



**House
Legislative
Analysis
Section**

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LIBERALIZE HELMET-USE LAW

**House Bill 4628 as introduced
First Analysis (5-23-95)**

**Sponsor: Rep. Timothy Walberg
Committee: Transportation**

THE APPARENT PROBLEM:

Since 1966, Michigan has required motorcyclists to wear helmets while operating their machines, and for the same length of time motorcyclists have vociferously opposed the requirement. Many motorcyclists consider the law an abridgement of freedom, an example of the state dictating behavior to persons who should be free to choose how to conduct their lives. Shortly after Michigan passed its helmet law, the federal government made such acts a requirement for states that wished to receive federal highway safety funds and highway construction funds. As a result, all but three states passed helmet laws. The federal requirement was dropped in 1976, however, and in the absence of the threat of lost federal dollars many states repealed or modified their helmet laws during the late 1970s and early 1980s. (It should be noted, though, that under the 1991 Intermodal Surface Transportation Efficiency Act, known as ISTEA, if a state does not have both a seat belt law and a helmet law in effect for all riders at any time in fiscal year 1995 or thereafter, three percent of federal grant monies available to it for highway purposes will be transferred to a special highway safety program account.) Currently, about half the states require helmets to be worn by everyone, almost half have age-specific laws for usage, and a handful have no law requiring helmet use. Although safety officials are convinced that helmet laws save lives and reduce the severity of injuries, many motorcyclists believe it is time Michigan liberalized its helmet law by specifying that only persons under age 21 would have to wear helmets.

THE CONTENT OF THE BILL:

The Michigan Vehicle Code currently requires anyone operating or riding on a motorcycle to wear a state police-approved crash helmet, and also requires anyone under 19 years old who operates a moped to wear one. The bill would amend the act to make the helmet requirement for motorcyclists

and their riders apply only to persons under 21 years old, and would raise the threshold for wearing a helmet when operating a moped so that only those under age 21 would have to wear one.

MCL 257.658

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would have no determinable fiscal implications for the state or its local governments. (5-22-95)

According to the Department of Transportation, the bill could result in the loss of \$6 million in federal highway construction aid. (5-23-95)

ARGUMENTS:

For:

The helmet law is an unwarranted infringement on the personal liberty of motorcyclists. Laws of this type aim to protect the individual from engaging in an activity that presents a risk only to that person and to no one else. By removing from the individual the right to choose his or her own level of risk in a situation where the public interest--or the interest of other individuals, at least--is not involved, the state essentially is substituting its own judgment for that of the individual. This is an illegitimate interference with the right of self-determination traditionally guaranteed to each person in American society. Opponents of helmet laws do not want to do away with helmets, they merely want motorcyclists to have the same freedom of choice that others in society have to evaluate the risks associated with a particular type of activity, to choose for themselves the risks they are willing to take, and to bear the consequences, personally, of that decision. The bill would continue to require motorcyclists under 21 years old to wear helmets, but would leave the choice of whether to wear

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helmets to those more mature in judgment. (For moped riders, the bill would raise the threshold for having to wear a helmet from under age 19 to under age 21, to make it consistent with the bill's motorcycle helmet provision.) At present, 22 states have age-specific helmet laws, including many of the states near Michigan, while another three--including Illinois--do not require anyone to wear a helmet. It is time Michigan liberalized its helmet law, too.

For:

The best way to reduce the number of injuries and deaths stemming from motorcycle accidents is to reduce the number of accidents, and the best way to accomplish this is through education. Helmet laws merely provide a false sense of security, both for motorcyclists and motorists who share the road with them. Evidence suggests that most motorcycle accidents involve persons who are inexperienced motorcycle operators (e.g., people with less than six months of riding experience with a particular machine). And motorists need to be educated about motorcyclists, too, as the single most important factor cited in motorcycle accidents is said to be the failure of other motorists to honor the motorcyclists's right-of-way.

Response:

The existence of a helmet law does not prevent motorcycle education programs from being conducted. In fact, requiring helmets to be worn is itself educational in the sense that minors and inexperienced riders tend to mimic older, experienced motorcyclists: according to a survey conducted in 1991 by the National Highway Traffic Safety Administration (NHTSA), helmet use was nearly 100 percent in states with helmet use laws governing all motorcycle riders, but only 34 to 54 percent in states with no helmet use laws or laws limited to minors. Simply put, motorcycles are dangerous vehicles, their operators are far more exposed than those who operate or ride in other vehicles, and it seems entirely reasonable to make the wearing of a helmet a prerequisite for the privilege of operating a motorcycle on public roadways.

