

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
TRANSPORTATION COMMITTEE

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In re: Public Hearing on  
House Bill 813

Stenographic report of hearing  
held in Room 22, Capitol Annex,  
Harrisburg, Pennsylvania

Thursday  
September 10, 1987  
10:00 a.m

HON. AMOS HUTCHINSON, CHAIRMAN

MEMBERS OF TRANSPORTATION COMMITTEE

Hon. Thomas Caltagirone	Hon. Joseph Markosek
Hon. Scott Dietterick	Hon. Thomas Murphy
Hon. Ron Gamble	Hon. Charles Nahill
Hon. Michael Gruitza	Hon. Gregory Snyder
Hon. Richard Hess	Hon. Joseph Steighner
Hon. Edward Lucyk	Hon. Ted Stuban

Also Present.

Larry Gordon, Executive Director	Reported by:
Paul Landis, Minority Executive Director	Dorothy M. Malone, RPR

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1                   CHAIRMAN HUTCHINSON. This hearing has now come to  
2 order. We have a hearing on House Bill 813, whether  
3 motorcyclists should wear a helmet or not. The first  
4 witness will be Michael Veon, House of Representatives.

5                   REPRESENTATIVE VEON. Gentlemen, good morning.  
6 First of all, I want to take this opportunity to thank  
7 Chairman Amos Hutchinson for agreeing to hold this public  
8 hearing today. I know this is an issue that is, obviously  
9 an ongoing issue. It is a controversial issue, and as the  
10 prime sponsor of the bill, I personally want to thank him for  
11 giving me the opportunity and for giving the proponents an  
12 opportunity to be here at this public hearing to present this  
13 testimony for the record. Thank you, Mr. Chairman.

14                   In addition, I think it should be noted that  
15 Chairman Hutchinson also has been a supporter and provided  
16 leadership on this issue over the years. There is no question  
17 without his support, we wouldn't have a chance of eventual  
18 success. I would like to, for the record, thank him for his  
19 leadership and support over the years on this issue.

20                   As my colleagues may know, Representative Nick  
21 Moehlmann has sponsored the bill to repeal our mandatory  
22 helmet law in the past several sessions and is working very  
23 closely with me in our current attempt to change the law. I  
24 appreciate his willingness to let me sponsor this year's bill  
25 and I know we will continue our efforts in a cooperative,

1 bipartisan manner.

2 Today you will have an opportunity to hear from  
3 some of the most informed experts and proponents in the  
4 country on this helmet-freedom-of-choice issue. I have been  
5 very impressed with their reasoned, reasonable, responsible  
6 and intelligent approach to the issue. They have put together  
7 facts and figures which, when looked at and considered without  
8 the understandable emotions that generally follow this issue,  
9 make a very strong case for our position.

10 Rather than provide some of these facts and figures  
11 to you at this time, I will defer to the experts who will  
12 follow me this morning. I am confident that you will be  
13 impressed with their testimony, and you may be surprised that  
14 some of their cold, hard facts clearly correct for the record  
15 many of the misconceptions prevalent today about helmets and  
16 motorcycle safety. I'm sure they will be able to answer any  
17 and all of your questions.

18 In many ways, in my opinion, this issue boils down  
19 to the philosophical question about the role of government in  
20 a democratic society. Certainly we as legislators have a role,  
21 and an obligation, to regulate the behavior of individuals  
22 when their actions may adversely affect others. Our ever  
23 more strict drunken driving laws are good examples of our  
24 response as legislators to undesirable behavior by  
25 individuals that adversely affect others.

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1                   However, again in my opinion, we should not be  
2 able to regulate the behavior of individuals when their actions,  
3 generally speaking, do not directly affect someone else. Of  
4 course, if you take it to the extreme, all of our actions  
5 would at least indirectly affect someone else but we as  
6 legislators need to draw the line between what is a direct or  
7 indirect effect on another individual.

8                   As you well know, we still do not have a mandatory  
9 seat belt law in Pennsylvania. Part of the reason we do not,  
10 I believe, is because many legislators are still very  
11 uncomfortable with trying to dictate the behavior of the  
12 individual driver when the behavior does not directly affect  
13 someone else.

14                   My hope is that we apply that same freedom of  
15 choice principle to this issue and repeal the mandatory helmet  
16 law in Pennsylvania.

17                   In closing, I again want to thank Representative  
18 Hutchinson for giving us this opportunity to present some very  
19 good testimony to the Committee and for the record. I also  
20 want to thank the members of the Committee for being here  
21 today and taking the time to once again discuss a very  
22 controversial and ongoing issue. I appreciate all of you  
23 taking the time to do that.

24                   Finally, I want to thank ABATE of Pennsylvania,  
25 and particularly Charlie Umbenhauer, for putting together the

1 excellent panel and also for putting together much of the data  
2 and facts you will hear today.

3 For those of my colleagues who agree with me on  
4 this issue, I appreciate your support. For those colleagues  
5 who disagree or are undecided, I look forward to a continuing  
6 dialogue and discussion as we try to convince you that our  
7 position is good for our motorcyclists and good for  
8 Pennsylvania.

9 Thank you very much for your time. Thank you, Mr.  
10 Chairman.

11 CHAIRMAN HUTCHINSON: You are welcome. The next  
12 one will be Mr. Robert Middleton, Pennsylvania AAA Federation.

13 MR. MIDDLETON: Mr. Chairman and members of the  
14 Committee, good morning. I am Robert J. Middleton, Director  
15 of Public Affairs for the Pennsylvania AAA Federation. Our  
16 organization is an affiliation of 29 Triple A clubs in  
17 Pennsylvania, which have a combined membershio of over 1.6  
18 million Pennsylvania drivers across the state.

19 I appear today to oppose the provisions of House  
20 Bill 813 because we believe it is contrary to the best  
21 interests of society and of highway safety. We presented  
22 similar testimony to the same effect five years ago in this  
23 same room to a subcommittee of the House Health and Welfare  
24 Committee. We also spoke against a similar bill before the  
25 House Transportation Committee in June of last year.

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1                   As it has in the past, the Pennsylvania AAA  
 2 Federation continues to believe that the general public  
 3 interest will best be served by maintaining the Vehicle Code  
 4 provisions on motorcycles and the rules of the road as we  
 5 have them now to assure the safest possible operating  
 6 environment on our highways.

7                   Our opposition to HB-813 is based on long-standing  
 8 support of the requirement that all motorcyclists wear helmets  
 9 and our perception that the terms of the bill, providing an  
 10 exemption for cyclists 21 and over, would make it very  
 11 difficult to enforce. According to the National Highway  
 12 Traffic Safety Administration (NHTSA), a motorcyclist is ten to  
 13 20 times more likely to die in a crash than an automobile  
 14 passenger. Moreover, 80 percent of all motorcycle crashes  
 15 result in injury or death to the motorcyclist. As to head  
 16 injuries alone, they are the leading cause of death in  
 17 motorcycle crashes. Compared with riders wearing helmets,  
 18 unhelmeted riders are three times more likely to incur a fatal  
 19 head injury and two times more likely to incur a head injury  
 20 of lesser severity.<sup>1</sup>

21                   The age exemption embodied in HB-813 would require  
 22 police officers to stop and check many motorcyclists for  
 23 compliance. They would have to do this with all young looking  
 24 bikers because it is simply not possible to visually determine  
 25 the exact age of a person around 21. Unquestionably many

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1 cyclists 21 and over would be unnecessarily stopped and would  
2 quickly come to view such checks as harassment. Even more to  
3 the point, in the 24 states where only persons under a  
4 specified age (usually 18) are required to wear helmets, the  
5 law is so difficult to enforce that it has very little effect  
6 in getting youths to wear helmets. NHTSA has this to say  
7 about the matter: "Data on crashes in states where only minors  
8 are required to wear helmets show that fewer than 40 percent  
9 of the fatally injured minors have been wearing helmets, even  
10 though the law requires them to do so."<sup>1</sup>

11 One can make the same argument against SB-305,  
12 which is like HB-813 but would exempt cyclists 18 and older,  
13 rather than 21 and older, from the helmeting requirement.  
14 Either bill would effectively gut the mandatory helmet law and  
15 place an extra burden on our already busy police forces.

16 It is unfortunate in the extreme that the  
17 effectiveness of motorcycle helmets is being questioned and an  
18 effort made toward eliminating their requirement for all  
19 cyclists 21 and above. It is as if their additional five  
20 years of maturity over 16 would place an invisible protective  
21 shield around them that is not available to those who have not  
22 reached that magic age but want to ride a motorcycle  
23 nonetheless.

24 The fact that motorcycle helmets save lives has  
25 been demonstrated repeatedly and consistently in study after



1 study for many years. Their value was so well established  
2 that in 1966, the U.S. Congress required states to make their  
3 use mandatory. With the threat of the loss of federal highway  
4 funding hanging over their heads, 47 states, the District of  
5 Columbia and Puerto Rico had helmet laws in force by 1975.  
6 The effect on motorcycle fatalities was dramatic. The death  
7 rate was cut nearly in half, from 12.8 per 10,000 registered  
8 motorcycles in 1966 to 6.5 deaths per 10,000 registered  
9 motorcycles in 1976.<sup>2</sup>

10 Unfortunately, three states, California, Illinois  
11 and Utah did not make helmets mandatory. In 1975, when the  
12 U.S. Secretary of Transportation began proceedings to withhold  
13 highway funds from those states, those states and several  
14 motorcycle enthusiast groups began a successful lobbying  
15 campaign to change the law.

16 As a result, the 1976 Highway Safety Act stripped  
17 the Secretary of the power to withhold funds from states that  
18 did not require riders 18 years of age and older to wear  
19 helmets. Anti-helmet lobbying after that persuaded the  
20 legislators in six states to repeal their helmet laws  
21 altogether and in 19 other states to limit the helmet  
22 requirement to riders 18 and under.

23 Again, the results were dramatic. The death rate  
24 soared 37 percent in 1978 and was up to 8.9 deaths per 10,000  
25 registered motorcyclists in 1979. In 1978 and every year

1 thereafter the number of deaths from motorcycle accidents has  
2 exceeded 4000 across the nation.<sup>2</sup>

3 Legislative action by Louisiana in 1981 hopefully  
4 may serve as the first step in a countertrend back to full  
5 mandatory helmet laws among all the states. In that year  
6 Louisiana became the first state in the nation to reinstate  
7 mandatory protective headgear for all cyclists, effective in  
8 1982. Also, Washington state has adopted a law that changes  
9 the full exemption from a helmet requirement to an exemption  
10 only for cyclists above a certain age.

11 Opposition to helmets centers on the issue of  
12 personal freedom and is supported by claims that helmets  
13 increase the severity of neck injuries, restrict vision and  
14 hearing, are inconvenient to carry, and hot and uncomfortable  
15 to wear.

