

REPEAL OF MICHIGAN’S UNIVERSAL HELMET LAW: THE COST OF FREEDOM

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INTRODUCTION

Michigan has adopted numerous laws and programs to create and promote safer roadways. These initiatives include the seatbelt requirement, the text-messaging ban, distracted-driving regulations, and drunk-driving enforcement campaigns. Currently, Michigan’s objective is to keep the roadways safe, but the Legislature passed a law that seems to have the opposite effect.

Although 81% of Michigan residents surveyed support a universal helmet law,¹ which required all motorcycle riders and passengers to wear a crash helmet, the Michigan Legislature repealed it. In April 2012, Michigan joined 27 other states by enacting a partial

1. *Helmet Law Repeal Will Result in More Traffic Fatalities and Costs*, AAAMICHIGAN.COM (Nov. 2, 2011), http://media.aaamichigan.com/article_display.cfm?article_id=295 [hereinafter *Traffic Fatalities and Costs*] (“A spring poll of some 600 likely Michigan voters . . . shows that 81 percent of the state’s residents believe the current mandatory helmet law should be maintained.”).

helmet law.² But the enactment of the partial helmet law conflicts with the other safety initiatives Michigan is currently promoting and enforcing.

Michigan's new statute gives riders and passengers, who meet certain requirements, the choice to wear a helmet.³ The full impact of the law is not yet known. But data from other jurisdictions with similar laws and insurance codes indicates that the partial helmet law will be detrimental, likely causing an increase in the number of motorcycle fatalities and injuries. This will drive up the cost of automobile-insurance premiums and the cost of healthcare, for which taxpayers will be responsible. The partial helmet law will ultimately have a detrimental effect on the safety of motorcyclists, the economy, and all Michigan citizens.

II. ACTIONS AND ARGUMENTS LEADING UP TO THE PARTIAL HELMET LAW

A. Michigan's Legislative Action

In 1966, the federal government enacted legislation that required states to pass helmet laws to retain federal highway funding.⁴ In response, Michigan adopted a universal helmet law in 1967.⁵ By the early 1970s, 47 states and the District of Columbia had universal helmet laws.⁶ In 1976, the financial penalties imposed on states without helmet laws were lifted.⁷ This change prompted numerous states to repeal their universal helmet laws. Currently, only 19 states

2. *Helmet Laws*, GOVERNORS HIGHWAY SAFETY ASS'N (June 2013), http://www.ghsa.org/html/stateinfo/laws/helmet_laws.html.

3. MICH. COMP. LAWS ANN. § 257.658(5)(a)–(c) (Westlaw 2013).

4. *Motorcycle and Bicycle Helmet Use Laws*, INS. INST. FOR HIGHWAY SAFETY (June 2013), http://www.iihs.org/laws/helmet_history.aspx.

5. *Id.*

6. *See id.*

7. *Id.*

have universal helmet laws, 28 states have partial helmet laws, and three states have no helmet laws.⁸

After failed attempts under Governor Jennifer Granholm's administration, the Michigan Legislature recently took further action to amend the universal helmet mandate.⁹ In March 2011, Senator Phil Pavlov introduced Senate Bill 291 to amend section 658 of the Michigan Vehicle Code.¹⁰ The amendment would give individuals the option of wearing a helmet if certain requirements were met. The Bill originally read as follows:

(3) A moped or an electric personal assistive mobility device shall not be used to carry more than 1 person at a time.

(4) A person . . . less than 19 years of age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. A PERSON LESS THAN 21 YEARS OF AGE OPERATING OR RIDING ON A MOTORCYCLE SHALL WEAR A CRASH HELMET ON HIS OR HER HEAD. A PERSON 21 YEARS OF AGE OR OLDER OPERATING OR RIDING ON A MOTORCYCLE IS NOT REQUIRED TO WEAR A CRASH HELMET ON HIS OR HER HEAD IF HE OR SHE HAS HAD A MOTORCYCLE ENDORSEMENT ON HIS OR HER OPERATOR'S OR CHAUFFEUR'S LICENSE FOR NOT LESS THAN 2 YEARS OR THE PERSON PASSES A MOTORCYCLE SAFETY COURSE CONDUCTED UNDER SECTION 811A OR 811B.

