

HOUSE BILL 293

R5

8lr1357

By: **Delegate Wivell**

Introduced and read first time: January 22, 2018

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Mopeds and Motor Scooters – Protective Headgear**

3 FOR the purpose of establishing that the requirement to wear certain protective headgear
4 while operating or riding on a moped or motor scooter applies only to individuals
5 under a certain age; and generally relating to protective headgear requirements for
6 mopeds and motor scooters.

7 BY repealing and reenacting, without amendments,
8 Article – Transportation
9 Section 11–134.1 and 11–134.5
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2017 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Transportation
14 Section 21–1306.1
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2017 Supplement)

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

19 **Article – Transportation**

20 11–134.1.

21 (a) “Moped” means a bicycle that:

22 (1) Is designed to be operated by human power with the assistance of a
23 motor;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Is equipped with pedals that mechanically drive the rear wheel or
2 wheels;

3 (3) Has two or three wheels, of which one is more than 14 inches in
4 diameter; and

5 (4) Has a motor with a rating of 1.5 brake horsepower or less and, if the
6 motor is an internal combustion engine, a capacity of 50 cubic centimeters piston
7 displacement or less.

8 (b) "Moped" does not include an electric bicycle.

9 11-134.5.

10 (a) "Motor scooter" means a nonpedal vehicle that:

11 (1) Has a seat for the operator;

12 (2) Has two wheels, of which one is 10 inches or more in diameter;

13 (3) Has a step-through chassis;

14 (4) Has a motor:

15 (i) With a rating of 2.7 brake horsepower or less; or

16 (ii) If the motor is an internal combustion engine, with a capacity of
17 50 cubic centimeters piston displacement or less; and

18 (5) Is equipped with an automatic transmission.

19 (b) "Motor scooter" does not include a vehicle that has been manufactured for
20 off-road use, including a motorcycle and an all-terrain vehicle.

21 21-1306.1.

22 (a) This section does not apply to any individual riding in an enclosed cab.

23 (b) An individual **UNDER THE AGE OF 18 YEARS** may not operate or ride on a
24 moped or motor scooter unless the individual is wearing protective headgear that meets the
25 standards provided under 49 C.F.R. § 571.218.

26 (c) An individual may not operate a moped or motor scooter unless:

27 (1) The individual is wearing an eye-protective device of a type approved
28 by the Administrator; or

1 (2) The moped or motor scooter is equipped with a windscreen.

2 (d) The Administrator:

3 (1) May approve or disapprove protective headgear and eye-protective
4 devices required by this section;

5 (2) May adopt and enforce regulations establishing standards and
6 specifications for the approval of protective headgear and eye-protective devices; and

7 (3) Shall publish lists of all protective headgear and eye-protective devices
8 that the Administrator approves, by name and type.

9 (e) (1) The failure of an individual to wear protective headgear required under
10 subsection (b) of this section may not:

11 (i) Be considered evidence of negligence;

12 (ii) Be considered evidence of contributory negligence;

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

14 (iv) Diminish recovery for damages arising out of the ownership,
15 maintenance, or operation of a moped or motor scooter.

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

20 (3) (i) Nothing contained in this subsection may be construed to
21 prohibit the right of a person to institute a civil action for damages against a dealer,
22 manufacturer, distributor, factory branch, or other appropriate entity or person arising out
23 of an incident that involves protective headgear alleged to be defectively designed,
24 manufactured, or repaired.

25 (ii) In a civil action described under subparagraph (i) of this
26 paragraph in which two or more parties are named as joint tort-feasors, interpleaded as
27 defendants, or impleaded as defendants, and at least one of the joint tort-feasors or
28 defendants is not involved in the design, manufacture, supplying, or repair of protective
29 headgear, a court shall order on a motion of any party separate trials to accomplish the
30 ends of justice.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2018.