

H.B. NO. 1169

A BILL FOR AN ACT

RELATING TO HIGHWAY SAFETY.

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

1 SECTION 1. Section 286-81, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§286-81 Motorcycle, moped, motor scooter, etc.;**

4 **protective devices.** (a) No person shall:

5 (1) Operate a motorcycle, moped, or motor scooter~~[7]~~ on
6 any highway in the State unless the person and any
7 passenger the person carries on the motorcycle or
8 motor scooter wears:

9 (A) Safety glasses, goggles, or a face shield, in the
10 case of a motorcycle, moped, or motor scooter
11 that is not equipped with windscreens or
12 windshields; and

13 (B) Any other protective devices~~[, other than a~~
14 ~~safety helmet,~~] required by rules adopted by the
15 director[-] for the use of the person intending
16 to operate the motorcycle, moped, or motor
17 scooter.

1 For the purpose of meeting the requirements of this
2 paragraph, a required device shall meet the
3 specifications and requirements established by rules
4 adopted by the director;

5 (2) Lease or rent a motorcycle, moped, or motor scooter to
6 another person unless the person furnishes:

7 (A) Safety glasses, goggles, or a face shield, in the
8 case of motorcycle, moped, or motor scooter that
9 is not equipped with windscreens or windshields;
10 and

11 (B) Any other protective devices required by the
12 rules adopted by the director for the use of the
13 person or persons intending to operate a
14 motorcycle, moped, or motor scooter or ride as a
15 passenger on the motorcycle or motor scooter;
16 provided that any person to whom a motorcycle,
17 moped, or motor scooter is leased or rented may
18 furnish for the person's own use the protective
19 devices required by this part.

20 For the [~~purposes~~] purpose of meeting the requirements
21 of this paragraph, a required device shall meet the

1 specifications and requirements established by rules
2 adopted by the director; or

3 (3) Sell or offer for sale or furnish any safety helmet,
4 safety glasses, goggles, face shield, windscreen,
5 windshield, or other protective devices represented to
6 meet the requirements of this part unless the device
7 meets the specifications and requirements established
8 by rules adopted by the director.

9 (b) No person less than eighteen years of age shall
10 operate or ride as a passenger on a motorcycle [~~or motor~~
11 ~~scooter~~] on any highway in the State unless the person wears a
12 safety helmet securely fastened with a chin strap[-] that
13 complies with the United States Department of Transportation's
14 Federal Motor Vehicle Safety Standard No. 218 (FMVSS 218).

15 (c) No person shall operate a moped or motor scooter or
16 ride as a passenger on a motor scooter on any highway in the
17 State unless the person wears a safety helmet securely fastened
18 with a chin strap that complies with the United States
19 Department of Transportation's Federal Motor Vehicle Safety
20 Standard No. 218 (FMVSS 218).

21 [~~e~~] (d) A safety helmet shall not be required for any
22 person who operates a motorcycle, moped, or motor scooter or

1 rides as a passenger on a motorcycle or motor scooter; provided
2 that the motorcycle, moped, or motor scooter:

- 3 (1) Has three wheels;
4 (2) Is powered by an electric motor;
5 (3) Has a full body enclosed cab; and
6 (4) Has a seat belt assembly or a child restraint system
7 for the driver and passenger;

8 and the operator and passenger [~~uses~~] use the seat belt or child
9 restraint system pursuant to sections 291-11.5 and 291-11.6."

10 SECTION 2. Section 291C-195, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§291C-195 Driving of mopeds.** (a) No person less than
13 fifteen years of age shall drive a moped on a highway, street,
14 roadway, or any other public property in the State. No person
15 [~~less than eighteen years of age~~] shall drive a moped unless the
16 person wears a safety helmet securely fastened with a chin
17 strap[-] that complies with the United States Department of
18 Transportation's Federal Motor Vehicle Safety Standard No. 218
19 (FMVSS 218). The safety helmet shall meet the specifications
20 and requirements established by rules adopted by the director.

1 (b) No person shall drive a moped except while sitting
2 astride the seat, facing forward, with one leg on each side of
3 the moped.

4 (c) No person shall drive a moped which is carrying any
5 other person nor shall any person other than the driver ride
6 upon a moped.

7 (d) Subsections (b) and (c) shall not apply to three-
8 wheeled mopeds designed to carry a driver and passenger seated
9 side by side.

10 (e) Three-wheeled mopeds shall be insured for liability
11 and property damage, excluding personal injury protection."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material in underscored.

17 SECTION 5. This Act shall take effect upon its approval.

18
19 INTRODUCED BY: Calvin K. Boy
20

BY REQUEST

JAN 26 2009

Report Title:

Highway Safety; Moped; Motor Scooter; Helmet

Description:

Makes it mandatory that persons operating a moped or motor scooter or riding as a passenger on a motor scooter on any highway shall wear a safety helmet with a chin strap.

4B1169

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO HIGHWAY SAFETY.

PURPOSE: To mandate the use of safety helmets with a chin strap for all moped and motor scooter riders.

MEANS: Amends sections 286-81 and 291C-195, Hawaii Revised Statutes.

JUSTIFICATION: Nationwide statistics show that a person riding a moped or motor scooter without a safety helmet is sixteen times more likely to perish in an accident than an automobile driver and that head injuries are the leading cause of death in moped or motor scooter accidents with unhelmeted riders forty per cent more likely to sustain a fatal head injury. Also, unhelmeted moped or motor scooter accident victims have higher health care costs compared to helmeted riders.

Taxpayers, including riders who choose to exercise personal responsibility for the safety of themselves to the greatest extent possible, subsidize the health care costs of those unhelmeted accident victims through taxpayer dollars. Health care insurance is increased because of the higher health care costs that unhelmeted accident victims incur. The constitutionality of helmet use laws has been consistently upheld by the courts. A Massachusetts Court decision, upheld by the United States Supreme Court, stated:

"From the moment of the injury, society picks the person up off the highway; delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after

recovery, he cannot replace his lost job, and if the injury causes permanent disability, may assume the responsibility for his and his family's continued subsistence. We do not understand the state of mind that permits plaintiff to think that only he himself is concerned." (Simon v. Sargent, 409 U.S. 1020 (1972)).

Impact on the public: The proposed legislation to mandate helmet use will decrease the number of moped and motor scooter rider fatalities.

Impact on the department and other agencies:
None.

GENERAL FUND:

None.

OTHER FUNDS:

None.

PBS PROGRAM
DESIGNATION:

TRN 595.

OTHER AFFECTED
AGENCIES:

County police departments, county prosecutors.

EFFECTIVE DATE:

Upon approval.