

**HB 563 Traffic and Personal Safety Changes  
reviewed in Senate Judiciary II on July 9, 2007**

Prepared Statement by Janice MacKay, Wake County, Editor of Bikers USA, 919-342-0403  
Time Required: 3 Minutes

Janice MacKay, Wake County, Editor of Bikers USA

I've been riding motorcycles for 40 years. I'm also an authorized reseller of more than 500 models of helmets\*. Most of these are full face. Almost all of them are marketed as DOT approved.

According to California Superior Court Judge Barton, the government does not approve helmets, and the phrase "DOT Approved" has no meaning, in fact, or in law.

According to the NHTSA, they have statutory authority to issue standards (FMVSS) for motor vehicle and motor vehicle equipment manufacturers to comply with. NHTSA does not approve any manufacturers or products. DOT or NHTSA does not approve motorcycle helmets, thus, there is no list of "approved" helmets.

What is "DOT Approved" then?

With millions of motorcyclists, and hundreds of models of helmets costing as much as \$600, it's definitely a great marketing strategy for big business, but it's NOT a law for consumers or motorcyclists to comply with.

FMVSS 218 is a self-certifying process for helmet manufacturers. Imagine if the FDA did this!

If an average person of reasonable intelligence can't reference the statute and take reasonable steps to ensure compliance, the Constitution says the law is vague and unenforceable.

I want to know how the state will tell the average motorcyclist what FMVSS 218 is.

I also want to know what the state plans to do about the many sub-standard full-face helmets being sold in North Carolina as "DOT approved". This should include the hundreds of full-face helmets which were never tested, or failed testing by the OVSC.

Don't go after me, telling me to figure out what FMVSS 218 is, and to buy helmets that comply with a self-certifying marketing strategy. Go after the helmet makers under Chapter 75!

I propose that HB 563 has many sections which are valid and will serve the citizens. However, paragraph 2 should fail the scrutiny of this Judiciary committee on constitutional grounds. No List No Law. This applies to both the current statute and the proposed statute. Please strike paragraph 2, then vote favorable for the remainder of the bill.

- Since the year 2000, only 158 helmets passed OVSC testing.
- Acronyms:
  - FMVSS: Federal Motor Vehicle Safety Standards
  - OVSC: Office of Vehicle Safety Compliance
  - DOT: Department of Transportation
  - NHTSA: National Highway Transportation Administration