8. *Id.*

9. *See Media and Public Oppose Repeal of Helmet Laws*, SMARTER-USA.ORG, <http://www.smarter-usa.org/positions/opinion/> (last updated Mar. 28, 2013).

10. S. 96-29, Reg. Sess., at 423 (Mich. 2011).

(5) Crash helmets shall be approved by the department of state police. The department of state police shall promulgate rules for the implementation of this section . . . UNDER the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules in effect on June 1, 1970, shall apply to helmets required by this act. . . .

. . . .¹¹

The Bill was read and referred to the Committee on Transportation.¹² In June 2011, the Committee recommended that Senate Bill 291 pass and be given immediate effect.¹³

Even with this recommendation, some Senators were still opposed. Senator Morris Hood III argued that the Bill would hurt Michigan, stating that “this Bill comes with a price tag and a toe tag.”¹⁴ He further argued that an amendment requiring motorcyclists to carry \$500,000 in personal-injury protection was necessary.¹⁵ This requirement would divert costs from taxpayers to motorcyclists.¹⁶ Senator Hood stated:

Supporters of repealing our helmet law like to talk about the positive impact on the economy, but without [an] amendment, it will put yet another unnecessary and undue burden on Michigan’s already-strained taxpayers. Currently, motorcyclists don’t carry [personal injury protection] insurance, and the costs of their injuries are born by the motorist’s insurance if a

11. S. 291, 96th Leg., Reg. Sess. (Mich. 2011).

12. S. 96-29, Reg. Sess., at 423 (Mich. 2011).

13. S. 96-51, Reg. Sess., at 1437 (Mich. 2011).

14. S. 96-59, Reg. Sess., at 1683 (Mich. 2011) (arguing that repealing the universal helmet law “will result in an additional 30 fatalities” and approximately “\$129 million in added economic costs to Michigan citizens” each year).

15. *Id.*

16. *Id.*

car is involved in the accident. If a car is not involved, the cost of an accident is either left to the motorcyclist's health insurance, or if the motorcyclist is uninsured or has state-provided insurance . . . than we as taxpayers are left paying the tab.¹⁷

Further, Senator Rebekah Warren argued that, regardless of the language, passing the Bill would “be taking Michigan in the wrong direction.”¹⁸

[A]llowing Michigan residents to ride without helmets is putting their lives at risk. Isn't it common sense that helmets prevent fatalities much in the same way that seatbelts protect drivers and passengers? . . . We have and enforce seatbelt laws and helmet laws to protect our motorists and motorcyclists.

Today, we are seeking to pass a law that would put Michigan's motorcyclists in direct jeopardy and will surely result in the loss of more lives on our roads¹⁹

Despite protest within the Senate, the Bill was forwarded to the House of Representatives in June 2011.²⁰ After the House read the Bill, it was referred to the House Committee on Transportation, which recommended an additional provision requiring motorcyclists to carry \$20,000 of first-party medical benefits.²¹ The House adopted

17. *Id.*

18. *Id.* at 1682.

19. *Id.*

20. H.R. 96-61, Reg. Sess., at 1966 (Mich. 2011).

21. *Id.* at 1969; H.R. 96-86, Reg. Sess., at 2476 (Mich. 2011); *see* S. 291, 96th Leg., Reg. Sess. (Mich. 2011) (as passed by H.R., Nov. 2, 2011); *see also* H.R. 96-86, Reg. Sess., at 2476–77 (Mich. 2011).

the amendment and passed Senate Bill 291 in November 2011.²² The Bill was then returned to the Senate.²³

In March 2012, the Senate passed the Bill proposed by the House, and Governor Rick Snyder signed the Bill into law in April 2012, which took effect immediately.²⁴ The enacted statute reads as follows:

(4) A person less than 19 years of age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. Except as provided in subsection (5), a person operating or riding on a motorcycle shall wear a crash helmet on his or her head.

(5) The following conditions apply to a person 21 years of age or older operating or riding on a motorcycle, as applicable:

(a) A person who is operating a motorcycle is not required to wear a crash helmet on his or her head if he or she has had a motorcycle endorsement on his or her operator's or chauffeur's license for not less than 2 years or the person passes a motorcycle safety course conducted under section 811a or 811b and satisfies the requirements of subdivision (c).

