

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 309

(Senator Klausmeier, *et al.*)

Judicial Proceedings

Environmental Matters

Mopeds and Motor Scooters - Titling, Insurance, and Required Use of Protective Headgear

This bill requires the titling of mopeds and motor scooters and establishes requirements for required security (insurance) coverage of such vehicles. In addition, the bill requires an individual who rides or operates a motor scooter or moped to wear protective headgear that meets specified federal standards and, if the vehicle does not have a windscreen, an eye-protection device. The bill authorizes an insurer either to exclude certain economic loss benefits from personal injury protection coverage of policies written for mopeds or motor scooters or to offer the economic loss benefits with deductibles, options, or specific exclusions, as is authorized under current law and applied to motorcycles. Finally, the bill expands the definition of a “covered vehicle” for which the Maryland Automobile Insurance Fund (MAIF) is required to provide insurance coverage to eligible individuals, to include *any* motor vehicle required to be *registered* with the Motor Vehicle Administration (MVA) as well as a moped and motor scooter. Thus, MAIF must also cover motorcycles and low-speed vehicles.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) and other special fund revenues increase – potentially significantly – due to the collection of vehicle excise taxes, title fees, title lien fees, and new decal fees, and under the assumptions discussed below. General fund revenues decrease beginning in FY 2013 due to lost sales and use tax revenue associated with newly purchased mopeds and motor scooters, partially offset by the collection of additional insurance premium taxes and the application of existing penalties. TTF expenditures increase beginning in FY 2013, for MVA to hire additional customer agents to handle additional transactions and for contractual reprogramming costs. Potential significant general and federal fund expenditure savings beginning in FY 2013 for the Department of Health and Mental Hygiene (DHMH) to the extent the bill reduces debilitating injuries from motor scooter and moped accidents.

MAIF Effect: Potential minimal increase in nonbudgeted revenues and expenditures due to collection of insurance premiums and payment of insurance premium taxes and claims. MAIF workloads increase for reprogramming and reprinting work and to otherwise ensure coverage of the additional vehicle classes under the bill; however, these changes can be handled with existing budgeted resources.

Local Effect: Local revenues increase minimally due to the distribution of additional highway user revenues.

Small Business Effect: Potential minimal effect on small business moped and motor scooter dealers and on helmet retailers.

Analysis

Bill Summary: The bill establishes a title certificate fee of \$20 for mopeds and motor scooters, which are also subject to the vehicle excise tax under the bill. The certificate of title for a moped or motor scooter must be transmitted electronically. MVA must issue a permanent decal with a unique number sequence to the owner of a moped or motor scooter issued a certificate of title, and the owner must pay a \$5 fee for the decal. The owner must display the decal on the vehicle as prescribed by MVA, and MVA may adopt regulations to administer the decal requirement.

The owner of a moped or motor scooter must certify at the time of titling that the vehicle is covered by required security. The operator of a moped or motor scooter must carry evidence of required security when operating the vehicle.

The bill requires MVA to waive all fees associated with titling a moped or motor scooter owned by October 1, 2012, and titled by October 1, 2013, except for the decal fee established by the bill.

Finally, the bill exempts mopeds and motor scooters from the requirement to have specified equipment and from the prohibition against offering for sale, or driving, a vehicle that is not equipped with specified equipment in proper condition.

Current Law: A “motor scooter” is a nonpedal vehicle that meets certain technical specifications including a motor that is under a specified horsepower or displacement capacity. A motor scooter may not be operated at more than 30 miles per hour or on a roadway with a maximum speed limit of more than 50 miles per hour. A “moped” is a bicycle with pedals and either two or three wheels (one of which is at least 14 inches in diameter), and which is assisted by a motor of at most 1.5 horsepower, or 50 cubic centimeters capacity if the motor is an internal combustion engine.

