
By: **Delegates McComas, Bartlett, and Mandel**

Introduced and read first time: February 10, 2005

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Administration - Required List of Protective Headgear and**
3 **Eye-Protective Devices for Motorcyclists**

4 FOR the purpose of requiring the Motor Vehicle Administrator to publish, by name
5 and type, lists of certain protective headgear and eye-protective devices that
6 meet standards and specifications established under certain regulations;
7 authorizing the Administrator to publish the lists required under this Act on the
8 Motor Vehicle Administration's website; requiring the Administration to provide
9 copies of the lists to certain individuals; and generally relating to required lists
10 of protective headgear and eye-protective devices for motorcyclists.

11 BY repealing and reenacting, with amendments,
12 Article - Transportation
13 Section 21-1306
14 Annotated Code of Maryland
15 (2002 Replacement Volume and 2004 Supplement)

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

18 **Article - Transportation**

19 21-1306.

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

21 (b) An individual may not operate or ride on a motorcycle unless the
22 individual is wearing protective headgear that meets the standards established by the
23 Administrator.

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

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

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

1 (d) The Administrator:

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

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

7 (3) Shall publish lists of all protective headgear and eye-protective
8 devices that he approves, by name and type; AND

9 (4) SUBJECT TO THE PROVISIONS OF SUBSECTION (E) OF THIS SECTION,
10 SHALL PUBLISH LISTS OF ALL PROTECTIVE HEADGEAR AND EYE-PROTECTIVE
11 DEVICES, BY NAME AND TYPE, THAT MEET STANDARDS AND SPECIFICATIONS
12 ESTABLISHED UNDER ANY REGULATIONS ADOPTED UNDER ITEM (2) OF THIS
13 SUBSECTION.

14 (e) (1) THE ADMINISTRATOR MAY PUBLISH THE LISTS REQUIRED UNDER
15 SUBSECTION (D)(4) OF THIS SECTION ON THE ADMINISTRATION'S WEBSITE.

16 (2) THE ADMINISTRATION SHALL MAKE AVAILABLE A COPY OF THE
17 LISTS REQUIRED UNDER SUBSECTION (D)(4) OF THIS SECTION TO ANY HOLDER OF A
18 CLASS M LICENSE UPON REQUEST MADE IN PERSON BEFORE THE ADMINISTRATION.

19 (F) (1) The failure of an individual to wear protective headgear required
20 under subsection (b) of this section may not:

21 (i) Be considered evidence of negligence;

22 (ii) Be considered evidence of contributory negligence;

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

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

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

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

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2005.