

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 173

(Senator Astle, *et al.*)

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 beginning in FY 2015. Special fund revenues for the Maryland Insurance Administration (MIA) may increase from the \$125 rate and form filing fee in FY 2015 only from health insurers that must provide proof of coverage. Medicaid expenditures (50% general funds, 50% federal funds) may increase beginning in FY 2015 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: Potential minimal.

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. An individual 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 required 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 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 January 2014, 19 states and the District of Columbia require all motorcyclists to wear a helmet, while 28 states require only some motorcyclists to wear a helmet (typically riders age 17 and younger). Three of these states (Florida, Michigan, and Texas) exempt individuals age 21 or older from the helmet requirement if they obtain specified health insurance coverage (and in some instances meet other criteria). In Florida, individuals covered by an insurance policy with at least \$10,000 in medical benefits are eligible for a helmet exception. In Michigan, individuals must have at least \$20,000 in first-party medical benefits and have either held a motorcycle endorsement for at least two years or have passed an approved motorcycle safety course. In Texas, individuals must provide standard proof of health insurance 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 1,112 patients involved in motorcycle crashes during fiscal 2013. Of these patients, 419 sustained a head injury, 22 of whom subsequently died. Of the 419 riders who sustained head injuries, 273 (65%) were wearing a helmet, 114 (27%) were not, and it was unknown whether 32 of the patients wore a helmet or not. All 419 required treatment, and 254 were admitted. Fifty-nine (23%) of the admitted patients stayed in the hospital for one day. Thirteen of the admitted patients required hospitalization for more than 28 days.

State Revenues: General fund fine revenues decrease beginning in fiscal 2015 due to a reduction in the number of citations issued for failure to wear a helmet. In fiscal 2013, 422 citations were issued statewide for failure to wear a helmet or eye-protective device while riding on or operating a motorcycle. Of these citations, 136 (32%) were prepaid, 211 (50%) went to trial, and 75 (18%) remained open as of January 2014. 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 depends 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 2013 (136) were exempt from the requirement, general fund revenues would decline by \$14,960. Additionally, if every citation that went to trial in fiscal 2013 (211) resulted in the maximum fine of \$500, general fund fine revenues would further decline by \$105,500, for a total decline of as much as \$120,460. These figures do not reflect the 75 cases that remain open.

State Expenditures: Medicaid expenditures (50% general funds, 50% federal funds) may increase in fiscal 2015 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: SB 246 of 2013 and SB 488 of 2012 each received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken on either bill.

Cross File: HB 477 (Delegate Bromwell, *et al.*) – Environmental Matters.

Information Source(s): Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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