

House Bill 457

By: Representative Jones of the 25th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding equipment of motor vehicles, so as to revise
3 provisions for safety belts required as equipment, safety restraints for children, and the usage
4 of safety belts in passenger vehicles; to provide for use or nonuse of a seat safety belt as
5 evidence admissible in civil actions under certain circumstances; to provide a response to
6 Reid v. Odom, 199 Ga. App. 146; Boatwright v. Czerepinski, 194 Ga. App. 697; Katz v.
7 White, 190 Ga. App. 458; Sapp v. Johnson, 184 Ga. App. 603, and any other case law that
8 has provided for limiting the purposes for which seat belt nonusage evidence may be
9 admitted; to provide for related matters; to provide for an effective date; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to
14 general provisions regarding equipment of motor vehicles, is amended by revising subsection
15 (c) of Code Section 40-8-76, relating to safety belts required as equipment and safety
16 restraints for children, as follows:

17 "(c) Violation of this Code section ~~shall not constitute~~ may be considered in any civil
18 action as evidence admissible on the issues of failure to mitigate damages, assumption of
19 risk, apportionment of fault, negligence, comparative negligence, per se nor contributory
20 negligence, or causation per se. Violation of subsection (b) of this Code section shall not
21 be the basis for cancellation of insurance coverage ~~or increase in insurance rates."~~

22 style="text-align:center">**SECTION 2.**

23 Said article is further amended by revising subsections (a), (b), (c), and (d) of Code Section
24 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

25 "40-8-76.1.

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

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

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 which is not required to be equipped with seat safety belts under
 50 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; ~~or~~

55 (10) Off-road vehicles or pickup trucks being used by an owner, driver, or occupant 18
 56 years of age or older in connection with agricultural pursuits that are usual and normal
 57 to the user's farming operation.

58 (d)(1) Except when occurring under those circumstances set forth in subsection (c) of
 59 this Code section, the ~~The~~ failure of an occupant of a ~~motor~~ passenger vehicle to wear a
 60 seat safety belt in any seat of a motor vehicle which has a seat safety belt or belts ~~shall~~
 61 ~~not~~ may be considered in any civil action as evidence admissible on the issues of failure
 62 to mitigate damages, assumption of risk, negligence, comparative negligence,

63 ~~contributory negligence, apportionment of fault, or causation, shall not otherwise be~~
64 ~~considered by the finder of fact on any question of liability of any person, corporation,~~
65 ~~or insurer, shall not be any basis for cancellation of coverage or increase in insurance~~
66 ~~rates, and shall not may be evidence used to diminish any recovery for damages arising~~
67 ~~out of the ownership, maintenance, occupancy, or operation of a motor vehicle.~~

68 (2)(A) For the purposes of this subsection only, data retrieved from a passenger
69 vehicle's event data recorder or other sensing diagnostic module indicating the seat
70 safety belt status for the seating position of an occupant involved in a recorded crash
71 event shall be rebuttably presumed to establish whether that occupant was wearing a
72 seat safety belt at the time of the crash event. If such data does not exist or cannot be
73 retrieved, there shall be no presumption as to the occupant's seat safety belt use or
74 nonuse and the trier of fact shall determine from the other competent evidence whether
75 the occupant was or was not wearing a seat safety belt.

76 (B) In the event a passenger vehicle is not equipped with an event data recorder or
77 other sensing diagnostic module, all remaining provisions of this Code section shall
78 apply.

79 (3) The failure of an occupant of a passenger vehicle to wear a seat safety belt in any seat
80 of a motor vehicle which has a seat safety belt or belts shall not be any basis for
81 cancellation of insurance coverage."

82 **SECTION 3.**

83 This Act shall become effective upon its approval by the Governor or upon its becoming law
84 without such approval.

85 **SECTION 4.**

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