HOUSE DOCKET, NO. 4230 FILED ON: 3/20/2009

HOUSE . . . . . No. 3885

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act requiring the use of helmets for equine riders and drivers..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 2D of chapter 128 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word "section" in line 1 the following section 2D ½.

SECTION 2. Said chapter 128 is hereby further amended by inserting after section 2D the following section:-

Section 2D ½ , For the purpose of this section, the following words shall have the following meanings:-

"Rider" – any person who is mounted on a horse.

"Horse-drawn vehicle" – to include carriages, surreys, buggies, sleighs and any other vehicle that may be hitched or connected to a horse in an effort to drive said horse.

"Passenger" – any person who is mounted but not in control of a horse or any person who is riding in a horse drawn vehicle but not in control of the horse(s).

"Driver" – any person who is control of a horse(s) while in a buggy, surrey, carriage, sleigh or any other means of transportation that hitches and connects to a horse in an effort to drive that horse. The driver shall include not only the person in immediate control of the horse drawn but also any person who is seated near the driver for the purpose of assisting the driver in any way.

"Organized horse show"- competitions or exhibitions that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper competitions, grand prix jumping, three-day events, combined training, rodeos, riding, driving, pulling, cutting, polo, English and western performance riding, endurance trail riding, gymkhana games and hunting.

"Certified – shall mean that the helmet's manufacturer agrees to the rules and provisions of a system that includes independent testing and quality control audits, and that each helmet manufactured by such manufactured is permanently marked with the certifying body's registered mark or logo before such helmet is sold or offered for sale.

"Helmet" protective headgear that must meet current standards for equipment designed and manufactured for use while riding horses as established by the American Society of Testing and Materials (ASTOM) and the Safety Equipment Institute (SEI). For the purpose of this section, wearing a helmet shall mean, having the helmet fastened securely upon the head using the manufacturer's fitting guidelines for the particular model used.

Every rider of a horse except those referenced hereafter shall wear a helmet. No person t owning or in control of a horse shall knowingly permit any person to ride such horse without wearing a helmet. No equine professional shall permit any riding lesson or instruction with any

horse unless the ride has and is correctly using the following equipment in the manner that it was designed to be used: a) A helmet meeting or exceeding ASTM F1163 (American Society of Testing and Materials) equestrian standard. B) Hard soled footwear with a heel no less than 1 inch. c) Tack properly fitted on the horse.

The following shall be exempt from the helmet requirements. A) Those engaged in racing will adhere to the protective gear requirements established by the racing authorities. B) Those participating in an official Concours d'Elegance or Currier Ives class at a horse show or parade. C) Those depicting an historical event and/or time period for re-enactment. D) An equine professional will not be responsible for a rider that does have the equipment described above so long as the tack is equipped with properly functioning and sized hooded stirrups, safety stirrups designed to prevent the rider's foot from passing through or becoming wedged in the stirrups, or safety stirrups designed to break away when the rider falls from the horse.

Every driver of a horse, except those referenced above or person while driving of a horse-drawn vehicle shall wear protective headgear meeting or exceeding ASTM F1163 (American Society of Testing and Materials) equestrian standard. No person owning or in control of a horse shall knowingly let any other person drive such horse without wearing protective headgear.

No equine professional shall permit any rider under the age of 17 to actively engage in riding or driving instruction of any horse unless the rider is correctly using the equipment standards so forth above. The absence of correct equipment shall not be protected by section 2D. The parent or guardian of any person under age 17 shall be responsible for having said rider wear a helmet while riding or driving a horse at all times. It shall be the parent's responsibility to

ensure that that the rider or driver under the age of 17 wears a helmet while riding or driving a horse.

Every retailer who sells helmets for horseback riding shall post and maintain signs in an area conspicuous to all patrons and every equine professional shall post and maintain signs in an area conspicuous to all using the premises a sign containing the following statement:

Under Massachusetts law all riders and drivers of horses must wear protective headgear that meets or exceeds ASTM F1163 (American Society of Testing and Materials) equestrian standards. Parents/guardians of persons under the age of seventeen shall be responsible for any violation of this law.

