

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0500.01 Jason Gelender

HOUSE BILL 10-1147

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Kefalas, Fischer, Gagliardi, Hullinghorst, Kerr A., McFadyen, Merrifield, Primavera, Vigil

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A BILL FOR AN ACT

101 **CONCERNING SAFER USE OF NONMOTORIZED WHEELED**
102 **TRANSPORTATION BY MINORS, AND, IN CONNECTION**
103 **THEREWITH, CODIFYING INTO LAW THE EXISTING BIKE AND**
104 **PEDESTRIAN POLICY DIRECTIVE OF THE DEPARTMENT OF**
105 **TRANSPORTATION, REQUIRING THE DEPARTMENT OF**
106 **TRANSPORTATION, IN COLLABORATION WITH THE DEPARTMENTS**
107 **OF EDUCATION AND PUBLIC SAFETY AND APPROPRIATE**
108 **NONPROFIT ORGANIZATIONS AND ADVOCACY GROUPS, TO**
109 **NOTIFY SCHOOLS OF THE AVAILABILITY OF AND MAKE**
110 **AVAILABLE TO SCHOOLS EXISTING EDUCATIONAL CURRICULUM**
111 **FOR MINORS REGARDING THE SAFE USE OF PUBLIC STREETS AND**
112 **PREMISES OPEN TO THE PUBLIC, AND REQUIRING THAT A MINOR**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Am ended 2nd Reading
March 1, 2010

101
102

**WEAR A PROTECTIVE HELMET WHILE USING NONMOTORIZED
WHEELED TRANSPORTATION ON SUCH STREETS AND PREMISES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 2 of the bill codifies the existing bicycle and pedestrian policy directive of the department of transportation (CDOT) into law and makes legislative declarations.

Section 3 of the bill:

- ! Requires CDOT and the departments of education and public safety to collaborate, under the auspices of the safe routes to schools program of CDOT, with local governments, school districts, and appropriate organizations to develop and make available to schools a comprehensive educational curriculum regarding the safe use of public streets and premises open to the public by users of nonmotorized wheeled transportation.
- ! Requires an individual 2 years of age or older but under 18 years of age to wear a helmet that meets the applicable federal safety standard for helmets whenever the individual uses nonmotorized wheeled transportation on a public street or premises open to the public.
- ! Defines "nonmotorized wheeled transportation" as any human-powered vehicle or equipment intended for use on public streets and premises open to the public and designed primarily to transport one or more individuals and that rolls on wheels including, but not limited to, a bicycle, scooter, skateboard, or in-line skates. The definition does not include a wagon, a trailer, or any other vehicle or equipment that is primarily designed to be towed or pulled by an individual or by any other vehicle or equipment.
- ! Categorizes a violation of the helmet requirement as an unclassified traffic infraction but specifies that its enforcement shall consist only of the stopping of a violator or an accompanying adult, the informing of the violator or accompanying adult of the violation, and the provision of a card to the violator or accompanying adult that explains the risks of not wearing a helmet and provides information

as to where the violator may obtain a free or low-cost helmet if the violator or the violator's family cannot afford to purchase one.

! Specifies that a violation of the helmet requirement is not admissible as evidence in court as a defense against liability or to reduce damages in a lawsuit arising out of the violator's death or injury and that the parent or legal guardian of a violator shall not be subject to any legal liability due to the violation.

! Exempts from the helmet requirement an individual whose religious beliefs or practices would be violated by the wearing of a helmet.

Section 1 of the bill makes legislative findings and declarations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) It is in the best interests of all Coloradans to make our streets
5 safe for all users including motorists, transit users, pedestrians, bicyclists,
6 and users of other types of nonmotorized wheeled transportation;

7 (b) The safe routes to school program and the bicycle and
8 pedestrian policy adopted by the Colorado department of transportation
9 help to make our streets more friendly to pedestrians, bicyclists, and users
10 of other forms of nonmotorized wheeled transportation and to encourage
11 more children to walk, bike, or use another form of nonmotorized
12 wheeled transportation to get to and from school safely; and

13 (c) Children and adolescents will benefit from additional
14 education regarding the rules of the road, high risk traffic situations, and
15 the safe use of bicycles and other forms of nonmotorized wheeled
16 transportation.

