

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 488

(Senator Astle)

Judicial Proceedings

Vehicle Laws - Protective Headgear Requirement for Motorcycle Riders -
Exception

This bill exempts an individual age 21 or older who carries at least \$10,000 in health insurance coverage for injuries that may be incurred in a motorcycle accident from the requirement to wear specified protective headgear while operating a motorcycle.

Fiscal Summary

State Effect: General fund revenues from traffic citations decrease by an unknown but potentially significant amount beginning in FY 2013. Medicaid expenditures (50% general funds, 50% federal funds) may increase beginning in FY 2013 to the extent that the bill results in a reduction in helmet use and an associated increase in head injuries not otherwise covered by insurance.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual may not operate or ride on a motorcycle unless the individual is wearing protective headgear that meets the standards established by the administrator of the Motor Vehicle Administration. The administrator is authorized to approve or disapprove of the protective headgear required for motorcycle operators and may adopt and enforce regulations that establish protective headgear standards. An individual who is riding in an enclosed cab is exempt from the protective headgear requirement. A person may not operate a motorcycle unless the individual is wearing an eye-protective device approved by the administrator or the motorcycle is equipped with a windscreen.

“Protective helmet or headgear” means a device primarily intended to protect the upper part of the wearer’s head against a blow or impact. *The Federal Motor Vehicle Safety Standard 218, Motorcycle Helmets, 49 CFR § 571.218 (1991)*, which is incorporated by reference in the Code of Maryland Regulations, is adopted as the minimum standard for helmets required to be worn by operators and passengers on motorcycles. The protective headgear must be worn on the head with the chin strap properly fastened and in contact with the chin or jaw by both operator and passenger at all times that the motorcycle is in motion.

A violation of the protective headgear or eye-protective device/windscreen requirement is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty assessed by the District Court is \$110.

The failure of an individual to wear protective headgear required may not be considered evidence of negligence or contributory negligence; limit liability of a party or an insurer; or diminish recovery for damages arising out of the ownership, maintenance, or operation of a motorcycle.

For motorcycles, an insurer may either exclude economic loss benefits or offer the economic loss benefits with deductibles, options, or specific exclusions.

Background: As of February 2012, 20 states and the District of Columbia require all motorcyclists to wear a helmet, while 27 states require only some motorcyclists to wear a helmet (typically riders age 17 and younger). Two of these states (Florida and Texas) exempt individuals age 21 and older from the helmet requirement if they obtain specified health insurance coverage. In Florida, individuals must carry medical coverage of at least \$10,000. In Texas, individuals must have “coverage by an applicable health insurance plan” with no specified minimum coverage amount (prior to 2009, a minimum of \$10,000 in coverage was required). Three states (Illinois, Iowa, and New Hampshire) have no motorcycle helmet laws.

The Maryland Institute for Emergency Medical Services Systems reports that Maryland’s trauma centers treated 1,221 patients involved in motorcycle crashes during fiscal 2011. Of these patients, 461 (38%) sustained a head injury, 30 of whom subsequently died. Of the 461 riders who sustained head injuries, 296 (64%) were wearing a helmet, 133 (29%) were not, and it was unknown whether 32 of the patients wore a helmet or not. All 461 required treatment and 315 were admitted. Seventy-six (2%) of the admitted patients stayed in the hospital for one day. Eleven of the admitted patients required hospitalization for more than 28 days.

State Revenues: General fund fine revenues decrease beginning in fiscal 2013 due to a reduction in the number of citations issued for failure to wear a helmet. In fiscal 2011,

378 citations were issued statewide for failure to wear a helmet or eye-protective device while riding on or operating a motorcycle. Of these citations, 157 (42%) were prepaid. The citation carries a prepayment penalty of \$110, including court costs.

The actual decrease in general fund fine revenues cannot be reliably estimated at this time and will depend on the number of individuals who obtain the required health insurance coverage. *For illustrative purposes only*, if all of the individuals who prepaid citations for failure to wear a helmet in fiscal 2011 were exempt from the requirement, general fund revenues would decline by \$17,270. Additionally, if every citation that went to trial in fiscal 2011 (221) resulted in the maximum fine of \$500, general fund fine revenues would further decline by \$110,500, for a total decline of as much as \$127,770.

State Expenditures: Medicaid expenditures (50% general funds, 50% federal funds) may increase in fiscal 2013 to the extent that the exemption from the protective headgear requirement results in a reduction in helmet use and an associated increase in head injuries to crash-involved motorcyclists not otherwise covered by insurance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Insurance Institute for Highway Safety, Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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