

Activities Decmber 4, 2008

MOTORCYCLE SAFETY

Mr. Robert Bailey: This is a petition from my riding as well as across Ontario.

"To the Legislative Assembly of Ontario:

"Whereas Bill 117, presented by MPP Helena Jaczek on October 27, 2008, An Act to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles with child passengers, is amended by adding the following section:

"Prohibition of passengers under 14 years old on motorcycles;

"38.1 No person shall drive or operate a motorcycle on a highway if another person under the age of 14 years is a passenger on that motorcycle;

"We, the undersigned, petition the Legislative Assembly of Ontario as follows:

"That Bill 117 be removed from their agenda and never become law."

I agree with that and affix my signature to it.

**PRIVATE MEMBERS'
PUBLIC BUSINESS**

HIGHWAY TRAFFIC AMENDMENT ACT
(CHILD PASSENGERS
ON MOTORCYCLES), 2008 /
LOI DE 2008 MODIFIANT
LE CODE DE LA ROUTE
(ENFANTS PASSAGERS
SUR DES MOTOCYCLETTES)

Ms. Jaczek moved second reading of the following bill:

Bill 117, An Act to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles with child passengers / Projet de loi 117, Loi modifiant le Code de la route afin d'interdire la conduite et l'u tilisation de motocyclettes transportant des enfants comme passagers.

The Speaker (Hon. Steve Peters): Pursuant to standing order 98, the member has 12 minutes for her presentation.

Ms. Helena Jaczek: I'm pleased to rise in the House today for second reading of my private member's Bill 117 to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles with child passengers. The purpose of this bill is to protect children from preventable injury and thereby promote safety on Ontario's roads.

I have received many endorsements of this bill. Among these, we have with us today in the west members' gallery, Brian Patterson, of the Ontario Safety League; Patrick Brown, president, Ontario Trial Lawyers Association; and Katie Mellor and Nigel Finan, representatives of concerned parents who support this bill. In the Speaker's gallery we are also joined by Lynda Staples, of the Canadian Paraplegic Association Ontario. I'd like to thank my staff, Valerie Dixon, Frank Belluardo and legislative intern Rosanne Waters for their hard work on this bill.

As a family physician working in the emergency room, one of the most tragic cases I ever saw was a boy of about 10 who had been run over by a car. He was conscious and in extreme pain as we removed his clothes to examine his torso, where the tire marks were clearly visible and had done severe damage to his internal organs. Happily, he survived after emergency surgery, but it is an image I will never forget.

As a former medical officer of health in this province, I took my responsibility to administer the injury prevention program of the Health Protection and Promotion Act very seriously. Now, as an elected member of this Legislative Assembly, I believe one of our prime duties is to enact legislation that protects the most vulnerable members of our society. This, of course, includes our children, who, through lack of physical development or mature judgment, are exposed to harm.

Before I detail some of the harm that can be done to children riding as passengers on motorcycles, I would like to explain what this bill is not about. It is not about questioning the love that those parents who have ridden motorcycles with their children as passengers have for their own precious children. In fact, I'm sure that the vast majority of those parents have thought about and implemented a number of safety mechanisms that they feel will protect their kids. However, unfortunately, the numbers speak for themselves. Children are being hurt, and seriously.

According to the Ministry of Transportation of Ontario's road safety reports, from 1995 to 2005, a total of 199 motorcycle passengers aged zero to 15 years of age sustained injuries. Since then, however, SmartRisk, an organization that compiles injury data, has noted that in the fiscal year 2005-06, of those hospitalized in Ontario due to serious motorcycle-related injuries, eight were aged five to nine and 38 were between the ages of 10 and 14, for a total of 46. Furthermore, of the emergency department visits in 2005-06 for motorcycle-related injury, eight were aged zero to four years of age, 106 were between five and nine and 442 were aged 10 to 14. That is a total of 556 injured children in one year in Ontario.

These numbers would also seem to indicate that injuries are increasing. It is important to know that riding on a motorcycle is more dangerous than driving in a car. The US National Highway Traffic Safety Administration has found that, per vehicle mile travelled, in 2006 motorcyclists were 35 times more likely than passenger car occupants to die, and eight times more likely to be injured. While it has been pointed out to me by some that there are more injuries to children from other types of activities, I simply must say, for the family of that child injured while a passenger on a motorcycle, the impact is 100%.

