

# Legislative Analysis



## MOTORCYCLE HELMETS: ADULT CHOICE

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**Senate Bill 297 as passed by the Senate**  
**Sponsor: Sen. Alan L. Cropsey**  
**House Committee: Transportation**  
**Senate Committee: Judiciary**

### First Analysis (6-6-06)

**BRIEF SUMMARY:** The bill would provide an exception to the requirement that a motorcycle operator wear an approved crash helmet. It would apply to an operator who is 21 or older, has been licensed at least two years or has completed a motorcycle safety class, *and* has a \$10,000 insurance policy to cover first-party medical benefits in the event of a motorcycle accident. A passenger of such an operator would also be exempt if over 21 years of age.

**FISCAL IMPACT:** It is estimated that both the state and local units of government may experience increased operational costs due to increased insurance premiums. The state may also experience additional costs in the Medicaid program. This bill relaxes the requirements for crash helmet use and it is expected that injuries and fatalities would increase as a result of lower helmet use. With the potential for more injuries, the expectation is that insurance costs may go up and Medicaid assistance would increase.

### THE APPARENT PROBLEM:

Since 1967 the Michigan Vehicle Code 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. Many safety officials, on the other hand, are convinced that helmet laws save lives and reduce the severity of injuries.

Reportedly, 30 other states, including all of the states bordering Michigan, do not require that all motorcycle operators and passengers wear helmets. Legislation has been introduced, as it has repeatedly over many years, to exempt adult motorcycle operators with significant riding experience or safety training, and their adult passengers, from the helmet requirement.

### THE CONTENT OF THE BILL:

The bill would amend the Michigan Vehicle Code to provide exceptions to the requirement that a motorcycle operator and passenger wear an approved crash helmet.

The law currently requires a person operating or riding on a motorcycle, and any person under 19 years old operating a moped on a public thoroughfare, to wear a crash helmet. Under Senate Bill 297, this requirement would not apply to either of the following:

**\*\* An individual who 1) is at least 21 years old, 2) has been licensed to operate a motorcycle for at least two years or has successfully completed a motorcycle safety course, and 3) has in effect security in the amount of \$10,000 for the payment of first-party medical benefits payable if the individual is involved in a "motorcycle accident."**

(A "motorcycle accident" is defined in the Insurance Code as a loss involving the ownership, operation, maintenance, or use of a motorcycle as a motorcycle, but not involving the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle. This would appear to mean that a motorcycle accident does not include an accident involving both a motorcycle and a car.)

**\*\* A passenger on a motorcycle operated by a person described above, if the passenger is at least 21 years old.**

Currently, the crash helmet requirement does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet. The bill would retain this exception. An "autocycle" is an enclosed motorcycle that is equipped with safety belts, rollbar, windshield, wipers, steering wheel, and equipment otherwise required on a motorcycle, and that has no more than three wheels in contact with the roadway at any one time. Operators and passengers in autocycles must wear seatbelts.

[The vehicle code requires an individual under 18 years of age to pass an examination and a motorcycle safety course before being issued an original motorcycle endorsement on a driver's license. Individuals 18 years old or older must only pass an examination; however, an individual who fails the examination two or more times must successfully complete a motorcycle safety course. A motorcycle safety course may be conducted by a college or university, an intermediate school district, a local school district, a law enforcement agency, any other governmental agency located in Michigan, or a private business.]

MCL 257.658

#### ***HOUSE COMMITTEE ACTION:***

The House Transportation Committee reported out the Senate-passed version of Senate Bill 297 without amendments. Some of the information in this analysis is derived from an analysis of the Senate-passed version of the bill by the Senate Fiscal Agency dated 3-29-05.

Senate Bill 297 is similar to House Bill 4325 of the 2003-04 legislative session (sponsored by Representative Drolet). That bill passed the House but not the Senate. For the House Fiscal Agency legislative analysis of that bill, see:

<http://www.legislature.mi.gov/documents/2003-2004/billanalysis/House/pdf/2003-HLA-4325-3.pdf>

## ***BACKGROUND INFORMATION:***

Since the late 1960s, motorcycle helmet laws have fluctuated in many U.S. states. States began adopting helmet laws when the federal government started requiring them, in order for states to qualify for certain federal highway funds. By 1975, 47 states had adopted helmet requirements for all riders. Congress revoked the U.S. Department of Transportation's authority to tie federal funds to helmet laws in 1976, and many states either repealed their helmet laws or limited them to younger riders. In 1991, federal funds were provided as an incentive for states with helmet laws, and a few states reinstated their universal helmet requirements. Those incentives were dropped in 1995, however, and since then at least five states have loosened their helmet requirements. (This information is derived from a publication of the Insurance Institute for Highway Safety: Status Report, Vol. 37, No. 1, 1-12-02.)

