



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 297 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Alan L. Cropsey  
Committee: Judiciary

(as enrolled)

Date Completed: 3-29-05

### **RATIONALE**

Since 1967, the Michigan Vehicle Code has required motorcycle operators and their passengers to wear crash helmets. For just as long, some motorcycle enthusiasts and others have been attempting to overturn or relax the helmet requirement. Reportedly, 30 other states, including all of the states bordering Michigan, do not require that all motorcycle operators and passengers wear helmets. Those who oppose Michigan's law contend that motorcycle helmet use should not be mandated statutorily, but that adult motorcycle operators with significant riding experience or safety training, and their adult passengers, should be free to choose whether to wear a crash helmet. It has been suggested that such an exception to the helmet requirement should be enacted.

### **CONTENT**

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

The Code 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 on his or her head. Under the bill, this requirement would not apply to either of the following:

- A person who was at least 21 years old, had been licensed under the Code to operate a motorcycle for at least two years or had successfully completed a motorcycle safety course as provided under the Code, and had in effect

\$10,000 security for the payment of first-party medical benefits payable if he or she were involved in a motorcycle accident.

- The passenger on a motorcycle operated by a person to whom the helmet requirement would not apply, if the passenger were at least 21 years old.

(The Code requires a person under 18 years of age who is issued an original motorcycle endorsement on a driver's license to pass an examination and a motorcycle safety course. A person at least 18 years old who is issued an original motorcycle endorsement must pass an examination, but if he or she fails the examination two or more times, he or she 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.)

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. (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.) The bill would retain this exception.

MCL 257.658

## **BACKGROUND**

Since the late 1960s, motorcycle helmet laws have fluctuated in many U.S. states. States apparently 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 amended the requirement to exempt 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**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

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.”

### **Supporting Argument**

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 his or her 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>).

### **Supporting Argument**

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% 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.

### **Supporting Argument**

Beefing up education and training for motorcyclists and encouraging motorcycle awareness education for all drivers would be more effective than helmet requirements are 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% 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.

### **Opposing Argument**

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% and the risk of death by 37%. 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% in states that have mandatory helmet laws, it typically is at about 50% 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%,

fatalities increased by more than 50% 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% 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.

### **Opposing Argument**

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% of the MCCA assessments, they account for 6.2% 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 without helmets are no more likely to draw Medicaid benefits than are 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.

### **Opposing Argument**

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 or 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.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

To the extent that the bill would exempt certain people from wearing a crash helmet, it could decrease the number of civil infraction determinations for violations of this section, thereby decreasing fine revenue dedicated to public libraries.

If the passage of the bill led to more head injuries, Medicaid costs for the State could potentially increase.

Fiscal Analyst: Bethany Wicksall  
Steve Angelotti

#### **A0506\S297a**

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.