Certainly, the risk is sufficient for Pamela Fuselli, executive director of Safe Kids Canada, which is the national injury prevention program of the Hospital for Sick Children, to say: "On behalf of Safe Kids Canada, I would like to extend our organizational support for your private member's Bill 117.... The amendments you propose to the HTA through Bill 117 represent an important component of injury prevention best practice, which will prove beneficial to improving the safety of Ontario's roads and highways." Her words are echoed by officials from the Ontario Brain Injury Association, the Canadian Paraplegic Association Ontario and the St. John Council for Ontario.

What does the current legislation require in terms of safety measures? No Canadian province currently sets a minimum age for motorcycle passengers, although four states in the USA have varying restrictions up to the age of eight. However, MTO does not recommend children as passengers on motorcycles until they are old enough and strong enough to understand that they need to hold on and are able to negotiate turns with the driver. Through regulation in Ontario, a helmet and ability to reach the footrests are requirements for all passengers on motorcycles. Ontario does have voluntary driver training that includes an emphasis on safety. However, child passengers are still getting hurt, even though most Ontario motorcycle riders are well trained. Even the most diligent motorcycle rider can be involved in an accident, and the helpless child passenger is very likely to be injured.

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Here's a quote from an online article from motorcyclecruiser.com, by concerned parent and experienced motorcyclist Art Friedman:

"Here's a typical disaster in the making, one that I've seen far too frequently. A motorcyclist rides down the street with a kid sitting in front of him, a helmet four sizes too large bouncing around on the child's head, its little hands trying to hold on to the gas tank or the rider's legs. The kid interferes with the rider's control of the bike, the first strike against them. What's going to happen if the rider must stop quickly? Will he grab the child with one arm, and thereby probably lose control of the bike if he really has to panic stop, or will he keep control of the bike and watch the kid fly off the front of the bike? Neither option bodes well for the child."

He goes on to say: "So he or she will sit behind you. That raises the issue of control. A child, especially a small one, can simply fall off. Even an older kid can fall asleep on a longer ride. Mine do, all the time. Any child can be flicked off in a brake-skid-stick situation or just a quick avoidance manoeuvre. Holding onto the rider can be difficult for small hands and short arms. My research uncovered an alarming number of instances when a child fell or was ejected from a motorcycle that didn't crash, often with horrifying results."

The author goes on to talk about the child's CRV riding belt that involves a harness that secures the child to the driver. He concedes that in a crash, "the child would be attached to you, which might cause additional injury if they ended up between you and whatever you bounced against."

Although Mr. Friedman concludes his article by saying he believes children can safely be passengers with proper preparation, I must disagree. Many riders will not go through the elaborate preparation of training, clothing, including proper-sized helmets and gloves, eye protection, hand holds and harnesses that he recommends for their child passengers. There is too much risk with these complicated voluntary measures.

And Don Forgeron, vice president-Ontario, Insurance Bureau of Canada, agrees. He wrote to me saying: "I would like to take this opportunity to offer our support for Bill 117.... Children are amongst the most vulnerable road users. In the case of motorcycles, many have not yet developed the strength to hold to the rider of the motorcycle.... Insurance Bureau of Canada, as a responsible stakeholder in the promotion of road safety, continues to support initiatives that make Ontario roads safer for all users."

People asked me why Bill 117 proposes the age limit as under 14. First, 14 is the age by which children typically reach their adult height. Also, there's current Ontario legislation which applies to the age of 14, such as going to the movies and working at a first part-time job-activities that require a certain level of maturity and judgment. As Linda Stewart, executive director of the Ontario Association of Local Public Health Agencies- or ALPHA-notes in that organization's letter of support, "We agree that the risk to passengers under the age of 14 is likely magnified by factors such as inexperience and strength, that child passengers are less likely to be fully aware of the excessive risk inherent in riding a motorcycle, and that they are less likely to fully appreciate the increased awareness and concentration required of both passengers and operators."

Ontario has a proud history of being a leader in road safety legislation. In 1976, Ontario made wearing seatbelts mandatory and became the first jurisdiction in North America to do so. Through the years, additional measures have been taken to protect children, from child seat safety and mandatory booster seats, to safer school buses. However, as Brian Patterson, president of the Ontario Safety League, notes: "As with all safety initiatives we are confident that many will stand in opposition to our mutual position.... The same arguments were raised with respect to seatbelts, child car seats, better driver education and extreme driving enforcement. All of these initiatives are now universally accepted as

life-saving and have played a significant role in ensuring that Ontario has the safest roads in North America."

Let Ontario be a leader again by our sending this bill to committee for further debate. I know that there is interest from members of this assembly in this matter. Our colleague from Newmarket-Aurora, a former Minister of Transportation, made a statement in this House on October 30, 2008, requesting the current Minister of Transportation to include, among other items, the following in a bill: "To make it illegal for children under the age of 12 to ride as passengers on motorcycles, thereby reducing the risk of serious injury or death."

