

## Daytona Beach Chapter Legislative Report December 4, 2006

The Associated Press

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WASHINGTON (AP) - New Jersey Democratic Sen. Frank Lautenberg will be chairman of a transportation subcommittee when the new Congress convenes in January, his office said Thursday. Lautenberg will head the Transportation Safety, Infrastructure Security and Water Quality Subcommittee. Among the issues Lautenberg said his panel will deal with are drunken driving, MOTORCYCLE SAFETY, chemical plant security and oil spills. "This chairmanship will allow me to provide greater safety and security for New Jersey's transportation systems," Lautenberg said. "This panel will also lead the way in protecting the quality of water on our shore and in our rivers, lakes and wetlands." Besides his seat on the Commerce, Science and Transportation Committee, Lautenberg will also serve on the Appropriations Committee and the Environmental and Public Works Committee.

Our State Legislative Trustee has an article in the December Full Throttle Magazine. In short, motorcyclists should expect that NHSTA and Sen. Lautenberg will target Florida FIRST. In last month's chapter Newsletter, I listed the technical problems with Lautenberg's arguments. Southwest Chapter Legislative Trustee Teddybear writes about the philosophical problems with Lautenberg's letter. Here it is:

There are several things wrong with Sen. Lautenberg's perception on this issue. First, mandatory helmet laws don't work; they never have and never will. Why? Because it doesn't matter what kind of helmet you wear, they can't prevent crashes from occurring. Secondly, over the past ten years, Congress has mandated a different approach to highway safety, setting accident prevention as a national priority over injury reduction. Mandatory helmet laws do nothing to address this national priority. Third, since the universal helmet law was repealed at the federal level by bikers in 1995, Congress has developed a hands-off approach to these type of issues at a federal level, leaving the individual states to develop their own laws regarding highway safety issues, which is where these issues belong. Issues such as helmet laws, seat belt laws, DUI laws, etc. should never be legislated at federal levels, which is what Sen. Lautenberg is proposing in his letter. When laws like these are mandated at federal levels, it's more about federal control than about highway safety. All states are required to pass these federal mandates into law. They are not given a choice, and the taxpayers of that state are expected to pick up the tab for the enactment and enforcement of those mandates. Failure to pass these mandates will result in federal sanctions being imposed on that state, such as the withholding of federal highway funds, section 403 funds, etc. which is usually hundreds of millions of dollars. If a state still refuses to pass these mandates, they can be hauled into federal court and forced by the federal courts to enact them. Laws that are enacted in any state should reflect the needs of that state, and should always reflect the will of the people of that state, and most certainly should reflect the will of the people who are being regulated by those laws. Federal mandates ignore the will of the people. In this case, it would reflect the will of Sen. Lautenberg. Not Florida motorcyclists.

Having said all that, if this is all about saving lives, as Sen. Lautenberg claims, let's take a hard look at this issue, without glossing over it. The first question we would have to ask is do helmets save lives? Of course they do! It only requires average intelligence to realize that the hard outer shell and the friendly interior of a helmet will save some lives. There's no need for accident studies or statistics to prove it. In the debates about mandatory helmet laws, one of the favorite arguments by proponents of the laws is that helmets save lives, and Sen. Lautenberg is no exception

to that. We who oppose the laws have to admit that it's true, but we must point out that, while helmets are saving some lives, they are also causing some deaths. We really don't need to know the actual numbers. The numbers of lives saved by helmets is greater than the number of lives taken by helmets, but if it is recognized that some riders die from helmet-related causes the debate should stop there. Our lawmakers have no authority to pass a law that has the potential to harm or kill people, even though some people's lives may be saved by it. Wearing a helmet is a trade-off. A very small percentage of helmet-wearers will ever have their lives saved by helmets, but nearly all of them will receive helmet-caused neck damage to some extent over a normal life span of motorcycling. In a trade-off such as this, the rider is the one who should decide what they believe is best for them. The odds favor helmets, but it's not the prerogative of the lawmakers to place that bet.