16 Repeated court tests, including some in the U.S.  
17 Supreme Court, have upheld the constitutionality of the  
18 helmeting requirements, and extensive surveys of motorcyclists  
19 have found them about evenly divided on the subject. However,  
20 a 1977 report of the Governor's Traffic Safety Council  
21 reported that 87 percent of adult Pennsylvanians favored both  
22 helmet use and the mandatory helmet law.<sup>3</sup> A survey of AAA  
23 members in Pennsylvania, done for us by the Gallup Organization  
24 in December 1985, indicates that 91 percent of our membership  
25 supports the mandatory helmet requirement for all bikers now

1 in the law.<sup>4</sup>

2 As to physical disadvantages, extensive analyses  
3 have shown no increase in the severity of neck injuries but  
4 indicate that helmets actually reduce severity by absorbing  
5 some of the impact that would otherwise put stress on the neck.

6 The typical motorcycle helmet reduces the field of  
7 vision by only about three percent and actually affords the  
8 motorcyclist a better field of vision than is available to  
9 most automobile drivers.

10 The question of hearing impairment may be somewhat  
11 academic, considering some motorcycles I've heard, but whatever  
12 muffling of sound may be incurred is surely outweighed by the  
13 safety advantages that the helmet gives the cyclist. The same  
14 can be said for the discomfort that it causes.

15 Motorcycling is the most hazardous form of  
16 personal transportation a person can choose. Certainly, we  
17 believe that comprehensive and effective programs of rider  
18 education and training and improved licensing, improved  
19 visibility through such means as headlights on and motorist  
20 awareness, as well as helmet use by riders, can have a  
21 beneficial effect on motorcycle accidents. But it must be  
22 kept in mind that nothing we recommend and nothing you  
23 legislate will entirely eliminate the problem of motorcycle  
24 accidents and injuries.

25 The points I have just mentioned are all important

1 safety measures, and perhaps others will come to light today  
2 or in the future that can help. But none are simple  
3 alternatives that can substitute for one another.

4 In view of the extensive body of knowledge  
5 regarding the safety of helmet usage and recognition of the  
6 role of law in requiring helmet use, it seems clear that  
7 eliminating the requirement in Pennsylvania law of mandatory  
8 helmeting for persons 21 and over would automatically increase  
9 the number of fatalities in motorcycle accidents. Is that what  
10 the lawmakers of Pennsylvania want to do? We definitely hope  
11 not.

12 And let us also keep in mind that this does not  
13 take into account the heavy cost to the families of cyclists  
14 and society in the form of personal anguish, higher medical  
15 costs, lost productivity, rehabilitation or long-term care  
16 costs for those victims permanently disabled. But it  
17 recognizes that whatever the costs, those lost to death that  
18 could have been prevented by helmet use are irretrievably lost  
19 to their families and society.

20 Accordingly, the Pennsylvania AAA Federation  
21 remains firm in encouraging motorcyclists to use helmets,  
22 other approved safety gear, and every method available to  
23 assure visibility to other highway users and maximum safety in  
24 their enjoyment of their method of transportation. We remain  
25 equally firm in our conviction that HB-813, which would dilute

1 the mandatory helmeting provisions of the Vehicle Code, should  
2 not be passed.

3 As the Highway Users Federation new report  
4 "Motorcycle Safety Helmet Laws Save Lives," notes, only 19  
5 states, plus the District of Columbia, now require helmet use  
6 by all motorcyclists. If all states required their use, the  
7 lives of 1000 to 1500 riders across our country would be saved  
8 every year. The Pennsylvania AAA Federation urges you not to  
9 weaken the laws of our state regarding motorcycle helmets.  
10 Let us, instead, keep the law that we have and be proud of  
11 continuing to save lives and prevent serious head injuries  
12 because of it.

13 That is the end of my formal remarks. If there  
14 are any questions, I'll be glad to try to answer them.

15 FOOTNOTES

16 1 "Facts about Motorcycle Crashes and Safety  
17 Helmet Use," National Highway Traffic Safety Administration  
18 (NTS-23/2-12-87)

19 2 "Motorcycle Safety Helmet Laws Save Lives,"  
20 Highway Users Federation, 1987.

21 3 "Analysis of the Mandatory Motorcycle Helmet  
22 Issue," Governor's Traffic Safety Council, Commonwealth of  
23 Pennsylvania, 1977.

24 4 "Pennsylvania AAA Membership Survey on Issues  
25 Affecting Pennsylvania Motorists," The Gallup Organization,

1 Inc., January, 1986.

2 If there are any questions, I will be very glad to  
3 try to answer them.

4 CHAIRMAN HUTCHINSON: We will ask the questions  
5 after the hearing is over. After everybody speaks, we will  
6 ask questions.

7 MR. MIDDLETON: Okay.

8 CHAIRMAN HUTCHINSON: Thank you very much. The  
9 next person is Mr. Charles Umbenhauer, Legislative Coordinator  
10 of ABATA.

11 MR. UMBENHAUER: Chairman Hutchinson and members  
12 of the Committee, my name is Charles Umbenhauer and I  
13 represent ABATE of Pennsylvania, "The Alliance of Bikers Aimed  
14 Toward Education."

15 ABATE is a statewide organization made up of  
16 several thousand motorcyclists from all walks of life that  
17 promote safe motorcycling as a sport and seek to have it  
18 regulated by fair legislation. I have been riding motorcycles  
19 for over 20 years and have logged over 100,000 accident free  
20 miles.

21 I would like to present testimony on HB 813 which  
22 would allow for freedom of choice concerning the use of helmets  
23 for motorcyclists over the age of 21.

24 We seem to be in an era of super safety promotion  
25 and awareness. Proposed seat belt laws, helmet laws, lower

1 speed limits and AIDS hysteria.

2 While some of these concerns are warranted, such as  
3 mandatory seat belt use for infants and small children, other  
4 laws are grossly unfair, such as the mandatory helmet law for  
5 adults.

6 While I am certainly in favor of protecting our  
7 children through mandatory safety legislation, I am equally  
8 opposed to legislation that mandates the use of what is  
9 considered safety equipment in the eyes of some legislators.  
10 Adults simply must have the right to choose for themselves  
11 what safety equipment they feel necessary. Our position on  
12 this issue is quite clear. We feel all adults over 21 should  
13 have the right to choose for themselves whether or not to use  
14 a helmet.

15 I would like to note that this year we have had  
16 the age limit on the repeal bill raised from 18 to 21. We  
17 feel this provides the great majority of new and inexperienced  
18 riders with the protection the pro helmet advocates feel  
19 comfortable with but still allowing most seasoned veterans of  
20 the road a choice.

21 This has been one of the hottest and driest riding  
22 seasons in some years. Temperatures were consistently in the  
23 90's and in many cases, close to 100 degrees. Temperatures  
24 inside a helmet can climb to 140 degrees and higher. Add to  
25 this, the added weight of a helmet to your head and neck plus

1 the increased wind resistance, plus the occasional bugs that  
2 manage to get trapped inside even the snuggest fitting helmet  
3 all add up to a less than enjoyable time.

4 I want to address what I feel is the main  
5 opposition to a helmet repeal:

6 (1) A repeal will result in higher fatality rates.

7 (2) A repeal will cause a social burden (cost to  
8 society).

9 Both of these assumptions are false. Figures  
10 show that of the five states with the best safety record (the  
11 ratio of fatalities to registration) not one has a helmet law.  
12 In fact, of the 12 top states in cycle safety, only one has a  
13 helmet law. On the other hand, half of the 12 states with the  
14 worst records are helmet law states. Non-helmet law states  
15 average only 7.35 fatalities per 10,000 registrations as  
16 opposed to 9.75 for those states with helmet laws.

17 According to federal figures released by the  
18 National Highway Traffic Safety Administration, motorcyclist  
19 injuries are responsible for less than 0.1 (one-tenth of a  
20 percent) of the nations health care costs. Considering the  
21 high percentage of helmet usage and the fact that those  
22 figures do not differentiate between helmet and non-helmet  
23 wearing "victims," the true cost probably is closer to 0.05  
24 percent. Hardly what could be called a "significant burden"  
25 to society. That puts motorcyclists way down on the



1 cost-to-society index.

2 I can understand why on the surface a mandatory  
3 helmet law appears not to be debatable. It takes a great deal  
4 of research to uncover all the facts in order to come to a  
5 responsible conclusion.

6 In states that have repealed mandatory helmet laws,  
7 62 percent of motorcyclists still wear helmets 100 percent of  
8 the time and 15 percent wear a helmet most of the time. Many  
9 others wear helmets during cold or rainy weather. This narrows  
10 the percentage of those who would really be affected by a  
11 helmet repeal.

12 In conclusion, I would like to say that helmets have  
13 not been the answer to safe motorcycling. Over the last few  
14 years I have lost several friends through motorcycle accidents.  
15 They were all wearing helmets. I am sure there are just as  
16 many who would claim they believe they were saved by the helmet.

17 I feel motorcycling fatalities can be reduced by  
18 implementing stricter licensing practices, more and better  
19 driver education for both motorcyclists and auto drivers,  
20 stricter enforcement of traffic violations and still even  
21 tougher prosecution of those who drink and drive.

22 Motorcycle fatalities have not and will not be  
23 reduced through the continued use of a mandatory helmet law.  
24 This we already have 19 years of proof. How many more must we  
25 endure? Let those who ride decide. Thank you.

1 CHAIRMAN HUTCHINSON: Thank you very much. Mr.  
2 Howard Segermark, Motorcycle Rights Fund, Washington, D.C.

3 MR. SEGERMARK: Mr. Chairman, members of the  
4 Committee: My name is Howard Segermark, and I appear today as  
5 a proponent of House Bill 813, which amends Title 75 of the  
6 Pennsylvania statutes by providing that a motorcycle rider is  
7 not mandatorily required to wear headgear if he is 21 years or  
8 older.

9 Many thanks for the opportunity to present this  
10 testimony. Mr. Chairman, unfortunately, I must get to the  
11 airport immediately after my testimony. Would it be all right  
12 if there are any questions I could handle them after my  
13 testimony?

14 CHAIRMAN HUTCHINSON: Yes.

15 MR. SEGERMARK: Thank you very much.

16 I am here as a representative of the Motorcycle  
17 Rights Fund, a national organization of motorcycle rights  
18 advocates with offices in Washington, D.C. In addition to my  
19 efforts with MRF, I administer a political action committee, a  
20 national trade association, and an economic consulting service.  
21 I commute daily on my motorcycle which is my chief form of  
22 transportation.

23 I wish to comment on two aspects of the issue of  
24 helmet laws: the constitutional limitations on the ability  
25 of the state legislatures to act, and (2) other mitigating

1 factors which would support modifying Title 75 in accordance  
2 with House Bill 813.

3 Of all legal reasoning that has been used to  
4 explain how the public benefits from mandatory helmet laws  
5 only two -- according to Supreme Court decisions in parallel  
6 areas -- have any realistic content (1) the asserted interest  
7 of the state in the "viability of the citizen" and (2) the  
8 interest in solving any "alarming problem which reaches such  
9 grave dimensions that it threatens the very fabric of society."  
10 Both justifications are the same thing: the interest of the  
11 public in its own preservation and productivity. Although few  
12 would argue with this as a general matter, great difficulty  
13 arises when the doctrine is used to impose a "specific" law,  
14 with criminal penalties. To justify such interference under  
15 the constitution, a specific law must be in the "general  
16 interest of the public." Thus it is essential that the  
17 legislature establish that other members of the public are  
18 affected in some deleterious manner by a prospective  
19 defendant's activity before such activity may be regulated.

