

# Legislative Analysis



## **MOTORCYCLES: REQUIRE PERMIT TO RIDE WITHOUT HELMET**

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**House Bill 4749 (Substitute H-2)**  
**Sponsor: Rep. Barbara Farrah**  
**Committee: Regulatory Reform**

### **First Analysis (6-6-07)**

**BRIEF SUMMARY:** The bill would allow a motorcycle operator and a passenger to ride without a helmet if the operator held a permit issued by the secretary of state.

**FISCAL IMPACT:** The bill would have an indeterminate fiscal impact on the state and local governments. See a more detailed discussion below.

### **THE APPARENT PROBLEM:**

For about 40 years, the Michigan Vehicle Code has required motorcyclists and their passengers to wear helmets when operating their machines. Ever since, motorcycle enthusiasts have vociferously opposed this requirement, maintaining that the law is an abridgement of freedom and infringement on personal choice. Some dispute the safety value of crash helmets. Many safety officials and insurance industry representatives, on the other hand, find the data regarding a correlation between helmet usage and reduction in motorcycle deaths and the severity of injuries compelling.

Reportedly, the majority of states, including the states bordering Michigan, do not require that all motorcycle operators and their passengers wear helmets. Legislation has once again been offered to exempt adult motorcycle operators who meet certain criteria, and their passengers, from the helmet requirements.

### **THE CONTENT OF THE BILL:**

The Michigan Vehicle Code requires motorcycle operators and riders to wear a crash helmet. The bill would lift this requirement for a motorcycle operator 21 years of age or older who carries a valid permit from the secretary of state allowing the operation of a motorcycle without a crash helmet. A passenger of such a motorcycle operator would also not need to wear a helmet if he or she was 21 years of age or older.

Permit for motorcycle operator to ride without helmet. A motorcycle operator would not have to wear a crash helmet if he or she had first obtained a permit from the secretary of state. A permit would carry a fee of \$100 for one year or \$200 for three years. A passenger could only ride without a helmet if the motorcycle operator had a permit to ride without a helmet.

To obtain a permit, a motorcycle operator would have to be 21 years of age or older; have been licensed to operate a motorcycle for at least two years; have successfully completed a motorcycle safety course; and have in effect security of at least \$20,000 for the payment of first-party medical benefits in the event of a motorcycle accident.

Upon request, the secretary of state could issue a sticker to the registered owner of a motorcycle operator who obtains a permit, with the sticker to be applied to the motorcycle registration plate.

A person operating a motorcycle without a helmet who fails to produce a valid permit at the request of a peace officer would be responsible for a civil infraction and could be ordered to pay a fine of not more than \$300.

The permit provisions added by the bill would be repealed effective January 1, 2013.

Civil infraction for other violations. The bill also would specify penalties for motorcycle violations. A person who operated or rode a motorcycle without a helmet would be responsible for a civil infraction and could be fined not more than \$300 (this provision would not be repealed in 2013).

In addition, until January 1, 2013, the failure to obtain a motorcycle indorsement on a driver license would be a civil infraction with a fine of not more than \$200. As of that date, the fine would be not more than \$100.

Justice System Assessment. A person found responsible for not obtaining a motorcycle indorsement or not complying with the code's helmet laws for a motorcycle operator or passenger would also be subject to a \$40 justice system assessment. In addition, a provision requiring a court to tax and determine the costs of a civil action and a provision allowing a court to order the person to attend and complete a program of treatment, education, or rehabilitation would apply.

MCL 257.312a et al.

