

**HOUSE . . . . . No. 3495**

By Ms. Gobi of Spencer, petition of Anne M. Gobi and others relative to standards for protective headgear for operators or passengers on motorcycles. Transportation.

**The Commonwealth of Massachusetts**

PETITION OF:

Anne M. Gobi  
Stephen M. Brewer

Christine E. Canavan

In the Year Two Thousand and Seven.

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  
2 appearing in the 2004 Official Edition, is hereby amended by  
3 striking out the following sentence:

4 “Every motor vehicle so operated shall be provided with a muffler  
5 or other suitable device to limit the noise emitted by the engine and  
6 exhaust and with a suitable bell, horn or other means of signaling,  
7 with suitable lamps, and with a lock, key or other device to prevent  
8 such vehicle from being set in motion by unauthorized persons, or  
9 otherwise contrary to the will of the owner or person in charge  
10 thereof.”

11 And inserting in place thereof, the following new sentence:

12 “Every motor vehicle so operated shall be provided with a muffler  
13 or other suitable device to prevent unnecessary noise; provided,  
14 however, that every motor cycle so operated shall be provided with a  
15 muffler or other suitable device that produces a sound pressure level  
16 of not more than eighty-two decibels or such lower amount of deci-  
17 bels as the Registrar may prescribe. Sound pressure levels in deci-  
18 bels shall be measured on the “A” scale of a sound level meter  
19 approved by the Registrar. Measurements shall be made of overall

20 vehicle noise at maximum speed at fifty feet in accordance with test  
21 procedure SAE J192 of the Society of Automotive Engineers, or  
22 with such other test procedure for measurement of sound pressure  
23 levels as the registrar may adopt. Every motor vehicle shall be pro-  
24 vided with a suitable bell, horn or other means of signaling, with  
25 suitable lamps, and with a lock, key or other device to prevent such  
26 vehicle from being set in motion by unauthorized persons, or other-  
27 wise contrary to the will of the owner or person in charge thereof.”

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

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

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

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

31 (a) To provide for the safety and welfare of every person oper-  
32 ating a motorcycle or riding as a passenger or in a sidecar attached to  
33 the motorcycle, the Registrar shall prescribe minimum safety stan-  
34 dards and construction for protective headgear used by motorcyclists  
35 in the commonwealth.

36 (b) The Registrar may adopt any part or all of the American  
37 National Standards Institute's standards and construction for protec-  
38 tive headgear for vehicular users.

39 (c) On request of a manufacturer of protective headgear, the  
40 department shall make the safety standards prescribed by the depart-  
41 ment available to the manufacturer.

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

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

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

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

63 (h) There shall be an assessment of not less than \$125 against a  
64 person who, by a court of the commonwealth, is convicted of, is  
65 placed on probation for, or is granted a continuance without a  
66 finding for or otherwise pleads guilty to or admits to a finding of  
67 sufficient facts of operating a motorcycle without a helmet or per-  
68 mitting another person to ride as a passenger on said motorcycle or  
69 in a sidecar attached to a motorcycle unless exempted pursuant to

70 the provisions of subsection (f); provided, however, that moneys col-  
71 lected pursuant to said assessment shall be deposited by the court  
72 with the treasurer into the Head Injury Treatment Services Trust  
73 Fund established by section 59 of chapter 10. In the discretion of the  
74 court, an assessment pursuant to this paragraph may be reduced or  
75 waived only upon a written finding of fact that such payment would  
76 cause the person against whom the assessment is imposed severe  
77 financial hardship. Such a finding shall be made independently of a  
78 finding of indigency for purposes of appointing counsel. If the  
79 person is sentenced to a correctional facility in the commonwealth  
80 and the assessment has not been paid, the court shall note the assess-  
81 ment on the mittimus.

82 (i) In this section, “health insurance plan” means an individual,  
83 group, blanket, or franchise insurance policy, insurance agreement,  
84 evidence of coverage, group hospital services contract, health main-  
85 tenance organization membership, or employee benefit plan that pro-  
86 vides benefits for health care services or for medical or surgical  
87 expenses incurred as a result of a motor cycle accident.