20 As Judge Barham, Chief Justice of the Louisiana  
21 Supreme Court stated in *Everhardt v. New Orleans*,

22 I cannot determine how the wearing of a helmet by  
23 a motorcyclist can be conducive to the safe operation of his  
24 motorcycle. He is as accident prone with or without the  
25 helmet in regard to both himself and to other motorists.

1 Certainly an unhelmeted motorcyclist presents no increased  
2 danger to the rest of the motoring public. The most that can  
3 be said to support the insistence upon the wearing of the  
4 helmet is ... (the) conclusion that the helmet may mitigate  
5 the cyclists' injury after the fact, after the accident, after  
6 the breach of safety ... The assumption that the motorcyclists'  
7 lack of body protection makes other highway users more likely  
8 to be injured appears to be without foundation or logic. I  
9 find no basis for concluding that helmeting or even armouring  
10 our motorcyclists would cause fewer injuries to others ... The  
11 ordinance is simply an attempt to force one class of persons  
12 to mitigate or minimize their injuries resulting from  
13 accident without regard to causation or general highway safety  
14 (emphasis added).

15 A second theory to justify the public need is the  
16 welfare cost approach which was mentioned by Mr. Middleton.  
17 The argument goes that helmet laws, by limiting the extent of  
18 motorcycle injuries, curtail public expenditures for emergency  
19 and hospital care for the cyclist and also minimize welfare  
20 costs resulting from the cyclist's post-accident inability to  
21 care for himself and his dependents.

22 Note carefully, however, the documentation used by  
23 those who use this argument. My research indicates that the  
24 "welfare cost" studies done relate to head injuries of all  
25 motorcyclists -- regardless of whether or not they were

1 wearing a helmet, and it is just assumed that helmets would  
2 reduce this figure.

3           Even if it were true that helmets reduce  
4 debilitating injuries, the welfare cost theory is  
5 overinclusive as many who ride motorcycles are capable of  
6 financing their own medical costs and rehabilitation via  
7 insurance or personal resources, yet they are not exempted from  
8 the law nor are they likely to become welfare recipients. If  
9 the welfare concern is truly the problem, I suggest that proof  
10 of medical insurance as a prerequisite to motorcycle  
11 registration as a far less restrictive alternative to the  
12 current law.

13           The trouble with the argument that the state  
14 should prohibit behavior which might lead to added demand for  
15 state services, is that it can be used to justify almost any  
16 law -- constitutional or not -- against the smoker, the  
17 overweight, the parachutist, the skin diver, the spelunker, or  
18 skier. We must seriously question the proposition that any  
19 measure, prohibiting certain kinds of behavior in order to  
20 reduce welfare cost, is a justifiable exercise of the police  
21 power.

22           A third justification is the liability insurance  
23 reasoning. The argument goes that liability insurance rates  
24 for all would increase without the mandatory helmet use  
25 statutes because of alleged increase in the severity of

1 personal injuries. In this argument we see the same falacies  
2 as in the "welfare costs" argument, but it should be pointed  
3 out that in the instance of liability insurance the defense of  
4 contributory negligence is always available to an individual  
5 charged with hitting an unhelmeted cyclist. Also since there  
6 are many varied actuarial factors which contribute to the cost  
7 of liability insurance, the "helmet factor" would hardly be a  
8 significant cost item to most non-cycling insured motorists.

9 I will not reiterate the statistical case for  
10 making helmet use voluntary -- others here will do so. But, I  
11 would like to direct your attention to the testimony of Dr.  
12 MacKenzie showing that helmets can contribute to accidents  
13 through limitations on sight and hearing and on coordination  
14 and judgment from insulating and overheating the head.

15 In sum, let's address a common goal: the reduction  
16 of motorcycle accidents. Clearly, helmets do not reduce  
17 accidents. In all major studies by the U.S. Department of  
18 Transportation and other agencies, there are only two  
19 variables in accident rates between various riders: experience  
20 and training. The more experience and training a cyclist has,  
21 the fewer accidents he's in. Less than seven percent of all  
22 motorcyclists involved in accidents, and that includes  
23 accidents where a car or truck is involved, have had any formal  
24 training.

25 The problem with helmet laws is that they focus

1 attention away from the real causes of accidents, and what can  
2 be done to reduce them.

3 Finally, helmet laws do not address the  
4 inadequacies of helmets: helmets are designed and  
5 constructed so that after one impact, their efficacy is  
6 basically eliminated. Thus, a dropped \$100 helmet is not much  
7 better than a bowl on the head. Secondly, as the Hurt Study  
8 from the University of California shows, helmets are most  
9 likely to be useful in a very small range of relatively slow  
10 accidents. At highway speeds, helmets are good for keeping  
11 off bugs. Period. A damaged helmet is about as good even at  
12 slow speeds.

13 Let me put it this way: If helmets, advertised  
14 as a miracle drug, had to go through the rigorous proof of  
15 efficacy that the FDA requires of drugs, you'd have to go to  
16 Mexico to get a prescription.

17 Thus, if helmets do not affect accident rates, and  
18 if helmets can be helpful in only a small number of accidents,  
19 and if helmets may actually increase rather than decrease the  
20 range of hazards inherent in motorcycles, we must conclude  
21 that the mandatory motorcycle helmet law can no longer be  
22 regarded as a legitimate exercise of the police power of the  
23 state.

24 Thus, the cyclist should legitimately be free to  
25 act according to his own discretion to select his personal

1 protective apparel.

2 Mr. Chairman, clearly, the state has a far  
3 greater role in the protection of minors. and minors are  
4 generally those motorcyclists with the least experience in  
5 riding. Thus, by leaving in place mandatory helmet laws for  
6 those under 21, the legislative goal of motorcycle safety  
7 would also be continued.

8 Pennsylvania has already taken an important step  
9 toward substantive motorcycle safety by funding rider  
10 education. The enactment of House Bill 813 would be another.

11 I urge your adoption of House Bill 813.

12 CHAIRMAN HUTCHINSON: Are there any questions?  
13 Give your name.

14 REPRESENTATIVE GRUITZA: Representative Gruitza.  
15 BY REPRESENTATIVE GRUITZA:

16 Q I have one question. You said something about if  
17 you drop a helmet it loses --

18 A Yes. The reason a helmet is effective, when it  
19 goes against a solid object, is because it is made up of many  
20 layers of fiberglass usually and Styrofoam. The primary  
21 impact diffusing effect is when the fiberglass layers inside  
22 a helmet separate. Thus, instead of a point impact, you have  
23 the impact spread all over the whole helmet and the energy  
24 absorbed by the fiberglass by its coming apart in effect.

25 Thus, when you see literally a helmet dropped on



1 the street, it loses much of its effectiveness. Inside  
2 every helmet that is bought today, it says if in fact this  
3 helmet is dropped, return to the manufacturer for examination.  
4 Because the manufacturers know as well that these helmets are  
5 only usable and effective in these cases. Related, of course,  
6 is the Hurt Study which shows impact over 13 to 20 miles an  
7 hour or so of a helmet against anything. You are not talking  
8 about significant injury reduction.

9 CHAIRMAN HUTCHINSON. Any other questions?

10 Thank you very much.

11 BY REPRESENTATIVE DIETTERICK.

12 Q I wanted to ask you about the Louisiana law. Mr.  
13 Middleton mentioned 1981 Louisiana went back to a mandatory  
14 helmet law and yet you indicate here that there was a judge  
15 who had come up with a decision?

16 A That is right.

17 Q Can you give me a time on that?

18 A Yes. The decision was just before, a decision  
19 basically ruled unconstitutional that decision that Louisiana  
20 compulsory helmet law. After the law was repealed, Louisiana  
21 witnessed, as Mr. Middleton pointed out, an increase in  
22 motorcycle fatalities of 44 percent. The same year  
23 Pennsylvania increased incidents of motorcycle fatalities of  
24 42 percent, obviously, without repealing the helmet law. The  
25 variables not cited by Mr. Middleton and others is the increase

1 in ridership, the number of motorcycles and how many miles  
2 they ride. Particularly when more motorcycles are sold, the  
3 population of cyclists of young and inexperienced cyclists  
4 increase faster and you expect a disproportionately higher  
5 number of accidents.

6 Q Was the Louisiana law ultimately repealed?

7 A It is. It is not enforced.

8 BY REPRESENTATIVE GAMBLE:

9 Q Do you support a seat belt law?

10 A I am in the same position. You know, that isn't  
11 a relatively victimless crime. If in fact someone can show to  
12 me how that helps you wearing a seat belt helps me as another  
13 motorcyclist or another motorist, then I think we would talk  
14 about it. But generally speaking, I cannot see the legitimate  
15 restriction in that area either.

16 Q So, we should not participate, intervene with laws  
17 that have people protecting them from themselves? Is that the  
18 bottom line?

19 A I think so. Unlike Representative Veon, I would  
20 like to divorce these two issues. Motorcyclists on this  
21 issue are rather small potatoes. I don't want to start  
22 fighting with the big automobile companies or lobbying you  
23 guys on seat belts. So, I would just as soon keep those things  
24 separate.

25 REPRESENTATIVE NAHILL. Representative Nahill.

1 BY REPRESENTATIVE NAHILL:

2 Q How can you literally, the previous speaker, you  
3 didn't make the statement, but the previous speaker did. I  
4 quote, "that while some of these concerns are warranted for  
5 mandatory seat belts, for instance, small children, other laws  
6 are grossly unfair. "

7 As I see it, the same idiot that rides along in a  
8 truck with a kid standing up in that truck can go home and get  
9 on a motorcycle. Now, if he doesn't have enough sense to  
10 protect his biggest asset, which is, a two, three, five, ten  
11 year old kid, I mean, that is his life. What is he going to  
12 do when he puts himself on a motorcycle? I have to disagree  
13 that there are times when all of us, and I think Bill Cosby  
14 says it very clearly, the mind plays tricks on us. I  
15 seriously wonder out on the road whether we are all that good.  
16 I think I'm a good driver. I don't think I'm that great.  
17 But if they can't protect their kids, how can they protect  
18 themselves? I don't understand that.

19 A As I pointed out the state has a very clear role  
20 in protecting minors. Much greater than it does in adults.  
21 We keep minors out of liquor stores and even the Supreme Court  
22 will restrict minors from use of some freedom of the press,  
23 shall we say.

24 Education though here, when it comes to  
25 motorcyclists, has to be crucial. I don't know about you, but

1 if you have small children, the schools are beating the kids  
2 over the head about smoking which, of course, comes home and  
3 you get beat over the head by the kid on smoking. I'll show you  
4 motorcyclists that go through Motorcycle Safety Foundation  
5 courses and they know better than to take certain risks on  
6 motorcycles.

7 I mean, just one little quick statistic. The  
8 Hurt Study showed that over half of motorcyclists involved in  
9 accidents in which a motorcycle hit something don't use their  
10 front brake. Now, if the only way you are going to teach them  
11 that if you require your motorcyclists to take courses and be  
12 adequately trained in safe motorcycling. That is going to  
13 reduce accident, that is going to reduce head injuries.