As Patrick Brown of the Ontario Trial Lawyers Association wrote to say, "We believe that this bill will eliminate serious and debilitating injuries to children, not to mention the horrific loss to society when a young child is killed."

On behalf of Katie Mellor and Nigel and all those concerned with an undeniably unnecessary risk to vulnerable children, I ask for the support of all in this House to do the right thing and protect them by passing second reading of Bill 117.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Frank Klees: I'm pleased to rise in support of the bill that is under debate. The member for Oak Ridges-Markham has brought forward a bill which I believe just makes good common sense.

Now, that is perhaps strange for some members here, because they have heard me time and again argue against much of what I've referred to as the nanny state legislation that this government brings forward from time to time. No doubt there will be colleagues arguing here today that the last thing we need is for government to provide yet one more not-to-do list for the citizens of Ontario.

As a former motorcycle rider, I sold my Harley-Davidson just two years ago. I've been a rider since age 17. I can tell you that in the entire time, as much as I enjoyed getting onto my motorcycle and taking it for a ride through the countryside-I can also on numerous occasions still experience the rush, the fear, of the near miss. I have two children; my daughter is now 30 and my son is 26. At no time when I was the owner of a motorcycle would it ever have crossed my mind to put my small child on the back of the motorcycle. The reason is that it's one thing for me to take the risk that comes with riding a motorcycle; it's yet something totally different for me to take my young child and place that child into present danger.

What we do know is this: When a motorcycle is in a crash, for the individual on that motorcycle, be it the one who is doing the driving of that motorcycle or the passenger, the chance of serious injury is considerably greater than if a crash takes place in a car. It's just common sense.

The member for Oak Ridges-Markham has done an excellent job of setting the context in terms of providing statistics and in terms of providing technical support for this legislation, so I won't go there. What I will say is that, contrary to what I would typically do with legislation when government tries to tell us how to live our lives, in this particular case I really believe there is a role for legislators; there is a role for the law to protect those who cannot protect themselves.

I will be the first one to admit that, yes, I have had many e-mails and phone calls in my office from a very organized lobby group who are asking me and have asked me to vote against this, and they've given us the reason. No doubt I have lost some votes, but I'm prepared to do that, because at the end of the day, what I do on this legislation here today is something I have to live with. If we can save the life of one child, if we can save one child the injury that may well be incurred as a result of a crash, then we've done our job.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Peter Kormos: As the New Democratic Party justice critic, I stand in opposition to this legislation. Let me tell you why.

The arguments of protecting people against harm can evolve into reductio ad absurdum. Yes, a motorcyclist is more vulnerable in the event of an accident, because there is no cage around him or her, than is a person in a car. But I put to you that you in your tiny little cheap Toyota Tercel are far more vulnerable than I am in my Chevy pickup truck in the event of an accident.

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If we want to protect children from harm, well then let's protect them from all harm and all motor vehicle accidents. Let's prohibit children under 14 from being passengers in motor vehicles. Now this is silliness. But of course, it's also an accurate response to the argument that is being made.

There is already inherent in the Highway Traffic Act restrictions on who can be a passenger on a motorcycle. The passenger has to be physically large enough such that their feet ride the rear pegs. I appreciate that there's some weakness in regulation 610 with respect to safety helmets, because while the regulations require an approved safety helmet-and there are rigid standards about what constitutes an appropriate motorcycle safety helmet-there don't appear to be strict standards on the requirement that they fit. Look, I am not about to dispute the observations by the author of this bill or anybody else. There will inevitably be the scofflaw who's going to put a person as a passenger on a motorcycle with an oversized helmet.

Like Mr. Klees, I have had the occasion to drive a couple of motorcycles. Unlike him, I had the occasion to be a passenger-because I've been involved with motorcycles all my life. I had the occasion to be a passenger on one many, many times as a 12-year-old, a 13-year-old, a 14-year-old and so on.

Look, I like motorcycles; I confess. I also like bikers. I find them to be incredibly open-minded, free-spirited people, adventurous and tolerant. I have so many good friends in the Welland County Motorcycle Club. I'm blessed to be there on an annual basis with their awards banquet, and I know them in so many other respects in the community. I also know them to be the most safety-conscious people on the road.

