

Senate Bill 196

By: Senators Watson of the 1st, Kennedy of the 18th, Gooch of the 51st, Robertson of the 29th, Anavitarte of the 31st 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 provide for legislative  
5 declaration and intent; to prohibit the failure to wear a safety belt or safety restraints for  
6 children as a basis for cancellation of insurance coverage; to provide for related matters; to  
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 The General Assembly finds and declares that the use of safety belts in motor vehicles saves  
11 lives. In order to encourage safety belt usage in this state and decrease the number of lives  
12 lost on Georgia highways, legislative action is needed to ensure that the costs relating to the  
13 decision not to use a safety belt are borne by the person failing to secure their own safety and  
14 not others. To the extent that decisions by Georgia courts limit the purposes for which  
15 failure to use a safety belt may be admitted as evidence or create additional conditions for

16 the consideration of such evidence, such decisions are not aligned with the intent and purpose  
17 of this Act.

18

## SECTION 2.

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

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

29

## SECTION 3.

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

32 "40-8-76.1.

33 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle,  
34 including, but not limited to, pickup trucks, vans, and sport utility vehicles, designed to  
35 carry 15 passengers or fewer and used for the transportation of persons; provided, however,  
36 that such term shall not include motorcycles; or motor driven cycles; ~~or off-road vehicles~~  
37 ~~or pickup trucks being used by an owner, driver, or occupant 18 years of age or older in~~  
38 ~~connection with agricultural pursuits that are usual and normal to the user's farming~~  
39 ~~operation;~~ and provided, further, that such term shall not include motor vehicles designed

40 to carry 11 to 15 passengers which were manufactured prior to July 1, 2015, and which, as  
41 of such date, did not have manufacturer installed seat safety belts.

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

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

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

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

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

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

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

56 (6) A passenger vehicle which is not required to be equipped with seat safety belts under  
57 federal law;

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

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

61 (9) A passenger vehicle performing an emergency service; or

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

65 (d)(1) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat  
66 of a motor vehicle which has a seat safety belt or belts shall not be considered evidence

67 of negligence or causation, ~~shall not otherwise be considered by the finder of fact on any~~  
68 ~~question of liability of any person, corporation, or insurer, shall not be any basis for~~  
69 ~~cancellation of coverage or increase in insurance rates, and shall not may be considered~~  
70 ~~in any civil action as evidence admissible on the issues of failure to mitigate damages,~~  
71 ~~assumption of risk, apportionment of fault, negligence, comparative negligence,~~  
72 ~~contributory negligence, or causation and may be evidence used to diminish any recovery~~  
73 ~~for damages arising out of the ownership, maintenance, occupancy, or operation of a~~  
74 ~~motor vehicle.~~

75 (2) The failure of an occupant of a passenger vehicle to wear a seat safety belt in any seat  
76 of a motor vehicle which has a seat safety belt or belts shall not be the basis for  
77 cancellation of insurance coverage.

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

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

91 (3) Each minor eight years of age or older who is an occupant of a passenger vehicle  
92 shall, while such passenger vehicle is being operated on a public road, street, or highway  
93 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle

94 Safety Standard 208. In any case where a minor passenger eight years of age or older  
95 fails to comply with the requirements of this paragraph, the driver of the passenger  
96 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,  
97 upon conviction thereof, may be fined not more than \$25.00. The court imposing such  
98 a fine shall forward a record of the court disposition of the case of failure to secure a seat  
99 safety belt on a minor to the Department of Driver Services.

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

104

**SECTION 4.**

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