Motorcycle Helmet Laws: Innovative Approaches to Reducing Injury

November 19, 2015
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Motorcycle Helmet Laws: Innovative Approaches to Reducing Injury

November 19, 2015
Clifford Rees, Practice Director, Network for Public Health Law – Western Region

- J.D., University of New Hampshire School of Law
- Research interests/areas of expertise:
  - Injury prevention
  - Emergency medical services
  - Emergency preparedness
  - Drug policy reform
Presenter Introduction

**Kathleen Hoke**, Director, Network for Public Health Law – Eastern Region

- J.D., University of Maryland Francis King Carey School of Law
- Research interests/areas of expertise:
  - Injury prevention
  - Obesity prevention
  - Tobacco control
Kurt Nolte, Chief Medical Investigator, New Mexico Office of the Medical Investigator

- M.D., Albert Einstein College of Medicine of Yeshiva University
- Research interests/areas of expertise:
  - Injury prevention
  - Radiologic imaging
  - Forensic pathology and public health
Presenter Introduction

**Colleen Healy**, Policy and Operations Specialist, Michigan Primary Care Association

- J.D., Duke University School of Law
- Research interests/areas of expertise:
  - Injury prevention
  - Federally qualified health centers
  - Integrated primary care
State Compulsory Motorcycle Helmet Use Laws

Kathleen Hoke
Director
Network for Public Health Law-Eastern Region
November 21, 2015
Motorcycle Helmet Use

• Statistics of crashes: Morbidity and Mortality
  – Reduces the risk of death by 42%
  – Reduces the risk of head injury by 69%
  – Odds of surviving in a hospital if crash occurred with a helmet are 1.5 to 1 (without a helmet)
  – Proper helmet use would save over 1000 lives per year

• Statistics of crashes: Health Care Costs
  – Total costs nationwide WITHOUT helmet:
    • $5.5 billion per year
  – Total costs nationwide WITH helmet:
    • $3.3 billion per year
  – Inpatient costs per patient:
    • WITH helmet: $175,006
    • WITHOUT helmet: $203,248
A Little History . . .

1967
• Congress passed a law mandating that states enact compulsory motorcycle helmet use laws to be eligible for certain federal highway construction funds and safety programs.
• As a result, almost all states passed compulsory helmet use laws by the early 1970s.

1976
• States with a political sentiment against compulsory helmet use and/or oppositional to federal mandates lobbied Congress to prevent the Department of Transportation from restricting access to funds and programs to states without helmet laws.
• Those states succeeded and today fewer than half of the states have compulsory helmet use laws for all riders and passengers.
Current State Motorcycle Helmet Laws and Fatality Rates

The percentage of people killed in motorcycle crashes in 2011 who were not wearing helmets is higher in states without a mandatory helmet law.

**Previously Michigan had a universal helmet use requirement, the fatality rate shown here reflects the time period when all riders were required to wear a helmet.**

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According to a 2012 National Occupant Protection Use Survey (NOPUS) Survey conducted by National Highway Traffic Safety Administration:

- In states with universal helmet laws, 89 percent of the motorcyclists observed were wearing helmets.

- In states with partial helmet use or no laws, 49 percent were observed wearing helmets.

Overview of State Law Variables

– Does state law mandate helmet use?
  • Does the law apply to all riders and passengers?
  • Who may be punished for not wearing a helmet?
  • What are the penalties for violations for riders? Passengers?

– Does the state law impose helmet standards?
  • Who may be sanctioned for producing or wearing a helmet that does not comply with the state standard?
  • What are the penalties for violations for sellers (manufacturer/retailer)? Riders?
<table>
<thead>
<tr>
<th>State</th>
<th>Compulsory Helmet Use Law?</th>
<th>For Whom?</th>
<th>Who May be Punished for a Violation?</th>
<th>What are the Helmet Standards Required by Law?</th>
<th>Who may be Punished for a Violation?</th>
<th>What is the Punishment?</th>
<th>Regulation</th>
<th>Approved Helmets</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>AR</td>
<td>Yes – AR Code §27-20-104</td>
<td>&lt;21</td>
<td>Drivers, passengers</td>
<td>Standards are set by the Office of Motor Vehicle</td>
<td>Unspecified</td>
<td>Misdemeanor punishable by fine of $10-50 or 30 days imprisonment or both</td>
<td>NONE</td>
<td>NONE</td>
<td>—</td>
</tr>
<tr>
<td>AZ</td>
<td>Yes - ARIZ REV. STAT. ANN. §28-964</td>
<td>&lt;18</td>
<td>Drivers</td>
<td>FMVSS 218</td>
<td>Unspecified</td>
<td>Unspecified</td>
<td>NONE</td>
<td>NONE</td>
<td>—</td>
</tr>
<tr>
<td>CA</td>
<td>Yes - CAL VEHICLE CODE §27503</td>
<td>Everyone</td>
<td>Drivers, passengers</td>
<td>Must meet FMVSS 218 at a minimum</td>
<td>Retailers, drivers, passengers, manufacturers</td>
<td>Fine up to $250</td>
<td>NONE</td>
<td>NONE</td>
<td>DMV is authorized to issue more stringent helmet requirements.</td>
</tr>
<tr>
<td>CO</td>
<td>Yes - COLO REV. STAT. §42-4-1502</td>
<td>&lt;18</td>
<td>Drivers, passengers</td>
<td>FMVSS 218</td>
<td>Drivers, passengers</td>
<td>Class A Traffic Infraction (fine, $15-$100)</td>
<td>NONE</td>
<td>NONE</td>
<td>2015 CO HB 1345 – Proposed Legislation creating exemption from requirements for drivers and passengers for low speed three wheel motorcycles</td>
</tr>
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</table>
Age Restrictions