14 Q Well, why in this legislation then wasn't this put  
15 in? If that is what is going to save people, why isn't that  
16 part of this in order to not wear a helmet you must be  
17 required to go through certain training? This looks like we  
18 are fighting safety and if we want safety, why don't we  
19 promote it?

20 A Representative, I would be glad to draft that  
21 section. I wouldn't be surprised if Mr. Veon would endorse it  
22 his sponsorship? Again, I can't speak for your constituents,  
23 but as someone who studied this issued, the state of California,  
24 which has enacted something called the Motorcycle Operator  
25 Safety Training, they have showed that their accident levels

1 have dropped dramatically with increases of training and  
2 tighter licensing restrictions.

3 Q Would you be willing to make that a quid pro quo?

4 A Again, I can't speak for your constituents.

5 CHAIRMAN HUTCHINSON: We already have a training  
6 law.

7 REPRESENTATIVE NAHILL: Yes, but not apparently  
8 adequate enough.

9 CHAIRMAN HUTCHINSON: We are going to have to  
10 create more money. We even have a bill in our Committee trying  
11 to repeal that bill. But I am not for repealing it.

12 MR. SEGERMARK: Again, I don't vote in your  
13 district or in Pennsylvania. I personally favor that. One  
14 thing that I have seen, that those who advocate motorcyclists'  
15 rights are also people who are very conscious of this kind of  
16 thing. You will have to ask your constituent motorcyclists  
17 if they would object. I can't see the reason why they would.

18 Thank you very much for changing the rule, Mr.  
19 Chairman.

20 CHAIRMAN HUTCHINSON: Thank you. Dr. Mackenzie.

21 DR. MACKENZIE: Good morning, gentlemen of the  
22 Transportation Committee. My name is Ranald Mackenzie. I am  
23 a physician and I am here to persuade you to repeal this  
24 state's morotcycle helmet law.

25 Let me first say that while there are situations

1 where helmets contribute to injury and death I shall not argue  
2 with those who claim that overall a helmet tends to prevent head  
3 injury and in other cases reduces the severity of head injury.  
4 One would therefore expect to find a substantially lower death  
5 rate among motorcyclists in those states which retain the  
6 helmet law such as Pennsylvania, New York, Michigan,  
7 Massachusetts, Virginia, et cetera, a total of 19 states plus  
8 the District of Columbia compared with the other 31 states  
9 which have repealed or modified the law pertaining to the  
10 wearing of helmets by motorcyclists.

11                   Unfortunately that is not the case.

12                   I have compared the figures in the two groups.  
13 During the nine year period from January 1, 1977 to December  
14 31, 1985 (we don't yet have the figures for 1986) there have  
15 been three per cent more fatalities in the 19 helmet states  
16 than in the 31 repeal states. The difference is not great but  
17 it cannot be disregarded, especially when we were all led to  
18 believe that wearing a helmet was far and away the most  
19 important thing a motorcyclist could do to preserve his life.

20                   Right now some of you may think this must be a  
21 raving lunatic the crazies from ABATE have dredged up and  
22 brought from New York to utter such nonsense.

23                   I have been a physician for 37 years. I am board  
24 certified in Urology, am a Fellow of the American College of  
25 Surgeons, am Director of Urology in Long Beach Hospital, have

1 two higher medical degrees from my medical school, the  
2 University of St. Andrews. I was married 30 years ago and  
3 still have the same wife and we have three children, one of  
4 whom rides a motorcycle. I myself have three high powered  
5 motorcycles. I use one almost every day. I began motorcycling  
6 40 years ago.

7 Ten years ago I founded a national organization,  
8 Motorcycling Doctors Association and was its president for the  
9 first two years. Reluctantly and inadvertently, I gradually  
10 became an authority on the question of motorcycle helmets,  
11 injuries and fatalities. So far this year I have testified in  
12 Massachusetts, California and Texas and have declined  
13 invitations to speak in several other states, since I cannot  
14 spare more time from my solo practice.

15 Your next question is, what is the source of his  
16 figures? They are provided each year by the D.O.T.s of all  
17 50 states and the District of Columbia and are published by  
18 the Motorcycle Safety Foundation. They include motorcycle  
19 registrations, accidents and fatalities.

20 For the nine year period studied there are 46.3  
21 million registrations, nearly one and one-half million  
22 accidents and over 40,000 fatalities. This is the largest  
23 study ever made on the significance of helmets. Now, I grant  
24 you, there are many variables and certainly no uniformity in  
25 methods of reporting but all such considerations tend to be

1 neutralized when every state and every year are included over  
2 a long period of time.

3 For example, urbanization increases accidents. So  
4 does density of population. The District of Columbia has far  
5 and away the highest number of accidents in relation to  
6 registrations. Length of riding season increases accidents.  
7 That is why Florida, Texas and California have lots of  
8 accidents. And finally, wide open spaces make for wide open  
9 throttles and there accidents, though less frequent, are more  
10 often fatal. I have given the subject a great deal of thought  
11 and study for many years and I do not believe there are any  
12 significant geographical, demographic or climatic differences  
13 between the 19 helmet states and the 31 repeal states. I have  
14 data on urbanization, population density, registrations,  
15 accidents, and fatalities for 50 states going back to 1961.

16 Your next question is, why are there more  
17 motorcyclists killed in the helmet states? Very simple. More  
18 accidents. In fact, 16 percent more accidents. There are  
19 roughly 35,000 accidents reported in the helmet states per  
20 one million registrations as against 30,000 in the repeal  
21 states, and the D.O.T. said accidents tend to be underreported  
22 in helmet states.

23 Now you say, why are there more accidents? In the  
24 past the answer to this question has been diminished hearing,  
25 reduced field of vision, heat and fatigue associated with



1 helmet wearing. Certainly a helmet has no positive value in  
2 these areas but there are more important reasons for helmets  
3 to cause accidents: A helmet allows a rider to maintain a  
4 higher average rate of travel. Who travels long distances at  
5 high speed in a convertible? But most important, a helmet,  
6 because of its vaunted reputation as a safety device,  
7 encourages the inexperienced to take risks beyond what he would  
8 without a helmet. In short, it conveys a feeling of  
9 invulnerability.

10 I am the recipient of data and studies, published  
11 and unpublished, from all parts of the world because of my  
12 involvement in this issue. Only last week a British  
13 organization sent me a report of a study conducted by the  
14 Department of Psychology, Trinity College, Dublin. It seems  
15 that in recent years the Irish government has been pushing  
16 the voluntary use of headlights by motorcyclists during  
17 daylight hours. In the study 36 percent of motorcyclists rode  
18 with the headlight on during the day. However, it was found  
19 that 62 percent of accident victims were derived from this  
20 group. The conclusion was that having been led to believe  
21 use of the headlight contributed to their safety, they were  
22 correspondingly less cautious.

23 This is what tends to happen when a motorcyclist  
24 wears a helmet, particularly if he is inexperienced and has  
25 been misled into believing that a helmet confers more

1 protection against injury than it actually does. A helmet,  
 2 despite being of value in reducing injury, cannot compensate  
 3 for the much larger number of accidents which ensue from its  
 4 use, the net result being a far greater number of injuries and  
 5 a greater number of fatalities.

6 Pennsylvania should experience fewer accidents,  
 7 injuries and fatalities among motorcyclists by repealing the  
 8 mandatory helmet law.

9 Incidence of Accidents and Fatalities in Motorcycling

10 For the nine years ending December 31, 1985

	<u>Registrations</u>	<u>Accidents</u>	<u>Fatalities</u>
12 Helmet states	17,312,414	612,899	15,338
13 Repeal states	<u>28,992,906</u>	<u>880,184</u>	<u>24,936</u>
14 Totals:	46,305,320	1,493,083	40,274

15 Accident and Fatalities per Million Registrations

	<u>Accidents</u>	<u>Fatalities</u>
17 Helmet states	35,402 (116.6%)	886 (103.0%)
18 Repeal states	30,359 (100%)	860 (100%)

19  
 20 Use of helmets is accompanied by a 16.6 percent  
 21 greater incidence of accidents and three percent more  
 22 fatalities.

23 Data derived from the annual reports of the  
 24 Motorcycle Safety Foundation which in turn obtains figures  
 25 from the Departments of Transportation of each state.

1                   ACTING CHAIRMAN GAMBLE: Thank you, Dr. Mackenzie.  
2 The next speaker is Mr. Bob Illingsworth.

3                   MR. ILLINGSWORTH: Mr. Chairman, Committee members.  
4 Thank you for allowing me to speak with you today. I reside  
5 in the state of Minnesota. I have been a motorcycle dealer  
6 for 20 years. I founded and represent the Minnesota  
7 Motorcycle Riders Association of 16,000 members. I am called  
8 upon to speak to legislators across the nation on  
9 motorcycle safety issues.

10                   I would like to begin by making a brief comment on  
11 the infamous Louisiana study, the one that the proponents of  
12 mandate tout across the nation. On page two of the study,  
13 I have a copy of it here, it leads the reader to believe that  
14 there was a 44 percent increase of fatalities after they  
15 repealed their helmet law. But what it doesn't tell the  
16 reader, unless you read the whole report, is that the 44  
17 percent increase was the total national increase. And what it  
18 doesn't tell the reader is that Wyoming had a 267 percent  
19 increase, West Virginia 74 percent increase, Pennsylvania  
20 42 percent increase with helmets in the same time period. It  
21 doesn't tell you these are helmet law states.

22                   I guess being state legislators you all know how  
23 our federal government counts; not very well most of the time.  
24 I would like to point out another brief thing here. Page 29,  
25 11 and four equals five, seven and five equals 22. That tells

1 you a little bit about the credibility of the federal report  
2 that is being touted across the nation.

3 I am here today to share with you what Minnesota  
4 has done to lower <sup>its</sup> motorcycle accident fatality rates to the  
5 lowest level in 20 years, which include ten years of the  
6 helmet law. This in spite of a 65 percent increase in  
7 motorcycle operators. In fact, as of yesterday, Minnesota's  
8 fatality rate for 1987 is down an additional 21 percent from  
9 1986 which means a total drop of 60 percent ~~in~~ fatalities in  
10 Minnesota since we repealed the helmet law.

11 Minnesota, as a matter of fact, had a helmet law  
12 for ten years, and like most states with helmet laws, the  
13 accident and fatality rates kept creeping up. Our law was  
14 repealed in 1977 for adults under 18. I was primarily  
15 responsible for getting that repealed. I remember the day the  
16 governor was going to sign the bill and there were thousands  
17 of motorcyclists around the capitol waiting for his signature,  
18 and all the years of fighting this thing, and the governor  
19 signed it, he looked over at me and he handed me the pen and  
20 he said, "You know, young man, you have placed a tremendous  
21 responsibility on Minnesota's 204 legislators and on myself,  
22 and certainly the motorcyclists of this state. And if your  
23 plan does not reduce accidents and fatalities in Minnesota,  
24 you can be assured I will be signing another bill down the line  
25 reinstating a helmet law for all motorcyclists."

