

SENATE BILL 460

R5

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CF HB 343

By: **Senators King, Forehand, Garagiola, Manno, McFadden, Montgomery,
Peters, Pugh, Ramirez, Raskin, Robey, and Rosapepe**

Introduced and read first time: February 2, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Child Safety Seats and Seat Belts – Penalty**

3 FOR the purpose of increasing the fine for failing to secure a child under a certain age
4 in a child safety seat or seat belt while transporting the child in a motor vehicle
5 or operating a motor vehicle; repealing a requirement that court costs are
6 included in a certain fine; making stylistic changes; and generally relating to
7 child safety seats and seat belts.

8 BY repealing and reenacting, with amendments,
9 Article – Transportation
10 Section 22–412.2, 22–412.3, and 27–106(b)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2011 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 22–412.2.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) (i) “Child safety seat” means a device, including a child booster
19 seat, that the manufacturer:

20 1. Certifies is manufactured in accordance with
21 applicable federal safety standards; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2. Intends to be used to restrain, seat, or position a child
2 who is transported in a motor vehicle.

3 (ii) “Child safety seat” does not mean a seat belt or combination
4 seat belt–shoulder harness used alone.

5 (3) (i) “Seat belt” means a restraining device described under §
6 22–412 of this subtitle.

7 (ii) “Seat belt” includes a combination seat belt–shoulder
8 harness.

9 (b) A child safety seat meets the requirements of this section only if it is
10 installed and used in accordance with the directions of the manufacturer.

11 (c) This section applies to the transportation of a child in:

12 (1) A motor vehicle registered, or of a type capable of being registered,
13 in this State as a:

14 (i) Class A (passenger) vehicle;

15 (ii) Class E (truck) vehicle; or

16 (iii) Class M (multipurpose) vehicle; and

17 (2) A vehicle registered in another state or Puerto Rico that is the
18 same type of vehicle as a vehicle identified in item (1) of this subsection.

19 (d) A person transporting a child under the age of 8 years in a motor vehicle
20 shall secure the child in a child safety seat in accordance with the child safety seat and
21 vehicle manufacturers’ instructions unless the child:

22 (1) Is 4 feet, 9 inches tall or taller; or

23 (2) Weighs more than 65 pounds.

24 (e) Subject to subsection (d) of this section, a person may not transport a
25 child under the age of 16 years unless the child is secured in:

26 (1) A child safety seat in accordance with the child safety seat and
27 vehicle manufacturers’ instructions; or

28 (2) A seat belt.

29 (f) Notwithstanding subsection (d) of this section, if a physician, who is
30 licensed to practice medicine in the state in which the vehicle transporting the child is

1 registered, certifies in writing that use of a child safety seat by a particular child
2 would be impractical due to the child's weight, height, physical unfitness, or other
3 medical reason, there is not a violation of this section.

4 (g) A child safety seat or seat belt may not be used to restrain, seat, or
5 position more than [1] ONE individual at a time.

6 (h) Notwithstanding subsection (d) of this section, if the number of children
7 subject to the provisions of this section exceeds the number of passenger securing
8 locations suitable for securing a child either in a seat belt or in a child safety seat in
9 accordance with this section, and all of those securing locations are in use by children,
10 there is not a violation of this section.

11 (i) A violation of this section is not contributory negligence and may not be
12 admitted as evidence in the trial of any civil action.

13 (j) A violation of this section is not considered a moving violation for
14 purposes of § 16-402 of this article.

15 (k) The failure to provide a child safety seat or seat belt for more than [1]
16 ONE child in the same vehicle at the same time, as required by this section, shall be
17 treated as a single violation.

18 (l) (1) Any person convicted of a violation of this section is subject to a
19 fine of [~~\$25~~] \$75.

20 (2) A judge may waive the fine if the person charged with violation of
21 this section:

22 (i) Did not possess a child safety seat at the time of the
23 violation;

24 (ii) Acquires a child safety seat prior to the hearing date; and

25 (iii) Provides proof of acquisition to the court.

26 (m) The Department of Transportation and the Department of Health and
27 Mental Hygiene shall jointly implement the Child Safety Seat Program and foster
28 compliance with this section through educational and promotional efforts.