Restrictions By Age

Everyone | <18 | <19 | <21 | No Restriction

- Everyone: 20
- <18: 20
- <19: 7
- <21: 1
- No Restriction: 2
Punishment for Not Wearing a Helmet

In States with Compulsory Use Laws

Who Can Be Punished?

- Both Driver and Passenger: 44
- Just Driver: 3
- Unspecified: 2
- No Requirement: 2
Federal Law: Helmet Standards

49 CFR 571.218:

- **FMVSS (Standard) 218** Sets certain standards for crash worthiness. For example, helmet must be able to withstand certain impact without separating.

- **Regulation** requires certain labels. For example, the DOT sticker must be in a certain location and certain information must be provided to consumer.

- **Enforceable** against manufacturers only.

- Note: Snell Memorial Foundation (SNELL) and American National Standards Institute (ANSI) Standards may be more rigorous than FMVSS 218.
State Laws on Standards

• Many states require that a helmet meet FMVSS 218—either in statute or regulation (majority of statutes give power to specified regulatory agency/commissioner to set standards by regulation).
  – Examples: Colorado sets FMVSS in statute; Georgia statute delegates power to Commissioner of Public Safety who has promulgated regulations imposing FMVSS 218.

• Some states require the helmet to meet FMVSS and additional requirements.
  – Examples: Alaska requires FMVSS, ANSI or SNELL; Delaware requires FMVSS and additional labeling and purchaser information.
Interesting State Examples

• Illinois and Iowa- no law requiring helmets

• California’s Law- strict; everyone must wear a helmet; retailers and manufacturers responsible for helmet specification violations, and riders and passengers may be punished for not wearing a helmet.

• Michigan Law- middle of the road; <21 must wear a helmet and; all riders and passengers choosing to ride with no helmet must have at least $20,000 in First Party Medical Benefits

• Possible imprisonment for violations in NY, MS, MO, and AR
Motorcycle Policy & the Public Interest: The Development of a Novel Partial Motorcycle Helmet Law in New Mexico

Kurt B. Nolte, MD
Office of the Medical Investigator
University of New Mexico School of Medicine
Motor Vehicle Crashes

- 32,719 deaths in 2013
- Motorcycles
  - 4381 (13%) deaths yet 3% registered vehicles & <1% of vehicle miles
  - NM fatalities
    - 301 deaths 2008-2013
    - NM 2.5 vs US 1.5/100,000 population (67% greater)
  - US fatalities more than doubled 1997-2013

Insurance Institute for Highway Safety – Highway Loss Data Institute
CDC MMWR 61(23): 425-30.
CDC WISQARS
Motorcycle Crash Injuries

• Largely attributable to head impacts
  – Craniocerebral, facial and cervical spine injuries
• Helmet non-use most significant factor for death
• Variables predictive of riding without helmet:
  – Intoxication (OR 2.9)
  – Uninsured (OR 1.4)
  – Passenger (OR 1.7)

Motorcycle Helmet Laws

• Universal laws
  – 19 states and DC
  – Helmet usage increases from 15-60% to 80-99%
  – Mortality decreases 22-33% compared to no law

• Partial laws (subset of riders <17-20 years)
  – 28 states (incl NM < 17 years)
  – Mortality decreases 7-10%

CDC MMWR 61(23): 425-30
CDC http://www.cdc.gov/motorvehiclesafety/mc/states/
Natural Experiments

• Maryland- universal law
  – Mortality decreased >50% (10.3-4.5 deaths/10K registrations)

• Texas- universal to partial law
  – Helmet use decreased from 63% to 36%
  – Mortality increased 30%

• Pennsylvania-universal to partial law
  – Helmet use decreased from 82% to 58%
  – Head injury deaths increased 66%
  – Head injury hospitalizations increased 28%