The motorcyclists I know are far more cautious than most of the automobile drivers I know, because they know that in the event that they get mowed down by a drunk or reckless or careless driver, their risk is higher. The motorcyclists I know use all the safety precautions in the world. The motorcyclists I know, know that it's important, for instance, for a motorcycle to be loud enough so that people enclosed in their cocoon of an automobile, playing their stereo cranked up-and again, a motorcyclist doesn't have much chance with that driver, does she or he?-hoping that they can hear that motorcycle when it approaches.

I also know motorcycling is a sport. Folks down at the Welland County Motorcycle Club-Wes Pierce, I've known him all my life, and Randy Doane, the new president. The event is one of the largest sporting activities in Niagara region, stretching over into Niagara frontier. The mini-bike operators are operating mini-bikes out on the track at the ages of five, six and seven years old, and they're being taught safety standards that, I tell you, one rarely finds let's say in traditional automobile licensing driver training. Then I attend awards banquets and watch motocross races down at the Welland County Motorcycle Club. Again, it's attracting young people. It's a tremendous sport. It's a family sport. It's a healthy sport. It's outdoors. It's a camaraderie that is outstanding and exceptional. Quite frankly, I would hope that most parents would far sooner see their kids out there racing motocross than hanging around the mall. There are skilled motocross champions at the ages of 10, 11, 12, and 13 years, and these are youngsters who have developed some great motorcycling skills, who are driving bikes that are the appropriate size and who are wearing helmets and other safety equipment that's of the appropriate standard and fits such that it constitutes a real safety standard.

I had a talk just today with Randy Clare from Clare's Cycle and Sports down on Highway 20 in Fenwick, and they've got the new Harley dealership up in Niagara-on-the-Lake. Johnny Clare, his father, is semi-retired now, but, as a matter of fact, up at the Niagara-on-the-Lake Clare's Harley Davidson-fantastic-this Saturday is their Christmas open house until 3 p.m. So if you want to take a look at some Harleys and talk to motorcycle enthusiasts, by all means, go to Clare's Harley up in Niagara-on-the-Lake this Saturday.

Johnny Clare, heck, he's well into his retirement years. They've been operating Clare's Cycle and Sports since about 1951. Johnny Clare is an active supporter of motorcycling and so many other activities in the community, but he shakes his head in response to propositions like this. He shakes his head.

Whether the-I'm sure at this point-obsolete and totally invalid and inaccurate perception of bikers helps bring people to this point, I don't know it. I'm not going to suggest by any stretch of the imagination that it does.

You want to create safer circumstances for people on motorcycles? Then start enforcing the Highway Traffic Act on our major highways so that automobile drivers who zip in and out and are oblivious to what's going on beside them or behind them and, more often than not, what's in front of them, aren't putting motorcyclists in danger by their driving practices.

But understand that if you want to ensure that people under 16, or in this case, under 14, are wearing appropriate helmets, the government doesn't even need legislation to do this. Amend regulation 610 to ensure that the helmet being worn by a passenger, as well as the helmet being worn by the operator, is one that not only meets all the DOT standards etc., but is also one that's sized and fitted appropriately in the same way we demand people wear seat belts appropriately. There are still some clowns that drive around with the shoulder belt tucked under their arm. Well, that's a violation; that's an improper wearing of the seat belt; you're effectively not wearing it.

Understand that most passengers on motorcycles who are youthful are the sons and daughters or granddaughters and grandsons or nephews and nieces of the people operating that motorcycle. My colleague talks about the rush of driving recklessly and the near miss. Well, thank goodness-if his good judgment didn't prevail then, it will at least prevail to the point where he wouldn't submit his children to that. I'm serious.

But the motorcyclists I know wouldn't think of doing stunts with their kid on the back of the bike. Do you think a motorcyclist is going to do wheelies with their kid on the back? Of course not. No more so than Mr. Klees would have; not by any stretch of the imagination.

I had an interesting talk with Peter Salter. He happens to live in Welland. The Canadian Vintage Motorcycle Group is a group of guys and gals that restore and collect old bikes, World War II and pre-World War II bikes. Again, he just shakes his head. What is going on? Not a single jurisdiction in Canada embraces this. The United Kingdom adopts basically the same standard that we have now, and that is that a passenger has to be able to reach the foot pegs and be able to be accommodated on the bike. In the American jurisdictions, they're talking about five-year-olds. No five-year-old's feet are going to hit those pegs. It's prima facie illegal to put a five-year-old on a bike. You don't need new legislation.

