

STORAGE NAME: h0117z.jud
DATE: June 19, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-313, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
JUDICIARY
FINAL ANALYSIS**

BILL #: HB 117 (Substance of this bill passed in CS/CS/HB 1911)

RELATING TO: Motorcycle Riders/Safety Equipment

SPONSOR(S): Representatives Russell, Murman and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIARY YEAS 8 NAYS 1
 - (2) INSURANCE YEAS 9 NAYS 2
 - (3) TRANSPORTATION YEAS 7 NAYS 4
 - (4) HEALTH & HUMAN SERVICES APPROPRIATIONS (W/D)
 - (5) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 8 NAYS 2
-

I. SUMMARY:

Florida law requires persons operating or riding a motorcycle to wear protective headgear and eye protection. The law does not apply to persons 16 years of age or older who operate or ride low powered motorcycles (engine displacement of 50 cubic centimeters or less) or vehicles rated not in excess of 2 brake horsepower and limited to a speed not greater than 30 miles per hour on level ground.

HB 117 would exempt persons over the age of 21 from wearing protective headgear while operating or riding a motorcycle of any type provided that the motorcycle operator or rider has insurance for at least \$10,000 in medical benefits for injuries incurred as a result of a motorcycle crash.

Although the bill does not have a direct fiscal impact on the state, exempting riders over 21 years of age from protective headgear requirements may increase the number of deaths and injuries associated with motorcycle crashes. However, there are conflicting positions concerning the costs related to mandatory helmet laws and there is no definitive study which is conclusive on this issue (See Part V., Comments, Section C., *infra*). If additional costs associated with traffic deaths and injuries result under this bill, these costs could be passed along to others through insurance premiums, taxes and fees.

The substance of HB 117 was incorporated into section 6 of CS/CS/HB 1911, relating to highway safety and motor vehicles. Consult the final bill analysis of CS/CS/HB 1911 by the House Committee on Transportation.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Section 316.211, F.S., provides that persons operating or riding a motorcycle must wear protective headgear and eye protection. The law does not apply to persons 16 years of age or older who operate or ride low powered motorcycles (engine displacement of 50 cubic centimeters or less) or vehicles rated not in excess of 2 brake horsepower and limited to a speed of 30 miles per hour or less on level ground.

The Department of Highway Safety & Motor Vehicles (DHS&MV) records show that as of September 1999, there were approximately 498,550 motorcycle driver license endorsements and 209,818 registered motorcycles (including mopeds) in Florida. Of the 173 motorcycle fatalities in Florida in 1998, 19 victims were not wearing helmets. Of the 4,868 motorcyclists (both drivers and passengers) involved in non-fatal motorcycle accidents in Florida in 1998, 1,239 involved riders not wearing helmets. According to the DHS&MV, 5.5 percent of the traffic fatalities in 1998 involved motorcycles.

According to the National Highway Traffic Safety Administration, in 1998, 22 states, the District of Columbia, and Puerto Rico require motorcycle operators and passengers to wear helmets. In another 25 states, only persons under a specific age, usually 18, are required to wear helmets. Only three states have no law requiring helmet use: Colorado, Illinois, and Iowa.

The National Highway Traffic Safety Administration also reports that helmet use for fatally injured motorcyclists was 54 percent for operators and 45 percent for passengers.

While personal injury protection insurance is required by law for every motor vehicle with four or more wheels registered in the state, motorcycle operators in Florida are not required to have insurance. According to the Department of Insurance, insurers are not required to offer personal injury protection insurance to motorcycle operators. However, other types of insurance, such as comprehensive, collision, property damage liability, bodily injury, and other types similar to those offered to motor vehicle operators, may be available to motorcycle operators.

C. EFFECT OF PROPOSED CHANGES:

HB 117 would exempt persons over the age of 21 from wearing protective headgear while operating or riding a motorcycle of any type provided that the motorcycle operator or rider has insurance for at least \$10,000 in medical benefits for injuries incurred as a result of a motorcycle crash. The law would not affect the protective eyewear requirement.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Not estimated.

