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Summary of Vehicle Occupant Protection Laws

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INTRODUCTION

The National Highway Traffic Safety Administration is responsible for reducing motor vehicle-related fatalities and injuries on our Nation's highways. Research has shown that effective State and local traffic safety laws play an important role in helping to reduce motor vehicle crashes. For example, in 2010, States with primary seat belt laws had a 12% higher belt use rate on average compared to States without primary seat belt laws.

This publication provides a summary chart of the key provisions of State occupant protection laws and detailed lists of these laws in every State. Such laws include requiring the use of (1) seat belts, (2) child passenger restraint devices, and (3) motorcycle or bicycle helmets. Also included are laws concerning age restrictions for motorcycle passengers and laws that prohibit riding in the bed of a pickup truck. Except as noted, the status of the State laws reported is as of May 1, 2011.

EXPLANATIONS

Required Use of Seat Belts:

Although there are limitations, exceptions, or exemptions, State laws usually require that drivers and passengers wear seat belts when operating or riding in a private passenger motor vehicle. Generally, State laws provide that this requirement **only** applies to motor vehicles that are required to be equipped with seat belts. 49 CFR 571.208.

Limitations, Exceptions or Exemptions:

Seat belt use laws provide for numerous limitations, exceptions, or exemptions. Most States mandate the use of seat belts only for drivers and **front seat** passengers. Additionally, the majority of the States exempts an individual from wearing a seat belt if a medical or physical condition exists. Other exceptions include passengers riding in public transportation vehicles, such as buses, and rural letter carriers of the U.S. Postal Service.

Primary Versus Secondary Seat Belt Laws:

"Primary" seat belt enforcement means that a law enforcement officer has the authority to issue a citation for a failure to wear a seat belt based solely on probable cause of such violation. Note: "Primary" seat belt laws are sometimes referred to as "standard" laws. "Secondary" enforcement means that such officers are only authorized to enforce a violation of the seat belt use law after they have first stopped a driver for some other violation of the law.

A National Occupant Protection Use Survey (NOPUS), conducted in June 2010, found that the average seat belt use rates in States with primary enforcement laws were 12 percentage points higher than in States without primary enforcement laws. (On average, seat belt use was 88% in primary law States versus 76% in States without primary enforcement.)

Required Use of Child Restraint System:

All State laws now require that children be secured in either a child restraint system (CRS) or seat belt when being transported in a motor vehicle. Young children, e.g., <4 years old, must be secured in a child restraint system. Most State laws require these devices to meet Federal specifications. 49 CFR 571.213. For children, 4 to 6 years old, State laws usually say they may be secured in either seat belts or child restraint systems. About half the States provide for a medical or physical exemption from these requirements.

Motorcycle and Bicycle Helmet Use Laws:

Most State laws mandate some type of protective headgear when operating or riding on a motorcycle however these vary by age. A few States now require children to wear safety helmets when riding bicycles. Despite legal challenges, the courts have held motorcycle helmet usage laws to be constitutional.

Required Use of Motorcycle Eye Protection:

Most State laws require operators, and in some cases, passengers, of motorcycles to wear eye protection devices, e.g., goggles, while operating or riding on motorcycles. However, the laws normally provide an exemption to this if the motorcycle is equipped with a windshield.

Fines:

Unless noted, the fines reported do not include court costs or bail schedule forfeitures.

OVERVIEW NARRATIVE OF KEY PROVISIONS OF STATE OCCUPANT PROTECTION AND SEAT BELT LAWS

All States, the District of Columbia, and Puerto Rico have mandatory motor vehicle seat belt laws of some kind. New Hampshire is the only State that does not require adults age 18 and older to wear seat belts.

State seat belt use laws vary in terms of their exceptions, limitations, and exemptions. For example, virtually every State exempts persons who for medical reasons or physical characteristics cannot use a seat belt. Other exemptions include specific types of vehicles or vehicles operating under specific conditions. For example, exempted vehicles often include those designed for more than 10 passengers, vehicles of a model year prior to 1972, or farm vehicles. Vehicles used for commercial purposes requiring frequent stops and deliveries are also typically exempt when not exceeding 25 mph between stops. Details regarding these varying exceptions, limitations, and exemptions are listed in the Summary Chart of Key Provisions of Occupant Restraint Laws and the State analysis.

State fines for the first time violation of seat belt use laws vary from \$5 to \$90. Most States permit fines of up to \$25.

CHILD RESTRAINT LAWS

While all 50 States, the District of Columbia and Puerto Rico have laws requiring the use of either child restraint systems (rear-facing child restraint seats, forward-facing child restraint seats, or booster seats) or seat belts for children traveling in motor vehicles, the specific requirements of the laws vary from State to State. All States require, at a minimum, that all children 3 or younger, weighing less than 40 lbs., or less than 40 inches tall, be secured in child restraint systems while traveling in motor vehicles. Most States also specifically require that child restraint systems meet applicable Federal Motor Vehicle Safety Standards.

