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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/2007

SPONSOR Lopez LAST UPDATED 3/16/2007 HB _____

SHORT TITLE Child Helmet Safety Act SB 397/a SPAC/aSJC/a HJC

ANALYST Schuss

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Brain Injury Advisory Council (BIAC)
 Department of Health (DOH)
 New Mexico State Police (NMSP)
 Aging and Long Term Services Department (ALTSD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment changes Sections 4 and 5 of SB 397.

The amendment removes Subsections B and C of Section 4. These sections stated the following:

B. A person engaged in the business of selling or renting bicycles, skates, scooters or skateboards who complies with the Child Helmet Safety Act shall not be liable in a civil action for damages for physical injuries sustained by or as a result of a minor customer's failure to wear a protective helmet in violation of the provisions of the Child Helmet Safety Act.

C. The owner of a public skateboard park shall not be liable in a civil action for damages for physical injuries sustained by or as a result of a minor customer's failure to wear a protective helmet in violation of the provisions of the Child Helmet Safety Act.

The amendment revises Section 5 to read:

Failure to wear a protective helmet shall not limit or apportion damages.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 397 removes the definition of "other public right of way".

Synopsis of SPAC Amendment

The amendment to Senate Bill 397 cleans up and clarifies Subsection A of Section 3.

Synopsis of Original Bill

Senate Bill 397 enacts the "Child Helmet Safety Act," prohibiting a parent or legal guardian of a person under 18 from knowingly permitting that minor to operate or be a passenger of a bicycle, skates, scooter or skateboard on public roadways, public bicycle paths, public skateboard parks or other public rights of way unless the minor wears a protective helmet that is fastened securely upon the head with the straps of the helmet. Under the bill, a parent or guardian who violates this prohibition shall pay a civil penalty of up to \$10. The bill provides that if the violation is a first offense, a magistrate or municipal court may issue a verbal warning or require, in lieu of a fine, proof that a protective helmet has been purchased for use by the minor. The bill provides that a municipal court may issue only a verbal warning for a first or later violation.

SB 397 requires a person engaged in renting bicycles, skates, scooters or skateboards to provide a protective helmet to a person under 18 who will be an operator or passenger of the rented equipment, if the minor does not already have a helmet. The bill allows for the charging of a reasonable fee for the protective helmet rental. The bill provides that a person engaged in the selling or rental of bikes, skates, scooters or skateboards who complies with the act shall not be liable for civil damages for injuries sustained by or as a result of a minor customer's failure to wear a helmet in violation of the act. SB 397 further provides that the owner of a public skateboard park shall not be civilly liable in the event of physical injuries sustained as a result of the minor customer's failure to wear a helmet in violation of the act.

SB 397 also provides that no negligence or liability shall be assessed or imputed to any party on account of a violation of the act, and failure to wear a helmet shall not limit or apportion damages.

FISCAL IMPLICATIONS

According to BIAC's analysis, the total annual cost of traffic-related bicyclist death and injury among children ages 14 and under is more than \$2.2 billion in the United States. A review of hospital discharge data in Washington State found that treatment for nonfatal bicycle injuries among children ages 14 and under costs more than \$113 million each year, an average of \$218,000 per injured child.

SIGNIFICANT ISSUES

AOC notes that SB 397 provides for concurrent jurisdiction by municipal and magistrate courts,

yet provides that only a municipal court has the discretion to issue only a verbal warning for violations (Section 3(D)). Section 3(D) also appears to negate the penalties contained in the statute.

AGO states that SB 397 raises the issue of whether parents should be subject to penalties for their children's violations. Under the current language of the bill, a parent that knowingly allows a minor child to engage in recreational vehicle use without a helmet may be subject to a verbal warning or a civil penalty not to exceed ten dollars.

SB 397 is a DOH bill and according to their analysis, among all recreational sports, bicycling injuries are the leading cause of emergency room visits for children and adolescents (American Academy of Pediatrics). In 2004, the number of bicycle crash head injuries resulting in hospitalization was more than eight times higher than those caused by either baseball or football (Bicycle Helmet Safety Institute). Traumatic brain injury accounts for two thirds of all bicycle-related fatalities (Center for Disease Control) and nearly half (47%) of hospitalizations (SAFE KIDS Worldwide). Skateboards ranked the fourth most hazardous sport for head injuries in 2004, scooters fifth, and in-line skating ninth (Bicycle Helmet Safety Institute). It is estimated that there are approximately 10 emergency room visits per week by minors who sustain head injuries while using bicycles, skateboards, scooters, or in-line skates in New Mexico (National Emergency Incidence Data System).

ALTSD states that twenty states and the District of Columbia have already passed helmet laws. A number of those states have shown a 45% reduction in Traumatic Brain Injury due to the new laws. In addition, Georgia and Oregon have shown a 20 % increase in compliance within the first year without enforcement efforts (National Pediatric Trauma Registry).

The results of a study done by the CDC Public Health Law News, January 19, 2005, support the enactment of helmet legislation for children. The study was done to determine whether bicycle safety helmet legislation in California, 1994, was associated with statistically significant reductions in head injuries among bicyclists under age 17 who were subject to the law. California legislation was found to be associated with a reduction of 18.2% in the proportion of traumatic brain injuries among the injured bicyclists 17 years of age and under. The greatest decrease in the proportion having traumatic brain injuries were the youngest riders, aged 0-9 years.

PERFORMANCE IMPLICATIONS

DOH states that SB 397 relates to their Strategic Plan Epidemiology and Response purpose to monitor health, provide health information, prevent disease and injury, promote health and healthy behaviors, respond to public health events, and provide health emergency management and vital registration services to New Mexicans.

TECHNICAL ISSUES

AOC lists the following issue:

- 1) Section 3(A) requires that a minor wear a bicycle helmet, "while on the bicycle." Perhaps skates, scooter or skateboard should be included in this statement.
- 2) Section 4(B) and (C): The phrase "for physical injuries sustained by or as a result of a minor customer's failure to wear..." does not make grammatical sense. Perhaps the

words “by or” should be removed entirely or the word “or” removed and replaced with “the minor customer.”

OTHER SUBSTANTIVE ISSUES

The Centers for Disease Control and Prevention (CDC) states that traumatic brain injury from all causes is at or above the 90th national percentile in five New Mexico counties, at or above the 75th percentile but less than the 90th national percentile in 7 New Mexico counties. The remaining counties are less than the 75th national percentile for persons of all ages (1989-1998). In a previous DOH report, wearing a helmet resulted in a reduction of head injury by 85% and traumatic brain injury by 88 % (Insurance Institute for Highway Safety and CDC). They further report 76,000 minor children were injured seriously enough while in-line skating in 1996 to require emergency medical care (The American Academy of Pediatrics 1998).

BS/mt