In Michigan, Public Act 207 of 1966, which took effect on March 10, 1967, added a provision to the Michigan Vehicle Code to require a person operating or riding on a motorcycle to wear a crash helmet. The requirement apparently was deleted by Public Act 134 of 1969, but before that act could take effect, Public Act 24 of 1970 reinserted the requirement. Public Act 328 of 1984 provided an exemption for a person operating or riding in an autocycle if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet.

Proposals to eliminate or ease Michigan's helmet requirement have passed the House of Representatives, but not the Senate, in recent years. In the 2003-04 legislative session, House Bill 4325 passed the House and was referred to the Senate Government Operations Committee, which did not take up the bill. That proposal would have exempted from the helmet requirement both motorcycle operators at least 21 years of age who had two years of experience or had successfully completed a motorcycle safety course and their passengers who were 21 or older. An identical bill had passed the House in the 2001-02 session.

In the 1997-98 session, House Bill 4284 passed the House but was not addressed in the Senate. The House-passed version of that bill would have eliminated the helmet requirement for all motorcyclists who voluntarily viewed a video about closed head injuries at the Secretary of State branch office when they applied for a motorcycle endorsement on a driver's license. The bill stated that it would not take effect unless the Insurance Code was amended to require motorcyclists to be insured and to allow insurance companies to charge premiums based upon whether a motorcyclist used a crash helmet and carried personal injury protection insurance.

## ***ARGUMENTS:***

### ***For:***

Motorcyclists who are at least 21 and have significant riding experience or appropriate motorcycle safety training, and their passengers who are at least 21, should have the freedom to decide for themselves whether to wear a crash helmet when riding a motorcycle. Mandating that all motorcyclists and their passengers wear crash helmets is a governmental intrusion on individual liberty.

According to testimony before the Senate Judiciary Committee by members of American Bikers Aimed Toward Education (ABATE), 30 other states, including all of the states surrounding Michigan, recognize adult motorcyclists' freedom to choose whether to wear a helmet. Michigan should follow the lead of a majority of the other U.S. states in allowing freedom of choice by exempting experienced adult riders and their adult passengers from the mandatory helmet requirement.

***Response:***

Safety measures, such as requiring motorcycle riders to wear helmets, are not governmental intrusions on freedom, but are matters of protecting the public health and welfare. These are legitimate and necessary issues for government to address. Indeed, Article IV, Section 51 of the Michigan Constitution provides: "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health." In 1976, the Michigan Supreme Court upheld a local helmet law that was identical to a statute the Court of Appeals previously had found unconstitutional (*People v Poucher*, 398 Mich 316). The Supreme Court described the ordinance as "a creative, relatively nonintrusive response of government to protect the public". The Court further stated, "Wearing a helmet is a minor burden, the effects of which benefit not only both parties involved in an accident, but society as a whole."

***For:***

Wearing a helmet actually can hinder the safety of a motorcyclist. Some motorcyclists claim that a helmet can restrict the rider's head and neck movement, affecting his or her ability to turn and view conditions around the motorcycle in traffic. Helmets also can interfere with riders' peripheral vision and hearing, putting them in greater danger from other vehicles on the road. In addition, at least one study suggests that wearing a motorcycle helmet can increase the likelihood of a severe neck or spinal cord injury. Since the safety benefits of wearing a motorcycle helmet are uncertain, the decision of whether to don one should be left up to experienced, adult motorcyclists and their adult passengers.

***Response:***

According to the Insurance Institute for Highway Safety (IIHS), studies have shown that full-coverage helmets provide only minor restrictions in horizontal peripheral vision from that of an unhelmeted rider. The IIHS also cites a 1994 study that found that wearing a helmet does not restrict the ability of a motorcyclist to hear horn signals or impair the likelihood of seeing a vehicle in an adjacent lane. In fact, the study found that helmeted riders increased their head rotation before changing lanes, to compensate for any restrictions in lateral vision. Further, although a 1986 study often is cited as evidence that helmets can cause neck injuries, the IIHS claims that more than a dozen studies have refuted that finding. A 1994 study in the *Annals of Emergency Medicine*, for instance, "analyzed 1,153 motorcycle crashes in four Midwestern states and determined that 'helmets reduce head injuries without an increased occurrence of spinal injuries in motorcycle trauma'" ("Q&A: Motorcycle Helmet Use Laws", <http://www.hwysafety.org>).

