

1 HB626
2 107846-3
3 By Representatives Gordon, Howard, Boyd, Barton, Ison, Martin
4 and Vance
5 RFD: Public Safety
6 First Read: 26-FEB-09

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8 SYNOPSIS: Existing law provides that operators and
9 passengers on bicycles who are under the age of 16
10 must wear protective bicycle helmets.

11 This bill would extend that requirement to
12 operators of certain vehicles with wheels that are
13 powered by human propulsion or a motor. This bill
14 would provide penalties for violations.

15 This bill would exempt farmers.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Sections 32-5A-281, 32-5A-282, 32-5A-283,
16 32-5A-284, 32-5A-285, and 32-5A-286, Code of Alabama 1975,
17 providing for bicycle safety, to require operators of certain
18 vehicles with wheels that are powered by human propulsion or a
19 motor to wear a helmet; to exempt farmers; to provide
20 penalties for violations; and in connection therewith would
21 have as its purpose or effect the requirement of a new or
22 increased expenditure of local funds within the meaning of
23 Amendment 621 of the Constitution of Alabama of 1901, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 32-5A-281, 32-5A-282, 32-5A-283,
2 32-5A-284, 32-5A-285, and 32-5A-286, of the Code of Alabama
3 1975, are amended to read as follows:

4 "§32-5A-281.

5 "As used in this article, the following words shall
6 have the following meanings:

7 "(1) ALL-TERRAIN VEHICLE. A motorized vehicle
8 designed for all-terrain use that is equipped with three or
9 more low pressure tires, a seat to be straddled by the
10 operator, and handlebars for steering control.

11 "~~(1)~~ (2) BICYCLE. A human-powered vehicle with two
12 wheels in tandem design to transport by the act of pedaling
13 one or more persons seated on one or more saddle seats on its
14 frame. "Bicycle" includes, but is not limited to, a
15 human-powered vehicle designed to transport by the act of
16 pedaling which has more than two wheels when the vehicle is
17 used on a public roadway, public bicycle path, or other public
18 road or right-of-way, ~~but does not include a tricycle.~~

19 "~~(2)~~ (3) OPERATOR. A person who ~~travels on a~~ operates
20 an all-terrain vehicle, motorized tricycle, bicycle, or
21 motorized scooter. ~~seated on a saddle seat from which that~~
22 person is intended to and can pedal the bicycle The term
23 operator may not be construed to include a farmer or his or
24 her employee who operates an all-terrain vehicle that is
25 defined in this section to transport agricultural products,
26 livestock, farm machinery, or farm supplies to or from a farm.

1 "~~(3)~~(4) OTHER PUBLIC RIGHT-OF-WAY. Any right-of-way
2 other than a public roadway or public bicycle path that is
3 under the jurisdiction and control of the state or a local
4 political subdivision thereof.

5 "~~(4)~~(5) PASSENGER. Any person who travels on a
6 bicycle in any manner except as an operator.

7 "~~(5)~~(6) PROTECTIVE ~~BICYCLE~~ HELMET. A piece of
8 headgear which meets or exceeds the impact standard for
9 protective bicycle helmets set by the American National
10 Standards Institute (ANSI) or the Snell Memorial Foundation,
11 or which is otherwise approved by the Alabama Department of
12 Public Safety.

13 "~~(6)~~(7) PUBLIC BICYCLE PATH. A right-of-way under
14 the jurisdiction and control of the state, or a local
15 political subdivision thereof, for use primarily by bicyclists
16 and pedestrians.

17 "~~(7)~~(8) PUBLIC ROADWAY. A right-of-way under the
18 jurisdiction and control of the state or a local political
19 subdivision thereof for use primarily by motor vehicular
20 traffic.

21 "~~(8)~~(9) RESTRAINING SEAT. A seat separate from the
22 saddle seat of the operator of the all-terrain vehicle,
23 motorized tricycle, bicycle, or a bicycle trailer or similar
24 product that is fastened securely to the frame of the
25 all-terrain vehicle, motorized tricycle, bicycle, or motorized
26 scooter and is adequately equipped to restrain the passenger

1 in the seat and protect the passenger from the moving parts of
2 the all-terrain vehicle, motorized tricycle, or bicycle.

3 "(10) SCOOTER. Any two-wheeled device that has
4 handle bars, is designed to be stood upon by the operator, and
5 is powered by either human propulsion or a motor, or both.

6 "~~(9) (11)~~ TRICYCLE. A three-wheeled motorized-powered
7 vehicle ~~designed for use by a child under the age of six.~~

8 "§32-5A-282.

9 "The purpose of this article is to reduce the
10 incidence of disability and death resulting from injuries
11 incurred in ~~bicycling~~ all-terrain vehicle, motorized tricycle,
12 bicycle, and motorized scooter accidents by requiring that,
13 while riding on ~~a~~ an all-terrain vehicle, motorized tricycle,
14 bicycle, or motorized scooter on public roadways, public
15 bicycle paths, or other public rights-of-way, all operators
16 and passengers who are under 16 years of age to wear approved
17 protective ~~bicycle~~ helmets, and by requiring that all
18 all-terrain vehicle, motorized tricycle, bicycle, or motorized
19 scooter passengers who weigh less than 40 pounds or are less
20 than 40 inches in height be seated in separate restraining
21 seats.

22 "§32-5A-283.

