



Riding SMART!

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President's News & Views

Repeal, Reports, Research, Requirements and Responsibility

THIS IS OUR FIRST NEWSLETTER SINCE THE REPEAL OF MICHIGAN'S ALL-RIDER helmet law. I am certainly disappointed in our Legislature and governor; however, **the repeal was not unexpected.** The total lack of reason in the face of overwhelming evidence is simply astounding to me, but I have learned that politics are not governed by reason and logic. I will now have more time to focus SMARTER's efforts to provide riders, decision makers, and the public with quality, research-based safety information instead of fighting the repeal of our lifesaving law.

Following shortly after the repeal in Michigan, a new report from the **Governors Highway Safety Association** was released that predicts motorcyclist fatalities in 2011 will be about the same level as in 2010 (see article p. 4). The report recommends five motorcyclist-safety strategies that states can implement to help save lives—number one being an all-rider helmet law. How ironic.

We know for certain from all previous research that motorcyclist injuries and deaths in Michigan will increase following the helmet-law repeal. It doesn't look like there will be any organization taking on extensive research in Michigan (why spend money on something that has already been extensively researched?) but the Michigan Office of Highway Safety Planning (OHSP) continues to gather its regular data, and **very preliminary information looks like the tragic predictions are already showing up in the data.**

The new law has a requirement that riders choosing to ride without a helmet have additional insurance. Included in this *Riding Smart*, on page 6, is an article addressing the insurance requirement. Much of this information is from one of our partners in motorcyclist-safety advocacy, attorney Steven Gursten, of Michigan Auto Law. (www.michiganautolaw.com)

Also ironic to me is the gear

the Michigan secretary of state (SOS) chose to wear in a PSA and in the pictures of her riding to her May is Motorcycle Safety Awareness Month PR events (link to PSA provided on p. 2). In my opinion, her choosing to wear all black and a half-helmet that doesn't appear to me to even fit properly is a poor model, and her wearing inconspicuous gear while she asks motorists to be aware of motorcyclists makes no sense. **Modeling responsible behavior and responsible choices would seem to me to be a wiser strategy.** In Michigan, the SOS is the state leader of the "motorcycle safety program."

(See **President's News**, p.2)

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The state program teaches the MSF curriculum emphasis on choosing conspicuous gear to increase motorist awareness, which does not even mention half-helmets. I believe leaders should model the behavior they desire from their followers. Go figure, again. Doubly ironic is that the Michigan OHSP has indicated they are "planning a special focus on the promotion of high-visibility protective gear in the near future as a means to reduce motorcycle crashes and injuries."

An important part of SMARTER's mission is promoting rider responsibility: making wise choices based on education and training. I had the opportunity to present at the April Iowa "Motorcycle Safety Forum." My presentation was titled "Regarding Rider Responsibility." Some of the ideas I presented are shared in this issue in the article on page 5.

Brittany Morrow (Rock the Gear) was also a presenter in Iowa. If you haven't yet visited her Web site, check it out. We share a couple of her ideas regarding safety slogans, ones aimed at rider responsibility.

Dan

Michigan SOS holds PR events

Michigan Secretary of State Ruth Johnson held two public relations events related to May is Motorcycle* Safety Awareness Month. (*Read "Motorcyclist" or "Motorcycle Rider" per SMARTER's preference to shift the focus from the machine to the rider.) The first was held May 2 at Grand Rapids Harley-Davidson (Hudsonville, MI). The second was May 15 at Motor City Harley-Davidson in Farmington Hills, and here a new video public service announcement (PSA) was released. (This is the PSA Dan references in his News & Views on page 1.)

Copy and paste this link in your browser to watch the new PSA video: <http://www.youtube.com/watch?v=PNV1fvsJVRE&list=PLFD2BA076F56B271A&index=1&feature=plcp>

Rock the Gear revises slogans

We have regularly used "All the Gear All the Time" as one of our main messages. We occasionally hear anti-helmet, biker-rights groups say this message is stupid: "What? You want me to wear my gear when I go to the bathroom? in bed?" and so on. Brittany Morrow (Rock the Gear, at www.rockthegear.org) has suggested "All the Gear, Every Time You Ride" as an alternative. Obviously, this is what reasonable people know is the real meaning of ATGATT, but Brittany's suggestion leaves no doubt. SMARTER's use of ATGATT is usually paired with our name or is phrased something like "Ride Smart: Wear All The Gear All the Time," so it takes convoluted thinking to distort the meaning of our use of ATGATT.