Some people argue that any saving of lives justifies the helmet law because it's for the common good. The common good (general welfare) implies that all society will benefit from it. It doesn't. Only the individual motorcyclist "benefits" from it. (*I would personally NOT use this approach, John Banta*) Some people argue that society has an obligation to protect the people who are gullible, irresponsible or impulsive. The argument is valid for situations where con artists would deceive and take unfair advantage of people, but the dangers of motorcycling and riding without a helmet are well known and well publicized. Mandatory helmets for minors fulfill society's obligation to the immature and uninformed. The helmet laws that motorcyclists oppose are the ones that apply to adults. Adults make mistakes too, but our society is not committed to preventing everyone from making mistakes. When adults make mistakes they have to live with them – or die with them. Some argue that many motorcyclist deaths are preventable and therefore should be prevented, and they contend that mandatory helmet laws will fulfill that. However, preventable deaths are not unique to helmetless motorcyclists. Preventable deaths are very common in our society; helmetless motorists account for many. Other examples of preventable deaths are deaths by disease, which could have been prevented by early detection. Cancer is a prime example. Should government require mandatory chest X-rays and mandatory proctologic exams for everyone? If all the time and effort that has been expended in the legislative battles over helmet laws had been spent enacting good crime control laws, there could have been a significant reduction in another kind of preventable death: homicide.

If mandatory helmets are such a boon to the life-saving business, legislators should put helmets on motorists. It would be like hitting the jackpot of life saving to require helmets for them because more motorists die from head injuries each year than do motorcyclists. For a given number of lives saved it would require more helmets, but that's a small price to pay for such a noble cause. It isn't going to be done of course. Mandatory helmets for motorists would be too oppressive and too clumsy. The lawmakers should realize that helmets are just as oppressive and just as clumsy for motorcyclists as they would be for motorists. If saving lives is all-important, the lives of all the approximately 100,000 people who are killed on our highways each year could be saved. It could be done simply by reducing the speed limit to 15 miles per hour. It could be reduced to 10 if need be. Of course this isn't going to be done either, it isn't practical, and it's too oppressive. Our society has adjusted to the reality that some accidental deaths are inevitable. Society accepts the fact that motor vehicles will crash and that airplanes will fall out of the sky, and it does what it can to minimize these things. Guardrails are installed along highways; maintenance of airplanes is regulated; there are safety standards for tires and motorcycle helmets; and there are building codes

for houses. These and other similar things are done to make us safer without encroaching on our personal lives. Even with all these safeguards, some people are killed. Motorcycling is more dangerous than most activities and some riders will be killed or injured, with or without helmets. Motorcyclists know this, but they ride anyway. They accept it. Society in general doesn't seem to accept it, and seems almost obsessed with trying to save motorcyclists.

### **The ABATE of Florida legislative hotline 1-866-352-2283 (1-866-FLABATE)**

At the December State Meeting, a legislative agenda will be developed, I anticipate

1. A pro active letter writing campaign to counter Sen. Lautenberg.
2. Strengthening our Motorcycle Safety Awareness program.
3. The vehicular homicide statues have existed for some time and the statues for stiffer penalties for causing deadly accidents are in now in place. While we can not expect every poor driver to be charge with vehicular homicide there are median penalties. Quoting from the AMA, driving is a serious responsibility. Consequences of a mistake can be high for the victim and they should be high for offenders. The NCOM article, included in this report, is perhaps not the best. We have to develop a strategy to force the judges to enforce these statues. The Judicial branch of government will require a different approach from our grassroots effort towards the Executive and Legislative branches.

Our State President and Lobbyist Doc Reichenbach met with the Vice-chairman of the National Transportation and Safety Board on November 28, 2006 in Washington, DC. We will probably get a report at the December State Meeting.

### **PLAN OF ACTION**

Tell everyone who rides about Lautenberg's agenda.

Review the letter writing tips article.

