

House Bill 1190

By: Representatives Powell of the 29th, Rice of the 51st, and Benton of the 31st

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 a state law violation for drivers of commercial
4 motor vehicles who fail to be restrained by a seat safety belt while operating a commercial
5 motor vehicle on the roads and highways of this state; to provide for a penalty consistent with
6 other seat safety belt violations; to provide for related matters; to provide for an effective
7 date and applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated,
11 relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy
12 absorption systems, is amended by revising Code Section 40-8-76.1, relating to the use of
13 safety belts in passenger vehicles, as follows:

14 "40-8-76.1.

15 (a) As used in this Code section, the term:

16 (1) 'Commercial motor vehicle' means any self-propelled or towed motor vehicle used
17 on a highway in intrastate and interstate commerce to transport passengers or property
18 when the vehicle:

19 (A) Has a gross vehicle weight rating, gross combination weight rating, gross vehicle
20 weight, or gross combination weight of 4,537 kg (10,001 lbs) or more;

21 (B) Is designed or used to transport more than ten passengers; or

22 (C) Is used to transport material determined to be hazardous by the secretary of the
23 United States Department of Transportation under 49 U.S.C. Section 5103 and
24 transported in a quantity that requires placards under regulations prescribed under 49
25 C.F.R., Subtitle B, Chapter I, Subchapter C.

26 (2) 'passenger Passenger vehicle' means every motor vehicle, including, but not limited
 27 to, pickup trucks, vans, and sport utility vehicles, designed to carry ten passengers or
 28 fewer and used for the transportation of persons; provided, however, that such term shall
 29 not include motorcycles; motor driven cycles; or off-road vehicles or pickup trucks being
 30 used by an owner, driver, or occupant 18 years of age or older in connection with
 31 agricultural pursuits that are usual and normal to the user's farming operation.

32 (b)(1) Each occupant of the front seat of a passenger vehicle shall, while such passenger
 33 vehicle is being operated on a public road, street, or highway of this state, be restrained
 34 by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

35 (2) Each driver of a commercial motor vehicle shall, while such vehicle is being operated
 36 on a public road, street, or highway of this state, be restrained by a seat safety belt
 37 approved under federal safety standards applicable to such motor vehicle.

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

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

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

44 (3) A driver or passenger possessing an official certificate or license endorsement issued
 45 by the appropriate agency in another state or country indicating that the driver is unable
 46 for medical, physical, or other valid reasons to wear a seat safety belt;

47 (4) A driver operating a passenger vehicle in reverse;

48 (5) A passenger vehicle with a model year prior to 1965;

49 (6) A passenger vehicle or commercial motor vehicle which is not required to be
 50 equipped with seat safety belts under federal law;

51 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal
 52 Service while performing duties as a rural letter carrier;

53 (8) A passenger vehicle from which a person is delivering newspapers; or

54 (9) A passenger vehicle performing an emergency service.

55 (d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of
 56 a motor vehicle which has a seat safety belt or belts shall not be considered evidence of
 57 negligence or causation, shall not otherwise be considered by the finder of fact on any
 58 question of liability of any person, corporation, or insurer, shall not be any basis for
 59 cancellation of coverage or increase in insurance rates, and shall not be evidence used to
 60 diminish any recovery for damages arising out of the ownership, maintenance, occupancy,
 61 or operation of a motor vehicle.

62 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person
 63 failing to comply with the requirements of subsection (b) of this Code section shall not
 64 be guilty of any criminal act and shall not be guilty of violating any ordinance. A
 65 violation of this Code section shall not be a moving traffic violation for purposes of Code
 66 Section 40-5-57; provided, however, that nothing contained in this subsection shall be
 67 construed so as to prohibit any civil or criminal citation of a commercial motor vehicle
 68 operator as provided by federal law.

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

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

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

90 **SECTION 2.**

91 This Act shall become effective on July 1, 2012, and shall apply to offenses committed on
 92 or after such date.

93 **SECTION 3.**

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