

Risky Riders

Touting Freedom, Bikers Take Aim At Helmet Laws

Fatality Rates Are Increasing As Campaign Succeeds; Manufacturers Bow Out

Sputnik Travels to 39 States

By KAREN LUNDEGAARD

Sputnik isn't a typical lobbyist. He has "FREE" tattooed across his forehead, and he wears his hair in a Mohawk. Five earrings dangle from his left ear. But statehouse veterans in Texas have taken the 66-year-old motorcycle activist seriously ever since he led a successful campaign in 1997 to repeal that state's mandatory helmet law.

Sputnik (his legal name) and other unlikely biker-lobbyists like him are fighting, state-by-state, for what they see as freedom on the road. Many other people see it as an assault on safety and common sense.

Over nearly three decades, bikers have pushed successfully to weaken or eliminate helmet laws in 29 states. Most of that activity came in the 1970s, but recently, bikers have been active again.

Since 1997, five states, including Texas, have repealed laws requiring all motorcycle riders to wear helmets. The other four are Florida—which, like Texas, is a major biker haven—and Pennsylvania, Kentucky and Arkansas. Federal statistics show that, on average, in the years after the recent legislative changes, helmet use dropped, and motorcycle deaths increased.



Sputnik

increased.

That isn't slowing Sputnik, however. He has traveled to 39 states in recent years to motivate bikers with what he calls his "Five Steps to Freedom," a primer that begins with registering leather-clad voters and aims ultimately at putting them in office. At least four states—Michigan, Missouri, North Carolina and Tennessee—came close to repealing helmet laws this year, and the bikers say they are revving up to try again.

"We've learned the game so well that now we're making the rules," James

Peril on Two Wheels

After repeal of mandatory helmet laws, the average annual rate of deaths per 10,000 motorcycles has risen.

STATE	YEAR REPEALED	TWO-YEAR AVERAGE BEFORE REPEAL	AVERAGE SINCE THROUGH 2003	PCT. CHANGE
Arkansas	1997	11.34	11.87	4.7%
Florida	2000	7.38	8.94	21.1
Louisiana	1999*	6.79	12.45	83.5

*Mandatory helmet law reinstated in 2004

Sources: Wall Street Journal analysis of statistics from Federal Highway Administration and National Highway Traffic Safety Administration

"Doc" Reichenbach, a bearded biker-lobbyist from Florida, boasted at a motorcyclists' rights conference held in Oklahoma City in May, one of several such gatherings held each year around the country.

Many bikers complain that helmets make it harder to see and hear and that they are too hot in the summer. Some motorcyclists also argue that researchers manipulate statistics to show that helmets save lives. Demanding that the choice should be theirs, biker-lobbyists have changed lawmakers' minds by mobilizing large numbers of fellow enthusiasts focused on this narrow issue and willing to make phone calls, write letters and monitor statehouse votes.

All told, 20 states and the District of Columbia have laws requiring helmets for all riders. Some of the other 30 require them for young or inexperienced

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Biker-Lobbyists Target Helmet Laws

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riders, or people who lack sufficient insurance—but otherwise leave the choice to riders. By contrast, all states except New Hampshire require use of car seatbelts.

To some, the retreat from helmet requirements, led by a vocal minority of riders, defies logic. John Morris, head of the trauma center at Vanderbilt University Medical Center in Nashville, Tenn., says he sees “on a regular basis individuals who don’t go home because they didn’t wear a helmet.” But until recently, doctors groups hadn’t made a priority of countering the increasingly savvy biker-activists. For varying reasons, a range of constituencies that might be expected to oppose the helmet-free bikers haven’t done so very aggressively, or at all.

