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SENATE BILL NO. 157

INTRODUCED BY Waterman

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MINOR TO WEAR A HELMET WHEN RIDING A BICYCLE; REQUIRING A BICYCLE PASSENGER TO USE A RESTRAINING SEAT UNDER CERTAIN CIRCUMSTANCES; AND PROVIDING A PENALTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. [Sections 1 through 7] may be cited as the "Child Bicycle Safety Act".

NEW SECTION. Section 2. Findings and purpose. (1) The legislature finds and declares that:

(a) the disability and death of children resulting from injuries sustained in bicycling accidents are a serious threat to the public health, welfare, and safety of the people of this state and the prevention of disability and death is a goal of the people;

(b) head injuries are the leading cause of disability and death from bicycling accidents;

(c) the risk of head injury from bicycling accidents is significantly reduced for bicyclists who wear proper protective bicycle helmets, yet helmets are worn by fewer than 5% of child bicyclists nationwide; and

(d) the risk of head injury or of any other injury to a small child who is a passenger on a bicycle operated by another person would be significantly reduced if the child sat in a separate restraining seat.

(2) The purpose of [sections 1 through 7] is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that:

(a) while riding on a bicycle on the public highways and bicycle trails, all bicycle operators and passengers under 18 years of age wear approved protective bicycle helmets;

(b) all passengers who weigh less than 40 pounds or are less than 40 inches in height be seated in a separate restraining seat;

(c) a person who is unable to maintain an erect, seated position may not be a passenger in a bicycle restraining seat; and

1 (d) all other bicycle passengers must be seated on saddle seats.

2

3 **NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7], the following definitions
4 apply:

5 (1) "Bicycle" has the meaning provided in 61-1-123.

6 (2) "Bicycle trail" has the meaning provided in 60-3-302.

7 (3) "Public highway" has the meaning provided in 60-1-103.

8 (4) "Restraining seat" means a seat that is separate from the saddle seat of the bicycle, that is
9 fastened securely to the frame of the bicycle, and that is adequately equipped to restrain the passenger in
10 the seat and protect the passenger from the moving parts of the bicycle.

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12 **NEW SECTION. Section 4. Headgear required for minor bicycle riders.** (1) An operator or
13 passenger under 18 years of age of any bicycle operated upon a public highway or a bicycle trail shall wear
14 a protective bicycle helmet.

15 (2) It is unlawful to rent or lease a bicycle for use by a person under 18 years of age unless:

16 (a) the person has a protective bicycle helmet at the time of rental or lease; or

17 (b) the rental or lease includes a protective bicycle helmet and the person intends to wear the
18 helmet as required by subsection (1).

19 (3) It is unlawful to sell a bicycle for the use of a person under 18 years of age unless the person
20 presents satisfactory proof of ownership of a protective bicycle helmet or the person purchases a helmet
21 at the same time as the purchase of the bicycle.

22 (4) The protective bicycle helmet must meet the impact standards for protective bicycle helmets
23 set by the American national standards institute or the Snell memorial foundation, incorporated.

24 (5) It is unlawful for a parent or legal guardian of a person under 18 years of age to knowingly
25 permit the person to operate or be a passenger on a bicycle in violation of this section.

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27 **NEW SECTION. Section 5. Use of restraining seats.** (1) A person may not ride as a passenger on
28 a bicycle on a public highway or bicycle trail unless the person:

29 (a) is able to maintain an erect, seated position on the bicycle; and

30 (b) is either properly seated alone on a saddle seat, as on a tandem bicycle, or properly seated in

1 a restraining seat if the person weighs less than 40 pounds or is less than 40 inches in height.

2 (2) It is unlawful for a parent or legal guardian of a person under 18 years of age to knowingly
3 permit the person to operate or be a passenger on a bicycle in violation of this section.

4

5 **NEW SECTION. Section 6. Penalty.** (1) Except as provided in subsection (2), a person who
6 violates the provisions of [section 4(5) or 5(2)] is guilty of a misdemeanor and shall be fined not less than
7 \$50.

8 (2) In the case of a first conviction within a 12-month period, the court may waive the fine upon
9 receipt of satisfactory proof that the person has, since the date of the violation, obtained a protective
10 bicycle helmet or a restraining seat and intends to use them or ensure that they are used as required.

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12 **NEW SECTION. Section 7. Failure to comply not presumption of negligence.** The failure of a
13 person to comply with the provisions of [section 4 or 5] does not constitute negligence or assumption of
14 risk and may not bar an action for personal injury or wrongful death by or on behalf of the person or in any
15 way reduce the damages recoverable in any action.

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17 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 7] are intended to be
18 codified as an integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4,
19 apply to [sections 1 through 7].

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