23 "It is unlawful for any person to use ~~a~~ an
24 all-terrain vehicle, motorized tricycle, bicycle, or motorized
25 scooter on a public roadway, public bicycle path, other public
26 rights-of-way, state, city, or county public park under any
27 one of the following conditions:

1 "(1) For any person under the age of 16 years to
2 operate or be a passenger on a an all-terrain vehicle,
3 motorized tricycle, bicycle, or motorized scooter unless at
4 all times the person wears a protective ~~bicycle~~ helmet of good
5 fit, fastened securely upon the head with the straps of the
6 helmet.

7 "(2) For any person to operate a an all-terrain
8 vehicle, motorized tricycle, bicycle, or motorized scooter
9 with a passenger who weighs less than 40 pounds or is less
10 than 40 inches in height unless the passenger is properly
11 seated in and adequately secured in a restraining seat.

12 "(3) For any parent or legal guardian of a person
13 under the age of 16 years to knowingly permit the person to
14 operate or be a passenger on a an all-terrain vehicle,
15 motorized tricycle, bicycle, or motorized scooter in violation
16 of subdivision (1) or (2).

17 "§32-5A-284.

18 "(a) A person regularly engaged in the business of
19 renting all-terrain vehicles, motorized tricycles, bicycles,
20 or motorized scooters shall require each person seeking to
21 rent a an all-terrain vehicle, motorized tricycle, bicycle, or
22 motorized scooter to provide his or her signature either on
23 the rental form or on a separate form indicating both of the
24 following:

25 "(1) Receipt of a written explanation of the
26 provisions of this article and the penalties for violations.

1 "(2) A statement concerning whether a person under
2 the age of 16 years will operate the all-terrain vehicle,
3 motorized tricycle, bicycle, or motorized scooter in an area
4 where the use of a helmet is required.

5 "(b) A person regularly engaged in the business of
6 renting all-terrain vehicles, motorized tricycles, bicycles,
7 or motorized scooters shall provide a helmet to any person who
8 will operate the all-terrain vehicle, motorized tricycle,
9 bicycle, or motorized scooter in an area requiring a helmet,
10 if the person does not already have a helmet in his or her
11 possession. A reasonable fee may be charged for the helmet
12 rental.

13 "(c) A person regularly engaged in the business of
14 selling or renting all-terrain vehicles, motorized tricycles,
15 bicycles, or motorized scooters who complies with this article
16 shall not be liable in a civil action for damages for any
17 physical injuries sustained by ~~a~~ an all-terrain vehicle,
18 motorized tricycle, bicycle, or motorized scooter operator or
19 passenger as a result of the operator's or passenger's failure
20 to wear a helmet or to wear a properly fitted or fastened
21 helmet in violation of this article.

22 "§32-5A-285.

23 "It is the legislative intent to implement an
24 effective statewide all-terrain vehicle, motorized tricycle,
25 bicycle, and motorized scooter safety education program to
26 reduce disability and death resulting from improper or unsafe
27 all-terrain vehicle, motorized tricycle, bicycle, and

1 motorized scooter operation. Violations of Section 32-5A-283
2 shall be handled in the following manner:

3 "(1) On the first offense for a violation of this
4 article, the police officer shall counsel and provide written
5 information to the child relative to ~~bicycle~~ helmet safety.
6 The officer shall instruct the child to deliver the written
7 information to the parent.

8 "(2) On the second offense for a violation of this
9 article, the police officer shall counsel the child and
10 provide written information on ~~bicycle~~ helmet safety. A
11 warning citation shall be issued to the child to give to the
12 parent. The citation shall instruct the parent or guardian to
13 contact the police department for further information about
14 the law and where to obtain a ~~bicycle~~ helmet.

15 "(3) ~~Beginning on July 1, 1996, upon~~ Upon a third
16 offense for a violation of this article, the police officer
17 shall counsel the child, confiscate the all-terrain vehicle,
18 motorized tricycle, bicycle, or motorized scooter, and take
19 the child to his or her residence. The officer shall then
20 return the all-terrain vehicle, motorized tricycle, bicycle,
21 or motorized scooter and give a warning ticket to the parent
22 or guardian. If the parent or guardian is unavailable, the
23 ticket shall be left at the residence with instructions to the
24 parent or guardian to pick up the all-terrain vehicle,
25 motorized tricycle, bicycle, or motorized scooter at the
26 police department.

1 "(4) ~~Beginning on July 1, 1996, upon~~ Upon a fourth
2 offense for a violation of this article, the police officer
3 shall confiscate the all-terrain vehicle, motorized tricycle,
4 bicycle, or motorized scooter, take the child to his or her
5 residence, and return the all-terrain vehicle, motorized
6 tricycle, bicycle, or motorized scooter, whereupon a citation
7 for fifty dollars (\$50) will be issued to the parent or
8 guardian of the child. No court costs nor fees may be added to
9 the fine or penalty. The fine or penalty shall be waived or
10 suspended if the operator or passenger presents by the court
11 date, proof of purchase or evidence of having provided a
12 protective bicycle helmet or restraining seat and intends to
13 use or causes to be used or intends to cause to be used the
14 helmet as provided by law.

15 "(5) Any fine or penalty monies shall be earmarked
16 and used separately by the local school system for the purpose
17 of safety education or the local municipality for the purchase
18 of helmets for the financially disadvantaged.

19 "(6) The Traffic Safety Center of the University of
20 Montevallo, in conjunction with the Child Safety Institute at
21 Children's Hospital of Alabama, shall furnish all materials,
22 handouts, brochures, and other information related to bicycle
23 safety used by police departments.

24 "§32-5A-286.

25 "A municipality may establish a more comprehensive
26 all-terrain vehicle, motorized tricycle, bicycle, and

1 motorized scooter safety program than that imposed by this
2 article by local ordinance."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.