

**The Murkowski Amendment  
Makes Motorcycle Safety History**

A Rebuttal of Claims Made November 11, 2003, by  
“Advocates for Highway and Auto Safety”

Contrary to claims made by the Advocates for Highway and Auto Safety (AHAS), the Motorcycle Safety Amendment offered by Senator Lisa Murkowski to the highway spending bill will prevent accidents, thwart injuries and save lives. Indeed, it will make motorcycle safety history.

**Introducing the Murkowski Amendment**

First, Senator Murkowski’s Motorcycle Safety Initiative is a *comprehensive* agenda that is built on the “National Agenda for Motorcycle Safety.” The “National Agenda” is a milestone document written to chart the future course of all motorcycle safety efforts. The agenda is the result of a collaborative effort by the National Highway Traffic Safety Administration (NHTSA), the Motorcycle Safety Foundation (MSF), the National Association of State Motorcycle Safety Administrators (SMSA) and a host of groups representing the insurance industry, law enforcement, riders and other entities. The Murkowski Amendment literally fulfills *dozens* of the most important initiatives and recommendations of the “National Agenda.”

Second, the Murkowski Amendment is built on the principle of *crash prevention* – a principle of action supported by NHTSA. In its Motorcycle Safety Program issued January 2003, NHTSA stated, “crash prevention...offers the greatest potential safety benefit for motorcyclists.”

Third, the American Motorcyclist Association and State Motorcyclists’ Rights Organizations nationwide support the Murkowski Amendment. Additionally, Mr. Ronald E. Shepard, Chairman of the SMSA, wrote on November 26, 2003: “The SMSA strongly supports and endorses the Murkowski Amendment.”

Comments below are tied to specific claims made by AHAS.

**Mitigating Road Hazards**

AHAS Comment #1: “The Motorcycle Advisory Program would be in the wrong federal agency.” AHAS argues that NHTSA, not FHWA, has jurisdiction over traffic safety,...crash causation, alcohol use....” etc.

REBUTTAL: First, the Murkowski Amendment establishes a “Motorcyclist Advisory Council,” not a “Motorcycle Advisory Program.”

Second, Senator Murkowski designed the Council to tackle one important piece of the motorcycle crash puzzle – namely, crash barriers, road maintenance practices and integration of the Intelligent Transportation System (ITS), all of which should

accommodate all road users. Indeed, Senator Murkowski places the Council in the *correct* federal agency to mitigate these concerns.

Third, the topics AHAS addresses in its critique (e.g., “alcohol use”) are indeed important factors under the auspices of NHTSA, *and they remain so under the Murkowski Amendment*. (The Murkowski plan addresses these other challenges as well.)

Fourth, in a letter to MRF dated October 9, 2003, regarding the establishment of the Council, the Federal Highway Administration wrote that “Administrator Peters and the [FHWA] Office of Safety...share[d] [MRF’s] concern for motorcycle safety. [MRF’s] interest in barrier design, road maintenance practices, and the architecture and implementation of Intelligent Transportation System (ITS) technologies are well aligned with many of our priorities.”

AHAS Comment #2: “[B]arrier design and road maintenance practices...are not the reasons for motorcycle highway crashes.”

REBUTTAL: False. The “National Agenda” states that “poor road design and maintenance contribute to motorcycle crashes, injuries and fatalities” and lists road hazard mitigation among the agenda’s “ESSENTIAL” recommendations. The House Transportation & Infrastructure Committee found that, of 42,000 annual traffic fatalities, “nearly one-third...are caused by substandard road conditions and roadside hazards.” Irrespective of the figures, these challenges are well worth addressing, and the “National Agenda” is very clear on the action plan: it urges the government to “develop and revise highway standards on all levels,” calls for “a working group to recommend changes to highway standards to increase motorcycle safety” and urges the education of “road design and maintenance personnel about conditions that pose hazards to motorcyclists.” (Additionally, the “National Agenda” recommends “Includ[ing] motorcycles in the design and deployment of Intelligent Transportation Systems.”) The Murkowski amendment accomplishes *all* these goals.

AHAS Comment #3: The membership of the Motorcycle Advisory Council...is not fairly balanced...and does not include...all of the stakeholders interested in motorcycle safety.”

REBUTTAL: First, the Murkowski Amendment establishes a “Motorcyclist Advisory Council,” not a “Motorcycle Advisory Council.”

Second, the aim of the Council is to foster dialogue between FHWA (especially road design engineers) and motorcyclists, particularly motorcyclists who have road design and maintenance expertise in academia, research or by virtue of their work in State transportation departments. While their comments and observations are doubtless welcome on a variety of issues, most of the entities recommended by AHAS for the Council (e.g., Mothers Against Drunk Driving, emergency doctors) may not have expertise germane to the specific work of the Council, namely road design, road maintenance and ITS.

