

The Next Era: A Helmet Law History

by Charlie Williams

The year was 1966. The Interstate Highway System was under construction with massive amounts of federal money from gasoline taxes. Each state had only to come up with ten percent in matching funds to partake in this huge construction project and all the jobs it created.

The 1966 Federal Highway Act added some new requirements. Among them were helmet use laws and driver's license requirements for motorcyclists and the stipulation that any state that failed to enact such laws could lose ten percent of their highway construction funds. This amounted to millions of dollars for each state.

There was no such thing as "motorcyclists' rights" in 1966 but the Japanese motorcycle industry was doing a booming business in this country — how many remember the advertisement, "You meet the nicest people on a Honda"?

In 1967, the state of Georgia enacted what remains today the nation's oldest motorcycle helmet use law. In most cities and around any recreation area you could rent a 50cc Honda or Yamaha for a twenty dollar bill and go motorcycle riding for four hours — no helmet, license, or training required. Many folks did, and enough of them got hurt to draw attention to the "motorcycle problem." Missouri legislators reacted by enacting a motorcycle driver's license law which killed the rental business. The Federal helmet law requirement prompted them to amend their M/C driver's license bill on the floor (bypassing the committee hearing process) to require Missouri motorcyclists to wear helmets or face up to a \$1000 fine and a year in jail!

And so it went across the nation as state after state fell to the federal blackmail threat. Within the next two years bikers began the arduous task of organizing to protect their rights. The birth of the movement saw the inception of the Modified Motorcycle Association in California with the late Ron Roloff beginning his life long dedication to motorcyclists' rights.

At about the same time a biker by the name of Charlie Simon of Massachusetts filed a civil suit

over the helmet law and took it all the way to the US Supreme Court. That court subsequently ruled that the law would serve to protect the young men who made up that segment of society that was being relied upon to protect our nation's interests in Southeast Asia at the time, henceforth should be upheld. The ordeal left Charlie financially drained.

The Illinois Supreme Court did not see it that way. In 1969 they declared the state's six month old helmet law unconstitutional on the grounds that it was an infringement on personal freedom. The Illinois Legislature repealed that very law the same month and Illinois has remained a free state since.

Easyriders Magazine Editor, Lou Kimsey, started A Brotherhood Against Totalitarian Enactments (ABATE) in 1971. The acronym fit at the time, as unelected federal bureaucrats were in fact using coercion on state legislatures to have specific laws enacted within the states. After establishing the idea of ABATE, Kimsey decided the leadership and organizational responsibility could best be handled by the various state groups. Of note among those state organizations at the time (around 1974) were ABATE(s) of Kansas, Virginia, Maryland, Pennsylvania, South Carolina, New York; Modified Motorcycle Association(s) of California and Massachusetts; New Hampshire Motorcycle Rights Organization; Rhode Island Motorcycle Association; Connecticut Motorcycle Association; and the Wisconsin Better Bikers Association.

By this time the American Motorcycle Association began to realize the importance of the helmet law issue and motorcyclists' rights in general. Leading that effort was Ed Youngblood, as managing editor of AMA News (presently the American Motorcyclist) and Gene Wirwahn, as director of the relatively new AMA Government Relations Department.

By 1972 the state of Kansas had passed a helmet law, repealed it, then passed it again. Rhode Island passed a helmet law for motorcycle opera-

tors but forgot passengers. They passed another separate law for passengers which is still in effect today. By 1974 all states except California and Illinois had helmet laws for all riders. Utah had an unusual law that required helmet use only when exceeding the speed of 35 miles per hour.

The US Department of Transportation called on these states to show cause why they should not forfeit 10% of their highway funds. Sanction hearings were scheduled. Illinois had to abide by their court decision but California was questionable. Although California Governor Ronald Reagan had steadfastly refused to be coerced by Washington, his term was over. When Jerry Brown took over the governor's office, Rob Razor of the AMA Government Relations Department (GRD) was dispatched to enlist the aid of Illinois Secretary of Transportation Carston Vieg to help convince Governor Brown to stand up to the Federal DOT on the helmet law issue at the sanction hearings. It worked, and according to Razor this effort at the sanction hearings was the event that focused the AMA's position on the helmet law issue. It is interesting to note that no state ever lost a dime of highway funds over this law.

At the same time bikers were getting organized. State organizations were building membership and knowledge. They learned for instance that "protest runs" were not particularly productive although California and Wisconsin seemed to get some positive results. The best of these was probably raising the political awareness of motorcyclists. They did one thing very successfully however, and this is important to note today. They talked to each other. Motorcyclists' rights being a new concept, nobody knew what else to do but find out what others were doing and what they knew about the subject. Many of the organizations were just a few concerned bikers in the beginning, but Easyriders published some phone numbers and the circle grew.

