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THE SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CRUZ

People of the State of California, Plaintiff; **vs.** **Richard J. Quigley,** Defendant.	**Case #: 3WMO18538** **NOTICE OF DEMUR HEARING AND DEMUR TO COMPLAINT (Penal Code § 1004)** **DATE: November 13, 2003** **TIME: 10:00 a.m.** **PLACE: Dept. 12**

COMES NOW THE DEFENDANT, and demurs to an alleged violation of CVC §27803(b), and unspecified subsection of §40610, as follows:

I. BACKGROUND

A. THE MYTHS

On January 1, 1992, California's mandatory helmet law rode in on the fraud perpetrated by its author, Assemblyman Dick Floyd (claiming an annual "public burden" expense of at least $66 million), and has been an embarrassment to both the Legislature and the Courts ever since – the Legislature because they are credited with greater wisdom than the statute demonstrates, and the California Courts because they have steadfastly sidestepped their duty to follow the law, denying reality of the unconstitutionality of the statute, in the name of politics, ever since.

From time to time, honorable jurists have stood against the political tide and either admitted, or at the least acknowledged, the defect in the statute – the vagueness aspect resulting from the absence of an objective standard to define the requirement of the statute. (Offer to Prove)

However, the higher courts, in playing politics with the issue, have abandoned those most honorable jurists in favor of yielding to the political pressures – the "wisdom of the Legislature" – resulting from unfounded myths.

1. The "public burden" myth.

As earlier stated, the lies told to the Legislature by the author of the helmet law, relied on the "common sense" belief that motorcyclists constitute an unreasonable or extraordinary burden on society, over other citizens, by riding motorcycles without wearing a "safety helmet" (whatever that is). In truth, no competent, objective evidence exists that would support such a contention, "common sense" notwithstanding.

Do motorcycles afford less protection in case of a crash than traditional transportation, like a car or a truck? Yes. However, motorcycles are also smaller and more maneuverable, which means a rider has a better chance of avoiding some types of accidents that an automobile driver couldn't.

Besides, if using a vehicle that is not as capable as others of protecting operators or occupants is a legitimate determining factor in whether or not the occupants are equally protected, virtually all family car drivers should be required to additionally protect themselves against the operators of SUVs – which the Insurance Institute on Highway Safety have found 16 times more likely to kill the occupants of a family car in a collision, than if they were stuck by another family car.

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2. The "helmets save lives" myth.

Again, although "common sense" might support the contention that wearing helmets save lives, a little research into the subject leaves a lot to be desired by way of empirical data to support the claim. In fact, the one statistic that stands out as definitive evidence of the error in the claim, is that number of deaths per 100 accidents analysis – which even "common sense" cannot ignore.

In 1991, the year before enactment of the helmet law, with an estimated 50% of riders not wearing helmets, the number of deaths per 100 motorcycle collisions was just over 2.8%. The latest numbers, from the year 2000, indicated the number has reached 3.7% – almost a full percentage point higher than prior to enactment of the helmet law. (Offer to prove)

There is no way this or any other court can legitimately find that motorcyclists have received an important "safety benefit" from a statute that has raised the number of motorcyclists killed in motorcycle crashes by close to 1 biker in 100 crashes.

Add to those statistics, the studies that show that the percentage of riders killed in collisions in states with a mandatory helmet use law, is consistently higher than in those states without a mandatory helmet use law, and the picture is clear. Helmets (whatever they are) do not, of themselves, represent a "safety benefit" to motorcyclists in all, or even most, circumstances.

3. The "helmets are not dangerous" myth.

There is no doubt that in some circumstances a motorcyclist will benefit from wearing some sort of protective headgear. But the facts also show that the exact opposite is also true. (Offer to prove) And that's without addressing the number of crashes actually caused by the

so-called helmet itself (which cannot be measured - “dead men tell no tales”).

To find, or even say, that the distracting properties of a helmet have not contributed to collisions at one time or another, is pure denial (in the psychological sense).