29 22-412.3.

30 (a) (1) In this section the following words have the meanings indicated.

31 (2) (i) "Motor vehicle" means a vehicle that is:

1 1. Registered or capable of being registered in this State
2 as a Class A (passenger), Class E (truck), Class F (tractor), Class M (multipurpose), or
3 Class P (passenger bus) vehicle; and

4 2. Required to be equipped with seat belts under federal
5 motor vehicle safety standards contained in the Code of Federal Regulations.

6 (ii) “Motor vehicle” does not include a Class L (historic) vehicle.

7 (3) “Outboard front seat” means a front seat position that is adjacent
8 to a door of a motor vehicle.

9 (4) (i) “Seat belt” means a restraining device described under §
10 22–412 of this subtitle.

11 (ii) “Seat belt” includes a combination seat belt–shoulder
12 harness.

13 (b) A person may not operate a motor vehicle unless [the person and each]:

14 **(1) THE PERSON IS RESTRAINED BY A SEAT BELT; AND**

15 **(2) EACH** occupant under 16 years old [are] **IS** restrained by a seat
16 belt or a child safety seat as provided in § 22–412.2 of this subtitle.

17 (c) (1) The provisions of this subsection apply to a person who is at least
18 16 years old.

19 (2) Unless a person is restrained by a seat belt, the person may not be
20 a passenger in an outboard front seat of a motor vehicle.

21 (3) A person who violates the provisions of this subsection shall be
22 subject to the penalties under Title 27 of this article.

23 (d) If a physician licensed to practice medicine in this State determines and
24 certifies in writing that use of a seat belt by a person would prevent appropriate
25 restraint due to a person’s physical disability or other medical reason, the provisions of
26 this section do not apply to the person.

27 (e) A certification under subsection (d) of this section shall state:

28 (1) The nature of the physical disability; and

29 (2) The reason that restraint by a seat belt is inappropriate.

30 (f) The provisions of this section do not apply to U.S. Postal Service and
31 contract carriers while delivering mail to local box routes.

1 (g) A violation of this section is not considered a moving violation for
2 purposes of § 16–402 of this article.

3 (h) (1) Failure of an individual to use a seat belt in violation of this
4 section may not:

5 (i) Be considered evidence of negligence;

6 (ii) Be considered evidence of contributory negligence;

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

8 (iv) Diminish recovery for damages arising out of the ownership,
9 maintenance, or operation of a motor vehicle.

10 (2) Subject to the provisions of paragraph (3) of this subsection, a
11 party, witness, or counsel may not make reference to a seat belt during a trial of a civil
12 action that involves property damage, personal injury, or death if the damage, injury,
13 or death is not related to the design, manufacture, installation, supplying, or repair of
14 a seat belt.

15 (3) (i) Nothing contained in this subsection may be construed to
16 prohibit the right of a person to institute a civil action for damages against a dealer,
17 manufacturer, distributor, factory branch, or other appropriate entity arising out of an
18 incident that involves a defectively installed or defectively operating seat belt.

19 (ii) In a civil action in which 2 or more parties are named as
20 joint tort-feasors, interpleaded as defendants, or impleaded as defendants, and 1 of
21 the joint tort-feasors or defendants is not involved in the design, manufacture,
22 installation, supplying, or repair of a seat belt, a court shall order separate trials to
23 accomplish the ends of justice on a motion of any party.

24 (i) The Administration and the Department of State Police shall establish
25 prevention and education programs to encourage compliance with the provisions of
26 this section.

27 (j) The Administration shall include information on this State's experience
28 with the provisions of this section in the annual evaluation report on the State's
29 highway safety plan that this State submits to the National Highway Traffic Safety
30 Administration and the Federal Highway Administration under 23 U.S.C. § 402.

31 27–106.

32 (b) (1) [Any] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
33 **SUBSECTION, ANY** person who is convicted of a violation of § 22–412.3 of this article is
34 subject to a fine of not more than \$25[, including court costs].

1 **(2) ANY PERSON WHO IS CONVICTED OF A VIOLATION OF §**
2 **22-412.3(B)(2) OF THIS ARTICLE IS SUBJECT TO A FINE OF \$75.**

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