Some one heard about a bureaucracy in Washington called The National Council on Uniform Traffic Laws and Ordinances (NCUTLO) that was holding public hearings on traffic laws including helmet laws. Their particular concern was whether the helmet law was a "moving violation" or an "equipment violation." About a dozen bik-

ers showed up representing state groups. Many of these people who had been in communication by mail and telephone now met in person for the first time and formed many lasting friendships.

After listening to hours of hearings on things like seat belts for school buses they chose someone to address the council on motorcycle issues. Although the bureaucrats were not receptive to helmet law opposition they did agree to give the MMA a seat on the council thanks to the efforts of Ron Roloff. Even with that concession however, the bikers recognized the futility of talking to bureaucrats.

About this same time (1974), Don Pittsley, a member of the Huns M/C in Bridgeport, Connecticut, persuaded his congressman, Representative Stewart McKinney, to introduce H.R.3869 in the U.S. Congress. This bill would end the Federal authority to withhold highway funds from states that failed to enact helmet laws. Most of the same folks who met in Washington plus a few more went to Washington again in July of 1975 when the House Sub-Committee on Surface Transportation held hearings on this bill. Rob Razor of the AMA, Ron Roloff of the MMA, and Ed Armstrong for ABATE of Chicago presented convincing testimony that the helmet law was not the answer to motorcycle safety. Congressman Bud Shuster complimented the bikers on their testimony saying that they did a much better job than the American Association of Railroads who preceded them. Not bad for a bunch of bikers.

This experience sent everybody home charged up to get rid of the helmet law. Every detail of the experience and all of the enthusiasm was passed on to bikers all over the country through newsletters and some motorcycle publications. ABATE chapters started up all over the country and letters were written to congressmen. State organization newsletters were only about as regular as bikers might expect but they did spread the word. Every state tried to include the other state groups on their mailing lists, so any bikers that read any newsletter had a pretty good idea what was going on around the country and knew they were not alone. This bit of knowledge allowed individual bikers to think they were suddenly a political power which, in fact, made it true.

Before 1975 ended, Gene Wirwahn, director of the AMA Government Relations Department, and Ron Roloff of the MMA of California enlisted the help of California Senator Alan Cranston to persuade Committee Chairman Senator Jesse Helms to add the language of H.R.3869 to the 1975 Federal Highway Act. It became known as the "Helms Angel Bill" and on May 5, 1976, President Gerald Ford signed it into law.

It was nothing short of miraculous that a tiny number of concerned bikers could affect Federal law. The key to the success of this small group was staying in touch with consistent communication so all their efforts worked together as one. The "totalitarian enactment" was now gone, but we still had 47 state helmet laws to deal with and a great deal more to learn about politics.

What can now be referred to as the "first national helmet law" was repealed by this Act signed by President Ford. ABATE of Kansas state coordinator Ted Oakes claimed that Kansas was the first state to repeal a state helmet law. The repeal bill included words to the effect that "helmet law repeal" would go into effect only if the federal law was repealed. South Dakota repealed theirs shortly afterwards but it went into effect before the Kansas repeal giving them a claim to "being first" as well.

Connecticut repealed their helmet law five days before the President signed the federal bill. Governor David Boren signed the Oklahoma helmet law repeal into law the very day the federal law was signed. Since many state legislative sessions were over or nearly so at this time many states had to wait for the 1977 legislatures to convene before taking action to repeal helmet laws.

Before 1977 ended no less than twenty states repealed helmet laws for adults. With Illinois and California already without helmet laws, that meant that bikers managed to free half the nation of helmet laws state by state in less than two years time!

Wisconsin, Ohio, Idaho, and Delaware joined the free states in 1978 followed by Maryland in 1979 and South Carolina in 1980.

Helmet law reinstatement bills began to surface immediately, as early as 1977 in Kansas and Iowa. Bikers soon realized the war would rage

on. Louisiana was the first casualty with a helmet law reinstatement in 1982. Wyoming repealed their helmet law in 1983 and is to date the last State to do so leaving nineteen states to retain helmet laws from this time period.

In many of the repeal states the legislatures were receptive to the bikers' request to "Let Those Who Ride Decide" but in some states the battle for freedom was hard fought. Typically it was in those states that Motorcyclists' Rights Organizations (MROs) developed into the strong, sophisticated and professional groups that exist now. They turned to promoting rider education programs as the preferred alternative to helmet laws and now typically represent the safest states for motorcyclists in terms of accident statistics.