The defendant finds the distractions of the most common helmet styles beyond minimal, which is why he has chosen to wear the helmet styles he has chosen. The defendant is a rider with over 40 years of experience, who attributes his survival to making his own safety choices throughout that time. There is no compelling state interest to justify overruling his decision, especially since it is his life at stake. (The “reasonable regulations” justified in exercising the police powers over roadway users, surely does not extend to jeopardizing the life of a citizen – if “reasonable regulation” cannot include “confiscatory,” it surely cannot include life-threatening.)

4. The “DOT approved helmet” myth

The most obnoxious barrier to exposing the vagueness of mandatory helmet use law statutes stems from the pervasive belief in what is commonly referred to a “DOT approved helmet.” There is no such thing.

Included in the evidence package with this pleading is the text of 18 letters (marked Exhibits “A-1” through “A-18”) from the General Counsel’s Office at the National Highway Traffic Safety Administration (downloaded from the internet), written to various recipients, explaining that the Department of Transportation does not approve items of motor vehicle equipment, that the phrase “DOT approved” has no meaning, and that, as a matter of fact and law, should not be used.

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Contrary to this reality, the California Police Officers Standards and Training curriculum explains: "Helmets must be of an approved type." (see Exhibit "B" – page 1-28 from the P.O.S.T. curriculum "Chapter 1: Introduction to Traffic Law") Although there is no direct reference to the Department of Transportation or "DOT", the implication is that the Department of Transportation, or someone, "approves" helmets, which has no basis in law or fact.

The "Quick Code" (Published by LawTech Publishing) that the citing officer used to issue the at-issue citation, which states under the section 27808(b): "**HELMET: Approved type: Not worn** by driver or passenger as per (a)" (**emphasis** in original – See Exhibit "C"), again without explaining "approved" by whom (with the prevailing presumption that it must be the Department of Transportation). (Offer to Prove – In several recorded traffic stops with officers throughout the county, evidence of the expectation expressed by the various citing officers that the defendant is required to wear a "DOT approved" helmet, abounds.)

The following conversation is transcribed from the traffic stop that led to this case ("Q" = defendant, and "R" = Officer Ridgway, the citing officer):

Q: . . . And we're in agreement that you have seen the Vehicle Code on this? You worked outta, you worked outta your Quik Code.

R: Yes. Well, I have read the Vehicle Code on it.

Q: Yeah, I know, but you're working out . . .

R: I can't repeat it verbatim, it's a pretty long section.

Q: Right, but you're citing me out of the Quik Code.

R: Certainly.

Q: Yeah. That's all I wanted, to make sure, because I'm getting ready to sue POST believe it or not.

R: Oh good.

Q: They're training their officers to believe that helmets must be of an approved type. **And the problem that they have is, to my knowledge, who would approve them? There's no approval system. The only person authorized to approve a helmet is the rider.**

R: **Oh, no kidding?**

Q: **Yeah.**

R: **All this time, I've been living in a . . . I've been living a lie.**

Q: **Well my guess is that you believe D-O-T approves them.**

R: **When them . . . you would assume so. They generally approve anything vehicle related.**

Q: **No.**

R: **Safety belts and what have you.**

Q: **Nope. As a matter of fact, they approve nothing.**

Watsonville Police Officer Ridgway is as fine, polite and intelligent an officer as one could reasonably expect to encounter, who's inadvertant violation of the defendant's 4th amendment rights was ultimately the result of a good faith belief that "anything vehicle related" is "DOT approved."

The myth is so pervasive that the 9th Circuit Court of Appeals in *Easyriders v. Hannigan* wrote "…there are some helmets that are DOT approved…" addressing the reasonable suspicion element of a traffic stop, when, as shown, there is no such thing. (Although the excerpt from the 9th's opinion is somewhat out of context – in that it was addressing the *appearance* of a "DOT approved" helmet, not the fact of "DOT approved helmet" – it is not misleading as to that court's base belief in the myth.)