AHAS Comment #4: “The amendment would give the Motorcycle Advisory Panel...the right to ‘review proposed regulations’ conferring unprecedented general authority to a non-governmental advisory group. This is an extraordinary infringement of agency regulatory authority.”

REBUTTAL: First, the Murkowski initiative establishes a “Motorcyclist Advisory Council,” not a “Motorcycle Advisory Panel.”

Second, if the three words in the Murkowski Amendment to which AHAS objects were deleted (namely, “review proposed regulations”), their deletion would in no way infringe on the current right, exercised by citizens and associations like AHAS alike, to “review proposed regulations” and provide comment. The Murkowski Amendment does not change that right one iota. Moreover, it confers no authority on the Council beyond discussion and information sharing on the issues of road maintenance, road design and ITS.

AHAS Comment #5: “The amendment also states that the Motorcycle Advisory Council shall ‘coordinate with planners’ of the FHWA, another unprecedented intrusion...to directly control agency policy planning and actions.”

REBUTTAL: The Murkowski Amendment establishes the Council with one goal in mind: dialogue. Both the FHWA Administrator and her staff engineers with whom dialogue ensues are free to disagree with the Council and reject any comments the Council may provide. This merely creates a forum for discussion recommended by the “National Agenda,” which states in part, “Roadway engineers and other traffic designers need to elevate the placement of motorcycle safety dynamics as a consideration in design, construction and maintenance of roadways at all levels of oversight...This may also benefit the safety of other vehicles.”

### **Rider Training and Motorist Awareness**

AHAS COMMENT #6: “The ‘Motorist Awareness’ program is essentially a means of blaming passenger vehicle drivers for motorcycle crashes.”

REBUTTAL: False. Surely AHAS does not advocate that we ignore the operators (of any type of vehicle) whose misconduct claims life or limb. There is no “blaming” assessed here or anywhere else in the Murkowski Amendment, just the outpouring of effective initiatives to tackle extant problems. As stated before, the Murkowski Amendment tackles the wide array of motorcycle safety challenges. One of those challenges *is* motorist awareness, and the “National Agenda” is unequivocal: “Motorists should be aware of motorcycles and take special care to identify and acknowledge their presence. Motorists should avoid distractions and compensate for visual obstructions.” Moreover, of the 82 action recommendations of the “National Agenda,” four are marked “URGENT.” One of the four “URGENT” recommendations is “Motorist Awareness.”

AHAS COMMENT #7: “The Amendment ignores the fact that 45 percent of all motorcycle fatalities...occurred in single vehicle crashes *not involving another vehicle*” (*emphasis in original*).

REBUTTAL: It is true that single-vehicle crashes are a real concern, but it is patently untrue that the Murkowski Amendment “ignores” them. On the contrary, the Murkowski Amendment recognizes and addresses the challenge of single vehicle motorcycle crashes directly through, among other initiatives, rider training and, to the extent that road hazards contribute, the Motorcyclist Advisory Council.

AHAS COMMENT #8: “Other studies...concluded that no more than 20 percent of two vehicle crashes involved a second vehicle that ‘could have claimed not to see the motorcyclist’...and...motorcycle operator error was a contributing factor...”

REBUTTAL: Again, irrespective of driver vision, percentages or the relative merits of one study over another, crashes involving just motorcycles, *and* crashes involving motorcycles and other vehicles, are all problems we must solve, and the Murkowski Amendment addresses them directly. Moreover, the fact that rider error contributes to crashes argues forcefully for immediate adoption of the Murkowski Amendment, because it addresses rider error directly. Moreover, the “National Agenda” states, again without equivocation, “When motorcycles and other vehicles collide, it is usually the other (non-motorcycle) driver who violates the motorcyclist’s right of way (NHTSA, 1998).”

### **The “Motorcycle Safety Incentive Grant” – and the Facts About Rider Training**

AHAS COMMENT #9: The Murkowski Amendment “wastes federal taxpayer funds by authorizing over \$25 million (over 5 years) for motorist awareness programs that seek to shift the burden for motorcycle crashes onto the drivers of passenger vehicles, and for motorcycle training programs which have not been proven to be effective in reducing motorcycle crashes.”

REBUTTAL: Not true. As the “National Agenda” states, “There is a continuing need to help other motorists ‘think motorcycles’ and to educate motorcyclists to be aware of this problem.”

A number of fallacies underlie the AHAS claims.

