

# SENATE BILL REPORT

## SB 5143

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As of February 7, 2013

**Title:** An act relating to the use of motorcycle helmets.

**Brief Description:** Limiting mandatory motorcycle helmet use to persons under the age of eighteen.

**Sponsors:** Senators Benton, Hargrove, Carrell, Rivers, Braun, Delvin, Smith, Roach, Sheldon, Hatfield and Holmquist Newbry.

**Brief History:**

**Committee Activity:** Transportation: 1/31/13.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** Currently, persons riding motorcycles, motor-driven cycles, and mopeds are required to wear motorcycle helmets.

**Summary of Bill:** Only persons under the age of 18 must wear a helmet while riding upon a motorcycle, motor-driven cycle, or moped.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We have heard the same argument over the years that motorcyclists who do not wear helmets get in accidents and cause health care costs to rise. According to the National Center for Health Statistics, only 1.16 percent of the total U.S. health costs are attributable to motor vehicle accidents, and the costs attributable to the treatment of injuries related to motorcyclists is less than 0.001 percent. So, only a small portion of the less than 0.001 percent is attributable to the lack of wearing a helmet and the majority of those costs are covered by private health insurance. These statistics do not

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support the idea that forcing people to wear helmets will prevent health care costs from rising astronomically.

This issue can be boiled down to one question, whether mandatory universal helmet laws are a justifiable restriction on individual liberty given the impact on the public burden, health care costs. Our contention is that Washington's law goes too far and impinges on our individual rights. There are many other activities that are more of a burden to the state health care system, yet are not over-regulated by the state. These include smoking and alcohol use. According to the Department of Health (DOH), smoking costs this state \$1.6 billion a year, yet the Legislature has not stepped in and prohibited people from smoking. Previous court rulings in Washington have held that the Legislature may regulate helmets within the police power of the state, however you must balance the public interest against personal interests. You must be careful in this balance. I think we live in the kind of state where the mandatory helmet laws impinge on our individual privacy and liberty interests. The balancing test must also include the fact that there could be a positive revenue impact to the state if the helmet law was repealed. Other states have experienced an increase in motorcycle licensing and endorsement once their helmet law was repealed. We are the state that has repeatedly shown over the years that we advance and value individual liberty over the paternalistic instinct of the government to control us.

Helmets do not make us safer. From the 1960s to today, the military has improved their helmet standards. The U.S. Department of Transportation has not updated the standards for motorcycle helmets since the 1960s. Even the National Football League, who spends a lot of money on equipment, has finally determined that they cannot make helmets any safer. After exceeding 26 mph in a motorcycle crash, your helmet does not do anything to protect you. If you really feel a need to protect us, that tells me that you have bought into the concept of safer crashing. That is a bad model to use, because there is no such thing as a safe crash. Better training equals better operators which in turn will equal less crashes. We are concerned about how to obey the helmet law. There is an issue with enforcement and the certification marking under federal law. We have a problem with law enforcement enforcing the state law without having the proper certification standards on each individual helmet.

CON: We oppose this legislation because it would repeal a very important and effective safety law. Motorcycles are an especially dangerous form of travel. A National Highway Traffic Safety Administration (NHTSA) study from 2010 found that compared to cars, per mile traveled, motorcyclists have 30 times the number of deaths. The Center for Disease Control and Prevention reports that motorcycles account for 3 percent of the registered vehicles, but about 14 percent of the deaths. Helmets decrease the severity of head injuries. NHTSA has found that helmets reduce the likelihood of death for motorcyclists in a crash by 37 percent. Motorcyclists are three times more likely to suffer a traumatic brain injury in a crash when not wearing a helmet. Laws that only protect younger riders are virtually impossible to enforce as it is difficult to tell the age of a rider just by looking at them. These kinds of laws lead to less use overall and compliance with the law is lower than in universal helmet law states. Death rates are 20 percent to 40 percent lower in states like ours with a mandatory universal helmet law than with those with partial or no helmet laws. When Texas went from a universal to a partial helmet law they saw an increase in motorcycle fatalities of over 30 percent.

A NHTSA report from 2011 states that from 2006-08 Washington State saved \$143 million attributable to our high helmet use. A Cochran Study in 2008 found that wearing a helmet reduced the risk of dying in a crash by 42 percent and the risk of a head injury by 69 percent. A 1998 study by the Harbor View Research Center found that public funding paid for 63 percent of motorcycle injury related costs. The overall trend of motor vehicle fatalities is going down consistently in our state except for motorcyclists, which have actually gone up over the last couple of years. This is the wrong time to repeal our helmet law.

Fatalities are not age discriminate by any means. There was a 9 percent increase in motorcycle fatalities investigated by the Washington State Patrol (WSP) last year. We are seeing an increase in riders of all ages, not just 18 years and older. Inexperienced riders and the increasing population is leading to an increase in motorcycle use and crashes. I cannot imagine the number of additional motorcycle injures and fatalities that we would see if the helmet law is repealed. There are other societal costs when anyone dies in crash, beyond the direct health costs associated with the treatment of the crash victim. I do not think you can put data or statistics out there that can accurately measure the impact to families and the first responders and other medical professionals who have to deal with crash victims and the aftermath of any injury or death. NHTSA has estimated that over \$3 billion was saved nationwide by helmet use in 2010.

**Persons Testifying:** PRO: Senator Benton, prime sponsor; Donnie Landsman Bikers of Lesser Tolerance (BOLT), A Brotherhood Against Totalitarian Enactments (ABATE); David Devereaux, Confederation of Clubs; Mark Temple, Mac Henderson, BOLT; Larry Walker, WA Road Rider's Assn.; Rich Bright, Combat Vets United, ABATE.

CON: Dave Overstreet, AAA WA; Steve Lind, WA Traffic Safety Commission; Rob Huss, WSP; Karen Jensen DOH; Susie Tracie, WA State Medical Assn.