17 (2) The general assembly further finds and declares that:

18 (a) In its strategic plan, the Colorado state patrol has made a

1 commitment to lead and to sustain a cooperative effort that will eliminate
2 most traffic fatalities in Colorado by 2025;

3 (b) Although bicycling is a safe and healthy activity, on average,
4 eleven bicyclists are killed and five hundred forty bicyclists are
5 hospitalized annually in Colorado due to injuries sustained in bicycle
6 crashes;

7 (c) Brain injury is the leading cause of death and serious disability
8 resulting from the use of nonmotorized wheeled transportation, and in
9 Colorado approximately one-third of hospital emergency room visits for
10 bicycle-related accidents are for brain injuries;

11 (d) Of all age groups, children between the ages of five and
12 fourteen have the highest rate of bicycle-related hospital admissions, and
13 almost one-third of such hospitalized children have suffered brain
14 injuries; and

15 (e) Because the economic cost to an individual and to society of
16 a single severe nonfatal brain injury can exceed two million one hundred
17 thousand dollars, the state has a legitimate interest in preventing and
18 mitigating the severity of such injuries.

19 (3) The general assembly further finds and declares that it is
20 necessary, appropriate, and in the best interest of the state to:

21 (a) Adopt the existing bike and pedestrian policy directive of the
22 department of transportation as law;

23 (b) Facilitate the promulgation and distribution of a nonmotorized
24 wheeled vehicle safety education curriculum; and

25 (c) Establish a mandatory protective helmet law for those two
26 years of age or older but under eighteen years of age who use bicycles,
27 scooters, in-line skates, skateboards, and other nonmotorized wheeled

1 transportation on Colorado streets and premises open to the public.

2 **SECTION 2.** Part 1 of article 1 of title 43, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **43-1-120. Bicycle and pedestrian policy - codification -**
6 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND
7 DECLARES THAT:

8 (a) IT IS IN THE BEST INTEREST OF ALL COLORADANS TO PROMOTE
9 TRANSPORTATION MODE CHOICE BY ENHANCING SAFETY AND MOBILITY
10 FOR BICYCLISTS AND PEDESTRIANS ON OR ALONG THE STATE HIGHWAY
11 SYSTEM;

12 (b) THE DEPARTMENT HAS ADOPTED A BIKE AND PEDESTRIAN
13 POLICY DIRECTIVE TO FURTHER THIS GOAL; AND

14 (c) IT IS NECESSARY AND APPROPRIATE TO ELEVATE THE STATUS
15 OF THE BIKE AND PEDESTRIAN POLICY OF THE DEPARTMENT TO THAT OF
16 LAW BY CODIFYING IT IN SUBSECTION (2) OF THIS SECTION.

17 (2) (a) THE DEPARTMENT AND ITS SUBDIVISIONS SHALL PROVIDE
18 TRANSPORTATION INFRASTRUCTURE THAT ACCOMMODATES BICYCLE AND
19 PEDESTRIAN USE OF PUBLIC STREETS IN A MANNER THAT IS SAFE AND
20 RELIABLE FOR ALL USERS OF PUBLIC STREETS;

21 (b) THE NEEDS OF BICYCLISTS AND PEDESTRIANS SHALL BE
22 INCLUDED IN THE PLANNING, DESIGN, AND OPERATION OF
23 TRANSPORTATION FACILITIES AS A MATTER OF ROUTINE; AND

24 (c) ANY DECISION OF THE DEPARTMENT TO NOT ACCOMMODATE
25 THE NEEDS OF BICYCLISTS AND PEDESTRIANS SHALL BE DOCUMENTED
26 BASED ON EXEMPTION CRITERIA THAT WERE ESTABLISHED BY THE
27 COMMISSION BEFORE THE DECISION WAS MADE.

1 (I) FOR A BICYCLIST, PROTECTIVE HEADGEAR FOR USE IN
2 BICYCLING THAT MEETS THE FEDERAL SAFETY STANDARD FOR BICYCLE
3 HELMETS SET FORTH IN 16 CFR SEC. 1203.1 ET SEQ.