Congress, spurred by the bikers, barred the National Highway Traffic Safety Administration in 1998 from lobbying state legislatures on any topic. Among the motorcyclists’ champions on Capitol Hill was retiring Sen. Ben Nighthorse Campbell, a Colorado Republican and motorcycle aficionado. The bikers acted in response to a video the safety agency was distributing to states called “Without Helmet Laws, We All Pay the Price.” The title referred in part to the fact that injured bikers without much insurance often end up on Medicaid, while dependents of those who are killed in crashes can also consume public resources.

In the private sector, the insurance industry’s lobbying arm, Advocates for Highway and Auto Safety, says it doesn’t do very much about motorcycle helmets because of its small size. It has a budget of only \$1.5 million and a staff of eight. Its president, Judith Lee Stone, says they can’t “just hop on a plane and go where everybody asks us.” The industry’s much larger, better-funded research

body, the Insurance Institute for Highway Safety, is prevented from lobbying by its bylaws. Both the insurance institute and NHTSA say they will testify before state legislatures, but only if asked. They are rarely asked to address helmet issues.

Motorcycle manufacturers tiptoe around the debate. Harley Davidson Inc., the brand most popular with activists, and Honda Motor Co., both say they encourage riders to wear helmets. But the manufacturers add that it should be up to the consumer to make the choice. Bob Klein, a Harley spokesman, says this position doesn’t reflect a fear of alienating riders who oppose helmets. Instead, he says, “We firmly believe in the fact that riders should be able to exercise their own best judgment.”

The helmet debate doesn’t have a victims group similar to Mothers Against Drunk Drivers, and trauma surgeons are only now mobilizing in earnest. The Journal of the American College of Surgeons, which is sent to the group’s 60,000 members, published an editorial in its August issue titled, “Motorcycle Helmet Laws: Every Surgeon’s Responsibility.” M. Margaret Knudson, one of the authors and chair of the group’s committee on injury prevention, says in an interview that doctors have a “duty, really, to make our senators and congressman aware of the value of wearing a helmet.”

Death Rates

The statistical case for helmet laws seems solid, according to analysis of government figures. In each state that recently repealed its mandatory helmet law, motorcycle deaths have more than doubled, sometimes in as short a span as three years. Motorcycle use has also increased, although not as much. To account for increased use, The Wall Street Journal looked at the change in motorcy-

cle fatalities per 10,000 registered motorcycles.

In the six years since Texas repealed its law in 1997, the annual rate has jumped nearly 30%, to an average 10.95 deaths per 10,000 registered motorcycles, compared with an average of 8.46 deaths for the two years prior to the repeal. In Kentucky, the average rate has jumped to 9.9 in the five years since its 1998 repeal, up 55% compared with the average for the two years before.

In Florida, in the three years since repeal, the rate is up 21%, to 8.94, compared with the two-year average prior to the repeal. Last year, 358 motorcyclists died in Florida. That is just 10 fewer deaths than occurred in California, the largest motorcycling state, which has 43% more registered motorcycles than Florida. California has a mandatory helmet law.

Nationally, motorcycle deaths rose 12% in 2003, to 3,661. That is the sixth straight year motorcycle deaths have risen. Twelve percent is the largest annual increase since 1988. The national fatality rate increased 4.4%, to 6.82 deaths per 10,000 motorcycles, the highest such figure since 1990. That rate is four-and-a-half times as high as the auto-fatality rate.

The jump in motorcycle deaths in 2003 came in a year when total highway fatalities dropped, federal statistics show. Alcohol-related fatalities fell 3%, to 17,013, and deaths of passengers not wearing seatbelts fell 6.5%, to 18,019. Federal officials attribute those declines to states passing tougher seatbelt and drunk-driving laws.

