

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption  
of Rules of the State Department of  
Public Safety Governing Requirements  
for Motorcyclist Headgear Required to  
be Worn by Certain Operators and  
Passengers.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the State Department of Public Safety. The last time the above captioned rules were amended was January, 1973.

The need to adopt these rules arises because federal law prohibits states from state pre-sale approval of motor vehicle equipment based on state equipment performance regulations, for items covered by federal motor vehicle safety standards (FMVSS). According to an opinion issued by the federal Department of Transportation, National Highway Traffic Safety Administration (NHTSA), published in the January 7, 1982 Federal Register, "Congress intended NHTSA to play the exclusive role in ensuring compliance of new motor vehicles and equipment with the FMVSS ... Whenever a Federal motor vehicle safety standard ... is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle ... equipment, any safety standard applicable to the same aspect of such ... equipment which is not identical to the federal standard."

The current standard (ANSI Z90.1) in effect in Minnesota is out of date and pre-empted by federal performance standards. In the following paragraphs the need for and reasonableness of each rule is explained.

11 MCAR1.0046. The amendments in this rule merely update language and statutory citations.

11 MCAR1.0047. The standard currently in effect in Minnesota for motorcycle safety helmets is Standard Z90.1 of the American National Standards Institute (ANSI). In January 1973 Minnesota adopted the 1972 ANSI standard. Since then it has been revised twice by ANSI, making the Minnesota standard out of date. In 1974 the legislature enacted new law, Minn. Stat. 169.468, which authorizes the Commissioner of Public Safety "to adopt federal motor vehicle safety standards established ... pursuant to the national traffic and motor vehicle safety act of 1966 ... with respect to any ... new item of equipment." In 1974 the National Highway Traffic Safety Administration first issued Federal Motor Vehicle Safety Standard (FMVSS) Number 218, Motorcycle Helmets. This standard, as updated and published in the code of federal regulation on October 1, 1980, is adopted by reference as the minimum Minnesota standard for motorcycle helmets. These rules are intended to be minimum standards, therefore helmets manufactured according to other more stringent standards will also be accepted in Minnesota as complying with the law.

When Minnesota first adopted standards for motorcycle helmets, the FMVSS did not have an established standard for this item. The FMVSS are the preferred safety standards for items of motor vehicle equipment and FMVSS Standard 218 now establishes well accepted minimum performance requirements for helmets. A comprehensive study of motorcycle accidents funded by the U.S. Department of Transportation (DOT HS-805 862) concluded that "...Federal Motor Vehicle Safety Standard 218 governing motorcycle safety helmets provides a high level of protection for the typical traffic accident..." The research report further indicates that data of this research do not show a need for more severe requirements as minimum standards for impact, penetration and retention performance. In fact, it recommends that the minimum performance standard contained in the FMVSS be maintained because more severe standards would have an undesirable and adverse effect on the minimum cost of a qualified helmet."

11 MCAR1.0048 This rule contains minor housekeeping amendments, incorporates updated drafting style and clarifies manufacturer responsibilities for helmet marking. The latter is needed to remove any question as to whose responsibility it is to mark and identify helmets. It is reasonable that proper marking be the responsibility of manufacturers since they can ensure correct and permanent marking at the point of manufacture. It is assumed that manufacturers may produce helmets meeting the requirements of any of several standards or not meeting any standard requirements. As is currently the case, it would still be the responsibility of the purchaser to acquire the correct helmet for its intended use. (These rules are applicable by law only to riders and passengers under age 18 and riders operating by virtue of a two wheeled vehicle instruction permit while riding on streets and highways. The rules are, by implication, inapplicable to off the road dirt bike riding, and the law specifically exempts motorcycle riders in parades.)

Repeal. Old rule SafAd 49 is repealed because of the federal prohibition of State pre-sale approval of equipment for which federal performance standards exist. In order to comply with the state law regarding helmets, which requires approval by the Commissioner of Public Safety, a statement is added in 11 MCAR1.0047 to deem helmets meeting the FMVSS standard as approved in Minnesota.

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COMMISSIONER OF PUBLIC SAFETY