4 (II) FOR A USER OF NONMOTORIZED WHEELED TRANSPORTATION
5 OTHER THAN A BICYCLE, PROTECTIVE HEADGEAR FOR USE IN USING THE
6 APPLICABLE FORM OF NONMOTORIZED WHEELED TRANSPORTATION THAT
7 MEETS AN APPLICABLE SAFETY STANDARD OF THE UNITED STATES
8 CONSUMER PRODUCT SAFETY COMMISSION.

9 (b) (I) "NONMOTORIZED WHEELED TRANSPORTATION" MEANS ANY
10 VEHICLE OR EQUIPMENT INTENDED FOR USE ON PUBLIC STREETS AND
11 PREMISES OPEN TO THE PUBLIC THAT IS DESIGNED TO BE PROPELLED
12 ENTIRELY OR PARTLY BY HUMAN POWER PRIMARILY FOR THE PURPOSE OF
13 TRANSPORTING ONE OR MORE INDIVIDUALS AND THAT ROLLS ON WHEELS
14 INCLUDING, BUT NOT LIMITED TO, A BICYCLE, SCOOTER, SKATEBOARD, OR
15 IN-LINE SKATES. "NONMOTORIZED WHEELED TRANSPORTATION" DOES NOT
16 INCLUDE A WAGON, A TRAILER, OR ANY OTHER VEHICLE OR EQUIPMENT
17 THAT IS PRIMARILY DESIGNED TO BE TOWED OR PULLED BY AN INDIVIDUAL
18 OR BY ANY OTHER VEHICLE OR EQUIPMENT.

19 (II) THE CLASSIFICATION OF A BICYCLE AS NONMOTORIZED
20 WHEELED TRANSPORTATION FOR PURPOSES OF THIS PART 23 SHALL NOT BE
21 DEEMED TO ALTER ANY CLASSIFICATION OF A BICYCLE AS A VEHICLE FOR
22 PURPOSES OF ANY OTHER LAW OR AGENCY RULE OF THIS STATE.

23 (2) AN INDIVIDUAL TWO YEARS OF AGE OR OLDER BUT UNDER
24 EIGHTEEN YEARS OF AGE SHALL WEAR A HELMET UPON HIS OR HER HEAD
25 WITH THE HELMET STRAPS SECURELY FASTENED WHENEVER THE
26 INDIVIDUAL USES NONMOTORIZED WHEELED TRANSPORTATION ON A
27 PUBLIC STREET OR PREMISES OPEN TO THE PUBLIC.

1 (3) (a) AN INDIVIDUAL WHO VIOLATES THIS SECTION COMMITS AN
2 UNCLASSIFIED TRAFFIC INFRACTION BUT SHALL NOT BE SUBJECT TO ANY
3 PROSECUTION, PENALTY, OR SURCHARGE. A LAW ENFORCEMENT OR
4 PUBLIC SAFETY OFFICER MAY ENFORCE THIS SECTION BY STOPPING A
5 MINOR WHO VIOLATES THIS SECTION, OR AN ACCOMPANYING ADULT,
6 INFORMING THE MINOR OR THE ACCOMPANYING ADULT OF THE VIOLATION
7 OF THIS SECTION, AND PROVIDING A SAFETY INFORMATION CARD TO THE
8 MINOR OR THE ACCOMPANYING ADULT THAT EXPLAINS THE RISKS OF NOT
9 WEARING A HELMET AND PROVIDES INFORMATION AS TO WHERE THE
10 MINOR MAY OBTAIN A FREE OR LOW-COST HELMET IF THE MINOR OR HIS OR
11 HER FAMILY CANNOT AFFORD TO PURCHASE ONE. THE ENFORCEMENT
12 MECHANISM PROVIDED FOR IN THIS PARAGRAPH (a) IS INTENDED TO
13 PROVIDE A LEARNING EXPERIENCE FOR THE MINOR OR ACCOMPANYING
14 ADULT AND A COMMUNITY POLICING OPPORTUNITY FOR THE LAW
15 ENFORCEMENT OFFICER.