1                   We accepted that responsibility. We passed  
2 legislation that provided for self-funding, comprehensive  
3 driver education, public awareness and road test program.  
4 Programs which have set the standard across the nation. In  
5 fact, 18 states are now using Minnesota's program. Minnesota  
6 won three national awards last year, including one from the  
7 National Highway Traffic Safety Institute, which is the ones  
8 that initially passed the helmet laws across the nation.  
9 But most important, these programs have continually reduced our  
10 accident fatality rate. Something that the mandatory helmet  
11 law never did.

12                   Our first public awareness program was aimed at  
13 the automobile driver. In Minnesota, 74 percent of the  
14 accidents were caused by the automobile driver. You all know  
15 the answer, I just didn't see him. Some people say, well  
16 how can you not see them? That is an excuse. We went out and  
17 we talked to folks who had been involved in accidents with  
18 motorcycles, who killed motorcyclists because they didn't see  
19 them. We believe them. They did not see that motorcycle.  
20 So, we wanted to impact the automobile driver. Our first  
21 program was rather simple. It was on television, on the  
22 radio, on billboards and on busses. It said Eye That Cycle,  
23 it had a picture of a motorcycle and the wheels were two eyes  
24 instead of the wheels. And underneath it was the punch line,  
25 if you don't see it the first time, you may see it the rest of

1 your life in your dreams. Did it work? Today less than 35  
2 percent of the accidents in Minnesota are caused by the  
3 automobile drivers. It was 75 percent.

4 Our driver education program is one of the toughest  
5 in the nation. If you want to operate a motorcycle in  
6 Minnesota, you have to pass driver's education if you are under  
7 18. Not 16 as it is in Pennsylvania. It is 18. Minnesota  
8 offers 92 locations, mostly in public schools, to obtain the  
9 driver education endorsement. It is paid for by the students  
10 and subsidized by the motorcyclists through our self-funding  
11 program. There are no tax dollars tied to this. Our road  
12 test is also one of the toughest in the nation. We used to  
13 have the one where you drive around the pylons and the guy  
14 that was giving you the test went in for lunch, and the whole  
15 idea is after you made your ten left turns and right turns,  
16 if you got back to Point A you must be a good motorcyclist.  
17 We use the MSF, Motorcycle Safety Foundation most to test.  
18 You have to know how to ride a motorcycle in Minnesota to get  
19 an endorsement. Our board of directors on the Minnesota  
20 Motorcycle Riders Association have all been riding for 20  
21 years or better. We all went out and took the test one day  
22 and 11 of 13 failed. So, you have to know how to ride a  
23 motorcycle in Minnesota before you can get that endorsement.

24 We certainly have not solved all the problems,  
25 but we are committed to a continued effort to reducing the

1 accidents and fatalities in Minnesota. Today Minnesota's  
2 legislators like yourself, our governor, which incidentally  
3 is the same governor that signed the repeal bill, and the  
4 motorcyclists can stand up and be proud of what we  
5 accomplished. Together we have done something that the  
6 proponents of mandates said we could never do. We bridged a  
7 big communication gap between government and the citizens,  
8 and together we will continue to make Minnesota a safer  
9 state on the road for all drivers.

10 I think if you give the motorcyclists of  
11 Pennsylvania the same opportunities and you use the expertise  
12 that is available to you and look what is happening across  
13 the nation, you, too, can lower the accident fatality rate  
14 which I think is everyone's goal without having a mandatory  
15 law.

16 I'm sorry I don't have a written copy of my  
17 testimony to give to you today, but I will have it to you  
18 within the week. And I, too, have to catch an airplane so, I  
19 would appreciate if allowable, if you have any questions.

20 ACTING CHAIRMAN GAMBLE: Are there any questions?  
21 I failed to mention that he is with the Minnesota Motorcycle  
22 Riders Association from Minneapolis. Representative Gruitza.  
23 BY REPRESENTATIVE GRUITZA:

24 Q How many years has your program been in operation  
25 in Minnesota?

1 A Our program has been in effect ten years.

2 ACTING CHAIRMAN GAMBLE: Are there any other  
3 questions?

4 MR. ILLINGSWORTH: I might add, if I might, I  
5 believe Pennsylvania has a million dollars available to it  
6 through the self-funding program, if I am correct. Anybody  
7 have the answer on that? I think Pennsylvania has a million  
8 dollars. You have 50,000 more registered motorcyclists than  
9 Minnesota. We only have \$300,000. It is spending the money  
10 the right way, not having more money to spend. If any  
11 legislator on this Committee or in this state is interested  
12 in getting a video of our program, getting copies of our  
13 posters that we use or any other help that we can give you,  
14 give me a yell. I will be glad to get it to you.

15 ACTING CHAIRMAN GAMBLE: That's very kind of you.  
16 We appreciate your coming today.

17 MR. ILLINGSWORTH: Thank you very much.

18 ACTING CHAIRMAN GAMBLE: The next speaker will be  
19 Mr. Jim Bensburg, American Motorcyclist Association,  
20 Westerville, Ohio. Mr. Bensburg.

21 MR. BENSBURG: Thank you, Mr. Chairman, members  
22 of the Committee. I am Jim Bensburg, legislative affairs  
23 specialist for the American Motorcyclist Association. Also  
24 known as the AMA. We were first established in 1924. We  
25 represent over 142,000 members nationwide. Over 11,000 of



1 whom reside in your state of Pennsylvania. I rise to speak  
2 in favor of House Bill 813 today on behalf of our members  
3 and urge its passage. Our position has been unchanged since  
4 1966 when the federal government imposed mandatory laws  
5 nationwide. Even though three states, as you have earlier  
6 heard, resisted that effort. It is important to note that  
7 even though the vast majority of our members voluntarily wear  
8 helmets and we actively encourage their use, that we  
9 nonetheless oppose the mandatory helmet laws for adults.  
10 Now, as you can also see, this is an issue upon which  
11 reasonable people can disagree. I think you can also see that  
12 there is a fair number of people here who are in favor of  
13 this bill and very few who oppose it.

14           The central issue, as we all come to know here,  
15 is whether adult cyclists should have the right to decide for  
16 themselves whether to wear helmets. It is a very fundamental  
17 issue with our people and this is why we favor freedom of  
18 choice when it comes to the issue of helmets. The social  
19 burden theory was discussed earlier and our research  
20 indicates even very liberal interpretation of national  
21 statistics shows less than one-tenth of one percent of  
22 indigent health care costs can be attributed to motorcyclists.  
23 There again, those statistics don't differentiate between  
24 helmeted and unhelmeted riders, off road, all terrain  
25 vehicle and scooter accidents. Oftentimes these statistics

1 are lumped together and very hard to really get a clear  
2 picture.

3 This is why we feel the helmet law proponents  
4 should be required to provide accurate and precise data as to  
5 the exact costs incurred by helmetless indigent motorcyclists  
6 without insurance. Helmet laws assume that citizens lack the  
7 wisdom to make responsible choices and therefore, should be  
8 subjected to arbitrary laws for their own good. This is a  
9 concept we continue to reject. Helmet laws represent a quick  
10 fix approach. Rider education, along with other complementary  
11 measures such as motorist awareness such as Mr. Illingsworth  
12 referred to. These things prevent accidents. Something  
13 helmets cannot do.

14 I would commend the state of Pennsylvania for its  
15 rider education program. Not all states have rider education  
16 programs and with that you are to be commended.

17 You will see in the pack of literature I have  
18 provided that there is an excerpt from our monthly magazine  
19 and it shows the various fatality rates in 50 states and D.C.,  
20 and I think that can give you a very clear picture.

21 Pennsylvania has no seat belt law. The issue has  
22 come up today, but as opposed to seat belts, which are an  
23 integral part of automobiles and comes standard with them,  
24 helmets are viewed as personal articles of apparel and they  
25 represent a separate purchase. Somewhere in the neighborhood

1 of 100 or \$200 extra and they can be stolen because they are  
2 valuable and this leaves the hatless rider without his  
3 required equipment.

4 In our research we found that states that have no  
5 helmet law, voluntary helmet use, is much higher than  
6 mandatory seat belt compliance. I think this is true in just  
7 about every state that we have looked at.

8 It is our view that government should not dictate  
9 matters of personal choice. These are the types of decisions  
10 that are best left to individuals and enlightened society such  
11 as ours. Traditionally Americans are risk takers engaging in  
12 a daily variety of sporting or recreational activities which  
13 may result in serious injury or death. Motorcyclists should  
14 not be singled out merely because of their high visibility.  
15 It is doubtful that helmet laws have any real effect in  
16 reducing a state's health care cost or insurance costs.

17 As an association, we urge the Committee to reject  
18 the concept of the mandatory helmet law and return the decision  
19 making process to the people most affected; namely, the  
20 motorcyclists themselves. Motoring safety is a complex  
21 equation. It defies the quick fix approach, and in our view,  
22 unless the evidence is compelling, a much greater error is  
23 made in the name of safety to override the much larger  
24 consideration of individual freedom.

25 With that, I conclude my comments.

1                   ACTING CHAIRMAN GAMBLE: Thank you, Mr. Bensburg.  
2 We have two other speakers and then we will have questions.  
3 The next speaker is Debbie Lough, member of the Advisory Board,  
4 National Coalition of Motorcyclists, Cheasapeake Beach,  
5 Maryland.

6                   MS. LOUGH: Mr. Vice-chairman, Committee members,  
7 good morning. My name is Debbie Lough and I am here today  
8 representing the National Coalition of Motorcyclists. I  
9 reside in Maryland where I am the legislative adviser for  
10 ABATE of Maryland which is a counterpart to your ABATE of  
11 Pennsylvania.

12                   During my testimony you will hear me referring to  
13 Maryland frequently. Because of the comparable riding seasons  
14 and proximity of Maryland to Pennsylvania we feel this  
15 comparison will more accurately reflect the results of  
16 enacting the legislation here before you today than the  
17 speculation of those whom oppose repeal of your mandatory  
18 helmet law.

19                   Today you will hear many statistics which would  
20 have you believe that repeal of your mandatory helmet law  
21 would be the cause of motorcycle deaths in your state of  
22 Pennsylvania.

23                   Since 1975, proponents of mandatory helmet laws  
24 have presented statistics depicting ever increasing fatality  
25 rates for motorcyclists. They would have you believe that

1 this is due to the repeal of helmet laws. They have made  
2 outlandish predictions of dramatic increases of deaths which  
3 have never materialized.

4 For example, in Maryland we were told by helmet  
5 law supporters that if we were to amend our law, we would see  
6 a 30 to 40 percent increase in motorcycle fatalities.

7 These claims simply were not true. The average  
8 number of motorcycle fatalities in Maryland since 1979 is 71.  
9 Total fatalities since repeal have fallen below the yearly  
10 average four times. This downward trend has remained fairly  
11 constant with the exception of 1986 where fatalities rose.  
12 This might be explained by the fact that the spring and summer  
13 of 1986 were extremely dry, as evidenced by 23 Maryland  
14 counties applying for drought relief during this period, (you  
15 may remember that Pennsylvania came to the rescue of many  
16 Maryland farmers by transporting hay into our state), thus  
17 indicating an abnormally long dry peak riding season. Couple  
18 this with a 16.2 percent increase in total motorcycle  
19 registration over the same period, and the 1986 increase does  
20 not appear to be a radical departure from the normal.