Another regular message directed at motorists is "Look Twice, Save a Life." While we here at SMARTER certainly believe that motorist-awareness campaigns are part of comprehensive motorcyclist-safety efforts, our emphasis is on motorcyclists' being or becoming more responsible for their own safety. So how about this, also from Brittany, "Think Twice, Save Your Own Life (no one is looking out for you)"?

Advanced RiderCourse offered in Grand Rapids

The Motorcycle Safety Foundation's (MSF) Advanced RiderCourse (ARC) is now available in the Grand Rapids area and is being sponsored by the Grand Rapids Community College Motorcycle Training Program. The ARC was released by MSF a couple years ago. It was offered last year in the Metro-Detroit area.

This one-day course is designed for licensed, experienced riders who have a cycle endorsement to enhance their basic skills and help with personal-risk assessment. Interactive classroom activities to improve perception and hazard awareness are combined with range exercises that enhance both basic skills and crash-avoidance skills. You will learn corner finesse and how to improve braking. The ARC is the public version of the Military Sport Bike RiderCourse.

Each student must provide their own motorcycle. Sharing is not allowed. The cycle must be titled, properly registered, and must display a valid license plate. Each student must also provide proof of insurance, and the bike must pass a safety inspection. Graduates will receive an MSF national ARC completion card.

To register, visit https://learning.grcc.edu/ec2k/Heading.asp?heading_id=235

Early indications: There are no plans to study impacts of helmet-law repeal

SMARTER has contacted a number of state and national organizations to inquire if there are any plans for in-depth research on the impact of the repeal of the Michigan all-rider helmet law. While we have yet to receive answers from all, two responses tell us the likely answer: no in-depth research, just after-the-fact data to analyze.

Our contact person at the National Highway Transportation Safety Administration (NHTSA) tells us: "NHTSA is not aware of any organization that has committed to conducting research into the effects of the recent action repealing Michigan's all-motorcyclist helmet use law. NHTSA and other organizations have sponsored several decades' worth of research that have examined the benefits of motorcycle helmet use, in addition to examining the effects repealing and reenacting motorcycle helmet use laws can have on individual States. All of these studies have produced similar, expected results. In 2003, when Pennsylvania repealed its all-motorcyclist helmet use law, NHTSA did not conduct an evaluation to determine the effect of that law change because the agency did not believe sponsoring an additional evaluation study would yield significantly different or groundbreaking results. For this same reason, NHTSA has not initiated a research project to evaluate the repeal of Michigan's all-motorcyclist helmet use law and there are no plans to conduct one in the future."

Michael Prince, Director of the Michigan Office of Highway Safety Planning (OHSP), responded to our inquiry to tell us that his agency "has not initiated any research projects...nor do we have any plans at the present time to initiate any such

projects in the near term"; nor is OHSP aware of any organizations that are planning any research. Motorcycle crash data are being compiled by OHSP, and it will be reporting helmeted and unhelmeted motorcycle crash fatalities and other information as required by NHTSA in the Annual Evaluation Report for the State. OHSP is also planning an observation survey on helmet use in order to determine the state's helmet-use rate after implementation of the modified law. (See related article on p. 4 on casual observation at one popular annual biker event.)

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Early information is, however, providing us predictable bad news. A crash reported in the April 22, 2012, *Port Huron Times Herald* confirmed three things we already know:

1) Alcohol is a major factor in crashes:

"The man had left a fundraiser in Algonac at the time of the crash, and alcohol is believed to be a factor in the crash," said Sheriff Lt. Scott Braun."

2) Helmets prevent head injury:

"The man suffered a serious head injury that may have been prevented if he had worn a helmet," St. Clair County Sheriff Sgt. Scott Jones said."

3) Partial-coverage laws are difficult to enforce:

"Jones said it is unclear if the man involved in the accident met the necessary requirements to ride without a helmet because the law does not require people to carry proof."