(b) A person who is riding on a motorcycle is not required to wear a crash helmet on his or her head if the person or the operator of the motorcycle satisfies the requirements of subdivision (c).

(c) A person who is operating a motorcycle and a person who is riding on a motorcycle are not required

22. H.R. 96-88, Reg. Sess., at 2516–17 (Mich. 2011); H.R. 96-89, Reg. Sess. at 2534–35 (Mich. 2011).

23. See H.R. 96-89, Reg. Sess. at 2534–35 (Mich. 2011).

24. S. 96-32, Reg. Sess., at 481–82, 530–31 (Mich. 2012).

to wear crash helmets on their heads if the operator of the motorcycle or the rider has in effect security for the first-party medical benefits payable in the event that he or she is involved in a motorcycle accident, as provided in section 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3103, in 1 of the following amounts, as applicable:

(i) A motorcycle operator without a rider, not less than \$20,000.00.

(ii) A motorcycle operator with a rider, not less than \$20,000.00 per person per occurrence. However, if the rider has security in an amount not less than \$20,000.00, then the operator is only required to have security in the amount of not less than \$20,000.00.

...²⁵

B. Current Debate

Although numerous studies indicate that helmet use prevents injuries and fatalities, there is still a debate about whether helmets should be required. Many Michigan residents understand the benefit of wearing a helmet.²⁶ The nature of the law has sparked numerous debates that have yet to be resolved.

Motorcyclists argue that mandatory helmet use infringes on personal freedom and the right to travel. For example, American Bikers Aiming Toward Education of Michigan president, Vince Consiglio, argues that “Americans are dying every day fighting for freedom” and considers the option to wear a helmet such a freedom.²⁷

25. MICH. COMP. LAWS ANN. § 257.658 (Westlaw 2013).

26. *Traffic Fatalities and Costs*, *supra* note 1.

27. Letter from Vince Consiglio, President, Am. Bikers Aiming Toward Educ. of Mich., to House Transp. Comm. (on file with the Mich. House of Representatives), *available at* <http://house.michigan.gov/SessionDocs/2011->

Another motorcyclist, Glenn Poucher, argues that a helmet mandate is not only an unlawful invasion of individual rights, but also an invalid exercise of the state's police power.²⁸

While universal helmet laws have been challenged as unconstitutional based on the right to privacy,²⁹ the Michigan Supreme Court has upheld universal helmet laws as constitutional.³⁰ The Court held that the Legislature has the power to control and regulate the use of highways³¹ and requiring helmet use by motorcyclists falls within this power. The Court further held that, in order for the State to regulate private rights, the interests must be for the common good.³² The Court explained that a helmet mandate is for the common good because “[i]f the helmet succeeds in mitigating what would otherwise be a fatal injury, then not only has the cyclist survived, but the automobile driver has not killed anyone.”³³ Additionally, the Court described helmet mandates as “a creative, relatively nonintrusive response of government to protect the public from detrimental technological change”³⁴ and as “a minor burden, the effects of which benefit not only both parties involved in an accident, but society as a whole.”³⁵

Beyond the constitutional challenges, motorcyclists argue that helmet use should be optional because helmets do not prevent all fatal head injuries.³⁶ Yet head injuries are the leading cause of death

2012/Testimony/Committee23-9-14-2011-4.pdf [hereinafter Letter from Consiglio] (urging that adult riders should have the option of wearing a helmet).

28. *City of Adrian v. Poucher*, 247 N.W.2d 798, 799 (Mich. 1976).

29. *Am. Motorcycle Ass'n v. Davids*, 158 N.W.2d 72, 73 (Mich. Ct. App. 1968).

30. *See Poucher*, 247 N.W.2d at 798–99.

31. *Id.* (citing *Smith v. Behrendt*, 270 N.W. 227 (Mich. 1936)).

32. *Id.* (citing *Kropf v. City of Sterling Heights*, 215 N.W.2d 179, 186 (Mich. 1974)).

33. *Id.* at 800.

