

SENATE BILL 766

R5

9lr2715

By: **Senators Astle, Dyson, Edwards, Haines, Harris, Jacobs, Kittleman, and Stone**

Introduced and read first time: February 6, 2009

Assigned to: Judicial Proceedings

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; requiring the
6 Motor Vehicle Administration to study the effect of this Act on motorcycle
7 injuries and fatalities during a certain period of time and to report to the
8 Governor and the General Assembly by a certain date; providing for the
9 termination of this Act; and generally relating to exceptions to the requirement
10 that protective headgear be worn by operators or riders of motorcycles.

11 BY repealing and reenacting, with amendments,
12 Article – Transportation
13 Section 21–1306
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2008 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) **(1) THIS SUBSECTION DOES NOT APPLY TO:**

22 **(i) THE OPERATOR OR OCCUPANT OF ANY**
23 **THREE-WHEELED MOTORCYCLE EQUIPPED WITH AN ENCLOSED CAB; OR**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 **(II) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO:**
- 2 **1. HAS BEEN LICENSED TO OPERATE A**
3 **MOTORCYCLE FOR AT LEAST 2 YEARS;**
- 4 **2. HAS COMPLETED A MOTORCYCLE-RIDER SAFETY**
5 **COURSE APPROVED BY THE ADMINISTRATOR OR BY THE MOTORCYCLE SAFETY**
6 **FOUNDATION; OR**
- 7 **3. IS A PASSENGER ON A MOTORCYCLE OPERATED**
8 **BY AN INDIVIDUAL DESCRIBED IN ITEM (I) OR (II)1 OR 2 OF THIS PARAGRAPH.**

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

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

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

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

16 (d) The Administrator:

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

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

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

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

25 (i) Be considered evidence of negligence;

26 (ii) Be considered evidence of contributory negligence;

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

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

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

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

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

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Motor Vehicle
18 Administration shall study the effect of this Act on motorcycle injuries and fatalities
19 during the first 2 years that the Act is in effect and, on or before December 31, 2011,
20 shall report its findings to the Governor and, in accordance with § 2-1246 of the State
21 Government Article, the General Assembly.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 June 1, 2009. It shall remain effective for a period 3 years and, at the end of May 31,
24 2012, with no further action required by the General Assembly, this Act shall be
25 abrogated and of no further force and effect.