

SB0708/208275/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 708
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, after “of” insert “authorizing a certain insurer to exclude a moped and motor scooter from certain insurance benefits;”; in line 16, after “device;” insert “authorizing the Motor Vehicle Administrator to approve or disapprove certain headgear and eye-protective devices and adopt and enforce certain regulations; requiring the Administrator to publish a certain list;”; in line 17, after “not” insert “be considered certain evidence or”; in line 18, after “damages;” insert “establishing that certain provisions relating to moped and motor scooter headgear and eye-protective devices do not limit certain liabilities or rights; requiring certain procedures in certain civil proceedings;”; and after line 21, insert:

“BY repealing and reenacting, with amendments,

Article - Insurance

Section 19-505(c)

Annotated Code of Maryland

(2006 Replacement Volume and 2010 Supplement)”.

On page 2, in line 2, strike “21-1306.”; and in line 8, after “13-939.3” insert “, 21-1306.1.”.

AMENDMENT NO. 2

On page 2, after line 12, insert:

“Article – Insurance

19–505.

(Over)

(c) (1) An insurer may exclude from the coverage described in this section benefits for:

(i) an individual, otherwise insured under the policy, who:

1. intentionally causes the motor vehicle accident resulting in the injury for which benefits are claimed;

2. is a nonresident of the State and is injured as a pedestrian in a motor vehicle accident that occurs outside of the State;

3. is injured in a motor vehicle accident while operating or voluntarily riding in a motor vehicle that the individual knows is stolen; or

4. is injured in a motor vehicle accident while committing a felony or while violating § 21-904 of the Transportation Article; or

(ii) the named insured or a family member of the named insured who resides in the named insured's household for an injury that occurs while the named insured or family member is occupying an uninsured motor vehicle owned by:

1. the named insured; or

2. an immediate family member of the named insured who resides in the named insured's household.

(2) In the case of motorcycles, **MOPEDS, OR MOTOR SCOOTERS**, an insurer may:

(i) exclude the economic loss benefits described in this section;

or

(ii) offer the economic loss benefits with deductibles, options, or specific exclusions.”.

AMENDMENT NO. 3

On pages 6 through 8, strike in their entirety the lines beginning with line 29 on page 6 through line 4 on page 8, inclusive, and substitute:

“21-1306.1.

(A) THIS SECTION DOES NOT APPLY TO ANY INDIVIDUAL RIDING IN AN ENCLOSED CAB.

(B) AN INDIVIDUAL MAY NOT OPERATE OR RIDE ON A MOPED OR MOTOR SCOOTER UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE HEADGEAR THAT MEETS THE STANDARDS ESTABLISHED BY THE ADMINISTRATOR.

(C) AN INDIVIDUAL MAY NOT OPERATE A MOPED OR MOTOR SCOOTER UNLESS:

(1) THE INDIVIDUAL IS WEARING AN EYE-PROTECTIVE DEVICE OF A TYPE APPROVED BY THE ADMINISTRATOR; OR

(2) THE MOPED OR MOTOR SCOOTER IS EQUIPPED WITH A WINDSCREEN.

(D) THE ADMINISTRATOR:

(1) MAY APPROVE OR DISAPPROVE PROTECTIVE HEADGEAR AND EYE-PROTECTIVE DEVICES REQUIRED BY THIS SECTION;

(Over)

(2) MAY ADOPT AND ENFORCE REGULATIONS ESTABLISHING STANDARDS AND SPECIFICATIONS FOR THE APPROVAL OF PROTECTIVE HEADGEAR AND EYE-PROTECTIVE DEVICES; AND

(3) SHALL PUBLISH LISTS OF ALL PROTECTIVE HEADGEAR AND EYE-PROTECTIVE DEVICES THAT THE ADMINISTRATOR APPROVES, BY NAME AND TYPE.

(E) (1) THE FAILURE OF AN INDIVIDUAL TO WEAR PROTECTIVE HEADGEAR REQUIRED UNDER SUBSECTION (B) OF THIS SECTION MAY NOT:

(I) BE CONSIDERED EVIDENCE OF NEGLIGENCE;

(II) BE CONSIDERED EVIDENCE OF CONTRIBUTORY NEGLIGENCE;

(III) LIMIT LIABILITY OF A PARTY OR AN INSURER; OR

(IV) DIMINISH RECOVERY FOR DAMAGES ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR OPERATION OF A MOPED OR MOTOR SCOOTER.

(2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (3) OF THIS SUBSECTION, A PARTY, WITNESS, OR COUNSEL MAY NOT MAKE REFERENCE TO PROTECTIVE HEADGEAR DURING A TRIAL OF A CIVIL ACTION THAT INVOLVES PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH IF THE DAMAGE, INJURY, OR DEATH IS NOT RELATED TO THE DESIGN, MANUFACTURE, SUPPLYING, OR REPAIR OF PROTECTIVE HEADGEAR.

(3) (I) NOTHING CONTAINED IN THIS SUBSECTION MAY BE CONSTRUED TO PROHIBIT THE RIGHT OF A PERSON TO INSTITUTE A CIVIL ACTION FOR DAMAGES AGAINST A DEALER, MANUFACTURER, DISTRIBUTOR, FACTORY BRANCH, OR OTHER APPROPRIATE ENTITY OR PERSON ARISING OUT OF AN INCIDENT THAT INVOLVES PROTECTIVE HEADGEAR ALLEGED TO BE DEFECTIVELY DESIGNED, MANUFACTURED, OR REPAIRED.

(II) IN A CIVIL ACTION DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN WHICH TWO OR MORE PARTIES ARE NAMED AS JOINT TORT-FEASORS, INTERPLEADED AS DEFENDANTS, OR IMPLEADED AS DEFENDANTS, AND AT LEAST ONE OF THE JOINT TORT-FEASORS OR DEFENDANTS IS NOT INVOLVED IN THE DESIGN, MANUFACTURE, SUPPLYING, OR REPAIR OF PROTECTIVE HEADGEAR, A COURT SHALL ORDER ON A MOTION OF ANY PARTY SEPARATE TRIALS TO ACCOMPLISH THE ENDS OF JUSTICE.”.