21 With respect to 1987, in June of this year our  
22 fatalities for the year was nine, as compared with 26 for the  
23 same time in 1986. We expect our downward trend to continue.  
24 The predictions of our helmet law advocates thankfully  
25 never came to pass.

1           Since 1979 when we repealed our helmet law we have  
2 been able to spend more time working with other forms of  
3 motorcycle safety including rider education, share the road  
4 programs and improving licensing procedures which show vastly  
5 more promise and public support than helmet laws. Since we  
6 found that each of these can prevent accidents where helmet  
7 laws cannot, they deserve a chance to replace helmet laws at  
8 the top of the lists of safety groups and in legislatures.

9           In Maryland, we have what we like to think is one  
10 of the best motorcycle safety programs in the country,  
11 because we were able to spend the time to work on  
12 improvements almost every year, making our program stronger.  
13 Just last year we made our program permanent in the Department  
14 of Transportation because of public support and its overall  
15 success.

16           The fact of the matter is that motorcyclists do  
17 not favor mandatory helmet laws. Surveys show that anywhere  
18 from two-thirds to three-fourths of the respondents favor  
19 voluntary helmet use. With this kind of opposition, it is  
20 clear that helmet laws have long outlived their usefulness.  
21 Helmet laws have taken on a life of their own and have  
22 overshadowed more important safety initiatives. What is  
23 needed is a plan which the entire safety community endorses.  
24 Until then, motorcycle safety will suffer, not improve.  
25 Thank you, Mr. Chairman, Vice-chairman.

1 CHAIRMAN HUTCHINSON: Thank you very much. The  
2 next person is Mr. Kenneth Brown.

3 MR. BROWN: Mr. Chairman, Committee members,  
4 today we are gathered to address an issue that has been a  
5 center of controversy since its implementation almost 20 years  
6 ago. Since the enactment of the Mandatory Helmet Usage Law in  
7 1968, virtually the entire motorcycle populace of Pennsylvania  
8 has actively and vigorously opposed this measure. I, for one,  
9 have witnessed the motorcyclists of this state conduct  
10 themselves in a very polite, orderly, dignified and civil  
11 manner, but to no avail. While petitioning this government  
12 they have played by the rules. And now, I feel that their  
13 patience and tolerance on this matter has reached a high tide.

14 Let us review the helmet law itself. The roots  
15 of the helmet laws in this country began with the passage of  
16 the National Highway Safety Act of 1966. Included in this  
17 bill was a portion which granted the U.S. Department of  
18 Transportation the authority to withhold up to ten percent of  
19 annual highway constructions funds to any state not enacting  
20 a mandatory motorcycle helmet usage law, beginning the  
21 following year. The logic behind this measure was based on  
22 the theory that since most motorcycle fatalities were from  
23 severe head trauma, a nation of helmeted motorcyclists would  
24 greatly reduce the carnage on our highways. Never mind the  
25 fact that most automobile fatalities were a result of head

1 trauma, which comprised over 90 percent of the death toll of  
2 motor vehicle related fatalities. I have to believe that  
3 there must have been some speculation on requiring mandated  
4 usage of safety equipment on all motor vehicles. However, at  
5 that point in time a seat belt law was considered "political  
6 suicide".

7 Faced with the threat of losing money, some 49  
8 states quickly enacted helmet laws. Only California refused  
9 to "cave in" to federal pressure. In 1969, while considering  
10 the helmet bill, the California government received a warning  
11 from the U.S. Department of Transportation on passing the bill:  
12 "Do it or lose money".

13 When the bill received public hearing in  
14 Sacramento, thousands of motorcyclists showed up to express  
15 their opposition to a helmet law. The measure failed.  
16 California has never had a helmet law. California has never  
17 been penalized any highway funds. Scuttlebutt has it that a  
18 reply was sent from the Governor of California, Ronald Reagan,  
19 to the federal government, a promise to shut down all federal  
20 agencies in California should they not receive all highway  
21 funds.

22 In 1971, Illinois, which had enacted a helmet law  
23 18 months previous, heard the helmet issue in the state  
24 Supreme Court. The decision was handed down that the helmet  
25 law was unconstitutional and it was so abolished. It is



1 interesting to note that Illinois has since adopted a seat  
2 belt law.

3 On May 5, 1976, President Gerald Ford signed into  
4 law H. R. 3869, the Free Motorcycling Act of 1976. This  
5 measure stripped the Department of Transportation of its  
6 authority to withhold highway funds to any state not having a  
7 helmet law.

8 With the D.O.T. stripped of its "blackmail" power,  
9 some 30 states have since overturned their helmet laws.  
10 Unfortunately, some individuals have misconstrued helmet  
11 repeal as the government's attitude toward helmet usage. The  
12 truth is that it merely leaves helmet usage to the discretion  
13 of the individual. And that is the whole issue.

14 This leads to the question, "What is the role of  
15 our government?" Is it to protect us from our own  
16 self-destruction? Or is it to guard us from harm inflicted by  
17 "others"? I like to think it is the latter role.

18 One week from today we will celebrate the  
19 bicentennial of the drafting of this country's constitution,  
20 created right here in this state. The constitution, as  
21 written by our founding fathers, is a basic set of laws which  
22 called for amending and adding to as needed. Individual  
23 freedom, according to our constitution, is a right -- not a  
24 privilege.

25 I wonder what our founding fathers would think if

1 they were here today? Is a helmet law in the true spirit of  
2 our constitution? Can you imagine what individual freedom is  
3 going to be like in another 200 years? It will probably be  
4 considered "archaic idealism". But maybe not. If certain  
5 people would stop trying to force their opinions on everybody,  
6 with complete disregard of the individuals right to opinion,  
7 the code of our constitution would be better preserved.

8           On the matter of statistics of motorcycle  
9 fatalities, I have drawn a single conclusion. That is:  
10 States with helmet laws versus non-helmeted states have almost  
11 identical fatality rates, if not slightly higher. I base this  
12 conclusion on my studies of records kept by the National  
13 Highway Safety Administration from 1976 through 1985.

14           During my years of active involvement with the  
15 helmet repeal effort, I spent countless hours reading reports  
16 by helmet law advocates showing portions of statistics  
17 favorable to their cause. I presently and always have  
18 challenged the fairness of the "slanted" reports to the overall  
19 viewing of motorcycle statistics. Statistics do not support  
20 helmet laws.

21           Let us now discuss the helmet itself. It was  
22 designed to reduce head injury first in combat, then sports,  
23 and finally in driving. It has even made its way to the moon.  
24 Today, of course, we will discuss the motorcycle helmet.

25           The benefit of wearing a helmet is, as I just

1 mentioned, to reduce head injuries. In certain collisions  
2 it does just that. I have also heard two other "advantages"  
3 of wearing a helmet. One is that in cold weather it helps  
4 keep one's head warm, and secondly, when equipped with a face  
5 shield, it keeps bugs out of one's teeth. I have found that  
6 wearing my leather flying helmet and scarf has kept my head  
7 nice and toasty during cold weather. As for the bug problem,  
8 I suggest when one rides to simply keep their mouth shut.

9           The vices of the helmet are numerous. First, we  
10 must consider that the helmet is man-made, thus it is rendered  
11 other than perfect. It is generally made of a hard outer  
12 shell, usually of a plastic material. The inside is lined  
13 with a thick Styrofoam material and finally a cellulose-like  
14 material that rests on the rider's head. The helmets weight  
15 is usually three to five pounds. Helmets come in three basic  
16 models: The full-faced, three-quarter and the traditional  
17 half helmet.

18           With the weight factor considered, several  
19 conditions arise. For one, after a matter of time the helmet  
20 can cause discomfort, or fatigue. Inevitably, this will  
21 distract the rider's full-time attention from his driving.

22           The weight of the helmet, in certain collisions,  
23 certainly leads to neck trauma. Although I once thought  
24 this to be a farfetched argument, I have lost several friends  
25 due to neck trauma while riding helmeted. When applying the

1 law of inertia, the weight of an object becomes awesome. A  
2 four pound helmet at 50 miles per hour becomes 200 pounds  
3 upon impact.

4           Next we have the sight impairment. Helmets  
5 generally are designed so as not to impair peripheral vision  
6 while looking straight ahead. Impairment occurs when turning  
7 one's head to check surrounding traffic conditions. The helmet,  
8 even while properly fitted and worn, may rotate just slightly  
9 enough to create a peripheral obstruction. But it may be all  
10 that is necessary to create a hazard.

11           Now we have the hearing impairment argument. The  
12 main hearing problem is the omnidirectional impairment. That  
13 is, a rider can be confused as to which direction a noise, such  
14 as an emergency vehicle's siren, is coming from.

15           Heat is absolutely a drawback of the helmet.  
16 Imagine operating a motorcycle in traffic with 90 degree  
17 weather, the heat coming off of the engine, the heat radiating  
18 from the car's engines next to you (while they're running  
19 their AC), and a malfunctioning traffic light which seems to  
20 turn green just long enough to allow two cars through the  
21 intersection at a time. Is it really fair to require the  
22 cyclist to broil his brains in this plastic bubble? This is a  
23 prime example of what happens when the individual is stripped  
24 of his right to make his own intelligent choice.

25           Lastly, it occurs to me that the populace of this

1 great state is mandated to utilize a product whose  
2 manufacturers cannot obtain product liability insurance. This,  
3 of course, is the direct result of billions of dollars of  
4 litigation against the manufacturers from victims who were  
5 injured, or families of fatally injured victims, whose  
6 injuries were caused directly from helmet usage.

7 So what if Pennsylvania amends its helmet law?  
8 What have we to gain or lose?

9 For one, there is no longer the threat of losing  
10 annual highway funds from the federal government.

11 Secondly, Pennsylvania would join the group of  
12 states with either the same or even slightly lower fatality  
13 rates.

14 Finally, and most importantly, passage of House  
15 Bill 813 is the only resolve that will appease the citizens of  
16 this state. Individual discretion, be it a right decision or  
17 wrong, must be preserved. We owe that to our progeny.

18 I want to express my sincere appreciation to this  
19 Committee and to the government of Pennsylvania for allowing me  
20 to address this issue today. As did William Penn and the  
21 Quakers find religious freedom in "Penn's Woods", my prayers  
22 are that the motorcyclists of Pennsylvania are granted riding  
23 freedom. Thank you.

#### 24 SUMMARY

25 State enacted helmet laws were the result of the

1 passage of the National Highway Safety Act of 1966. This  
2 granted the U.S. Department of Transportation the authority to  
3 withhold up to ten percent of annual highway construction funds  
4 from any state not imposing a helmet law, beginning in 1967.

5 Passage of the Free Motorcycling Act of 1976  
6 stripped the Department of Transportation of its power to  
7 withhold highway funds. Since then, of the 49 states that  
8 enacted helmet laws, 30 have repealed or modified their helmet  
9 requirements.

10 In comparing the motorcycle fatality rates of  
11 states with helmet laws with non-helmet law states it has been  
12 found there is no significant difference, if any. The  
13 fatality rate was slightly lower in the non-helmeted group  
14 (group average).

15 The helmet, although intended to reduce the  
16 motorcyclist's injuries, has numerous drawbacks, many of which  
17 cause injuries and even death.