Even this court, at arraignment, indicated an understanding that the Department of Transportation is somehow involved in approving one helmet over another. And there's nothing unreasonable about that. In fact, unless someone actually seeks to discover if anyone approves helmets, there's no reason to believe otherwise. After all, if the letters "DOT" on the back of a helmet does not signify that the Department of Transportation approves helmets, what else could it be intended to mean? (Defendant asserts that NHTSA – the agency that is responsible for perpetuating the myth of a "DOT approved helmet" – knew full well the misleading effect of requiring the "DOT" symbol placement on helmets sold or offered for sale throughout the United States, and that they did so to create the illusion of a standard that could be applied to consumers, avoiding their inability to write an actual objective standard that the average person could understand.)

The evidence is clear. Not only does the Department of Transportation NOT "approve" helmets, but neither does anyone else (save perhaps the motorcyclist when they choose one style over another.)

Therefore, there is no practical, never mind legal, foundation for deciding the defendant's guilt or innocence of an alleged violation of CVC §27803(b) based on the belief in a "DOT approved helmet" standard.

B. THE STATUTE(S)

CVC §27803(b) references §27803(a), which in turn references §27802 to ascertain the requirements for compliance with §27803(b) (and around and around we go).

CVC §27803(b) states:

> (b) It is unlawful to operate a motorcycle, motordriven cycle, or motorized bicycle if the driver or any passenger is not wearing a safety helmet as required by subdivision (a).

CVC §27803(a) states:

(a) A driver and any passenger shall wear a safety helmet meeting requirements established pursuant to Section 27802 when riding on a motorcycle, motordriven cycle, or motorized bicycle.

CVC §27802 states:

(a) A driver and any passenger shall wear a safety helmet meeting requirements established pursuant to Section 27802 when riding on a motorcycle, motordriven cycle, or motorized bicycle.“(a) The department may adopt reasonable regulations establishing specifications and standards for the safety helmets *offered for sale, or sold,* for use by drivers and passengers of motorcycles and motorized bicycles as it determines are necessary for the safety of those drivers and passengers. The regulations shall include, but are not limited to, the requirements imposed by Federal Motor Vehicle Safety Standard No. 218 (49 C.F.R. Sec. 571.218) and may include compliance with that federal standard by incorporation of its requirements by reference. Each helmet *sold or offered for sale* for use by drivers and passengers of motorcycles and motorized bicycles shall be conspicuously labeled in accordance with the Federal Standard which shall constitute the manufacturers certification that the helmet conforms to the applicable Federal Motor Vehicle Safety Standards.” (*emphasis* added)

(b)No person shall *sell, or offer for sale,* for use by a driver or passenger of a motorcycle or motorized bicycle any safety helmet which is not of a type meeting requirements established by the department.” (*emphasis* added)

CVC §27802 – where whatever requirements of the helmet law are eventually found – directs both consumers and enforcement officers to "regulations adopted by the department" ("department" meaning the Department of the California Highway Patrol [although the 9th Circuit Court of Appeals later wrote they thought it meant "California Department of Transportation"]) which has reportedly adopted FMVSS-218, and no other (at least not officially).

Even if such a progression – from §27803(b) to §27803(a) to §27802 to FMVSS218 – were not of itself confusing beyond what a person of normal intelligence could reasonably ascertain about what is proscribed by the statute, FMVSS 218 proscribes requirements designed to be imposed civilly on manufacturers and sellers of motorcycle safety helmets, not criminally against consumers.

Taking all these references and cross-references of the statutes into account, there is still no objective standard for compliance within the four corners of the statute itself (unless one accepts the requirement that the "helmet" bear a certification of compliance, which the defendant's "helmet" did and does).

For certain, nothing in the statute says anything that would support the legal contention that a helmet cannot look like a "baseball cap," even exactly like a "baseball cap." In fact, there is absolutely nothing in either the statute or the Federal standard, that says anything definitive about the appearance of a helmet at all – except perhaps within the provisions of FMVSS 218 relative to labeling, which no part of the statute contends is the responsibility of the user to maintain (the labeling requirements of FMVSS-218 are no more required to stay on a helmet than the certification label is required to stay on the window of a car).