***For:***

The bill could have a positive effect on economic conditions in Michigan. The state's mandatory helmet law for all motorcycle riders and passengers discourages out-of-state

motorcyclists from traveling to Michigan. One of the largest motorcycle manufacturers, the Harley-Davidson Motor Company, reportedly sponsors group rides for Harley owners every five years. According to testimony before the Senate Judiciary Committee by the president of ABATE of Michigan, these rides tend to go through states that allow helmet choice. He also testified that motorcyclists are inclined to avoid Michigan and other states with helmet requirements when they travel. Easing the helmet requirement could increase Michigan tourism and provide an influx of spending into the state's economy.

In addition, motorcycle sales tend to increase after a state relaxes its helmet requirement. Florida reportedly saw a 20 percent increase in sales after eliminating its helmet law, and the other states in the Great Lakes area all have higher sales rates than Michigan. The bill could aid Michigan's struggling economy by spurring motorcycle sales in the State.

***For:***

Beefing up education and training for motorcyclists and encouraging motorcycle awareness education for all drivers would be more effective than helmet requirements in reducing the incidence of motorcycle crashes and the risk of riding a motorcycle. According to the president of ABATE of Michigan, motorcyclists believe that they are safer drivers after participating in training programs. By applying the helmet requirement exception only to motorcycle operators with sufficient training or experience, the bill would encourage motorcyclists to enroll in and complete education and safety training programs.

In addition, according to ABATE, 80 percent of all crashes involving a motorcycle and an automobile are the fault of the automobile driver. While the bill does not address greater motorcycle awareness as part of driver education programs, perhaps including such a curriculum would enhance the safety of motorcyclists on Michigan roads.

***Response:***

Motorcycle training and safety education are important and valuable, but are not a substitute for the use of crash helmets. According to the IIHS, a review of motorcycle rider training and its effect on crash risk conducted in 1996 in Ontario, Canada, concluded that there was no compelling evidence that training is associated with reduced collisions.

***Against:***

Motorcycle helmets are designed to cushion and protect riders' heads from the impact of a crash and, by doing so, they save lives and help to prevent serious injury. While helmets cannot provide total protection, they do reduce the incidence of both injury and death. According to the IIHS, the National Highway Transportation Safety Administration (NHTSA) estimates that helmets reduce the risk of fatal head injury by 40 percent and the risk of death by 37 percent. In addition, IIHS claims that studies have shown that unhelmeted motorcyclists are three times more likely to suffer traumatic brain injuries in a crash than helmeted riders.

Since motorcycles are less stable and less visible than other motor vehicles, they are more likely than cars to be in crashes. When motorcycles do crash, their riders obviously have less protection than drivers and occupants of automobiles, and therefore are more apt to be injured or killed. The IIHS cites NHTSA figures suggesting that "the number of deaths

on motorcycles is about 27 times the number in cars" per mile traveled ("Fatality Facts 2003: Motorcycles", <http://www.hwysafety.org>).

Since serious head injury is common among fatally injured motorcyclists, protecting the head is of utmost importance. While helmet usage is at or near 100 percent in states that have mandatory helmet laws, it typically is at about 50 percent in states without a universal helmet requirement. According to a 1990 study cited by the IIHS, death rates from head injuries are twice as high among motorcyclists in states with no helmet laws or laws that apply only to young riders, compared with states where laws apply to all riders. Moreover, the IIHS cites several studies that suggest that weakening or repealing helmet laws results in increased deaths and that, when state helmet laws applying to all riders are reinstated, the benefits of requiring helmet use return. A 2002 NHTSA evaluation of the repeal of helmet laws in Kentucky and Louisiana in the 1990s showed that helmet use dropped from almost full compliance to about 50 percent, fatalities increased by more than 50 percent in Kentucky and more than doubled in Louisiana, and injuries increased substantially in both states ("Evaluation of Repeal of Motorcycle Helmet Laws in Kentucky and Louisiana", <http://www.nhtsa.dot.gov>). The study asserts that these results are consistent with the experience of other states that repealed or relaxed their helmet requirements. (According to an IIHS publication, Louisiana recently reinstated its universal helmet use law (Status Report, Vol. 39, No. 7, 8-1-04).)

Given the breadth of evidence that helmet use protects motorcycle riders from the increased risk of death and injury, and the overwhelming evidence that helmet use decreases and death and injury rates increase when states repeal or ease their helmet restrictions, Michigan should not amend its universal mandatory helmet law.

***Response:***

Many of the studies purporting to show the dangers of relaxing helmet laws are narrow and overstated. The studies often cited by insurance organizations typically do not take into account such factors as the motorcyclists' age, experience, safety training, or license endorsement or who caused the accident. Moreover, according to ABATE's examination of NHTSA data, fatality rates in states that have modified helmet laws are no higher than in states with universal helmet laws, and injuries sustained without a helmet are no more serious than those sustained with a helmet. Also, well over 50 percent of all traffic-related head injuries result from automobile accidents, not motorcycle crashes. Further, the president of ABATE of Michigan testified that a Wisconsin review of motorcycle fatalities found that more motorcyclists who wore helmets died than those who did not wear them. In addition, some closed-head or "brain lag" injuries are caused by a quick movement and sudden stopping of the head, with little or no damage to the skull. With this type of injury, brain lag occurs regardless of whether the injured person is wearing a helmet.

