

Transportation Committee Presentation

Meeting: December 1, 2015

Subject: Amendment to County Code § 82-6-38.1

Attachments: Va. Code Ann. § 46.2-906.1

County Code § 82-6-38.1 with proposed amendments

This is a matter that the Board, at its June 23, 2015 meeting, referred to this Committee for discussion.

The matter was initiated on the motion of Supervisor Hudgins, who moved that the Board direct staff to prepare an ordinance that would amend County Code § 82-6-38.1 to require children under the age of 14 to wear a helmet when operating a toy vehicle, an electric personal assistive mobility device, or an electric-powered bicycle, and to otherwise bring the ordinance into conformity with the authority granted by state law.

Va. Code Ann. § 46.2-906.1 authorizes localities to require persons under the age of 14 to wear helmets; and to require that the helmets meet safety standards promulgated by the Consumer Product Safety Commission.

Currently, the ordinance requires persons under the age of 15 to wear helmets and the standard specified is the American National Standards Institute or Snell Memorial Foundation.

I've drafted ordinance amendments that would conform § 82-6-38.1 to the authority granted by state law and copies have been distributed.

Section 82-6-38.1. Use of a protective helmet while operating a bicycle.

Any person under the age of [fourteen](#) years of age shall wear a protective helmet that meets the standards promulgated by the [Consumer Product Safety Commission](#) while riding or being carried on a bicycle, [an electric personal assistive mobility device, a toy vehicle, or an electric power-assisted bicycle](#) on any highway, sidewalk, or public bicycle path. The term "highway" has the meaning set forth in *Code of Virginia*, Section 46.2-100. Any person who violates this section shall be punishable by a fine of [\\$25](#). However, such a fine shall be suspended for first-time violators and for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by this section.

A violation of this section shall not constitute negligence, assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of operation of any bicycle, [electric personal assistive mobility device, toy vehicle, or electric power-assisted bicycle](#), nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action.

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Virginia Code Ann. 46.2-906.1. Local ordinances may require riders of bicycles, electric personal assistive mobility devices, and electric power-assisted bicycles to wear helmets.

The governing body of any county, city or town may, by ordinance, provide that every person 14 years of age or younger shall wear a protective helmet that at least meets the Consumer Product Safety Commission standard whenever riding or being carried on a bicycle, an electric personal assistive mobility device, a toy vehicle, or an electric power-assisted bicycle on any highway as defined in § [46.2-100](#), sidewalk, or public bicycle path.

Violation of any such ordinance shall be punishable by a fine of \$25. However, such fine shall be suspended (i) for first-time violators and (ii) for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by the ordinance.

Violation of any such ordinance shall not constitute negligence, or assumption of risk, be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation of any bicycle, electric personal assistive mobility device, toy vehicle, or electric power-assisted bicycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any civil action.

(1993, c. 924; 1994, c. [56](#); 1995, cc. [42](#), [671](#); 2001, c. [834](#); 2002, c. [254](#); 2004, cc. [947](#), [973](#); 2006, cc. [529](#), [538](#); 2007, cc. [209](#), [366](#).)