34. *Id.*

35. *Id.*

36. *See Why Modify Michigan's Mandatory Helmet Law for Adult Choice?*, ABATE OF MICHIGAN, <http://www.abateofmichigan.org/HelmetLawInfo.htm> (last

in motorcycle accidents, and a non-helmeted rider is 40% more likely to suffer a fatal head injury and 15% more likely to suffer a nonfatal head injury.³⁷

In the past decade, there have been significant advances in helmet-design technology. As a result, helmets are now designed and manufactured to afford more protection and to prevent injuries.³⁸ Due to the advancements in helmet technology, helmeted riders are less likely to suffer a fatal head injury.³⁹ “Despite the improved performance of helmets, the incidence of fatal motorcycle crashes in the United States has been increasing in recent years, as the percentage of riders who use helmets has fallen from 71 percent to 58 percent nationally.”⁴⁰

III. SOCIETAL COSTS

From the moment of injury, society picks the person up off the highway; delivers him to a municipal hospital and municipal doctors; provides him with unemployment compensation if, after recovery, he cannot replace his lost job; and, if the injury causes permanent disability, may assume responsibility for his and his family’s subsistence. We do not understand

visited May 29, 2013) (“[T]here is no significant difference in the fatality rates of states requiring and not requiring the wearing of a motorcycle helmet.”).

37. NAT’L TRANSP. SAFETY BD., STATEMENT OF CHRISTOPHER A. HART VICE CHAIRMAN 1 (Oct. 26, 2011), *available at* <http://www.house.mi.gov/SessionDocs/2011-2012/Testimony/Committee23-10-26-2011.pdf>; *Motorcycle Helmets*, MICH.GOV, http://www.michigan.gov/msp/0,4643,7-123-1593_3504_22760-13677-,00.html (last visited May 30, 2013).

38. U.S. DEP’T OF TRANSP., NAT’L HIGHWAY TRAFFIC SAFETY ADMIN., REP. NO. DOT HS 801 715, MOTORCYCLE HELMET EFFECTIVENESS REVISITED 3 (2004), *available at* <http://www-nrd.nhtsa.dot.gov/Pubs/809715.pdf>.

39. *Id.* at 2.

40. *Id.*

a state of mind that permits [a motorcyclist] to think that only he himself is concerned.⁴¹

A. Impact of Florida's Partial Helmet Law

Proponents of the partial helmet law argue that riders should have the choice to wear a helmet. They believe that motorcyclists are only harming themselves when involved in a collision, as they alone sustain the injury.⁴² Similarly, riders believe that they should have the choice to wear a helmet.⁴³ But motorcyclists are not the only ones affected.

In 2000, Florida repealed its universal helmet law. Florida now has a partial helmet law that is substantially similar to Michigan's. Florida's law requires a non-helmeted rider to be over the age of 21 and carry a minimum of \$10,000 in medical-insurance coverage.⁴⁴ But Michigan's law requires a minimum of \$20,000.⁴⁵

The National Highway Traffic Safety Administration compared the three-year period before the repeal of Florida's universal helmet law to the three-year period after the law change.⁴⁶ When the universal helmet law was in place, nearly all Florida riders complied.⁴⁷ However, after the repeal, helmet use dropped to 47%.⁴⁸ Before the helmet law change, 9.4% of motorcyclists killed were not

41. *Simon v. Sargent*, 346 F. Supp. 277, 279 (D. Mass. 1972).

42. NAT'L TRANSP. SAFETY BD., *supra* note 37, at 6 ("The argument regarding helmet laws is often framed in terms of personal choice . . . [and] typically invokes the idea that motorcyclists are only hurting themselves by deciding to ride unprotected.").

43. *See* Letter from Consiglio, *supra* note 27.

44. *See* U.S. DEP'T OF TRANSP., NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., EVALUATION OF THE REPEAL OF THE ALL-RIDER MOTORCYCLE HELMET LAW IN FLORIDA, at ii (2005), available at <http://www.nhtsa.gov/people/injury/pedbimot/motorcycle/flamcreport/images/FloridaMCReportscr1.pdf> [hereinafter NAT'L HIGHWAY TRAFFIC SAFETY ADMIN.—FLORIDA].

