

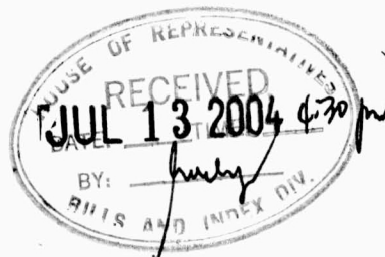
Republic of the Philippines
HOUSE OF REPRESENTATIVES

Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 1394



Introduced by Hon. Rene M. Velarde and Hon. Christian M. Señeres

EXPLANATORY NOTE

Australia had the first motorcycle helmet use law in the world as early as January 1, 1961. Since then, motorcyclists to wear helmets are in effect in such countries as Andorra, Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Ireland, Italy, Japan, Latvia, Liechtenstein, Luxembourg, Malaysia, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, South Africa, Spain, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Venezuela and Yugoslavia.

These collective experience in these countries have concretely demonstrated that helmets actually and positively decrease the severity of injury, the likelihood of death, and the prohibitive costs of medical care borne by accident victims. As everyone knows full well, helmets are specifically designed to cushion and protect the motorcycle riders' heads from the impact of a crash. Just as safety belts in cars, safety helmets are no guarantee of full protection against head injury or death, still, there is no denying that safety helmets reduce the risk of death in a motorcycle crash and the risk of fatal head injury.

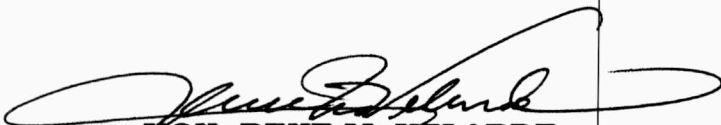
In the State of California, U.S.A., the helmets use law took effect January 1, 1992 and helmet use jumped to 99 percent from 50 percent prior to the law. During the same period, the number of motorcycle fatalities decreased 38 percent to 327 in 1992 from 523 in 1991. Texas had a universal helmet use law from 1968 to 1977 estimated to have saved lives. The law was amended in 1977 to apply only to riders younger than 18. The weaken law coincided with a 35 percent increase in motorcycle fatalities. Texas reinstated its helmet law in September 1989 and serious injury crashes of registered motorcycles decreased 11 percent. But, in September 1997, Texas again weakened its helmet law requiring helmets only for riders younger than 21. Operator fatalities increased 31 percent in the first full year following the repeal.

The Philippines has no such statistic because, despite its proven efficacy, and in the 21st century, the country has no helmets use law. It is easy enough to see how many fatalities as a result of motorcycle crashes could have been prevented if only the operator and the rider wore an approved safety helmet.

Too, the safety helmet must be an approved type. The criterion for its approval must be based on scientifically established tests proving that a particular helmet is actually designed to absorb the energy of an impact to the head as would reduce or completely prevent fatal head injuries or death. The average Filipino cannot be content with wearing novelty helmets, which are more toys than anything else. And the local law enforcer must be able to distinguish the law-abiding citizen against the reckless motorcyclist who would endanger not merely his life or limb but that of his passenger and other motorists as well.

The within bill proposes to declare, as a national policy, the necessity for the mandatory enforcement of the use of approved safety helmets inasmuch as the safety helmet is specifically designed to cushion and protect the rider's heads from the impact of a crash and thereby, effectively prevent or at least minimize the motorcyclists from suffering fatal or traumatic brain injuries which often require extensive medical treatment and may result in lifelong disability if not untimely death.

In view of the foregoing, early approval of this bill is requested.



HON. RENE M. VELARDE



HON. CHRISTIAN M. SEÑERES

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“AN ACT AMENDING SECTION 34 (h) OF THE REPUBLIC ACT NO. 4136 OR THEREBY REQUIRING THE MANDATORY COMPLIANCE BY ALL MOTORCYCLE OPERATORS, DRIVERS, RIDERS AND/ OR PASSENGERS TO WEAR SAFETY HELMETS.”