**April 16, 2006 Monday is the 12<sup>th</sup> Annual Freedom Rights Rally in Tallahassee**

### **NATION 109<sup>th</sup> Congress**

There is a short lame duck session after the elections. Despite Motorcycle Riders Foundation's optimism, I do not have a good feeling about our bills. I use the following to track the bills

[Http://thomas.loc.gov](http://thomas.loc.gov)

### **HIPAA Recreational Injury Technical Correction Act**

This bill would promote Health Care coverage parity for individuals engaged in legal use of modes of transportation.

HR2793 Rep. Burgess (R) and Rep. Strickland (D) There are 92 other co-sponsors including, from Florida, Representatives Wexler, Putnam and Shaw. It has been referred to Energy & Commerce Committee, Subcommittee on Health, Ways and Means, an Education and the Workforce. Corrine Brown was a co-sponsor for the bill in a previous session.

S577 Senator Collins (R) and Sen. Feingold (D) introduced this bill and it has been referred to Health Education and Labor & Pensions committee. There are 8 other co-sponsors.

### **Motor Vehicle Right to Repair Act of 2005**

HR2048 Congressman Joe Barton (R-TX) and Edolphus Towns (D-NY) There are 97 other co-sponsors including, from Florida, Miller, Shaw, Hastings, Bilirakis, Meek, and **Corrine Brown**.

The legislative intent of this measure is to offer protections for the American motor vehicle owner by making it illegal for the manufacturer of the motor vehicle to withhold information necessary to diagnose service or repair the motor vehicle. Many manufacturers will consider this information proprietary unless this bill is passed. HR 2048 aims to guarantee that individual owners and repair shops have access to after-market parts and the same tools and training offered to those within the dealership network.

**NHSTA** Here is the link to all their pro-helmet reports:

<http://www-nrd.nhtsa.dot.gov/departments/nrd-30/ncsa>

NHSTA has released DOT HS 810 606 June 2006 Technical report, **Recent Trends in Fatal Motorcycle Crashes: An Update**. This report includes registration and fatality data along with units sold. Some of the numbers differ from previous reports. The Traffic Safety Facts-1996 motorcycles, gives the Florida fatality per registration in 1995 as 10.2, While this report states it is 9.5. I have always used the argument that the fatality per registrations, when viewed on a state basis, only, will show that mandatory helmets do not have the effect the non-riding public believes. This reduces my argument just a bit because in 2004 the number is 9.4 while back in 1995, when everyone had some sort of helmet it was 10.2 (now 9.5). I question the registration numbers. Page 7 lists the number of new units sold while page 9 lists the registration numbers nationwide. This report would lead you to believe there are a whole bunch of motorcycles being taken off the road and being scrapped every year. The page 25 states that helmets were used in 55% by fatality injured motorcyclists, nationwide in 2004. However the page 27 chart indicates that in states without universal helmet laws only 34% of fatally injured motorcyclists were wearing helmets. This disagrees with the 2005, 2004 NHSTA Helmet use reports and our own Florida statistics. The findings on page 46 reveal the first hint of a slant since the 55% helmet use by fatally injured motorcyclists is called "just above 50%"

Other parts of the report do indicate some areas of concern about accident prevention i.e. 70% of all fatalities occur on undivided roadways. No kidding, because here is where right of way/ left hand turn violations come into play.

## **MRF**

MRF E-MAIL NEWS

Motorcycle Riders Foundation

236 Massachusetts Ave. NE

Suite 510

Washington, DC 20002-4980

202-546-0983 (voice)

202-546-0986 (fax)

<http://www.mrf.org>

If you are going to read about the NHSTA's deaths per vehicular miles traveled, the following should also be read:

August 12, 2005

#05NR21 - No Motorcycles Travel In South Dakota?

(Washington, DC) As most everyone in the motorcycling community knows, the state of South Dakota is currently hosting the largest motorcycle rally in the country in Sturgis. Ironically, the Motorcycle Riders Foundation (MRF) has learned the State of South Dakota has reported ZERO vehicle miles traveled (VMT) for

motorcycles in its annual reports to the Federal Highway Administration (FHWA) each year since 1997. In fact, according to information provided to the MRF by the National Highway Traffic Safety Administration (NHTSA), there was absolutely no motorcycle VMT reported not only for South Dakota, but also for Illinois, Massachusetts, Missouri, Nevada, Pennsylvania or Texas from 1997-2003.

