

(PRE-FILED)

By: **Delegate McKee**
Requested: October 23, 2001
Introduced and read first time: January 9, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Motor Vehicle Torts - Seat Belt or Child Safety Seat - Passenger**
3 **Under 16 Years of Age**

4 FOR the purpose of providing that a prohibition on a reference to a seat belt during a
5 trial of a civil action may not be construed to prohibit the right of a person to
6 maintain a civil action for damages on behalf of a passenger in a motor vehicle
7 against a person who operated the motor vehicle if the passenger was under a
8 certain age and not restrained by a seat belt or child safety seat; providing for
9 the application of this Act; and generally relating to a civil action for damages on
10 behalf of certain passengers against a person who operates a motor vehicle if the
11 passengers are not restrained by a seat belt or child safety seat.

12 BY repealing and reenacting, with amendments,
13 Article - Transportation
14 Section 22-412.3(h)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2001 Supplement)

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 22-412.3.

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

23 (i) Be considered evidence of negligence;

24 (ii) Be considered evidence of contributory negligence;

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

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

3 (2) Subject to the provisions of [paragraph] PARAGRAPHS (3) AND (4) of
4 this subsection, a party, witness, or counsel may not make reference to a seat belt
5 during a trial of a civil action that involves property damage, personal injury, or death
6 if the damage, injury, or death is not related to the design, manufacture, installation,
7 supplying, or repair of a seat belt.

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

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

17 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT THE
18 RIGHT OF A PERSON TO MAINTAIN A CIVIL ACTION FOR DAMAGES, ON BEHALF OF A
19 PASSENGER IN A MOTOR VEHICLE, AGAINST A PERSON WHO OPERATED THE MOTOR
20 VEHICLE, IF THE PASSENGER WAS:

21 (I) UNDER THE AGE OF 16 YEARS; AND

22 (II) NOT RESTRAINED BY A SEAT BELT OR A CHILD SAFETY SEAT AS
23 PROVIDED IN § 22-412 OF THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
25 construed to apply only prospectively and may not be applied or interpreted to have
26 any effect on or application to any case filed before the effective date of this Act.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2002.