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I put this to you: If a licensed adult operator of a motorcycle, or an unlicensed operator for that matter, is putting a passenger at risk, regardless of their age, and harm ensues, I have no qualms about that person being prosecuted for, let's say, criminal negligence causing bodily harm or criminal negligence causing death. Quite frankly, if a motorcycle operator were to be driving in such a way that she or he put their passenger at risk, regardless of the age of the passenger, and were to be driving negligently and caused bodily harm, they probably would be found guilty of criminal negligence causing bodily harm, just like the operator of any other vehicle would. I have no qualms about standing

alone in this Legislature. I have done it before, and I suspect, before I'm either sent out of here by the voters or carried out of here by whomever, I'll do it again.

I just find it incredible. This is the companion to Bill 126, the one with the ban, the section about how many teenagers fit into a Volkswagen. This is the companion to telling a youthful driver, regardless of how competent that youthful driver is, that she or he can't carry more than one schoolmate to a football game or a church meeting.

No. This legislation shouldn't pass. There are other, more thoughtful and more thorough ways to address highway safety, including motorcycle safety, and motorcyclists would be the first to tell you how to do it.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Khalil Ramal: I'm pleased that I've been given time to comment on the private member's bill brought forward by my colleague the member from Oakridges-Markham.

I know that we talk about safety. I've been listening to many speakers in this House who spoke about safety. The most important thing for all of us in the province of Ontario is to protect our children.

The most important thing is that this bill is brought forward by a doctor, by a physician who practised for many years, a person who knows the medical system very well, who has been exposed to many different tragedies and accidents, and who has dealt with many different issues concerning the safety of children.

I was listening when she was speaking about the reasons for passing the bill. She spoke about bikers. Definitely this bill is not against bikers, as she mentioned. I know that the biker community does an excellent job on behalf of all of us in the province of Ontario. They do a lot of charitable work for children, adults, seniors and disabled people. I know that many of my friends who own motorcycles love to do it. They develop a habit and a way to gather and socialize.

The most important thing in this bill is how we can protect our children. I was listening to the member from Welland speak about passing this bill in order to protect the children. We have to talk about it here. We can amend it without going back to the legislation, and just do some kind of technical exercise on the Highway Traffic Act; we can protect the children. But the most important thing from this bill is to bring awareness to all the people who are listening to us, who are attending with us and who participate with us in this debate. We always talk, but the most important thing is that we have to act. We have to act, not just by wishing, but by changing laws and regulations, and putting them in place in order to protect our children.

I know that many bikers are cautious about this issue. I know they are not going to put their children or loved ones in danger. But sometimes you make rules and laws just to protect those few who do not respect the law, who are not able to implement their wishes

and ideas. I think it's important for all of us in this place to continue to work together to create a safety mechanism to protect our children and also educate people across the province about how important it is to protect our children in general. I know, by passage of this bill, we are going to create safety mechanisms for all bikers to follow one rule, one law, in order to save the people of this province.

Thank you, Mr. Speaker, for allowing me to speak.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Peter Shurman: First of all, my colleague for Oak Ridges-Markham is proposing a solution to a problem that just doesn't exist. It's not my quote; that's coming from the Canada Safety Council in a letter. The CSC does not see any cause for the restrictions that she proposes for motorcycle passengers and has found no statistical evidence that would merit these restrictions.

What is the motivation of the proposal, then? If you ask me, the member for Oak Ridges-Markham has overdosed on the Liberal nanny-statist Kool-Aid and is suffering from the father-knows-best hangover that ails her party and stems right down from Premier Dalton McGuinty, a.k.a. Big Daddy. Another ban-kill me now.

If the member had bothered to research the opinions of stakeholders in the area of motorcycling safety she would have found that she does not know best. Furthermore, bills like the one that we're debating today convince me that we are dealing with more than an addiction to bans. I think a better term for these ban-happy Liberals is legislative hypochondriacs: Not only is their solution to every problem a ban, but they're now introducing bans to resolve problems that aren't there. You want to regulate motorized two-wheel vehicles? Then what you do is you go after what's going on off-road, not what's going on on the road.

The Motorcycle and Moped Industry Council does not support Bill 117 because "it is not based on sound research or on scientific data. Statistics do not indicate the need for such a measure."

I look back in my own family history to my brother, the owner of two Harleys. He has been a motorcyclist for the past 40 years of his life, has three kids, and he's 55 years old. Both of those motorcycles are treated as well as his kids in the sense that they look like they came out of the showroom yesterday. That's what motorcyclists are about, including some of our people in the gallery from my constituency of Thornhill who have beseeched me to speak against this-and they didn't have to beseech very hard, because that's what I believe.

