

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to standards for protective headgear for operators or passengers on motorcycles.

PETITION OF:

NAME:

Mr. Brewer

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Franklin

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO STANDARDS FOR PROTECTIVE HEADGEAR FOR OPERATORS OR PASSENGERS ON MOTORCYCLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 **SECTION 1.** Section 7 of chapter 90 of the general laws, as appearing in the 2004 Official
2 Edition, is hereby amended by striking out the following sentence:

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4 “Every person operating a motorcycle or riding as a passenger on a motorcycle or in a sidecar
5 attached to a motorcycle shall wear protective head gear conforming with such minimum
6 standards of construction and performance as the registrar may prescribe, and no person
7 operating a motorcycle shall permit any other person to ride as a passenger on such motorcycle
8 or in a sidecar attached to such motorcycle unless such passenger is wearing such protective head
9 gear, except that no protective head gear shall be required if the motorcyclist is participating in a
10 properly permitted public parade and is 18 years of age or older. If a motorcycle is not equipped
11 with a windshield or screen, the operator of such motorcycle shall wear eye glasses, goggles or a
12 protective face shield when operating such vehicle.”

13
14 And inserting at the end of the first paragraph of said section 7, the following new sentences:

15
16 Except as provided in this section, every person operating a motorcycle or riding as a passenger
17 on a motorcycle or in a sidecar attached to a motorcycle shall wear protective head gear, as
18 provided in subsection (a) and no person operating a motorcycle shall permit any other person to
19 ride as a passenger on such motorcycle or in a sidecar attached to such motorcycle unless such
20 passenger is wearing such protective head gear, except that no protective head gear shall be
21 required if the motorcyclist is participating in a properly permitted public parade and is 18 years
22 of age or older. If a motorcycle is not equipped with a windshield or screen, the operator of such
23 motorcycle shall wear eye glasses, goggles or a protective face shield when operating such
24 vehicle.

25

26 (a) To provide for the safety and welfare of every person operating a motorcycle or riding as a
27 passenger or in a sidecar attached to the motorcycle, the Registrar shall prescribe minimum
28 safety standards and construction for protective headgear used by motorcyclists in the
29 commonwealth.

30 (b) The Registrar may adopt any part or all of the American National Standards Institute's
31 standards and construction for protective headgear for vehicular users.

32 (c) On request of a manufacturer of protective headgear, the department shall make the safety
33 standards prescribed by the department available to the manufacturer.

34 (d) Penalties relative to not wearing headgear, exceptions. A person commits an offense if the
35 person: (1) operates, or rides as a passenger, on a motorcycle on a public street or highway; and
36 (2) is not wearing protective headgear that meets safety standards adopted by the Registrar.

37 (e) A person commits an offense if the person carries on a motorcycle or in a sidecar attached to
38 a motorcycle on a public street or highway a passenger who is not wearing protective headgear,
39 that meets safety standards and construction adopted by the Registrar.

40 (f) It is an exception to the application of Subsection (a) or (b) that if, at the time the offense was
41 committed, the person required to wear protective headgear was at least 21 years old., had
42 successfully completed, at the expense of the applicant, a motorcycle operator training and safety
43 course as prescribed by the Registrar or has been designated by the Division of Insurance as an
44 experienced rider, and was covered by a health insurance plan providing the person with at least
45 \$50,000 in medical benefits for injuries incurred as a result of an accident while operating a
46 motorcycle or riding as a passenger on a motorcycle or in a sidecar attached to a motorcycle .

47 (g) The Registry of Motor Vehicles shall promulgate regulations required to implement the
48 provisions of subsection (f).

49 (h) There shall be an assessment of not less than \$125 against a person who, by a court of the
50 commonwealth, is convicted of, is placed on probation for, or is granted a continuance without a
51 finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a
52 motorcycle without a helmet or permitting another person to ride as a passenger on said
53 motorcycle or in a sidecar attached to a motorcycle unless exempted pursuant to the provisions
54 of subsection (f); provided, however, that moneys collected pursuant to said assessment shall be
55 deposited by the court with the treasurer into the Head Injury Treatment Services Trust Fund
56 established by section 59 of chapter 10. In the discretion of the court, an assessment pursuant to
57 this paragraph may be reduced or waived only upon a written finding of fact that such payment
58 would cause the person against whom the assessment is imposed severe financial hardship. Such
59 a finding shall be made independently of a finding of indigency for purposes of appointing
60 counsel. If the person is sentenced to a correctional facility in the commonwealth and the
61 assessment has not been paid, the court shall note the assessment on the mittimus.

62 (i) In this section, "health insurance plan" means an individual, group, blanket, or franchise
63 insurance policy, insurance agreement, evidence of coverage, group hospital services contract,
64 health maintenance organization membership, or employee benefit plan that provides benefits for
65 health care services or for medical or surgical expenses incurred as a result of a motor cycle
66 accident.

67 (j) The provisions of this section shall be enforced by law enforcement agencies only when an
68 operator of a motorcycle has been stopped for a violation of the motor vehicle laws or some
69 other offense.