

# HOUSE BILL 563 - TRAFFIC AND PERSONAL SAFETY CHANGES

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In regards to HB 563 appearing before the NC House Judiciary III Committee on April 26, 2007

In review of amendments proposed within House Bill 563 Traffic and Personal Safety Changes, Section 1a, paragraph 2, related to safety helmets, is vague.

(2) Unless the operator and all passengers thereon wear ~~safety helmets of a type approved by the Commissioner of Motor Vehicles~~ on their head, with a retention strap properly secured, safety helmets of a type that complies with Federal Motor Vehicle Safety Standard (FMVSS) 218.

In order for a law to be constitutional, an average person of reasonable intelligence, in order to ensure compliance, must be able to answer the following question: What is Federal Motor Vehicle Safety Standard (FMVSS) 218, and how can I ensure that I comply with it?

Whereas, FMVSS 218 is a manufacturing standard understood by engineers, and since FMVSS 218 is not a consumer law, and since law enforcement officers are not capable of roadside testing of safety helmets to ensure compliance,

Then, the average person of reasonable intelligence cannot possibly ensure compliance. Therefore, prior to passage of HB 563 through Judiciary III, please remove the modification of Section 1a paragraph 2, as constitutionally vague.

A review of the current statutes also finds the existing Section 1a paragraph 2 vague.

§ 20-140.4. Special provisions for motorcycles and mopeds.

2) Unless the operator and all passengers thereon wear safety helmets of a type approved by the Commissioner of Motor Vehicles

There is no list of safety helmets approved by the Commissioner of Motor Vehicles. In the absence of such a list, the law is constitutionally vague, and the paragraph should be removed prior to passage of HB 563.

As such, I respectfully hereby propose modification of HB 563 Section 1, as follows:

SECTION 1. G.S. 20-140.4 reads as rewritten:

"§ 20-140.4. Special provisions for motorcycles and mopeds.

(a) No person shall operate a motorcycle or moped upon a highway or public vehicular area:

(1) When the number of persons upon such motorcycle or moped, including the operator, shall exceed the number of persons which it was designed to carry.

~~(2) Unless the operator and all passengers thereon wear safety helmets of a type approved by the Commissioner of Motor Vehicles.~~

(b) Violation of any provision of this section shall not be considered negligence per se or contributory negligence per se in any civil action.

(c) Any person convicted of violating this section shall have committed an infraction and shall be fined according to G.S. 20-135.2A(e) and (f)."

If such modification, as proposed herein, is made, striking that portion of the bill which is vague, Section 1a paragraph 2, the remainder of House Bill 563 is agreeable, and should pass Judiciary III committee with no further objection.

As a lawful citizen of North Carolina, and the United States of America, I respectfully request you, all being honorable elected representatives of the people, respond with legislation consistent with the US Constitution.

Sincerely,  
a Citizen and Motorcycle Rider