88 (j) Any police officer may stop and detain a person who is a  
89 motorcycle operator or passenger, to inspect the person’s protective  
90 headgear for compliance with the safety standards prescribed by the  
91 department or to validate the sticker authorizing the exemption  
92 granted pursuant to subsection. The provisions of this section shall  
93 be enforced by law enforcement agencies only when an operator of a  
94 motorcycle has been stopped for a violation of the motor vehicle  
95 laws or some other offense.

1 SECTION 3. Chapter 175 of the General Laws, as appearing in  
2 the 2004 Official Edition is hereby amended by inserting after  
3 section 113U, the following new section:

4 Section 113V. Insurance companies undertaking to issue motor  
5 vehicle liability policies or motor vehicle liability bonds, as defined  
6 in section 34A of chapter 90, may issue and deliver policies insuring  
7 motorcycles, as defined in section of said chapter 90. Said motor-  
8 cycle insurance policies shall be exempt from the provision of sec-  
9 tions 113B and 113H.

1 SECTION 4. Section 8 of chapter 89, as appearing in the 2004  
2 Official Edition, is hereby amended by striking out in the last sen-  
3 tence the words “thirty-five” and replacing it with “three hundred.”

1 SECTION 5. Section 8 of Chapter 89 of the General Laws, as so  
2 appearing, is hereby amended by adding at the end of said section  
3 the following new paragraph:—

4 Any person who violates the provisions of the paragraph and as a  
5 result causes serious bodily injury or death to another operating a  
6 motor vehicle, a motorcycle or bicycle, or as a pedestrian, shall be  
7 financially responsible to that injured person or persons, or their  
8 Estate, for out of pocket medical or funeral expenses, actual lost  
9 wages, above what might otherwise be covered by liability insur-  
10 ance, and to other insurers who may be obligated to pay such med-  
11 ical expenses.

1 SECTION 6. Chapter 90 of the General Laws, as appearing in the  
2 2004 Official Edition, is hereby amended by inserting after section  
3 24P, the following new section:

4 Section 24Q:

5 Violating the right of way of another motorists, motorcyclists,  
6 bicyclists or pedestrians causing serious bodily injuries or death,  
7 Imprisonment and Fine, Minimum Sentence; Definition of “Serious  
8 Bodily Injury”; Revocation of License, (1) Whoever, upon any way  
9 or in any place to which the public has a right of access, or upon any  
10 way or in any place to which members of the public have access as  
11 invitees or licensees, operates a motor vehicle in violation of section  
12 eight of chapter eighty-nine, or while under the influence of intoxi-  
13 cating liquor, or marihuana, narcotic drugs, depressants, or stimulant  
14 substances, all as defined in section one of chapter ninety-four C, or  
15 the vapors of glue, and so operates a motor vehicle recklessly or  
16 negligently so that the lives or safety of the public might be endan-  
17 gered, and by any such operation so described causes serious bodily  
18 injury to another operating a motor vehicle, a motorcycle or bicycle,  
19 or as a pedestrian, shall be punished by imprisonment in the state  
20 prison for not less than two and one-half years nor more than ten  
21 years and by a fine of not more than five thousand dollars, or by

22 imprisonment in a jail or house of correction for not less than eigh-  
23 teen months nor more than two and one-half years and by a fine of  
24 not more than three thousand dollars. The sentence imposed upon  
25 such person shall not be reduced to less than eighteen months, nor  
26 suspended, nor shall any person convicted under this subsection be  
27 eligible for probation, parole, or furlough or receive any deduction  
28 from his sentence until such person has served at least eighteen  
29 months of such sentence; provided, however, that the commissioner  
30 of correction may, on the recommendation of the warden, superin-  
31 tendent, or other person in charge of a correctional institution, or of  
32 the administrator of a county correctional institution, grant to an  
33 offender committed under this subsection a temporary release in the  
34 custody of an officer of such institution for the following purposes  
35 only: to attend the funeral of a relative; to visit a critically ill  
36 relative; to obtain emergency medical or psychiatric services  
37 unavailable at said institution; or to engage in employment pursuant  
38 to a work release program. Prosecutions commenced under this sub-  
39 division shall neither be continued without a finding nor placed on  
40 file.

