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## SENATE BILL NO. 1428

Offered January 15, 2009

A *BILL to amend and reenact §§ 46.2-1092, 46.2-1094, and 46.2-1095 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 8.01-419.2, relating to admissibility of evidence of nonuse of safety lap belts and shoulder harness in civil actions.*

Patron—Quayle

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1092, 46.2-1094, and 46.2-1095 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 8.01-419.2 as follows:**

*§ 8.01-419.2. Admissibility of evidence of nonuse of safety lap belts and shoulder harness in civil actions.*

*A violation of § 46.2-1092, 46.2-1094, or 46.2-1095 may be considered in mitigation of damages of whatever nature, be admissible in evidence, or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle.*

*§ 46.2-1092. Safety lap belts or a combination of lap belts and shoulder harnesses to be installed in certain motor vehicles.*

No passenger car registered in the Commonwealth and manufactured for the year 1963 or for subsequent years shall be operated on the highways in the Commonwealth unless the front seats thereof are equipped with adult safety lap belts or a combination of lap belts and shoulder harnesses of types approved by the Superintendent.

Failure to use the safety lap belts or a combination of lap belts and shoulder harnesses after installation shall not be deemed to be negligence. ~~Not shall evidence of such nonuse of such devices be considered in mitigation of damages of whatever nature.~~

No motor vehicle registered in the Commonwealth and manufactured after January 1, 1968, shall be issued a safety inspection approval sticker if any lap belt, combination of lap belt and shoulder harness, or passive belt systems required to be installed at the time of manufacture by the federal Department of Transportation have been either removed from the motor vehicle or rendered inoperable.

No passenger car, except convertibles, registered in the Commonwealth and manufactured on or after September 1, 1990, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

No passenger car, including convertibles, registered in the Commonwealth and manufactured on or after September 1, 1991, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

No truck, multi-purpose vehicle, or bus, except school buses and motor homes, with a gross vehicle weight rating of 10,000 pounds or less, registered in the Commonwealth and manufactured on or after September 1, 1991, shall be operated on the highways in the Commonwealth unless the forward-facing rear outboard seats thereof are equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation.

Passenger cars, trucks, multipurpose vehicles, and buses, except school buses and motor homes, registered in the Commonwealth and manufactured on or after September 1, 1992, shall not be operated on the highways of the Commonwealth unless equipped with rear seat lap/shoulder belts of types required to be installed at the time of manufacture by the federal Department of Transportation for each forward-facing rear outboard seating position on a readily removable seat.

For the purposes of this section, forward-facing rear outboard seats are defined as those designated seating positions for passengers in outside front facing seats behind the driver and front passenger seats, except any designated seating position adjacent to a walkway that is located between the seat and the near side of the vehicle and is designed to allow access to a more rearward seating position.

The Superintendent of State Police shall include in the Official Motor Vehicle Inspection Regulations a section which identifies each classification of motor vehicle required to be equipped with any of the devices described in the foregoing provisions of this section.

Such regulations shall also include a listing of the exact devices which are required to be installed in each motor vehicle classification and the model year of each motor vehicle classification on which the standards of the federal Department of Transportation first became applicable.

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59 § 46.2-1094. Occupants of front seats of motor vehicles required to use safety lap belts and shoulder  
60 harnesses; penalty.

61 A. Each person at least sixteen years of age and occupying the front seat of a motor vehicle  
62 equipped or required by the provisions of this title to be equipped with a safety belt system, consisting  
63 of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear the appropriate  
64 safety belt system at all times while the motor vehicle is in motion on any public highway. A child  
65 under the age of sixteen years, however, shall be protected as required by the provisions of this chapter.

66 B. This section shall not apply to:

67 1. Any person for whom a licensed physician determines that the use of such safety belt system  
68 would be impractical by reason of such person's physical condition or other medical reason, provided the  
69 person so exempted carries on his person or in the vehicle a signed written statement of the physician  
70 identifying the exempted person and stating the grounds for the exemption; or

71 2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which  
72 render the wearing of such safety belt system impractical; or

73 3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the  
74 United States Postal Service; or

75 4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier,  
76 newspaper bundle hauler or newspaper rack carrier; or

77 5. Drivers of taxicabs; or

78 6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery  
79 of goods or services, including but not limited to solid waste, where such collection or delivery requires  
80 the personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render  
81 the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such  
82 personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or  
83 when the vehicle is in transit to or from a point of final disposition or disposal, including but not  
84 limited to solid waste facilities, terminals, or other location where the vehicle may be principally  
85 garaged; or

86 7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or

87 8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor  
88 vehicle parking.

89 C. Any person who violates this section shall be subject to a civil penalty of twenty-five dollars to  
90 be paid into the state treasury and credited to the Literary Fund. No assignment of demerit points shall  
91 be made under Article 19 of Chapter 3 (§ 46.2-489 et seq.) of this title and no court costs shall be  
92 assessed for violations of this section.

93 D. A violation of this section shall not constitute negligence; ~~be considered in mitigation of damages~~  
94 ~~of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for~~  
95 ~~the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor~~  
96 ~~shall anything in this section change any existing law, rule, or procedure pertaining to any such civil~~  
97 ~~action.~~

98 E. A violation of this section may be charged on the uniform traffic summons form.

99 F. No citation for a violation of this section shall be issued unless the officer issuing such citation  
100 has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of  
101 this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or  
102 any criminal statute.

103 G. The governing body of the City of Lynchburg may adopt an ordinance not inconsistent with the  
104 provisions of this section, requiring the use of safety belt systems. The penalty for violating any such  
105 ordinance shall not exceed a fine or civil penalty of twenty-five dollars.

106 § 46.2-1095. Child restraint devices required when transporting certain children; safety belts for other  
107 children less than sixteen years old required; penalty.

108 A. Any person who drives on the highways of Virginia any motor vehicle manufactured after  
109 January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided  
110 with and properly secured in a child restraint device of a type which meets the standards adopted by the  
111 United States Department of Transportation. Further, rear-facing child restraint devices shall be placed in  
112 the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device  
113 may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger  
114 side airbag or the passenger side airbag has been deactivated.

115 B. Any person transporting any child less than sixteen years old, except for those required pursuant  
116 to subsection A to be secured in a child restraint device, shall ensure that such child is provided with  
117 and properly secured by an appropriate safety belt system when driving on the highways of Virginia in  
118 any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this  
119 title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations  
120 thereof or similar devices.

C. A violation of this section shall not constitute negligence; ~~be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.~~

D. A violation of this section may be charged on the uniform traffic summons form.

E. Nothing in this section shall apply to taxicabs, school buses, executive sedans, or limousines.

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