2. Expenditures:

Not estimated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Not estimated.

2. Expenditures:

Not estimated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person who operates or rides a motorcycle without a helmet would be required to carry medical benefits coverage in the amount of \$10,000. In March 1999, Progressive Insurance Company estimated the premium for such coverage to vary from a low annual premium (a 25-year old married male operating a moderately priced motorcycle) to a higher premium (a 25-year old unmarried male operating a higher priced motorcycle). In Tallahassee, the annual premium ranges from \$163 to \$368 for medical benefits coverage for the operator. In Orlando, the annual premium ranges from \$214 to \$549, and in Miami, the annual premium ranges from \$286 to \$648 for medical benefits coverage.

Currently, the Florida Joint Underwriting Association (FJUA), the state-created auto insurer of last resort, does not provide medical benefits coverage. It is uncertain whether the FJUA would be required to offer this type of coverage. It could be presumed that any type of coverage offered by the FJUA would be at a significantly higher premium than what is offered by the private market.

The bill could create a market for medical benefits coverage for motorcyclists.

D. FISCAL COMMENTS:

These comments are only to the extent that the number of motorcycle accidents/injuries increase as a result of not wearing protective safety equipment. It is possible that there may be a fiscal impact (which is indeterminate) to Medicaid, vocational rehabilitation and to hospitals (uninsured patients) that provide services to persons who sustained a traumatic brain injury as a result of a motorcycle accident.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The following comments are not meant to be comprehensive or exhaustive, but are offered as examples of conflicting data, information and positions on the issue of mandatory motorcycle helmet laws:

1. Florida Motorcycle Crash Data:

Florida Department of Highway Safety & Motor Vehicles
1998 Motorcycle Crash Data

Result	Motorcycle Drivers Wearing Helmets	Motorcycle Drivers Not Wearing Helmets
Possible Injury	506 (15.3%)	247 (22.3%)
Non-Incapacitating Injury	1,406 (42.4%)	424 (38.2%)
Incapacitating Injury	<u>991 (29.9%)</u>	<u>248 (22.3%)</u>
Total Injuries	2,903 (87.6%)	919 (82.8%)
Fatalities	141 (4.2%)	17 (1.5%)
No Injury	<u>271 (8.2%)</u>	<u>174 (15.7%)</u>

Total Crashes

3,315 (100%)

1,110 (100%)

2. The following excerpt was taken from a January 1998 U.S. Department of Transportation -- National Highway Traffic Safety Administration Research Note (http://www.bts.gov/NHTL/data/codes_mc.pdf) entitled *Further Analysis of Motorcycle Helmet Effectiveness Using CODES Linked Data*:

Linked data from the Crash Outcome Data Evaluation System (CODES) in seven states were used by the National Highway Traffic Safety Administration as the basis of a 1996 *Report to Congress on the Benefits of Safety Belts and Motorcycle Helmets* (DOT HS 808 347). This study measured motorcycle helmet effectiveness using mortality, morbidity, severity and costs. The CODES data showed that motorcycle helmets are effective in preventing injuries or death in general, but even more effective in preventing brain injuries in particular. This was to be expected given that the helmet protects only the head. But, for the first time, linkages between police crash files and hospital discharge files were used to substantiate these expectations.

Helmet data, obtained from six (Hawaii, Maine, Missouri, New York, Pennsylvania, Wisconsin) of the seven CODES states consisted of a total of 10,490 motorcycle riders involved in crashes for whom helmet use was known.

The results of the analysis showed that although helmets are only 36 percent effective in preventing death, they are 65 percent effective in preventing brain injuries. So if all motorcyclists had been wearing helmets, 65 percent of those unhelmeted motorcyclists who received inpatient care for a brain injury would not have sustained the brain injury. In other words, unhelmeted injured motorcyclists are three times as likely to suffer a brain injury compared to helmeted injured motorcyclists.

