

House Bill 1295

By: Representatives Pirkle of the 169<sup>th</sup>, Jones of the 25<sup>th</sup>, Corbett of the 174<sup>th</sup>, and Williams of the 148<sup>th</sup>

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 negligence per se nor contributory~~  
14 ~~negligence per se~~ may be considered in any civil action as evidence admissible on the  
15 issues of failure to mitigate damages, assumption of risk, apportionment of fault,  
16 negligence, comparative negligence, contributory negligence, or causation. Violation of

17 subsection (b) of this Code section shall not be the basis for cancellation of coverage or  
18 increase in insurance rates."

19 **SECTION 2.**

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

22 "(d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of  
23 a motor vehicle which has a seat safety belt or belts ~~shall not be considered evidence of~~  
24 ~~negligence or causation, shall not otherwise be considered by the finder of fact on any~~  
25 ~~question of liability of any person, corporation, or insurer, shall not be any basis for~~  
26 ~~cancellation of coverage or increase in insurance rates, and shall not~~ and may be considered  
27 in any civil action as evidence admissible on the issue of failure to mitigate damages,  
28 assumption of risk, apportionment of fault, negligence, comparative negligence,  
29 contributory negligence, or causation and may be evidence used to diminish any recovery  
30 for damages arising out of the ownership, maintenance, occupancy, or operation of a motor  
31 vehicle."

32 **SECTION 3.**

33 All laws and parts of laws in conflict with this Act are repealed.