

Department of Legislative Services  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 492

(Senator Astle)

Judicial Proceedings

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**Vehicle Laws - Protective Headgear Requirement for Motorcycle Riders -  
Exceptions**

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This bill exempts specified motorcycle riders from current protective headgear requirements. The Motor Vehicle Administration (MVA) must study the effect of the bill on motorcycle injuries and fatalities during the first two years that the bill is in effect and report its findings by December 31, 2012.

The bill takes effect June 1, 2010, and terminates May 31, 2013.

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**Fiscal Summary**

**State Effect:** General fund revenues from traffic citations may decrease beginning in FY 2010 through 2013, offset by an increase in special and general fund revenues to the extent interest in motorcycling increases in Maryland. Medicaid expenditures (generally, 50% general funds, 50% federal funds) and general fund expenditures for the Developmental Disabilities Administration (DDA) may increase beginning in FY 2010.

**Local Effect:** Potential increase in local highway user revenues to the extent interest in motorcycling increases in Maryland and additional motorcycles are titled and registered in the State. Potential increase in tourism-related revenues to the extent motorcycle-related tourism increases in Maryland.

**Small Business Effect:** Potential minimal to the extent interest in motorcycling increases in Maryland.

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## Analysis

**Bill Summary:** The following individuals are exempt from wearing a helmet: (1) the operator or occupant of any three-wheeled motorcycle equipped with an enclosed cab; (2) an individual age 21 or older who has been licensed to operate a motorcycle for at least two years; (3) an individual age 21 or older who has completed a motorcycle-rider safety course approved by the Motor Vehicle Administrator or by the Motorcycle Safety Foundation; or (4) an individual age 21 or older who is a passenger on a motorcycle operated by another exempt individual.

**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. An individual who is riding in an enclosed cab is exempt from the protective headgear requirement. Failure to comply with the requirement for wearing protective headgear is a misdemeanor, subject to a maximum fine of \$500. The prepayment penalty established by the District Court for this offense is \$100.

“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.

**Background:** As of January 2010, 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. Three states (Illinois, Iowa, and New Hampshire) have no motorcycle helmet laws.

*History of Motorcycle Helmet Laws:* Prior to 1966, no state required motorcycle helmet use. In 1967, the federal government required states to adopt universal helmet laws (applicable to all riders) or lose a portion of highway construction funds. Maryland adopted such a law in 1968. In 1975, by which time all but three states had enacted universal helmet use laws, the U.S. Congress repealed this requirement and states began to repeal their helmet laws. Maryland repealed its universal helmet law in 1979, but continued to require helmet use by riders younger than age 18.

A 1991 study by the Government Accountability Office concluded that universal helmet use laws increase helmet use to 90% or greater and reduce motorcycle fatalities, fatality rates, and severe head injuries. The report also found that helmets reduce probability of

injury, head injuries, and fatalities for crash-involved motorcyclists. The study prompted the U.S. Congress to promote universal helmet laws through the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). ISTEA provided incentive grants to states with both universal helmet laws and passenger vehicle seat belt laws and penalized states without both laws in place by October 1, 1993, by transferring a portion of federal highway funds to highway safety programs. Maryland reinstated a universal helmet use law in 1992 and was the only state to act in response to ISTEA. The U.S. Congress repealed this requirement in 1995.

Since 1995, six states have repealed universal helmet use laws: Arkansas, Florida, Kentucky, Louisiana, Pennsylvania, and Texas. Five of these states require helmets for individuals younger than age 21, while one state (Louisiana) requires riders younger than age 18 to wear a helmet.

*Experience in States that Repealed Universal Helmet Laws:* Following the repeal of universal helmet laws in Arkansas, Texas, and Florida, helmet use declined from 97% or greater to between 50% and 66%. Motorcycle registrations increased in these states in the first year following the repeal by 47%, 12.5%, and 9%, respectively. Motorcycle fatalities increased 21% in Arkansas and Florida and 31% in Texas in the first year following repeal of universal helmet laws. Florida found significant increases in medical costs attributable to crash-involved motorcyclists. In the 30 months following repeal of Florida's universal helmet law, hospital admissions for motorcyclists increased 40%, head injury admissions increased by more than 80%, total acute care hospital costs more than doubled from \$21 million to \$44 million, and the average cost per case increased from \$34,518 to \$39,877 (15.5%). These figures are not adjusted to reflect the increased number of motorcyclists in the State following the helmet law repeal.

