

CHAPTER 4

ENFORCEMENT GUIDELINES OTHER MODES OF TRANSPORTATION

1. PURPOSE. Laws relating to the operation of certain other modes of transportation require unique handling procedures when taking enforcement action. This chapter provides direction to officers contemplating enforcement action against the operators of these modes of transportation.

2. MOTORCYCLE HELMET REQUIREMENTS.

a. Authority.

(1) Section 27803 of the Vehicle Code (VC) was enacted to help reduce injuries to passengers and operators of motorcycles, motor-driven cycles, and/or motorized bicycles (including mopeds). Section 27803 VC requires all operators and passengers of these vehicles to wear a motorcycle safety helmet, certified by the manufacturer at the time of sale to meet federal standards, while on a highway.

NOTE: Effective January 1, 1998, Section 27803(f) VC exempts a person operating or riding in a fully enclosed three-wheeled motor vehicle that is not less than seven feet in length and not less than four feet in width and has an unladen weight of 900 pounds or more, if the vehicle meets or exceeds all of the requirements of the VC, the Federal Motor Vehicle Safety Standards (FMVSS) for motorcycles, and the rules and regulations adopted by the United States Department of Transportation and the National Highway Traffic Safety Administration from the requirement to wear a safety helmet.

(2) A motorcycle safety helmet is any helmet certified by the manufacturer at the time of sale to meet FMVSS. The specific requirements are contained in FMVSS 218 (49 CFR, Part 571). This standard requires each helmet be labeled permanently and legibly so the label(s) can be read showing:

- (a) Manufacturer's name.
- (b) Model designation.
- (c) Size.
- (d) Month and year of manufacture.

(e) The symbol "DOT" should appear on the outer surface, in a color that contrasts with the helmet color, on the bottom edge of the posterior portion of the helmet.

(3) Proper use of the safety helmet is defined in Section 27803(e) VC. The helmet shall be worn on the head with straps fastened and be of a size that fits the wearing person's head securely, without excessive lateral or vertical movement.

b. Policy. Enforcement of Section 27803 VC shall apply to all persons whether they are the operator of, or the passenger on, a motorcycle, a motor-driven cycle, or a motorized bicycle operated on a highway. This includes an operator or passenger of a three-wheel motorcycle and passengers seated in a sidecar attached to a motorcycle or motorized bicycle.

c. Procedure.

(1) As the result of several court decisions and the terms of a partially-vacated injunction placed against the Department, it is extremely difficult to cite motorcyclists for wearing helmets not in compliance with FMVSS 218. Therefore, officers shall not attempt to make this determination prior to or during an enforcement stop.

(2) Officers shall not cite for hard shell "beanie-type" helmets.

(3) Officers shall not seize any helmet, or purported helmet as evidence.

(4) Supervisor approval shall be obtained before citing a motorcyclist for wearing any type of head covering an officer determines is not a motorcycle helmet

(5) A photograph of the noncompliant head covering should be obtained at the time of the stop as evidence to support the violation.

(6) Section 27803(b) VC should be used to cite the operator of a motorcycle, a motor-driven cycle, or motorized bicycle for not wearing a safety helmet, or for allowing a passenger to ride without a motorcycle safety helmet.

NOTE: Normally, the driver should not be issued a CHP 215, Notice to Appear, for a passenger 16 years of age or older not wearing a motorcycle safety helmet when the passenger has been issued a CHP 215 for a violation of Section 27803(c) VC.

(7) Section 27803(c) VC should be used to cite the passenger of a motorcycle, motor-driven cycle, or motorized bicycle for not wearing a motorcycle safety helmet.