45. *See* MICH. COMP. LAWS ANN. § 257.658(5)(c)(1) (Westlaw 2013).

46. NAT'L HIGHWAY TRAFFIC SAFETY ADMIN.—FLORIDA, *supra* note 44, at ii.

47. *Id.* at 14.

48. *See id.*

wearing helmets. After the helmet law change, 60.8% of motorcyclists killed were not wearing helmets.⁴⁹

An increase in motorcycle fatalities was not the only negative impact of Florida's partial helmet law. The number of motorcyclists admitted to a hospital with head, brain, or skull injuries increased more than 80% after the partial helmet law was enacted.⁵⁰ Acute care hospital gross charges more than doubled for motorcyclists admitted with head, brain, or skull injuries, increasing from \$21 million to \$44 million.⁵¹ Of admitted motorcyclists, less than 25% of these injuries were covered by the \$10,000 medical insurance required for those who chose not to use helmets.⁵² Further, of those motorcyclists admitted with head-brain-skull injuries, 21% had costs covered by Medicare, Medicaid, or charitable donations.⁵³

These results are not isolated to Florida. In states that enacted partial helmet laws, the number of fatalities, injuries, and hospital costs increased.⁵⁴ States like Arkansas, Kentucky, Louisiana, and Texas repealed their universal helmet laws and then experienced a substantial increase in motorcycle fatalities, injuries, and costs associated with accidents.⁵⁵ Nationally, in 2005, there were 110,000 motorcycle accidents, resulting in \$17.5 billion in "costs of medical

49. *Id.* (reporting 515 motorcyclists killed from 1997 to 1999 and 933 motorcyclists killed from 2001 to 2003).

50. *See id.* at 30.

51. *Id.* (adjusted for inflation).

52. *Id.*

53. *Id.* ("21% [of motorcyclists admitted for head injuries] had their costs . . . billed to charitable and public sources (e.g., Medicaid).").

54. *See id.* at 4–8 (studying numerous states employing partial helmet laws).

55. *Id.* at 5; *see also* U.S. DEP'T OF TRANSP., NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., EVALUATION OF THE REPEAL OF MOTORCYCLE HELMET LAWS IN KENTUCKY AND LOUISIANA (2003), *available at* <http://icsw.nhtsa.gov/people/injury/research/kenturky-la03/index.html>; U.S. DEP'T OF TRANSP., NAT'L HIGHWAY TRAFFIC SAFETY ADMIN., EVALUATION OF THE REPEAL OF MOTORCYCLE HELMET LAWS IN ARKANSAS AND TEXAS, at i (2000), *available at* www.nhtsa.gov/people/injury/pedbimot/motorcycle/EvalofMotor.pdf [hereinafter NAT'L HIGHWAY TRAFFIC SAFETY ADMIN.—ARKANSAS AND TEXAS].

treatment, lost work, and quality of life.”⁵⁶ Non-helmeted riders were involved in 36% of motorcycle accidents; however, 70% (\$12.2 billion) of the gross charges associated with the crashes were attributable to those same riders.⁵⁷ The average gross charges per motorcycle accident for a non-helmeted rider were \$310,000 compared to \$71,000 for a helmeted rider.⁵⁸ These gross charges substantially exceed Michigan’s \$20,000 in medical-insurance coverage requirement.⁵⁹ If the injured motorcyclist is uninsured, Michigan taxpayers may be burdened.

B. No-Fault Insurance

Governor Snyder originally stated that he would not repeal the universal helmet law without insurance code reform.⁶⁰ But when the Governor signed the Bill, the insurance code had not yet been amended.⁶¹ An insurance code reform may have deflected some of the costs associated with the partial helmet law from all motorists.

The Michigan No-Fault Insurance Act (No-Fault Act) governs Michigan’s automobile insurance coverage.⁶² Under the No-Fault Act, insurance benefits are generally available to an individual who suffers an injury arising out of the use of a motor vehicle.⁶³ A motor vehicle, as defined by the statute, is “a vehicle, including a trailer,

56. NAT’L TRANSP. SAFETY BD., *supra* note 37, at 6.

57. *Id.* at 6–7.