Additionally, the following states have reported zero motorcycle VMT during one or more of the years from 1997-2003: Arkansas, Colorado, Georgia, Indiana, Maryland, Minnesota, New York, North Carolina, Ohio, Oklahoma, Utah, Virginia and West Virginia. NHTSA releases a report each year regarding motor vehicle traffic crash fatalities and injuries based on the Fatality Analysis Reporting System (FARS). Yet, with anywhere from 13 to 31% of the states each year reporting absolutely no motorcycle VMT, this highly-publicized government report uses taxpayer dollars to compare the number of fatalities for various types of vehicles to VMT in order to determine trends and publish their findings as facts.

The MRF expressed serious concerns in April, 2005 regarding the preliminary 2004 FARS data released by NHTSA, citing a decline in vehicle miles traveled (VMT) during the same period when motorcycle registrations increased substantially. Based on those concerns, the MRF wrote a letter to NHTSA questioning the validity of the data upon which these statistics were gathered and reported. NHTSA's response to the MRF states VMT data is actually collected by the FHWA and that, "NHTSA believes the VMT data collected by FHWA are the best data available . . . For the 1997 to 2003 period similar methods were in place to report the . . . data . . . Because of this, we believe these numbers are adequate for monitoring trends." (Both letters can be viewed at <http://www.mrf.org/nhtsa.php> ).

The MRF translates NHTSA's response as follows: Both the FHWA and NHTSA know the VMT data is inaccurate, but since it is collected in what they consider to be a consistent manner, the inaccuracies are acceptable. The MRF believes that simple rules of statistical research dictate a 13-31% variance is not a consistent manner that is acceptable for monitoring trends, and the MRF will be investigating the FARS data for further inaccuracies in the weeks to come.

"One motorcycle fatality is too many, and the MRF remains concerned about any rise in the numbers," stated Karen Bolin, MRF President. "The MRF is committed to working with NHTSA and the FHWA to take appropriate measures to reduce the number of motorcycle fatalities in this country. However, the MRF feels that the federal government has an obligation to report all vehicle fatality statistics in an accurate and responsible manner, and will continue to strive toward the release of more reliable information to the general public with regard to motorcycles."

**AIM/NCOM**

[http://www.aimncom.com/mc\\_news/](http://www.aimncom.com/mc_news/)

**LAUTENBERG TO CHAIR TRANSPORTATION SUBCOMMITTEE** The new Democratically controlled U.S. Senate has reassigned committees and New Jersey Democratic Senator Frank Lautenberg will be chairman of a transportation subcommittee when the new Congress convenes in January. Lautenberg will head the Transportation Safety, Infrastructure Security and Water Quality Subcommittee, and among the issues his panel will deal with is motorcycle safety. Lautenberg has a long history of supporting helmet laws. In 1991 he worked to insert language in a highway bill that created a nationwide helmet mandate that was removed in 1995 by the Republican controlled Congress after much lobbying by bikers across the country. In May of last year, Lautenberg attempted to reinstate the federal helmet law by amending the transportation reauthorization bill (SAFE-TEA), but his amendment was defeated by a vote of 28 to 69. Lautenberg again raised the ire of motorcyclists across the country this summer by sending a personal letter to all 50 governors praising the benefits of helmet laws and suggesting that such legislation may be introduced in the U.S. Senate in the near future.