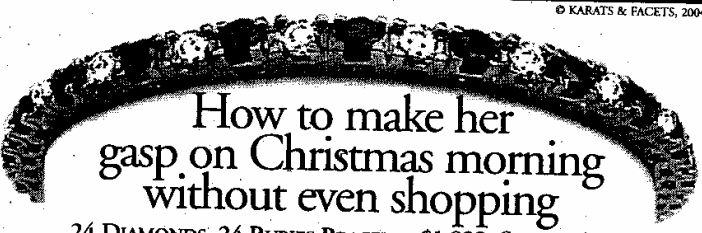
Anti-helmet activists argue that the statistics can be manipulated and that a helmet’s weight can actually make injuries worse, by bringing more force to bear on the rider’s neck in a crash. Some surgeons and scientists reject that assertion as unsubstantiated.

Sputnik says the federal numbers on which the Journal relied missed thousands of motorcycle registrations in Texas and thus exaggerated the rate of deaths. Apart from statistics, he adds, “The government has no right to protect us from ourselves. They are to protect us from enemies, both domestic and foreign, and we are not our enemies.” Many bikers say that the best way to reduce fatalities is to provide more training to rookie riders and make auto drivers more aware of motorcycles.

Chris Sackett, marketing manager at helmet maker Bell Powersports, in Santa Cruz, Calif., says, “If you have some layer of protection, that’s going to protect you better than having your head hit the pavement. That’s kind of obvious.” But despite such strong views, helmet makers also have been reluctant to join the debate. Mr. Sackett says his company lacks the resources to lobby and fears that pushing for

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Journal's analysis of government statistics showing rising fatality rates, says, "I've studied this. I really don't want to look at more studies."

In Florida, Doc Reichenbach, the lobbyist for the ABATE branch in that state, says that targeting unfriendly legislators for defeat contributed to passage of a repeal law in 2000. In one key 1998 election, bikers built and put up yard signs, manned a phone bank and took people to the polls on Election Day. These efforts helped Burt Saunders defeat Ralph Livingston for a state Senate seat representing Collier and Lee counties on Florida's southwest coast. Mr. Livingston, who had voted against a repeal earlier that year, lost by fewer than 50 votes, after a mandatory recount of some 40,000 ballots. Mr. Saunders, who says ABATE's help was crucial, recounted how in parades during the 1998 campaign, 20 motorcyclists rode in front of his car. "That would get everybody's attention," he says. He introduced a repeal law in the Senate soon after he was elected.

Asked about the Journal's analysis of rising biker death rates, Mr. Saunders says he stands by his actions. He has become a rider himself but says he always wears a helmet because of his relative lack of experience.

Mr. Livingston says bikers' message to him was vote with us, or we'll vote you out. He recalls one meeting when bikers filled both chambers of his office during a rainy motorcycle rally in Tallahassee. The rooms smelled like wet leather, he says. But Mr. Livingston's thinking on helmets was pretty well set. His brother-in-law had survived a motorcycle crash while wearing protective gear, including a helmet.

Legislative Consensus

A legislative consensus to require helmets appeared to be forming as long as 40 years ago, during the first major wave of federal consumer-safety legislation. In the Highway Safety Act of 1966, Congress required states to pass laws requiring all motorcyclists to wear helmets or risk losing some federal highway-construction funding. By 1974, all but three states had passed mandatory-helmet laws.

But bikers fought back. The motorcycle magazine *Easyriders* started ABATE in 1972. At that time, the acronym stood for the tougher-sounding *A Brotherhood Against Totalitarian Enactments*. Early biker lobbying tended toward the crude: Activists burned helmets on the Capitol steps and urinated on the Capitol lawn, yelling, "Helmet laws suck." In states that didn't specify where helmets should be worn, some bikers strapped them to their knees.

Still, the bikers made friends in high places. The late California Sen. Alan

Motorcycle Deaths Rise as Camp

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helmet requirements might backfire if bikers accused Bell of "using scare tactics to sell helmets."

Tourism Argument

In some state legislatures, biker-lobbyists have argued that tough helmet laws deter two-wheeled tourism, costing states precious revenue. Some bikers plan trips so they ride exclusively through "free states," as they call them.

