



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

Memorandum

Subject: Motorcycle Helmet Surveys

Date: 6/26/2018

From: Jonathan Morrison
Chief Counsel

Reply to
Attn. of:

To: Maggi Gunnels, PhD
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.¹ If the statutory text is plain and unambiguous, we must apply the statute according to its terms,² and if the meaning is clear, there is no need to resort to legislative history or any other extraneous source.³ 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.⁴ 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.

¹*Sebelius v. Cloer*, 569 U.S. 369, 376 (2013); *Carcieri v. Salazar*, 555 U.S. 379, 387 (2009).

²*Dodd v. United States*, 545 U.S. 353, 359 (2005).

³*Connecticut National Bank v. Germain*, 503 U.S. 249 at 253–254 (1992).

⁴*Rubin v. Islamic Republic of Iran*, ___ U.S. ___ (2018); 138 S.Ct. 816, 824 (2018).



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.

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