*Motorcycle Morbidity and Mortality in Maryland:* In 2008, there were 84 fatalities among Maryland motorcycle riders. Nearly all of these riders (88%) were wearing helmets. While total motor vehicle fatalities have declined in Maryland since 2001, motorcycle rider fatalities have increased, in large part due to the increased number of motorcycles in the State.

The Maryland Institute for Emergency Medical Services Systems reports that Maryland's trauma centers treated 1,165 patients involved in motorcycle crashes during fiscal 2009. Of these patients, 454 sustained a head injury, 30 of whom subsequently died. Of the 454 riders who sustained head injuries, 318 (70%) were wearing a helmet, 123 (27%) were not, another 2 were listed as wearing "padded/protective clothing" instead of a helmet, and it was unknown whether 11 of the patients wore a helmet or not. All 454 required treatment and 325 were admitted. Seventy-nine (17%) stayed in the hospital for one day. Fifteen of the admitted patients required hospitalization for more than 28 days.

*Impact of Helmet Use:* The National Highway Traffic Safety Administration (NHTSA) estimates that motorcycle helmets reduce the likelihood of crash fatality by 37%. In the event of a crash, unhelmeted motorcyclists are three times more likely than helmeted riders to suffer traumatic brain injuries. NHTSA estimates that nationally helmets saved the lives of 1,829 motorcyclists in 2008. If all motorcyclists had worn helmets in 2008, an additional 823 lives could have been saved. Conversely, claims have been made that helmets increase the risk of neck injury and reduce peripheral vision and hearing, but these claims are not well documented.

**State Revenues:** General fund fine revenues decrease by at least \$19,000 beginning in fiscal 2011. In calendar 2009, 379 citations were issued statewide for failure to wear a helmet while riding on or operating a motorcycle. The citation carries a prepayment penalty of \$100. Of these citations, 120 went to trial, 190 were prepaid, and 69 remained open.

Transportation Trust Fund revenues may increase by a significant amount beginning in fiscal 2011 to the extent interest in motorcycling in Maryland increases under the bill. Revenues may accrue from increased sales of motorcycles, motorcycles titled in the State, motorcycle registrations, and required endorsements on a driver's license. As of November 30, 2009, there were 115,607 motorcycles registered in Maryland. Registration costs \$97 and is renewed every two years, with a portion of the fee going to the Maryland Trauma Physician Services Fund and the Maryland Emergency Medical System Operations Fund. For each 1% increase in motorcycle registrations, special fund revenues increase by approximately \$100,000. Each motorcycle titled in Maryland also generates \$50 in titling fee revenues and 6% of the purchase price of the motorcycle in excise (titling) tax revenues. In addition, approximately 10% of vehicles are secured by a lien and pay a \$20 lien fee. Legislative Services cannot reliably estimate how many additional motorcycles may be titled and registered as a result of the bill.

Individuals seeking to register a new motorcycle must have a Class M motorcycle endorsement on their driver's license to operate it. To receive a Class M endorsement, an individual has to get a learner's permit (\$35 fee) and pass the requisite tests. Alternatively, an individual can take an MVA-approved motorcycle safety course. An individual taking that course receives a certificate of completion and turns in the current license for one with an endorsement. MVA advises that this transaction costs \$30. MVA offers the motorcycle safety course. The fee is \$175 for the basic rider course or the alternate basic rider course. Alternatively, other institutions such as community colleges and driving schools offer the course as well.

Revenues associated with tourism may also increase to the extent participation in motorcycle events such as Delmarva Bike Week increase. Anecdotal evidence suggests

that rallies in other states, such as Pennsylvania's Thunder in the Valley, generate significant revenues. Pennsylvania requires helmet use for all individuals younger than age 21 and during the first two years of licensure unless the operator completes an approved safety course.

