STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

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Opinion No. 15-70

Constitutionality of Senate Bill 925/House Bill 700, 109th Gen. Assem. (2015-16) — Exception to Motorcyclist Helmet Requirement for Adults with Medical or Health Insurance Other than Insurance Provided Through TennCare

Question

Does Senate Bill 925/House Bill 700 violate the equal protection guarantee of the United States Constitution or the Tennessee Constitution by creating an exception to the motorcyclist helmet requirement for adults covered by medical or health insurance other than insurance provided through TennCare?

Opinion

No. The State's interests in preserving the fiscal integrity of its publicly funded health care programs and preventing broader societal costs provide a reasonable basis for the legislative distinction between (i) motorcyclists with medical or health insurance other than insurance provided through TennCare and (ii) motorcyclists with insurance provided through TennCare or with no insurance.

ANALYSIS

Subject to certain exceptions, Tenn. Code Ann. § 55-9-302(a) requires "[t]he driver of a motorcycle, motorized bicycle, . . . or motor-driven cycle, and any passenger on any of these" to wear a helmet. Failure to do so is a Class C misdemeanor. *Id.* § 55-9-306.

Senate Bill 925/House Bill 700, 109th Gen. Assem. (2015-16)[1] would amend Tenn. Code Ann. § 55-9-302(a) to create an exception to the helmet requirement for drivers and passengers who are twenty-one or older and who have medical or health insurance other than insurance provided through TennCare. The helmet requirement would remain in effect for drivers or passengers who are uninsured or who are insured through TennCare. Thus, the bill distinguishes

[1] The relevant text of the bill is as follows:

> (2) The driver of a motorcycle, motorized bicycle, or motor-driven cycle, and any passengers on these vehicles . . . , shall not be required to wear a crash helmet if the driver and passengers are twenty-one (21) years of age or older and maintain medical or health insurance that is not provided pursuant to title 71, chapter 5, or otherwise provided through the bureau of TennCare. A driver or passenger who does not maintain insurance as required by this subdivision (a)(2) shall be required to wear a crash helmet in accordance with subdivision (a)(1).

between adult motorcyclists who have medical or health insurance other than insurance provided through TennCare and those who do not.

The question is whether this distinction violates either the federal or state constitutional right to equal treatment under the law. The Fourteenth Amendment to the United States Constitution provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." Article I, section 8, and article XI, section 8, of the Tennessee Constitution guarantee "essentially the same protection" as the federal Equal Protection Clause. *Tenn. Small Sch. Sys. v. McWherter*, 851 S.W.2d 139, 152 (Tenn. 1993). Equal protection claims under the Tennessee Constitution are subject to the same legal analysis as is applied to equal protection claims brought under the federal Constitution. *Id.* at 153.

The level of judicial scrutiny applied to a legislative classification that is challenged on equal protection grounds depends on the nature of the classification. *See City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439-41 (1985). As relevant here, classifications that neither interfere with a fundamental right nor discriminate against a suspect class receive rational basis review and will be upheld as long as they are "rationally related to a legitimate state interest." *Id.* at 440.

It is well established that laws imposing a helmet requirement on all motorcyclists are subject only to rational basis review because they neither interfere with a fundamental right nor discriminate against a suspect class. *See, e.g., Simon v. Sargent*, 409 U.S. 1020 (1972) (mem.) (summarily affirming decision of three-judge district court in *Simon v. Sargent*, 346 F. Supp. 277, 279 (D. Mass. 1972), which upheld Massachusetts helmet requirement under rational basis review); *Picou v. Gillum*, 874 F.2d 1519, 1522 (11th Cir. 1989) (upholding Florida helmet requirement under rational basis review); *Arutanoff v. Metro. Gov't of Nashville and Davidson Cnty.*, 448 S.W.2d 408, 412-13 (Tenn. 1969) (upholding prior version of Tenn. Code Ann. § 55-9-302(a) under rational basis review).

