

By: Oliveira

H.B. No. 2093

A BILL TO BE ENTITLED

AN ACT

relating to safety in bicycling and certain other activities using nonmotorized recreational equipment.

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

SECTION 1. The heading to Chapter 758, Health and Safety Code, is amended to read as follows:

CHAPTER 758. [~~BICYCLE~~] SAFETY IN BICYCLING AND CERTAIN OTHER ACTIVITIES USING NONMOTORIZED RECREATIONAL EQUIPMENT

SECTION 2. Section 758.001, Health and Safety Code, is amended by adding Subdivisions (8), (9), (10), (11), and (12) to read as follows:

(8) "Nonmotorized recreational equipment" means a skateboard, roller skates, or a scooter.

(9) "Protective helmet" means headgear that meets or exceeds the impact standards for protective helmets for bicycles or nonmotorized recreational equipment set by the United States Consumer Product Safety Commission, the Snell Memorial Foundation, or an appropriate state agency.

(10) "Skateboard" means a device that:

(A) does not have a motor;

(B) consists of two or more wheels affixed to a platform or footboard on which a rider stands;

(C) does not have steering capability similar to that of a bicycle; and

1                    (D) does not have brakes that operate on the  
2 wheels.

3                    (11) "Scooter" means a device that:

4                    (A) does not have a motor;

5                    (B) consists of two or more wheels affixed to a  
6 platform or footboard on which a rider stands; and

7                    (C) has a handle or other mechanism for holding  
8 or guiding the device.

9                    (12) "Roller skates" means a pair of devices that:

10                   (A) do not have a motor; and

11                   (B) consist of a shoe with a set of wheels  
12 attached for skating or a metal frame with wheels attached that can  
13 be fitted to the sole of a shoe worn by a person.

14                   SECTION 3. The heading to Section 758.002, Health and  
15 Safety Code, is amended to read as follows:

16                   Sec. 758.002. [~~BICYCLE~~] SAFETY EDUCATION PROGRAM.

17                   SECTION 4. Section 758.002, Health and Safety Code, is  
18 amended by amending Subsections (a), (b), (c), (e), and (f) and  
19 adding Subsection (h) to read as follows:

20                   (a) The department may establish and administer a statewide  
21 [~~bicycle~~] safety education program relating to bicycles and  
22 nonmotorized recreational equipment and may adopt rules to  
23 implement the program. The program must include instruction  
24 concerning:

25                   (1) the safe handling and use of bicycles and  
26 nonmotorized recreational equipment;

27                   (2) high risk traffic situations, if applicable;

1           (3) [~~bicycle and~~] traffic handling skills, if  
2 applicable;

3           (4) [~~on-bike~~] training on a bicycle or using  
4 nonmotorized recreational equipment;

5           (5) correct use of protective [~~bicycle~~] helmets; and

6           (6) traffic laws and regulations, if applicable.

7           (b) The department may issue a certificate or other evidence  
8 of completion to a person who has successfully completed an [~~a~~  
9 ~~bicycle~~] education course under this section.

10           (c) Subject to the establishment of an [~~a bicycle~~] education  
11 program by the department, a person [~~born after December 31, 1985,~~  
12 ~~who resides in a metropolitan statistical area as defined by the~~  
13 ~~United States Office of Management and Budget~~] may complete an [~~a~~  
14 ~~bicycle~~] education course approved by the department before  
15 operating a bicycle or using nonmotorized recreational equipment on  
16 a public roadway, public bicycle path, or other public  
17 right-of-way. [~~The course may be completed before the person's~~  
18 ~~10th birthday.~~]

19           (e) The department may:

20           (1) determine the qualifications for an instructor in  
21 the [~~bicycle~~] education program;

22           (2) use volunteer instructors; and

23           (3) certify organizations to recruit and train  
24 instructors for the program.

25           (f) In administering this section, the department may  
26 contract with an educational institution, state agency, local  
27 government, or nonprofit organization interested in [~~bicycle~~]

1 education relating to bicycles or nonmotorized recreational  
2 equipment.

3 (h) The department may encourage communications media to  
4 run, print, or otherwise disseminate public service announcements  
5 regarding the names and addresses of hospitals and other entities  
6 that have volunteered to provide free protective helmets to  
7 children or other members of the public.

8 SECTION 5. Section 758.003, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 758.003. FUND. (a) A fee collected by the department  
11 under this chapter shall be deposited in the state treasury to the  
12 credit of the bicycle and nonmotorized recreational equipment  
13 safety fund. The department by rule may establish a procedure to  
14 allow an educational institution, state agency, local government,  
15 or nonprofit organization interested in bicycle and nonmotorized  
16 recreational equipment safety to retain an amount from the fees  
17 collected to cover actual and necessary expenses.

