

LIBERALIZE HELMET LAW

House Bill 4284 as passed by the House Second Analysis (1-20-98)

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was dropped in 1976, however, and in the absence of the threat of lost federal dollars about half the states repealed or modified their helmet laws during the late 1970s and early 1980s.

Under the 1991 Intermodal Surface Transportation Efficiency Act, known as ISTEA, if a state did not have both a seat belt law and a helmet law in effect for all riders at any time by fiscal year 1995 or thereafter, three percent of federal grant money available to it for highway purposes would have been transferred to a special highway safety program account. However, the National Highway System Designation Act of 1995, enacted on November 28, 1995, repealed the Federal Motorcycle Helmet Use law, and states are no longer penalized if they have not enacted laws requiring use of motorcycle helmets.

Currently, about half the states require helmets to be worn by everyone, almost half have age-specific laws for usage (19 of these require helmets be worn by those under age 18), and three have no law requiring helmet use. At least two states, Louisiana and Nebraska, have repealed their mandatory universal helmet laws only to reinstate them after undertaking studies to ascertain the social and economic costs of repeal.

Although many 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.

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 eliminate the helmet requirement for all motorcyclists, whatever their age, who voluntarily view a video about closed head injuries at the branch secretary of state's office when they make application or re-application for the motorcycle endorsement on a driver's license. If the applicant viewed the video, she or he would be issued a motorcycle endorsement that indicates she or he would not be required to wear a crash helmet while operating the motorcycle. If the applicant refused to view the video, his or her endorsement would indicate that a crash helmet is required. The bill would allow the secretary of state to charge a fee to view the video. In addition, the bill would raise the age below which a moped operator is required to wear a crash helmet from 19 to 21.

The bill also would require the Department of State Police to submit an annual report to the House and Senate Transportation standing committees, to describe the impact of the change in motorcycle crash helmet use on accidents, injuries, and fatalities.

Finally, House Bill 4284 also specifies that the bill would not take effect "unless the insurance code is amended to require motorcyclists to be insured and to provide that insurance companies may charge premiums based upon whether a motorcyclist uses a crash helmet approved by the Department of State Police and carries personal injury insurance."

The provisions of the bill would expire December 31, 2002.

MCL 257.312b and 257.658

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that under House Bill 4284 the Department of State may charge a fee to cover

the costs of maintaining and showing the video. Therefore, additional costs associated with the video would be recouped from motorcycle endorsement applicants. However, the bill may increase state administrative costs of the Department of State by a small amount associated with new computer programing and printing modifications. These costs would not be eligible for reimbursement under the new fee. A small indeterminate increase in state costs is expected.

the individual. This is an illegitimate interference with the

The HFA also notes that the Department of State Police may also experience a small increase in administrative costs associated with an annual reporting requirement concerning the impact the law change has on accidents, injuries, and fatalities. Overall, the bill is expected to result in a small indeterminate net increase in state administrative costs that would be met out of existing resources. (12-9-97)

ARGUMENTS:

For:

As amended on the House floor, the bill gives motorcyclists of all ages the choice to wear a crash helmet. However, the bill contains provisions that are designed to educate motorcyclists, including a viewing of a videotape about closed head injury safety risks. What's more, the bill will not take effect until the insurance code is updated to require that all motorcyclists be insured, and that insurers be able to charge rates that vary depending on crash helmet use. More than regulation and accountability, the House-passed version of this bill is about education and choice. Those who claim the right to discard a motorcycle helmet now have the opportunity to learn about the consequences of such a choice. Through a program of insurance, motorcyclists also have the concomitant responsibility to bear a larger share of the financial risk associated with any health care costs that might be associated with possible accidents.

Against:

Michigan's current helmet law is an unwarranted infringement on the personal liberty of motorcyclists. This bill is an improvement since it would give motorcyclists a choice either to wear or to discard a crash helmet. However, this bill is a thinly veiled attempt to continue state oversight and regulation, since it requires all motorcyclists to pay for insurance. Far too often, 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

right of self-determination traditionally guaranteed to each person in American society.

For:

This bill represents a good compromise. Opponents of helmet laws have argued that they 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. This bill would allow motorcyclists to bear those consequences, including the opportunity to insure their risk against the possibility of a catastrophe.

Against:

By removing the motorcycle helmet requirement, the bill would take a huge step backward from the state's traditional policy of promoting public safety. Even the committee-reported version of the bill, which would have lifted the helmet requirement for adults but kept it in place for those under 21, would be preferable to this bill. At present, 22 states have age-specific helmet laws, including many of the states near Michigan: Indiana, Ohio, Wisconsin, and Minnesota require helmets for riders under age 18, and Illinois does not require any helmet use. Studies undertaken by public health epidemiologist and health care economists during the past two decades, both in the United States and internationally, consistently report that mandatory helmet use for all motorcycle drivers has social and economic benefits. Those data are analyzed at the University of Michigan Transportation Research Institute. A review of eight studies published in peer-reviewed research journals during the past decade and analyzing data for 29,252 cases in eight states (Nebraska, Louisiana, Texas, Colorado, Rhode Island, Kansas, Washington, and California) demonstrate that repeal of a mandatory and universally applied motorcycle helmet law in favor of an age-restricted helmet law has the following effects: Observed helmet use decreases from 99 percent to 40 percent; fatality rates increase from 38 - 70 percent; severe brain injury rates increase from 50 - 360 percent; and, hospital costs for motorcycle injuries increase from 38 - 50 percent.

