



INFORMATION BULLETIN *for Allied Agencies*

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BULLETIN NO. 209

MOTORCYCLE HELMET ENFORCEMENT

Current California Highway Patrol (CHP) motorcycle helmet policy is the result of several court decisions and the terms of a partially-vacated injunction placed against the Department which make it extremely difficult to cite motorcyclists for wearing helmets not in compliance with the Federal Motor Vehicle Safety Standards (FMVSS) #218.

With approval of the 2009 Uniform Bail Schedule, a citation for a violation of California Vehicle Code (VC) Section 27803(b) or (c), when wearing a noncompliant head covering, can be eligible for correction.

As a result, the CHP is revising its policy to reflect the following:

- Officers shall not cite for hard shell "beanie-type" helmets.
- Officers shall not seize any helmet, or purported helmet as evidence.
- Supervisor approval shall be obtained before citing a motorcyclist for wearing any type of head covering an officer determines is not a motorcycle helmet.
- A photograph of the noncompliant head covering should be obtained at the time of the stop as evidence to support the violation.
- 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.
- Normally, the driver should not be issued a citation for a passenger 16 years of age or older not wearing a motorcycle safety helmet when the passenger has been issued a citation for a violation of Section 27803(c) VC.
- Section 27803(c) VC should be used to cite the passenger of a motorcycle, a motor-driven cycle, or motorized bicycle for not wearing a safety helmet.

- Officers shall focus enforcement action on the following:
 - Motorcyclists not wearing any type of head covering.
 - 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, any variation of a fabric cap, etc.
 - ✓ With approval of the 2009 Uniform Bail Schedule, a citation for a violation of Section 27803(b) or (c) VC, when wearing a noncompliant head covering, can be eligible for correction, if in the judgment of the officer, after consultation with a supervisor, such action is warranted.
 - ✓ When making a determination of whether the head covering should be eligible for correction, Sections 40522 and 40610(b) VC shall be referenced.

Section 40610(b) VC allows a violation be eligible for correction unless the officer finds any of the following:

1. Evidence of fraud or persistent neglect.
2. The violation presents an immediate safety hazard.
3. The violator does not agree to, or cannot, promptly correct the violation.

An officer's belief that a wearer knows, or should know that a particular item of headwear is or is not a safety helmet is insufficient to establish if any of the three conditions above is present.

- ✓ When requested to sign off on a correctable violation for Sections 27803(b) or (c) VC, uniformed personnel shall not sign off on the citation if the "corrected" head covering is obviously not a motorcycle helmet, such as a styrofoam bicycle helmet, football helmet, ball cap, scarf, stocking cap, leather aviator cap, any variation of a fabric cap, etc.

Questions concerning this Information Bulletin may be directed to Research and Planning Section at (916) 657-7237.

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