### ***BACKGROUND INFORMATION:***

Several proposals to eliminate or ease Michigan's helmet requirement passed the House in recent years, but failed to win Senate approval. However, in the 2005-06 legislative session, a helmet law bill—Senate Bill 297—passed both chambers. It was ultimately vetoed by the governor. For more information and a lengthy discussion of the pros and cons of repealing the helmet law for qualified adults, see the analysis of Senate Bill 297 by the House Fiscal Agency dated 6-6-06 and the analysis by the Senate Fiscal Agency dated 3-29-05 available on the legislature's website at:

[http://www.legislature.mi.gov/\(S\(qpzmaxnz4m5bov45r5skgg55\)\)/mileg.aspx?page=getObject&objectName=2005-SB-0297](http://www.legislature.mi.gov/(S(qpzmaxnz4m5bov45r5skgg55))/mileg.aspx?page=getObject&objectName=2005-SB-0297)

In vetoing Senate Bill 297, Governor Granholm said, in part:

*I do not believe that the legal requirement to wear a helmet while operating or riding on a motorcycle in Michigan should be eliminated. Repealing the requirement that motorcyclists wear helmets would be costly to all Michigan families. The \$10,000 personal injury protection requirement under the bill is woefully inadequate. Actual costs for treatment of head injuries have been shown to be 400 percent higher. For closed-head injuries, lifetime long-term care costs run between \$4 million and \$9 million. By failing to require sufficient insurance protection, this bill would force higher medical and insurance costs on all Michigan citizens.*

*On this issue, the evidence is clear--motorcycle helmets save lives and reduce serious injury. States that have repealed this safety standard have experienced significantly increased fatality rates. In Louisiana, for example, the requirement that motorcycle riders wear helmets was reinstated four years after its repeal due to a 65 percent increase in fatalities. Studies have shown that helmet usage reduces fatalities by 37 percent and prevents traumatic brain injury by 67 percent. The social and economic costs of this legislation simply are too high.*

#### **FISCAL INFORMATION:**

New State Permit. Assuming that 200,000 motorcycle operators purchase permits (and of these, 75% purchase three-year permits at \$200 each), the bill would generate about \$15 million in revenue, plus any additional revenue from the \$300 civil infraction fine for not wearing a helmet.

Because it is anticipated that a relatively small number of motorcycle operators would purchase one-year permits at \$100, permit revenue in each of the next two years would be much smaller.

Fines and Penalties. HB 4749 would make changes concerning the penalties and fines associated with certain motorcycle violations. Under current law, a person operating a motorcycle on a public street without a motorcycle indorsement on a driver's license is a standard misdemeanor under the Michigan Vehicle Code. This misdemeanor currently carries a penalty of imprisonment for not more than 90 days and/or a fine of up to \$100. These penal fines fund local libraries. Under this bill, this offense would become a civil infraction and would carry a fine of up to \$200 until January 1, 2013, at which time the fine would be no more than \$100. If the motorcycle traffic citation is written under state statute, then the fine assessed under the bill would also fund local libraries.

This bill would potentially increase the fine revenue for local libraries by increasing the fine from \$100 to up to \$200. The amount of the increase of fine revenue would depend upon the number of offenders cited for driving without the proper motorcycle indorsement. While there is no data currently available to indicate the exact number of cited offenders for motorcycles, in calendar year 2006, there were 2,109 convictions in Michigan for driving a motorcycle or moped without the proper indorsement. Assuming

that half of these offenses involved motorcycles, if similar trends continued, these fines would generate an estimated \$291,000 in additional revenue for local libraries.

This bill would also increase the fine for operating or riding on a motorcycle without a helmet if the person does not have a permit. Under current law, the fine for not wearing a helmet is recommended to be \$24. This bill would increase the fine to up to \$300. If the motorcycle traffic citation is written under state statute, then the fine assessed under the bill would fund local libraries.

Under the bill, fine revenue for local libraries would potentially increase from \$24 to up to \$300 for each paid citation. The amount of the increase would depend upon the number of offenders cited for driving without a helmet if the person does not have a permit. Data is not available to indicate how many offenders are currently cited for not wearing a helmet.

### ***ARGUMENTS:***

#### ***For:***

The basic argument for repealing or modifying the helmet law is that wearing a helmet, or not wearing one, should be a matter of personal choice and not a legal mandate. Supporters of the bill also believe that helmets are not effective in preventing death or serious injury in motorcycle accidents. They say that fatality rates are not higher in states that have modified their helmet laws. Many feel that a better approach is to reduce the number of accidents through rider education, tougher motorcycle licensing laws, and motorcycle awareness for drivers of cars and trucks. Reducing accidents will save lives and reduce the number and severity of injuries, not relying on the protection of helmets. This bill encourages safety education for motorcyclists (by making it a condition for riding without a helmet).

