

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 126

SPONSOR: Senator Saunders, and others

SUBJECT: Motorcycle Riders/Safety Equipment

DATE: February 2, 2000

REVISED: 3/14/2000

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill would exempt a person over 21 years of age from wearing protective headgear while operating or riding a motorcycle if such person is covered by a policy of insurance providing for at least \$10,000 in medical benefits for injuries incurred as a result of a crash while operating or riding a motorcycle. The effect of this bill requires both the driver and all passengers on a motorcycle who are over the age of 21 to have such insurance coverage if they elect not to wear a helmet. Wearing protective eye equipment would still be required. There are no requirements that the *owner* of the motorcycle, as compared to the *operator or rider*, obtain any type of insurance.

Florida law requires persons operating or riding a motorcycle to wear protective headgear and eye protection equipment. Exemptions are authorized for persons 16 years 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.

The bill's fiscal impact is indeterminate. However, by exempting operators or riders over 21 years of age from wearing protective head equipment, the effect of the bill may increase the number of injuries and deaths associated with motorcycle crashes. Generally, costs associated with traffic injuries and deaths are passed along to others through adjustments in insurance premiums, taxes, and fees.

This bill substantially amends section 316.211, Florida Statutes.

II. Present Situation:

Current Safety and Insurance Requirements

Current law requires that persons operating or riding a motorcycle must wear protective headgear and eye protection (s. 316.211, F.S.). The law defines an operator as any person who is in actual physical control of the vehicle, however, a rider is not defined (s. 316.003, F.S.). Such protective equipment must meet standards established by the Department of Highway Safety and Motor Vehicles (DHSMV). The failure to wear such protective head or eye equipment is considered a nonmoving violation, punishable by a fine of \$30 and no points. Exemptions are authorized for persons 16 years 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.

Motorcycle owners, operators or riders *are not subject* to the Florida Motor Vehicle (No-Fault) law which requires four-wheeled motor vehicle owners to maintain \$10,000 of personal injury protection (PIP) insurance and, pursuant to s. 324.022, F.S., \$10,000 in property damage liability insurance (ss. 627.730-627.7405, F.S.). Personal injury protection insurance provides compensation for injuries to the insured driver and passengers regardless of who is at fault in an accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for most injuries. It further provides for 60 percent of lost income and a \$5,000 death benefit. Property damage liability coverage pays for physical damage expenses caused by the insured to third parties in the accident.

Motorcycle owners *are subject* to the Financial Responsibility law under chapter 324, FS, which requires owners of both motor vehicles and motorcycles to have liability insurance in the amounts of \$10,000/\$20,000/\$10,000 (per person/per occurrence/property damage), but proof of financial responsibility does not have to be presented until *after a person is involved in an accident* requiring an accident report or until the person is convicted of certain traffic offenses. Liability insurance provides coverage for damages caused to another person when the insured is at fault.

Motorcycle Safety and Helmets

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) records indicate that currently there are almost 497,000 motorcycle driver license endorsements and 229,684 registered motorcycles in Florida. Motorcyclists pay a \$5.00 endorsement fee (in addition to the regular license fee) for the privilege of operating a motorcycle. Representatives with the Florida Agency for Health Care Administration state that for fiscal year 1997-98, 312 motorcyclists with brain injuries were admitted to Florida hospitals and the total amount of charges was \$12,790,185.00, or an average of \$40,994.18 per patient (see Economic Impact Section, below).

Florida is the second-highest state (after California) for motorcycle fatalities (total number, not per capita) according to a 1996 study by the U. S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA). The study reported that motorcyclists were about 16 times as likely as passenger car occupants to die in a motor vehicle traffic crash and

about four times as likely to be injured. The study noted that motorcycle helmets cannot protect the rider from most types of injuries, but helmets reduce the risk of death by 29 percent and the risk of fatal head injury by 40 percent. Helmets were 67 percent effective in preventing brain injuries which means that if all motorcyclists had been wearing helmets, 67 percent of those unhelmeted motorcyclists who received inpatient care for a brain injury would not have sustained the brain injury. In other words, *unhelmeted motorcyclists were over three times as likely to suffer brain injury as were helmeted motorcyclists*. Further, the study found that helmet-wearing was almost at 100 percent compliance when mandated by law, but dropped to 34 to 54 percent compliance with no helmet use laws or laws limited to minors. Finally, a 1994 NHTSA study found that wearing a helmet did not restrict the likelihood of seeing a vehicle in an adjacent lane or the ability to hear auditory signals.

