

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0500.01 Jason Gelender

**HOUSE BILL 10-1147**

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**HOUSE SPONSORSHIP**

**Kefalas**, Fischer, Gagliardi, Hullinghorst, Kerr A., McFadyen, Merrifield, Primavera, Vigil

**SENATE SPONSORSHIP**

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**House Committees**

Transportation & Energy

**Senate Committees**

Education

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**A BILL FOR AN ACT**

101     **CONCERNING SAFER USE OF NONMOTORIZED WHEELED**  
102             **TRANSPORTATION BY MINORS, AND, IN CONNECTION**  
103             **THEREWITH, CODIFYING INTO LAW THE EXISTING BIKE AND**  
104             **PEDESTRIAN POLICY DIRECTIVE OF THE DEPARTMENT OF**  
105             **TRANSPORTATION, REQUIRING THE [REDACTED] DEPARTMENT OF**  
106             **TRANSPORTATION, IN COLLABORATION WITH THE DEPARTMENTS**  
107             **OF EDUCATION AND PUBLIC SAFETY AND APPROPRIATE**  
108             **NONPROFIT ORGANIZATIONS AND ADVOCACY GROUPS, TO**  
109             **NOTIFY SCHOOLS OF THE AVAILABILITY OF AND MAKE**  
110             **AVAILABLE TO SCHOOLS EXISTING EDUCATIONAL CURRICULUM**  
111             **FOR MINORS REGARDING THE SAFE USE OF PUBLIC STREETS AND**  
112             **PREMISES OPEN TO THE PUBLIC, AND REQUIRING THAT A MINOR**

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
March 3, 2010

HOUSE  
Amended 2nd Reading  
March 1, 2010

101  
102

**WEAR A PROTECTIVE HELMET WHILE USING NONMOTORIZED  
WHEELED TRANSPORTATION ON SUCH STREETS AND PREMISES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Section 2** of the bill codifies the existing bicycle and pedestrian policy directive of the department of transportation (CDOT) into law and makes legislative declarations.

**Section 3** of the bill:

- ! Requires CDOT and the departments of education and public safety to collaborate, under the auspices of the safe routes to schools program of CDOT, with local governments, school districts, and appropriate organizations to develop and make available to schools a comprehensive educational curriculum regarding the safe use of public streets and premises open to the public by users of nonmotorized wheeled transportation.
- ! Requires an individual 2 years of age or older but under 18 years of age to wear a helmet that meets the applicable federal safety standard for helmets whenever the individual uses nonmotorized wheeled transportation on a public street or premises open to the public.
- ! Defines "nonmotorized wheeled transportation" as any human-powered vehicle or equipment intended for use on public streets and premises open to the public and designed primarily to transport one or more individuals and that rolls on wheels including, but not limited to, a bicycle, scooter, skateboard, or in-line skates. The definition does not include a wagon, a trailer, or any other vehicle or equipment that is primarily designed to be towed or pulled by an individual or by any other vehicle or equipment.
- ! Categorizes a violation of the helmet requirement as an unclassified traffic infraction but specifies that its enforcement shall consist only of the stopping of a violator or an accompanying adult, the informing of the violator or accompanying adult of the violation, and the provision of a card to the violator or accompanying adult that explains the risks of not wearing a helmet and provides information

as to where the violator may obtain a free or low-cost helmet if the violator or the violator's family cannot afford to purchase one.

! Specifies that a violation of the helmet requirement is not admissible as evidence in court as a defense against liability or to reduce damages in a lawsuit arising out of the violator's death or injury and that the parent or legal guardian of a violator shall not be subject to any legal liability due to the violation.

! Exempts from the helmet requirement an individual whose religious beliefs or practices would be violated by the wearing of a helmet.

**Section 1** of the bill makes legislative findings and declarations.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) It is in the best interests of all Coloradans to make our streets  
5 safe for all users including motorists, transit users, pedestrians, bicyclists,  
6 and users of other types of nonmotorized wheeled transportation;

7 (b) The safe routes to school program and the bicycle and  
8 pedestrian policy adopted by the Colorado department of transportation  
9 help to make our streets more friendly to pedestrians, bicyclists, and users  
10 of other forms of nonmotorized wheeled transportation and to encourage  
11 more children to walk, bike, or use another form of nonmotorized  
12 wheeled transportation to get to and from school safely; and

13 (c) Children and adolescents will benefit from additional  
14 education regarding the rules of the road, high risk traffic situations, and  
15 the safe use of bicycles and other forms of nonmotorized wheeled  
16 transportation.

