss of federal highway funds.

When Congress approved the reauthorization of the federal highway funding bill last year it included a little-noticed provision that penalizes states that don't have seatbelt and motorcycle helmet laws.

Beginning in fiscal 1994, states that don't comply with the federal requirement lose 1.5 percent of their federal highway construction funds. That figure increases to 3 percent in 1995.

Because of the provision, Montana could lose \$2.6 million of its federal highway construction money by fiscal 1995 unless the Legislature requires motorists to wear helmets.

Montana has a seatbelt law, but its motorcycle helmet law doesn't meet federal standards. The state passed a helmet law in 1973, but it was repealed in 1975. Current Montana law requires only those motorcyclists and their passengers who are less than 18 to wear helmets.

Although Montana couldn't use the federal money for highway construction it wouldn't completely lose the money. The funds would be diverted to the state's Highway Traffic Safety Division in the Justice Department. The money would have to be spent on motorcycle and seatbelt safety programs.

Ironically, forcing the state to spend a few million dollars on seatbelt and helmet safety programs would be a waste of money.

Traffic Safety Administrator Al Goke said his division now spends \$850,000 a year on safety programs. It would be "overkill" to spend several million dollars more, he said.

We supported the seatbelt law when it was considered by the Legislature and we also supported the helmet law when it was debated in 1973.

Opponents of seatbelt and helmet laws argue that the use of seatbelts and helmets should be a matter of choice and the decision should not be imposed on them by the state.

We disagree with that contention.

Driving a motor vehicle and/or operating a motorcycle is a privilege, not a right. States impose all kinds of regulations regarding these activities to promote the safety of operators and their passengers.

However, we deeply resent Congress' carrot and stick approach to speed limits, drinking ages, safety laws and other issues.

In our view, these issues are a matter of state's rights and none of Congress' business.

SENATE HIGHWAYS

EXHIBIT NO. 10C

DATE February 18, 1985

BILL NO SB 365

The manufacturers retail price for the Pet Affairs Safety Seat Belt System is \$29.95. It is available in department stores around the country or can be ordered directly from the manufacturer. For more information, contact Pet Affairs, Inc., 691 East 20th St., Tucson, AZ 85719, (800)

SAFETY RESTRAINT FOR PETS!
Pet Affairs, Inc., has just introduced a great piece of equipment for those people who take their cats and dogs on motor trips with them.
Called the Safety Seat Belt System for Pets, it consists of a fully adjustable harness, a leash and an auto/truck safety seat belt, available in three sizes.
The system connects to the existing seat belt buckle of the vehicle without any additional parts.



UUIUUNU SCIENCE
NEWS and VIEWS from the field
Compiled and edited
by Nadine Scudlark

BUCHANAN'S



THE SOURCE for SPOKES & RIMS

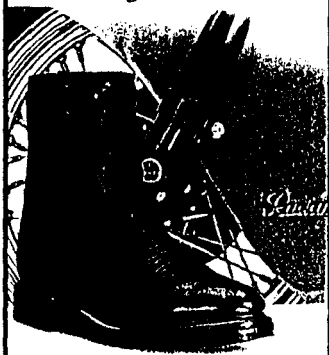
- Dist. for D.I.D., Sun Rims & Akront Rims
- Custom Spoke Manufacturing
- Wheel Lacing Service (Automotive & Motorcycle)
- Send \$1.00 for Catalog

Closed Sunday and Monday
BUCHANAN'S
FRAME SHOP, INC.
629 E. Garvey Ave.
Monterey Park, CA 91754
(818) 280-4003
FAX (818) 280-4106

call now or circle 4 on reader service card

Roadmaster America's Motorcycle Boot!

Serious motorcyclists
swear by them.



800-538-7035

call now or circle 5 on reader service card

LISTEN UP!

I've come back from Daytona Speed Week angered, to the point of sizzling, at the amount of absolute trash I saw being sold and worn as "head protection!" And my anger is directed toward both the advocates and enemies of the motorcycle safety helmet!

Yo, DOT and NHTSA!

I have a very clear recollection of then-Transportation Secretary Samuel Skinner, NHTSA Administrator Jerry Curry and NHTSA Deputy Jeffrey Miller telling the opening session of the International Motorcycle Safety Conference, in Orlando, Fla., — in person and on videotape — of their absolute belief in the motorcycle safety helmet's ability to reduce American motorcycle riders' injuries and fatalities, and of their intention to promote mandatory use, whenever possible.

If you're truly convinced of the safety helmet's benefits — and I'm not saying your view is inaccurate — then what-in-the-hell have you done to make sure there's quality safety protection available; and **how-in-the-hell** can you allow the sale

and manufacture of the farcical crap we're seeing on riders' and passengers' heads in states that **require** helmet-use?

Your DOT "certification" is a cruel hoax, and will continue to be; as long as you allow "voluntary" compliance by helmet makers; and until you produce DOT-approval stickers that are registered or coded in a way that will give the consumer complete confidence that you have looked at it, and his or her helmet is damn sure of quality construction.

I know NHTSA has printed warn-

ings about sub-quality helmets; and I've heard it has actually "busted" a couple of "non-compliance" helmet makers. But, to this point, your compliance section's record on helmet-quality vigilance has been criminal, given your stated concern for the safety of the U.S. motorcycle rider.

And you mandatory-helmet op-

ponents! What-in-the-hell have you done to make sure the agencies requiring you to wear helmets are doing their job; and **how-in-the-hell** can you let your "bros and sisters" — your constituents and members — put that garbage on their heads?

Look, the mandatory-helmet laws already in place are "done deals." If their repeal is important to you, go after them, in the most tactful, legal way possible.

But, in the meantime, save the energy you're using being angry at the laws, and re-direct that anger toward the people who are producing the junk that is, at best, "marginal" in providing head protection, and at the legislators and regulators who are allowing them to

operate.

A couple of months ago, I said it wasn't time to "get mad" or "get even," but to "get smart."

That wasn't completely accurate. It's time to get **real** mad.

Just direct the anger where it belongs.

Bob Jackson



*"Your DOT
'certification' is
a cruel hoax,
and will continue
to be, as long as
you allow
'voluntary'
compliance by
helmet makers..."*

MOTORCYCLE PRODUCT NEWS / APRIL 1992

TESTIMONY IN OPPOSITION TO SB-365JILL Z. MCGUIRE A.B.A.T.E. LOBBYISTTHURSDAY, FEBRUARY 18, 1993

Good afternoon Mr Chairman; members of the Committee. My name is Jill Z. McGuire and I am the Lobbyist for ABATE of Montana. ABATE is American Bikers Aiming Toward Education, and what we are is a non-profit Organization dedicated to the promotion of Motorcycle Safety. I represent 1,111 motorcyclists of ABATE.

The reason for this grassroots effort on our part is because this issue is all about something that we all hold very dear to our hearts...FREEDOM. Our Freedoms as Montanans and as Americans. A lot of the folks in the room here today have never been to a hearing before, but they have all taken the day off from their jobs, and travelled from all corners of the State, because they believe in FREEDOM. Freedom of Choice for Adults in Montana.

In 1989 ABATE of Montana came before the Legislature and asked you to let us prove that Education of Motorcycle Riders works as an alternative to Mandatory Equipment Laws. It Does. Our program, known as the Montana Motorcycle Safety and Education Program (MMSEP), saw a 152% increase in the number of students trained last

season, and a 95% increase in the number of courses offered throughout the State. This program is funded by the Motorcyclists in Montana by the assessment of a \$2.50 fee onto the registration of every motorcycle . We currently have 20,094 motorcycles registered in Montana.

Last session we asked that you allow the \$2.00 Motorcycle Endorsement fee that we pay every 4 years on our Driver's License to help fund the Safety Program. We thank you for allowing us to prove that Education works.

So, here we are back to Mandatory Equipment Laws. We realize that you as Montana Legislators are not responsible for this. One look at the lack of work put into the drafting of this bill shows us that the Sponsor also has a very limited interest in the actual outcome of this issue.

The Federal Government obviously has decided that the State Governments aren't paying enough attention to playing "Big Brother" so they've sent this mandate down in the form of Blackmail. The truth of the matter is that 38 States dealt with Helmet and/or Seat Belt Legislation in one form or another last session.

