
By: **Senators Mooney, Colburn, Giannetti, Hafer, Jacobs, and Stone**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws - Protective Headgear for Motorcycle Riders - Required**
3 **Warning**

4 FOR the purpose of requiring the Motor Vehicle Administrator to require protective
5 headgear sold in the State for motorcyclists to bear a certain warning; making
6 this Act applicable to certain protective headgear sold in the State on or after a
7 certain date; and generally relating to warnings relating to protective headgear.

8 BY repealing and reenacting, with amendments,
9 Article - Transportation
10 Section 21-1306
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2005 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) An individual may not operate or ride on a motorcycle unless the
19 individual is wearing protective headgear that meets the standards established by the
20 Administrator.

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

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

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

25 (d) The Administrator:

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

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

6 (3) SHALL REQUIRE PROTECTIVE HEADGEAR SOLD IN THE STATE ON OR
7 AFTER JUNE 1, 2006, TO BEAR THE FOLLOWING MANUFACTURER WARNING ON THE
8 OUTSIDE OF THE PROTECTIVE HEADGEAR:

9 "WARNING!

10 - MAY NOT WITHSTAND IMPACT ABOVE 13 M.P.H.

11 - MAY NOT PREVENT HEAD INJURY

12 - MAY NOT PREVENT SKULL FRACTURE IN A CRASH

13 - MAY BREAK NECK IN A CRASH

14 - MAY CAUSE NECK, BACK, OR CHEST PAIN"; AND

15 (4) Shall publish lists of all protective headgear and eye-protective
16 devices that he approves, by name and type.

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

19 (i) Be considered evidence of negligence;

20 (ii) Be considered evidence of contributory negligence;

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

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

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

29 (3) (i) Nothing contained in this subsection may be construed to
30 prohibit the right of a person to institute a civil action for damages against a dealer,
31 manufacturer, distributor, factory branch, or other appropriate entity or person
32 arising out of an incident that involves protective headgear alleged to be defectively
33 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 June 1, 2006.