
By: **Delegates Conway, Cluster, Aumann, Bartlett, Bromwell, Boschert, Costa, Hogan, Impallaria, Haddaway, Frank, Glassman, Gilleland, Edwards, Eckardt, Dwyer, Minnick, McConkey, Kelly, McKee, Murray, O'Donnell, Shank, Sossi, Stull, Weir, Weldon, Stocksdale, Bates, Bohanan, Boteler, Bozman, Cadden, Cane, C. Davis, Elmore, Goodwin, Harrison, Haynes, Heller, Jameson, Jennings, Kach, King, Kirk, Myers, Oaks, Parker, Ramirez, Shewell, and Smigiel**

Introduced and read first time: February 2, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

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 2004 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:

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

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

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

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

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

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

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

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

14 (d) The Administrator:

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

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

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

21 (e) (1) The failure of an individual to wear protective headgear required
22 under subsection (b) of this section 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

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

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

33 (3) (i) Nothing contained in this subsection may be construed to
34 prohibit the right of a person to institute a civil action for damages against a dealer,
35 manufacturer, distributor, factory branch, or other appropriate entity or person

1 arising out of an incident that involves protective headgear alleged to be defectively
2 designed, manufactured, or repaired.

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

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