So, here we are all forced to deal with an issue that neither of us has any desire or need to deal with. You have all been lead to believe that Montana will lose money if we do not pass this Legislation. That just isn't the case. In fact, we can surely use this money to supplement our Safety Programs that are currently underfunded. Driver's Education for example...students are having to pay anywhere from \$5.00 to \$100.00 to take Driver Education Classes, and that figure is expected to rise to \$250.00, should current cuts in funding continue. If we do not pass the Helmet Law, the money will be transferred from Highways to our 402, which are our Safety Programs. Some of those programs are the following;

- Drivers Education
- Motorcycle Safety
- Traffic Safety
- Emergency Medical Services
- School Bus
- Occupant Protection Issues
- Bicycle Safety
- Pedestrian Safety

The NHTSA draft of proposed rules (Federal Register/Vol 58 No 10/Page 4623/Jan 15, 1993) says; "The transferred funds may be

DATE 2/18/93
58365

used for approved projects in any 402 Program areas. The funds shall be used without Federal Earmarking of any amounts or percentages for specific program activity. The Federal share of the cost of any project carried out shall be 100%." I mention this because there were some mis-conceptions that these funds may be used only for Seat-Belt and Helmet Enforcement. So, we may use the funds for any of our Safety Programs. The next question, of course, is "How much will be transferred?" Starting in Fiscal Year 1995, the amount will be 1.5% of the total Highway Dollars we receive the first year, and 3% every fiscal year after that. This amounts to;

| | |
|------|--------------|
| 1.5% | 1,341,606.00 |
| 3% | 2,683,213.00 |

| <u>COST OF HIGHWAYS</u> | | <u>1.5%</u> | <u>3%</u> |
|-------------------------|-----------------------|-------------|-----------|
| simple overlay costs | 200 thousand per mile | 6.7 | 13.4 mi. |
| new 2 lane costs | 750 thousand per mile | 1.8 | 3.6 mi. |
| tough new 2 lane costs | 1 million per mile | 1.3 | 2.7 mi. |

(Figures supplied by the Federal Highway Administration, Wash. D.C. and The Montana Department of Transportation)

Probably the most important peice of information that I have to give to you today is the fact that in the last 6 weeks, 10 States have refused to pass the Helmet Law, and in effect "Just Said No"

EXHIBIT 11
DATE 2/18/93
SB 365

to the Federal Blackmail. They are;

North Dakota, South Dakota, Wyoming, Colorado, Utah, Arizona, Oklahoma, Wisconsin, Indiana, and New Hampshire.

In fact, Maryland is the only State that has passed the Helmet Law since ISTEA was enacted in December of 1991. If these States can see their way clear to "Just Saying NO" to the Feds then so can Montana. It's time to stand up the the Blackmail.

LET the money be transferred to our safety programs so that we can resurrect Driver's Ed and teach the next generation of Montanans to drive safely on our roads...after all what good is 2 more miles of highway if our children aren't allowed the opportunity to learn to drive safely on them? A vote for SB-365 is a vote against Safety in Montana.

This isn't about Helmets...and it isn't about money. What it is about is Blackmail. And FREEDOM of Choice. I urge you all to let Montana be the very next State to "JUST SAY NO" by voting "NO" on SB-365.

Thank You All Very Much for the opportunity to speak to you today.

Jill Z. McGuire

DATE February 18, 1993

SB 365

Senate Highways Committee Hearing on SB365
Testimony of Glen M. Fengstad State Coordinator ABATE of Montana

February 18, 1993

Good afternoon Mr. Chairman and members of the committee.

My name is Glen Fengstad, and I am the State Coordinator of ABATE of Montana and a member of the Board of the National Coalition of Motorcyclists.

I am here today in opposition to SB365. I want to state first, that I am not opposed to wearing safety equipment, and that I do wear safety equipment when I feel conditions warrant it.

What I am opposed to, is the steady erosion of our freedoms by the Federal government. This bill, if enacted will ultimately affect more than just the motorcycling community in Montana. This bill if enacted, will be sending a clear message to the Federal government, that whenever that body decides to further restrict the freedoms of the citizenry with more social planning legislation, that the Montana Legislature can be counted on to "rubber stamp" their every whim.

I am certain that the legislators of Montana know far better what is good and works for the citizens of Montana than some Federal legislator from New York or California.

There are many costs associated with enacting SB365, but I would like you to consider the cost of unemployment. When the State of Nebraska passed a helmet law in 1990, there was a decrease of 25% in motorcycle registrations in that State. This decrease ultimately meant the unemployment of many people involved in the motorcycle industry, not to mention the loss of revenue to the State.

Is the legislature of Montana prepared to underwrite the cost of unemployment insurance for those whose jobs will disappear if SB365 is enacted?

In these times of financial restraint, I think not.

In conclusion, I would ask you to consider what the State Legislators of Arizona, Utah, Wyoming, South Dakota, North Dakota, Colorado, Oklahoma, Wisconsin, Indiana and New Hampshire have done with this Federal intrusion into the governing of their states.

I am asking you to add Montana's voice to this growing chorus, and tell the Federal government that enough is enough, and let's get on with the business of restoring our economy to good health.

Thank you.

February 18, 1993

EXHIBIT NO. 13

Members of the Committee:

DATE February 18, 1993

BILL NO. SB 365

I want to respond to those who believe passing this bill will protect motorcyclists and reduce injuries; and to those who think the State of Montana will lose some of the money it gets from the Federal government.

I have been riding motorcycles for over 25 years. My motorcycle provides a means of basic, efficient transportation. My professional background includes quality assurance, and I have specific experience in testing for government specification compliance. The United States is facing a crisis in the helmet market at this time. Besides the issues of product liability, availability and affordability, there is a lack of product quality.

The two US standards for helmets are the Snell Memorial foundation and the US Department of Transportation. For purposes of comparison, consider that these standards essentially simulate protection up to an impact of 17.3 mph for Snell and 13.4 mph for DOT. Neither speed reflects realistic use of motorcycles as transportation.

Helmets that appear to be of good quality often have no sticker indicating compliance with either of the mentioned standards. This may indicate no product testing. The helmet I currently wear when riding carries a sticker stating, "Sample of this helmet model has passed the Snell Standard and is so certified." This means that at some point in the past, even years past, a helmet from similar tooling and materials met Snell specifications once and the assumption is that all production forever after qualifies, and therefore automatically receives this sticker.

Even if a helmet meets DOT and/or Snell standards, it may in fact offer little protection to the wearer. An article in the July 1992 issue of Road Rider magazine reports that in 1990, 24 Snell-rated helmets were tested to DOT standards. 14 failed to pass at least one DOT test; 10 of the 24 failed at least one Snell requirement. Of 12 DOT-rated helmets tested, five failed the DOT tests. One failed on the first impact, the rest failed on the second impact. In motorcycle accidents, there is almost always a second impact.

Governmental requirement of any helmet sold to the general public today is the same as allowing use of a party balloon as an air bag. Just because it may work once under very limited conditions doesn't mean the State of Montana should assume the responsibility of requiring it by State law.

The problem is not unhelmeted riders but accidents. Helmets do not prevent accidents or teach how to ride. Again, from Road Rider: a study of helmeted and unhelmeted motorcycle accident victims in Texas hospitals showed those without helmets were more likely to not have any driver's license at all, were involved in single vehicle accidents, and were under the influence of alcohol.

According to the February 12, 1993 issue of The Daily Inter Lake, Montana spends \$380 per capita on highway maintenance, fifth highest in the nation and 59 percent above the national average. The Montana DOT wants you to think Montana will lose millions of highway dollars if you don't pass this bill. In October I attended a national convention where speakers from the National Highway Traffic Safety Administration made it clear that the Montana DOT is misleading us.

Without a mandatory helmet law, Montana would have to divert federal construction funds to programs which initiate changes in behavior that endangers everyone on the road. With or without a helmet law, these funds cannot go into a State's general fund or be applied to any ongoing projects. Diverted funds must be used for educational programs such as seat belt, helmet, and child safety seat usage; bicycle, motorcycle, and pedestrian safety; and chemical use issues. You should consider this a way to fund programs that can truly protect all of your constituents. Programs fund-

February 18, 1993

ed this way require no match by the State. Current construction projects require State matching funds.

Motorcyclists, manufacturers and legislators throughout the country are recognizing that legislation is the insurance industry's answer to the problem of motorcyclists being injured in automobile/motorcycle conflicts. It is less expensive to regulate us off the road than treat us as equals on the road with the same privileges as car drivers.

I thank you for allowing me to testify before you today.

Michele Hand
428 West Third Street
Whitefish MT 59937

State may gain federal highway funds

HELENA (AP) — Montana stands to gain an additional \$29 million in federal highway funds if Congress fully underwrites the federal highway act this year, Sen. Max Baucus, D-Mont., told state lawmakers Thursday.

"I intend to make full funding of the highway act a top priority this year" in his new role as chairman of the Senate Environment and Public Works Committee, Baucus told the Montana House. He repeated the promise later in remarks to the state Senate.

Baucus' committee determines priorities and sets terms for spending highway money. But the decision on how much money actually can be spent is up to the Senate Appropriations Committee.

While the average state spends \$226 per capita annually on highway maintenance, Montana spends \$380 per capita, the fifth highest spending level in the nation and 59 percent above the national average, Baucus said.

Montana did well under the highway bill that was passed in 1991 and receives \$2.30 for every dollar the state pays in federal gasoline taxes, Baucus said.

"President Clinton shows every intention of making good on his promise to rebuild this



SEN. MAX BAUCUS, D-Mont., center, greets state House members before addressing the group Thursday afternoon in Helena. Baucus also spoke to the Senate, telling both houses he will make highway funding a top priority in his new role as Chair of the Senate Environment and Public Works Committee. (AP photo)

nation's infrastructure," Baucus said. "I believe this effort should begin by Congress and the president agreeing to provide the maximum level of funding for the highway act."

Another top priority of his Senate committee, Baucus said, will

with mandates unless we also figure out how we will pay for them."

Baucus saluted the work of his Montana Citizens Health Group, an advisory panel he named to help craft a health-care plan for Montana.