58. *Id.* at 7.

59. MICH. COMP. LAWS ANN. § 257.658 (Westlaw 2013).

60. Zoe Clark, *Beneath the helmet: Why did Governor Snyder sign the helmet law repeal?*, MICH. RADIO (Apr. 13, 2012), <http://www.michiganradio.org/post/beneath-helmet-why-did-governor-snyder-sign-helmet-law-repeal> (“[The Governor] said at first that [repealing the helmet law] wasn’t on his agenda and then, if he was going to do it, he wanted it to be in the context of a[n] overhaul of the state’s auto-insurance laws . . .”).

61. *Id.*

62. JOHN M. CALLAHAN, THE INST. OF CONTINUING LEGAL EDUC., MICH. INS. LAW & PRACTICE: JUNE 2012 UPDATE 140 (Michael H. Fabian et al. eds., 2012).

63. *See id.*; *see also* § 500.3105(1) (stating that the insurer is liable to pay benefits for accidental injuries involving the use of a car).

operated or designed for operation upon a public highway by power other than muscular power, which has more than [two] wheels.”⁶⁴ The statute specifically excludes motorcycles from the motor vehicle definition.⁶⁵

Because motorcycles are not defined as motor vehicles, motorcyclists are not required to purchase no-fault insurance for their motorcycle.⁶⁶ But generally, motorcyclists carry no-fault insurance on their other registered vehicles. And motorcyclists must still carry the first-party medical benefits. Motorcyclists who are injured in an accident may be eligible to receive the first-party benefits and the other motorists’ no-fault benefits.⁶⁷

Michigan’s No-Fault Act is unique because unlimited personal-injury benefits are available to individuals with catastrophic claims⁶⁸ involving injury “to the brain, and/or spinal cord which results in serious and permanent disability.”⁶⁹ These benefits are available through the Michigan Catastrophic Claims Association (MCCA), which is funded by an assessment to every no-fault policyholder.⁷⁰

64. § 500.3101(2)(e).

65. *Id.* (“Motor vehicle does not include a motorcycle or a moped, as defined in . . . the Michigan vehicle code . . .”).

66. *See id.*

67. *See* GEORGE T. SINAS & WAYNE J. MILLER, MOTOR VEHICLE NO-FAULT LAW IN MICHIGAN 47 (2011); *see also* CALLAHAN, *supra* note 62, at 145.

68. OFFICE OF FIN. & INS. REGULATION, DEP’T OF LICENSING & REGULATORY AFFAIRS, MICH. CATASTROPHIC CLAIMS ASS’N (Sept. 10, 2012), *available at* http://www.michigan.gov/documents/cis/MCCA_FAQ_2007_190996_7.pdf [hereinafter OFFICE OF FIN. & INS. REGULATION].

69. *Consumer Information: Claim Statistics*, MICH. CATASTROPHIC CLAIMS ASS’N, <http://www.michigancatastrophic.com/ConsumerInformation/ClaimStatistics/tabid/2943/Default.aspx> (last visited May 6, 2013).

70. OFFICE OF FIN. & INS. REGULATION, *supra* note 68.

The current assessment is \$175.00 per insured motor vehicle.⁷¹ This assessment does not apply to motorcycles.⁷²

The MCCA reimburses insurance providers once a claim has been paid in excess of the reimbursement threshold—the current threshold is \$500,000.⁷³ This will increase in each odd-numbered year⁷⁴ by either 6% or the consumer price index, whichever is less, rounded to the nearest \$5,000.⁷⁵

Since the MCCA's formation in 1978, it has reimbursed insurance companies almost \$10 billion for catastrophic injuries⁷⁶ with \$500 million reimbursed for motorcycle injuries.⁷⁷ AAA projects that the universal helmet law repeal will result in 30 more deaths and 127 more incapacitating injuries annually.⁷⁸ Claims reported to the MCCA will likely increase as well as the assessment required to fund the MCCA.