Older children, usually defined as those 4 and older, weighing up to 80 pounds or up to 4'9" tall, must be secured in a booster seat or other child restraint system. Fifteen States and the District of Columbia require the specific use of booster seats by children who have outgrown their forward-facing child restraint system. Specific provisions vary widely from State to State, including the upper age limit, and height and/or weight requirements. Virtually all States exempt for the use of a child restraint system for medical or physical reasons (certified in writing by a physician or other medical professional).

State fines for first-time violations of child restraint laws vary dramatically, from not more than \$10 to up to \$500. Most States permit fines of up to \$50.

Summary Chart of Key Provisions of Occupant Restraint Laws through May 1, 2011

State	Seat Belt Enforcement ¹	1st Belt Fine ²	Child Restraint Requirement ³	1st Child Restraint Fine ⁴	Seat Belt Required Seats	Ages ⁵ ⁶	Demerit Points
Alabama	Primary	Up to \$25	5 yrs & younger = child restraint; booster seat until age 6	\$25	Front	All	No statutory provision.
Alaska	Primary	Up to \$15	5 yrs & younger & ≥ 20 lbs in restraint device; between 4 - 7 yrs & < 57'' height & between 20 & 65 lbs in booster seat. ⁷	Up to \$50	All	≥ 16	No statutory provision.
Arizona	Secondary	Not more than \$10	4 yrs & younger	\$50	Front	<16 = all seats	No statutory provision.
Arkansas	Primary	Not more than \$25	5 yrs & younger and less than 60 lbs.	\$25-\$100	Front	All	No statutory provision.
California	Primary	Not more than \$20	Under 6 yrs or less than 60 lbs., in rear seat	\$100	All	≤ 16 = all seats	No points; 1pt - child restraint violation.
Colorado	Secondary	\$65	Under 8 yrs	\$65	Front	All	No points. ⁸
Connecticut	Primary	\$50 (age ≥ 18) \$75 (under 18)	1-6 yrs or less than 60 lbs. = child restraint system ⁹	\$35-90	Front	All	No points; not less 2 points for child restraint violation.
Delaware	Primary	\$25	7 yrs & younger and 65 lbs., or less	\$25	All	≤ 16 = all seats	No points.
District of Columbia	Primary	\$50	7 yrs & younger	\$75 ¹⁰	All	All	2 points for a single violation; 3 points - simultaneous multiple violations.
Florida	Primary	\$30	5 yrs & younger	\$60	All	< 18 = all seats	3 points for child restraint violation.
Georgia	Primary	Not more than \$15	5 yrs & younger	Not more than \$50	Front	All	1 point for child restraint violation.
Hawaii	Primary	\$45	7 yrs & younger & 4'9'' or 40 lbs., or less	Not more than \$100	Front	≤ 17 = all seats	No statutory provision.
Idaho	Secondary	\$10	6 yrs & younger	Not more than \$100	All	All	No points.

¹ Generally, this requirement concerns passenger vehicles only; commercial vehicles, mail/newspaper carriers and trucks are typically exempt.

² This amount represents the actual fine set forth by law. Generally, the States add surcharges and court costs to this amount.

³ This may include rear-facing and forward-facing child restraint seats, and booster seats.

⁴ This amount represents the actual fine set forth by law. Generally, the States add surcharges and court costs to this amount.

⁵ Virtually every State exempts persons who, for medical reasons, cannot use seat belts; and vehicles not originally required to be equipped with seat belts.

⁶ Note: The word "All" used in this category means everyone must be restrained.

⁷ Children less than 1 year or less than 20 lbs in rear facing seat.

⁸ 2 points shall be assessed for drivers under the age of 18.

⁹ For a child under the age of 1 or less than 20 lbs., a rear-facing child restraint system is required.

¹⁰ If the person in violation attends a child restraint safety class, the \$75 fine will be waived. However, the class costs \$25.

