WEST VIRGINIA CODE CHAPTER 17C ARTICLE 11A

WV Legislature

§17C-11A-1. Short title.

This article shall be known and may be cited as the "Child Bicycle Safety Act".

WV Legislature

§17C-11A-2. Legislative findings and purpose.

(a) The Legislature hereby finds and declares that:

(1) 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 such disability and death is a goal of such people;

(2) Head injuries are the leading cause of disability and death from bicycling accidents; and

(3) 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 five percent of child bicyclists nationwide.

(b) The purpose of this article is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that while riding on a bicycle on public roads, public bicycle paths and other public rights-of-way of this state, all bicycle operators and passengers under fifteen years of age wear approved protective bicycle helmets.

WV Legislature

§17C-11A-3. Definitions.

As used in this article:

(a) "Bicycle" means a human-powered vehicle with wheels designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. Such term also includes a human-powered vehicle, and any attachment to such vehicle designed to transport by pedaling when the vehicle is used on a public roadway, public bicycle path or other public right-of-way, but does not include a tricycle.

(b) "Tricycle" means a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level.

(c) "Public roadway" means a right-of-way under the jurisdiction and control of this state or a local political subdivision thereof for use primarily by motor vehicles.

(d) "Public bicycle path" means a right-of-way under the jurisdiction and control of this state or a local political subdivision thereof for use primarily by bicycles and pedestrians.

(e) "Other public right-of-way" means any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of this state or a local political subdivision thereof and is designed for use and used by vehicular or pedestrian traffic.

(f) "Protective bicycle helmet" means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American national standards institute (ANSI) or the snell memorial foundation's standards for protective headgear or American society for testing and materials (ASTM) for use in bicycling.

(g) "Passenger" means any person who travels on a bicycle in any manner except as an operator.

(h) "Operator" means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.

WV Legislature

§17C-11A-4. Requirements for helmet use.

(a) It is unlawful for any person under fifteen years of age to operate or be a passenger on a bicycle or any attachment to a bicycle used on a public roadway, public bicycle path or other public right-of-way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

(b) It is unlawful for any parent or legal guardian of a person under fifteen years of age to knowingly permit such person to operate or be a passenger on a bicycle or on any attachment to a bicycle used on a public roadway, public bicycle path or other public right-of-way unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit, fastened securely upon the head with the straps of the helmet.

WV Legislature

§17C-11A-5. Sale of bicycle helmets.

Any helmet sold or offered for sale for use by operators and passengers of bicycles shall be conspicuously labeled in accordance with the standard described in subsection (f), section three of this article, which shall constitute the manufacturer's certification that the helmet conforms to the applicable safety standards.

WV Legislature

§17C-11A-6. Civil actions.

A violation of section four of this article is not admissible as evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages, and shall not be admissible in mitigation of damages.

WV Legislature

§17C-11A-7. Penalties.

(a) Notwithstanding the provisions of section one, article eighteen of this chapter, any parent or legal guardian violating any requirement set forth in section four of this article shall be fined $10 or be required to perform two hours in community service related to a child injury prevention program which includes injury prevention education or both fined and required to perform such community service. Notwithstanding the provisions of section one, article eleven, chapter eight of this code, no court costs may be assessed to any person violating the requirements of section four of this article.

(b) In the case of a first violation of section four of this article, the court may waive the fine upon receipt of satisfactory proof that the person has a helmet or within a reasonable time from the date of the violation, purchased or otherwise obtained, a protective bicycle helmet.

(c) It is an absolute defense to a charge for a violation of this article that a parent or legal guardian is unable to pay for the protective bicycle helmet. Inability to pay may be demonstrated by the filing of a financial affidavit in accordance with the provisions of subsection (c), section one, article two, chapter fifty-nine of this code. Any person who demonstrates inability to pay shall be referred to the Governor's highway safety program for assistance in obtaining the appropriate helmet or helmets.

WV Legislature

§17C-11A-8. Ordinances.

Nothing in this article shall limit the right of any municipality to enact an ordinance on the use of bicycle helmets.

WV Legislature

§17C-11A-9. Bicycle safety program.

(a) Commencing on July 1, 1996, the Governor's highway safety program shall initiate and conduct an educational and public awareness program designed to encourage people to comply with the requirements of this article.

(b) The Governor's highway safety program shall make application for grants or any other funding to subsidize the costs of purchasing helmets for people who qualify under the provisions of subsection (c), section seven of this article.

WV Legislature