During the 2003-2004 legislative session, a Michigan bikers group commissioned a study that concluded that if the state repealed its helmet law, Michigan would see \$54 million in new tourist spending and \$40 million in additional sales-tax revenue, among other economic benefits. Michigan's House passed a repeal bill last month in a lame-duck session, after bikers had worked phone banks and gone door-to-door in more than 50 state legislative races this fall. The Senate isn't likely to take up the bill this year, but Ari Adler, spokesman for Sen. Majority Leader Ken Sikkema, predicts the legislation will return in 2005. The Michigan chapter of the American Automobile Association has lobbied against the repeal bill.

Nationally, the motorcycle business is booming. According to the most recent figures available from the Motorcycle Industry Council, new motorcycle sales hit \$7.5 billion in 2002, a 13% gain over 2001.

A look at a pair of successful anti-helmet campaigns illustrates how resourceful the biker-activists have been.

In Pennsylvania, the Alliance of Bikers Aimed Toward Education, or ABATE, hired a full-time lobbyist for the first time and last year got the state's helmet requirement repealed af-

ter decades of trying. Charles Umbenhauer, a retired federal worker and veteran rider, came on board in 2001 at an annual salary of \$30,000. He coordinated bikers who called legislators about the issue.

His effort gained critical momentum in the spring of 2003, when then-new Gov. Ed Rendell agreed to speak at an ABATE rally in Harrisburg, the state capital, pledging to sign a repeal law that would allow experienced riders over 21 to ride without a helmet. Mr. Rendell, formerly the mayor of Philadelphia, was friendly with ABATE because of the group's annual holiday Toy Ride, when bikers donate thousands of toys to the Children's Hospital of Philadelphia. The previous governor, Tom Ridge, the Bush administration's departing homeland security chief, had vetoed repeal legislation in 1998.

In interviews, several Pennsylvania lawmakers said they had heard from many more bikers than opponents of the helmet legislation. Sean Logan, a Democratic state senator from Monroeville, near Pittsburgh, says ABATE members made what he considered to be a strong case that in low-speed crashes, helmets might actually damage the back of the neck.

Targeting Foes

Mr. Logan, undecided until the very end, says he received letters, visits and calls from more than 50 bikers in the final weeks before the vote. Not a motorcycle man himself, he recalls a local ABATE officer visiting his district office, and Mr. Umbenhauer stopping by his Harrisburg office. In the end, the lawmaker says, "I thought, we'll just let these who ride decide." ABATE uses that slogan in its lobbying.

Mr. Logan, when presented with the

Cranston, whose state had not yet passed a helmet law and was in danger of losing highway funds, proposed an amendment to repeal the federal helmet mandate in 1975. It passed, and by 1980, biker activists had seen to it that just 19 states and the District of Columbia, still required helmets for all riders.

In 1991, following a General Accounting Office report on the effectiveness of helmet laws and the gear itself, Congress again tried to encourage states to pass helmet requirements. It offered incentive grants to states that had universal helmet laws and seat-belt laws. It also threatened by 1995 to transfer a portion of highway-construction funds to highway-safety programs for those states that didn't enact both types of law. But in 1995, after heavy lobbying by bikers, Congress killed the provision. Since then, states have continued to repeal helmet laws.

One state has cut against the trend. Louisiana made helmet use voluntary in 1999. The next year, the motorcycle fatality rate jumped 74% compared with the average for the two years prior to the change. That rate continued to rise each year. Louisiana reinstated its mandatory helmet law this summer.

At the bikers' convention in Oklahoma City in May, Sputnik from Texas told 60 or so mostly denim-and-leather-clad listeners that eliminating helmet mandates isn't for the meek or materialistic. He said he has spent \$200,000 of his wife's savings on lobbying. Last year alone, he said he had put \$14,000 on credit cards, as he continued to push for other changes in Texas, including tougher penalties for drivers who violate right-of-way rules, a common problem for motorcyclists. "It's not about money," he said. "Some things are more important than a bank account."