The bill, moreover, would encourage compliance with the vehicle code's requirement that a person obtain a motorcycle endorsement on his or her driver license prior to operating a motorcycle on the state's public roadways. According to ABATE of Michigan, Inc., a 2002 study conducted by the University of Michigan revealed that 42 percent of motorcycle fatalities involved an operator without the required endorsement. The bill gives riders an incentive "to get legal to ride free." Obtaining the endorsement will ensure a minimum standard of competency and that should decrease the number of serious motorcycle accidents.

Motorcyclists dispute the impact of helmet law modifications on insurance costs or on the cost of publicly funded programs. They note that they pay in to the No Fault catastrophic claims association (often many times over, since it is a per vehicle charge), and they argue that historically insurance rates do not go down when helmet laws are enacted or go up when they are repealed or modified. They also say that those injured in motorcycle accidents are no more likely to be public burdens as the result of traumatic accidents than the general population. Moreover, the bill would require motorcyclists who want to ride without helmets to carry coverage for at least \$20,000 in first party medical benefits.

The easing of the helmet requirement will have a positive effect on the state's economy. The current law discourages out-of-state motorcyclists from traveling to Michigan. Changes to the state's helmet laws are likely to increase tourism spending, as well as increase the sales of vehicles and accessories. One study has put the estimated resulting sales tax impact to Michigan at \$40 million annually.

***Against:***

Those in opposition to allowing motorcycle operators, and/or their passengers, to ride without crash helmets feel, in general, that doing so will increase the number of motorcycle fatalities, increase the number of serious injuries, increase the cost of health and automobile insurance for all residents, and increase Medicaid expenditures. Personal choice, it is believed, must be restricted when the outcome has such a negative impact on society at large.

The Michigan Constitution says that "The public health and general welfare of the people of the state are . . . matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health."

Insurance industry representatives have testified that an unhelmeted rider is 40 percent more likely to suffer a fatal head injury compared to a rider with a helmet and that helmets are 67 percent effective in preventing brain injuries (citing National Highway Traffic Safety Administration statistics). They say that motorcyclists impose disproportionate costs on the state's No-Fault insurance system, particularly the Michigan Catastrophic Claims Association. Hospital officials say that an unhelmeted rider is 37 percent more likely to need ambulance services, be admitted to a hospital as an inpatient, have higher hospital costs, need neurosurgery, intensive care, and rehabilitation, be permanently impaired, and need long-term care.

Opponents also say that helmet laws that govern only minors (and select adults) are very difficult to enforce. Even with the proposed permit system, this kind of easing of the helmet law makes it easier for all riders to ride without a helmet, and makes it more likely motorcyclists and passengers of all ages will ride without the protection of helmets.

The bill would lower the penalties for operating a motorcycle without an indorsement and riding a motorcycle without a helmet by making it a civil infraction rather than a misdemeanor (a crime). There are roughly 2,000 or more of these violations a year. If a criminal penalty does not encourage 100 percent compliance, it is unlikely that lowering the penalty will help.

***POSITIONS:***

ABATE of Michigan, Inc. supports the bill. (5-29-07)

The Michigan Licensed Beverage Association indicated support for the bill. (5-29-07)

The Michigan Health & Hospital Association strongly opposes the bill. (5-29-07)

The Insurance Institute of Michigan opposes the bill. (5-29-07)

The following associations and organizations indicated opposition to the bill on 5-29-07:

AAA Michigan  
Michigan Department of Community Health  
Property Casualty Insurance Association  
Heads First Coalition  
Michigan Association of Insurance Agents  
Michigan State Police  
Michigan Insurance Coalition  
Michigan Osteopathic Association  
Michigan College of Emergency Physicians  
Michigan Brain Injury Providers Council  
Michigan Protection and Advocacy Service  
Michigan Rehabilitation Association  
Epilepsy Foundation of Michigan House of Representatives  
Brain Injury Association/Michigan

Legislative Analyst: Susan Stutzky  
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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.