Against:

According to information provided by NHTSA, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 provides incentive grants for states which have in effect a motorcycle helmet law applicable to all riders and a safety belt use law applicable to front-seat occupants in passenger vehicles. According to the NHTSA report, if a state

does not have both laws in effect at any time in fiscal year 1995 or thereafter, three percent of these funds will be transferred to a special federal highway safety program. Apparently, this program involves nine priority areas for public safety, which involve not only motorcycle safety but also highway infrastructure safety programs. Assuming Michigan has qualified for and is already using this grant money for highway construction purposes, if the bill were enacted it could mean the state would lose a portion of the money it is now receiving for highway construction purposes. This means the bill could have financial implications for the state's transportation budget. Before further action is taken, it should be determined what, if any, state fiscal impact would result under the bill.

Against:

The evidence that helmet laws reduce the risk of serious injury and death is overwhelming and incontrovertible. Based on evidence provided by the National Highway Traffic Safety Administration, an unhelmeted motorcyclist is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a non-fatal head injury than a helmeted motorcyclist when involved in a crash. Numerous other studies have reached similar conclusions. Other NHTSA data shows that, since 1989, six states--California, Maryland, Nebraska, Oregon, Texas, and Washington--have enacted helmet use laws that govern all motorcycle occupants. Four of the states experienced declines in motorcycle fatalities ranging from 15 percent to 33 percent. (Information from the other two was not yet available as their laws took effect in 1992.) While opponents of helmet laws cite studies showing that wearing a helmet actually can increase a person's risk of incurring a neck or spinal cord injury, most data on the subject seems to support the claim of scientists, engineers, and medical experts--not to mention basic common sense--that wearing helmets, in fact, reduces the risk of severe injury and death that can result when a motorcyclist is involved in a roadway accident.

Response:

Statistics regarding the increase in injuries and deaths attributable to helmet law repeal can easily be manipulated and are not to be trusted. (Opponents of helmet laws, for instance, point out that many of the studies used to justify helmet usage are funded by the insurance industry, suggesting they lack objectivity.) It simply cannot be established with any consistency that states that have repealed their helmet laws have witnessed higher

fatality rates for motorcyclists than states that have retained their laws. Some states with helmet laws, in fact, have a higher fatality rate than states without helmet laws. Also, some people attribute the drop in the motorcycle fatality rate in states that have enacted a helmet law to the resulting decline in motorcycle usage by riding enthusiasts after enactment of the law, not to any increased protection provided to helmeted riders.

Against:

While it's true that requiring the use of a helmet infringes on personal freedom, the same can be said for stop signs, speed limits, and traffic lights--intrusions imposed on drivers by the state which reasonable people willingly abide by for the sake of safety and order. The infringement on freedom is insignificant when balanced against the protection current law provides motorcyclists and their passengers, the suffering it saves families, and the savings realized by the public. Society has come to expect the regulation of certain human activities when it is necessary to safeguard the public interest; the mandatory seat belt law is a good example of such regulation. Furthermore, requiring helmets to be worn is not simply a matter of protecting individuals from themselves. The cost of treating injuries suffered in motorcycle accidents is enormous, and in many cases the public must indirectly bear those costs (via surcharges on vehicle insurance for catastrophic claims, for example). Some people believe a considerable public burden would result from repealing the helmet law, in the sense that taxpayers and consumers ultimately would have to pay more for both vehicle and medical insurance, including higher costs for Medicaid. Any increased costs the public would bear under the bill seems unjustified considering that motorcyclists currently are entitled to full benefits under the state's no-fault insurance system even though they're not required (as motorcyclists) to pay for that insurance coverage. The cost of motorcycle accidents is borne by everyone else in the insurance system, particularly by car owners, and this situation would only be worse under the bill.

Response:

States that have repealed their helmet laws have not experienced significant increases in insurance costs, according to representatives of motorcycle organizations. For example, proponents of the bill cite the fact that vehicle insurance rates in Michigan failed to drop in the years following enactment of the state's helmet law; conversely, they point out

that since Wisconsin repealed its helmet law in 1978, insurance rates there have not significantly increased.

POSITIONS:

ABATE of Michigan supports the bill. (5-18-95)

The Bikers Rights Action Group supports the bill. (5-18-95)

The Department of Transportation has not yet taken a position on the bill. (5-23-95)

The Department of State Police opposes the bill. (5-19-95)

The Traffic Safety Association of Michigan opposes the bill. (5-22-95)

AAA Michigan opposes the bill. (5-19-95)

The Michigan Head Injury Alliance strongly opposes the bill. (5-19-95)

The Michigan Council on Injury Control strongly opposes the bill. (5-22-95)