**FLORIDA BIKERS WANT HARSHER PENALTIES IN FATAL ACCIDENTS** The streets that lead to Daytona Beach are lined with spots where motorcycle enthusiasts have lost their lives. Some of the dead during past Bike Weeks and Biketoberfests were at fault, unwisely mixing alcohol and speed. Others, like Jody Driggers, were just in the wrong place at the wrong time. His death stands out, biker-rights activists say, because he was doing no more than sitting at a stoplight on International Speedway Boulevard when he was hit from behind by a sport utility vehicle. "I remember that case," said James "Doc" Reichenbach II, president of ABATE of Florida and chairman of the board for the National Coalition of Motorcyclists. "I'm tired of going to funerals." Motorcycle advocates look at fatality and injury statistics and see a pattern. In too many cases, they say, at-fault drivers of cars or trucks involved in fatal crashes with motorcycles received nothing more than a slap on the wrist. They chafe at laws that require evidence of malicious intent or extreme recklessness before criminal charges can be filed. Advocates say that should change. They want criminal penalties to apply and they've collected thousands of signatures nationwide, pushing Congress and state legislatures to enact their goals into law. Reichenbach's group is trying to stiffen penalties for motorists who cause a biker's death by violating their right of way. He acknowledges that one reason those who have fatal crashes with motorcycles are not treated more harshly is because of the social stigmas attached to the biker culture. "The lifestyle has carried such an image over the years," he told the News Journal. "People say 'whatever,' because you've got hair down the middle of your back. These are just solid citizens who care about their state and their country. We're mothers, fathers, patriots. All we want is to be treated like everybody else."

**The Importance of Letter Writing**  
**And some**  
**Important TIPS for LEGISLATIVE issue letter writing**

Letter writing is an important and effective tool in legislative grassroots activism. Meeting and talking in person or on the phone is very helpful, but letter writing helps put something concrete in hand that helps you iron out a position or reinforce something you may have talked about. Even after you personally meet with a legislator and talk to them, it is most appropriate to follow up with a letter. You can thank them for meeting with you while reminding them about it at the same time. This gives you another opportunity to remind them of what you are asking from them or perhaps to clarify. Sometimes a meeting does not go as well as you would like and the follow up letter gives

you another opportunity to leave someone with a good thought about the time spent with you or perhaps another way to think about what you had discussed.

The proliferation and increased use of computers and email have made letter writing even more valuable, but as an MRO, letters can be one of our most important tools. Even people without a computer can go to the library and send a letter by email. We need to continually engage members in the letter writing process, for many of them this will be the only way for them to share their wishes and thoughts with their elected officials. Our elected representatives in the Florida Legislature and the US Congressional delegation have been elected to represent us. Our legislators cannot completely do their job unless we do ours. We are their constituents. It is their job to represent us; therefore we must share what is on our minds. We need to tell them how we want represented and what legislation we want them to support, as well as what legislation we do not want them to support, etc,

Sometimes we need to generate a lot of letters from many people about a particular issue and we need all Chapters or a certain group of Chapters to pitch in and help get the job done. We don't have to have a statewide issue going on to have a need for members to write their legislators. It is important for members of a legislative grassroots organization to maintain an open line of communication with our elected officials and letter writing is one of the most convenient and effective ways to accomplish maintaining an open line of communication. We can do it early, we can do it late; we can do it after the kids have been put to bed, we can do it while we are waiting our turn at an appointment. We do not have to schedule an appointment or fit writing a letter into someone else's schedule; we can do it at a time that is more convenient for us. There are some tips here and the bottom line is that any letter we write is good, but if you are concerned about proper format and want your letter to project some legislative professionalism, there are some tips here in regard to the proper structure of a formal letter to a legislator.

### **How To Write a Letter to Your Legislators.**

Handwritten letters are fine, as long as they are easily read. People who cannot write legibly should type the letter. Use dark ink on white paper. Avoid pink, purple, red ink. While colors may be cute or cool, it is best to use blue or black ink and white paper.

**Always start your letter with the date.** Aside from correct format, sometimes the date is critical. For instance, if your letter arrives after your issue is already voted on, it is too late to help make an impact. Sometimes the date actually helps you follow up later, but to be proper, always date your letter.

**Your name and address** should appear after the date on your letter, not just on the envelope. A proper letter includes your name and address but if the envelope is thrown away, your own contact information just disappeared if it was not included on your letter.

