

Date of Hearing: July 5, 2023

ASSEMBLY COMMITTEE ON TRANSPORTATION
Laura Friedman, Chair
SB 847 (Dahle) – As Amended June 19, 2023

SENATE VOTE: 21-8

SUBJECT: Vehicles: motorcycle: safety helmet exception

SUMMARY: Authorizes the California Highway Patrol (CHP) to adopt regulations certifying a helmet offered for sale, or sold, for use by drivers and passengers of motorcycles and motorized bicycles that substantially comply with, but do not meet, the requirements imposed by the federal motor vehicle safety standards, if the helmet is designed compliance with a driver's or passenger's beliefs or practices.

EXISTING LAW:

- 1) Authorizes CHP to adopt reasonable regulations establishing specifications and standards for safety helmets offered for sale, or sold, for use by drivers and passengers for motorcycles and motorized bicycles as it determines are necessary for the safety of those drivers and passengers. The regulations are required to include the requires imposed by Federal Motor Carrier Safety Standard number 218. (Vehicle Code Section (VEH) 27802)
- 2) Requires any driver or passenger to wear a safety helmet approved by CHP when riding on a motorcycle, motor-driven cycle, or motorized bicycle. (VEH 27803)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

According to the National Highway Traffic Safety Administration, in 2021 5,932 motorcyclists were killed, 14% of all traffic fatalities, and the highest number of motorcyclist killed since the federal government began collecting data on traffic fatalities in 1975. The per vehicle miles traveled fatality rate for cyclists was 30.05, almost 24 times the passenger car occupant fatality rate of 1.26. In states without universal helmet laws, 55% of motorcyclists killed in 2021 were not wearing helmets, as compared to 9% in states with universal helmet laws.

According to *Motorcycle Fatality Rates Due to Head Injuries are Lower in States with Helmet Laws*, a research paper by the Lerner Center for Public Health Promotion at Syracuse University, 37% of all motorcycle crash fatalities involve head injuries. States with helmet laws had a 33% lower head-related fatality rate compared to states without helmet laws. From 1999 to 2019 there were approximately 7,000 deaths in states without helmet laws compared to what they may have experienced with helmet laws in effect.

According to the author, "Freedom of religion is a core foundation of this country. We, as Americans, have the right to freely express our religion and I believe that right should equally extend to everyone. Any law that limits the ability to express ones religion, goes against what this country is all about. While current law does not intentionally discriminate against certain

religions, the reality is that those who practice those religions, are limited in how they can express their customs.”

This bill would authorize CHP to approve a helmet that substantially meets, but does not fully meet, federal motor vehicle safety standards for the design of helmets if the helmet was designed to accommodate someone’s religious beliefs. For comparison, the version of this bill that passed out of the Senate exempted those wearing turbans for religious purposes from having to wear a helmet. The founders of the Sikh faith started the practice maintaining hair uncut. Many Sikhs interpret the keeping of this requirement as a sign of commitment and acceptance of God’s Will. Wearing a turban to keep the uncut hair while wearing a turban is part of Sikhs’ five articles of faith.

According to the report *An Analysis of Hospitalized Motorcyclists in the State of Maryland Based on Helmet Use and Outcome*, operators injured in crashes and transported to a shock trauma center indicated that 56% of those wearing a “novelty helmet” received head injuries compared to 19% of those wearing a federally certified helmet. In 2011, NHTSA attempted to make it easier for riders and law enforcement officials to identify non-compliant helmets by requiring all compliant helmets manufactured after May 13, 2013 to have a certification decal which includes the phrase “FMVSS No. 28 certified.” California law requires helmets to have that label to comply with the state’s requirement to wear a helmet.

In 2015, NHTSA updated its definition of motorcycle helmet to prevent the marketing of novelty helmets as motorcycle helmets. NHTSA created a process for approving helmets for manufacturers whose helmets do not comply with proposed dimensional and compression requirements, but do comply with the performance requirements and all other aspects of the federal rule.

There currently is no approved helmet for those of the Sikh faith. A company called Tough Turban has designed a turban that uses Newtonian foam founded in military armor and composite fabric. This bill creates the potential avenue for the Tough Turban, or a similar type of helmet, to comply with California’s helmet law if, CHP determines that it substantially complies with the federal requirement.

The Auto Club of Southern California, writing in opposition to this bill, argues “SB 847 is concerning in California where many riders and passengers already use substandard helmets despite our universal helmet law. The Auto Club is very concerned that SB 847, despite its good intentions, will increase the state’s motorcycle fatality and serious injury rates by allowing for the legal and broader use of substandard helmets. According to the National Safety Council, motorcyclists accounted for 14 percent of all traffic fatalities in 2020 despite only having a three percent modal share. Moreover, while motorcycle deaths are continuing to increase nationwide, statewide deaths specifically from not wearing helmets increased nine percent from 2020 to 2021 according to the California Office of Traffic Safety.

Everyone has a right to self-expression while riding a motorcycle or any other method of transportation, but safety should always remain a priority. While we support the intent of SB 847, motorcycle drivers and passengers would be better served if the bill encouraged or required helmet designs that accommodate BOTH religious needs and conform to federal safety guidelines.”

Committee comments: Federally certified motorcycle helmets save lives, and “novelty helmets” fail to provide the same protection as a federally certified helmet. Nonetheless, it is possible for a “novelty helmet” to provide better protection than no protection at all. Riding a motorcycle without a certified helmet is against current state law. However, certain faiths that enjoy riding motorcycles are likely to never to wear a helmet not because of a disbelief in a helmets safety benefit or preference to avoid compliance with state laws, but because their religious faith prohibits them from doing so. For these reasons, it may benefit the state to certify helmets that may not provide the same protections as a federally certified helmet, but at least would provide better protection than no helmet at all.

Previous Legislation:

AB 695 (Norby of 2011) would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

AB 1205 (Logue of 2009) would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

AB 2427 (Canciamilla of 2006) would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program from the universal helmet law. *This bill failed passage in the Assembly Committee on Transportation.*

SB 969 (Ducheny of 2006) would have exempted motorcycle drivers 18 years or older who have completed a motorcyclist safety training program and has proof of current medical insurance from the universal helmet law. *This bill failed passage in the Senate Committee on Transportation and Housing.*

SB 685 (Hollingsworth of 2003) would have exempted from the helmet law persons who file a physician's certificate with the DMV substantiating a disability that renders them unable to wear a helmet. *This bill failed passage in the Senate Committee on Transportation.*

AB 2700 (Mountjoy of 2002) would have exempted from the helmet law motorcyclists 21 years old and over who carry proof of at least \$1 million in medical insurance on their persons. *This bill failed passage on the Assembly Floor.*

REGISTERED SUPPORT / OPPOSITION:

Support

One Individual

Opposition

Auto Club of Southern California
County Health Executives Association of California (prior version)

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