

SENATE BILL 87

R5

3lr0047

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Transportation)**

Requested: November 15, 2012

Introduced and read first time: January 9, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Seat Belts and Child Safety Seats**

3 FOR the purpose of repealing an exception to the requirement that a child under a
4 certain age riding in a vehicle be secured in a child safety seat or seat belt that
5 applies in instances where all passenger securing locations are in use by other
6 children; prohibiting a person who is at least a certain age from being a
7 passenger in a rear seat of a motor vehicle unless the person is restrained by a
8 seat belt; authorizing a police officer to enforce a certain provision of this Act
9 only as a secondary offense; increasing the fines for certain offenses relating to
10 the mandatory use of seat belts and child safety seats; making conforming
11 changes; and generally relating to seat belts and child safety seats.

12 BY repealing and reenacting, with amendments,
13 Article – Transportation
14 Section 22–412.2, 22–412.3, and 27–106
15 Annotated Code of Maryland
16 (2012 Replacement Volume)

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

19 **Article – Transportation**

20 22–412.2.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) (i) “Child safety seat” means a device, including a child booster
23 seat, that the manufacturer:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 1. Certifies is manufactured in accordance with
2 applicable federal safety standards; and

3 2. Intends to be used to restrain, seat, or position a child
4 who is transported in a motor vehicle.

5 (ii) “Child safety seat” does not mean a seat belt or combination
6 seat belt–shoulder harness used alone.

7 (3) (i) “Seat belt” means a restraining device described under §
8 22–412 of this subtitle.

9 (ii) “Seat belt” includes a combination seat belt–shoulder
10 harness.

11 (b) A child safety seat meets the requirements of this section only if it is
12 installed and used in accordance with the directions of the manufacturer.

13 (c) This section applies to the transportation of a child in:

14 (1) A motor vehicle registered, or of a type capable of being registered,
15 in this State as a:

16 (i) Class A (passenger) vehicle;

17 (ii) Class E (truck) vehicle; or

18 (iii) Class M (multipurpose) vehicle; and

19 (2) A vehicle registered in another state or Puerto Rico that is the
20 same type of vehicle as a vehicle identified in item (1) of this subsection.

21 (d) A person transporting a child under the age of 8 years in a motor vehicle
22 shall secure the child in a child safety seat in accordance with the child safety seat and
23 vehicle manufacturers’ instructions unless the child is 4 feet, 9 inches tall or taller.

24 (e) Subject to subsection (d) of this section, a person may not transport a
25 child under the age of 16 years unless the child is secured in:

26 (1) A child safety seat in accordance with the child safety seat and
27 vehicle manufacturers’ instructions; or

28 (2) A seat belt.

29 (f) Notwithstanding subsection (d) of this section, if a physician, who is
30 licensed to practice medicine in the state in which the vehicle transporting the child is

1 registered, certifies in writing that use of a child safety seat by a particular child
2 would be impractical due to the child's weight, height, physical unfitness, or other
3 medical reason, there is not a violation of this section.

4 (g) A child safety seat or seat belt may not be used to restrain, seat, or
5 position more than one individual at a time.

6 (h) [Notwithstanding subsection (d) of this section, if the number of children
7 subject to the provisions of this section exceeds the number of passenger securing
8 locations suitable for securing a child either in a seat belt or in a child safety seat in
9 accordance with this section, and all of those securing locations are in use by children,
10 there is not a violation of this section.

11 (i) A violation of this section is not contributory negligence and may not be
12 admitted as evidence in the trial of any civil action.

13 [(j)] (I) A violation of this section is not considered a moving violation for
14 purposes of § 16–402 of this article.

15 [(k)] (J) The failure to provide a child safety seat or seat belt for more than
16 one child in the same vehicle at the same time, as required by this section, shall be
17 treated as a single violation.

18 [(l)] (K) (1) Any person convicted of a violation of this section is subject
19 to a fine of [\$25] \$50.

20 (2) A judge may waive the fine if the person charged with violation of
21 this section:

22 (i) Did not possess a child safety seat at the time of the
23 violation;

24 (ii) Acquires a child safety seat prior to the hearing date; and

25 (iii) Provides proof of acquisition to the court.

26 [(m)] (L) The Department of Transportation and the Department of Health
27 and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster
28 compliance with this section through educational and promotional efforts.