A few states successfully worked their repeal bills through the legislatures only to run into trouble at the governor's desk. Indiana Gov. Otis Brown refused to sign the repeal bill but let it become law without his signature. Gov. Mike O'Callaghan's veto was upheld by the legislature to make Nevada the only Western state to retain a helmet law. The Maine legislature overrode Gov. James Longley's veto by a vote of 112 to 29. Acting Gov. Schreiber of Wisconsin was so angered when his veto was over-ridden that he ordered the Wisconsin DOT to record motorcycle head injury fatalities according to helmet use after repeal, and it was rumored that he attempted to alter the report when it failed to show a difference in the death rate on the basis of helmet use.

Texas Sen. Bill Moore was quoted in the press following a repeal bill hearing, saying, "I heard one of 'em got killed yesterday. If we get rid of helmets, maybe we could get rid of 'em all." To this day emotion runs high and common sense runs low on this issue.

In the Surface Transportation Assistance Act of 1978, Congress directed the National Highway Traffic Safety Administration (NHTSA) to report to Congress on the effect of helmet law repeals. In 1980, NHTSA chief Joan Claybrook presented "A Report to the Congress of the Effect of Motorcycle Helmet Use Law Repeal: A Case for Helmet Use." The report stated that the decline in helmet use due to helmet law repeals was the most significant factor in the 46 percent increase in mo-

torcycle fatalities between 1976 and 1979. Citing "social and economic harm," it concluded that state helmet use legislation is in the national interest; consequently NHTSA asked the Congress to define the responsibility of states in enacting helmet use legislation. The Report acknowledged its own fallacy with the statement, "NHTSA also agrees that any study using overall fatalities or fatality rates cannot deal with helmet laws in isolation but must consider the effects of other safety programs and other non-safety factors which can influence fatalities." So while admitting that it cannot report on the effect of helmet use in isolation, NHTSA proceeded to do so anyway which was Claybrook's style.

Conveniently omitted from this report was a publication from NHTSA's own Fatal Accident Reporting System (FARS) called "Motorcycles, Special Report, 1977" which was apparently accidentally released with a true statement on page 72 that said, "There is no significant difference in the fatality rates of states requiring or not requiring the wearing of a motorcycle helmet." The Special Report provided ample evidence to support it.

Joan Claybrook is still with us today leading the Advocates for Highway Safety (a group of insurance company representatives) who are determined to force helmet laws on us again. They still cannot however, provide any evidence to disprove the FARS statement even with a quarter of a century of experience with helmet laws in the nineteen states that retained the original helmet laws.

Claybrook's Helmet Law Report also was one of the original attempts to portray motorcyclists as "public burden." This hoax has been used by helmet law advocates for years and the only thing they have proved is that the more tax money and insurance company money you spend promoting a lie, the more people will believe it. Ex-Congressman Mike Synar of eastern Oklahoma wrote a letter to an Oklahoma ABATE member claiming that the average cost to treat a motorcycle accident victim is \$290,000. That would be over twenty BILLION (yes! with a B!) dollars a year!

Joan Claybrook waged her reign of terror against the freedom of motorcyclists from her

position as Chief Administrator of the NHTSA during the Carter administration. It was the American Motorcyclist Association that provided the voice for motorcyclists at the national level during this period.

The Government Relations Department matured into an important and highly effective operation under the leadership of Ed Youngblood. Gary Winn was responsible for much of the research and information used to counter Claybrook's efforts toward the national helmet law and he and Rob Rasor represented the interests of motorcyclists in Washington and in state capitols all over the country as well. They also led the fight for motorcyclists on the issues of noise and air pollution with the Environmental Protection Agency and fuel conservation issues with the Department of Energy.

This was only half the work load for the Government Relations Department. The "off road" segment of the motorcycling community was also under constant attack by an army of Federal bureaucrats. Efforts to ban motorcycles from selected areas or city streets or parks were appearing in many areas around the country. The AMA's leadership during this critical period gave the local and state Motorcyclists' Rights Organizations the opportunity to grow and develop political skills. Ed Youngblood and Rob Rasor are still working for motorcyclists at the AMA. Rob serves as Vice-President for Government Relations and Ed is now the President of the AMA.

Back to the history: after Wyoming repealed in 1983 the helmet law issue got relatively quiet. By the mid eighties bikers and MROs were getting complacent on the issue and turned their attention to Rider Education development and/or social activities, or in some cases people just went back to riding motorcycles.