18 Finally, helmet repeal, or modification such as  
19 House Bill 813 calls for, is often misconstrued as the  
20 government's attitude toward helmet usage. The truth of the  
21 matter is that it only leaves helmet usage to the discretion  
22 of the individual. And that is the entire issue.

23 CHAIRMAN HUTCHINSON: Are there any questions on  
24 any one of the persons that spoke this morning?

25 BY REPRESENTATIVE GAMBLE (To Mr. Umberhauer):

1 Q I would like to ask a question of Charles  
2 Umbenhauer. In your testimony, you mentioned the vision  
3 impairment caused by the helmet, hearing impairment and  
4 temperatures could reach to 140 degrees, weight of the helmet,  
5 increased wind resistance plus occasional bugs.

6 Yet with all of that, with all those problems  
7 with wearing a helmet, your statistics show that 77 percent  
8 of the people who wear helmets after the law was repealed  
9 will still wear helmets. If there are all of those problems,  
10 why would 77 percent of your motorcycle drivers still choose  
11 to go through all that when they don't have to unless they  
12 aren't concerned with safety?

13 A I guess they are just exercising their freedom of  
14 choice. As I also stated in the testimony, I feel that this  
15 is one of the major concerns that the legislators have had.  
16 They feel that if there is a helmet repeal, the conception is  
17 that everybody is automatically going to be riding around  
18 without a helmet. That is not going to be the case. I think  
19 the helmet repeal is going to only affect a small minority of  
20 the riders. That small minority group is still entitled, I  
21 feel, to make that decision for themselves.

22 Q And you are with ABATE?

23 A Right.

24 Q There was a rally on the capitol steps about a  
25 month ago.

1 A In May.

2 Q In May: it was my understanding there was a  
3 fatality after the rally. Is that correct?

4 A There was. It was reported rather unfairly by the  
5 press. First of all, they reported that he was returning home  
6 from the rally which was not the case because he lived in  
7 Duncannon and the rally was conducted at noon on Monday and  
8 his accident occurred sometime around four or five o'clock  
9 on Tuesday morning. From the investigation that I did  
10 personally on that accident, that young man was not a member  
11 of our organization, but it is really immaterial. He would  
12 have been killed with or without a helmet. He was traveling  
13 at a high rate of speed. He had a high level of alcohol in  
14 his blood. He also was a victim of rather bizarre  
15 circumstances, horses in the middle of the road. Compiling  
16 all those unfortunate situations, I don't believe a helmet  
17 would have made any different factor than that had he been  
18 wearing one or not.

19 REPRESENTATIVE GAMBLE: Thank you.

20 BY REPRESENTATIVE SNYDER (To Mr. Umbenhauer):

21 Q I would also like to ask Mr. Umbenhauer a  
22 question. Do you find obtaining insurance for your motorcycle  
23 to be difficult in Pennsylvania?

24 A I couldn't quite hear the question.

25 Q Do you find obtaining insurance on your



1 motorcycle for injuries that you may sustain on your  
2 motorcycle would be difficult to obtain in Pennsylvania?

3 A Do I find obtaining insurance for my motorcycle in  
4 Pennsylvania difficult?

5 Q Yes.

6 A I haven't had any trouble obtaining insurance, no.  
7 But, again, with the insurance issue, a lot comes into play  
8 with the age of the rider, experience, whether or not you have  
9 taken the rider course. If you've taken the rider course, you  
10 automatically get a ten percent discount on your insurance.  
11 So, obviously, they feel it is very important that you take  
12 it.

13 Q Well, let me ask you. Have any members of your  
14 organization, at least that you are aware of, have they  
15 complained to you or talked to you about the problems that  
16 they have had in obtaining adequate insurance coverage?

17 A Yes. The insurance problem they basically  
18 complain about is the fact that on motorcycle insurance itself  
19 they cannot obtain first party medical coverage. Now, some  
20 people have insurance through where they work or private  
21 insurance and they seem to be covered by it. Other companies  
22 have some disclaimers that they won't pay up to, like the  
23 first \$10,000 of medical expenses.

24 Q So, would you say then that there is a problem  
25 of obtaining first party medical coverage for motorcyclists?

1 A Yes.

2 Q Is it obtainable?

3 A No, not in Pennsylvania.

4 Q Not at all?

5 A No.

6 Q So, if you have no other means of first party  
7 medical coverage through employment or whatever, you  
8 basically, when you ride a motorcycle and you are injured,  
9 you are going to be paying for those medical expenses  
10 yourself, is that right?

11 A Yes, but I would point out for the most part, of  
12 course, there are exceptions to everything, but for the most  
13 part, anyone that I know that is riding a motorcycle,  
14 motorcycles are a very expensive piece of sporting equipment.  
15 Most people that I know have adequate insurance coverage  
16 through their place of employment. I think that is a  
17 misconception that people would become welfare burdens if they  
18 are injured.

19 Q But basically those that don't have that kind of  
20 coverage can obtain it privately. Is that the situation in  
21 Pennsylvania?

22 A I believe so.

23 Q So, unless you are lucky enough to have that  
24 coverage through your employer, you ain't going to get it?  
25 That is what it comes down to?

1           A     Right.

2 BY REPRESENTATIVE SNYDER (To Ms. Lough):

3           Q     Kind of a comment for the young woman from  
4 Maryland. My district borders on the Mason-Dixon line. I am  
5 curious. Maryland, of course, has a mandatory seat belt law?

6           A     Yes, it does.

7           Q     But it has also repealed what they once had in  
8 a mandatory motorcycle helmet law. I assume the mandatory  
9 seat belt law came after the repeal of the motorcycle helmet  
10 law, is that correct?

11          A     That is correct.

12          Q     Basically, I'm just curious. Was there any  
13 discussions at the time they were debating the mandatory  
14 seat belt law as to reinstituting or why should they have a  
15 seat belt law but not a motorcycle helmet law?

16          A     Well, it did come up in our legislature. What  
17 happened is, after the traffic safety (inaudible) spent  
18 \$52,000 lobbying for our seat belt law. It was a very  
19 inadequate seat belt law. If you have a secondary offense  
20 you have a \$25 fine, no points on your license. We basically  
21 passed it to pacify our car manufacturers coming in our state  
22 lobbying because of the air bag shield, which I am sure you  
23 are all familiar with.

24                   As far as helmets were concerned, we went in there  
25 and just showed them the facts about what has happened since

1 our repeal. Our facts are so conducive to a non-helmet law,  
2 they did not see any comparison. Like Mr. Segermark said, we  
3 would like to divorce the two issues because they are not the  
4 same.

5 BY REPRESENTATIVE GAMBLE (To Ms. Lough):

6 Q Just one comment. Don't we get back to the theory  
7 that those who ride decide? Whether there's any difference  
8 in a car or a motorcycle, shouldn't they decide?

9 A I agree with you. I think it should be a matter  
10 of choice.

11 CHAIRMAN HUTCHINSON: Representative Murphy.

12 BY REPRESENTATIVE MURPHY (To Mr. Middleton):

13 Q I would like Bob Middleton to respond. You  
14 testified, Bob, in your testimony, indicating that there was  
15 substantial higher fatalities with non-helmet riding and yet  
16 Dr. Mackenzie and others have refuted your statement.  
17 Particularly Dr. Mackenzie's statement showing comprehensive  
18 nine year experience indicates that fatalities and accident  
19 rates are higher in helmet states than in repealed states?

20 Q Tom, I dispute that. All morning long we have  
21 been hearing different peoples' statistics. I have the stuff  
22 here from the National Highway Safety Administration.  
23 Somebody noked fun at that for an error in their work. But I  
24 have a lot of material from them and they are saying here  
25 unhelmeted riders are three times more likely to incur a fatal

1 head injury. They have a chart here showing that in a period  
2 of time when the states adopted helmet use laws, the fatality  
3 rate was lower. And they began to get rid of the laws and  
4 weaken the laws and the fatality rate went up. It's whoever's  
5 statistics you want to believe.

6 Q Well, it is interesting to me that people are  
7 taking the same statistics and coming to directly opposite --

8 CHAIRMAN HUTCHINSON: That is always.

9 REPRESENTATIVE MURPHY: This is really incredible.

10 Thank you.

11 BY REPRESENTATIVE CALTAGIRONE (To Dr. Mackenzie):

12 Q Dr. Mackenzie, Representative Tom Caltagirone  
13 from Reading. You indicated that you have been a physician  
14 for 37 years and you have been motorcycling for 40 years. The  
15 nine year period that you were drawing your statistics from,  
16 were you compiling that information yourself or was that  
17 information from an organization that had provided you with  
18 that?

19 A No, I compiled these figures. I have taken them  
20 from the Motorcycle Safety Foundation. They send me the  
21 figures every year. I tabulated them and added them up. I  
22 had my daughter check them out with her boyfriend and I can  
23 certify that they are accurate. And they are the most  
24 comprehensive figures that are available anywhere.

25 Q As a medical doctor, do you know one of the

1 biggest arguments that we hear, especially from people in the  
2 medical community, whether they ride a motorcycle or not, my  
3 two boys do so, I understand there are concerns for a parent  
4 as to whether or not they should or shouldn't. But your  
5 professional opinion as to the safety factor of the helmet  
6 with the incidents that you may have seen over your 37 years  
7 of practice in hospitals, you evidently have drawn some  
8 conclusions?

9 A Well, I practice in New York and everyone wears a  
10 helmet there. The injured motorcyclists that I see all have  
11 their helmets on. I have seen head injuries, fatal head  
12 injuries, where there is no damage to the helmet, there is no  
13 damage to the skull, but the brain has been scrambled. It is  
14 the same effect as in the boxing ring when a boxer gets  
15 repeatedly hit on the chin and his brain is shaken around.  
16 This happens when a helmet hits concrete. It bounces like a  
17 Ping-Pong ball and that scrambles the brain. That is one of  
18 the areas where a helmet does more harm than good. And that's  
19 the type of injury that I have seen in New York. I haven't  
20 seen injuries that occur in non-helmeted riders. This is not  
21 part of my practice.

22 BY REPRESENTATIVE HESS (To Dr. Mackenzie):

23 Q If I may, you say about scrambling the brain.  
24 Wouldn't it be worse if the bare head were to strike the  
25 concrete? It would probably bust the skull wide open than by

1 hitting their head with the halmet on?

2 A Yes, above a certain speed, that is the case.

3 Q At any speed?

4 A Well, they say that a helmet protects up to about  
5 13 miles an hour. Beyond that it doesn't help for any  
6 significant protection.

7 Q None whatsoever?

8 A From the statistics I would say probably not.

9 CHAIRMAN HUTCHINSON: Go ahead.

10 BY REPRESENTATIVE NAHILL (To Mr. Middleton):

11 Q A couple things, I would like to ask you again,  
12 the same question I asked before. Would you be willing to  
13 tie a revocation of the helmet law to a much higher standard  
14 of training prior to getting a license?

