

SENATE BILL 253

R5
HB 1203/08 – ENV

9lr1820

By: **Senator Astle**
Introduced and read first time: January 23, 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; 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 (2006 Replacement Volume and 2008 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**
20 **THREE–WHEELED 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;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

4 **(IV) AN INDIVIDUAL AT LEAST 21 YEARS OLD WHO IS A**
5 **PASSENGER ON A MOTORCYCLE OPERATED BY AN INDIVIDUAL DESCRIBED IN**
6 **ITEM (I), (II), OR (III) 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
29 party, witness, or counsel may not make reference to protective headgear during a
30 trial of a civil action that involves property damage, personal injury, or death if the

1 damage, injury, or death is not related to the design, manufacture, supplying, or
2 repair of protective headgear.

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

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

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 2009.