Their work resulted in a bill introduced by state Sen. Eve Franklin, D-Great Falls, that has been endorsed by Gov. Marc Racicot. Baucus also acknowledged the work of state Sen. Bill Yellowtail, D-Wyola, who introduced a competing health-care bill.

While Congress and the president will act to bring health care costs under control, the states have an opportunity to act as laboratories for innovative health-care reform," Baucus said.

The Democrat said that, in his position on the Senate Finance Committee, which writes tax law, he is working to help Montana compete in a world economy by seeking to open foreign markets for Montana products and promoting tax policies that encourage long-term investment.

"You can make this transition easier by creating a sound business climate, an educational system that can attract industry to Montana, and by helping Montana business reach out to the world," Baucus said.

EXHIBIT 13
DATE 2/18/93
31 58 365

HELMETS

EXHIBIT 13
DATE 2/18/93
SB 365

Story by Margie Siegal
Illustration by Kim Crumb

A motorcycle helmet is a piece of safety equipment, like a guard rail. However, few pieces of safety equipment are more controversial. People's opinions on helmets range from those who think that wearing a helmet will prevent all motorcycle fatalities to those who think helmets will kill you.

In this article, *Road Rider* attempts to explain how helmets work, how they are made and how they are tested. Our goal is to provide you, the rider, with information you can use in making your own decision to wear a helmet (if your state still gives you that choice) and in deciding which helmet to buy.

Basics Of Design

The first modern safety helmets were developed in the 1950s for airplane pilots. Present day helmets are still produced according to the principles developed around those helmets of almost 40 years ago, although over the years designs have become lighter and more aerodynamic and provide for better ventilation.

A safety helmet must do three things. One, it must furnish a barrier to prevent objects (stones, auto bumpers) contacting the head. Two, it should distribute the force of an impact or have a liner that will absorb impact energy. Lastly, the helmet must stay on during accidents or it will be completely useless.

The human brain is very vulnerable to the effects of impact and other sudden inertial forces. The brain, for want of a better analogy, "floats" inside the skull.

According to Bill Eggimann, M.D., emergency room doctor and motorcycle racer, even if the skull is not fractured, brain damage can often occur from the head hitting a hard object. A fall of only six feet, from slipping on ice for example,

has the potential to cause major head injury. Additionally, jarring of the brain may occur if the body is shaken roughly enough, even if there is no impact. Hence the need for impact energy absorbing abilities, which can reduce the jarring effect and the severe damage it can cause.

Some types of headgear that look like safety helmets aren't. A combat helmet is made of metal, which may be more resistant to penetration than the shell of a motorcycle helmet. However, it has no energy-absorbing liner and therefore is relatively useless in an accident. On the other hand, a bicycle helmet, with no protective shell, will absorb energy from falls but will not protect from penetration.

Each safety helmet shell/liner combination is a compromise between penetration resistance and energy absorption. A stiff, strong shell will resist penetration by a rock or a truck bumper. On the other hand, that same stiff, strong shell will not distribute loading to the liner as well as a more flexible shell. Consequently, less impact energy (from hitting the pavement) will be absorbed. Because of this, helmet shells are currently made of many different materials, each with its own pluses and minuses.

Shell Types

Most high-grade helmet shells made today are of fiberglass or other types of fiber material layered with polyester resin, which acts as glue. The most expensive helmets are made of Kevlar mixed with carbon fiber. Carbon fiber is not an unmitigated blessing. It has a very high strength-to-weight ratio but needs to be handled very carefully, as broken carbon fiber creates sharp edges that can cause serious injury.

Kevlar is a DuPont product that is less expensive than carbon fiber yet can be formed into strong, light helmets. Close-to-top-of-the-line helmets are often made of Kevlar mixed with fiberglass.

The next lower grade of helmet shell (and most common) are those made of fiberglass. There are various methods of molding fiber helmets, but one of the most common is to place a layer of the fiber material in a mold, cover it with a thick layer of resin, and then repeat until the shell is the right thickness. The factory then puts a rubber bag in the mold and blows it up, forcing the fiber and resin layers into a "laminated" shape against the mold. This method is probably the best compromise between cost-effectiveness and strength.

Another, much cheaper way to form a helmet shell is to chop up the fiberglass, mix it with resin and spray it into the mold. This method produces shells that are not as strong as the laminated, bag molding method.

Other helmet shells are made of injection molded polyester or other plastics, such as polycarbonate, ABS or Ronfalin.

Liners

Whatever shell material is chosen, most helmet manufacturers use expanded polystyrene foam (EPS) for the liner. This foam can be made in a number of different densities, depending on the specifications of the manufacturer. Different densities of foam absorb energy differently, and each manufacturer puts much research into determining the best density of foam. The most common foam liners in use are of a density that weighs two to three pounds per cubic foot.

Retention Systems

All this protection must stay with you to be effective. An unfastened helmet is just as bad as no helmet at all, since the helmet will almost certainly fall off before or when you hit the ground. Some helmets, especially partial, "pudding basin" type helmets, have a tendency to roll off forwards, even when fastened.

Avoid aftermarket, quick-release hel-

met strap buckles made of plastic and looking like miniature seatbelt buckles. Accident reports from Highway Patrol departments in several states note cases of severe injury and death from head injuries among motorcyclists who were wearing helmets during "first impact." These same motorcyclists were no longer wearing their helmets at "secondary impact" (there's almost always a secondary impact), because their quick-release helmet buckles released during first impact.

There are good quick-releases made of tempered steel (such as those sold by BMW), but be careful not to confuse them with the knock-off plastic versions found for sale at so many rallies.

When in doubt, stick with the old tried-and-true D-ring system. Your life is worth more than the few extra seconds they take to secure and remove.

Make Sure It Fits!

A loose helmet may be better than nothing at all, but will have a greater tendency to fall off when you most need it.

Also, the energy absorbing liner will not work as well if your head is loose inside the helmet.

According to the *Journal of Trauma*, a well-fitted helmet should be almost impossible to move on the head when the strap is fastened. Read the article that immediately follows this one, "Fitting A Helmet Properly," for a good understanding of how to check your helmet for proper fit.

Regulatory Standards

Motorcycle helmets must meet federal standards (known as DOT, for Department of Transportation) and may meet other, voluntary standards. The most well-known of these is the Snell standard, formulated by the Snell Memorial foundation. Shopping around, you will find that most of the more expensive helmets are Snell approved. Whether or not that actually makes them any better is a matter of considerable debate within the motorcycle-safety community.

To meet the DOT standard, a helmet

must stay on a metal headform without major movement while a 300-pound pull is applied. It must also successfully resist full penetration of a three-kilogram object dropped from three meters and withstand two successive drops from six feet onto a flat steel anvil, or 4.5 feet onto a hemispherical anvil, without exposing the headform to excessive g-forces.

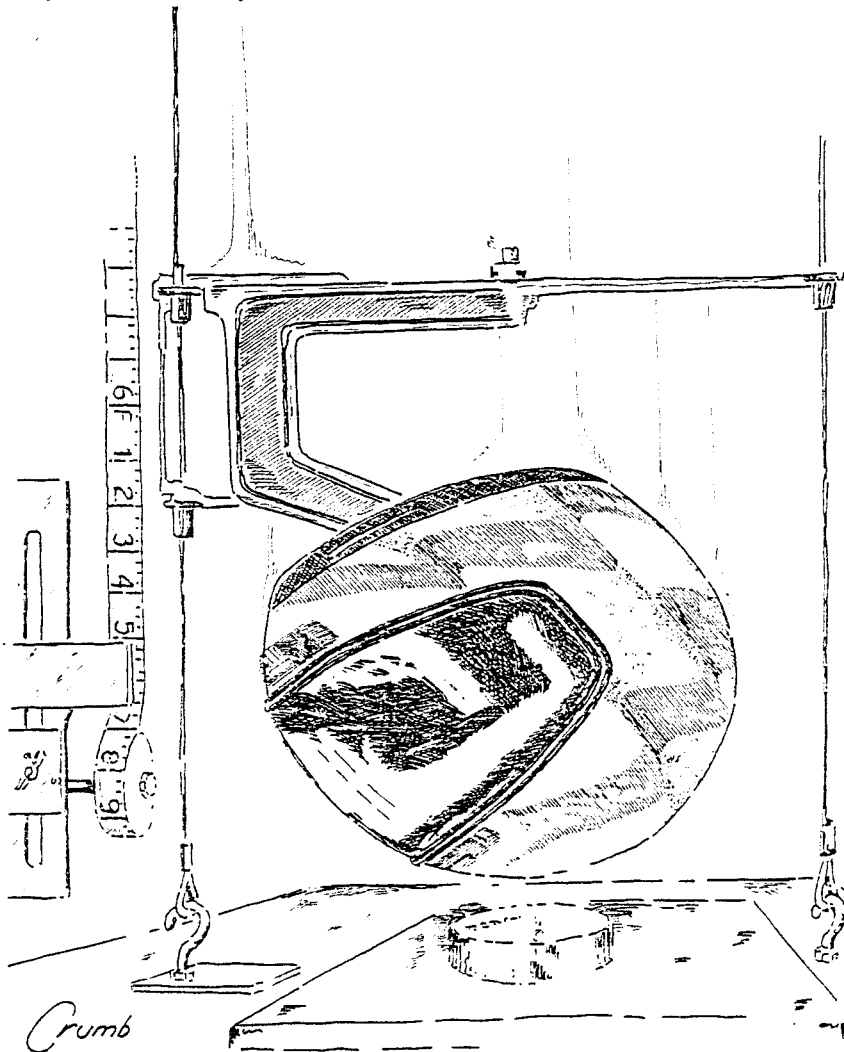
The DOT standard test for g-force requires a solid headform inside the helmet with an accelerometer mounted inside the headform. The accelerometer measures the amount and duration (dwell) of g-force developed during an impact.