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Absent of list of helmets that comply with this complex statute, there is only one way for anyone to actually *prove* that a given helmet is in compliance (or not in compliance, for that matter) with the technical Federal Standard (FMVSS-218) referenced in §27802, and that is to test it. However, when you take into account that the FMVSS-218 test is a destructive test, there's no way at all to *prove* that essential element of the charge either way.

What's more, any application of FMVSS-218 must, as a matter of law, be imposed on manufacturers – there is no authority or jurisdiction that would authorize FMVSS-218 tests, except and unless the "helmet" is being offered for sale.

C. DECISIONS OF THE COURTS

The problem with these statutes is further exacerbated by the fact that the California Appellate Courts have steadfastly refused to address the vagueness problem head on.

The first appellate court to rule on the vagueness issue, *Buhl v. Hannigan*, 16 Cal. App. 4th 1612, 20 Cal. Rptr. 2d 740 (1993), essentially side-stepped the strength of the appellant's constitutional challenge, stating that the ***only*** requirement of the statute was that the helmet bear a certification of compliance. . . notably, without defining the term "helmet." A "helmet" is a "helmet bearing a certification of compliance"? How was that supposed to work?

It didn't.

The *Buhl* court specifically stated that the appellant's vagueness arguments (See Exhibit "D") that the Federal Standards were so technical that one would have to be an scientist or engineer to determine of a given helmet met the standard, failed – writing that the "proposition that the statute would require the consumer or enforcement officer to decide

if a helmet is properly fabricated," was "absurd." But, tens of thousands of citations written, and convictions had, over the first three years of the helmet law alone, proved that not only was the proposition NOT absurd, but exactly what the trial courts would use as evidence of guilt – time and again finding that the officer could merely look at a "helmet" and somehow know whether or not it met the requirements of the helmet law, the presence of a "certification of compliance" notwithstanding

Immediately following the *Buhl* decision, the petitioner in *Bianco v. California Highway Patrol*, 24 Cal. App. 4th 1113, 29 Cal. Rptr. 2d 711 (1994), Steve Bianco of Vista, California – who had been cited and convicted for wearing a "helmet" bearing the "certification of compliance" referenced in *Buhl* – filed a mandamus action against CHP Bulletin #34 (the CHP enforcement ultimately enjoined by the Federal Court). The Superior Court held, and the 4th Appellate Court affirmed, that Mr. Bianco had "actual knowledge" that his "helmet" had been tested and found not to be in compliance with the requirements of FMVSS-218, and was therefore not compliance with §27802, through §27803(a) and then ultimately §27803(b). (Defendant would be happy to discuss the fallacious basis of the courts' finding in this regard.)

The *Buhl* court's decision dealt with the statute *as written*. *Bianco* came close, but didn't quite reach the point of dealing with the statute *as enforced.* Although both courts agreed (if only by co-declaring) that the statute was not unconstitutionally vague, the violations of constitutional rights resulting from the enforcement problems continued.

This policy of citing, and conviction, for violation of the statute based on the officers' subjective opinion of whether or not a "helmet" was "properly fabricated" – without regard for whether or not the "helmet" bore a certification of compliance pursuant in *Buhl*, or for the "ac-

tual knowledge" required in *Bianco* – based on nothing more than the *appearance* of the "helmet" otherwise, continued up to this day, even and in spite of a Federal injunction issued against such practices in 1995 – upheld by the 9th Circuit Court of Appeals in *Easyriders v. Hannigan* in 1996.

Whether or not the statute is constitutional, *as enforced*, has not yet been addressed directly by the higher California courts of record. The Federal Courts have also managed to avoid the issue, relative to taking out the statute, relying on the decisions of the California Courts to have been fairly made.

However, the Federal Court did rule on whether or not the practices exercised against riders similarly situated to the defendant in the instant case, violated motorcyclists' 4th Amendment rights, which they found that it did.

