

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:
S-251

DATE OF INTRODUCTION:
January 8, 2002

SPONSOR:
Senator Bucco
Senator Allen

DATE OF ECOMMENDATION:
February 26, 2002

IDENTICAL BILL: A-835

COMMITTEE:

Senate Law and Public Safety and Veteran's Affairs Committee

DESCRIPTION:

The Bill provides an exemption from sales and use tax on the purchase of recreational safety helmets.

ANALYSIS:

This Bill is proposed to provide a tax exemption on the purchase of recreational safety helmets and other protective headgear that meet the standards provided by or pursuant to the laws requiring operators of bicycles, motorcycles, motorized bicycles, roller skates, and skateboards to wear such helmets or headgear. The exemption would also extend to helmets or protective headgear designed to be worn when downhill skiing, operating a toboggan, sled, snowboard or other method of transporting over snow covered terrain.

The problem with this proposed legislation is that the language is too broad. It is not clear whether the exemption applies only to helmets or headgear required for children under the age of 14 as required by law, or if helmets required for operators of any age who engage in the activities specified, but may not be required to wear protective headgear by law, are included. Such ambiguity leads to subjective interpretation rendering the bill difficult to administer and enforce. Without clear definitions or more specific guidelines on the safety standards helmets would be required to meet for exemption, and for whom the exemption is intended to benefit, vendors would have the responsibility of determining which types of "protective headgear" would qualify for exemption. In addition, it will be difficult to determine whether a helmet was actually being purchased for a child under the age of 14, or for the specific sporting or recreational uses enumerated in the bill. Being unable to segregate and identify exempt purchases of protective headgear could result in abusive and fraudulent practices.

An exemption from sales tax will not guarantee compliance with the helmet laws or increase safety awareness by those who engage in dangerous activities that require a helmet. Consumers who can only afford to purchase the basic helmets in order to comply with the safety laws will only receive a minimal benefit if the tax was exempt on headgear purchases. Those who are able to purchase more expensive, luxurious helmets will receive a far better benefit than those who can only afford the inexpensive helmets will. Relief from sales tax will not have any impact on consumers' ability to purchase safety helmets, or impact the type of protective headgear they choose. Lower-income families will not be more encouraged or relieved of a financial burden if sales tax is not imposed on the purchase of protective headgear.

The bill carries negative public policy implications. Consumers of safety products should not have to be enticed with a financial incentive in order to comply with a public mandate issued as a protective measure. Individuals voluntarily choose to participate in activities that require the use of protective headgear. The State should not have to bear the burden of subsidizing sports and recreational activities that require higher standard safety measures to be taken by the participants.

Enacting special exemptions for purchases of socially desirable merchandise tends to lead to an increased demand for similar exemptions for other useful, necessary, or politically favored purchases. Such piecemeal small exemptions alter the broad-based nature of the sales and use tax, and reduce its credibility as a fairly administered and easy to understand tax. The amount that an individual taxpayer would save from an exemption on purchases of safety helmets and other protective headgear, would be miniscule compared to the cumulative loss of revenue the State would suffer. If the proposed exemption were granted, the revenue currently raised by the imposition of tax on these safety items would have to be raised from other revenue sources.

RECOMMENDATION: The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 8

COMMISSION MEMBERS ABSTAINING: 0

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