The g-force is an inertia measurement expressed as multiples of gravity. If an object (like your head) weighs 30 pounds, a sudden change in direction or velocity that exerts a force on it of 60 pounds would be considered as 2g. That's an over-simplified explanation, but it will serve for our purposes here.

The DOT test requires that a force of no more than 150g be plotted by the accelerometer for no longer than 4.0 milliseconds, or that a force of no more than 200g be plotted for no longer than 2.0 milliseconds.

The 1985 Snell standard has some important differences from the DOT regulations. Snell does *not* have a dwell time standard, drops the helmet from first 10 feet and then 7.4 feet, requires no single impact to be over a peak of 314g and that all impacts average a peak of 285g.

The Snell and DOT standards and their differences are the subject of some controversy. Jim Sundahl of the Bell Helmet design and development department suggests that pliable headforms with the characteristics of a human head would produce results closer to real world conditions. Hugh H. Hurt and David R. Thom of the Head Protection Research Laboratory defend the present metal headforms, stating that they produce reliable test results and force the helmet to absorb all the



During the DOT G-force test the helmet, with a headform and accelerometer inside, is dropped 4.5 feet onto a hemispherical anvil. Disturbingly, recent independent tests have shown that a large number of helmets carrying DOT approval do not actually pass this or other DOT criteria.

impact energy. They contend that a pliable headform would absorb some energy, reducing the load on the helmet.

Are You Getting The Protection You Paid For?

Hurt and Thom have also found that some Snell qualified helmets may not meet the mandatory DOT requirements. Snell helmets tend to have stiffer shells and liners made of denser foam. They generally absorb less energy and thus often fail the DOT dwell test, which Hurt and Thom think is important for head protection. Of 24 Snell rated helmets tested by Hurt and Thom in 1990, 14 failed to pass at least one DOT test.

...many of the helmets
tested by Hurt and Thom
did not meet the
standards they were
advertised as meeting.

To make matters worse, many of the helmets tested by Hurt and Thom did not meet the standards they were advertised as meeting. Fully 10 of the 24 Snell labeled helmets failed at least one *Snell* requirement. Although none of the helmets were labeled by brand name in Hurt and Thom's published results, three of the four Kevlar/fiberglass helmets in the study failed at least one DOT test.

Of the 12 DOT-rated helmets tested, five failed the DOT tests, but only one failed on the first impact. The rest failed the test on the second impact in the same location. This does not mean that these helmets are necessarily dangerous, but it does mean that they are not as protective as they should be—or as they are advertised to be.

Finally, as stated by Hurt and Thom in their article on accident performance of motorcycle helmets, "Whenever various standards for motor vehicle safety helmets are compared, it is important to return to reality: DOT specific energy of 6 feet corresponds to 13.4 mph impact; Snell M85 specific energy of 10.0 feet

corresponds to 17.3 mph impact."

David Thom explained that these standards measure *direct* impact, and most motorcyclists will have slowed considerably before hitting something. He emphasized that in his research, he found that helmets qualified to the DOT standards would protect motorcyclists in 90 percent of all accidents.

In order for a helmet to offer more protection, it would have to have a significantly thicker liner. Such a helmet would be heavy and unwieldy and would have a tendency to cause headaches and neck injury from the pressure generated by its weight. In this respect, modern helmet designs are a compromise between weight and degree of protection afforded.

Freedom Of Choice and Making An Informed Decision

As the "caution" stickers in helmets warn, a well-made, properly fitted helmet can protect you from many, but not all, possible head injuries. In the last few years, some safety organizations have campaigned for mandatory helmet laws as a way to reduce motorcycling injuries and fatalities.

A study of injury severity and medical costs for helmeted and unhelmeted motorcycle accident victims brought to hospitals in Texas, performed by Robert K. Goodnow, came up with some interesting findings. The Texas study showed that motorcyclists without a helmet were more likely to not have any driver's license at all, to be involved in single-vehicle accidents and to be under the influence of alcohol. These motorcyclists had significantly more injuries overall—not just head injuries.

This suggests that the decision to wear a helmet is part of safe and sane riding. By the same token, forcing an unsafe and not-so-sane rider to wear a helmet will not change his or her proclivity to ride drunk or to speed, and most certainly will not keep him or her out of trouble.

Forcing bikers to wear helmets will enable an undetermined number of accident victims to escape serious injury. Yet some people who wear helmets will still have head injuries from motorcycle accidents. Truth is, most people who sustain head injuries do *not* get them from motorcycle accidents.

The question is whether the savings to

society in loss of productive citizens is worth the loss of civil liberties. There are many motorcyclists who do not believe so. They do not feel that anyone has the right to tell them what to put on their heads. This argument, involving civil rights, is a matter of opinion with very strong opinions on both sides.

However, some people, fighting against laws that they believe infringe upon their civil liberties, go a little further than the discussion of legalities. They state that helmets actually *cause* injuries.

Evidence of helmet-caused injuries do pop up occasionally in the medical literature. The *British Journal of Oral Surgery*, Volume 14, page 163 (1976); the *Journal of Trauma*, Volume 25 No. 6 (1985) and *Lancet*, Volume 1 No. 8577 (1988), all present case histories of motorcyclists who have been injured in accidents by their helmets. In one article, the doctor found two motorcyclists who had first rib fractures, one due to wearing a too-large full face helmet. In another, a motorcyclist had lacerations due to a sharp edge on the chin guard. The *Lancet* article theorized that death *could* be caused by impacts to the chin bar that are not sufficiently absorbed by the liner. The subject of that article was apparently killed by a hard blow to his chin bar.

Two of the authors of the *Lancet* article, R.D. Cooter and D.J. David, doctors at the Royal Adelaide Hospital, Australia, authored a paper which expanded the *Lancet* theory that severe blows to a chin bar on a full face helmet could cause skull fractures.

Hurt and Thom disagree with the Cooter and David theory. They state that these doctors have not proved their theory that blows to the chin guard of a full face helmet causes skull fractures. Further, Hurt and Thom's research has shown that helmeted motorcyclists with severe head injuries are commonly so badly injured in the accident that they would die even if they had no head injuries at all.

There is some evidence that a few people who wear ill-fitting or inadequately padded full face helmets, or who receive a hard impact on their jaw, may be badly injured or killed, but this evidence does *not* prove that helmets injure a significant number of motorcyclists. Much of this evidence is anecdotal only and the injury mechanism has not been proved.

Anti-helmet motorcyclists often state

Caring For Your Helmet

IF YOU HAVE JUST BOUGHT A HELMET, you naturally want to keep it in near-new condition as long as possible. If you have an old, comfortable helmet, you naturally want to keep it going as long as possible. Compared to maintenance of other safety systems, like disc brakes, helmet care is fairly simple.

Remember that your helmet is a fiber/resin or plastic shell over a foam liner. Anything that will damage plastic, fiberglass or foam will damage your helmet. The first enemy of your helmet is heat. According to Dave Zampierin, president of Bieffe, USA, normal heat, including leaving your helmet in a car in the summer, will not damage your helmet. However, higher heat, including that from baking on paint finishes, will damage both the shell and liner.

The second enemy of your helmet is solvents. Clean your helmet with mild soap and water. Paint thinners, degreasers and even alcohol-based glass cleaners can damage the shell.

The third enemy of your helmet is impact. Don't jam it on your sissy bar—you can damage the liner. Don't drop it. If you fall off your bike, even if you didn't hit very hard, have your helmet inspected. In case of doubt, replace it.

According to Zampierin, depending on use, a helmet should last three years before it starts to deteriorate. Careful use will put off the day that you have to fork out more money for a new one.

If you have a helmet you hate, you should go helmet shopping as soon as you are financially able. Helmets are continually evolving, becoming lighter and better ventilated. With a little looking, you will be able to find a comfortable helmet that lets you breathe and see in comfort. However, beware of buying a too-large helmet so your hair doesn't get crushed. Remember, a properly fitted helmet should be too tight to move on your head. Your brain is more important than your hairstyle.

that helmets cause cervical sprains. The Texas study found that of 30 cervical spine injuries, 10 people wore helmets and 19 did not, with one person's helmet use unknown. As shown in the discussion of how helmets work, about 10 percent of motorcyclists in accidents will be injured even though they wear a helmet. You cannot say these people were injured by their helmets. They simply were propelled into a situation beyond the ability of the helmet to protect them.

