

LEGISLATIVE BILL 428

Approved by the Governor February 19, 1988

Introduced by Lynch, 13

AN ACT relating to motor vehicles; to amend section 39-669.26, Revised Statutes Supplement, 1987; to state intent; to require the wearing of a protective helmet as prescribed; to provide duties for the Department of Motor Vehicles; to provide a penalty; to change provisions relating to a point system; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature hereby finds and declares that head injuries that occur to motorcyclists and moped operators which could be prevented or lessened by the wearing of helmets are a societal problem and that the financial and emotional costs of such injuries cannot be viewed solely on a personal level. It is the intent of the Legislature to prevent injuries and fatalities which occur due to motorcycle and moped accidents and to prevent the subsequent damage to society which results due to the cost of caring for injured people, the pain and suffering which accompanies such injuries and fatalities, and the loss of productive members of society from such injuries.

Sec. 2. Commencing January 1, 1989, a person shall not operate or be a passenger on a motorcycle or moped on any highway, as defined in section 39-602, in this state unless such person is wearing a protective helmet of the type and design manufactured for use by operators of such vehicles and unless such helmet is secured properly on his or her head with a chin strap while the vehicle is in motion. All such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact. Each such helmet shall consist of lining, padding, visor, and chin strap and shall meet or exceed the standards established in the United States Department of Transportation's Federal Motor Vehicle Safety Standard No. 218, 49 C.F.R. 571.218, for motorcycle helmets.

Sec. 3. The Department of Motor Vehicles

shall within sixty days after the effective date of this act publish a list of approved protective helmets which meet the requirements of section 2 of this act. Such list shall not be inclusive. Any person wearing a protective helmet which meets the requirements established pursuant to section 2 of this act shall be deemed to be in compliance with such section.

Sec. 4. Any person using a protective helmet purchased prior to the effective date of this act which is labeled to show that it conforms with applicable federal motor vehicle safety standards shall be deemed to be in compliance with section 2 of this act.

Sec. 5. Any person who violates section 2 of this act shall be guilty of a traffic infraction and shall be fined fifty dollars.

Sec. 6. That section 39-669.26, Revised Statutes Supplement, 1987, be amended to read as follows:

39-669.26. In order to prevent and eliminate successive traffic violations, there is hereby provided a point system dealing with traffic violations as disclosed by the files of the Director of Motor Vehicles. The following point system shall be adopted:

(1) Conviction of motor vehicle homicide -- 12 points;

(2) Third offense drunken driving in violation of any city or village ordinance or of section 39-669.07, as disclosed by the records of the director, regardless of whether the trial court found the same to be a third offense -- 12 points;

(3) Failure to stop and render aid as required under the laws of this state in the event of involvement in a motor vehicle accident resulting in the death or personal injury of another -- 6 points;

(4) Failure to stop and render aid as required under the laws of this state or any city or village ordinance in the event of a motor vehicle accident resulting in property damage if such accident is reported by the owner or operator within twelve hours from the time of the accident -- 4 points, otherwise -- 8 points, and for purposes of this subdivision a telephone call or other notification to the appropriate peace officers shall be deemed to be a report;

(5) Driving a motor vehicle while under the influence of alcoholic liquor or any drug or when such person has a concentration of ten-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood or urine or per two hundred ten liters of his or her breath in violation of any city or

village ordinance or of section 39-669.07 -- 6 points;

(6) Willful reckless driving in violation of any city or village ordinance or of section 39-669.03 or 39-669.05 -- 6 points;

(7) Careless driving in violation of any city or village ordinance or of section 39-669 -- 4 points;

(8) Negligent driving in violation of any city or village ordinance -- 3 points;

(9) Reckless driving in violation of any city or village ordinance or of section 39-669.01 -- 5 points;

(10) Speeding in violation of any city or village ordinance or of section 39-662, 39-663, or 39-666: (a) Not more than five miles per hour over the speed limit -- 1 point; (b) more than five miles per hour but not more than ten miles per hour over the speed limit -- 2 points; and (c) more than ten miles per hour over the speed limit -- 3 points, except that one point shall be assessed upon conviction of exceeding by not more than ten miles per hour, two points shall be assessed upon conviction of exceeding by more than ten miles per hour but not more than fifteen miles per hour, and three points shall be assessed upon conviction of exceeding by more than fifteen miles per hour the speed limits provided for in subdivision (2)(c), (d), or (f) of section 39-662 or subdivision (1)(c), (d), (e), or (g) or (3)(c), (d), or (h) of section 39-666;

(11) Failure to yield to a pedestrian not resulting in bodily injury to a pedestrian -- 2 points;

(12) Failure to yield to a pedestrian resulting in bodily injury to a pedestrian -- 4 points; and

(13) All other traffic violations involving the operation of motor vehicles by the operator for which reports to the Department of Motor Vehicles are required under sections 39-669.22 and 39-669.23, not including parking violations, violations for operating a motor vehicle without a valid operator's license in the operator's possession, muffler violations, overwidth, overheight, or overlength violations, motorcycle or moped protective helmet violations, or overloading of trucks -- 1 point.

All such points shall be assessed against the driving record of the operator as of the date of the violation for which conviction was had. Points may be reduced by the department under section 39-669.37.

In all cases, the forfeiture of bail not vacated shall be regarded as equivalent to the conviction of the offense with which the operator was

charged.

Sec. 7. That original section 39-669.26, Revised Statutes Supplement, 1987, is repealed.