MLive published a May 15 analysis on 107 motorcycle-involved crashes reported to the Michigan State Police between April 12, when the law was signed, and May 11. Of those, only 12 involved unhelmeted riders, but predictably the data show that those who did not wear helmets were injured at a greater rate than those who did: 100 percent of unhelmeted riders compared to 71 percent of riders wearing helmets. Sadder still, three fatal motorcycle accidents were reported during the time studied, two victims who wore helmets and one who did not, whose family members said a helmet would not have made a difference; a fourth fatality involving a unhelmeted rider in Muskegon County had not yet been recorded with state police.

Between the end of the MLive study period and our newsletter publication, as temperatures continue to climb, more death and injury motorcyclist crashes have occurred, including both helmet-wearing and helmetless riders and passengers.

Many Michigan motorcyclist crash reports can be found at http://www.accidentin.com/motorcycle_accidents_in_michigan.htm

Motorcyclist traffic fatalities by state: GHSA releases new report Projects 2011 numbers will be about the same as 2010, but notes a disturbing trend

A new report the Governors Highway Safety Association (GHSA)¹ released May 22, 2012, projects that the number of motorcyclist traffic fatalities in the United States in 2011 will be about the same as in 2010. This is a preliminary report using data from the first nine months of 2011.

In late January 2012, GHSA asked each state and the District of Columbia to provide their preliminary motorcyclist fatality counts for 2011, as they did for 2010 and 2009. All 50 states and the District of Columbia supplied data. Many states also presented why they believed motorcyclist fatalities in their state increased or decreased.

The report points out that a strengthening economy and rising gas prices do not bode well for future fatality numbers. As the economy strengthens, more people will have disposable income for purchasing and riding motorcycles; at the same time, in the past three decades, as gas prices rise so do motorcyclist fatalities.

Finally, the report recommends five strategies that

states can implement to help make a difference in keeping motorcyclists safer on our nation's roadways.

Noted in the news release from the GHSA² is the disturbing trend of the decrease in states with universal helmet laws, as having all-rider helmet laws is the only motorcyclist-safety strategy whose effectiveness is rated as five-star in the National Highway Traffic Safety Administration's highly regarded publication "Countermeasures That Work." Also mentioned is that earlier this year Michigan repealed its universal helmet law, while similar legislation has been introduced in five other states, and that no state has enacted a universal helmet law since Louisiana reinstated its requirement in 2004.

A Michigan-specific news article about the GHSA report was published in the *Detroit News* May 22³. Barbara Harsha, GHSA's executive director, is quoted in this article as saying, "Michigan has made tremendous progress in highway safety, but the repeal of the universal helmet law is a giant step backward and has national implications."

¹The full GHSA report can be found at

http://www.ghsa.org/html/publications/pdf/spotlights/spotlight_motorcycles12.5.pdf

²The news release regarding the GHSA report can be found at

<http://m.prnewswire.com/news-releases/new-study-no-progress-in-reducing-motorcyclist-deaths-152569585.html>

³The complete *Detroit News* article about the GHSA report can be found at

<http://www.detroitnews.com/article/20120522/AUTO01/205220313/1148/auto01/Officials-urge-safety-motorcycle-deaths-remain-high>

Unofficial survey: Michigan helmet use PLUMMETS

The 40th anniversary of the Blessing of the Bikes was held in Baldwin, MI May 20. It is estimated 10,000 people attended, riding half as many motorcycles. With the repeal of the all-rider helmet law, signed by Governor Snyder April 12, helmet use at this popular event kicking off the riding season plummeted, at least as far as it could be ascertained by casual observation. Studies in other states have indicated that helmet use drops steadily during the first 12 to 18 months after repeal and then levels off to the 35-to-45 percent range. At this event, which year after year draws primarily a "biker" demo-

graphic, helmet use had already seemingly dropped below 30 percent.

There were women passengers who wore helmets, some full-face, while the males operating the bikes they rode were unhelmeted; others wore novelty helmets or none at all. Presumably the ones without helmets had met the insurance and education/experience requirements of the law, right? And their gear? At best, jeans and leather jackets; at worst, sundresses or shorts and tank tops.