41 The provisions of section eighty-seven of chapter two hundred  
42 and seventy-six shall not apply to any person charged with a viola-  
43 tion of this subdivision.

44 (2) For the purposes of this section “serious bodily injury” shall  
45 mean bodily injury which creates a substantial risk of death or which  
46 involves either total disability or the loss or substantial impairment  
47 of some bodily function for a substantial period of time greater than  
48 thirty days.

49 (3) The registrar shall revoke the license or right to operate of a  
50 person convicted of a violation of subdivision (1) for a period of five  
51 years after the date of conviction. No appeal, motion for new trial or  
52 exception shall operate to stay the revocation of the license or the  
53 right to operate; provided, however, such license shall be restored or  
54 such right to operate shall be reinstated if the prosecution of such  
55 person ultimately terminates in favor of the defendant.

56 (4) Whoever, upon any way or in any place to which the public  
57 has a right of access, or upon any way or in any place to which  
58 members of the public have access as invitees or licensees, operates  
59 a motor vehicle while in violation of section eight of chapter eight-

60 nine, or under the influence of intoxicating liquor, or of marihuana,  
61 narcotic drugs, depressants, or stimulant substances, all as defined in  
62 section one of chapter ninety-four C, or the vapors of glue, and so  
63 operates a motor vehicle recklessly or negligently so that the lives or  
64 safety of the public might be endangered, and by any such operation  
65 so described causes the death of another person while operating a of  
66 another motor vehicle, a motorcycle, bicycle or as a pedestrian,  
67 shall be guilty of homicide by a motor vehicle in while in violation  
68 of section eight of chapter eight-nine, or under the influence of an  
69 intoxicating substance, and shall be punished by imprisonment in the  
70 state prison for not less than two and one-half years or more than fif-  
71 teen years and a fine of not more than five thousand dollars, or by  
72 imprisonment in a jail or house of correction for not less than two  
73 years and one-half years and a fine of not more than five thousand  
74 dollars. The sentence imposed upon such person shall not be reduced  
75 to less than two years, nor suspended, nor shall any person convicted  
76 under this subsection be eligible for probation, parole, or furlough or  
77 receive any deduction from his sentence until such person has served  
78 at least two years of such sentence; provided, however, that the com-  
79 missioner of correction may, on the recommendation of the warden,  
80 superintendent, or other person in charge of a correctional institu-  
81 tion, or the administrator of a county correctional institution, grant to  
82 an offender committed under this subsection a temporary release in  
83 the custody of an officer of such institution for the following pur-  
84 poses only: to attend the funeral of a relative; to visit a critically ill  
85 relative; to obtain emergency medical or psychiatric services  
86 unavailable at said institution, or to engage in employment pursuant  
87 to a work release program. Prosecutions commenced under this  
88 section shall neither be continued without a finding nor placed on  
89 file.

90 The provisions of section eighty-seven of chapter two hundred  
91 and seventy-six, shall not apply to any person charged with a viola-  
92 tion of this subsection.

93 (5) The registrar shall revoke the license or right to operate of a  
94 person convicted of a violation of subsection (4) for a period of ten  
95 years after the date of conviction for a first offense. The registrar  
96 shall revoke the license or right to operate of a person convicted for  
97 a subsequent violation of this section for the life of such person, No

98 appeal, motion for a new trial or exceptions shall operate to stay the  
99 revocation of the license or of the right to operate; provided, how-  
100 ever, such license shall be restored or such right to operate shall be  
101 reinstated if the prosecution of such person ultimately terminates in  
102 favor of the defendant.”

1 SECTION 7. This act shall take effect on July 1, 2007.