A few experienced leaders in the motorcyclists' rights movement saw a danger in this and recognized a need for more national unity in the movement. This was a risky idea as previous attempts to nationalize state Motorcyclists' Rights Organizations had led to rather disastrous results. The plan was to proceed slowly and carefully with the first "Meeting of the Minds" in St. Louis in 1984. Generally, it was agreed that there was a

need to provide for the collection and distribution of motorcyclists' rights information and to provide a voice to represent motorcyclists' interests to the Federal Government. Thus the MRF was born (first known as the Motorcycle Rights Fund, later changed to Motorcycle Riders Foundation).

The timing for the MRF was right because the helmet law advocates came back with a vengeance, with Joan Claybrook on the front line. The first casualty was Nebraska on February 19, 1988 when Gov. Kay Orr signed LB 428 into law. That same year the spineless Oregon state legislature turned the issue over to the voters to decide in a state-wide election. The public voted for "safety" of course as the bikers couldn't possibly afford to mount a statewide media campaign to present the issue properly.

Texas fell in 1989 followed by the state of Washington. After several attempts which included a veto by former Gov. Deukmejian, California Ex-Assemblyman Dick Floyd finally forced a helmet law on the Golden State. It was a perfect example of what could be done with a pack of lies and the loudest (and perhaps foulest) mouth in California government.

The state of Maryland had been fending off discriminatory motorcycle insurance legislation for several years which was pushed by an anti-motorcycle governor. While the bikers have been successful on this, they became the only state to lose the battle on the helmet law under the 1991 ISTEAM mandate!

On May 15, 1989, Senator John Chafee of Rhode Island introduced the National Highway Fatality and Injury Reduction Act of 1989 (S.1007).

During the eighties the popularity of motorcycles declined somewhat, mostly due to the aging of the baby boomer generation and some economic factors. The Motorcycle Industry Council (MIC), an association of foreign motorcycle manufacturers and aftermarket companies, embraced the idea of a national helmet law for the following reasons as stated in letters to their members (don't get angry at the MIC now — they have changed their mind!):

1. Helmeted riders appear more responsible,

better protected from the risk, and therefore may be more acceptable to the non riding public. The industry could grow again if there were less public opposition to the sport.

2. New riders may feel more secure in beginning to ride, and their influencers (parents, spouses, families) may be less alarmed if the risk is reduced by the required wearing of helmets.
3. Fewer motorcycling deaths and serious injuries would result in less negative publicity about the sport.

This was a perfect example of wrong headed thinking on the helmet law issue. It also provided the opportunity to demonstrate the value of the MRF. The Motorcycle Rider's Foundation went to work on the MIC and got their president, Alan Isley, to come the 1990 Meeting of the Minds to announce that the MIC would no longer testify at legislative hearings in favor of helmet laws. Every national and most state motorcycle related organizations were represented at this particular meeting.

This turning point in the history of motorcyclists' rights proved that all these people and organizations could work together for the future of motorcycling. It was a good thing, because by January 31, 1990, there was another national helmet bill introduced. H.R. 3925 by Representative Jim Cooper (TN) was similar to S.1007. We were never even afforded the courtesy of a public hearing on this bill before it became part of the Intermodal Surface Transportation Efficiency Act which became law on December 1, 1991.

This law created Section 153 of Title 23 U.S. Code which set an October 1, 1993, deadline by which states must pass helmet laws and seatbelt laws or face financial penalties. This is the "second national helmet law." It is directly responsible for the helmet law in Maryland and a major threat to the freedom of motorcyclists everywhere. Hopefully, it will be history when you read this. If not, the fight rages on. If it is, the preservation of our freedom demands our vigilance.

I found a couple bits of interesting information while doing research for this article in old

magazines. In 1975, a Dr. Norman McSwain, who has made a name for himself writing pro-helmet law reports (most recently seen in a Kansas helmet bill fight), wrote to Ed Youngblood of the American Motorcyclist Association and told him that many motorcycle accident fatalities would be his fault for not supporting helmet laws. He said, "We doctors don't live in a dream world of freedom."

On May 18, 1975, Don Pittsley, the biker who started the ball rolling on getting rid of the First National Helmet Law, died suddenly of a heart attack. I heard that this happened as he argued with a legislator on the steps of the Connecticut

capitol. I don't know if this is true or not, but it would definitely be in character.

I'll close with a famous quote from Roger Hull (former editor of Road Rider Magazine, from Tulsa, OK): "Helmet USE is a SAFETY issue—helmet LAW is POLITICS."

References

Information for this article came from the American Motorcyclist, Easyriders, and Road Rider magazines.

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Charlie is the MRF State Rep for Oklahoma, and has been involved in motorcyclists' rights activities for more years than he probably wants to count.