Mopeds and motor scooters are specifically excluded from the definition of “motor vehicle” under the Transportation Article, but they are more broadly encompassed within the definition of “vehicle.” A “vehicle” is defined as a device in, on, or by which an individual or property is or might be transported or towed on a highway. *Motor* vehicles, with some exceptions, must be titled and registered. Even though the vehicles are not subject to titling or registration, a person may not *operate* a moped or motor scooter if the person does not possess a driver’s license or moped operator’s permit. Motor scooters and mopeds are not subject to the same requirements as other vehicles for equipment standards, inspections, including vehicle emissions, and the required security provisions. In addition, mopeds and motor scooters are subject to separate rules of the road, which are generally similar to those applicable to bicycles.

Maryland law has established no helmet requirement for motor scooters or mopeds. However, 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.

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.

The owner of a motor vehicle that is required to be registered in Maryland must maintain the required security for the vehicle during the vehicle’s registration period and may not drive or permit another to drive a vehicle without it. Likewise, a person who knows or has reason to know that a motor vehicle is not covered by the required insurance may not drive the vehicle. A person may not willfully and knowingly create, certify, file, or provide false evidence of required vehicle insurance.

Chapter 441 of 2010 increased the minimum security required on a motor vehicle liability insurance policy for the bodily injury or death of a single individual from \$20,000 to \$30,000 and from \$40,000 to \$60,000 for more than one individual. The minimum security required for property damage is \$15,000, in addition to interest and costs.

For purposes of extending insurance by MAIF, a “covered vehicle” is defined as an automobile, truck, van, and trailer, but the definition does not include a motorcycle, low-speed vehicle, or motorbike.

Background: Recent spikes in gas prices have contributed to the popularity of mopeds and motor scooters. Also, many people regard these vehicles as more efficient than automobiles for short trips. They can achieve about 70 miles per gallon of gas or more and are also considered more environmentally friendly than most automobiles. However, traffic safety advocates have expressed concerns about the increasing number of mopeds and motor scooters on high-speed thoroughfares since they cannot achieve the speeds of automobiles, making integration with automobile traffic difficult.

The laws concerning helmet use for mopeds and motor scooters vary widely because states define mopeds and 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 Fiscal Effect: The bill requires the titling of mopeds and motor scooters and requires moped and motor scooter owners to maintain required security. However, a reliable estimate cannot be made as to how many mopeds or motor scooters will be titled and covered by required security.

Nevertheless, TTF revenues will increase beginning in fiscal 2013 – potentially significantly – due to the collection of decal fees and excise taxes; revenues increase further beginning in fiscal 2014 as title fees and title lien fees are collected for newly purchased mopeds and motor scooters beginning October 1, 2013. General fund revenues will generally decrease due to lost sales and use tax revenue associated with newly purchased mopeds and motor scooters as State law prohibits the collection of a sales and use tax when an excise tax is being collected for TTF. *For illustrative purposes only*, TTF revenues may increase and general fund revenues may decrease as shown in **Exhibit 1** under the following assumptions:

- according to Motorcycle Industry Council data, an average of 523 motor scooters were purchased between 2010 and 2011, and Legislative Services assumes annual sales of 500 vehicles in fiscal 2013;
- Legislative Services assumes that about 3,500 motor scooters are currently in use in Maryland;
- in the absence of data, it is assumed that the current number of mopeds and moped sales are the same as for motor scooters;
- 2% annual growth in motor scooter and moped purchases;
- a purchase price of \$3,500, with 1% annual inflation;
- the excise tax is only collected on newly purchased mopeds and motor scooters;
- in the first year, all newly purchased motor scooters and 80% of currently owned mopeds and motor scooters will be titled and purchase required security coverage, but would not do so in the absence of the bill;
- the remaining 20% of currently owned mopeds and motor scooters will not be titled or registered due to ineligibility to operate a moped or motor scooter;
- a negligible number of new driver's licenses or moped operator permits will be issued under the bill;
- the average annual cost to insure a moped or motor scooter is assumed to be \$600;
- MVA title fees are \$20 and title lien fees are \$20;
- MVA estimates that 10% of mopeds and motor scooters are secured with a lien;
- MVA establishes a one-time \$5 decal fee as required by the bill; and
- title fees and title lien fees are not collected for vehicles owned on October 1, 2012, and titled by October 1, 2013.