In my brother's family there was a rite of passage that involved becoming not old enough, but large enough to sit astride one of these metal beasts and join their dad, my brother, on one of his many cross-country trips: from here to Vancouver, from here down to Mexico in one case, back and forth across the United States, through the mountains, through the

valleys, seeing-can you imagine seeing the countryside that way with your dad? And, no, there has never been an accident. His oldest son, now 30-plus, has a Harley-Davidson of his own. These are responsible bikers.

The Canada Safety Council says that children in Ontario are four times as likely to have been injured as passengers on bicycles than on motorcycles and 262 times as likely to suffer injuries as a passenger in a passenger vehicle than on a motorcycle. So I am assuming that the members opposite who support this are not going to start banning passengers in cars, are they?

The province already has legislation that outlines safety precautions. The Highway Traffic Act requires that motorcycle passengers be able to sit astride and rest their feet on the footrests, as mentioned by my friend the member from Welland. You have to be able to fit the bike. It's not about age, it's about size. It says you have to reach the pegs and it says you have to be 16. So why are we wasting time on this?

From the statistical information that's available to us from the opinions of stakeholders such as the Canada Safety Council, the Motorcycle and Moped Industry Council and the Motorcycle Safety Foundation, it appears that the current legislative requirements are working to ensure the safety of young motorcycle passengers. So introducing a ban on children under 14 riding as passengers on motorcycles accomplishes nothing other than cutting yet another family activity from the lives of Ontarians.

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There are a couple of other points that need some underscoring.

It puts a portion of our tourism industry at risk. It attracts people to this lovely province, so are we talking about deterring visitors from other provinces and the United States, people who are doing what I've described my brother having done with his family, doing it safely and avoiding accidents and teaching their children well what it means to sit astride one of these amazing machines that can cause damage but that when used properly are no less safe than anything else-and if they were, why wouldn't we be banning motorcycles? Let me not put that idea in anyone's mind.

The people in the gallery today also happen to be people who take their children on rides on motorcycles. They want to be able to continue to do so.

Let me conclude by saying that being trigger-happy is not the way to go. "Ban first, ask later" attempts to regulate every aspect of the lives of Ontario families, whether necessary or not, are not something that I like to see. I've spoken out against them before, and that's why I won't be supporting this bill today.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Shafiq Qaadri: It's a privilege to speak in support of my colleague Dr. Helena Jaczek of Oak Ridges-Markham.

I appreciate the fact that the MPP from Thornhill, Mr. Shurman, is an excellent ambassador for his views, but I would have expected somewhat more diplomatic language coming from him.

I also detect that there seems to be a little bit of a disconnect within the Tory regime here, as well as perhaps in Ottawa, with regard to a former Minister of Transportation, the honourable Frank Klees, in complete support of this particular bill.

I'd also just like to note for the record that it's very heartwarming for me to see that Dr. Helena Jaczek, MPP for Oak Ridges-Markham, and Frank Klees, a former Minister of Transportation and the MPP for Newmarket-Aurora, former opponents of each other for the same riding, are now able to display a new spirit of co-operation and coalition. I would encourage other members of that caucus-and broadly, across the country-to do so.

Of course, we always have the well-staged theatrical remarks of the MPP from Welland, Mr. Kormos. He is often offering us what I would call "Kormotic" repartee, as a lawyer. Of course, we agree together that there's no shortage of lawyers and this Legislature can always use more lawyers. I would never disagree with that. But I do think it's exceptionally important to realize that this particular bill is being brought forward by a very well-versed physician who has had long experience with viewing the other side of this, the injured parties.

As well, our MPP colleague from Welland, in his usual theatrical style, used the phrase "reductio ad absurdum" to reduce the opponent's arguments to the level of absurdity. But I have to say that it was he and he alone who provided the absurdity to the arguments; for example, saying that somehow this is equivalent to banning children from cars. He is saying that this bill is equivalent to attacking the nation of bikers, somehow equating all children who may ride on motorcycles with skilled, trained motocross drivers, and saying that the relationship of the driver and passenger, meaning father-son or grandmother-granddaughter, somehow confers an added level of safety in the view of an accident.

I really have to say that what this bill is all about, le projet de loi modifie le code de la route afin d'interdire la conduite ou l'utilisation d'une motocyclette transportant un passager de moins de 14 ans sur une voie publique.

I think this is essentially part and parcel of, yes, a fairly long and noble history of legislation working toward public safety, whether it's seat belts or helmets or perhaps the imminent removal of the possibility of using hand-held cellphones while driving an automobile etc. Those of us on the front lines, as doctors who have seen the other side of this, who have seen individuals whose youth has literally been robbed from them because of, yes, of course, loving parents and well-intentioned, duly licensed, trained drivers, through really no fault of their own-subjecting people inadvertently, by accident, to some extraordinary, extraordinary injuries.

