

## Senate Bill 155

By: Senators Gooch of the 51st, Burke of the 11th, Kennedy of the 18th, Albers of the 56th,  
Cowsert of the 46th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia  
2 Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and  
3 energy absorption systems, so as to provide for the failure to wear a safety belt or safety  
4 restraints for children as admissible evidence in civil actions; to prohibit the failure to wear  
5 a safety belt or safety restraints for children as a basis for cancellation of insurance coverage;  
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated,  
10 relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy  
11 absorption systems, is amended in Code Section 40-8-76, relating to safety belts required as  
12 equipment and safety restraints for children, by revising subsection (c) as follows:

13 "(c) Violation of this Code section ~~shall not constitute~~ may be considered in any civil  
14 action as evidence admissible on the issues of failure to mitigate damages, assumption of  
15 risk, apportionment of fault, negligence, comparative negligence, per se nor contributory

16 negligence, or causation per se. Violation of subsection (b) of this Code section shall not  
17 be the basis for cancellation of insurance coverage ~~or increase in insurance rates.~~"

18 **SECTION 2.**

19 Said part is further amended by revising Code Section 40-8-76.1, relating to use of safety  
20 belts in passenger vehicles, as follows:

21 "40-8-76.1.

22 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle,  
23 including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to  
24 carry 15 passengers or fewer and used for the transportation of persons; provided, however,  
25 that such term shall not include motorcycles; or motor driven cycles; ~~or off-road vehicles~~  
26 ~~or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in~~  
27 ~~connection with agricultural pursuits that are usual and normal to the user's farming~~  
28 ~~operation;~~ and provided, further, that such term shall not include motor vehicles designed  
29 to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as  
30 of such date, did not have manufacturer installed seat safety belts.

31 (b) Each occupant of the front seat of a passenger vehicle shall, while such passenger  
32 vehicle is being operated on a public road, street, or highway of this state, be restrained by  
33 a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

34 (c) The requirement of subsection (b) of this Code section shall not apply to:

35 (1) A driver or passenger frequently stopping and leaving the vehicle or delivering  
36 property from the vehicle, if the speed of the vehicle between stops does not exceed 15  
37 miles per hour;

38 (2) A driver or passenger possessing a written statement from a physician that such  
39 person is unable, for medical or physical reasons, to wear a seat safety belt;

- 40 (3) A driver or passenger possessing an official certificate or license endorsement issued  
41 by the appropriate agency in another state or country indicating that the driver is unable  
42 for medical, physical, or other valid reasons to wear a seat safety belt;
- 43 (4) A driver operating a passenger vehicle in reverse;
- 44 (5) A passenger vehicle with a model year prior to 1965;
- 45 (6) A passenger vehicle which is not required to be equipped with seat safety belts under  
46 federal law;
- 47 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal  
48 Service while performing duties as a rural letter carrier;
- 49 (8) A passenger vehicle from which a person is delivering newspapers; ~~or~~
- 50 (9) A passenger vehicle performing an emergency service; or
- 51 (10) Off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18  
52 years of age or older in connection with agricultural pursuits that are usual and normal  
53 to the user's farming operation.
- 54 (d)(1) Except when occurring under those circumstances set forth in subsection (c) of  
55 this Code section, the ~~The~~ failure of an occupant of a ~~motor~~ passenger vehicle to wear a  
56 seat safety belt in any seat of a motor vehicle which has a seat safety belt or belts ~~shall~~  
57 ~~not~~ may be considered in any civil action as evidence admissible on the issues of failure  
58 to mitigate damages, assumption of risk, apportionment of fault, negligence, comparative  
59 negligence, contributory negligence, or causation, shall not otherwise be considered by  
60 the finder of fact on any question of liability of any person, corporation, or insurer, shall  
61 not be any basis for cancellation of coverage or increase in insurance rates, and shall not  
62 and may be evidence used to diminish any recovery for damages arising out of the  
63 ownership, maintenance, occupancy, or operation of a motor vehicle.
- 64 (2) The failure of an occupant of a passenger vehicle to wear a seat safety belt in any seat  
65 of a motor vehicle which has a seat safety belt or belts shall not be the basis for  
66 cancellation of insurance coverage.

67 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person  
68 failing to comply with the requirements of subsection (b) of this Code section shall not  
69 be guilty of any criminal act and shall not be guilty of violating any ordinance. A  
70 violation of this Code section shall not be a moving traffic violation for purposes of Code  
71 Section 40-5-57.

72 (2) A person failing to comply with the requirements of subsection (b) of this Code  
73 section shall be guilty of the offense of failure to wear a seat safety belt and, upon  
74 conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11  
75 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of  
76 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to  
77 a fine for such offense be assessed against a person for conviction thereof. The court  
78 imposing such fine shall forward a record of the disposition of the case of failure to wear  
79 a seat safety belt to the Department of Driver Services.

80 (3) Each minor eight years of age or older who is an occupant of a passenger vehicle  
81 shall, while such passenger vehicle is being operated on a public road, street, or highway  
82 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle  
83 Safety Standard 208. In any case where a minor passenger eight years of age or older  
84 fails to comply with the requirements of this paragraph, the driver of the passenger  
85 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,  
86 upon conviction thereof, may be fined not more than \$25.00. The court imposing such  
87 a fine shall forward a record of the court disposition of the case of failure to secure a seat  
88 safety belt on a minor to the Department of Driver Services.

89 (f) Probable cause for violation of this Code section shall be based solely upon a law  
90 enforcement officer's clear and unobstructed view of a person not restrained as required by  
91 this Code section. Noncompliance with the restraint requirements of this Code section  
92 shall not constitute probable cause for violation of any other Code section."

93

**SECTION 3.**

94 All laws and parts of laws in conflict with this Act are repealed.