

SENATE BILL 488

R5

2lr1385

By: **Senator Astle**

Introduced and read first time: February 2, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Protective Headgear Requirement for Motorcycle Riders –**
3 **Exception**

4 FOR the purpose of providing that a certain prohibition against operating or riding on
5 a motorcycle without certain protective headgear does not apply to an individual
6 at least a certain age who carries at least a certain amount of health insurance
7 coverage for certain injuries; and generally relating to the requirement that
8 protective headgear be worn by operators or riders of motorcycles.

9 BY repealing and reenacting, with amendments,
10 Article – Transportation
11 Section 21–1306
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2011 Supplement)

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

16 **Article – Transportation**

17 21–1306.

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

19 (b) **(1)** An individual may not operate or ride on a motorcycle unless the
20 individual is wearing protective headgear that meets the standards established by the
21 Administrator.

22 **(2) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL AT**
23 **LEAST 21 YEARS OLD WHO CARRIES AT LEAST \$10,000 IN HEALTH INSURANCE**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **COVERAGE FOR INJURIES THAT MAY BE INCURRED IN A MOTORCYCLE**
2 **ACCIDENT.**

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

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

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

7 (d) The Administrator:

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

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

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

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

16 (i) Be considered evidence of negligence;

17 (ii) Be considered evidence of contributory negligence;

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

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

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

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

31 (ii) In a civil action described under subparagraph (i) of this
32 paragraph in which 2 or more parties are named as joint tort-feasors, interpleaded as

1 defendants, or impleaded as defendants, and at least 1 of the joint tort-feasors or
2 defendants is not involved in the design, manufacture, supplying, or repair of
3 protective headgear, a court shall order on a motion of any party separate trials to
4 accomplish the ends of justice.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.