WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED
Committee Substitute for
SENATE BILL NO. 89

(By Senator Oliverio, et al)

PASSED March 9, 1996
In Effect Ninety Days From Passage
AN ACT to amend chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven-a, relating to creating a child bicycle safety act; setting forth a short title; establishing legislative findings and purpose; defining terms; requiring helmets to meet certain specifications; requiring use of a helmet by children under the age of fifteen riding on public roads; requiring labeling to certify conformance with safety standards on helmets sold; failure to wear helmet not admissible in civil actions; providing for penalties including a fine and community service for a violation; waiver for first offense; financial affidavit to
be filed as evidence of inability to pay for a helmet; permitting municipalities to enact ordinances; and bicycle safety program.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eleven-a, to read as follows:

ARTICLE 11A. CHILD BICYCLE SAFETY ACT.

§17C-11A-1. Short title.

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

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

1 (a) The Legislature hereby finds and declares that:

2 (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;

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

4 (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.

5 (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.

§17C-11A-3. Definitions.

1 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.

§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.

§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.

§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.

§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 ten dollars 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, pur-
chased 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 hel-
ments.

§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.


(a) Commencing on the first day of July, one thousand
nine hundred ninety-six, 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 1st day of April, 1996.

Governor