Exhibit 1
Illustrative Revenue Sources and Collection Estimates

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>
<u>Sources of Revenue</u>					
Decal Fees	\$31,750	\$5,100	\$5,200	\$5,310	\$5,410
Title Fees	15,000	20,400	20,800	21,220	21,640
Title Lien Fees	1,125	2,040	2,080	2,100	2,200
Excise Tax Revenue	157,500	216,342	222,790	229,561	236,446
Sales Tax Revenue	(157,500)	(216,342)	(222,790)	(229,561)	(236,446)
Premium Tax	76,200	12,240	12,480	12,732	12,984
<u>Distribution of Revenue</u>					
TTF Net Revenue*	\$194,875	\$230,036	\$236,611	\$243,499	\$250,563
GF Net Revenue	(81,300)	(204,102)	(210,310)	(216,829)	(223,462)
Net State Revenue Collected	\$113,575	\$25,934	\$26,301	\$26,670	\$27,101
Local Share of TTF	\$10,500	\$13,846	\$14,259	\$14,692	\$15,133
Total Net Revenue	\$124,075	\$39,780	\$40,560	\$41,362	\$42,234

*Reflects State share only.

Source: Department of Legislative Services

The revenue estimates reflected in Exhibit 1 above are provided for illustrative purposes only; they reflect several assumptions made as a result of incomplete information and significant uncertainty; the estimates do not reflect annual variability, but they do assume general compliance with the bill's requirements and current law. Thus, the illustrative example may significantly understate or overstate actual revenues.

MVA Expenditures

Using the same illustrative example and assumptions, TTF expenditures could increase by \$165,312 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This illustrative estimate reflects the need to hire one full-time customer agent and retain the services of two contractual employees at MVA to process the additional transactions. MVA advises that, generally, one customer agent is required for each additional 10,000 transactions. One of the contractual employees would be needed in fiscal 2013 only due to the large initial increase in title transactions for existing mopeds and motor scooters, including issuance of decals required by the bill to ensure each vehicle is covered by required security.

The estimate includes salaries, fringe benefits, one-time start-up costs, contractual computer reprogramming services, and ongoing operating expenses, including the cost for procuring additional title paper as well as postage costs and decals. The estimate also assumes that the number of mopeds currently in Maryland and the sales of new mopeds are the same as for motor scooters. To the extent that the actual numbers differ, the estimate may overstate or understate expenditures for personnel needed to implement the bill. Future year expenditures would reflect full salaries with annual increases, employee turnover, annual increases in ongoing operating expenses, and elimination of contractual staff.

In addition to the contractual services necessary to reprogram specific MVA systems, MVA advises that internal computer reprogramming is necessary to implement the requirements of this bill. If MVA is unable to accomplish the estimated 1,500 additional hours of computer reprogramming with existing staff and resources, it may be necessary to contract with an outside computer services vendor at a cost that is potentially greater than \$100,000. Legislative Services advises that, if other legislation is passed requiring computer reprogramming changes, economies of scale may be realized should it be necessary to retain outside contractual services; this reduces the costs associated with this bill and the other legislation affecting MVA.

DHMH Expenditures

To the extent the bill reduces debilitating injuries resulting from motor scooter and moped accidents, potentially significant savings could be generated for DHMH. 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 roughly \$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 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 are insufficient data at this time to reliably estimate the number of injuries that could be avoided and the resulting potential savings.

Additional Information

Prior Introductions: SB 708 of 2011, a similar bill, passed the Senate but was referred to interim study by the House Environmental Matters Committee.

Cross File: HB 149 (Delegate Beidle, *et al.*) - Environmental Matters.

Information Source(s): Maryland Department of the Environment, Department of Health and Mental Hygiene, Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Maryland Automobile Insurance Fund, Department of State Police, Maryland Department of Transportation, Insurance Institute of Highway Safety, Department of Legislative Services

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