

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 274

(Delegate Niemann, *et al.*)

Environmental Matters

Motor Scooter and Moped Rentals - Protective Headgear - Requirement

This bill requires a person who rents a motor scooter or moped to another person to provide protective headgear that meets the standards established by the Administrator of the Motor Vehicle Administration (MVA). The bill also prohibits an individual from operating or riding a rented motor scooter or moped unless the individual is wearing specified protective headgear. A violator of either provision is subject to existing penalties. The failure of an individual to wear protective headgear 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 motor scooter or moped.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues beginning in FY 2012 due to penalties assessed under the Maryland Vehicle Law. Enforcement can be handled with existing resources. Potential significant general and federal fund expenditure savings beginning in FY 2012 for the Department of Health and Mental Hygiene to the extent the bill reduces debilitating injuries from motor scooter and moped accidents.

Local Effect: None. Enforcement can be handled with existing resources.

Small Business Effect: Potential significant impact on small businesses that rent motor scooters and mopeds. Potential minimal increase in revenues from additional sales of helmets.

Analysis

Current Law: Maryland law has established no helmet requirement for motor scooters or mopeds.

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 of 50 cc or less. Motorcycles, all-terrain vehicles, and other vehicles made for off-road use are not considered motor scooters. A person may not ride a motor scooter on any roadway where the maximum speed limit exceeds 50 miles per hour, on any expressway (except on an adjacent bicycle path or way approved by the Maryland State Highway Administration), or on any other controlled access highway prohibited by specified signage.

The Administrator of MVA 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.

“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.

Unless otherwise specified, a violation under the Maryland Vehicle Law is a misdemeanor, subject to a maximum fine of \$500. The District Court assesses a prepayment penalty of \$110 for a violation of the protective headgear requirement.

The failure of an individual to wear the 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.

Background: The laws concerning helmet use for motor scooters vary widely because states define motor scooters differently. Many states include motor scooters in the definition of “motor driven cycle” along with motorcycles. According to the Insurance Institute for Highway Safety, 22 states have motorcycle laws that cover all “low-power cycles” – motor-driven cycles, mopeds, scooters, and various other two-wheeled cycles typically excluded from the definition of motorcycle. Twenty-five states and the

District of Columbia have laws that cover some low-power cycles. Twenty states (including Maryland) and the District of Columbia require all motorcyclists to wear a helmet, while 27 states require only riders younger than a specified age to wear helmets. The threshold age ranges from 14 to 20. Three states (Illinois, Iowa, and New Hampshire) do not require motorcycle riders to wear protective headgear.

State Revenues: General fund revenues increase minimally under the bill's monetary penalty provision.

State Expenditures: To the extent the bill reduces debilitating injuries resulting from motor scooter and moped 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, chronic hospitals, and State psychiatric institutions due to a lack of funding for community-based services. 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 younger than age 21 comply with this bill by wearing the specified helmets 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 age 21 would need ongoing funding and services. There is insufficient data at this time to reliably estimate the number of injuries that could be avoided and the resulting potential savings.

Small Business Effect: Small businesses that rent motor scooters or mopeds, to the extent that they do not already provide protective headgear, would be required to purchase and maintain such equipment. Small businesses that sell protective headgear could see a minimal increase in revenues from increased sales of protective headgear.

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,

Judiciary (Administrative Office of the Courts), Department of State Police, Maryland
Department of Transportation, Department of Legislative Services

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