A more pressing problem than possible accidents or injuries caused by helmets is that bikers forced to wear helmets often resort to doing the minimum necessary to avoid arrest. They wear too-large helmets, hard hats without liners, Halloween costume helmets or pudding basin-type helmets that roll off in an accident—and then they don't fasten the chin strap. As a result, they wear no more protection than if they had no helmet at all. This may partially account for the fact that the average number of deaths per thousand injuries is higher in states with mandatory helmet laws.

The Cost Factor

One easily understood reason why people resist buying helmets is that they are expensive. The reason for some of the rising cost of helmets is the rising cost of product liability insurance.

Around the turn of the century, the prevailing legal opinion was that the buyer of a product had a responsibility to inspect it before he or she bought it. Over the years, the courts decided that the "buyer beware" philosophy was unfair to people who could not possibly know how a product was built or if it was safe to use. At present, an injured person can recover money from a manufacturer, distributor or retailer of a product if they can prove that a product was unsafe for a reasonably foreseeable use, or if the manufacturer failed to warn of foreseeable dangers from use of the product.

A lawsuit against a helmet manufacturer typically starts when a horribly injured motorcyclist's family calls an attorney's office. The biker may have been in a one-vehicle accident or may have been run over by a car driver with no insurance or only the state minimum li-

bility insurance. The victim is permanently injured. He will need care for the rest of his life, or he might have been the main provider for young children that he can no longer support. The family is sure that the helmet was at fault. After all, he was wearing one, wasn't he?

The attorney, attempting to get some money for the family, goes after the helmet manufacturer, the wholesaler and the local cycle shop that sold the helmet. These suits can be incredibly costly for both the injured person and for the manufacturer. Hiring an expert, paying for the necessary testing of the product and paying for prosecuting a suit can cost between \$25,000 and \$100,000 for each side, according to Art Chambers, personal injury attorney.

Art has been riding motorcycles since 1958 and racing since 1969. He has sued helmet manufacturers twice.

"They are very tough cases. The manufacturers have all the data. I don't do them if there is any alternative. You have to test the helmet and pay the expert out of your own pocket. It takes 500 to 1000 hours of your time to prosecute the case and the risk factor (that the plaintiff will lose) is large."

"People do not like motorcyclists and it is not always possible to get everyone off a jury with the attitude that your client got what he deserved."

Most of these lawsuits either lose or are settled for a small amount, but the aggregate costs to the insurance company, even if it successfully defends the suit, can be substantial. If the injured person wins, the jury can award them damages that include the cost of medical treatment, care for life if the person is totally disabled, and "pain and suffering," which is often three or four times the cost of the medical treatment. Some verdicts are over \$200,000 and a few are in the millions of dollars.

The insurance company passes on the cost of the defense to the helmet company. As a result, insurance premiums for helmet manufacturers, wholesalers and retailers have skyrocketed.

Dave Zampierin, President of the Bieffe helmet importer, estimates that 10 percent of the wholesale cost of a helmet is due to insurance. He says, "Some people are pulling out. It's a whole different market now because of the lawsuits."

Roger B. Weston, President of Arai Helmet (America) and Jim Sundahl of

Bell both confirmed that insurance costs for helmet manufacturers are substantial.

Colleen, of ADI, a major distributor, stated that even some of the bigger retailers have had to purchase million-dollar liability policies.

Industry scuttlebutt has it that Bell moved its motorcycle helmet division overseas due to lawsuits. Simpson no longer sells helmets in the United States. Schuberth, who made helmets for BMW, has refused to produce more helmets for BMW if BMW intends to sell them in the United States. Apparently they were sued once—which was enough.

Injured people and their lawyers argue that a company ought to be responsible if someone is injured using their products. Helmet manufacturers say that they are in business to sell helmets, not insurance, and that they cannot insure that people who wear their helmets will walk away from any conceivable crash. They also point out that if they go out of business from paying claims, good helmets will simply no longer be available.

Making The Best Of It

So what can we conclude from all this?

Although helmets are not perfect, any helmet will improve (but not guarantee) your chances of walking away from an accident. However, mandatory helmet laws often don't work because people who are forced to put something they don't want on their heads will wear things that do not function as safety helmets just to avoid arrest.

Lawsuits have the side effect of driving helmet manufacturers out of the United States. Money that could go to research and development of better safety equipment is going instead toward rising insurance costs.

If you decide to wear a helmet, make sure your helmet fits properly, is comfortable to wear and doesn't interfere with your vision. You won't want to wear a helmet that is uncomfortable or that cuts off your vision. A helmet you won't wear won't work.

As stated by Bell Helmet's Jim Sundahl, "All pieces of safety equipment have limits. You use safety equipment to improve your chances of survival, but the safety equipment can't guarantee that you will survive. Safety equipment plays a role in improving the odds, but it is not a substitute for good, safe riding."



Fitting A Helmet Properly

Courtesy of Tom Doran, President, Bell Helmets

Photos by Nick Cedar

13
2/18/93
SB 365

Measurement

Measuring the head is the important starting point for the entire sizing procedure. A small metal or cloth tape measure may be used to make your initial measurement. The circumference of the head should be measured at a point approximately one inch above the eyebrows in front, and at a point on the back of the head that results in the largest possible measurement. Take several measurements until you are sure you have the largest one.

Use the conversion chart shown here to determine the approximate size helmet needed. However, due to varying shape, heads that are apparently the same size when measured with a tape may not necessarily fit the same size helmet.

Try It On

Once you've determined the preliminary tape measurement, select the helmet

closest in hat size to that measurement, using the conversion chart. If it's between sizes, round-out to the next largest size. Now try on the helmet. If you're not

Conversion Chart

| Inches | Size | Metric |
|--------|-------|--------|
| 21 1/4 | 6 3/4 | 54 |
| 21 5/8 | 6 7/8 | 55 |
| 22 | 7 | 56 |
| 22 3/8 | 7 1/8 | 57 |
| 22 3/4 | 7 1/4 | 58 |
| 23 1/8 | 7 3/8 | 59 |
| 23 1/2 | 7 1/2 | 60 |
| 23 7/8 | 7 5/8 | 61 |
| 24 1/4 | 7 3/4 | 62 |
| 24 3/4 | 7 7/8 | 63 |

MOTOR VEHICLES DIVISION

23.3.420

23.3.417 STANDARDS FOR PROTECTIVE HEADGEAR

(1) The Department of Justice adopts and incorporates in these rules the American National Standard Institution (ANSI) Standard Z90.1-1971, and the Federal Motor Vehicle Safety Standard (FMVSS) 218 (49 C.F.R. § 571.218) and all subsequent amendments to those standards.

(2) If there is any conflict between ANSI Z90.1-1971 and FMVSS 218, FMVSS 218 controls.

(3) These standards apply to protective headgear to be worn by any motorcycle operator or passenger under 18 years of age.

(4) FMVSS 218 is found at 49 Code of Federal Regulations (C.F.R.), section 571.218, "Motorcycle Helmets." Copies of ANSI Standard Z90.1-1971 are available upon request from the Division of Motor Vehicles, Department of Justice, 303 Roberts, Helena, Montana 59620. (History: Sec. 61-9-417, MCA; IMP, 61-9-417, MCA; NEW, Eff. 11/5/73.)

23.3.418 STANDARDS FOR CHILD SAFETY RESTRAINT SYSTEMS

All child safety restraint systems purchased after January 1, 1984, for use in motor vehicles to comply with the provisions of sections 61-9-419 through 61-9-423, MCA, must conform to federal standards outlined in Federal Motor Vehicle Safety Standard No. 213. The Division of Motor Vehicles, Department of Justice, hereby adopts and incorporates by reference Federal Motor Vehicle Safety Standard No. 213, in 49 C.F.R. part 571, which sets forth requirements and standards for child safety restraint systems. A copy of Federal Motor Vehicle Safety Standard No. 213, in 49 C.F.R. part 571 may be obtained from the Division of Motor Vehicles, Department of Justice, 303 Roberts, Helena, Montana 59620. (History: Sec. 61-9-420, MCA; IMP, 61-9-419 to 423, MCA; NEW, 1984 MAR p. 1040, Eff. 7/13/84.)

23.3.419 EXEMPTIONS

The provisions and requirements of section 61-9-420(1), MCA, do not apply to any child who, because of a physical or medical condition, or because of body size, cannot be placed in a child safety restraint system or safety belt. (History: Sec. 61-9-420, MCA; IMP, 61-9-420, MCA; NEW, 1984 MAR p. 1040, Eff. 7/13/84.)

23.3.420 SAFETY EQUIPMENT FOR FERTILIZER TRAILERS

Trailers designed for transporting and dispersing fertilizer shall comply with the following safety requirements:

(1) Unless the trailer is equipped with brakes in compliance with section 61-9-301, MCA, it may not be towed at a speed greater than 35 miles per hour.

(2) If the trailer is towed in a combination of more than two vehicles, the rear units of the combination shall be equipped with breakaway brakes.

MONTANA TRAIL VEHICLE RIDERS ASSN.

JE Linda Y. Ellison Land Use Coordinator
3301 W. Babcock Bozeman, MT 59715
(406) 587-4505

February 18, 1993

SENATE HIGHWAYS

EXHIBIT NO. 14

DATE February 18, 1993

BILL NO. SB 365

Testimony before the Senate Highways Committee

Re: SB 365

An Act Requiring Motorcyclists of All Ages to Wear
Protective Headgear

On the face of it, off-highway riders will not be affected by this legislation, but is that necessarily so?