Judge Napoleon Jones, who issued the original injunction in the *Easyriders* case (See Exhibit "E"), did so very reluctantly, and then only after reviewing stacks and stacks of evidence, together with hours of depositions of the California Highway Patrol's helmet law enforcement expert, Sergeant Michael Nivens, and of Commissioner Hannigan himself.

It was no small decision for Jones to issue the first injunction ever issued by the Federal Court against an enforcement policy of the California Highway Patrol in their then 75-year history. Even without lodging all the documents Judge Jones reviewed in making such a decision, it is fair to say that the evidence of the problems with the statute was unavoidable or the injunction would not have issued, much less have been upheld by the 9th Circuit Court of Appeals.

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It is also important to note that in arguing against the injunction being upheld by the 9th Circuit Court of Appeals, the Attorney General stated that upholding any portion of the injunction would render the helmet law unenforceable (Offer to Prove), which it did. The current state of the law, as interpreted by the 9th Circuit Court of Appeals, virtually requires a confession – which this defendant is not likely to make.

The one point that the Federal Court did make, relative to the phrase "determination of noncompliance" with the Federal Standard, was that such a determination had to be reached by the manufacturer or NHTSA, and that such determination had to come as the result of testing of a similar model and style of helmet by an independent testing laboratory – not through visual inspection by a police officer on the side of the road. Other than that statement in the original injunction, the scientier acknowledged by the 9th – the "actual knowledge" requirement, and how such knowledge was to be served on a motorcycist, imposed by the *Bianco* court – is no more defined than is the term "safety helmet."

Reasonably, any statute should state the regulation it imposes with sufficient certainty and clarity that persons of ordinary intelligence will be able to understand and ascertain from the statute itself what it means, and thus be enabled to comply with its requirements. Moreover, it should not delegate the legislative function to an agency such as "the department" so that it might, by its own ukase, set arbitrary or unreasonable standards which are neither known nor made reasonably accessible to the people they affect. Beyond this, even if such an arbitrary procedure were accepted as proper, there certainly should be provision made for some method of publicizing, or otherwise advising or making available to the public, information concerning the standard set. And all of

the foregoing should be ascertainable within the four corners of the statute itself. The helmet law statute does not meet that test and is unenforceable for vagueness.

II. DEMUR TO COMPLAINT

To withstand demur, the complaint must provide a defendant with the information necessary to both enter a plea and mount a defense. In that the complaint in the above-entitled action does not proscribe the required conduct in terms a normal person can understand, demur is appropriate.

A. The complaint fails to state a cause of action.

> "If offense is not stated with sufficient clarity to enable defendant to present his defense, he should demur on one or more of grounds set forth in this section (PC 1004)." People v Randazzo (1957) 48 C2d 484, 310 P2d 413.
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> "While many offenses may now be charged in strict language of statute, defendant is still entitled to be apprised with reasonable certainty of nature and particulars of crime charged against him, that he may prepare his defense, and on acquittal or conviction, plead his jeopardy against further prosecution." *People v Plath* (1913) 166 C 227, 135 P 954.

The charging document alleges, initially, an alleged violation of CVC §27803, alleging the defendant was not wearing a "helmet." Defendant has no reasonable way to know how to present at defense to the allegations in that the term "helmet" is not defined in the statute, nor in any other objective standard that could be considered binding on a defendant.

B. Violation of Constitutional Rights constitutes a legal bar to prosecution.

Penal Code §1004, subsection 5, provides: "The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof . . . (t)hat it contains matter

which, if true, would constitute a . . . legal bar to the prosecution."

Issuance of the citation, without the elements required by *Easyriders*, constitutes a violation of the defendant's 4th Amendment Rights, therefore, ipso facto, constitutes a bar to prosecution.

C. The complaint does not specify allegations of a "public offense" in ordinary and concise language.

Penal Code §1004, subsection 4, provides: "The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof . . . (t)hat the facts stated do not constitute a public offense."

