

S.B. NO. 1338

JAN 22 2007

A BILL FOR AN ACT

RELATING TO TORT ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Failure to wear seat belt or helmet;
5 consideration by court or jury. (a) Notwithstanding any other
6 statute to the contrary, the failure to wear an appropriate seat
7 belt while operating a motor vehicle, or while riding as a
8 passenger in a motor vehicle, may be considered as evidence of
9 negligence by the court or jury in civil litigation if a
10 reasonably prudent person would have worn a seat belt under the
11 circumstances presented by the case.

12 (b) Notwithstanding any other statute to the contrary, the
13 failure to wear an appropriate helmet while operating a
14 motorcycle or motor scooter, or while riding as a passenger on a
15 motorcycle or motor scooter, may be considered as evidence of
16 negligence by the court or jury in civil litigation if a
17 reasonably prudent person would have worn a helmet under the
18 circumstances presented by the case."

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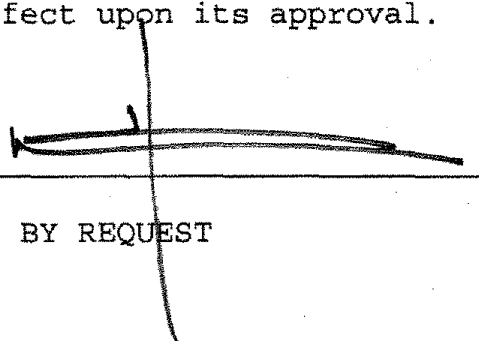
1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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5

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO TORT ACTIONS.

PURPOSE: To allow the finder of fact in a civil action to consider the plaintiff's failure to use a seat belt or helmet as evidence of comparative negligence.

MEANS: Add a new section to chapter 663, Hawaii Revised Statutes.

JUSTIFICATION: At the present time, the fact that a plaintiff was not using a seat belt or helmet at the time of an auto or motorcycle/moped accident often cannot be considered by the finder of fact as evidence of comparative negligence. This is true even when a reasonably prudent person in a plaintiff's position would have used a seat belt or helmet under the same circumstances, and even when there is evidence establishing that use of a seat belt or helmet would have lessened or prevented a plaintiff's injuries. This bill is therefore an attempt to correct this inequitable situation by permitting the finder of fact to consider the plaintiff's failure to use a seat belt or helmet as evidence of his/her comparative negligence. This bill is also consistent with the law in many other states in which failure to wear a seat belt or to use a helmet may be used as evidence of negligence.

Impact on the public: This bill may make it more difficult for plaintiffs to recover damages for personal injuries arising out of auto or motorcycle/moped accidents, but only in those cases where they have not taken appropriate action for their own safety by failing to wear a seat belt or helmet, when a reasonably prudent person would have done so under the same circumstances.

Impact on the department and other agencies:

None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Judiciary.

EFFECTIVE DATE: Upon approval.