Response:

Recent statistics distributed by the American Motorcyclist Association raise doubt about the efficacy of the science-based information and research findings published in public health and medical journals. For example, the Statistical Annual published by the Motorcycle Industry Council, Inc. summarized 1993 motorcycle accident statistics, reporting that the number of accidents per 10,000 registrations in universal vs. age-restricted

helmet states were 222.21 and 194.02, respectively; and further, that fatalities per 100 accidents were 2.98 vs. 2.9. In states where helmets were required, the accident and fatality rates were somewhat higher than in states with age-restricted or voluntary helmet use. The association points out that during 1993, mandatory helmet law states accounted for 61 percent of total motorcycle registrations. They also accounted for 64 percent of the accidents and 65 percent of the fatalities. The association observes that while this data do not confirm that mandatory helmet laws lead to an increase in accidents, they do show that the absence of a mandatory helmet law does not result in the same.

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. This bill goes part way: it educates the motorcyclist. It's a good start.

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:

Crash helmets reduce risks; the state should retain its mandatory helmet law. Evidence that universal mandatory helmet laws reduce the risk of serious injury and death is available from two states (Nebraska and Louisiana) that repealed and then later reinstated their mandatory universal helmet laws. For example in Nebraska, once the helmet law was re-enacted, moderate motorcycle injuries declined by 45 percent,

critical injuries by 44 percent, and fatalities by 62 percent.

Indeed, the motorcycle collision rate itself declined, strengthening the claim of helmet proponents who argue helmets do not restrict hearing or vision to cause collisions.

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. In a 1991 report prepared by the Government Accounting Office, thirteen studies (among 46 studies summarized) had data on some aspect of the societal cost of motorcycle accidents. These studies indicate that unhelmeted riders are more likely to (1) need ambulance service, (2) be admitted to a hospital as an inpatient, (3) have higher hospital charges, (4) need neurosurgery and intensive care, (5) need rehabilitation, and (6) be permanently impaired and need long-term care.

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:

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 stands as an example of such regulation. What's more, 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 high, and in many cases the public must indirectly bear those costs (via surcharges on vehicle insurance for catastrophic claims, for example). Research studies in California, Louisiana, and most recently in Washington, published in the American Journal of Public Health and the Journal of Trauma, present findings that describe a considerable financial burden which results when unhelmeted motorcyclists sustain injuries. For example, in Washington, 2,090 crashes included in the study resulted in 409 hospitalizations (20 percent) and 59

fatalities (2.8

percent). Although unhelmeted motorcyclists were only slightly more likely to be hospitalized overall, they were more severely injured, nearly three times more likely to sustain head injuries, and nearly four times more likely to have been severely or critically head injured than helmeted riders. Unhelmeted riders were also more likely to be readmitted to a hospital for follow-up treatment and to die from their injuries. The average hospital stay for unhelmeted motorcyclists was longer and cost more per case; the cost of hospitalization for unhelmeted motorcyclists was 60 percent more overall (\$3.5 vs. \$2.2 million).

The GAO highway safety report summarizing 46 motorcycle helmet studies concluded that overall the studies showed that unhelmeted riders were more likely to die or lose earning capacity through disability. For example, one study attempted to estimate the cost of lost years of productive life for 516 riders, the number the authors calculated had died in 1980 because of helmet law repeals. Their estimate, updated to 1990 dollars, was nearly \$250 million, or about \$480,000 per death.

Response:

States that have repealed their helmet laws have not experienced significant increases in insurance costs, according to representatives of motorcycle organizations. For example, some have cited 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. This version of the motorcycle helmet legislation would allow insurance companies to charge for premiums based on crash helmet use, in the event that insurance costs go up due to serious injury.

POSITIONS:

ABATE of Michigan supports the bill. (1-13-98)

The National Motorcyclists Association supports the bill with modifications. (1-20-98)

The University of Michigan Transportation Research Institute offered testimony about motorcycle safety in helmeted and unhelmeted states, but takes no position on the bill. The Institute notes that this bill precludes effective enforcement, and that health care costs and societal costs associated with injuries will rise. (1-20-98)

The Michigan Health and Hospital Association strongly opposes the bill. (1-13-98)

AAA of Michigan opposes the bill. (1-12-98)

The Michigan Nurses Association opposes the bill. (1-

13-98)

The Department of State Police opposes the bill. (1-20-98)

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■ This analysis was prepared by nonpartisan House staff for use by House members in