17 (2) The general assembly further finds and declares that:

18 (a) In its strategic plan, the Colorado state patrol has made a

1 commitment to lead and to sustain a cooperative effort that will eliminate  
2 most traffic fatalities in Colorado by 2025;

3 (b) Although bicycling is a safe and healthy activity, on average,  
4 eleven bicyclists are killed and five hundred forty bicyclists are  
5 hospitalized annually in Colorado due to injuries sustained in bicycle  
6 crashes;

7 (c) Brain injury is the leading cause of death and serious disability  
8 resulting from the use of nonmotorized wheeled transportation, and in  
9 Colorado approximately one-third of hospital emergency room visits for  
10 bicycle-related accidents are for brain injuries;

11 (d) Of all age groups, children between the ages of five and  
12 fourteen have the highest rate of bicycle-related hospital admissions, and  
13 almost one-third of such hospitalized children have suffered brain  
14 injuries; and

15 (e) Because the economic cost to an individual and to society of  
16 a single severe nonfatal brain injury can exceed two million one hundred  
17 thousand dollars, the state has a legitimate interest in preventing and  
18 mitigating the severity of such injuries.

19 (3) The general assembly further finds and declares that it is  
20 necessary, appropriate, and in the best interest of the state to:

21 (a) Adopt the existing bike and pedestrian policy directive of the  
22 department of transportation as law;

23 (b) Facilitate the promulgation and distribution of a nonmotorized  
24 wheeled vehicle safety education curriculum; and

25 (c) Establish a mandatory protective helmet law for those two  
26 years of age or older but under eighteen years of age who use bicycles,  
27 scooters, in-line skates, skateboards, and other nonmotorized wheeled

1 transportation on Colorado streets and premises open to the public.

2 **SECTION 2.** Part 1 of article 1 of title 43, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5 **43-1-120. Bicycle and pedestrian policy - codification -**  
6 **legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND  
7 DECLARES THAT:

8 (a) IT IS IN THE BEST INTEREST OF ALL COLORADANS TO PROMOTE  
9 TRANSPORTATION MODE CHOICE BY ENHANCING SAFETY AND MOBILITY  
10 FOR BICYCLISTS AND PEDESTRIANS ON OR ALONG THE STATE HIGHWAY  
11 SYSTEM;

12 (b) THE DEPARTMENT HAS ADOPTED A BIKE AND PEDESTRIAN  
13 POLICY DIRECTIVE TO FURTHER THIS GOAL; AND

14 (c) IT IS NECESSARY AND APPROPRIATE TO ELEVATE THE STATUS  
15 OF THE BIKE AND PEDESTRIAN POLICY OF THE DEPARTMENT TO THAT OF  
16 LAW BY CODIFYING IT IN SUBSECTION (2) OF THIS SECTION.

17 (2) (a) THE DEPARTMENT AND ITS SUBDIVISIONS SHALL PROVIDE  
18 TRANSPORTATION INFRASTRUCTURE THAT ACCOMMODATES BICYCLE AND  
19 PEDESTRIAN USE OF PUBLIC STREETS IN A MANNER THAT IS SAFE AND  
20 RELIABLE FOR ALL USERS OF PUBLIC STREETS;

21 (b) THE NEEDS OF BICYCLISTS AND PEDESTRIANS SHALL BE  
22 INCLUDED IN THE PLANNING, DESIGN, AND OPERATION OF  
23 TRANSPORTATION FACILITIES AS A MATTER OF ROUTINE; AND

24 (c) ANY DECISION OF THE DEPARTMENT TO NOT ACCOMMODATE  
25 THE NEEDS OF BICYCLISTS AND PEDESTRIANS SHALL BE DOCUMENTED  
26 BASED ON EXEMPTION CRITERIA THAT WERE ESTABLISHED BY THE  
27 COMMISSION BEFORE THE DECISION WAS MADE.



1 (I) FOR A BICYCLIST, PROTECTIVE HEADGEAR FOR USE IN  
2 BICYCLING THAT MEETS THE FEDERAL SAFETY STANDARD FOR BICYCLE  
3 HELMETS SET FORTH IN 16 CFR SEC. 1203.1 ET SEQ.