First, States may qualify for the \$100,000 Motorcycle Safety Incentive Grant only if they maintain or increase their commitment to rider training from one year to the next over the life of the highway bill. Clearly, not all States will qualify. The District of Columbia, for example, has no motorcycle safety training program, and several States have reduced or eliminated motorcycle safety programs this year alone. In fact, it is this erosion of safety training that prompted the Murkowski Amendment in the first place – an erosion that motorcycle safety experts assembled this year termed “the greatest threat facing motorcycle safety today.”

Second, a State may choose to expend the \$100,000 grant to rider training or motorist awareness or a combination thereof, depending on the needs determined by that State.

Third, the federal contribution to motorcycle safety urged by the Murkowski Amendment should be understood in the context of how motorcycle safety is funded. In almost every State, riders pay more than car drivers for license and tag renewals. A self-imposed tax, these funds are devoted to rider training and motorist awareness (except, of course, when diverted, reduced or eliminated). Moreover, the students of rider training pay tuition, as much as \$300 per course. Rather than a waste, as AHAS claims, it is a proper use of taxpayer dollars to provide a small but effective contribution to motorcycle safety to arrest and reverse the tragic accident trend. After all, like other road users, riders pay the gas tax and thus contribute to the Highway Trust Fund, and like other road users, riders should have a say in how a small portion of their tax dollars are spent. The Murkowski Amendment constitutes a small but meaningful federal contribution that prevents accidents, thwarts injuries and saves lives.

Fourth, motorcycle skill training *does* prevent accidents. The “National Agenda” states, “Motorcycle rider education and training comprise the centerpiece of a comprehensive motorcycle safety program.” The “National Agenda” further indicates that formally trained riders are less accident-involved and recommends that we “expand motorcycle safety programs to accommodate all who need or seek training.” The guidance is clear: the “National Agenda” lists *ten separate action recommendations* – all marked “*ESSENTIAL*” – that are fulfilled by the Murkowski Amendment’s “Motorcycle Safety Incentive Grant,” including motorcycle rider training.

Fifth, in its review of AHAS comments dated November 26, 2003, the SMSA reinforces the effectiveness of rider safety training and underscores the importance of the Murkowski Amendment in the strongest possible terms:

“The motorcycle rider education community trains well over 200,000 new riders every year and has trained close to 3 million students since 1974. We hold the intellectual capital when it comes to understanding the needs of our community. When one considers that research shows that 92% of accident-involved riders were self-taught or taught by friends or family, the case for formal rider education is a strong one....

“Rider education does work. The California Motorcyclist Safety Program (CMSP) concluded a landmark nine-year research project in 1997 to determine the effectiveness of rider education. The California program had, at that point, trained over 93,000 motorcyclists since its implementation in 1987. The following excerpts highlight the findings:

“Over the nine years the CMSP had been in operation, fatal motorcycle accidents in California dropped by 69 percent, falling from 840 fatal accidents in 1986 to 263 fatal accidents in 1995. At the same time, total motorcycle accidents fell from 29,742 in 1986 to 9,710 in 1995, a drop of 67 percent.

“The decline in accident rates was even more dramatic for those under 18...Accidents among this group dropped 88 percent, while accidents among riders over 18 dropped 61 percent.

“Using conservative estimates of the costs of accidents and fatalities, a savings of 2,374 accidents and 117 fatalities per year represents an annual savings of \$173 million, *more than one hundred times the cost of the program itself.* (Emphasis added.)

“It is unfortunate that the AHAS feels this amendment is a waste of money,” SMSA concludes. Addressing AHAS’s false charge that the Amendment is somehow an effort “to blame the passenger vehicle drivers for motorcycle crashes,” SMSA asserts that “nothing could be further from the truth. We believe in sharing the road and in educating road users to be better, more informed drivers and riders. We believe in preventing the crash in the first place....

A life-long motorcycle safety instructor, SMSA Chairman Shepard adds, “I would like to commend...Senator Murkowski for...this powerful piece of legislation.”

### **The Reckless Who Maim or Kill: Should They Be Coddled or Crippled?**

AHAS Comment #10: Without expressly citing an objection, AHAS seems to condemn an incentive in the Murkowski Amendment that encourages States to get tough on reckless, dangerous operators of every sort of motor vehicle: “Amendment would insert a motorcycle crash reduction element as part of the Section 402 highway safety grant program but...requires license suspension of vehicle operators who recklessly or negligently cause a crash with a motorcycle or other vehicle that results in injury or death...”

