

CHAPTER 4

REVISED APRIL 2006

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 that each helmet be labeled permanently and legibly so that 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) 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 that meets federal standards, or for allowing a passenger to ride without a motorcycle safety helmet.

(2) Section 27803(c) VC should be used to cite the passenger of a motorcycle or motorized bicycle for not wearing a motorcycle safety helmet.

(3) 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. Additionally, officers shall not seize any helmet, or purported helmet, as evidence to prove that a particular helmet worn by the violator does not meet FMVSS 218.

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

(a) Motorcyclists not wearing a helmet.

(b) Motorcyclists wearing helmets which are obviously not motorcycle helmets, such as styrofoam bicycle helmets or football helmets.

(5) Officers should not cite operators or passengers of a motorcycle, a motor-driven cycle, or motorized bicycle for nonuse of a helmet if that nonuse was incidental to the off-highway use of the vehicle while crossing the highway.