As far as strictly recreational use is concerned, somehow off-highway trail users must get from the campground facility to the trailhead, and nine out of ten times that means at least several minutes of "road" ride prior to a day's trail riding activities. Particularly in a mountainous setting, it is often necessary to use portions of the forest development road system to connect trail network segments.

In spite of federal authority to exercise a variance with regard to the type of machine that may operate on forest development roads, for the purposes of the enforcement of Montana traffic law, ie: mandatory helmet requirements, forest development roads are considered a part of the Montana highway system.

As an aside, it is interesting to note that the effective date of this legislation apparently falls one day short of the federal deadline for enactment. Montana's road budget will still lose the first year's allocation which is just fine with us since we heartily support the D.A.R.E. program and other such highway safety programs to whom the windfall funding will accrue. Motorist awareness campaigns and conspicuity programs have already proven to reduce the frequency of motorcycle related multi-vehicle crashes far more than personally intrusive measures such as mandatory helmet laws.

Kelly Kenyon
GF - individual rider

SENATE HIGHWAYS

EXHIBIT NO. 15

DATE February 18

BILL NO. SB 365

Mr Chairman and members of the Committee:

The govt was chosen by the people for the people. Unfortunately its becoming to the people. We have the right to bear arms, speaking what we think and the right to assemble without fear of persecution. Many of us, myself included in this room have served our country and have been on foreign shores to ^{help} preserve that freedom.

Now the federal govt has decided to blackmail even individual state to conform to its Authority. I feel as a tax paying Montana resident that this is a violation of of personal rights. The money should be spent on better things, Rural Emergency Services, Drivers Education, Riders Education. I feel as a concerned parent, I would feel safer that my child is being taught how to prevent injuries by being a better driver. Head injuries can occur anywhere, anytime. A horse kicked me in the face last spring which resulted in a broken jaw and a concussion. Was the next best result in Horse Enthusiasts magazine. So

Children in strollers be forced to wear restraining equipment? Once again I repeat, it should be up to the individual ADULT to decide.

I'd also like to remind you that, it's been stated that most of the ~~for~~ injuries - over 70% were caused by car accidents. I would like to propose that these folks also be required to wear helmets.

Timothy W. Lindeborg, HC70, Box 146, Bonner, MT 59823

DATE February 18, 1993

testimony FOR Helmet Law hearing 2/18/93

BILL NO. SB 365

Good afternoon ladys and gentlement of the Senate Highways and transportaion committee.

I am here to ask that you vote NO on SB-365, The Act Requiring M Motorcyclists of all ages to wear protective headgear.

My reasons are:

1. The blackmail used by the Federal Government on this matter destroys one more small sector of Montana's soverenty.
2. The Montana motorcycle community has a declining incidence of accidents and fatalities. The American Motorcyclists Association sent you figures indicating a 21% decrease of accidents and a 31% decrease of fatalities in the past five years. Our 5.2 fatalities per 10,000 registrations is below the national average of 6.87 per 10000. A drop we should ascribe to the Montana Motorcycle Safety Education Program's rider safety courses.
3. The cost of the penalty for not passing a helmet law is not small. Its reported to be in the 1 to 3 million dollar range. BUT, if you refer to the ABATE of Montana Economic Effects information sheet, any detrimental effect^{ed} this bill's passage would be felt by the 51.5 million dollar motorcycling industry. A negative effect of one percent would cost this state approximately one half million dollars of economic activity, at least five jobs in motorcycle shops, and somewhere around 200 motorcycle registrations. Depending on the costs of the sancitions it would not take more than a Two percent drop for the low end or a six percent drop for the high end costs to negate the penaltys. A ten percent drop in motorcycle activity would cost this state 5.5 million dollars. (all figures are based on figures provided by the Motorcycle Industry Council)

In conclusion this bill should be killed because motorcycle accident statistics are dropping, potential costs are very high and we in Montana are capable of making our own decisions without the intrusion of the Federal Government.

I respectfully ask that the ABATE of Montana Motorcycling and It's economic effect information sheet be included in the record of this hearing.

Thank You

SENATE HIGHWAYS

EXHIBIT NO. 17

TO: SENATE COMMITTEE

DATE February 18, 1993

BILL NO. SB 365

FROM: NANCY PFAFF
PO BOX 1111
LEWISTOWN, MT

GREETINGS TO THIS SENATE COMMITTEE

I am Nancy Pfaff, born in Lewistown, raised on a ranch by Moore, Mt. I rode horses while I was growing up. I moved to Nebraska to go to college and took up motorcycling there in 1979. I loved riding horses as a kid and as an adult I took to motorcycling with the same love. As a struggling college student a motorcycle was an economical way to travel. When I started riding I wore a helmet. I took the motorcycle rider safety course. I do not drink alcohol.

Once while riding on a one-way city street with three lanes of traffic I was in the far left lane. Motorcyclists rarely ride in the middle of a traffic lane because oil and grease dripping from cars and trucks make that a slippery area, so we usually ride in the right or left tire tracks, depending on which gives us the best vision and visibility to other drivers, the idea being that drivers that see us usually won't hit us. I was in the left tire track and decided because of a pothole to move to the right tire track in my lane. I started the move and was almost hit by the car that should have been behind me. The driver of the car had eased up so his bumper was even with my knee and only inches away from it. He was trying to pass me in my own lane with bumper to bumper traffic. I had on my full-face helmet. I didn't hear him. I had double mirrors on my bike, but he was in my blind spot. I didn't see him in my peripheral vision because of the helmet, and when I did discover him I couldn't yell at him. In a full-face helmet a yell just goes round and round inside the helmet. I haven't, by choice worn a helmet in traffic situations since then.

During colder weather in the spring and fall my helmet steams over on the inside when I stop at traffic lights and doesn't clear again until I'm moving, so the air circulates in the front of the helmet. It also causes my glasses inside the helmet to steam over, so I have to start up looking through the steam. Helmets are expensive and different styles have different advantages and disadvantages, but most of us can't afford a variety of helmets. We pick one that meets some of our riding needs. I want the choice of not wearing it when the one I have endangers me.

I have family and friends that are still in ranching, sometimes they ride horses, but now lots of them use 4-wheelers and 2-wheelers to herd their cattle and some of this is done on public roads. A mandatory helmet law would effect them also. A helmet worn for hours on a hot summer day can contribute to, and / or cause heat prostration. There are times when riding without a helmet is a better choice for me. I don't want to be told to wear safty equipment that I feel impares my safty as a motor-cycle operator.

I am a certified Nursing Assistant working at the Skilled Nursing Center in Lewistown, Mt. I'm working in a situation where staph, strep, Aids, Hepititis B and other infections are a fact of life. I'm not stupid, and I don't want to get any infections. I amglad that the facility where I work provides safty equipment for my protection, and I use it. But the government, OSHA, has gone too far. I can be fined \$7,000.00 and the facility where I work can be fined \$7,000.00 if I can't tell the OSHA rep where the Hazardous Material book is. I can be fined if I'm performing some task at work and am not using the safty equipment the OSHA rep thinks

I should be using in that situation. My freedom to think for myself in the individual situations at work has been removed, I think to my detriment and I think to the detriment of the patients I work with.

I'm intelligent and want the freedom to choose what I wear when riding. Please leave me free to do my own choosing and at that same time you will be leaving yourselves free to do the choosing in your own lives.

Thankyou.

EXHIBIT 17
DATE 2/18/93
GB 365

THOUGHTS ON THE HELMET ISSUE

WELL, HERE WE ARE AGAIN. EVERY TWO YEARS, JUST LIKE CLOCKWORK, WE GO ANOTHER ROUND IN THE CONTINUING BATTLE FOR THE RIGHT TO CHOOSE WHAT WE MOTORCYCLISTS WILL OR WILL NOT WEAR WHEN WE RIDE.

YOU KNOW, I SURVIVED CATHOLIC SCHOOL AND THIS SORT OF REMINDS ME OF THE SO-CALLED "DRESS CODES" THEY HAD THERE. IF I REMEMBER CORRECTLY, THE ISSUE WAS BLUE JEANS. SEEMS THEY WERE WOVEN BY THE DEVIL OR SOME SUCH NONSENSE.

THE FACT IS, WE CAN ARGUE THE PROS AND CONS OF MOTORCYCLE HELMET USE UNTIL HELL FREEZES OVER BECAUSE BOTH SIDES OF THIS ISSUE HAVE VALID VIEWPOINTS. HOWEVER, IT IS MY VIEW THAT BOTH SIDES SOMETIMES BECOME SO EMBROILED IN SAID PROS AND CONS THAT THEY FAIL TO UNDERSTAND WHAT REALLY MATTERS HERE.

WHAT IS IT THAT REALLY MATTERS? IN A WORD, FREEDOM. FREEDOM TO MAKE YOUR OWN DECISIONS AND FREEDOM TO ACCEPT RESPONSIBILITY FOR THOSE DECISIONS IN A WORLD POPULATED BY AN EVER-INCREASING NUMBER OF PROFESSIONAL "VICTIMS" HOPING TO ATTAIN A RISK-FREE ENVIRONMENT THROUGH MANIPULATION OF THE LEGISLATIVE PROCESS.