### **State Expenditures:**

*Medicaid:* Medicaid expenditures (generally, 50% general funds, 50% federal funds) may increase in fiscal 2010 but would increase beginning in fiscal 2011 from the anticipated reduction in helmet use and the associated increase in head injuries to crash-involved motorcyclists. In fiscal 2009, the estimated cost to treat a motorcycle accident-related head injury was \$59,000 compared with \$20,500 for one that does not include a head injury. A number of studies have examined who pays for the medical costs associated with motorcycle crashes and concluded that only slightly more than half of motorcycle crash victims have health insurance.

In addition, Medicaid expenditures may increase to the extent uninsured motorcyclists suffer injuries severe enough to eventually make them eligible for Medicaid. 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 Department of Health and Mental Hygiene advises the annual cost of serving one brain-injured individual in an inpatient setting is \$120,000. There is insufficient data at this time to estimate the number of currently uninsured head injury victims who may enroll in Medicaid due to medical and financial eligibility.

*Developmental Disabilities Administration:* Expenditures for DDA may also increase beginning in fiscal 2010 due to the anticipated reduction in helmet use among motorcyclists younger than age 21, as witnessed in other states with age-specific helmet use laws, and the associated increase in head injuries among these riders. Individuals who sustain traumatic brain injuries before the age of 21 are eligible for DDA services. There is insufficient data at this time to reliably estimate any increase.

*Motor Vehicle Administration:* To the extent additional registration and licensing activity occurs under the bill, MVA's workload may increase beyond the capacity of existing resources. Additional contractual staff may be requested through the annual budget process. Legislative Services advises that, in spite of constrained resources, it is assumed that MVA can complete the required study with existing resources as the relevant data is already collected and maintained by other entities.

**Local Fiscal Effect:** For every new motorcycle registered, local highway user revenues increase from motor vehicle excise taxes and registration fees. To the extent

motorcycle-related tourism increases, local revenues may increase from such sources as well as lodging and admissions and amusement taxes.

**Additional Comments:** Maryland is currently receiving an enhanced federal Medicaid match (61.6% federal funds, 38.4% general funds) for the first half of fiscal 2011 under the federal American Recovery and Reinvestment Act of 2009. The Governor's proposed fiscal 2011 budget assumes that the enhanced match will continue throughout fiscal 2011.

As of February 2010, two pieces of Congressional legislation (H.R. 2847 and H.R. 3962) contain provisions to extend this enhanced match through June 30, 2011. H.R. 2847 passed both chambers and is in conference. H.R. 3962 (the House health care reform bill) has passed the House of Representatives and is currently in an informal conference with the Senate health care reform bill. Extension of the enhanced federal medical assistance percentage is anticipated to result in \$389 million in additional federal funds for Maryland in fiscal 2011.

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### **Additional Information**

**Prior Introductions:** SB 766 of 2009 received an unfavorable report from the Senate Judicial Proceedings Committee. This bill is nearly identical to HB 1203 of 2008, SB 226 of 2007, and SB 163/HB 727 of 2006. HB 1203 received an unfavorable report from the House Environmental Matters Committee. No action was taken on SB 226 or SB 163 after being heard in the Senate Judicial Proceedings Committee. HB 727 received an unfavorable report from the House Environmental Matters Committee. Similar bills have been introduced each year since 1996.

**Cross File:** HB 1282 (Delegate Anderson, *et al.*) – Environmental Matters.

**Information Source(s):** Department of Health and Mental Hygiene; Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Transportation; *Current U.S. Motorcycle and Bicycle Helmet Laws* (January 2010); Insurance Institute for Highway Safety; National Highway Traffic Safety Administration; *Evaluation of Motorcycle Helmet Law Repeal in Arkansas and Texas*, D.F. Preusser, J.H. Helund, and R.G. Ulmer (September 2000); *Evaluation of the Repeal of the All-Rider Motorcycle Helmet Law in Texas*, R.G. Ulmer, V.S. Northrop (August 2005); Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2010  
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