

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1043

Short Title: No Seat Belt/Damages Limit.

(Public)

Sponsors: Senators Webster, McDaniel, East, Hoyle, Carrington, Ledbetter, Clark, and Foxx.

Referred to: Judiciary II/Election Laws

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO LIMIT THE DAMAGES THAT CAN BE RECOVERED FOR
2 PERSONAL INJURY OR WRONGFUL DEATH IN A CIVIL SUIT ARISING OUT
3 OF AN ACCIDENT INVOLVING A MOTOR VEHICLE IF THE CLAIMANT IS
4 AN INDIVIDUAL AT LEAST SIXTEEN YEARS OF AGE WHO IS NOT
5 PREGNANT AND FAILED TO WEAR AN AVAILABLE, FUNCTIONAL SEAT
6 BELT.
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8 The General Assembly of North Carolina enacts:

9 Section 1. The title of Article 43D of Chapter 1 of the General Statutes reads
10 as rewritten:

11 "~~ABOLITION OF PARENT-CHILD IMMUNITY~~ LIABILITY IN CERTAIN
12 MOTOR
13 VEHICLE CASES."

14 Sec. 2. Article 43D of Chapter 1 of the General Statutes is amended by adding
15 a new section to read:

16 "§ 1-539.22. Limitation on liability regarding seat belt use.

17 (a) In a civil action for personal injury or wrongful death, an individual who is
18 injured in an accident involving a motor vehicle may recover only for medical and

1 funeral expenses when that individual, at the time of the accident, was not using an
2 available, functional safety restraint device.

3 (b) This section does not apply to individuals who are pregnant or who are less
4 than 16 years of age at the time of the accident.

5 (c) As used in this section, 'motor vehicle' has the same meaning as in G.S. 20-
6 4.01."

7 Sec. 3. G.S. 28A-18-2(b) reads as rewritten:

8 "(b) ~~Damages~~—Except as provided in subsection (e) of this section, damages
9 recoverable for death by wrongful act include:

10 (1) Expenses for care, treatment and hospitalization incident to the injury
11 resulting in death;

12 (2) Compensation for pain and suffering of the decedent;

13 (3) The reasonable funeral expenses of the decedent;

14 (4) The present monetary value of the decedent to the persons entitled to
15 receive the damages recovered, including but not limited to
16 compensation for the loss of the reasonably expected:

17 a. Net income of the decedent,

18 b. Services, protection, care and assistance of the decedent, whether
19 voluntary or obligatory, to the persons entitled to the damages
20 recovered,

21 c. Society, companionship, comfort, guidance, kindly offices and
22 advice of the decedent to the persons entitled to the damages
23 recovered;

24 (5) Such punitive damages as the decedent could have recovered had he
25 survived, and punitive damages for wrongfully causing the death of the
26 decedent through maliciousness, wilful or wanton injury, or gross
27 negligence;

28 (6) Nominal damages when the jury so finds."

29 Sec. 4. G.S. 28A-18-2 is amended by adding a new subsection to read:

30 "(e) Damages recoverable for death caused by an accident involving a motor
31 vehicle are limited to only medical and funeral expenses when the decedent was an
32 individual who, at the time of the accident, was not using available, functional safety
33 restraint devices. This subsection does not apply to decedents who are pregnant or who
34 are less than 16 years of age at the time of the accident. As used in this subsection,
35 'motor vehicle' has the same meaning as in G.S. 20-4.01."

36 Sec. 5. This act becomes effective October 1, 1995, and applies to all actions
37 arising on or after that date.