According the Florida DHSMV, 5.5 percent of the traffic fatalities in 1998 involved motorcycles. On Table 1 below, the DHSMV has reported crash data showing safety equipment usage by motorcyclists and their passengers (*Florida Traffic Crash Facts Report-1998*, Florida Department of Highway Safety and Motor Vehicles). However, according to this report, the information in Table 1 “fails to show the true effect of safety helmet use” because it only includes severity of injury rather than type of injury, e.g., chest, head, or leg injury. The report concludes that the independent effect of helmet use can not be determined from this crash data.

Table 1

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

Results	Motorcycle Drivers Wearing Helmets	Motorcycle Passengers Wearing Helmets	Motorcycle Drivers Not Wearing Helmets	Motorcycle Passengers Not Wearing Helmets
Possible Injury	506 (15.5%)	68 (14.5%)	247 (22.5%)	36 (24.3%)
Non-Incapacitating Injury	1,406 (42.4%)	208 (44.4%)	424 (38.2%)	41 (27.7%)
Incapacitating Injury	991 (29.9%)	136 (29.1%)	248 (22.3%)	28 (18.9%)
Total Injuries	2,903 (87.6%)	412 (87.6%)	919 (82.8%)	105 (70.9%)
Fatalities	141 (4.2%)	13 (2.8%)	17 (1.5%)	2 (1.4%)
No Injury	271 (8.2%)	43 (9.2%)	174 (15.7%)	41 (27.7%)
Total Crashes	3,315 (100%)	468 (100%)	1,110 (100%)	148 (100%)

** Note: Injuries reported for motorcyclists include head and other bodily injuries. Data does not include cases where safety equipment is related to injury level.

As of August 1999, 21 states, the District of Columbia, and Puerto Rico require helmet usage by all motorcycle operators and passengers. In another 26 states, only persons under a specific age, usually 18, are required to wear helmets. Three states currently have no law requiring helmet use: Colorado, Illinois, and Iowa.

The conflict between public safety and personal choice drives the debate about whether to require the use of motorcycle helmets. Helmet law supporters argue that wearing helmets save lives and prevent devastating and debilitating head injuries. Further, the increased likelihood of severe injury or death for riders without helmets costs the public money. Those who oppose helmet laws claim helmets actually contribute to many accidents and can exacerbate certain types of injuries. Opponents of helmet laws also contend helmet use should be a personal choice, and imposition of such requirements singles out motorcyclists, while automobile crashes cause far more injuries and deaths than motorcycles.

III. Effect of Proposed Changes:

Section 1: Amends s. 316.211, F.S., relating to equipment for motorcyclists, to provide a person over the age of 21 may operate or ride a motorcycle without wearing protective headgear if such person is covered by a policy of insurance providing for at least \$10,000 in “medical benefits” for injuries incurred as a result of a crash while operating or riding a motorcycle. Protective eye equipment would still be required.

The provision requires both operators and riders, e.g., passengers, to purchase insurance if they elect not to wear a helmet. The bill does *not* require motorcycle *owners* to purchase insurance nor does it require the motorcycle operator or passenger to have proof of insurance on his or her person in order to operate or ride the motorcycle. Additionally, it does not require the owner, operator, or passenger to obtain either liability coverage (which would pay for physical injuries to third party’s caused by the motorcycle operator) or property damage liability coverage.

The term “*medical benefits*” is not defined in the bill. The only apparent reference to medical benefits coverage in current motor vehicle insurance laws is in s. 627.736(1)(a), F.S., which requires owners of four-wheel vehicles to carry personal injury protection (PIP) coverage. Personal injury protection covers 80 percent of the insured’s “medical benefits” on a no-fault basis. Currently, some insurers offer a medical payments coverage for motorcyclists (see Economic Impact Section, below). The bill’s reference to “medical benefits” insurance may also include a health insurance policy covering the motorcyclist.

