Motorcycle Helmet Surveys

Jonathan Morrison  
Chief Counsel

To: Associate Administrator for  
Regional Operations and Program Delivery

Several states have requested an interpretation of Section 4007, Stop Motorcycle Checkpoint Funding, of the Fixing America Surface Transportation (FAST) Act, Pub. L. 114-94 (December 4, 2015). Specifically, these States have asked whether NHTSA grant funds under Chapter 4, Title 23, of the United States Code may be used to conduct a motorcycle helmet use survey. (Such a survey involves observers counting helmet usage by passing motorcyclists on public roadways.) After careful review of the statutory language, I conclude that section 4007 does not permit the use of NHTSA grant funds for this purpose.

Section 4007 states in relevant part:

[...] the Secretary may not provide a grant or any funds to a State... or other local government that may be used for any program—
(1) to check helmet usage; or
(2) to create checkpoints that specifically target motorcycle operators or motorcycle passengers.

The rules of statutory construction require interpretation to begin with the language of the statute. If the statutory text is plain and unambiguous, we must apply the statute according to its terms, and if the meaning is clear, there is no need to resort to legislative history or any other extraneous source. Addressing the second enumerated statutory restriction first, the language is plain that grant funds may not be used to support motorcycle-specific law enforcement checkpoints. A corollary principle is that a statute should be construed to give effect to all of its provisions, so that no part will be rendered inoperative or superfluous. Applying this principle, the first enumerated restriction (concerning helmet checks) must be given a separate and distinct meaning from the enforcement-based restriction related to checkpoints. I note that the purpose of a motorcycle helmet use survey is “to check helmet usage,” which falls squarely within the plain text of that statutory restriction.

On the basis of this analysis, I conclude that NHTSA grant funds may not be used by a State to conduct a motorcycle helmet use survey. Although the plain statutory language is controlling, I note also that we could find nothing in the legislative history that contradicts this conclusion.