

HOUSE BILL 274

R5

11r0491

By: **Delegates Niemann, Barnes, Carr, S. Robinson, Ross, Stein, and Walker**
Introduced and read first time: January 31, 2011
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Scooter and Moped Rentals – Protective Headgear – Requirement**

3 FOR the purpose of prohibiting an individual from operating or riding on a rented
4 motor scooter or moped unless the individual is wearing certain protective
5 headgear; requiring a person who rents a motor scooter or moped to another
6 person to provide the other person and any accompanying rider with certain
7 protective headgear; establishing that the failure of certain individuals to wear
8 certain protective headgear may not diminish the recovery of certain damages;
9 making certain stylistic changes; and generally relating to protective headgear
10 requirements for operators and riders of rented motor scooters and mopeds.

11 BY adding to

12 Article – Transportation
13 Section 18–109
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2010 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Transportation
18 Section 21–1306
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2010 Supplement)

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

23 **Article – Transportation**

24 **18–109.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **A PERSON WHO RENTS A MOTOR SCOOTER OR MOPED TO ANOTHER**
 2 **PERSON SHALL PROVIDE THE OTHER PERSON AND ANY ACCOMPANYING RIDER**
 3 **WITH PROTECTIVE HEADGEAR THAT MEETS THE STANDARDS ESTABLISHED BY**
 4 **THE ADMINISTRATOR UNDER § 21-1306 OF THIS ARTICLE.**

5 21-1306.

6 (a) This section does not apply to any [person] **INDIVIDUAL** riding in an
 7 enclosed cab.

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

11 **(2) AN INDIVIDUAL MAY NOT OPERATE OR RIDE ON A RENTED**
 12 **MOTOR SCOOTER OR MOPED UNLESS THE INDIVIDUAL IS WEARING PROTECTIVE**
 13 **HEADGEAR THAT:**

14 **(I) MEETS THE STANDARDS ESTABLISHED BY THE**
 15 **ADMINISTRATOR; AND**

16 **(II) IS PROVIDED BY THE PERSON WHO RENTS THE MOTOR**
 17 **SCOOTER OR MOPED AS REQUIRED UNDER § 18-109 OF THIS ARTICLE.**

18 (c) [A person] **AN INDIVIDUAL** may not operate a motorcycle unless:

19 (1) [He] **THE INDIVIDUAL** is wearing an eye-protective device of a
 20 type approved by the Administrator; or

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

22 (d) The Administrator:

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

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

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

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

31 (i) Be considered evidence of negligence;

- 1 (ii) Be considered evidence of contributory negligence;
- 2 (iii) Limit liability of a party or an insurer; or
- 3 (iv) Diminish recovery for damages arising out of the ownership,
4 maintenance, or operation of a motorcycle, **MOTOR SCOOTER, OR MOPED.**

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2011.