The MPP from Welland did legitimately raise the fact that there's an absence of a "cage" in the motorcycle situation. That, of course, offers extraordinary trauma to brain, to heart, to internal organs.

This is really an attempt, I think, by my honourable colleague physician Dr. Jaczek, MPP from Oak Ridges-Markham, to remedy the current state.

I would of course join with the new spirit of coalition and co-operation coming from former opponents, the MPP from Oak Ridges-Markham and the MPP from Newmarket-Aurora, in supporting this bill.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Norm Miller: It's my pleasure to add a few comments in the few minutes I have left on Bill 117, An Act to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles with child passengers. I'm sure the member from Oak Ridges-Markham has good intentions and concerns in bringing this bill forward, but I did want to get on the record my strong opposition to the bill.

First of all, we already have sufficient rules on the books to do with younger passengers. In regard to the size of the passenger, the passenger has to be large enough that their feet can be firmly on the pegs of the motorcycle. I think that's what makes sense in terms of providing the security of that passenger.

I would simply like to say that government cannot legislate away all the risk we face in the world. What this will do is deprive a lot of parents and grandparents and kids of the opportunity of enjoying the sport of motorcycling and time spent together. I would suggest to members to read the Toronto Star article written by Mark Richardson on avoiding a nanny state, which points out, "Nowhere else in North America does such a law exist." It goes on to say: "We have to be sure that what we do makes sense to the citizen; otherwise, the citizen is going to lose faith in the system. We're going to start making a lawbreaker out of every citizen."

I would like to, in the short couple of minutes I have, get on the record some of the e-mails that I've received from constituents in Parry Sound-Muskoka.

I received an e-mail from Blair Hickey in Bracebridge. He quotes the Canada Safety Council: "It is the CSC's position that there is no statistical evidence to support this legislation.' I reviewed all seven Ontario Road Safety Annual Reports from 1999 to 2005. I did not find any fatalities for motorcycle passengers less than 14 years of age. I also looked at injuries for motorcycle passengers less than 16 years of age and compared them to bicycle passengers less than 16 years of age and car passengers less than 16 years of age, over the same period (1999 to 2005). Ontarian children were four times more likely to have been injured as passengers on bicycles and 262 times more likely to have been injured as passengers in passenger vehicles than to have been injured as passengers on motorcycles."

I simply make the point that we cannot legislate against all the risk there is in the world. I do have a conflict in that I enjoy motorcycling myself-I have a Yamaha FZ1-and I do a few other things in life that involve a little bit of risk. But I say that the great majority of people out there will have some common sense, and parental responsibility will kick in.

I received an e-mail from Philip Goldsmith. He says, "Let's consider danger. Do we keep kids off bicycles as, even with helmets, there are many accidents and injuries a year, especially in our major cities? Do we stop people boating as a few children every year drown? I took my children canoeing and camping in the bush. Was I an irresponsible parent? Do we stop them sailing in open water? I took them sailing with me since they have been young. Do we stop them from hiking in the forests of our vast country? A few children a year fall from trees or are attacked by animals."

I think he makes a good point, that we just cannot legislate against all risk. We have to allow some common sense to occur.

I see this bill as being a nanny state type of bill, where we're trying to make rules for problems that don't exist, and Big Brother, the government, knows best.

The Acting Speaker (Mr. Jim Wilson): Further debate?

Mr. Bas Balkissoon: I'm pleased to stand in this Legislature and support my colleague from Oak Ridges-Markham and make a few statements on the merits of this bill, Bill 117, An Act to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles and child passengers.

This is just another means of protecting the children of Ontario, children who in some cases may not be able to make an informed decision on their own safety. I believe it is important that this House support this bill. On behalf of these children, we should be doing the right thing.

1430

Everyone who has spoken so far has talked about the responsible operator of a motorcycle etc. What we fail to add to the debate is, a person can be on that motorcycle on the highway, but they have to realize that there are four other vehicles, maybe more, around them, and they can't speak for the safety of the other drivers on the highway.

What we don't need is that one accident that may not cause a fatality-but I think the most important one and the tragic one is if it leaves a child with a lifelong injury and that person becomes a problem and a responsibility of society. That responsible parent who was taking them along on a motorcycle may not be around when this child is in their elderly state-and has left them with this injury that has affected their whole lifestyle.