4 (II) FOR A USER OF NONMOTORIZED WHEELED TRANSPORTATION  
5 OTHER THAN A BICYCLE, PROTECTIVE HEADGEAR FOR USE IN USING THE  
6 APPLICABLE FORM OF NONMOTORIZED WHEELED TRANSPORTATION THAT  
7 MEETS AN APPLICABLE SAFETY STANDARD OF THE UNITED STATES  
8 CONSUMER PRODUCT SAFETY COMMISSION.

9 (b) (I) "NONMOTORIZED WHEELED TRANSPORTATION" MEANS ANY  
10 VEHICLE OR EQUIPMENT INTENDED FOR USE ON PUBLIC STREETS AND  
11 PREMISES OPEN TO THE PUBLIC THAT IS DESIGNED TO BE PROPELLED  
12 ENTIRELY OR PARTLY BY HUMAN POWER PRIMARILY FOR THE PURPOSE OF  
13 TRANSPORTING ONE OR MORE INDIVIDUALS AND THAT ROLLS ON WHEELS  
14 INCLUDING, BUT NOT LIMITED TO, A BICYCLE, SCOOTER, SKATEBOARD, OR  
15 IN-LINE SKATES. "NONMOTORIZED WHEELED TRANSPORTATION" DOES NOT  
16 INCLUDE A NONMOTORIZED WHEELCHAIR OR ANY OTHER NONMOTORIZED  
17 WHEELED ASSISTIVE DEVICE THAT IS PRIMARILY DESIGNED TO INCREASE  
18 THE MOBILITY OF A PERSON WITH A DISABILITY, A WAGON, A TRAILER, OR  
19 ANY OTHER VEHICLE OR EQUIPMENT THAT IS PRIMARILY DESIGNED TO BE  
20 TOWED OR PULLED BY AN INDIVIDUAL OR BY ANY OTHER VEHICLE OR  
21 EQUIPMENT; EXCEPT THAT "NONMOTORIZED WHEELED TRANSPORTATION"  
22 INCLUDES A NONMOTORIZED TRAILER THAT IS PRIMARILY DESIGNED TO BE  
23 ATTACHED TO AND TOWED BY A BICYCLE FOR THE PURPOSE OF  
24 TRANSPORTING ONE OR MORE CHILDREN.

25 (II) THE CLASSIFICATION OF A BICYCLE AS NONMOTORIZED  
26 WHEELED TRANSPORTATION FOR PURPOSES OF THIS PART 23 SHALL NOT BE  
27 DEEMED TO ALTER ANY CLASSIFICATION OF A BICYCLE AS A VEHICLE FOR

1 PURPOSES OF ANY OTHER LAW OR AGENCY RULE OF THIS STATE.

2 (2) AN INDIVIDUAL TWO YEARS OF AGE OR OLDER BUT UNDER  
3 EIGHTEEN YEARS OF AGE SHALL WEAR A HELMET UPON HIS OR HER HEAD  
4 WITH THE HELMET STRAPS SECURELY FASTENED WHENEVER THE  
5 INDIVIDUAL USES NONMOTORIZED WHEELED TRANSPORTATION ON A  
6 PUBLIC STREET OR PREMISES OPEN TO THE PUBLIC.

7 (3) (a) A VIOLATION OF THIS SECTION IS PROHIBITED AND IS A  
8 NONCRIMINAL OFFENSE. A LAW ENFORCEMENT OR PUBLIC SAFETY OFFICER  
9 MAY ENFORCE THIS SECTION BY STOPPING A MINOR WHO VIOLATES THIS  
10 SECTION, OR AN ACCOMPANYING ADULT, INFORMING THE MINOR OR THE  
11 ACCOMPANYING ADULT OF THE VIOLATION OF THIS SECTION, AND  
12 PROVIDING A SAFETY INFORMATION CARD TO THE MINOR OR THE  
13 ACCOMPANYING ADULT THAT EXPLAINS THE RISKS OF NOT WEARING A  
14 HELMET AND PROVIDES INFORMATION AS TO WHERE THE MINOR MAY  
15 OBTAIN A FREE OR LOW-COST HELMET IF THE MINOR OR HIS OR HER FAMILY  
16 CANNOT AFFORD TO PURCHASE ONE. THE ENFORCEMENT MECHANISM  
17 PROVIDED FOR IN THIS PARAGRAPH (a) IS INTENDED TO PROVIDE A  
18 LEARNING EXPERIENCE FOR THE MINOR OR ACCOMPANYING ADULT AND A  
19 COMMUNITY POLICING OPPORTUNITY FOR THE LAW ENFORCEMENT  
20 OFFICER.