18 (b) The fund may be used by the department only to:

19 (1) defray the costs of administering this chapter;

20 (2) provide a [~~bicycle~~] training course for a child  
21 [~~younger than 10 years of age~~] who comes from a low income family;  
22 and

23 (3) if funding permits, assist children from low  
24 income families in purchasing [~~bicycle~~] helmets.

25 SECTION 6. Chapter 758, Health and Safety Code, is amended  
26 by adding Sections 758.004, 758.005, 758.006, and 758.007 to read  
27 as follows:

Sec. 758.004. REQUIREMENTS FOR PROTECTIVE HELMET USE. (a)

This section applies to the use of a bicycle or nonmotorized recreational equipment on a public roadway, public bicycle path, or other public right-of-way that is located in a municipality with a population of 50,000 or more.

(b) A person younger than 15 years of age who is an operator or passenger on a bicycle or nonmotorized recreational equipment shall wear a properly fitting protective helmet that is:

(1) appropriate for a bicycle or for the type of nonmotorized recreational equipment used, as applicable; and

(2) fastened securely on the head with the straps or other appropriate fastener of that helmet.

(c) A parent or legal guardian of a person younger than 15 years of age may not knowingly or recklessly permit the person to operate a bicycle or use nonmotorized recreational equipment or to be a passenger on a bicycle or nonmotorized recreational equipment unless the person is wearing a protective helmet as prescribed by Subsection (b).

(d) In a cause of action in which damages are sought for injuries or death suffered by a person in connection with the person's operation of a bicycle or use of nonmotorized recreational equipment or being a passenger on a bicycle or nonmotorized recreational equipment at a time when the person was younger than 15 years of age, the failure of the person or of the parent or legal guardian of the person to comply with this section does not constitute responsibility causing or contributing to the cause of the person's injuries or death for purposes of Chapter 33, Civil

1 Practice and Remedies Code.

2 (e) The governing body of a municipality may impose a fine  
3 on a parent or legal guardian for violating Subsection (c).

4 Sec. 758.005. SALE OR RENTAL OF BICYCLES. (a) This section  
5 applies only to a person in the business of selling or renting  
6 bicycles or nonmotorized recreational equipment in a municipality  
7 with a population of 50,000 or more.

8 (b) A person regularly engaged in the business of selling  
9 bicycles or nonmotorized recreational equipment shall provide to  
10 each purchaser a written explanation of the requirement under  
11 Section 758.004 that a person wear a protective helmet.

12 (c) A person may not rent a bicycle or nonmotorized  
13 recreational equipment to another person unless:

14 (1) each person younger than 15 years of age who the  
15 person renting the bicycle or equipment knows will be an operator or  
16 passenger on the bicycle or equipment possesses a properly fitting  
17 protective helmet at the time the bicycle or equipment is rented; or

18 (2) the rental agreement includes the provision of a  
19 properly fitting protective helmet for each operator or passenger  
20 younger than 15 years of age who does not possess a properly fitting  
21 protective helmet at the time the bicycle or equipment is rented.

22 (d) A person who sells bicycles or nonmotorized  
23 recreational equipment is not liable in civil damages for:

24 (1) the failure to provide the written explanation of  
25 the law as required by Subsection (b); or

26 (2) an operator's or passenger's failure to wear a  
27 protective helmet.

1       (e) A person who rents bicycles or nonmotorized  
2 recreational equipment to another and has fully complied with  
3 Subsection (c) is not liable in civil damages for an operator's or  
4 passenger's failure to wear a protective helmet.

5       (f) The immunity from civil liability provided in  
6 Subsection (d) does not apply to a seller who provides information  
7 regarding the requirements under Section 758.004 if the information  
8 is false with respect to:

- 9               (1) the requirements under Section 758.004(b); or  
10               (2) the existence of Section 758.004 in general.

11       (g) The governing body of a municipality may impose a fine  
12 on a person for violating Subsection (b) or (c).

13       Sec. 758.006. LOCAL REGULATION. This chapter does not  
14 preempt a local regulation of the use of protective helmets or  
15 affect the authority of a political subdivision to adopt or enforce  
16 an ordinance or requirement relating to the use of protective  
17 helmets if the regulation, ordinance, or requirement is compatible  
18 with and equal to or more stringent than this chapter.

19       Sec. 758.007. USE OF NONMOTORIZED EQUIPMENT ON PUBLIC  
20 ROADWAY. This chapter does not authorize the use of nonmotorized  
21 equipment on a public roadway that is otherwise inconsistent with  
22 law.

23       SECTION 7. This Act takes effect September 1, 2005.