I just want to read parts of a letter by Katherine Mellor. Katherine is in the gallery today. She wrote this letter back in June 2008 to Minister Bradley, as a parent.

She says:

"In my daily parenting plight, I have recently had a new situation cross my path, which has served to be both alarming and perplexing.

"To make a long story as concise as possible, my soon to be ex-husband has decided, to my chagrin, that my son Liam (8 years of age) should be a regular passenger on his motorcycle."

To her dismay, she found that the "only two requirements the Ministry of Transportation in Ontario have are that any passengers need to wear a helmet with a chinstrap, and their feet must touch the footrests. I would like to add that depending on the motorcycle the footrests could be quite high, meaning; even a very small child of 3-5 years of age could potentially be a passenger!..."

"The bottom line is that children under the age of at least 12 do not truly grasp the ramifications of riding as a passenger on a motorcycle."

She goes on to say:

"Ontario likes to lead the way with respect to how we protect our children, and the current and past governments have done an effective job when necessary to amend the Highway Traffic Act to ensure safety standards for our children.

"My request to you Minister Bradley, is that changes to the MTO rules and regulations regarding children as passengers on motorcycles be looked into immediately. Not just the next time the issue is up for review, as it might be too late for my son at that time."

One member went on to rant and rave about this particular legislation and how it's banning this and banning that. I'll bet you there were members of this Legislature who complained the same way in 1976 when the Legislature brought in, for the first time-as the first jurisdiction in North America to deal with seat belts in cars. I am sure that back then, everybody thought that they were safe drivers. But do you know what? That legislation was the start of many safety initiatives for drivers and passengers, and I hope we continue to bring them as we see fit.

The Acting Speaker (Mr. Jim Wilson): The honourable member from Oak Ridges-Markham, Ms. Jaczek, you have up to two minutes to respond.

Ms. Helena Jaczek: I'd like to thank my colleagues from London-Fanshawe, Etobicoke North, Scarborough-Rouge River, Newmarket-Aurora, Welland, Thornhill and Parry Sound-Muskoka for their comments, which do in fact reflect public opinion, as I've heard it since first reading of this bill.

Denial of risk is a very common human reaction. In my career, I've seen young girls who thought they could never get pregnant and smokers who thought they were somehow

magically protected from the dangers of tobacco. "It can never happen to me," unfortunately, is not reality.

In the case of child motorcycle passengers, the risk is real. The question is, is it an acceptable risk to impose on a child? In my view, it is not; it is an unnecessary risk.

As with all proposals for change, this bill has generated considerable discussion. I know that the vast majority of motorcycle riders understand the vulnerability of their passengers and take what steps they can to protect them. However, the facts speak for themselves: Children are being injured.

The major organizations in this province that are concerned with preventable injury, including the Hospital for Sick Children; the Ontario Safety League; the Canadian Paraplegic Association, Ontario; the Ontario Brain Injury Association; the St. John Council; the Insurance Bureau of Canada; the Association of Local Public Health Agencies; many health units; and the Ontario Trial Lawyers Association, all support this bill—a most diverse group; very broad-based support—as do so many parents and grandparents and extended family of vulnerable children. They are all concerned for the health of our children.

It is time to address this issue in a fair and open-minded fashion in committee. I urge all members of

The Acting Speaker (Mr. Jim Wilson): Thank you. For our guests in the gallery and those watching at home, we will vote on this ballot item standing in the name of Ms. Jaczek in 100 minutes. Orders of the day.

HIGHWAY TRAFFIC AMENDMENT ACT
(CHILD PASSENGERS
ON MOTORCYCLES), 2008 /
LOI DE 2008 MODIFIANT
LE CODE DE LA ROUTE
(ENFANTS PASSAGERS
SUR DES MOTOCYCLETTES)

The Acting Speaker (Mr. Jim Wilson): We will first deal with ballot item number 61, standing in the name of Ms. Jaczek. Ms. Jaczek has moved second reading of Bill 117, An Act to amend the Highway Traffic Act to prohibit the driving and operation of motorcycles with child passengers.

Is it the pleasure of the House that the motion carry? I heard a no.

All those in favour of the motion will please say "aye."

All those opposed will please say "nay."

In my opinion, the ayes have it. I declare the motion carried.

Second reading agreed to.

The Acting Speaker (Mr. Jim Wilson): Ms. Jaczek, would you like to refer this bill to committee?

Ms. Helena Jaczek: Yes, thank you, Mr. Speaker. I'd like to refer it to the justice policy committee.

The Acting Speaker (Mr. Jim Wilson): Is it agreed that the bill be referred to committee? Agreed? So referred

