

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 1989**

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HOUSE BILL 1264  
Committee Substitute Favorable 5/10/89  
Third Edition Engrossed 5/11/89  
Judiciary I Senate Committee Substitute Adopted 7/12/89

Short Title: Motorcycle Helmet Usage.

(Public)

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Sponsors:

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Referred to:

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April 12, 1989

A BILL TO BE ENTITLED

1  
2 AN ACT TO REDUCE THE PENALTY FOR FAILURE TO WEAR HELMETS ON  
3 MOTORCYCLES, TO MAKE FAILURE TO WEAR HELMETS ON MOPEDS  
4 AN INFRACTION, AND TO AMEND THE DRIVING WHILE IMPAIRED  
5 STATUTES RELATING TO THE DEFINITION OF VEHICLE AND THE  
6 MAINTENANCE OF BREATH-TESTING INSTRUMENTS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 20-140.4 reads as rewritten:

9 "**§ 20-140.4. Special provisions for motorcycles and mopeds.**

10 (a) No person shall operate a motorcycle or moped upon a highway or public  
11 vehicular area:

12 (1) When the number of persons upon such motorcycle or moped,  
13 including the operator, shall exceed the number of persons which it  
14 was designed to carry.

15 (2) Unless the operator and all passengers thereon wear safety helmets of a  
16 type approved by the Commissioner of Motor Vehicles.

17 (b) Violation of any provision of this section shall not be considered negligence  
18 per se or contributory negligence per se in any civil action.

19 (c) Any person convicted of violating this section shall have committed an  
20 infraction and shall be fined according to G.S. 20-135.2A(e) and (f)."

21 Sec. 2. G.S. 138.1 is amended by adding a new subsection at the end to read:

1        "(e) Exception. – Notwithstanding the definition of 'vehicle' pursuant to G.S. 20-  
2 4.01(49), for purposes of this section the word 'vehicle' does not include a horse,  
3 bicycle, or lawnmower."

4                Sec. 3. G.S. 20-139.1(b2) reads as rewritten:

5 "(b2) Breath Analysis Results Inadmissible if Preventive Maintenance Not Performed. –  
6 Notwithstanding the provisions of subsection (b), the results of a chemical analysis of a  
7 person's breath performed in accordance with this section are not admissible in evidence  
8 if:

- 9                (1) The defendant objects to the introduction into evidence of the results  
10                of the chemical analysis of his breath; and  
11                (2) The defendant demonstrates that, with respect to the instrument used to  
12                analyse his breath, preventive maintenance procedures required by the  
13                regulations of the Commission for Health Services had not been  
14                performed within the time limits prescribed by those regulations. In  
15                district court an affidavit by the person who performs the preventative  
16                maintenance on the breath-testing instruments is sufficient to prove the  
17                date that the preventative maintenance procedures were performed."

18                Sec. 4. This act shall become effective October 1, 1989.