The unaccompanied, parked sport bikes and Gold Wings generally had

full-face helmets sitting on them. Almost all cruiser riders chose the typical black vests, chaps, jeans, T-shirts, and doo-rags. Notably, only one cruiser rider was seen who wore motorcycle-specific outwear, mostly black but with bright yellow swatches on the jacket, and he wore a bright yellow full-face helmet. His male companion operating the bike alongside him, however, was wearing typical cruiser garb.

Of curious note was that a corner stand had been set up to collect signatures to recall Governor Snyder. Wonder how that was working out?

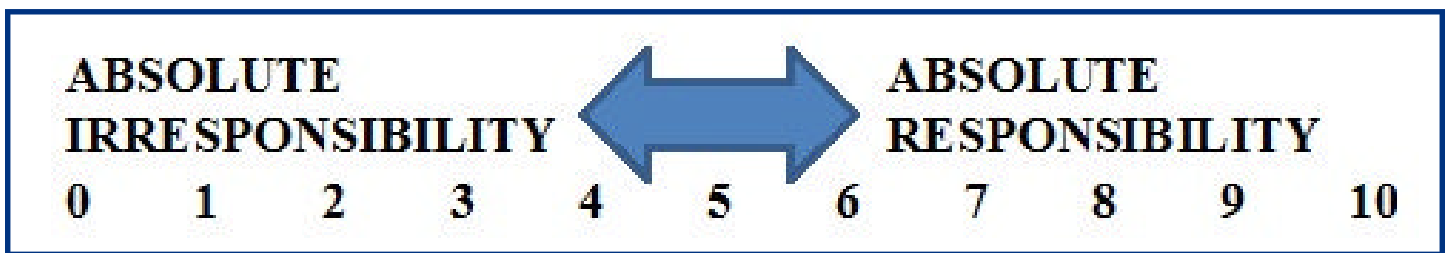
Regarding Rider Responsibility

The Motorcycle Safety Foundation, in its *Basic Rider Handbook*, says, “Choosing to accept the challenges of being a responsible motorcyclist means to think about the consequences for your riding behavior in traffic. It also means accepting personal responsibility for the results of your decisions and actions, as well as developing good skills and judgment.”

Three of the dictionary definitions of “responsible” seem to apply directly to rider responsibility: (1) based on or characterized by good judgment or sound thinking, (2) able to make moral or rational decisions on

one’s own and therefore answerable for one’s behavior, and (3) involving personal accountability or ability to act without guidance.

To make these definitions usable, however, we need examples of what might be good skills, good judgment, sound thinking, rational decisions, and personal accountability. This is where the difficulty arises because not all riders will agree on some of the possible examples. To address this difficulty, Jon DelVecchio, a member of SMARTER (<http://www.streetskills.net/>), suggested using a continuum:



As Jon describes it, at one end of the spectrum is the “absolutely irresponsible” rider. This rider is someone who habitually violates the law; never wears full riding gear; has never taken any training and scoffs at the idea that he/she could learn anything; doesn’t prepare for hazards up ahead; offends people with noise or bad traffic manners; repeats myths and mantras without researching, thereby spreading false or misleading information to new riders, the general public, and policy decision makers.

And while even the most experienced riders and safety professionals are not exempt from either risk or irresponsible behavior, if we think about it and put some effort into it, we can come closer to becoming what we could call an “absolutely responsible rider,” a rider who takes absolute responsibility. Absolute responsibility would be a level of consideration for consequences where a rider is managing risk to the best of his or her ability and is representing all motorcyclists in a positive way.

Think of the absolutely responsible rider as one who adheres to every law, rides fully protected, actively participates in rider training and skill renewal, and utilizes a mental riding strategy (such as SEE as taught by MSF). Additionally, this rider expresses utmost courtesy in traffic. This rider also actively confronts myths about

motorcycling and motorcyclists, works to present a positive image of motorcyclists, and mentors others regarding riding skills as well as image.

All riders fall within this spectrum. In reality, when people get on motorcycles, absolute responsibility is just as uncommon as absolute irresponsibility. But the individual motor-

cyclist, motorcyclists as a whole, and the general public are better served, for obvious reasons, when riders make decisions that bring them closer to being absolutely responsible. Therefore, a responsible motorcyclist operates a motorcycle with the goal of preventing problems before they occur while portraying motorcyclists as respectable roadway users.

