

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 36 (Delegate Arnick)
Environmental Matters

**Vehicle Laws - Motor Scooters and Mopeds - Helmets and Eye-Protective
Equipment for Operators and Riders**

This bill requires the riders and operators of motor scooters and mopeds to wear helmets and eye-protective equipment.

Fiscal Summary

State Effect: Potential significant general and federal fund savings for the Department of Health and Mental Hygiene to the extent this bill reduces debilitating injuries from motor scooter and moped accidents. Minimal general fund revenue increase from the penalty provision applicable to this offense under the Maryland Vehicle Law (maximum \$500 fine). The increase in the District Court caseload is expected to be minimal and could be handled with existing resources.

Local Effect: Enforcement could be handled with existing resources.

Small Business Effect: Potential increase in revenues from increased sales of protective headgear and eyewear.

Analysis

Bill Summary: This bill provides that an individual may not operate or ride on a motor scooter or moped unless he or she is wearing protective headgear that conforms to standards established by the Motor Vehicle Administrator. In addition, an individual may not operate a motor scooter or moped unless he or she is wearing a type of eye-protective device that has been approved by the Administrator or the motor scooter or moped is

equipped with a windscreen. A violation of this provision is a misdemeanor, punishable with a maximum fine of \$500.

The Administrator is authorized to approve or disapprove the protective headgear and eye-protective devices required by the bill and may adopt regulations that establish standards for the approval of protective headgear and eyewear devices. The Administrator is required to publish lists of all approved protective headgear and eyewear devices, by name and type.

The bill provides that the failure of an individual to wear protective headgear may not be considered evidence of negligence or contributory negligence. This failure also may not limit the liability of a party or an insurer or diminish recovery for damages that may stem from the ownership, maintenance, or operation of a motor scooter or moped. The bill specifies additional limitations and protections concerning protective headgear with respect to civil litigation and the distribution of liability in a civil action.

Current Law: A “moped” is a bicycle operated by human power with the assistance of a motor. It is equipped with pedals that mechanically drive the rear wheels and has two or three wheels. A moped engine has a 1.5 brake horsepower rating or less and if the engine is internal combustion, it has a capacity of 50 cubic centimeters (cc) or less. A motor scooter is a two-wheeled, nonpedal vehicle with automatic transmission, a seat, and a step-through chassis. A motor scooter motor has a rating of 2.7 horsepower or less or, if the motor is an internal combustion engine, it has a capacity 50 cc or less. Motorcycles, all-terrain vehicles, other vehicles made for off-road use or so-called “pocket bikes” are not considered mopeds or motor scooters.

A person under the age of 16 may not operate a bicycle on a roadway or other public property or be a passenger on a bicycle unless the person wears a helmet that meets specified safety standards. A person under the age of 16 may not ride a scooter or inline skates on a roadway or other public property unless the person wears a helmet that meets or exceeds specified safety standards. Violations of these provisions are enforced with warnings.

A motorcycle is a self-propelled motor vehicle with one front wheel and one or two rear wheels on a single axle. A motorcycle has a motor with a rating of more than 1.5 brake horsepower and a capacity of at least 49 cc. An individual is prohibited from operating or riding on a motorcycle without wearing protective headgear that meets standards set by the Administrator. Also, an individual may not ride a motorcycle without wearing an approved eye-protective device, unless the motorcycle is equipped with a windscreen. A violation of these provisions is a misdemeanor, punishable by a maximum fine of \$500. The current fine assessed by the District Court is \$65.

Background: The laws concerning motor scooters and mopeds vary widely because states define mopeds and motor scooters differently. Some states are considering broadening the reach of protective laws due to the influx of “motorized” scooters and pocket bikes into the marketplace. Motorized scooters are usually two-wheeled devices with a floorboard and no seat that come equipped with a small gas or electric motor. “Pocket bikes” are miniature motorcycles that are often equipped with a 47 or 49 cc engine. Pocket bikes can exceed speeds of 30 miles per hour. According to the National Conference of State Legislatures, about 12 states have considered, but not enacted, bills during recent legislative sessions regarding motorized and nonmotorized scooters. Most of the bills would have required helmet use.

According to the Insurance Institute of Highway Safety, 20 states (including Maryland) and the District of Columbia require all riders of motorcycles and/or motor-driven vehicles, regardless of age, to wear approved protective headgear. Twenty-six states require riders under a specified age to wear helmets when riding motorcycles. The threshold age ranges from 14 to 20. Florida and Kentucky require all motorcycle riders under the age of 21 to wear protective headgear. However, riders over the age of 21 may ride without helmets if they can show proof of medical insurance coverage. Florida’s mandate covers motor scooter riders, as well as motorcyclists. Hawaii’s mandatory helmet law applies to riders of motor scooters and motorcycles, if they are age 17 or younger. Texas requires all motorcycle riders age 20 and under to wear protective headgear, but exempts riders who are 21 years and older if they can show successful completion of a motorcycle training and safety course or proof of medical insurance coverage. Four states (Colorado, Illinois, Iowa, and New Hampshire) do not require motorcycle riders to wear protective headgear.

Maryland joins 19 other states and the District of Columbia in requiring helmet use for children who ride bicycles. These states lift the helmet requirement at various ages. In Maryland, and in most other states with this requirement, children ages 15 and younger are required to wear helmets. Some states lift the helmet requirement as early as age 12, while a few states do not lift the helmet requirement until the ages of 18 or 19.

State Expenditures: To the extent this bill reduces debilitating injuries resulting from moped and motor scooter accidents, potentially significant savings could be generated for the Department of Health and Mental Hygiene. Individuals with traumatic brain injuries often receive care in nursing homes and State psychiatric institutions due to a lack of funding for community-based services. The Medicaid program advises that individuals enrolled in the Medicaid program for treatment from traumatic brain injury receive residential and day habilitation and supported employment services at a cost of about \$120,000 per enrollee per year. There are insufficient data at this time to estimate the

number of traumatic head injuries that could be avoided and the resulting potential savings to the Medicaid program.

If additional Maryland motor scooter and moped riders under age 21 comply with this bill by wearing the specified safety equipment and there are fewer head injuries as a result, general fund expenditures for the Developmental Disabilities Administration could be reduced because fewer individuals injured before the age of 21 would need ongoing funding and services. There are insufficient data at this time to reliably estimate the number of injuries that could be avoided and the resulting potential savings.

According to the Maryland Institute for Emergency Medical Service Systems, during calendar 2000-2002, there were 380 accidents involving mopeds (no data is available on motor scooter riders). Of those accidents, 51 involved incapacitating injuries to moped operators during that same three-year period.

The Maryland Motor Vehicle Administration is expected to be able to meet the bill's requirements with existing resources as it has the discretion to incorporate safety standards by reference from the federal government or an appropriate organization that tests and evaluates safety equipment.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Maryland Department of Transportation, Maryland Institute for Emergency Medical Service Systems, Department of State Police, Florida State Code, Hawaii Revised Statutes, Insurance Institute for Highway Safety, National Highway Traffic Safety Administration, National Conference of State Legislatures, Department of Legislative Services

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