

(PRE-FILED)

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By: **Delegate Arnick**

Requested: October 18, 2004

Introduced and read first time: January 12, 2005

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2                           **Vehicle Laws - Motor Scooters and Mopeds - Helmets and Eye-Protective**  
3                           **Equipment for Operators and Riders**

4 FOR the purpose of prohibiting an individual from operating or riding on a motor  
5 scooter or moped unless the individual is wearing protective headgear that  
6 meets certain standards; prohibiting an individual from operating a motor  
7 scooter or moped unless the individual is wearing a certain type of  
8 eye-protective device or the motor scooter or moped is equipped with a  
9 windscreen; authorizing the Motor Vehicle Administrator to approve or  
10 disapprove protective headgear and eye-protective devices required by this Act  
11 and to adopt and enforce certain regulations; requiring the Administrator to  
12 publish a list of all approved protective headgear and eye-protective devices;  
13 prohibiting the failure of an individual to wear protective headgear required by  
14 this Act from being considered evidence of negligence or contributory negligence,  
15 limiting certain liability, or diminishing recovery for certain damages;  
16 prohibiting certain individuals from making reference to protective headgear  
17 during certain trials; clarifying that this Act may not be construed to prohibit  
18 the right to institute certain civil actions; requiring a court to order separate  
19 trials in certain civil actions; and generally relating to required equipment for  
20 operators and riders of motor scooters and mopeds.

21 BY adding to  
22 Article - Transportation  
23 Section 21-1207.3  
24 Annotated Code of Maryland  
25 (2002 Replacement Volume and 2004 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

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**Article - Transportation**

2 21-1207.3.

3 (A) AN INDIVIDUAL MAY NOT OPERATE OR RIDE ON A MOTOR SCOOTER OR  
4 MOPED UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE HEADGEAR THAT MEETS  
5 THE STANDARDS ESTABLISHED BY THE ADMINISTRATOR.

6 (B) AN INDIVIDUAL MAY NOT OPERATE A MOTOR SCOOTER OR MOPED  
7 UNLESS:

8 (1) THE INDIVIDUAL IS WEARING AN EYE-PROTECTIVE DEVICE OF A  
9 TYPE APPROVED BY THE ADMINISTRATOR; OR

10 (2) THE MOTOR SCOOTER OR MOPED IS EQUIPPED WITH A WINDSCREEN.

11 (C) THE ADMINISTRATOR:

12 (1) MAY APPROVE OR DISAPPROVE PROTECTIVE HEADGEAR AND  
13 EYE-PROTECTIVE DEVICES REQUIRED BY THIS SECTION;

14 (2) MAY ADOPT AND ENFORCE REGULATIONS ESTABLISHING  
15 STANDARDS AND SPECIFICATIONS FOR THE APPROVAL OF PROTECTIVE HEADGEAR  
16 AND EYE-PROTECTIVE DEVICES; AND

17 (3) SHALL PUBLISH LISTS OF ALL APPROVED PROTECTIVE HEADGEAR  
18 AND EYE-PROTECTIVE DEVICES, BY NAME AND TYPE.

19 (D) (1) THE FAILURE OF AN INDIVIDUAL TO WEAR PROTECTIVE HEADGEAR  
20 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT:

21 (I) BE CONSIDERED EVIDENCE OF NEGLIGENCE;

22 (II) BE CONSIDERED EVIDENCE OF CONTRIBUTORY NEGLIGENCE;

23 (III) LIMIT LIABILITY OF A PARTY OR AN INSURER; OR

24 (IV) DIMINISH RECOVERY FOR DAMAGES ARISING OUT OF THE  
25 OWNERSHIP, MAINTENANCE, OR OPERATION OF A MOTOR SCOOTER OR MOPED.

26 (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS  
27 SUBSECTION, A PARTY, WITNESS, OR COUNSEL MAY NOT MAKE REFERENCE TO  
28 PROTECTIVE HEADGEAR DURING A TRIAL OF A CIVIL ACTION THAT INVOLVES  
29 PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH IF THE DAMAGE, INJURY, OR  
30 DEATH IS NOT RELATED TO THE DESIGN, MANUFACTURE, SUPPLYING, OR REPAIR OF  
31 PROTECTIVE HEADGEAR.

32 (3) (I) NOTHING CONTAINED IN THIS SUBSECTION MAY BE  
33 CONSTRUED TO PROHIBIT THE RIGHT OF A PERSON TO INSTITUTE A CIVIL ACTION  
34 FOR DAMAGES AGAINST A DEALER, MANUFACTURER, DISTRIBUTOR, FACTORY  
35 BRANCH, OR OTHER APPROPRIATE ENTITY OR PERSON ARISING OUT OF AN INCIDENT

1 THAT INVOLVES PROTECTIVE HEADGEAR ALLEGED TO BE DEFECTIVELY DESIGNED,  
2 MANUFACTURED, OR REPAIRED.

3                   (II)       IN A CIVIL ACTION DESCRIBED UNDER SUBPARAGRAPH (I) OF  
4 THIS PARAGRAPH IN WHICH TWO OR MORE PARTIES ARE NAMED AS JOINT  
5 TORT-FEASORS, INTERPLEADED AS DEFENDANTS, OR IMPEADED AS DEFENDANTS,  
6 AND AT LEAST ONE OF THE JOINT TORT-FEASORS OR DEFENDANTS IS NOT  
7 INVOLVED IN THE DESIGN, MANUFACTURE, SUPPLYING, OR REPAIR OF PROTECTIVE  
8 HEADGEAR, A COURT SHALL ORDER ON A MOTION OF ANY PARTY SEPARATE TRIALS  
9 TO ACCOMPLISH THE ENDS OF JUSTICE.

10       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2005.