Any person who violates this section shall pay a civil fine not to exceed $50. A police officer shall cite for a violation of this section by a person less than 17 years the parent or guardian of such person. Such situation shall only be issued to such parent or guardian and shall not be issued to the person less than 17. If the violation is 17 years of age or older he shall be responsible for the penalty. A) Police officers who witness a rider riding a horse without wearing a helmet may request the rider to dismount and retrieve a helmet before remounting. B) Police officers who witness a driver driving a horse without wearing a helmet may request the driver to step from the vehicle retrieve a helmet before returning to the vehicle.

The court shall waive any civil fines for which a person who violates the provisions of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.

The court may waive any civil fine for which a person who violates the provisions of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet.

Every city or town shall provide a non-criminal ticket procedure against violators. They shall print notices of such violations in tag form in the same manner as notices pursuant to section 20A or section 20C of chapter 90.

A police officer taking cognizance of any such violation may request the offender to state his true name and address. Whoever, upon such request, refuses to state his name and address, or states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than $20 nor more than $50.

Every police officer who takes cognizance of such violations may give the offender a notice, which shall be in tag form, as provided in this section, to appear before the clerk of the district court having jurisdiction, at any time during office hours, not later than 21 days after the date of such violation. If the offender is under 17 years of age, the officer may give such notice to the parent of guardian of the offender. All tags shall be prepared in triplicate and shall be pre-numbered.

Said tag shall contain but shall not be limited to the following information: the name and address of the offender, if served with notice in hand at the time of such violation; the date, time, place and nature of the violation; the amount of the fine; instructions for the return of the tag; and a notice which reads as follows: This notice may be returned by mail, personally, or by an authorized person, and if properly returned shall be deemed non-criminal. A court hearing may be obtained upon the written request of the offender. Failure to obey this notice within 21 days

after the date of the violation will result in the offender's appearance in court on a criminal complaint. Such notice shall be signed by the officer and shall be signed by the offender whenever practicable in acknowledgment that the notice has been received. The officer shall, if possible, deliver to the offender at the time and place of the violation a copy of said notice. Whenever it is not possible to deliver ca copy of said notice at the time and place of the violation, said copy shall be mailed or delivered by the officer, or by his commanding officer or any person so authorized, to the said offender shall be deemed a sufficient notice, and a certificate of the officer or person stating that such notice has been mailed in accordance with this section shall be deemed prima facie evidence thereof, and shall be admissible in any court of the commonwealth as to the facts contained herein.

At or before the completion of each tour of duty, the officer shall give to his commanding officer those copies of each notice of such a violation taken cognizance of during such tour. Said commanding officer shall retain and safely preserve one of such copies and shall at a time not later than the beginning of the next court day after receipt of such notice deliver another of such copies to the clerk of the court before whom the offender has been notified to appear. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court, as provided herein, any appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing, or by mailing to such clerk the notice accompanied by the fine provided therein, such payment to be made only by postal note, money order or check made out to the clerk of the court. Returning the notice to the clerk of the court and payment of the fine established shall operate as a final disposition of the case. Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as

provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If any person notified to appear before the clerk of the district court fails to appear or, having appeared, desire not to avail himself of the benefits of the procedure established by this section, the clerk shall, as soon as may be, notify the officer concerned, who shall forthwith make a complaint against the offender and follow the procedure established for criminal cases. If any person fails to appear in accordance with the summons issued upon such complaint, the clerk shall send such person by registered mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the mailing such notice the court shall issue a warrant for his arrest. The notice to appear, provided herein, shall be printed in such form as the administrative justice for the Boston municipal court department and administrative justice for the district court department may prescribe for the respective departments; provided, however, that any city or town may request that the notice prepared for said city or town pursuant to section 20A or section 20C of chapter 90 be so revised or adapted that said notice may also be used for the notice provided for in this section.

All fines collected pursuant to this section shall be used by the respective cities and towns for the development and implementation of a department future.