3. The following excerpts are taken from fact sheets published by ABATE of Florida, Inc. which is incorporated in Florida as a motorcycle rights organization (<http://www.montego.com/~abatefl/index.html>):

So many times mandatory helmet laws are backed by concerns for public safety. If public safety were really the issue, then let's look more closely at current National Highway Traffic Safety Administration (NHTSA) statistics that clearly indicate that motorcycles are involved in less than 1% of traffic accidents. Let's also look at the incomparable and exponentially higher incidence of head injury in automobile accidents. Notice that motorcycle accident statistics have improved while auto accident statistics have worsened. Every year in Florida, there are more children killed by head injury in automobile accidents than on motorcycles. Let's have a look closer at what happened in Florida in 1994. According to NHTSA, approximately 172 motorcyclists were killed. According to the State of Florida, Office of Health Promotion and Wellness "1994 Mortality Facts", there were 130 bicyclists killed, 531 pedestrians killed, and approximately 1,962 killed in other traffic accidents. MANY of these deaths resulted from head injury. According to the same report (on page 30), there were 650 people killed from falling down (not in traffic accidents) in Florida in 1994.

Other arguments indicate concern over public burden. Again, one has to ask why motorcyclists are singled out. NHTSA statistics for the past several years show

that motorcycles have the most improved safety record of all categories of transportation and cause exponentially the least public burden than any other segment of the motoring public. In 1994, NHTSA reports that (nationwide) motorcycles were only involved in 0.6% of all vehicle crashes (page 63). If wearing helmets reduces head injury and the State of Florida or the U.S. Government is really concerned about public burden, WHY aren't auto drivers required to wear them? FACT: "Motor vehicle crashes in Florida for 1994 cost the State and its residents over \$5.7 billion and accounted for 2,003 fatalities and an estimated 193,959 injuries" (State of Florida "1994 Mortality Facts").

(United States) In the ten years 1978 to 1988, motorcycle fatalities per 10,000 motorcycles registered declined 15%. Based on the vehicle miles traveled, the rate declined an astonishing 37% from 1980 through 1986. Motorcycling, while having a disproportionate fatality rate compared to other road users, now has a rate declining more rapidly than any other group. (Motorcycle Safety Foundation (MSF) 1990) This trend continues through today, check any of the federal National Highway Transportation Safety Administration (NHTSA) or Florida statistics.

Here in Florida, in 1986, 244 motorcyclists were fatally injured. In 1995, there were only 190 motorcyclists fatally injured. In 1985, there were 2,874 people killed in traffic accidents, and in 1995 there were 4,385 killed in total vehicle crashes across the state. Motorcyclist accident and death rates in Florida have decreased as have motorcycle accidents and fatalities on the national level. In comparison. automobile accident and fatality rates in Florida have continued to rise, as on the national level. (*page 16), (**page 6) 1995 Florida Traffic Crash Facts, Department of Highway Safety & Motor Vehicles.

On the national level, in 1985 there were 4,564 motorcyclists killed, but only 2,221 in 1995. Compare that to other highway vehicles with 39,261 fatalities in 1985 and 39,577 fatalities in 1995 (despite seat belt laws, air bags, anti-lock brakes, etc.) Page 105, 1997 National Transportation Statistics, U.S. Department of Transportation and Bureau of Transportation Statistics

4. The following position statement is excerpted from the official website of the American Motorcyclist Association (<http://www.ama-cycle.org/legisltn/statewatch/fl.html>):

While the AMA strongly supports voluntary helmet use and the intent of HB-117 and SB-126 to return choice to motorcyclists riding in Florida, the Association is opposed to this choice being conditioned upon the satisfaction of economic criteria, as these bills do. Therefore, the AMA opposes the \$10,000 medical insurance requirement contained in HB-117 and SB-126.

Economic conditions on voluntary helmet use are unfairly discriminatory. There is no actuarial data to support this practice. It presumes motorcyclists to be a social burden, which they are not. And circumvents the principle issue of voluntary helmet use...the right of adults to make personal safety decisions for themselves, free from governmental mandates. In addition, the medical insurance requirement on HB-117 and SB-126 raise concerns of unwarranted stops and harassment by law enforcement of any motorcyclist riding without a helmet.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

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