16 (b) THE DEPARTMENT OF TRANSPORTATION, IN COLLABORATION
17 WITH THE DEPARTMENTS OF EDUCATION AND PUBLIC SAFETY AND
18 APPROPRIATE NONPROFIT ORGANIZATIONS AND ADVOCACY GROUPS, SHALL
19 DESIGN, DEVELOP, AND PRODUCE AN ELECTRONIC SAFETY INFORMATION
20 CARD THAT CAN BE MODIFIED TO MATCH LOCAL NEEDS, PRINTED AT THE
21 LOCAL LEVEL, AND PROVIDED PURSUANT TO PARAGRAPH (a) OF THIS
22 SUBSECTION (3) AND SHALL DEVELOP AND IMPLEMENT AN ELECTRONIC
23 SAFETY INFORMATION CARD DISTRIBUTION PLAN, INCLUDING THE POSTING
24 TO APPROPRIATE INTERNET WEB SITES OF THE ELECTRONIC SAFETY
25 INFORMATION CARDS. THE DIRECT AND INDIRECT COSTS OF PRODUCING
26 AND DISTRIBUTING SAFETY INFORMATION CARDS SHALL BE PAID FOR WITH
27 AVAILABLE FEDERAL MONEYS, GRANTS, GIFTS, DONATIONS, SERVICES, AND

1 IN-KIND DONATIONS FROM ANY PUBLIC OR PRIVATE ENTITY ONLY. THE
2 DISTRIBUTION OF HARD COPIES OF SAFETY INFORMATION CARDS SHALL BE
3 IMPLEMENTED THROUGH COLLABORATION BETWEEN LOCAL LAW
4 ENFORCEMENT AGENCIES AND APPROPRIATE NONPROFIT ORGANIZATIONS
5 AND ADVOCACY GROUPS AND MAY BE SUPPORTED BY THE DEPARTMENTS
6 OF TRANSPORTATION, EDUCATION, AND PUBLIC SAFETY.

7 (4) (a) NEITHER EVIDENCE OF A VIOLATION OF THIS SECTION NOR
8 OTHER EVIDENCE OF A FAILURE TO WEAR A HELMET SHALL BE ADMISSIBLE
9 AS EVIDENCE IN COURT AS A DEFENSE AGAINST LIABILITY OR TO REDUCE
10 THE AMOUNT OF DAMAGES IN AN ACTION FOR DAMAGES BROUGHT BY OR
11 ON BEHALF OF A USER OF NONMOTORIZED WHEELED TRANSPORTATION OR
12 THE SURVIVORS OF A DECEASED USER OF NONMOTORIZED WHEELED
13 TRANSPORTATION OR A PASSENGER OF SUCH A USER, IF THE USER WAS
14 INJURED OR KILLED AS A RESULT, IN WHOLE OR IN PART, OF THE FAULT OF
15 ANOTHER.

16 (b) THE PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL TWO
17 YEARS OF AGE OR OLDER BUT UNDER EIGHTEEN YEARS OF AGE WHO
18 VIOLATES THIS SECTION SHALL NOT BE SUBJECT TO ANY LEGAL LIABILITY
19 OR DESIGNATION OF FAULT DUE TO THE VIOLATION. A PRIVATE OR PUBLIC
20 LANDOWNER OR LESSEE OF PREMISES OPEN TO THE PUBLIC SHALL HAVE NO
21 RESPONSIBILITY TO ENFORCE THIS SECTION. NEITHER SUCH A LANDOWNER
22 OR LESSEE NOR A LAW ENFORCEMENT OR PUBLIC SAFETY OFFICER NOR ANY
23 OTHER PERSON SHALL BE SUBJECT TO ANY LEGAL LIABILITY FOR NOT
24 ENFORCING THIS SECTION.

25 (5) AN INDIVIDUAL WHOSE RELIGIOUS BELIEFS OR PRACTICES
26 WOULD BE VIOLATED BY THE WEARING OF A HELMET SHALL BE EXEMPT
27 FROM THE REQUIREMENTS OF THIS SECTION.

1 **SECTION 4. Specified effective date - applicability.** This act
2 shall take effect July 1, 2010, and shall apply to the use of nonmotorized
3 wheeled transportation on public streets or premises open to the public on
4 or after said date.

5 **SECTION 5. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.