Federalism vs State’s Rights

  – “Sticks”- withholding highway funds
  – “Carrots”- incentive grants

• States free to choose w/o federal encumbrances
  – Patchwork quilt of regulations
  – State legislative responsiveness to individual liberties vs public good

CDC MMWR 61(23): 425-30.
Individual Freedom vs Community Benefits

• Policies/laws: limiting individuals & paternalism
• Biker lobby
  – Organized and formidable
  – Women’s repro rights argument - not anti-helmet but pro-choice
• Harris poll 82% respondents support helmets, 57% strongly (2012)

Economic Costs

• Level II Trauma Center- 13 years
  – 1738 hospitalized motorcyclists (760 unhelmeted)
  – Hospital: $44,744 unhelmeted vs $31,369 helmeted
  – Unhelmeted more likely uninsured (OR 1.4)

• Nat. Trauma Data Bank (9769 patients)
  – Uninsured: 28% unhelmeted vs 19% helmeted (OR 1.19)
  – Unhelmeted: die (OR 1.72), nursing home (OR 1.75), rehab hosp (OR 1.25)

• Other studies: unhelmeted 60-82% uninsured

Economic Costs

• CDC (2010)- complex model - multiple NHTSA datasets
  – Cost savings medical services & household/work productivity
  – $3B saved by helmeted riders
    – NM $2.6M saved
  – $1.4B additional savings if all riders helmeted
  – Universal laws states saved avg $725 compared with no-law states $198/registered MC
    • NM saved $48/registered motorcycle

CDC MMWR 61(23): 425-30.
Scope of Problem: New Mexico - Unhelmeted Motorcyclists

- Injuries
- Fatalities
- $40 Million
NM Policy Options

• Maintain current partial law
• Create universal law
• Develop unique partial law
Process

• Engaged stakeholders and consultants
  – Public health, public safety, transportation
  – Motorcycle riders and vendors
  – Brain Injury Advisory Council
  – Multispecialty NM physicians
  – Network for Public Health Law
  – CDC Public Health Law Program
  – State medical societies
  – Governor’s office

• Sponsor
Universal Law: SB 327

– Pro
  • Most effective way to reduce injuries, deaths & costs

– Con
  • Extremely unpopular with subset of motorcyclists
“Rider’s Choice” Helmet Law: SB 308

• Respects individual freedoms
• Respects right to choose
• Responsibility for choice
  – Incentives to wear a helmet
  – Disincentives to ride unhelmeted
• Compensates society for increased costs of injuries and deaths from riding unhelmeted
“Rider’s Choice” Helmet Law: SB 308

- Two types of motorcycle registration
  - Helmet- standard cost ($16)
  - Nonhelmet- standard cost + $677 (share of societal costs)
  - Unique reflectorized license plate sticker
  - Fines- non-compliance helmet registration ($300/600)
  - Use funds: trauma care, brain injuries, fatal injury surveillance, helmet subsidy
Egalitarian Theory of Distributive Justice

• Individuals responsible for “choice” rather than “consequences” of choice
• Principle of responsibility – can be accountable (incentives/disincentives) for choice
• Incentive/disincentive – set per unit so total cost matches overall medical/societal costs

Outcome: Both Bills

- Senate Public Affairs Committee
  - Positive testimony: physicians, medical society representative, public health official, individuals who lost family members, motorcycle riders & vendors
  - Negative testimony: many motorcyclists
    - Unsafe roads and car drivers
    - Hearing
    - Peripheral vision
    - Personal freedom
    - Costs
  - Defeated 4-3
Postmortem Observations

• Opponents
  – Used social media to organize
  – Lobbied strenuously
  – Arguments:
    • $ on tourism
    • Contested data on injuries & costs
    • “Let those who ride decide”
Public Health Messaging

Colleen Healy, JD
November 19, 2015
Principles of Effective Messaging

• People place more emphasis on their **identity**, comprised of values and relationships, rather than on their economic self-interest.
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• People place more emphasis on their **identity**, comprised of values and relationships, rather than on their economic self-interest.

• Messaging matters because the **narrative** told about an issue positions the issue as **compatible with** or **contrary to** our identity.

• Most moral judgments are primarily **intuitive** rather than based on reason.
What does this mean for Public Health Messaging?

*Public health messages must tell a narrative that is based on a cohesive set of values that appeals to intuition.*
MOTORCYCLE HELMET USE
INJURY, FATALITY AND POLICY CONSIDERATIONS

HELMET USE SAVES STATES MONEY!

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<tr>
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Injuries result in 43% higher hospital charges for unhelmeted motorcyclists ($44,744) compared to helmeted motorcyclists ($31,369).

60-82% of injured unhelmeted motorcyclists are uninsured.