The next thing should be **the proper address for whomever you are writing** -again- not just on the envelope, but here inside the letter. I will list some examples, these go both on the envelope and then inside your letter. This is the formal way to address a letter.

The Honorable Bill Nelson

The Honorable John Mica

United States Senate  
716 Hart Senate Office Building  
Washington, DC 20510

United States House of Representatives  
2313 Rayburn House Office Building  
Washington, DC 20515

The Honorable Joyce Cusack  
Florida House of Representatives  
204 House Office Bldg.  
402 South Monroe Street  
Tallahassee, Florida 32399-1300

The Honorable Evelyn Lynn  
Florida Senate  
324 Senate Office Bldg.  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

The next thing is the **salutation**. This is where we use their title. Some examples:

Dear Senator Nelson,  
Dear Representative Mica,  
Dear Senator Martinez,  
Dear Governor Bush,  
Dear President Bush,  
Dear Senator Lynn,  
Dear Representative Cusack,

**Always begin your letter by identifying yourself as their constituent and identifying your issue.** Example, “As a resident of your district, I am writing to tell you about my feelings about S 577 and why I would like you to sign on as a co-sponsor to prevent health insurance discrimination against motorcyclists.”

**Always identify legislation you support or oppose by using the bill number if you can.** If there is any related legislation, a legislator or staffer might think your letter is about something different than you intended it to be.

Although you should **be courteous throughout your letter**, you do not have to apologize for taking a legislator’s time; they work for and represent you.

It is not ever a good idea to say anything like “I hope this letter gets past your secretary”. It irritates staffers and frankly, staffers can be a lot of help to us so it is not a good idea to irritate them. The letter should be courteous throughout as we do not want to alienate anyone, we are simply asking for support and sometimes explaining why we are asking for it, or sharing why we feel the way we do.

You can **personalize your letter by emphasizing “you”**. Example, “You may not be aware there was previous specific language to prevent health insurance discrimination against motorcyclists.” “You can help address this problem by sponsoring S 577”

**Give reasons for your position on the legislation you are writing about.** Be reasonable and feel free to personalize the impact the legislation will have on you, your family, business, state, or community. Don’t assume they know how you will be affected by the legislation you are writing about because the fact is that many times they do not even have a clue. This is your letter and your chance - tell them about it.

**Always recommend what a legislator should do**, tell them what action they should take, ask them to support your legislation, etc. Never demand, order or threaten. Don't ask them to do the impossible. Your letter should present you as a reasonable and courteous person. It is important that when you are communicating with your legislators in person or in a letter that most legislation is the result of compromise. Often times, there is give and take, push and pull that lead to whatever legislation is finally produced.

**It is important not to be threatening.** Don't brag about your political influence or threaten how you or your organization will vote in future elections.

### **Our GRASSROOTS EDGE.**

It is also VERY important to write your legislator when you approve of something they have done. We are poised to capitalize on things like this in a LARGE way. Know that not many people get involved in communicating with their legislators. Our doing so is how we wield power reserved for effective grassroots organizations. The only thing fewer than the number people who take the time to communicate with their legislators is the number of people who take the time to express their appreciation or thanks. It is sad but true. Most people who contact them are mad, and almost all of them want something. Please capitalize on every opportunity to say **THANK YOU**. These expressions of appreciation will be remembered longer than you know because they can be very rare. Taking the time to make contact with your elected officials when you do not want something or to say thank you is a VERY valuable part of legislative grassroots politicking. It puts you and our organization in a very positive light.

At the end of your letter, be sure to **close by clearly asking for the action you wish for** and that your legislator share their position on the issue. Example: "I urge you to co-sponsor and vote for s 577 and help prevent health insurance discrimination against motorcyclists. Please let me know where you stand on this issue."

At the end of your letter, your **name should be legibly printed or typed and then sign** your name over your printed signature.

Keep on keepin' on and please help get the wave of paper courtesy of ABATE OF FLORIDA flowing into our legislator's offices and Washington, DC.....JEB

My legislative reports are also posted on the chapter website, John Banta