21 (b) THE DEPARTMENT OF TRANSPORTATION, IN COLLABORATION  
22 WITH THE DEPARTMENTS OF EDUCATION AND PUBLIC SAFETY AND  
23 APPROPRIATE NONPROFIT ORGANIZATIONS AND ADVOCACY GROUPS, SHALL  
24 DESIGN, DEVELOP, AND PRODUCE AN ELECTRONIC SAFETY INFORMATION  
25 CARD THAT CAN BE MODIFIED TO MATCH LOCAL NEEDS, PRINTED AT THE  
26 LOCAL LEVEL, AND PROVIDED PURSUANT TO PARAGRAPH (a) OF THIS  
27 SUBSECTION (3) AND SHALL DEVELOP AND IMPLEMENT AN ELECTRONIC



1 SAFETY INFORMATION CARD DISTRIBUTION PLAN, INCLUDING THE POSTING  
2 TO APPROPRIATE INTERNET WEB SITES OF THE ELECTRONIC SAFETY  
3 INFORMATION CARDS. THE DIRECT AND INDIRECT COSTS OF PRODUCING  
4 AND DISTRIBUTING SAFETY INFORMATION CARDS SHALL BE PAID FOR WITH  
5 AVAILABLE FEDERAL MONEYS, GRANTS, GIFTS, DONATIONS, SERVICES, AND  
6 IN-KIND DONATIONS FROM ANY PUBLIC OR PRIVATE ENTITY ONLY. THE  
7 DISTRIBUTION OF HARD COPIES OF SAFETY INFORMATION CARDS SHALL BE  
8 IMPLEMENTED THROUGH COLLABORATION BETWEEN LOCAL LAW  
9 ENFORCEMENT AGENCIES AND APPROPRIATE NONPROFIT ORGANIZATIONS  
10 AND ADVOCACY GROUPS AND MAY BE SUPPORTED BY THE DEPARTMENTS  
11 OF TRANSPORTATION, EDUCATION, AND PUBLIC SAFETY.

12 (4) (a) NEITHER EVIDENCE OF A VIOLATION OF THIS SECTION NOR  
13 OTHER EVIDENCE OF A FAILURE TO WEAR A HELMET SHALL BE ADMISSIBLE  
14 AS EVIDENCE IN COURT AS A DEFENSE AGAINST CIVIL LIABILITY OR TO  
15 REDUCE THE AMOUNT OF DAMAGES IN AN ACTION FOR DAMAGES BROUGHT  
16 BY OR ON BEHALF OF A USER OF NONMOTORIZED WHEELED  
17 TRANSPORTATION OR THE SURVIVORS OF A DECEASED USER OF  
18 NONMOTORIZED WHEELED TRANSPORTATION OR A PASSENGER OF SUCH A  
19 USER, IF THE USER WAS INJURED OR KILLED AS A RESULT, IN WHOLE OR IN  
20 PART, OF THE FAULT OF ANOTHER.

21 (b) THE PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL TWO  
22 YEARS OF AGE OR OLDER BUT UNDER EIGHTEEN YEARS OF AGE WHO  
23 VIOLATES THIS SECTION SHALL NOT BE SUBJECT TO ANY CIVIL LEGAL  
24 LIABILITY OR DESIGNATION OF FAULT DUE TO THE VIOLATION. A PRIVATE  
25 OR PUBLIC LANDOWNER OR LESSEE OR PERMITTEE OF PREMISES OPEN TO  
26 THE PUBLIC SHALL HAVE NO RESPONSIBILITY TO ENFORCE THIS SECTION.  
27 NEITHER SUCH A LANDOWNER OR LESSEE OR PERMITTEE NOR A LAW

1 ENFORCEMENT OR PUBLIC SAFETY OFFICER NOR ANY OTHER PERSON SHALL  
2 BE SUBJECT TO ANY CIVIL LEGAL LIABILITY FOR NOT ENFORCING THIS  
3 SECTION.

4 (5) AN INDIVIDUAL WHOSE RELIGIOUS BELIEFS OR PRACTICES  
5 WOULD BE VIOLATED BY THE WEARING OF A HELMET SHALL BE EXEMPT  
6 FROM THE REQUIREMENTS OF THIS SECTION.

7 **SECTION 4. Specified effective date - applicability.** This act  
8 shall take effect July 1, 2010, and shall apply to the use of nonmotorized  
9 wheeled transportation on public streets or premises open to the public on  
10 or after said date.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, and safety.