

SENATE BILL 611

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R5

2004 Regular Session
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By: **Senators Hafer, Astle, Brinkley, Colburn, DeGrange, Della, Dyson,
Exum, Giannetti, Greenip, Haines, Harris, Hooper, Jacobs, Kittleman,
Mooney, Munson, Stoltzfus, and Stone**

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Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Vehicle Laws - Protective Headgear Requirement for Motorcycle Riders -**
3 **Exceptions**

4 FOR the purpose of providing certain exceptions to the prohibition against operating
5 or riding on a motorcycle without certain protective headgear; and generally
6 relating to the requirement that protective headgear be worn by operators or
7 riders of a motorcycle.

8 BY repealing and reenacting, with amendments,
9 Article - Transportation
10 Section 21-1306
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2003 Supplement)

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

15 **Article - Transportation**

16 21-1306.

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

18 (b) (1) THIS SUBSECTION DOES NOT APPLY TO:

1 (I) THE OPERATOR OR OCCUPANT OF ANY THREE-WHEELED
2 MOTORCYCLE EQUIPPED WITH AN ENCLOSED CAB;

3 (II) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO HAS BEEN
4 LICENSED TO OPERATE A MOTORCYCLE FOR AT LEAST 2 YEARS;

5 (III) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO HAS COMPLETED
6 A MOTORCYCLE-RIDER SAFETY COURSE APPROVED BY THE ADMINISTRATOR OR BY
7 THE MOTORCYCLE SAFETY FOUNDATION; OR

8 (IV) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO IS A PASSENGER
9 ON A MOTORCYCLE OPERATED BY AN INDIVIDUAL DESCRIBED IN ITEM (I), (II), OR (III)
10 OF THIS PARAGRAPH.

11 (2) An individual may not operate or ride on a motorcycle unless the
12 individual is wearing protective headgear that meets the standards established by the
13 Administrator.

14 (c) A person may not operate a motorcycle unless:

15 (1) He is wearing an eye-protective device of a type approved by the
16 Administrator; or

17 (2) The motorcycle is equipped with a windscreen.

18 (d) The Administrator:

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

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

23 (3) Shall publish lists of all protective headgear and eye-protective
24 devices that he approves, by name and type.

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

27 (i) Be considered evidence of negligence;

28 (ii) Be considered evidence of contributory negligence;

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

30 (iv) Diminish recovery for damages arising out of the ownership,
31 maintenance, or operation of a motorcycle.

32 (2) Subject to the provisions of paragraph (3) of this subsection, a party,
33 witness, or counsel may not make reference to protective headgear during a trial of a
34 civil action that involves property damage, personal injury, or death if the damage,

1 injury, or death is not related to the design, manufacture, supplying, or repair of
2 protective headgear.

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

8 (ii) In a civil action described under subparagraph (i) of this
9 paragraph in which 2 or more parties are named as joint tort-feasors, interpleaded as
10 defendants, or impleaded as defendants, and at least 1 of the joint tort-feasors or
11 defendants is not involved in the design, manufacture, supplying, or repair of
12 protective headgear, a court shall order on a motion of any party separate trials to
13 accomplish the ends of justice.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 2004.