LEGISLATING SAFETY IS LIKE LEGISLATING MORALITY. A LOT OF TIME AND A LOT MORE MONEY IS SPENT FOR VERY LITTLE RETURN. SOMEWHAT LIKE THE BOGEYMAN OF "DEFICIT REDUCTION". IT NEVER HAPPENS.

IN CLOSING, I WOULD LIKE TO LEAVE YOU WITH THESE WORDS: "THOSE WHO WOULD TRADE THEIR FREEDOM FOR SECURITY DESERVE NEITHER."
VOTE AGAINST THE HELMET LAW. THANK YOU.

SENATE HIGHWAYS

EXHIBIT NO. 18

DATE February 18, 1993

BILL NO. SB 365

Todd G. Westlie

Mska, MT

in 1987 I had motorcycle accident and broke 2nd & 3rd vertebrae in neck #2 Crushed and lodged in spinal cord.

Ambulance responded and did not take precautionary actions in trying to transport me into vehicle until family member requested proper transportation and care they finally followed advice

Surgery followed with 14 months of therapy and recovery I was able to recover within 8% of total recovery.

I asked Dr. A.T. Joern M.D. Neurosurgeon who performed surgery what would have happened if I wasn't wearing a helmet. His professional diagnosis was paralysis from severed spinal cord from bone spur lodged in spinal cord because weight of helmet would have spun head around.

I was able to return to my job fully after 14 months without any welfare-social security subsistence-no Public Burden factor.

Myself with no helmet - recovered when my friend in 1986 wearing a helmet in an accident was injured to the level of diagnosis of 13 yrs old and is now in care of state of Texas today ~~is~~ work and pay taxes

Matt Hutcheson

18 Feb 93

I am a civilian employee for the Dept. of Defense and I'm a Staff Sgt. in the Army Reserves.

I asked myself "why would the Govt. want motorcyclecyclists to wear a helmet?" So they won't crash and die ...Right? But why would a motorcyclecyclist crash? Lots of reasons...alcohol, traffic, road conditions,...

As I thought about this my mind drifted and I remembered my best friend since 6th grade Jim Denny. Jim and I grow up riding our scooters up and down the alleys of Missoula. Later on I ended up joining the service and Jim sought his fortune else where. Years later we were both back riding our bikes on the highways and streets around Missoula.

One night in 1985 Jim rode his bike for the last time. He went off the road and over a cliff.

My first question was "had he been drinking?"..No, he just got off work. "Did a car run him off the road?"..No, that wasn't the case either. ... It was dark and he just missed the curve.

Jim suffered massive internal injuries and died of pneumonia a year later.

So it wasn't alcohol or traffic...and I'm positive a helmet would not have prevented him from missing the curve and going over that cliff. Jim was just going to fast for the road conditions. He had never taken a motorcycle safety course.

I've been riding motorcycles for 21 years and I've taken 3 motorcycle safety courses in that time. Every class I took addressed the variables that influenced Jim's fate.

I wear a helmet at least 30% of the time but I make that choice, to wear or not to wear a helmet, an educated decision.

Two years ago I fought in Desert Storm. I was so happy to be back too the home of the FREE. Free to enjoy life at its best and free to be responsible for all that I do.

Today I ask that you vote for freedom... Just as I have fought for it.

SENATE HIGHWAYS

EXHIBIT NO. 20

DATE February 18, 1993

BILL NO. SB 365

SENATE HIGHWAYS

EXHIBIT NO. 21

DATE 2/18/93

BILL NO. SB 365

February 18, 1993

Senate Highways Committee
Capitol Building, Rm. 325
Helena, Mt. 59620

Re: SB 365, B. Brown, Motorcycle Helmet Law

Chairman and Committee Members;

My name is Douglas Bristow. I am a motorcycle owner/operator, a business owner, taxpayer, voter and instructor for the Montana Motorcycle Safety Education Program.

Helmets are not a cure-all. Helmets are only one piece of proper riding gear. What about eye/face protection, clothes, gloves, and footwear?

Montana has a motorcycle safety education program that helps develop knowledge and skill for safe motorcycle operation. Help fund the Montana Motorcycle Safety Education Program and educate riders and others about safe riding.

I ask, you consider alternatives before passing SB 365.

Sincerely,

Douglas Bristow

Douglas Bristow

1005 Leslie

Helena, Mt. 59601

W 443-7573 H 442-8949



EXHIBIT 22

DATE 2/18/93

1 SB 365

OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Nancy Keenan
Superintendent

February 11, 1993

NHTSA Docket Section
Docket 92-40 Notice 1
Room 5109
Nassif Bld.
400 Seventh St. SW
Washington, DC 20590

Dear Sir/Madams:

The CFR requiring universal use of motorcycle helmets as proposed leaves at least the following questions and issues unanswered. These questions and issues should be satisfactorily addressed in the proposal before it is considered for legislation.

Does the CFR...

- 1) Apply to motorcycles ridden on private property?
- 2) Apply to motorcycles ridden off state and federal streets and highways but on their right-of-way? Example: a farmer riding along his fence line which is adjacent to a highway.
- 4) Apply to motorcycles being ridden on public lands, i.e., BLM, USFS, etc.?
- 5) Apply to non-federal and state roads such as county and private roads?
- 6) Apply to motorcycles not in motion?

EXHIBIT 23
DATE 2/18/93
SB 365

February 17, 1993

The Senate Highways Committee
State of Montana
Helena, Montana

RE: Proposed Mandatory Helmet Legislation

Ladies and Gentlemen,

It is my understanding you are considering legislation which would require motorcyclists in the State of Montana to wear helmets.

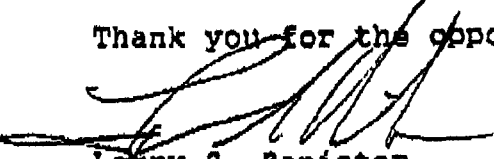
I am a Motorcycle Safety Foundation Certified Instructor in Missoula, and an avid motorcyclist. As an instructor, my position concerning the use of helmets is very clear...I recognize the helmet as the number one piece of safety equipment and teach and encourage all riders to wear helmets each and every time they ride.

Helmets, like all articles of personal safety equipment, are only insurance against injury in the event of an accident. The most effective insurance against injury, however, is the prevention of an accident in the first place. Motorcycle Safety Foundation training is based upon a core curriculum designed to teach students skills which were found to be missing in accident-involved motorcyclists. This training has proven to be a material factor in reducing motorcycle related accidents and injuries. I believe Montana's program is fulfilling this need within the state.

It is my opinion that educated people make educated decisions. Students completing the Motorcycle Safety Foundation rider courses are well educated in the use of safety equipment, knowledgeable and practiced in riding skills and aware of the risks of motorcycling. A vast majority of my students indicate that they would never ride without all safety equipment, the most important of which is the helmet.

I believe educated motorcyclists represent no greater risk than any other group of enthusiasts. To single out motorcyclists by mandating the use of helmets is a poor choice, one which would appear to be a reaction to federal monetary allocation and not one which addresses a central safety issue.

Thank you for the opportunity to address this issue.


Larry S. Banister
MSF Certified Instructor
102 Ironwood Place

2/18/93

NAME Phyllis Burreson

ADDRESS 120 Perry Park Dr. Ms/a MT 59803

HOME PHONE 251-5772 WORK PHONE 721-4324

REPRESENTING self

APPEARING ON WHICH PROPOSAL? 4/5

DO YOU: SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

[illegible]

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F11

P.O Box 405
Bigfork MT 59911
2/28/93

Senator Harry Fritz

Re; SB 415

Dear Sir,

Billboards along our highways have become an eyesore.

For example: On an eight mile stretch of Highway 93, south of Kailispell, the abundance of billboards mar the view of the majestic Swan Mountain Range and the open countryside. I cringe every time I drive along that stretch of highway. "Tacky" is the only way to describe this.

It's hard to understand how businesses erect billboard after billboard without looking at the overall effect.

Still standing is a billboard for Smorgy's in Kalispell, a restuarant that closed it's doors about two years ago. This sign should have been removed when the restaurant closed and there are probably other billboards along highways that are obsolete.

The erection of commercial signs along our highways is out of hand. Stringent regulations to control the erection of billboards is needed to preserve the beauty of our highways.

It's ironic that a huge billboard, adding to the evesores along this stretch of highway reads, Last Best Place. Keep it First.