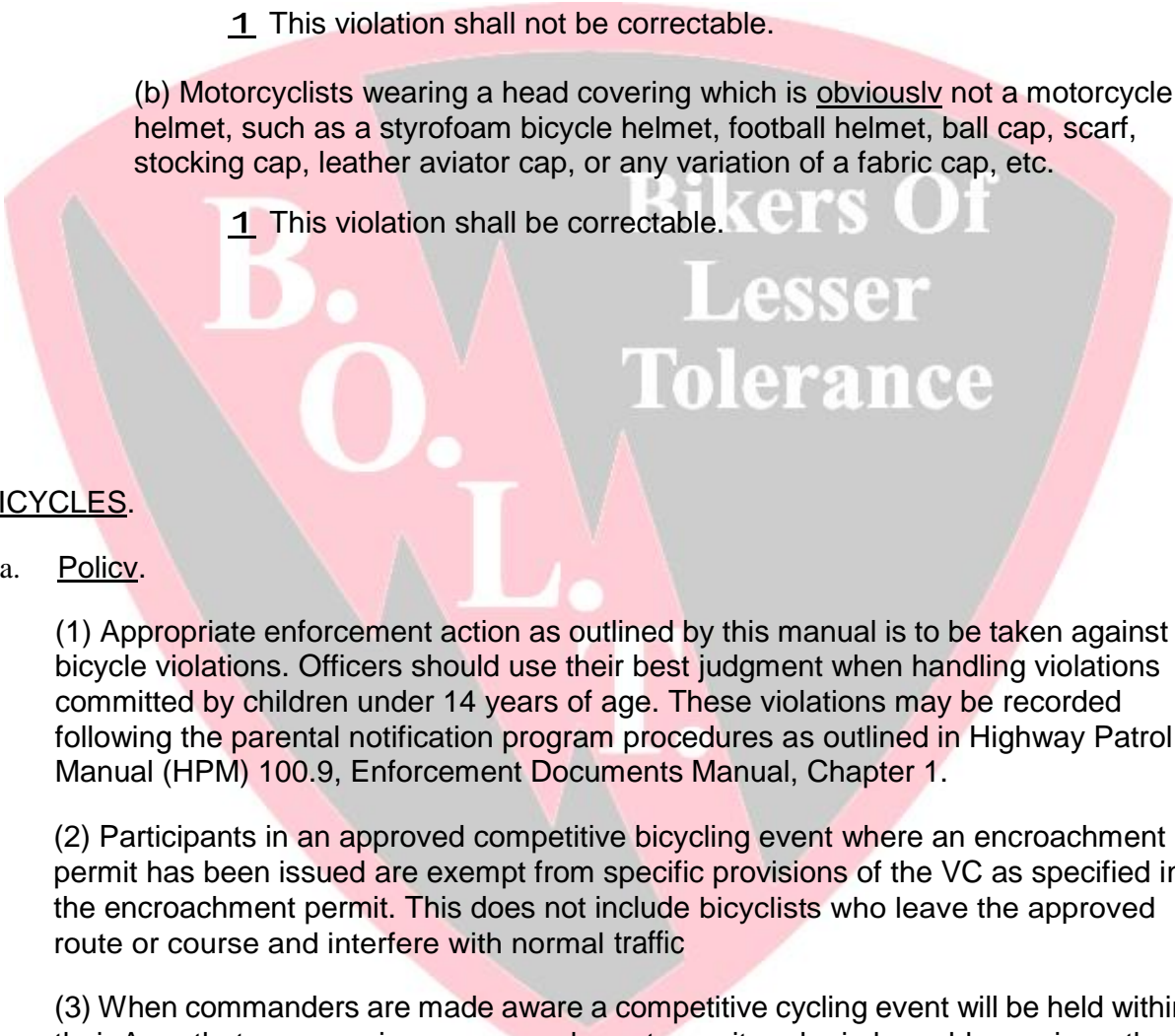
(8) Officers shall focus enforcement action on the following:

(a) Motorcyclists not wearing any type of head covering.

1 This violation shall not be correctable.

(b) Motorcyclists wearing a head covering which is obviously not a motorcycle helmet, such as a styrofoam bicycle helmet, football helmet, ball cap, scarf, stocking cap, leather aviator cap, or any variation of a fabric cap, etc.

1 This violation shall be correctable.



3. BICYCLES.

a. Policy.

(1) Appropriate enforcement action as outlined by this manual is to be taken against all bicycle violations. Officers should use their best judgment when handling violations committed by children under 14 years of age. These violations may be recorded following the parental notification program procedures as outlined in Highway Patrol Manual (HPM) 100.9, Enforcement Documents Manual, Chapter 1.

(2) Participants in an approved competitive bicycling event where an encroachment permit has been issued are exempt from specific provisions of the VC as specified in the encroachment permit. This does not include bicyclists who leave the approved route or course and interfere with normal traffic

(3) When commanders are made aware a competitive cycling event will be held within their Area that may require an encroachment permit and reimbursable services, they should refer to HPM 11.1, Administrative Procedures Manual, Chapter 6, for direction.

b. Procedure.

(1) Section 21200(a) VC provides the basis for enforcement concerning bicyclists.