IV. PROPOSED SOLUTIONS

First, both drivers and motorcyclists should be properly educated on road safety. Motorcyclists should also be required to complete continuing education to maintain a motorcycle endorsement. Although “[t]he benefits of motorcycle safety education are

71. MICH. CATASTROPHIC CLAIMS ASS'N, <http://www.michigancatastrophic.com> (last visited May 30, 2013).

72. See MICH. COMP. LAWS ANN. § 500.3105(1) (Westlaw 2013) (limiting No-Fault Act insurance to “motor vehicles”); § 500.3101(2)(e) (excluding motorcycles from the definition of “motor vehicles”).

73. SINAS & MILLER, *supra* note 67, at 513.

74. *Id.*

75. § 500.3104(2)(k).

76. *Consumer Information: Claim Statistics*, *supra* note 69.

77. MICH. CATASTROPHIC CLAIMS ASS'N, COMPARISON OF MOTORCYCLE CLAIMS DATA & ASSESSMENTS EARNED (June 30, 2012), available at <http://www.michigancatastrophic.com/LinkClick.aspx?fileticket=Pr56mkUuryc%3D&tabid=2943>.

78. *Traffic Fatalities and Costs*, *supra* note 1.

unclear,”⁷⁹ at the very least, motorcyclists will be exposed to the risks associated with not wearing a helmet. This continuing education may persuade motorcyclists that these risks are far too great. There may be fewer injuries and fatalities if more motorcyclists chose to wear helmets.⁸⁰

Driver-education programs should focus on motorcycle awareness. All drivers should be aware and vigilant while sharing the roads with motorcycles. The greatest way to prevent injuries and fatalities is to prevent the accident from occurring. By practicing safe-driving techniques, all drivers can help reduce accidents.

In addition, by increasing statutory requirements, the Legislature will encourage helmet use. Currently, motorcyclists must have a motorcycle endorsement or license for at least two years, carry \$20,000 or more in first-party medical benefits, and be at least 21 years of age.⁸¹ Specifically, an increased age requirement will allow motorcyclists to gain the necessary experience before making the choice to ride without a helmet.

Also, Michigan’s Legislature should increase the first-party medical benefit requirement. These changes may encourage some riders to wear a helmet rather than purchase a large medical insurance policy. This legislative change will also prevent Michigan residents from incurring motorcycle accident costs. If motorcyclists were required to purchase more insurance coverage, the amount paid by MCCA would also decrease. This statutory amendment will ultimately save the State and all insured drivers money.

Alternatively, reenacting the universal helmet law is the best solution for Michigan. As evidenced, universal helmet laws, like mandatory seatbelt laws, prevent injuries and save lives. Reenacting

79. *Save Lives, Save Money: Michigan*, CTRS. FOR DISEASE CONTROL & PREVENTION, http://www.cdc.gov/motorvehiclesafety/pdf/mc2012/Motorcycle_Safety_MI.pdf (last visited June 15, 2013).

80. *See id.* (“A universal helmet law is the most effective way to reduce the number of people who are seriously injured or killed from motorcycle crashes.”).

81. MICH. COMP. LAWS ANN. § 257.658 (Westlaw 2013).

the universal helmet law is the most effective way to increase helmet use and prevent injuries and fatalities.⁸² The universal helmet law will save Michigan and its citizens money because it will ease the burden on taxpayers who will be responsible for expenses incurred by non-helmeted motorcyclists. Moreover, no-fault insurance rates and the funding for MCCA will not significantly increase, as projected, with the current partial helmet law.

CONCLUSION

The Michigan Legislature must examine the effects the partial helmet law has on motorcyclists and citizens. The partial helmet law is directly inconsistent with other safety initiatives currently in place. The law will be detrimental to riders and citizens who will be responsible for the costs associated with accidents. At a minimum, the solutions proposed in this Article will place some of the costs on the motorcyclists who choose to ride without a helmet. But reenacting a universal helmet law is the most beneficial solution for Michigan.

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82. Ctrs. for Disease Control & Prevention, *Helmet Use Among Motorcyclists Who Died in Crashes and Economic Cost Savings Associated With State Motorcycle Helmet Laws—United States, 2008–2010*, 61 MORBIDITY AND MORTALITY WKLY. REP. 425, 428 (June 15, 2012), available at http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6123a1.htm?s_cid=mm6123a1_w.

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