

Cure the Defect

Ever wonder about the phrase "No List? No Law." ?

What we are saying is the one sure way to cure the defect of vagueness in a mandatory helmet law is for the government to provide a list of both approved and unapproved helmets.

One list issued and maintained by the Federal government would fix the problem for all fifty states. Why won't they do that?

"He who certifies, Indemnifies," or put another way, is liable for what they approve.

Now, we all know that the government enjoys pretty much blanket immunity for their actions except for Constitutional Rights violations. So why won't they make a list? Easy; the other accepted cause of action against the government is for Negligence. Especially for gross negligence with reckless disregard.

Gross negligence with reckless disregard?

Sure! Their statistics, at best, are inconclusive regarding helmet safety benefits. For the Government to require you to use a specific list from which to choose your helmets places the burden on them to prove their requirement; to prove the helmet does what they say it will do. Since we have, for 30 years, challenged the safety argument regarding helmets the Government can't say they didn't know.

We told them a thousand times.

To issue a list without the ability to prove the safety benefit in spite of our challenges, in my opinion, takes them to the negligence stage and makes them open to cases seeking damages for injuries due to their list.

When a claimant points out the government's inability to prove their claim of safety benefit, and further points out the government's knowledge of the increased risk of spinal injury due to their list, I believe the government has now gone to "gross negligence with reckless disregard."

Who would you rather be, the government's lawyer or the paraplegic's attorney in front of a sympathetic jury? After all, what will it hurt for the jury to give away some of the governments money to this poor guy and his family?

So in my humble opinion, that's why the slogan "No List? No law!" is the one to beat the government over the head with, because they will never do what we demand (supply the list). And us? Well, we are just trying to fix the problem by offering a sensible solution to a complex problem, which the government refuses to do. Instead, they leave us open to unconstitutional treatment by their refusal to accept their responsibility, and admit their mistake or give us a list!

Remember, the Federal government self insures. Any monetary awards from a jury would come right out of their pocket, not some insurance company's pocket. After they give away a few hundred million dollars due to their mandatory helmet law they'll lose their love of helmets or at least the love of helmet laws.

This may or may not be a clear, concise picture of why we demand a list, and there might be further reasons which were not touch upon in this article. One thing for sure, my explanation is a damned good reason to chase that list at every turn...

**Now that you know, get out there and demand that list!
No list? No law!**

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