Section 1. *Short Title* – This Act shall be known as the “ **Motorcycle Helmets Use Act of 2004.**”

Section 2. *Declaration Policy* – It is hereby declared the policy of the State to secure and safeguard its citizenry, particularly the operators or drivers of motorcycles and their passengers, from the ruinous and extremely injurious effects of fatal or life threatening accidents and crashes. Towards this end, the State shall pursue a more proactive and preventive, rather than merely remedial or reactionary, approach in order to secure the safety of the operators or drivers of motorcycles and their passengers with the mandatory enforcement of the use of approved safety helmets inasmuch as the safety helmet is specifically designed to cushion and protect the riders heads and from the impact of a crash and, thereby, effectively prevent or at least minimize the motorist from suffering fatal or traumatic brain injuries which often require extensive medical treatment and may result in lifelong disability if not untimely death.

Section 3. *Definition of Terms* – For purposes of this Act, the term:

- (a) “*Motorist*” shall refer to the operator or driver of a motorcycle and their passengers thereon.
- (b) “*Motorcycles*” shall refer to any motor vehicles other than a tractor having a seat or a saddle for the use of the rider and designed on not more than two wheels in contact with the ground and weighing not more than 3,300 kilograms.

For the purposes of this Act, however, this term shall **exclude** bicycles and tricycles or any and all motorcycles equipped with a sidecar, that are specifically intended for the use as a public utility vehicle or vehicle for hire, and bicycles.

- (c) "Road" shall refer to any road; street, *expressway, highway* or thoroughfare within the territorial jurisdiction of the Republic of the Philippines, *including those that have been determined as limited access facilities.*

Section 4. Mandatory Use of Safety Helmets – In order to attain and assure the policy of promoting their safety, it shall be unlawful for any motorist, without reasonable and verifiable excuse, to operate or drive and ride on any motorcycle on any and all roads, as well as expressways, highways or limited access facilities, without wearing a safety helmet **of an approved type.**

Section 5. Type of Safety Helmets Required – All Safety helmets must substantially conform to the following minimum safety standards and such other standards to be further defined and prescribed by the pertinent IRR thereon:

- (a) Approved safety helmets may, as far as practicable, be constructed of a plastic or fiberglass shell to achieve proper protection from penetration and polystyrene inner line foam of at least 2.54 centimeters thickness or other impact resistant material to absorb the energy of an impact to the head. "Novelty" helmets that usually have only an outer shell and some comfort padding or without the impact absorbing materials are deemed as non-conforming and hereby declared as unlawful for purposes of operating or driving or riding as a passenger on board a motorcycle.

Provided, however, that nothing herein shall be construed as limiting the types of materials used to construct the shell of the safety helmet or the thickness of the impact absorbing material it being understood that a safety helmet shall, instead, be deemed approved for so long as it demonstrably achieves the purpose of absorbing the energy of an impact to the head.

- (b) Safety helmets may not have rigid projections that extend more than 5 millimeters. Snap fasteners on the outside of the helmet are allowed subject to this limitation. Provided, that sun visors are not contemplated by the prohibition under this article. And,
- (c) An approved safety helmet shall have chinstrap used to hold the helmet on the head. The "retention system" must be able to handle a certain load as further defined herein without, however, separating from the helmet. The fastening system must be easy to engage but must also stand up to the certain load to be specified in the IRR. Retention systems that comply with the standards shall have secure rivets that are firmly attached to the helmet as opposed to rivets found on "novelty" helmets that are loose and do not appear to be secure.

Section 6. Period of Implementation – The LTO shall be the agency primarily responsible in the enforcement and implementation of this Act. Within one (1) year from the effectivity of this Act, the LTO shall formulate and issue the necessary implementing rules, regulations (IPR) and guidelines as would defined and prescribe the further standards necessary to, and shall mobilize available resources that; assure the effective implementation of and compliance with this Act.