If we think about it and put some effort into it, we can come closer to becoming what we could call an “absolutely responsible rider.”

ri spoʹn sə bəl: characterized by good judgment or sound thinking; having a capacity for moral decisions and therefore accountable; answerable or accountable, as for something within one’s power

What are the insurance requirements for Michigan motorcyclists?

UP UNTIL THE REPEAL OF THE ALL-RIDER HELMET LAW (PUBLIC ACT 98 OF 2012), THE MOTORCYCLE accident attorneys of Michigan Auto Law had been telling their clients that the only insurance required for a motorcyclist in Michigan, according to the no-fault law, was basic liability coverage, of at least the minimum liability, for a third-party personal-injury suit.

Now the answer to the question “What are the insurance requirements for Michigan motorcyclists?” depends on how the motorcyclist answers the question “How responsible of a motorcyclist am I?” (See the article on page 5 to make a self-determination of how close you come to being an absolutely responsible rider.)

There is an additional requirement for motorcycle operators and passengers who abdicate their personal responsibility and choose to ride without a helmet.

They may do so only if they have insurance for the first-party medical benefits payable in the event they are involved in a motorcycle accident. A motorcycle operator without a passenger must have security in an amount not less than \$20,000; with a passenger, not less than \$20,000 per person per occurrence (\$40,000); however, if the passenger has his or her own insurance in an amount not less than \$20,000, then the operator is only required to have at least the minimum security of \$20,000.

A first-party claim is between the motorcycle-accident victim and his insurance company for no-fault benefits, also called personal injury

protection (PIP) benefits. If a motorcycle rider was involved in an accident with a car or truck, he or she will qualify for Michigan no-fault benefits. The allocation of fault for the motorcycle crash does not affect recovery of no-fault benefits. In other words, even if motorcycle operators were found totally responsible for the accident that caused their injuries, and therefore they were completely barred from recovery of any pain and suffering damages, they would still be entitled to no-fault insurance benefits.

These benefits include medical expenses related to the accident; wage loss for the first three years following the accident; household replacement services (e.g., chores/child care), payment for mileage to and from medical appointments; and attendant care, also referred to as nursing services.

Keep in mind that the \$20,000 in PIP medical coverage required if you choose to ride without a helmet only applies when motorcycles are in single-motorcycle accidents that do not involve another vehicle. If a motorcyclist is injured in an accident involving a car or truck, he or she will be entitled to collect no-fault PIP benefits pursuant to the no-fault priority rules even if there is no contact between the motorcycle and the car or truck, so long as the car or truck “actively, as opposed to passively, contribute[d] to the accident.” (*Turner v Auto Club Insurance Association*, 448 Mich 22 [1995]).

This is very important, because under Michigan no-fault, PIP claims from motorcycle accidents between a motorcycle and a car or a truck will allow an injured motorcycle rid-

er to collect his or her no-fault insurance benefits from the insurer of the vehicle that the motorcycle was involved in the accident with.

(**Note:** Changes in the Michigan no-fault law are currently under consideration by the Michigan Legislature.)

Optional Coverage

A motorcycle owner can still purchase additional optional contractual insurances, such as optional no-fault coverage, which includes medical benefits and wage loss. There are few motorcycle owners who purchase this coverage in Michigan. Keep in mind this is not the same coverage provided by regular auto no-fault (PIP) insurance. A motorcycle owner can also purchase other insurance, such as uninsured and underinsured motorist coverage.

Uninsured motorist coverage (UM) and underinsured motorist coverage (UIM) provide a valuable source of legal recovery when someone is injured in an auto accident by another driver who is uninsured or does not have adequate insurance. Without a UM or UIM policy, a driver or passengers injured by an uninsured or underinsured motorist will have no source of legal recovery other than filing a lawsuit against the at-fault driver for his personal assets. The Michigan Auto Law motorcycle accident attorneys strongly recommend motorcyclists contact their insurance agent to purchase these additional coverages.

Visit www.michiganautolaw.com for contact information; and for attorney Steve Gursten’s very informative blog, go to <http://www.michiganautolaw.com/auto-lawyers-blog/>