If a manufacturer determines that its helmet conforms to the federal standards and certifies that conformity by labeling the helmet with a DOT self-certification sticker, it is legal to sell that helmet under the federal law and it is legal under California law to drive a motorcycle while wearing that helmet until such time as that helmet has been shown not to conform to the federal standards. Once a helmet is shown not to conform to the federal standards--as was the case with the E & R Fiberglass "beanie" helmet--the presumption of compliance created by the self-certification label is rebutted.

We conclude the statement in *Buhl* that consumer compliance with the state law only requires the consumer to wear a helmet bearing the DOT self-certification sticker does not apply when a helmet has been shown not to conform with federal standards and the consumer has actual knowledge of this fact. That the E & R Fiberglass "beanie" helmet does not comply with the federal standards is supported by the tests performed at the request of NHTSA by two independent testing facilities as well as by E & R Fiberglass's agreement to recall the helmet. Also borne out by the record on appeal here is the fact that at least since his citations, Bianco has had actual knowledge of the determination that the "beanie" helmet did not conform to the federal standards. Exhibit D to Bianco's original petition for writ of mandamus is a September 25, 1992, letter to Bianco from the NHTSA stating, among other things, that the "beanie" helmet had been tested and shown not to comply with the federal standard.

C.

[3] Bianco attacks the fourth and fifth numbered judgment findings by attacking the evidence relied upon by the trial court to conclude the rebuttable presumption created by self-certification was rebutted.

Bianco's first point is that the NHTSA did not make a formal determination of noncompliance with regard to the beanie helmet. However, the judgment here did not rely on NHTSA making a formal determination of noncompliance to find the rebuttable presumption had been rebutted; rather, the judgment relied on E & R Fiberglass's agreement to recall the helmets (see 15 U.S.C. ss 1411-1419) and the test results from the two independent laboratories.

Bianco next argues there was never a valid recall because E & R Fiberglass's agreement to recall the beanie helmet was somehow coerced and also rescinded.

To support this argument, Bianco relies on a January 12, 1983, sworn declaration from the business manager of E & R Fiberglass that states in pertinent part that neither he "nor any other authorized agent for E & R Fiberglass, Inc., has made, nor agreed to make, a formal determination of noncompliance of the E & R Helmet with Federal Standard No. 218." This declaration does not establish coercion. Moreover, the record contains correspondence dated June 10, 1992, from the same business manager informing NHTSA that E & R Fiberglass intends to initiate a recall campaign on the beanie helmet. The record also contains a letter from the president of E & R Fiberglass, received by NHTSA's office of chief counsel on October 1, 1992, indicating the firm had initiated the recall campaign and had opted to pay a $10,000 fine by installments. We do not read the business manager's later declaration as evidence showing an intent to rescind the agreement to recall.