Sincerely,

Smorgy's the bill

Barbara E. Strate
Barbara E. Strate

DATE February 18, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 415, SB 365, SB 416

| Name | Representing | Bill No. | Check One | |
|--------------------|--|----------|-----------|--------|
| | | | Support | Oppose |
| Jerry Covault | Self. | 415 | ✓ | |
| Phyllis Burreson | self | 415 | ✓ | |
| DAL Smilie | AMA | 365 | | ✓ |
| Linda Ellison | MT Trail Vehicle Riders Blue Ribbon Coalition | 365 | | ✓ |
| GEORGE OCHENSKI | SELF | 365 | | X |
| TODD WESTLIE | ABATE | 365 | | X |
| MICHELE HAND | SELF | 365 | | X |
| Matt Hutcheson | SELF | 365 | | ✓ |
| Roger Koppman | self | 365 | | ✓ |
| Nancy Pfaff | Self | 365 | | ✓ |
| "Giz" Mike Moran | Abate - Self | 365 | | ✓ |
| Julius M. Tresch | Abate - Self | 365 | | ✓ |
| Phillip J Williams | ABATE - self | 365 | | ✓ |
| THOMAS E. WHITE | ABATE-SELF | 365 | | ✓ |
| CRAZY E. EAGLE | ABATE-Hog-SELF | 365 | | ✓ |
| R/Wes | Independent | 365 | | ✓ |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 365

| Name | Representing | Bill No. | Check One | |
|-----------------------|-----------------------|----------------|--------------|--------------|
| | | | Support | Oppose |
| Polly Tuel | ABATE | 365 | a | X |
| DAVE JOHNSON | JOHNSON FABRICATION | 365 | | X |
| MARK ROGERS | ABATE | 365 | | X |
| C. Martin | Self | 365 | | X |
| Don D. Delashmit | SELF / ABATE | 365 | | X |
| Helena Sullivan | Self | 365 | | X |
| Chuck Sullivan | " | " | | X |
| LAKE TATE | ABATE | " | | X |
| JO ANN BRENNEMAN | Self | 365 | | X |
| Kelly Kenyon | GF ABATE | 365 | | X |
| Leeanna Spath | ABATE - Self | 365 | | X |
| Randy Selby | Abate Self | 365 | | X |
| FERRY Kordidoux | SELF | 365 | | X |
| DAVE KORANG | Self & Abate - Helena | 365 | | X |
| Beau Opie | Self & Abate | 365 | | X |
| JAMES HEUNE | SELF & ABATE HELENA | 365 | | X |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways : Transportation

BILLS BEING HEARD TODAY: SB 365

| Name | Representing | Bill No. | Check One | |
|--------------------|-----------------------------|----------|-----------|--------|
| | | | Support | Oppose |
| LEE BRIDGES | F. MSLA VOLUNTEER FD | 365 | | X |
| RICHARD ALDERSON | HAVE WRONCH WILL TRAVEL A-D | 365 | | X |
| Sid Miller | ABATE | 365 | | X |
| Gwen Anderson | ABATE | 365 | | X |
| CARL GILBERTSON | ABATE | 365 | | X |
| STEVE KOESTER | LEGONS | 365 | | X |
| Bill McGuire | ABATE | 365 | | X |
| Chad Owens | Bikers | 365 | | X |
| Chad Owens | Bikers | 365 | | X |
| DANIEL C. PETERS | Bikers | 365 | | X |
| DENNIS PUMMER | " | 365 | | X |
| Terry C. Stenberg | Bikers | 365 | | X |
| DAVID A. MALLO, SR | VNU MC Chapter D | 365 | | X |
| Dennis Reynolds | VNU / MC CH AB | 365 | | X |
| Robert H. Daniels | VNU / MC Chp. D | 365 | | X |
| Michael J. RYAN | VNU / MC Chap D | 365 | | X |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 365

| Name | Representing | Bill No. | Check One Support Oppose |
|--------------------|----------------------|----------|-----------------------------|
| Jill Z. McGuire | ABATE OF MT | SB-365 | X |
| Don Harris | U.N.U.M.C. | SB-365 | X |
| Cheryl W. Hansen | ABate of mt. | SB-365 | X |
| Bryan Bartle | loner | SB-365 | X |
| Douglas Bristow | self | SB-365 | X |
| LARRY Franzen | self | SB 365 | X |
| Tom Vermillion | SELF | SB 365 | X |
| Tom Schneider | self | SB 365 | X |
| Bruce R. Wetherby | ABATE MT. | SB 365 | X |
| Clay Hickman | self | SB 365 | X |
| Sheldon R. Crider | SELF | S.B. 365 | X |
| OZ Osborne | SELF | SB 365 | X |
| J. A. Wilberscheid | SELF | SB-365 | X |
| James S Beyer | self/US Constitution | SB 365 | X |
| Kimberly Frazer | ABATE OF MT | SB 365 | X |
| Leonard Frazer | ABate of MT. | SB 365 | X |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: _____

| Name | Representing | Bill No. | Check One | |
|------------------------|--------------------------|----------|-----------|--------|
| | | | Support | Oppose |
| ZESLIE E "Pete" DLOWIN | SELF / U.S. CONSTITUTION | SB 365 | | X |
| DAVID RETALLACI | | S. 365 | | X |
| JOHN P. COCKRAN | SELF & FREIWAIS | S 365 | | X |
| Jean Zimmermann | SELF | SB 365 | | X |
| DAVE HENNE | ABATE | SB 365 | | X |
| FRANK KAMLOWSKY | Self | SB 365 | | X |
| Dana Abelin | SELF | SB 365 | | X |
| GEORGE M SCHULER | SELF | SB 365 | | X |
| Teresa Wight | Self | SB 325 | | X |
| Todd Westlie | Self / ABATE of MT | SB 365 | | X |
| Connie Stine | Self | SB 365 | | X |
| Robert Rogers | Self | SB 365 | | X |
| Albert Gothe | Dept of Justice | ? | | |
| Palmer Harde land | Self | SB 365 | | X |
| Dan Harde land | SELF | SB 365 | | X |
| Karl F. Banschbach | Self | SB 365 | | X |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: _____

| Name | Representing | Bill No. | Check One | |
|--------------------|---------------------------|----------|-----------|--------|
| | | | Support | Oppose |
| Glen M. Jensenstad | ABATE OF MONTANA | SB 365 | | ✓ |
| George Watters | Self | SB 365 | | ✓ |
| Christine M. Ohler | SELF / ABATE OF MT | | | ✓ |
| DRAW DAWSON | BMS, Dept Health | SB 365 | ✓ | |
| Bill Salisbury | MDT | SB 416 | ✓ | |
| Scott Rickman | Rocky Mtn Trail Bikerider | SB 365 | | ✓ |
| Rodni HARPER | Self | SB 365 | | ✓ |
| DAVE DUGGTRY | ABATE of mt | SB 365 | | ✓ |
| Linda Peyoung | ABATE of mt | SB 365 | | ✓ |
| Phyllis Eckersley | Great Falls ABATE | SB 365 | | ✓ |
| Phyllis Eckersley | Great Falls Abate | " | | ✓ |
| Beverly Forest | " " | " | | ✓ |
| Wayne Forest | " " | " | | ✓ |
| Robert Williams | " " | " | | ✓ |
| Jim Smith | Mt. Hood Airway Assoc. | " | ✓ | |
| Hank Honeywell | Fed. Hwy. Admin. | 365 | ✓ | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: _____

| Name | Representing | Bill No. | Check One | |
|--------------------|---------------------------|----------|-----------|--------|
| | | | Support | Oppose |
| Elmer Johnson | SMU | SB 365 | | X |
| Dave Benson | ABATE | SB 365 | | ✓ |
| Branch Satter | ABATE | SB 365 | | ✓ |
| LOAN MITCHELL | MYSELF | SB 365 | | ✓ |
| Tim Lindeborg | ABATE of Montana | SB 365 | | ✓ |
| Shawn Chatter | ABATE | SB 365 | | ✓ |
| BRYAN F. Speer | ABATE | SB 365 | | ✓ |
| LAURIE McKEEHAN | ABATE of MONTANA | SB 365 | | ✓ |
| Gary Bryan | Montana Tourism Coalition | SB 415 | | ✓ |
| MARU DYE | MT. DEPT OF TRANS | SB 365 | ✓ | |
| Glenn Wortman Obie | AAA Montana | SB 365 | ✓ | |
| Steve Turkiewicz | MT Highway Users Fed | SB 365 | ✓ | |
| Bill Hall | RMTBRA | 365 | | ✓ |
| Steve Doggett | MT Truckers | SB 415 | | ✓ |
| David Owen | Int Chamber of Commerce | SB 415 | | ✓ |
| Tom Hargood | Mt. Assoc Realtors | SB 415 | | ✓ |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways

BILLS BEING HEARD TODAY: SB 365

| Name | Representing | Bill No. | Check One | |
|------|--------------|-------------|-----------|--------|
| | | | Support | Oppose |

| | | | | |
|----------------|------|--|---|---|
| Dancer Dymond | SELF | | | X |
| Anna Smith | Self | | | X |
| R McCall | self | | | X |
| Anna Randall | Self | | | X |
| Shawn Chantler | Self | | | X |
| Vikki Kovick | Self | | | X |
| Wendy Baker | Self | | | X |
| Deb Feltz | Self | | | X |
| David Baker | Self | | | X |
| Tom Feltz | Self | | | X |
| Steve Feltz | Self | | X | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2/18/93

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: _____

| Name | Representing | Bill No. | Check One | |
|-------------------|---------------------------------|-------------|-------------------------------------|-------------------------------------|
| | | | Support | Oppose |
| Paulette Kohman | int. Council meeting in H.A. | 365 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| James L. Lender | int. med. assn. | 365 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Col. Bob Griffith | Dept of Justice | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Doug Abelin | SELF | SP415 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| J.P. Crowley | SELF | SB 365 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY