



# STREET BIKERS UNITED HAWAII

*Protecting Motorcyclists Rights Since 1972*



## SBU Legislative Record as Hawaii Motorcycle Rights Advocate

	Bill Number	Bill Description	SBU Position	Outcome
2013 Legislative Session				
1.	HB1105	<ul style="list-style-type: none"> <li>Proposed to increase the annual registration rate and tax on Motorcycles and Mopeds by 100% for any Motorcycle<sup>1</sup> where its owner does not furnish proof that the owner has declared their intention to the Director (of Transportation-HDOT) to wear a helmet.</li> <li>The penalty for failure to wear a safety helmet is \$100-\$1,000 fine, up to thirty (30) days imprisonment, or both for anyone who has made the safety helmet election and failed to do so.</li> </ul>	Opposed by SBU	HB1105 Stalled in Committee after 2 <sup>nd</sup> reading.  Never passed
2.	HB1189  HB1189 SD1	<ul style="list-style-type: none"> <li>In its original form applied to Motorcycles and Mopeds providing that <i>“The prohibition on modifying the exhaust system in a manner that will increase the noise emitted by the motorcycle or moped to beyond that emitted by the original muffler as indicated pursuant to federal regulation.”</i></li> <li>Modified to exclude <i>Motorcycles</i> (but not Mopeds from the modifications restrictions and associated penalties for such modifications.</li> </ul>	Opposed by SBU  Unopposed by SBU	HB1189 SD1 Passed 3 <sup>rd</sup> Reading
3.	SB484	<ul style="list-style-type: none"> <li>Introduced by Senator English, it required all applicants of category 2 (Motorcycle) Driver’s Licenses to make an election whether to wear a safety helmet or not, which election would be prominently endorsed on the face of their category 2 driver’s license if they made the election to wear a safety helmet (at all time while operating a Motorcycle).</li> <li>The annual rate for registration and taxes on a motorcycle owned by an owner who did make the election to wear the safety helmet would be the same as for a full size automobile or pick-up truck (average of 200% increase over the existing cost of annual registration rates and taxes) and double that amount (i.e. average</li> </ul>	Opposed by SBU which filed formal submissions and appeared in opposition at the second reading on six grounds: 1. Unfair; 2. Unjust; 3. Unconstitutional;	Passed 2 <sup>nd</sup> reading subject to modifications in respect to SBU’s opposition

<sup>1</sup> Motorcycles by Definition include including Motor Scooters and exclude Mopeds.

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SB484 SD1	<p>of 400% increase in annual registrations fees and taxes) for the owner of a Motorcycle that does not make the election to wear a safety helmet.</p> <ul style="list-style-type: none"> <li>• However, the Motorcycle owner who does not make the election to wear a safety helmet and have an inscription on their category 2 driver's license and was free to choose whether to wear a helmet or not (as under the existing laws).</li> <li>• The Motorcycle owner that did make the election and was subsequently found to have operated the Motorcycle without wearing a safety helmet was liable to: (a) fine of up to \$1,000 for each incident; (b) suspension of their driver's license for up to one year; (c) up to thirty (30) days in jail; or (d) all of them. Plus the same Motorcyclist would be in breach of their driver's license restrictions and thereby in default of their insurances policy if they were involved in an accident.</li> <li>• The Senate Transportation Committee recommended the bill pass 3<sup>rd</sup> reading with one modification which was to reduce the tax to Motorcyclists who make the election to wear a safety helmet and endorse it on their category 2 driver's licenses by \$50.00, which means they would still be paying 150% more than prior to the Bill SB484 SD1 and would be subject to all the risks and punishments if they were ever caught not wearing their helmet at any time while operating their motorcycle.</li> <li>• Bill SB484 SD1 sent to the Senate Finance and Judiciary Committee for review in preparation for third reading.</li> </ul>	<p>4. Unenforceable; 5. Discourages Use of Motorcycles 6. Will not prevent accidents which is what causes head injuries.</p> <p>SBU opposed Bill SB484 SD1 on the same grounds as above and made further submissions to the members of the Finance Committee</p>	<p>SB484 SD1 Stalled in the Finance Committee Failed to receive 3<sup>rd</sup> reading. Never Passed</p>
7. SB1309	<ul style="list-style-type: none"> <li>• When first presented with this bill by the Senate Transportation Committee, SBU was advised it applied solely to persons under eighteen (18) years of age and was designed solely to ensure minors riding Motorcycles, Mopeds, ATV's, whether as private vehicles or as rentals, were required to wear safety helmets to prevent head injuries.</li> <li>• SBU initially responding by stating that since SBU supported the concept of minors being legally required to wear safety helmets on the basis they were not adults and were not yet ready to make a reasoned decision as to their right to wear a safety helmet; SBU would not oppose SB1309. The second reason was that HRS §286-81(b) already created a law that mandatorily require all persons under eighteen years of age to wear a safety helmets when riding Motorcycles, so SBU initially was lead to believe that SB1309 would have no effect on safety helmet laws affecting adult motorcycle riders.</li> </ul>	<p>SBU opposed Bill SB1309 on the grounds it was unconstitutional as over-reaching legislation. That if the Senate intended to abolish the statutory exception of safety helmets as mandatory safety equipment it must put the issue squarely before the Senate and</p>	<p>SB1309 Passed 2<sup>nd</sup> Reading and was amended and sent to Judiciary Committee</p>

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SB1309 SD1	<ul style="list-style-type: none"> <li>Once a copy of SB1309 was closely scrutinized by SBU it was astonished to learn that the definition of “safety equipment” was intended to be changed by SB1309 so that safety helmet was no longer expressly excluded by law from that definition, with the consequential effect that if SB1309 was passed it would then require only the Director (of Transportation-HDOT) to make a regulation to include safety helmets as “safety equipment” under existing legislation and thereafter it would become mandatory helmet legislation in Hawaii without any further statute being passed.</li> <li>Bill SB1309 SD1 sent to the Senate Finance and Judiciary Committee for review in preparation for third reading.</li> </ul>	<p>allow the voting public to be informed of this dramatic change in the laws governing motorcyclists’ right of free choice.</p> <p>SBU made further submissions in opposition to SB1309 SD1 as outline above to many senior Senators</p>	<p>SB1309 SD1 The bill Stalled in Committee after 2<sup>nd</sup> Reading.  Never Passed.</p>

2014 Legislative Session

8.	No Bill Number	The House Representative Karl Rhoads was contemplating a Helmet Bill, which SBU approached Representative Rhoads on before he submitted it to 1 <sup>st</sup> Reading	SBU Opposed	Never Submitted
9.	HB1856	<ul style="list-style-type: none"> <li>Also submitted by Representative Rhoads proposed to penalize Motorcycles and Mopeds for excessive or unusual noise, where their exhaust is modified to amplify or increase noise beyond that level emitted by stock exhaust system by increase the fine for a first offense from \$100 to \$1,000 dollars</li> <li>Representative Rhoads asked SBU for a counter proposal to Bill HB1856 to which SBU responded by suggesting a graduated fine system would be a reasonable compromise of \$100 (1<sup>st</sup> Offense), \$500 (2<sup>nd</sup> Offence), \$750 (3<sup>rd</sup> Offence) and \$1,000 (4<sup>th</sup> Offence).</li> <li>The Representative Rhoads and the Transportation Committee rejected SBUs compromise and proceeded with HB1933</li> </ul>	<p>SBU Opposed HB1856 as unreasonable and punitive in nature.</p> <p>SBU Opposed HB1856</p>	<p>Representative Rhoads rejected SBU counterproposal and introduced bill</p> <p>HB1856 died in Committed never reaching 2<sup>nd</sup> reading</p>
10.	HB1922	<ul style="list-style-type: none"> <li>Required all Motorcycles and Mopeds to be prohibited from having an exhaust system other than the one indicated in accordance with OEM labeling under Title 40 Code of Federal Regulations s. 205.158. Essentially banning all after-</li> </ul>	SBU Opposed HB1922 on the	

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	<p>market exhaust systems on the basis the after-market exhausts systems were “excessively loud” and “unusually noisy” contrary to HRS §291-24 (as.am.).</p> <ul style="list-style-type: none"> <li>• SBU Opposed the bill submitting that unlike Mopeds, Motorcycles travel on freeways and two or more lane highways at speeds in excess of thirty (30) miles per hour and can often be trapped in the motorists’ “blind spots” on either the left or right side of the vehicle. Therefore, the loud exhaust pipes on a Motorcycle is a matter of conspicuity that adds an additional layer of safety to protect the motorcyclist whose loud pipes may be heard even when the Motorcycle is not seen by a motorist. SBU also submitted that the Motorcycle horn is an additional safety feature as well, but cannot replace the loud exhaust pipes, because sometimes the motorcyclist is not aware that they are unseen by the motorist and therefore cannot sound the horn to make the unaware motorist alive to the presence of the Motorcycle in close vicinity, but the loud pipes are an ever present indicator that a motorcycle is in close proximity to the vehicle and extra caution should be taken by the motorist to look for the Motorcycle.</li> <li>• The sponsor of the legislation, Representative Tom Brower, accepted SBU’s position on safety aspects of after-market exhaust systems for Motorcycles and invited SBU to redraft the bill to exclude Motorcycles and still meet the underlying concerns for Moped’s excessive noise violations by altering OEM exhausts.</li> </ul>	<p>grounds “loud pipes do save lives”</p> <p>SBU redrafted HB1922 to exclude Motorcycles</p>	<p>Modified HB1922 passed 1<sup>st</sup> reading and died in committee.</p>
11.	<p>HB2209</p> <ul style="list-style-type: none"> <li>• Introduced by Representative Nishimoto, but expressly excluded Motorcycles. Bill HB2209 did apply to Motor Scooters and automobiles, but excluded Mopeds.</li> <li>• Bill HB2209 was of concern to many motorsports enthusiast because it provided for any modification to mufflers or exhaust systems causing increased noise emission OEM specifications, as determined at any official inspection station during annual safety checks, would result in a fine of up to \$1,000 and suspension of the vehicle operation permit.</li> </ul>	<p>Although Motorcycles were not affected SBU voiced its concern to law makers that the legislation unfairly singled out Motor Scooters</p>	<p>HB2209 passed 1<sup>st</sup> reading then died in committee</p> <p>Never Passed.</p>
12.	<p>HB2393</p> <ul style="list-style-type: none"> <li>• A bill related to Mopeds,<sup>2</sup> which are expressly excluded from the definition of Motorcycles under Hawaii law unlike Motor Scooter, which are included. Bill</li> </ul>	<p>SBU Supported HB2393 on safety grounds.</p>	<p>HB2393 passed 2<sup>nd</sup> reading and was referred to the</p>

<sup>2</sup> Moped is expressly excluded from the definitions of Motorcycle and Motor Scooter in the statutory definitions

**§286-2 Definitions.** *The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:*

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	<p>HB2393 was aimed at the ever increasing number of Mopeds on Hawaii streets and the substantial increase in accidents, injury and loss of life that has occurred by the upswing in popularity of Mopeds as a cheap, simple, economical and fun form of transportation for Hawaii. Unfortunately, Mopeds originally were classified as “bicycles” and consequently there has been virtually no rules, regulations, licensing requirements, training requirements, safety requirements, and insurance requirements placed on the operation of Mopeds.</p> <ul style="list-style-type: none"> <li>Part of the reason for the absence of regulation of Mopeds was that they were required to have minimal horse power (2hp, maximum of 50 CCs, and a maximum speed of 30 mph). So it was thought that they were more like a bicycle than a Motor Scooter or Motorcycle, which are subject to annual licenses, insurance, minimum training requirements for licensing, annual registration and safety inspections. However, with the increased popularity of Mopeds many Moped owners, dealers and servicers began it modify the horsepower and speed capabilities of Mopeds to make them perform like Motorcycles or Motor Scooters, but still be “passed off” as Mopeds despite violating the speed and horse power restrictions (these illegal Mopeds are sometimes called “Outlaw Mopeds”). The “Outlaw Mopeds” can be very dangerous because they are capable of high speeds (as high as 70 mph), but lack adequate brakes, suspensions, tires and handling qualities to safely travel at such speeds. Moreover, the Outlaw Mopeds are often operated by untrained and unlicensed operators (even operators without any driver’s licenses or whose driver’s licenses were revoked due to DUI’s). These are the concerns that law makers sought to redress with Bill HB2393.</li> <li>SBU supported Bill HB2393. The following is an excerpt of SBU’s submissions to the house transportation committee: <i>“The problem of Outlaw Mopeds, is one of enforcement. The Police could enforce the laws against</i></li> </ul>		<p>Judiciary &amp; Labor and the Consumer Protection and Commerce committees for further review in preparation for 3<sup>rd</sup> reading (as am)</p>

*“Moped” means a device upon which a person may ride which has two or three wheels in contact with the ground, a motor having a maximum power output capability measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the moped, unassisted, on a level surface at a maximum speed no greater than thirty miles per hour; and a direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.*

*“Motorcycle” means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excludes a farm tractor and a moped.*

*“Motor scooter” means every motorcycle with a motor, which produces not more than five horsepower, but excludes a moped.*

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HB2393 HD1	<p><i>Outlaw Mopeds and force them to comply with motorcycle and motor scooter laws requiring registration, insurance, safety checks and registration, but it is very difficult for the Police to identify, which of the mopeds are actually “Outlaw Mopeds” and which are not. The police just do not have the time, resources, training and equipment to enforce the existing Moped laws to control the Outlaw Moped problem. Annual safety checks, annual registration, annual vehicle licensing programs are the only reasonable mechanism for enforcing the current moped regulations, which are generally aimed at safety considerations.”</i></p> <ul style="list-style-type: none"> <li>Expressly provided for a \$15 annual Moped registration fee, an annual safety inspection requiring the prominent display of the annual safety inspection decal on the Moped rear fender, and requiring Mopeds pay annual registrations taxes and fees, thereby removing Mopeds from the “bicycle” classification under Hawaii laws and including it with vehicles for the first time. HB2393 HD1 gave police power to remove from the road any Moped deemed unsafe or improperly equipped for operation just as the Police presently can for any unsafe vehicle, Motorcycle or Motor Scooter.</li> </ul>	SBU supported HB2393 HD1	HB2393 HD1 died in committee.  Never Passed.
13. Honolulu City Council Proposed State Mandatory Safety Helmet Bill 2014	<ul style="list-style-type: none"> <li>Councilman Stanley Chang proposed the Mandatory safety helmet bill be placed on the City &amp; County of Honolulu’s proposal for inclusion in the 2014 Hawaii State Association of Counties (the “ASCA Legislative Package”) of recommendations to the State law makers to be applied to Motorcycles and Motor Scooters by amending HRS §286-81 to remove the exception of safety helmets from the definition of “mandatory safety equipment” thereby making the use of safety helmets mandatory.</li> <li>It also proposed to remove section (b) of HRS §286-81(b) which presently makes it mandatory for all persons under the age of eighteen years to wear a safety helmet while riding on a Motorcycle or Motor Scooter, because the Chang proposal would make it mandatory for all persons riding on a Motorcycle or Motor Scooter to wear a safety helmet at any age.</li> <li>All other Counties (Hawaii, Maui and Kauai) approved of Councilman Chang’s proposal without objection.</li> <li>When SBU learned of the Chang proposal it meet with Honolulu City and County Council representatives and was assured by Councilwoman Kymberly Pine’s aid that Councilwoman Pine would not support the Chang Mandatory</li> </ul>	SBU Opposed the Chang Mandatory Safety Helmet Resolution and found support from Councilwomen Pine.	The Chang Mandatory Safety Helmet Resolution was removed from the 2014 ASCA Legislative Package  Never Passed.

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	Safety Helmet resolution, which resulted in it being removed from the ASCA Legislative Package.		

2015 Legislative Session

14.	SB551	<ul style="list-style-type: none"> <li>• Bill SB551 proposed by Senator Will Espero was intended to require all persons under the age of 18 years old to wear a safety helmet while riding on a Motorcycle, ATV, off road vehicle or motorized dirt bike.</li> <li>• SBU submitted formal submissions on SB551 even though there was no scheduled public hearings. The reason SBU was so concerned with this bill was that it was unnecessarily complicated, confusing, vague and redundant as to its intentions and effect on existing law. On one hand there already existed a law requiring all operators and passengers of Motorcycles (including Motor Scooters) under the age of 18 years of age to wear a safety helmet (see HRS §286-81(b) above). Therefore, there was no reason to add Motorcycles again to this proposed legislation it would only serve to confuse and duplicate what the existing law clearly states.</li> <li>• Also SBU was concerned with the fact that Bill SB551 attempted to change the language in numerous sections that relate to Motorcycles and safety helmets, which would be confusing and lead to potential conflicts or disputes in interpretation of safety helmet law in the future.</li> <li>• SBU submitted to the Senate Transportation Committee that clarity and transparency are the hall marks of a fair and open democratic process. At present the helmet legislation affecting Motorcycles in Hawaii is clearly specified in a single section HRS §286-81(b) for all to see and understand. It would lead to a loss of transparency and fairness to allow proposed legislation like SB551 spread Motorcycle helmet laws over many different statutes which would be difficult for Hawai'i voters and motorcyclists to keep track of in the future.</li> <li>• A completely separate but equally compelling reason for objecting to SB551 in SBU's submission was that it purported to make it a legal obligation for all persons under eighteen years of age to wear safety helmets while riding on a Motorcycle anywhere. Therefore, unlike HRS §286-81(b) which applies to Motorcycles on roads, SB551 would apply to private lands and governments lands and parks. It could be interpreted to mean that any private land owner or</li> </ul>	<p>SBU Opposed on grounds of vagueness, confusion, redundancy, unnecessarily confusing and unforeseen liability as an undesirable side effects for private land owners and government agencies.</p>	<p>SB551 passed 1<sup>st</sup> reading and died in Committee.</p> <p>Never Passed.</p>
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	<p>government agency that failed to monitor and enforce the proposed SB551 Helmet law for minors riding Motorcycles, ATVs, off road vehicles or motorized dirt bikes on their properties and lands could be made liable to those minors who sustained injuries by the absence of such enforcement. It seemed to suggest the potential for widespread risk of liability among private landowners and government agencies, which would be an undesirable side effect of this proposed legislation.</p> <ul style="list-style-type: none"> <li>• SBU submitted that Bill SB551 had widespread undesirable implications that suggested it should be rejected.</li> </ul>		