REBUTTAL: Correct. The Murkowski Amendment does encourage States to toughen sanctions against reckless, negligent vehicle operators who maim or kill, as well it should. Motorcyclists particularly believe that we should not coddle drivers whose misconduct leads to injury or death. At the very minimum, licenses should be suspended.

The States are well ahead of the federal government in this regard. This language is based on a “vehicular manslaughter” measure backed by law enforcement and signed into law in Washington State. Other States are following suit.

Also, in criticizing a measure that gets tough on reckless, negligent vehicle operation, AHAS fails to place this measure in context. It is only one of six provisions in the 402 grant language established by the Murkowski Amendment. To qualify for a 402 grant under this section, a State must comply with *just three of the six elements*, not all six. Moreover, each of the six elements is not only backed by the “National Agenda” but satisfies a specific motorcycle safety objective set by the “Agenda.” The Murkowski Amendment establishes subparagraph (A), which we discuss here, that sanctions reckless

operators who injure or kill; subparagraph (B) encourages States to reduce motorcycle crashes (and, thereby, injuries and fatalities); (C) encourages States to fund rider training; (D) promotes motorist awareness; (E) separates drinking from riding and (F) encourages States to reduce unlicensed riders.

### **Best Practices in Training**

AHAS COMMENT #11: “Permits DOT to contract using taxpayer funds...to review, determine and disseminate ‘best practices’ in motorcycle safety...”

REBUTTAL: This is a common practice when a private entity is uniquely suited to provide a service. Fulfilling several recommendations of the “National Agenda,” this provision provides \$50,000 annually, over the life of the highway bill, to the National Association of State Motorcycle Safety Administrators (SMSA) to determine “best practices” in motorcycle safety and provide them to State lawmakers and agencies. SMSA is the ideal entity to review, determine and provide best practices, as it was created to do just that (“a forum for the exchange of information among state-sponsored motorcycle-education programs.” Source: “National Agenda.”) Moreover, while Title 49, U.S. Code, Section 30105 (“Restriction on lobbying activities”) prevents NHTSA from acting in this role, SMSA coordinates with NHTSA on numerous matters of mutual interest and is ideally suited to continue that coordination in fulfillment of this vital role.

### **The Murkowski Amendment Prevents the Crash, Thwarts the Injury, Saves the Life**

AHAS COMMENT #12: “Amendment would insert a motorcycle crash reduction element as part of the Section 402 highway safety grant program but...does not include State enactment of all-rider motorcycle helmet legislation...”

REBUTTAL: Correct. A review of the six elements discussed above will reveal that all six conform to the guiding principle behind the Murkowski Amendment – namely, the NHTSA-ratified principle that “crash prevention...offers the greatest potential safety benefit for motorcyclists” (NHTSA, 2003). Thus, the Murkowski Amendment “offers the greatest potential safety benefit for motorcyclists.”

Second, the Congress has already decided that questions involving mandatory helmet use are properly the province of State action without federal government interference.

In September 1997, supported by a strong bipartisan majority, then-Science Committee Chairman James Sensenbrenner (R-Wisconsin) explained the need for a prohibition on federal lobbying. Citing a NHTSA “grant to influence state and local government enactment of mandatory helmet laws,” the Chairman emphasized the right of “States...to determine [such] measures without federal government intervention.”

Similarly, in a March 11, 1998, colloquy between Senators Ben Nighthorse Campbell (R-Colorado) and Carol Moseley-Braun (D-Illinois) on an amendment to S. 1173, the following statement was entered into the record by Senator Moseley-Braun:

"Our amendment is simply designed to ensure that NHTSA's efforts are...no longer in conflict with the stated intent of Congress, which was to leave the decision of whether to enact mandatory motorcycle helmet laws *entirely* to State legislatures." (*Emphasis added.*)

In harmony with the law and the spirit of Congress, the Murkowski Amendment leaves the question of helmet laws "entirely to State legislatures" and "without federal government intervention."

Third, by increasing rider training in America, the Murkowski Amendment encourages helmet use, as helmets and other riding gear are important aspects of the rider training curriculum. The Amendment also "reinforces safe behavior...encourages motorcyclists to enhance their conspicuity" and a host of other "ESSENTIAL" recommendations made by the "National Agenda."

**The Call to Action:  
Make Motorcycle Safety History**

The motorcyclists and motorcycle safety administrators of America urge the U.S. Senate to adopt the Murkowski Amendment, and we urge the U.S. House of Representatives to adopt companion legislation advanced by U.S. Rep. Stephen LaTourette and U.S. Rep. Peter DeFazio.

Together we can make motorcycle safety history – by preventing accidents, thwarting injuries and saving lives.

Prepared by the Motorcycle Riders Foundation  
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