29 22–412.3.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) (i) “Motor vehicle” means a vehicle that is:

1 1. Registered or capable of being registered in this State
2 as a Class A (passenger), Class E (truck), Class F (tractor), Class M (multipurpose), or
3 Class P (passenger bus) vehicle; and

4 2. Required to be equipped with seat belts under federal
5 motor vehicle safety standards contained in the Code of Federal Regulations.

6 (ii) “Motor vehicle” does not include a Class L (historic) vehicle.

7 (3) “Outboard front seat” means a front seat position that is adjacent
8 to a door of a motor vehicle.

9 (4) (i) “Seat belt” means a restraining device described under §
10 22–412 of this subtitle.

11 (ii) “Seat belt” includes a combination seat belt–shoulder
12 harness.

13 (b) A person may not operate a motor vehicle unless the person and each
14 occupant under 16 years old are restrained by a seat belt or a child safety seat as
15 provided in § 22–412.2 of this subtitle.

16 (c) (1) The provisions of this subsection apply to a person who is at least
17 16 years old.

18 (2) Unless a person is restrained by a seat belt, the person may not be
19 a passenger in an outboard front seat of a motor vehicle.

20 (3) **(I) [A person who violates the provisions of this subsection shall
21 be subject to the penalties under Title 27 of this article] UNLESS A PERSON IS
22 RESTRAINED BY A SEAT BELT, THE PERSON MAY NOT BE A PASSENGER IN A
23 REAR SEAT OF A MOTOR VEHICLE.**

24 **(II) A POLICE OFFICER MAY ENFORCE THIS PARAGRAPH
25 ONLY AS A SECONDARY ACTION WHEN THE POLICE OFFICER DETAINS A DRIVER
26 OF A MOTOR VEHICLE FOR A SUSPECTED VIOLATION OF ANOTHER PROVISION
27 OF THE CODE.**

28 (d) If a physician licensed to practice medicine in this State determines and
29 certifies in writing that use of a seat belt by a person would prevent appropriate
30 restraint due to a person’s physical disability or other medical reason, the provisions of
31 this section do not apply to the person.

32 (e) A certification under subsection (d) of this section shall state:

33 (1) The nature of the physical disability; and

1 (2) The reason that restraint by a seat belt is inappropriate.

2 (f) The provisions of this section do not apply to U.S. Postal Service and
3 contract carriers while delivering mail to local box routes.

4 (g) A violation of this section is not considered a moving violation for
5 purposes of § 16–402 of this article.

6 (h) (1) Failure of an individual to use a seat belt in violation of this
7 section may not:

8 (i) Be considered evidence of negligence;

9 (ii) Be considered evidence of contributory negligence;

10 (iii) Limit liability of a party or an insurer; or

11 (iv) Diminish recovery for damages arising out of the ownership,
12 maintenance, or operation of a motor vehicle.

13 (2) Subject to the provisions of paragraph (3) of this subsection, a
14 party, witness, or counsel may not make reference to a seat belt during a trial of a civil
15 action that involves property damage, personal injury, or death if the damage, injury,
16 or death is not related to the design, manufacture, installation, supplying, or repair of
17 a seat belt.

18 (3) (i) Nothing contained in this subsection may be construed to
19 prohibit the right of a person to institute a civil action for damages against a dealer,
20 manufacturer, distributor, factory branch, or other appropriate entity arising out of an
21 incident that involves a defectively installed or defectively operating seat belt.

22 (ii) In a civil action in which 2 or more parties are named as
23 joint tort–feasors, interpleaded as defendants, or impleaded as defendants, and 1 of
24 the joint tort–feasors or defendants is not involved in the design, manufacture,
25 installation, supplying, or repair of a seat belt, a court shall order separate trials to
26 accomplish the ends of justice on a motion of any party.

27 (i) The Administration and the Department of State Police shall establish
28 prevention and education programs to encourage compliance with the provisions of
29 this section.

30 (j) The Administration shall include information on this State’s experience
31 with the provisions of this section in the annual evaluation report on the State’s
32 highway safety plan that this State submits to the National Highway Traffic Safety
33 Administration and the Federal Highway Administration under 23 U.S.C. § 402.

1 **(K) ANY PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS**
2 **SUBJECT TO A FINE OF NOT MORE THAN \$50.**

3 27–106.

4 (a) Any person who is convicted of a violation of § 22–404.4 of this article
5 shall be fined \$250.

6 (b) [Any person who is convicted of a violation of § 22–412.3 of this article is
7 subject to a fine of not more than \$25, including court costs.

8 (c)] Any person who is convicted of a violation of § 21–1003(u) or (dd) of this
9 article is subject to a fine of \$25.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2013.