

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: CS/SB 958

SPONSOR: Banking and Insurance Committee and Senator Saunders, and others

SUBJECT: Motorcycles and Mopeds (Safety Equipment)

DATE: April 19, 1999 REVISED: _____

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

I. Summary:

Committee Substitute for Senate Bill 958 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 a motorcycle. Wearing protective eye equipment would still be required. There are no requirements that the *owner* of the motorcycle (as compared to the operator) obtain any type of insurance. The bill would also permit motorcyclists to modulate either their upper or lower headlight beams during daylight hours in accordance with federal safety standards.

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 over 21 years of age from wearing protective head equipment, the effect of the bill would likely 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 the following sections of the Florida Statutes: 316.211 and 316.405.

II. Present Situation:

Motorcycle and Motor Vehicle Requirements

Current law requires that persons operating or riding a motorcycle must wear protective headgear and eye protection (s. 316.211, 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 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. 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 the person is convicted of certain traffic offenses. Liability insurance provides coverage for damages caused to another person when the insured is at fault.

The Florida Department of Highway Safety and Motor Vehicles records indicate that currently there are 406,604 motorcycle driver license endorsements and 217,282 registered motorcycles in Florida. Motorcyclists pay a \$5.00 endorsement 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).

As of March 1999, 22 states, the District of Columbia, and Puerto Rico require helmet usage by all motorcycle operators and passengers. In another 25 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 the increased likelihood of severe injury or death for riders without helmets costs the public money. Those who oppose helmet laws claim that the best way to ensure safety is through education and that helmet use

should be a personal choice. They argue that imposition of such requirements singles out motorcyclists, while automobile crashes cause more injuries and deaths than motorcycles.

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 4 times as likely to be injured. The study noted that motorcycle helmets cannot protect the rider from most types of injuries, but helmets were from 29 to 35 percent effective in preventing fatalities and 67 percent effective in preventing brain injuries (that is, *riders without helmets were more than three times as likely to suffer brain injury compared to those wearing helmets*). The study further 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.

III. Effect of Proposed Changes:

Section 1. Amends s. 316.211, F.S., relating to equipment for motorcyclists, to provide that 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 a motorcycle. Protective eye equipment would still be required.

The provision does *not* require motorcycle *owners* to purchase insurance nor does it require the motorcycle operator to have proof of insurance on his or her person in order to operate 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 committee substitute or in the chapter (ch. 316, F. S.) being amended. 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. Amends s. 316.405, F.S., relating to motorcycle headlights, to provide that during daylight hours, the headlights shall be permitted to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity, in accordance with federal safety standards. This amendment is for safety enhancement to allow for the modulation of headlight beams and is supported by the Department of Highway Safety and Motor Vehicles (DHSMV).

Section 3. Provides for an effective date of July 1, 1999.

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 over 21 years of age would have the option of wearing or not wearing helmets under the provisions of this committee substitute. 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. The estimates, provided by Progressive Insurance Company, 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 \$459 and in Miami, the insurer's premium ranges from \$286 to \$648 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 a motorcycle.

Not wearing helmets would likely increase the number of deaths and injuries associated with motorcycle 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. These costs may be passed along to others through higher insurance premiums, taxes, or fees. Motorcyclists who purchase insurance would have to pay relatively

high insurance premiums, as noted above, but these premiums would not cover the complete costs of long-term rehabilitation. Taxpayers would be picking up a large portion of the medical costs of unhelmeted victims (see Government Sector Impact Section, below).

C. Government Sector Impact:

Representatives with the 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.

To the extent that private insurance sources are insufficient to cover medical costs associated with motorcycle crashes, the public sector will be impacted. The Florida Division of Vocational Rehabilitation (Division) reports that medical expenses associated with motorcycle brain and spinal cord injuries are significant. Specifically, the Florida Brain and Spinal Cord Injury Program (Program)¹ within the Division reported that during a twenty-one 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 fifty-five 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 is 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 1997-98, the Trust Fund received \$12.4 million. It is projected the Trust Fund will receive \$12.6 million for FY 1998-99.

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 injury and not spinal cord injury cases. The Program does not currently have the number of motorcycle-related spinal cord injury cases.

VIII. Amendments:

None.

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