PROBLEM IN NEW MEXICO: Injuries and fatalities from unhelmeted motorcyclists cost New Mexicans $40 million a year.

About 50 motorcyclists die each year in New Mexico.

In the last six years, 94% of NM motorcyclists who died were NOT wearing a helmet.

Motorcyclist fatalities are 60% HIGHER per 100,000 population in NM than in other U.S. states.

Fatal and non-fatal crash injuries are largely due to head impacts.

Helmet use decreases injuries and deaths.

NEED FOR ACTION: What can be done to reduce injuries, fatalities and costs relating to unhelmeted motorcycle riders in NM? What are the current national policy options?

UNIVERSAL HELMET LAW = Helmets mandatory for all riders

19 states and Washington DC have Universal Helmet Laws.

Helmet usage increases from 15-60% to 80-90%.

Mortality decreases 22-33% compared to no law.

PARTIAL HELMET LAW = Helmets mandatory for some riders

28 states including NM require young riders under the age of 18-21 years to wear a helmet.

Mortality decreases 7-10% in states with a Partial Helmet Law.

It’s impossible for 100% compliance without a traffic stop to identify the rider’s age.

NO LAW

3 states have no helmet law (NH, IA, IL).
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INVITING INPUT + BUILDING CONSENSUS

Stakeholders have been convening to determine what options are available for consideration in NM to reduce injuries and fatalities from unhelmeted motorcycle riders. Representatives from the Brain Injury Advisory Council, Department of Health, Department of Transportation, Office of the Medical Investigator (OMI), public health advocates, trauma doctors, neurosurgeons, and motorcyclists have met each month to identify options for consideration.

The stakeholders recognize that something must be done to reduce injuries and fatalities related to unhelmeted motorcyclists in NM--the status quo isn't an option!

NM STAKEHOLDER CONSENSUS

OPTION 1. UNIVERSAL HELMET LAW = EVERYONE WOULD WEAR A HELMET

Although this will be unpopular with a subset of motorcyclists, a Universal Helmet Law is the most effective way to reduce injuries, deaths and costs.

OPTION 2. INNOVATIVE PARTIAL HELMET LAW = RIDERS CHOOSE TO WEAR A HELMET

Using an innovative motorcycle registration system, the "Rider's Choice" Partial Helmet Law allows motorcyclists to choose whether to wear a helmet or not, and also makes riders responsible for the actual costs of choosing not to wear a helmet.

WHAT WOULD THE “RIDER’S CHOICE” PARTIAL HELMET LAW OFFER?

The Partial Helmet Law would offer a choice of two types of motorcycle registrations; a standard $15 registration for helmeted riders, that would include a distinctive validation sticker for the license plate, OR a $692 non-helmet registration.

WHY WOULD THE NON-HELMET REGISTRATION COST $692?

In addition to covering the standard registration fee, this amount reflects ACTUAL COSTS to New Mexicans for the injuries and deaths of unhelmeted motorcycle riders as determined by CDC data.

HOW WOULD REVENUES GENERATED BY THE NON-HELMET REGISTRATION BE USED?

10% to the UNM School of Medicine for OMI activities, the Fatal Injury Diagnosis and Reporting Fund
20% to the NM Brain Injury Services Fund to pay for services and supports relating to brain injury
70% to the NM Trauma Fund Authority to distribute money to trauma centers and other entities within the trauma system

For more information please contact:

NEW MEXICO BRAIN INJURY ADVISORY COUNCIL

491 Old Santa Fe Trail, Lamy Building, Santa Fe, NM 87501 505.476.7328 elizabeth.peterson@state.nm.us
“The NMMRO does not oppose helmet use, [sic] would like to keep our state a rider choice state on helmet use …”

“I will NEVER discourage a rider from wearing a helmet. I ask them to consider and respect rider freedom.”
Public health messages must tell a narrative that is based on a cohesive set of values that appeals to intuition.
# Lakoff’s Ten-Word Philosophies

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## Public Health Values

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### Application: Rider Responsibility Bill

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Suggested reading…

• “The Righteous Mind”
  – by Jonathan Haidt

• “Don’t Think of An Elephant”
  – by George Lakoff
Q&A

Please type your questions in the Q&A panel.
Thank you for attending

Please join us for this upcoming webinar:

**Immunization Information Systems (IIS) Interjurisdictional Data Sharing**

Wednesday, December 9 | 1:00 – 2:00 p.m. (ET)

This webinar provides an opportunity for public health professionals, including immunization program managers, IIS program staff, public health attorneys, and privacy officers to learn about state-specific issues related to IIS interjurisdictional sharing, a template memorandum of understanding (MOU), and possible implementation steps.

Learn more and register at: networkforphl.org/webinars