

July 13, 2011

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES
OF THE 146TH GENERAL ASSEMBLY:

Pursuant to Article III, Section 18 of the Delaware Constitution, I am vetoing House Bill No. 95 by returning it with my objections to the House of Representatives without my signature.

House Bill No. 95 repeals the requirement that persons operating a motorcycle in Delaware carry a safety helmet. This is a basic safety rule that has been part of Delaware law since 1978, when it replaced a law requiring all riders to wear a safety helmet. 21 DEL. C. § 4185(b); 60 DEL. LAWS, c. 701, § 54; 61 DEL. LAWS, c. 314, § 1. For more than thirty years, motorcycle operators have had to carry a safety helmet while riding. But wearing that safety helmet has been their option.

Proponents of House Bill No. 95 argue that a law requiring merely the possession of a helmet does not improve the safety of riders. In some ways, they are correct. A helmet lashed to a seat or handlebars does little, if anything, to improve the situation of a rider in an accident.

However, because Delaware's helmet law requires riders to have a helmet in their possession, riders must buy a safety helmet that they might not otherwise purchase. They are further required to carry that helmet with them as they ride the roads of our state. With a helmet in their possession, many riders sensibly recognize that the helmet does more good on their head than it does as an ornament on their motorcycle.

In this indirect way, our law encourages riders to use the helmets they are required to carry. The law may be imperfect, but it sends a signal – wearing a helmet while riding a motorcycle is something we value as a community. This requirement saves lives. Riders are more likely to wear helmets if they have to carry one on their motorcycle, and passengers picked up by motorcycle at least have the option to wear a helmet since, under current law, one must be provided.

Sadly, many motorcyclists still do not take advantage of the helmet they are required to carry. In the weeks while this bill was being considered, there were multiple motorcycle accidents in which riders without safety helmets were killed. So far in 2011, eleven people have died in motorcycle accidents.

Nine of them were not wearing a helmet. This total is already more than the number of motorcyclists killed in all of 2010 – and much of the busy summer motorcycle season still remains.

Helmets may not save every life, but the evidence is clear that they help. The National Highway Transportation Safety Association estimates that motorcycle helmets saved 1,829 lives in 2008, and that if all motorcyclists had worn helmets, an additional 823 lives could have been saved. In Delaware, motorcyclists in accidents while not wearing helmets were 22% more likely to be hospitalized and twice as likely to be hospitalized with a head injury than those who wore helmets.

Perhaps the best evidence comes from states that have adopted or repealed mandatory helmet laws. When states adopt mandatory helmet laws, the number of motorcycle fatalities decreases. In Maryland, the number of motorcycle fatalities decreased by 37%. (American Journal of Public Health, August 2002). California saw a similar drop when it passed its helmet law in the early 1990s. In that state, an "estimated 92 to 122 fewer motorcycle fatalities occurred in 1992 than would have been expected without" the mandatory helmet law. (Journal of the American Medical Association, November 1994). The results were no less dramatic when Pennsylvania repealed its mandatory helmet law. "The number of Pennsylvania residents dying in Pennsylvania from motorcycle-related injuries increased 40% after the helmet law was repealed. The number of head injury deaths increased 66%, whereas the number of nonhead injury deaths increased 25%." (American Journal of Public Health, August 2008).

These deaths and injuries that could have been avoided impose meaningful costs on our society. For every life that could have been saved by wearing a helmet, there is a family missing a father or a mother, a husband or a wife, a brother, a sister, or a child. These loved ones will experience the pain of loss for years. No amount of grief will bring their loved ones back, but the simple act of wearing a helmet might help prevent the tragedy from occurring in the first place.

In addition, when a motorcyclist is in an accident without a helmet, the additional medical costs are significant. A review of motorcyclists injured in Delaware over 2006-2007 showed that the medical costs of riders not wearing helmets were, on average, more than \$12,000 greater than injured riders who were wearing helmets, according to the Office of Emergency Medical Services. A Michigan study similarly concluded that "helmet use decreased the mean cost of hospitalization by more than \$6,000 per patient." (Journal of Trauma, September 2002).

These costs are borne by our State through higher health insurance premiums and other health care costs. Only slightly more than half of motorcycle crash victims have private health insurance coverage. So a great deal of the additional costs that could have been avoided by the use of a helmet is being passed through to taxpayers and other payers.

Supporters of House Bill No. 95 have identified problems with the current law. They point to the State's regulations, which adopt Federal Motor Vehicle Safety Standard ("FMVSS") No. 218,

published by the U.S. Department of Transportation's National Highway Traffic Safety Administration ("NHTSA"). Helmet manufacturers self-certify compliance with FMVSS 218 to obtain a right to use a "DOT" sticker that shows compliance. Advocates have pointed out that a not-insignificant portion of helmets later tested by NHTSA fail to meet the requirements of FMVSS 218. This is regrettable. While many of these failing helmets are recalled by their manufacturers, it would be better if NHTSA had a more rigorous review system. But the fact that enforcement of federal helmet regulations is imperfect is not a good argument for eliminating Delaware's existing helmet law. Most certified helmets do pass federal review, and the research recited above shows that helmets have been demonstrably effective at saving lives and reducing medical costs.

Supporters have also argued that education and training are far better at reducing injury to motorcyclists than requiring the possession of a helmet. I agree that education and training are important. The Division of Motor Vehicles motorcycle training classes and the Office of Highway Safety's publicity campaigns, like this year's *Ride Safe-Ride Smart* campaign, have helped increase safety awareness among both motorists and motorcyclists. Those are important investments in rider safety, but education and training are not the only answer. The state has campaigns to encourage seat belt use, but we still require seat belts to be used on Delaware roads. The state has campaigns to discourage the use of mobile phones while driving, but we still prohibit their use without a hands-free device.

I am prepared to sit down with the proponents of House Bill No. 95 and others to discuss how we can make our roads safer for motorcyclists. Part of that dialogue should include addressing education and training and concerns about how our laws are enforced. It should also include discussion of a mandatory helmet requirement, which experience has shown in other states can save lives. But repealing a law that, for more than thirty years, has helped promote the use of helmets that have saved numerous lives is not something that I believe is in the best interest of our state.

For that reason, I have concluded that it is necessary to veto House Bill No. 95 by returning it to the House of Representatives without my signature.

Sincerely,

Jack A. Markell
Governor