

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**SPONSOR** Ortiz y Pino **ORIGINAL DATE** 2/11/15 **LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Require Motorcycle Safety Helmets **SB** 327

**ANALYST** Chenier

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Unknown	Unknown	Recurring	See fiscal implications

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (DOT)

Department of Public Safety (DPS)

Attorney General's Office (AGO)

Administrative Office of the District Attorney (AODA)

Administrative Office of the Courts (AOC)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Bill

Senate Bill 327 amends Section 66-7-356 NMSA 1978 making it mandatory to use a helmet while operating or riding as a passenger on a motorcycle irrespective of the persons age. Currently helmets are required only for operators and passengers under eighteen years of age. A person found guilty of violating this provision would be guilty of a penalty assessment misdemeanor, subject to a \$300.00 fine for the first violation and \$600.00 fine for subsequent

violations. The bill also makes minor grammatical changes and corrections.

## **FISCAL IMPLICATIONS**

Failure to wear a motorcycle helmet under this bill will result in a penalty assessments of \$300 upon the first violation and \$600 upon subsequent violations. Pursuant to Section 66-8-119 NMSA 1978, penalty assessments are remitted to the general fund with additional fees remitted to the local government corrections fund, court automation fund, traffic safety and enforcement fund, judicial education fund, jury and witness fee fund, juvenile adjudication fund, brain injury services fund, court facilities fund, and the magistrate courts operations fund based on amounts enumerated in Section 66-8-116.3 NMSA 1978.

## **SIGNIFICANT ISSUES**

As noted by Attorney Paul Ruschmann in *“Mandatory Motorcycle Helmet Laws in the Courts and in the Legislatures,”* (1980)

Constitutional challenges to headgear legislation raised the legal, political, and philosophical question of whether, and to what extent, government may act to protect individuals from their own indiscretions. Some courts squarely faced this question and held that government may protect human life for its own sake. Most other courts, however, reached this result less directly by painstakingly describing the social benefits that result from enforced self-protection. Thus the great weight of judicial authority has concluded that motorcycle helmet-use laws, despite their self-protective aspects, were constitutionally permissible: these statutes were within the scope of legislative power; and the opponents' arguments were matters for the legislature--not the courts--to consider.

Even though the constitutional arguments raised by opponents of mandatory headgear legislation carried little weight as constitutional claims, they do have considerable social and political force that has led to the repeal or weakening of headgear legislation by a majority of state legislatures. Arguments that fail to impress a court often will succeed in the legislature; thus, despite the absence of court challenges to helmet laws in recent years, the issues discussed here remain pertinent to the promotion of motorcycle safety. Proponents of mandatory helmet-use legislation, and other safety measures, will continue to face arguments similar to those raised in the cases discussed here.

The AGO stated that throughout the United States, there are 2 states (Illinois and Iowa) that do not have any form of a mandatory helmet use law, 19 states have a universal motorcycle helmet law (Alabama, California, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, Oregon, Tennessee, Vermont, Virginia, Washington, W. Virginia), while 27 states have an age component to their motorcycle helmet law. New Mexico falls into this latter category and sits with the majority of states that rely on an age component on 18 years old. Delaware's law focuses on 19 years or younger, while Arkansas, Kentucky, Michigan, Pennsylvania, Rhode Island, South Carolina, Texas, and Pennsylvania focuses on 21 years or younger. Fines vary throughout the nation, as in Nevada the fine “cannot be more than \$1,000,” while in Massachusetts the fine “cannot be more than \$35.”

DOH stated provided the following:

According to the NM Department of Transportation, Traffic Safety Bureau's NM Traffic Crash Annual Report 2011, there were 1,319 motorcycle crashes in 2011; 48 of the crashes were fatal, 982 were injury crashes and 289 were property damage only crashes. During 2011, 75.1% of motorcyclists (drivers and passengers) in crashes in NM were either injured or killed. Motorcyclists aged 20-29 years accounted for 27.3% of all motorcyclists in crashes. During 2011, 69 or 4.6% of the motorcyclists involved in a crash wore a helmet and only 1 of the 49 motorcyclists killed in a crash wore a helmet. Preliminary data for 2014 show that only one of the 53 motorcycle/off road vehicle riders who were killed in a crash wore a helmet.

The Centers for Disease Control and Prevention (CDC) also reported (MMWR, June 15, 2012, Vol 61, No. 23) that New Mexico ranks 50th of 50 states in the nation for money saved due to motorcycle helmets being used per registered motorcycle. The economic costs saved from helmet use per registered motorcycle were \$48 in New Mexico compared with the national median of \$286 and the high of around \$1,600. With the use of helmets, economic cost savings can occur by preventing motorcyclist deaths and protecting against injuries. Nearly all (23 of the 25) states with costs saved per registered motorcycle below the median had either a partial helmet law or no helmet law. The MMWR article stated that studies looking at nonfatal injury outcomes among motorcycle riders who wore helmets and those who did not, found that hospitalized motorcycle riders who did not wear a helmet had higher health care costs. Riders who do not wear a helmet are more likely to suffer from traumatic brain injuries (TBIs). Hospital charges for those with TBIs are 13 times higher than for those without such injuries. Riders who do not wear helmets are less likely to have health insurance and are therefore more likely to require publicly funded health care.

An Insurance Institute for Highway Safety study found that after Florida weakened its universal helmet law to exempt riders aged  $\geq 21$  years with at least \$10,000 of medical coverage from wearing a helmet, the motorcycle death rate rose 25%. It was estimated that an additional 117 deaths occurred in the first two years after repeal of the universal helmet law. A NHTSA study found that the hospital admissions of motorcyclists with head injuries increased 82% in the 30 months after repeal of the universal helmet law in Florida.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

AOC stated that the bill Conflicts with HB65 and SB185 (also amending Section 66-7-356 NMSA 1978); SB 308 (also amending Section 66-7-356 to require mandatory helmet use, but exempting those whose motorcycle is affixed with a valid, distinctive motorcycle validating sticker and amending Section 66-8-116, governing penalty assessment misdemeanors); and HB104 and HB148 (also amending Section 66-8-116).

### **TECHNICAL ISSUES**

The bill prohibits a person from carrying a passenger on a motorcycle unless the passenger is wearing a safety helmet. The bill, however, amends the language of the penalty assessment misdemeanor in Section 66-8-116 NMSA 1978 to provide a penalty for "failure to wear a

motorcycle helmet,” first or subsequent violation. There is no penalty assessment for “failure to require a passenger to wear a safety helmet” or for “carrying a passenger who is not wearing a helmet.” The current language of the penalty assessment misdemeanor reads “minor on motorcycle without helmet,” applying equally to a minor operator or minor passenger. If the intent of the Legislature is to penalize the operator for allowing a passenger without a helmet to ride on a motorcycle, the amended language should be changed to reflect that desire.

EC/aml/je