Section 2. Provides for an effective date of July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Motorcycle operators or passengers over 21 years of age would have the option of wearing or not wearing helmets under the provisions of this bill. However, those who choose *not to wear a helmet* must purchase, at a minimum, \$10,000 in medical benefits coverage. At least one major insurer currently provides a \$10,000 medical benefits coverage for motorcyclists which would cover medical and funeral services because of bodily injury sustained by the insured. The estimates, provided by Progressive Insurance Company as of January 28, 2000, 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 \$306 for medical benefits coverage for the operator. In Orlando, the annual premium ranges from \$204 to \$381 and in Miami, the insurer's premium ranges from \$286 to \$534 for medical benefits coverage. Currently, the Florida Joint Underwriting Association (FJUA), the insurer of "last resort," does not provide medical benefits coverage for motorcyclists. Adding medical benefits coverage for the FJUA would presumably be at a significantly higher premium.

To the extent that such insurance is insufficient to cover medical and other costs associated with motorcycle crashes, those costs would result in higher premiums for liability insurance (resulting from accidents where another vehicle driver is at fault), and increased costs of public assistance and uncompensated care impacting taxes and medical fees to exempt persons over 21 from wearing protective headgear while operating or riding a motorcycle.

Not wearing helmets would likely increase the number of deaths and injuries associated with motorcycles crashes. According to the NHTSA study (see Present Situation, above), riders without helmets were more than *three times as likely to suffer brain injury* compared to those wearing helmets. Motorcyclists who purchase insurance would have to pay relatively higher insurance premiums, as noted above, but these premiums would not cover the complete costs of a catastrophic injury. To the extent private insurance sources are insufficient to cover medical costs associated with motorcycle crashes, these costs may be passed along to others through higher insurance premiums, taxes, or fees. (See Government Sector Impact Section, below.)

C. Government Sector Impact:

Representatives with the Florida Agency for Health Care Administration reported that for fiscal year 1997-98, 312 motorcyclists with brain injuries were admitted to Florida hospitals.

The corresponding charges associated with treatment of these patients totaled \$12,790,185.00, or an average of \$40,994.18 per patient.

To the extent private insurance sources are insufficient to cover medical costs associated with motorcycle crashes, the public sector will be impacted. The Brain and Spinal Cord Injury Program reported medical expenses associated with motorcycle brain and spinal cord injuries are significant.¹ Specifically, the Program reported that during a 21-month period, ending March 24, 1999, 197 motorcycle-related brain injury cases were referred to the Program.² The majority of cases (181) were classified as “catastrophic” or “severe.” The Program reports that in 100 or 55 percent of the cases, the injured person was *not* wearing a safety helmet. Based on the fact that the average age of the injured person referred to the Program is 35 years old (and based on the average life expectancy of 70 years), the Program estimates that, on average, each brain injury referral will cost between \$375,000 (for short term care for 1 year) and \$3,770,460 (for long-term care for 35 years).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹The Florida Brain and Spinal Cord Injury Program was established to provide acute care, purchase durable equipment, and generally coordinate referral of persons who have moderate to severe brain or spinal cord injuries to a coordinated rehabilitation program administered by the Division of Vocational Rehabilitation (s. 413.46, F.S.). The Florida Brain and Spinal Cord Injury Rehabilitation Trust Fund was established by the Legislature to provide for the cost of care for brain or spinal cord injuries as a “payer of last resort” to residents of this state, for a wide variety of multi-level programs of care. The Trust Fund is funded accordingly: 8.2 percent from traffic related civil penalties; \$60.00 for every DUI (driving under the influence of alcohol) and BUI (boating under the influence of alcohol) conviction; and \$1.00 from temporary license tags. For FY 1999-00, the Trust Fund received \$14.7 million.

²This figure only represents the number of brain-injured persons referred to the Brain and Spinal Cord Injury Program and *not* the total number admitted to Florida hospitals. Additionally, these statistics pertain to brain and not spinal cord injury.

VIII. Amendments:

#1 by Banking and Insurance Committee:

This amendment deletes everything after the enacting clause to provide that a person over 21 years of age may operate or ride upon a motorcycle without wearing protective headgear if such person is covered by an insurance policy providing at least \$100,000 in medical payments coverage for injuries incurred as a result of a crash while operating or riding on a motorcycle. It further provides that a person who does not wear protective headgear and does not have the prescribed insurance coverage is subject to the same penalties as exist for operating a motor vehicle without required security as provided in s. 627.730 through s. 627.7405. These penalties are suspension of the person's driver's license or registration and payment of a license/registration reinstatement fee of \$150.00. Such reinstatement fee is \$250 for a second reinstatement and \$500 for each subsequent reinstatement during the 3 years following the first reinstatement. (WITH TITLE AMENDMENT)

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