15 A I would.

16 Q Would you encourage that? I don't see  
17 Representative Veon here.

18 A He and I spoke briefly before he had to leave and  
19 we discussed, we concurred that we support that.

20 BY REPRESENTATIVE NAHILL (To Dr. Mackenzie):

21 Q Doctor, I have to ask you a question. You talk  
22 about an aspect of the helmet that by using it gave everybody  
23 an added sense of security and therefore, they went faster  
24 and took more chances. That kind of idea flies in the face  
25 of everything that we are told. Then why are we talking about

1 seat belts? Why are we talking about hopefully better built  
2 cars? Why are we talking about an impact front bumper?  
3 Doesn't this all give us the idea that we can go up the  
4 turnpike 98 miles an hour? There has to be a benefit to  
5 safety items and I don't know how you could possibly quantify  
6 that I, as a motorcycle rider, is so much safer with this thing  
7 on that I am going to go that much faster than the safety aspect  
8 of it would make (inaudible). That's pretty much what you've said.

9 A I wouldn't say that is the opinion of everyone.  
10 Somebody inexperienced, the young, those who have been  
11 brainwashed into believing that a helmet is the most valuable  
12 thing that they can wear, tend to behave this way. Most of  
13 the accidents occur during the first six months of riding  
14 motorcycles. Those are the people that need to be trained  
15 about the safety measures, about not assuming that the driver  
16 is going to give way. They should assume that he is never  
17 going to give way. I tell young riders, assume that they are  
18 invisible on the road. No one can see them. They must  
19 protect themselves. Seat belts, I think, are a different  
20 matter. I think they are of great value. Although the only  
21 time I landed in the hospital as a patient was as a result of  
22 wearing a seat belt. I wear a seat belt most of the time.  
23 Now, when I go to the post office which is 50 yards away, I  
24 would resent having to tie up, which I do in New York. My  
25 wife I can never persuade to wear a seat belt. She was in the



1 car when I had the injury. She wasn't wearing a seat belt.  
2 So, she is not likely to be persuaded that a seat belt is  
3 going to help. She put her hands up and saved herself. I  
4 took the full force of the stop on my chest and I landed in  
5 the coronary care for a couple of days. They thought I had a  
6 coronary. It wasn't, of course.

7 Q One more question. It may not be fair of me to  
8 ask this just of you, but you are in the medical profession.  
9 You do see trauma all the time or certainly you have  
10 colleagues that do. One thing that intrigues me, it kind of  
11 relates to the last question I asked, why is everybody here  
12 not asking for tighter laws, better training and more safety?  
13 Why are we here asking simply, and initial reaction was, get  
14 rid of helmets. Why, if we are really concerned about safety,  
15 why weren't we here ten, 15, 20 years ago saying helmets are  
16 terrible? But as long as you have them, let's upgrade the  
17 safety, let's make sure everybody has to do certain things  
18 prior to riding a motorcycle? Why is that kind of a tunnel  
19 vision prevalent here today?

20 A Well, in Massachusetts and Texas and California,  
21 the two bills were combined, safety plus helmet repeal. I  
22 think that is the case of many legislators.

23 Q Why wasn't that an original part of this  
24 proposal if that is indeed what is going to save lives?

25 A I think it should be.

1           REPRESENTATIVE GRUITZA: Mr. Chairman, if I could  
2 interject. I don't know that the doctor is really in a  
3 position to answer.

4           REPRESENTATIVE NAHILL: I think I said it is  
5 unfair to ask him the question, but he is a medical man.

6           REPRESENTATIVE GRUITZA: We did, I don't know if  
7 it was last year or the year before, we passed legislation  
8 implementing, with the support of most of the groups that are  
9 here today, expanding on safety programs. In fact, adding a  
10 special fee of five dollars, I might be wrong, five dollars or  
11 eight dollars. So, there was an additional fee put on, a  
12 couple of dollars a year extra for safety --

13           REPRESENTATIVE NAHILL: But that does not appear  
14 to be satisfactory for the training that they all feel is  
15 necessary to have real safety. It sounds like putting a  
16 Band-Aid on a severed artery.

17           REPRESENTATIVE GRUITZA: The only other point I  
18 would add to that is, I don't know if anybody here has the  
19 statistics, but I would say that from my understanding the  
20 vast majority of motorcycle accidents are caused by  
21 non-motorcyclists.

22           REPRESENTATIVE MURPHY: We have all the  
23 statistics you want and they all tell opposite stories. That  
24 is the problem.

25           REPRESENTATIVE CALTAGIRONE: Bob Illingsworth, I

1 think you had a comment that you wanted to make.

2 MR. ILLINGSWORTH: Just a comment in answer to  
3 this gentleman's question. The reason that no one ten years  
4 ago came up with other options is because no one believed  
5 other options would work. It was easier to say, put helmets  
6 on and that is the panacea.

7 Now, we can deal with some data and years of  
8 proving that other options are working.

9 The answer to the gentleman about insurance, if  
10 you are interested in insurance and how it affects  
11 motorcyclists, Minnesota has no-fault insurance and  
12 motorcycles are excluded from being required to buy a first  
13 party coverage. And the reason they were is because the  
14 insurance companies were screaming, boy, if we have to pay for  
15 these motorcyclists --

16 CHAIRMAN HUTCHINSON: No, no, wait. There's a  
17 motorcycle insurance man from my town, went over and argued  
18 with Dennenberg to be taken out of it.

19 REPRESENTATIVE NAHILL: He is talking about  
20 Minnesota.

21 CHAIRMAN HUTCHINSON: I am talking about the  
22 motorcycle under no-fault insurance. Ten years ago, maybe 15  
23 years ago, the insurance companies wanted them in the bill  
24 and so did Dennenberg. And there was a fellow, his name  
25 skips me, runs an insurance company for motorcycles, and he is

1 the one, with my help, that got it taken out.

2 MR. ILLINGSWORTH: In Minnesota, motorcyclists  
3 don't have to buy the plan.

4 CHAIRMAN HUTCHINSON: You don't have to do it here  
5 either.

6 MR. ILLINGSWORTH: The second part of the point I  
7 want to make is, if it is so risky for motorcyclists and the  
8 insurance problem, why can we buy first party coverage for  
9 \$41 in Minnesota?

10 CHAIRMAN HUTCHINSON: Well, the thing was there,  
11 his argument was, at that time you spent seven or \$800 for a  
12 motorcycle and the insurance rate would be more than a  
13 motorcycle in two years' time.

14 MR. ILLINGSWORTH: That has not been true with  
15 Minnesota. That is the point I am trying to make.

16 BY REPRESENTATIVE SNYDER (To Mr. Illingsworth):

17 Q You are telling me that first<sup>party</sup>/medical benefits for  
18 motorcyclists in Minnesota is \$41?

19 A You can buy first party benefit coverage in  
20 Minnesota for a motorcycle for \$41.

21 Q For what period of time?

22 A For a year.

23 Q What is the extent of the coverage?

24 A Basic hospitalization coverage. The reason for  
25 that is simply because we have reduced our accident and

1 fatality rate to a point where it is no longer a tremendous  
2 risk for the insurance companies.

3 Q Let me ask you a separate question. Is it  
4 mandatory that the insurance companies offer that type of  
5 coverage?

6 A Yes, it is. They have to offer it. You are not  
7 required to purchase it.

8 Q Okay, they have to offer it but it is not  
9 required to be purchased by the individual. Are there any  
10 limitations set on the rate which they have to offer?

11 A Yes, there are.

12 Q Is that the free market?

13 A No, the state has set the limit.

14 Q In other words, the state legislature of Minnesota  
15 says it is going to cost 41 bucks a year for motorcycle  
16 insurance for first party benefits?

17 A Yes. That is done through the insurance commissioner.

18 Q The reason I brought that up editorially is  
19 because the freedom of choice argument can be persuasive. On  
20 the other side of that is the social cost of all of those of  
21 us who have to pay motor vehicle insurance and pay it gladly  
22 because we want to be covered. And I guess the concern many  
23 people have is, in a sense, we are subsidizing those higher  
24 risk motor vehicle users, motorcyclists and others, if indeed  
25 either through our insurance system or through our government

1 subsidy when they are injured and don't have sufficient means  
2 to cover themselves. That can be made in a lot of other areas  
3 but that is one of the arguments.

4 A In all the states that have lobbying, I haven't  
5 heard any insurance company come in and say they would do that,  
6 whether it is automobile, mortgage insurance, et cetera. It  
7 is a scare tactic. But in Minnesota insurance companies  
8 themselves come in and deny that fact. Insurance companies  
9 never lose a buck on anybody. If the risks were that great,  
10 you would think the states that do not have helmet laws, that  
11 insurance would cost more. It does not.

12 Q Well, what I find interesting is, this gentleman  
13 told me, if I want to go out and buy first party medical  
14 coverage, because I am a motorcyclist and I don't have any  
15 other coverage, there is not an insurance company in  
16 Pennsylvania that is even going to offer it to me.

17 A That is something the legislative body can solve  
18 by having the insurance commissioner do some investigations,  
19 because the tactics that are used and the arguments that are  
20 used are arguments of 15 years ago when the fatalities were  
21 real high and the accidents were real high and the insurance  
22 companies had to pay out a lot of money. The fact is they are  
23 not.

24 CHAIRMAN HUTCHINSON: Any other questions?  
25 Any other statements from anybody in the audience?

1 MR. MIDDLETON: Mr. Chairman, yes. Bob Middleton,  
2 AAA Federation. There is a 22 minute video film here called  
3 Helmet Effectiveness from the national government, National  
4 Highway Traffic Safety Administration. I would like to give  
5 it to the Committee in case anybody wants to see it. I will  
6 give it to the executive director.

7 CHAIRMAN HUTCHINSON: Any others?

8 REPRESENTATIVE GRUITZA: A brief comment, Mr.  
9 Chairman. I ride a bike and I have some concern about this  
10 issue. I wear a helmet. I even wear one when I travel into  
11 Ohio. I live on the border. Primarily I like to wear it  
12 because it does protect your face from bugs and we have a lot  
13 of bugs out our way.

14 I think a lot of what has been said here should  
15 not be shrugged off by this Committee as a group of advocates  
16 trying to present a cause. Because I think a lot of what has  
17 been said has been very valid. There is no question about  
18 it. When you ride a bike, to me, the biggest impairment of  
19 riding with a helmet is an issue with peripheral vision.  
20 There have been many, many times when I have ridden down the  
21 highway and have actually been startled by a car that I had  
22 not noticed coming up to pass me on a four-lane. And all of a  
23 sudden I find him roaring right by. And the reason I am  
24 startled, and that really can startle you, is because you  
25 don't have that peripheral vision that you would have without

1 a helmet. I think there are pros and cons on the subject.  
2 And the point I want to make is, I think some of the things  
3 that were said here, a lot of us, without giving much thought  
4 to it, might just rather tend to shrug off as being statements  
5 made by advocates. I think a lot of what has been said is  
6 very true and should be given some grateful consideration.

7 CHAIRMAN HUTCHINSON: I don't know whether it is  
8 the next committee meeting, but one of them before the break  
9 at Thanksgiving, the committee will have a chance to vote on  
10 this bill.

11 The meeting is now adjourned.

12 (Whereupon at 11:45 a.m. the hearing was  
13 adjourned.)



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I hereby certify that the proceedings and evidence taken by me in the within matter are fully and accurately indicated in my notes and that this is a true and correct transcript of same.

*Dorothy M. Malone*

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