In the formulation and issuance of such standards, the LTO shall, as far as practicable, be guided substantially by the standards **that are internationally recognized and accepted and, more importantly, scientifically tested or established.**

Section 7. Provisions to Ensure Conformity with Approved Standards; Decals or Stickers and Notices. – This Act further requires manufacturers, distributors, importers and sellers thereof to ensure that safety helmets conform with the minimum standards herein defined and as further determined by the IRR thereon. Provided, however, that manufacturers, distributors, importers and sellers are likewise required to place on the inside of each safety helmet, in place that can be viewed without removing the inside padding, a notice which includes information on the substances that might compromise the helmet's integrity, such as paints and solvents, and expressly warn purchasers and users thereof not to tamper or modify the helmet. The name of the manufacturer, along with the model designation, size, and month and year of manufacture of the helmet must also appear.

For purposes of easy identification and effective regulation, an approved safety shall bear an LTO issued sticker with the marks, "DOTC," upon payment of such fees to be prescribed by LTO. Nothing herein shall prevent the posting of any other stickers on the safety helmet least of all stickers also pasted thereon by such internationally recognized bodies that may be relied upon to determine that the helmet is in compliance such as but not limited to Snell Memorial Foundation (SNELL) and American National Standards Institute (ANSI), nor shall any provision herein be constructed as requiring the removal of similar stickers.

Section 8. Presumption of non-conformance – A helmet that lacks the LTO issued sticker or the notice required by the immediately preceding section shall be presumed to be non-conforming unless rebutted by a showing that the helmet conforms to the approved standards.

Section 9. Penalties and Fines – In the enforcement of this Act, the LTO shall impose fines against operators or drivers of motorcycles, and their passengers, manufacturers, distributors, importers or sellers for violation of this Act. The following shall be the basis in defining and penalty provisions of the IRR to be promulgated pursuant to Section 6 hereof, provided that six (6) months grace period shall be allowed to lapse to conduct a nationwide information campaign:

(1) On the motorist:

- (a) For failure to ride with safety helmets on at anytime of the day on any road, a minimum fine of One thousand pesos (P1,000) but not to exceed Two thousand pesos (P2,000) for the first violation; a minimum fine of Two thousand five hundred (P2,500) but not to exceed Three thousand pesos (P3,000) for the second violation; and a minimum fine of Three thousand five hundred pesos (3,500) but not to exceed Five thousand pesos (5,000) and suspension of driver's license for a period of one (1) month, and/ or, upon the court's determination, one (1) month imprisonment for the third and succeeding violations;

- (2) On any manufacturer, distributor, importer or seller for every helmet failing to conform with the approved standard or without the stickers and notices required under Section 8, a minimum fine of Five thousand pesos (P5,000) but not to exceed Ten thousand pesos (P10,000) and suspension of the license or to permit to manufacture, distribute, import or sell for a period of one (1) year for the first violation; a minimum fine of Ten thousand pesos (P10,000) but not to exceed Twenty thousand pesos (P20,000) and suspension of the license or permit to manufacture, distribute, import or sell for a period of two (2) years for the second violation; and a fine of Twenty thousand pesos (P20,000) but not exceed Fifty thousand pesos (P50,000) and suspension of the license or permit to manufacture, distribute, import or sell for a period of five (5) years for the third violation.

Section 10. Nationwide Public Information Campaign – (a) The LTO, in the coordination with the Philippine Information Agency (PIA), the Department of Education (DepEd) and private agencies and organizations, shall undertake a regular nationwide Information, Education and Communication (IEC) campaign for the attainment of the objectives of this Act. The campaign shall stress the safety and health value of riding with safety helmets on all roads at all times of the day and the approved standards therefore to support the most effective enforcement of this Act.

(b) The LTO, in coordination with the local government units, shall likewise utilize the services of citizen groups and community organizations for the promotion of public safety awareness in observance of this Act.

(c) The fines and sticker fees that will be collected for the enforcement of this Act shall be used exclusively for the implementation and enforcement of the provisions of this Act, including the necessary promotion campaigns for the compliance with Section 4 hereof.

Section 11. Separability Clause – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or provision not otherwise affected shall remain valid subsisting.

Section 12. Repealing Clause – Section 34 (h), Article IV of Republic Act No. 4136 is hereby amended and, furthermore, any law, executive order, decree, issuance, ordinance, rule and regulation or any part thereof contrary or inconsistent with the provisions of this Act is also hereby repealed, modified or amended accordingly.

Section 13. Effectivity Clause – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.



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