Senate Bill 925/House Bill 700 differs from those laws in that it would further classify individuals based on whether they have medical or health insurance other than insurance provided through TennCare. That difference, however, provides no reason to apply a higher level of scrutiny. Neither uninsured individuals nor individuals insured through TennCare are a suspect class for purposes of equal protection analysis. *Cf. Harris v. McRae*, 448 U.S. 297, 323 (1980) ("[T]his Court has held repeatedly that poverty, standing alone is not a suspect classification."); *Molina-Crespo v. U.S. Merit Sys. Protection Bd.*, 547 F.3d 651, 660 (6th Cir. 2008) ("[A] class of less wealthy individuals is not a suspect class warranting strict scrutiny review."). And classifying individuals based on whether they have medical or health insurance other than insurance provided through TennCare would not implicate any fundamental right. *See, e.g., U.S. Citizens Ass'n v. Sebelius*, 705 F.3d 588, 601 (6th Cir. 2013) (rejecting argument that there is a fundamental right "to remain uninsured or . . . to refuse to pay for unwanted medical care"); *Clark v. Prichard*, 812 F.2d 991, 995 (5th Cir. 1987) (rejecting argument that "the right to public assistance is a fundamental right for purposes of equal protection review").

Under rational basis review, a statutory classification bears "a strong presumption of validity" and "those attacking [its] rationality . . . have the burden to negative every conceivable basis which might support it." *FCC v. Beach Comm'ns, Inc.*, 508 U.S. 307, 314-15 (1993) (internal

quotation marks omitted). The classification will be upheld as long as there is "a rational relationship between the disparity of treatment and some legitimate governmental purpose." *Heller v. Doe*, 509 U.S. 312, 320 (1993). "[I]t is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature." *Beach Comm'ns*, 508 U.S. at 315.

Senate Bill 925/House Bill 700 therefore would survive rational basis review if there is a reasonable basis for treating differently individuals who fail to "maintain medical or health insurance that is not provided pursuant to title 71, chapter 5, or otherwise provided through the bureau of TennCare."

The insurance-based classification in Senate Bill 925/House Bill 700 would easily satisfy that standard. The State has a "valid interest in preserving the fiscal integrity of its programs" and "may legitimately attempt to limit its expenditures." *Graham v. Richardson*, 403 U.S. 365, 374 (1971) (internal quotation marks omitted). It also has a valid interest in reducing or preventing costs to the public. *See, e.g.*, *Neinast v. Bd. of Trs. of Columbus Metro. Library*, 346 F.3d 585, 594 (6th Cir. 2003) (holding that legitimate interest supported library's policy requiring patrons to wear shoes because "[i]njuries suffered by . . . barefoot patrons . . . impose broader societal costs").

Those legitimate interests provide a reasonable basis for the distinction in Senate Bill 925/House Bill 700 between motorcyclists with medical or health insurance other than insurance provided through TennCare and those who are uninsured or insured through TennCare. A motorcyclist without a helmet is more likely to suffer serious injury than one wearing a helmet, and those serious injuries, in turn, impose increased medical costs. *See Picou*, 874 F.2d at 1522. For persons with private insurance, the increased medical costs due to riding a motorcycle without a helmet would be borne by their private insurance companies. *See* Bruce A. Lawrence et al., U.S. Dep't of Transp., Nat'l Highway Traffic Safety Admin., *Costs of Injuries Resulting from Motorcycle Crashes: A Literature Review* (2002), *available at* http://nhtsa.gov/people/injury/pedbimot/motorcycle/Motorcycle_HTML/overview.html ("Only patients with adequate private health insurance coverage represent no medical cost burden to the government."). In contrast, for persons who have no insurance and for those who have medical or health insurance provided by the State under title 71, chapter 5, or otherwise provided through TennCare, the increased medical costs due to riding a motorcycle without a helmet would be borne directly by the State or the Tennessee public.

In sum, Senate Bill 925/House Bill 700 does not violate the equal protection guarantee of the United States Constitution or the Tennessee Constitution because the State's interests in preserving the fiscal integrity of its publicly funded health care programs and preventing broader societal costs provide a reasonable basis for the legislative distinction between adult motorcyclists with medical or health insurance other than insurance provided through TennCare and adult motorcyclists who are uninsured or who are insured through TennCare.

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