Penal Code §952. Charging public offense;

> "In charging an offense, each count shall contain, and shall be sufficient if it contains in substance, a statement that the accused has committed some public offense therein specified. Such statement may be made in ordinary and concise language without any technical averments or any allegations of matter not essential to be proved. It may be in the words of the enactment describing the offense or declaring the matter to be a public offense, or in any words sufficient to give the accused notice of the offense of which he is accused. In charging theft it shall be sufficient to allege that the defendant unlawfully took the labor or property of another."

In the instant case, the defendant is accused of violating two separate statutes in one – Vehicle Code §27803(b) together with an unspecified subsection of Vehicle Code §40610.

Vehicle Code §27803 is found in Division 12 of the vehicle code, and therefore constitutes an equipment violation, dismissible upon proof of correction, and not a public offense, to wit:

§40522. Dismissal of charge on proof of correction; Notation on notice to appear.

> "Whenever a person is arrested for violations specified in Section 40303.5 and none of the disqualifying conditions set forth in subdivision (b) of Section 40610 exist, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge shall be dismissed on proof of correction. If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which the person promised to appear, the court shall dismiss the violation or violations charged pursuant to Section 40303.5."

§ 40303.5. Promise to correct violation; Disqualifying conditions.

> "Whenever any person is arrested for any of the following offenses, the arresting officer shall permit the arrested person to execute a notice containing a promise to correct the violation in accordance with the provisions of Section 40610 unless the arresting officer finds that any of the disqualifying conditions specified in subdivision (b) of Section 40610 exist:
>
> . . .
>
> (d) Any infraction involving equipment set forth in Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), Division 16 (commencing with Section 36000), Division 16.5 (commencing with Section 38000), and Division 16.7 (commencing with Section 39000)."

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D. The complaint charges more than one offense.

Penal Code §1004, subsection 4, provides: "The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof . . . (t)hat more than one offense is charged, ..."

In order that the charge of violation VC §27803 be brought against the defendant as a public offense, rather than a correctable equipment violation, one of the disqualifying conditions of VC §40610(b), (1), (2) or (3) must be alleged, to wit:

§ 40610. Notice to correct violation; Disqualifying conditions

> "(a)(1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.
>
> "(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section

40522.

(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:

(1) Evidence of fraud or persistent neglect.

(2) The violation presents an immediate safety hazard.

(3) The violator does not agree to, or cannot, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days.

Therefore, it is clear that the complaint alleges two violations — one of VC §27803, and the other, an unstated subdivision of VC §40610(b) — and demur to the complaint must be sustained if only on the grounds that the complaint charges more than one offense in one.

As described above, the complaint currently before the court contains two allegations; one, a violation of VC §27803 — a correctable equipment violation and not a public offense; and two, a violation of VC §40610, with no indicator on the citation as to which provision of the section was allegedly violated.

In that the allegation of VC §40610 indicated on the complaint does not specify which of the varied subdivisions the defendant is alleged to have violated, and is therefore grounds for demur to the complaint.

E. The citing officer carried and used the *Quik-Code* (published by LawTech Publishing) in issuing the citation.

The language used by LawTech Publishing in the *Quik-Code* does not accurately reflect the statute as written by the California Legislature, or as interpreted by the California Courts, and is therefore false and misleading.

Specifically, the *Quik-Code* indicates that a rider must wear a "helmet" of an "approved type" without stating "approved" by whom or what. This interpretation of the statute has no foundation in California law, and should be ignored.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the defendant respectfully requests that this court sustain defendant's demur to the allegation of violation of CVC §27803(b) (and the unspecified subsection of CVC §40610(b)), with prejudice.

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Richard Quigley, defendant, pro se

VERIFICATION

I, Richard Quigley, the defendant in the above-captioned matter, do swear under penalty of perjury that the forgoing is true and correct, except to those things offered on information and belief, and as to those things, I believe them to be true.

_____

Richard Quigley, defendant, pro. se.