***Against:***

Easing Michigan's helmet requirement would result in more catastrophic injuries to motorcyclists, which would increase costs to the state's insurance policyholders and taxpayers.

Michigan's "no-fault" automobile insurance system is unique in that it provides for unlimited medical coverage. Each policyholder pays a statutorily required assessment to

the Michigan Catastrophic Claims Association (MCCA) to cover insurers' costs of traffic-related medical claims that exceed a given threshold, which currently is \$350,000. According to the Insurance Institute of Michigan (IIM), motorcycle crashes account for a disproportionate share of money paid by the MCCA. While motorcyclists pay about 1.6 percent of the MCCA assessments, they account for 6.2 percent of all claims paid. Since the MCCA's inception in 1978, insurers have been reimbursed more than \$179 million for 439 motorcycle injury claims exceeding the MCCA threshold. The additional severe, and perhaps permanent, injuries that likely would occur as a result of allowing motorcyclists to ride without helmets would be a drain on the MCCA, which would increase assessments on all of Michigan's automobile insurance policyholders.

In addition, costs to the state-federal Medicaid program would rise as a result of serious, lasting injuries suffered by motorcycle riders who did not wear a helmet. The cost of prolonged care and other services required for those who suffer brain injuries can far exceed most people's available resources, particularly if they do not have sufficient medical or long-term care insurance. Since motorcyclists are not required to carry personal injury protection (PIP) on their insurance, as automobile drivers are, they are even more likely than most drivers to exhaust their resources. In addition, unless a motorcycle crash involves another type of vehicle, the motorcyclist is not covered by the MCCA for catastrophic injuries. Thus, it is more probable that, compared with other drivers, injured motorcyclists will become dependent on Medicaid for their care.

Since excusing motorcyclists from the helmet requirement would make them a greater burden on insured- and taxpayer-funded programs, the bill should at least require motorcyclists to carry adequate medical coverage. The proposed requirement for \$10,000 security would cover merely the initial costs of medical care before an injured motorcyclist had to rely on public programs for care. Motorcyclists should be required to provide security up to the \$350,000 level at which the MCCA begins to cover medical costs. In addition, due to the increased risk to unhelmeted motorcyclists, insurance providers should be authorized to charge them higher premiums and/or offer discounts for helmet use.

***Response:***

According to ABATE, motorcyclists injured without helmets are no more likely to draw Medicaid benefits than motorcyclists with helmets. In addition, Michigan automobile insurance rates, including the MCCA assessment, have increased significantly in recent years even with a helmet requirement. Other states that have eliminated or eased their helmet laws have not experienced broad increases in insurance premiums, according to ABATE, and insurance rates have not gone down when helmet laws were added or reinstated.

***Against:***

Although the bill would restrict who could ride without a helmet, enforcing the restriction would be impractical. Short of stopping any motorcyclist who did not wear a helmet, a police officer patrolling the state's roads would have no way to know whether a motorcyclist or his or her passenger was at least 21, whether the motorcycle operator had two years' riding experience and had completed a motorcycle safety course, or if he or she carried the requisite \$10,000 insurance coverage. In effect, the bill would eliminate the helmet requirement.

***POSITIONS:***

ABATE of Michigan (American Bikers Aiming Toward Education) supports the bill. (6-6-06)

The Michigan Licensed Beverage Association supports the bill. (6-6-06)

The Department of Michigan State Police opposes the bill. (6-6-06)

AAA of Michigan opposes the bill. (6-6-06)

The Epilepsy Foundation of Michigan opposes the bill. (6-6-06)

The Insurance Institute of Michigan opposes the bill. (6-6-06)

The Brain Injury Association of Michigan opposes the bill. (6-6-06)

Ascension Health opposes the bill. (6-6-06)

The Michigan Association of Insurance Agents opposes the bill. (6-6-06)

The Michigan Health and Hospital Association opposes the bill. (6-6-06)

The Michigan College of Emergency Physicians opposes the bill. (6-6-06)

The Michigan Osteopathic Association opposes the bill. (6-6-06)

The Michigan Rehabilitation Association opposes the bill. (6-6-06)

The Michigan Brain Injury Providers Council opposes the bill. (6-6-06)

Michigan Protection and Advocacy Services opposes the bill. (6-6-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.