State	Seat Belt Enforcement ¹	1st Belt Fine ²	Child Restraint Requirement ³	1st Child Restraint Fine ⁴	Seat Belt Required Seats	Ages ⁵ ⁶	Demerit Points
Illinois	Primary	Not to exceed \$25	7 yrs & younger	Not more than \$75	Front	≤ 19 = all seats	No points.
Indiana	Primary	Up to \$25	7 yrs & younger	Not more than \$25	All	All	No points.
Iowa	Primary	\$50	5 yrs & younger and 20 lbs., or more	\$100	Front	≤ 17 = all seats	No statutory provision.
Kansas	Primary	\$5 until 7/1/11 \$10 after 7/1/11	13 yrs & younger and less than 80 lbs.	\$60	Front	≤ 14 = all seats	No statutory provision.
Kentucky	Primary	Not more than \$25	40" tall or less; under 7 yrs and 40-50" = booster seat	\$50	All	All	No statutory provision.
Louisiana	Primary	\$25	<1 and < 80 lbs. = rear facing seat; between 1-4, or at least 20 lbs. = forward facing seat; between 4-6 & weighing between 40 and 60lbs = child booster seat	\$100	All	All	No statutory provision.
Maine	Primary	\$50	Less than 40 lbs., or 40-80 lbs., and less than 8 yrs	\$50	All	All	No points.
Maryland	Primary	Not more than \$25	Under 8 yrs and under 4' 9" or 65 lbs. or less	\$25	Front	≤ 15 = all seats	No points.
Massachusetts	Secondary	\$25	Under 8 yrs and under 57"	Not more than \$25	All	All	No statutory provision.
Michigan	Primary	\$25	7 yrs & younger and less than 4' 9"	Not more than \$10	Front	All	No points.
Minnesota	Primary	\$25	7 yrs & younger and < 4'9"	Not more than \$50	All	All	No statutory provision.
Mississippi	Primary	\$25	3 yrs & younger; 4-6 yrs and under 4' 9" or less than 65 lbs.= booster seat	Not more than \$25	Front	All	No statutory provision.
Missouri	Secondary	Not more than \$10	Under 4 yrs and less than 40 lbs = child restraint; 4-7 yrs and less than 80 lbs., and under 4' 9" = booster seat	Not more than \$50	Front	All	No points.
Montana	Secondary	\$20	5 yrs & younger and less than 60 lbs.	Not more than \$100	All	All	No statutory provision.
Nebraska	Secondary	\$25	Up to 6 yrs.	\$25	Front	≤ 16 = all seats	No points.
Nevada	Secondary	Not more than \$25	5 yrs & younger and less than 60 lbs.	\$100-500	All	All	No points.
New Hampshire	No adult law ¹¹	\$50	5 yrs & younger and 55" or less	\$50	All	< 18 = all seats	No statutory provision.
New Jersey	Primary	\$20	7 yrs & younger and less than 80 lbs.	\$10-25	All	All	No points.

¹¹ There is no requirement for an adult to wear a seat belt. The fine listed is for a violation by a passenger under the age of 18, not required to wear a child restraint system.

State	Seat Belt Enforcement ¹	1st Belt Fine ²	Child Restraint Requirement ³	1st Child Restraint Fine ⁴	Seat Belt Required Seats	Seat Belt Required Ages ⁶	Demerit Points
New Mexico	Primary	\$25	6 yrs & younger or less than 60 lbs.	\$25	All	All	2 points.
New York ¹²	Primary	Up to \$50	7 yrs & younger	\$25-100	Front	< 16 = all seats	No statutory provision; 3 pts-child restraint violation.
North Carolina	Primary ¹³	Driver or front seat passenger \$25.50; rear-seat \$10	Under 16 yrs	Not more than \$25	All	All	2 points for child restraint violation.
North Dakota	Secondary	Not more than \$20	Under 7 yrs, less than 80 lbs & under 57".	Not more than \$25	Front	≤ 17 = all seats	2 points for child restraint violation.
Ohio	Secondary	\$30 driver, \$20 passenger	3 yrs & younger or less than 40 lbs.; < 8 yrs & < 4'9" tall	\$25-75	Front	All	No points.
Oklahoma	Primary	Not more than \$20	5 yrs & younger	\$50	Front	≤ 12 = all seats	No points.
Oregon	Primary	Not more than \$90	4' 9" in height and under	Not more than \$90	All	All	No statutory provision.
Pennsylvania	Secondary	\$10	3 yrs & younger	Not more than \$100	Front	≤ 17 = all seats	No points.
Puerto Rico	Primary	\$50	Under 4 yrs	\$100	All	All	No statutory provision.
Rhode Island	Secondary	\$85	Under 8 yrs, less than 57" and 80 lbs.	\$85	All	All	No statutory provision.
South Carolina	Primary	Not more than \$25 ¹⁴	1-5 yrs; not more than 80 lbs.	Not more than \$150	All	All	No points.
South Dakota	Secondary	\$25	4 yrs & younger and less than 40 lbs	\$25	Front	≤ 17 = all seats	No points.
Tennessee	Primary	Not more than \$50 and/or not 30 days in jail	8 yrs and younger & under 4' 9"	Not more than \$50 and/or not more than 30 days in jail	All	All	No points.
Texas	Primary	Not less than \$25 nor more than \$50	8 yrs and younger & under 4'9"	Not more than \$25	All	All	2 points for child restraint violation.
Utah	Secondary	Not more than \$45	Under 8 yrs and under 57"	Not more than \$45	All	All	No points.
Vermont	Secondary	\$25	7 yrs & younger	\$25	All	All	No statutory provision.
Virginia	Secondary	\$25	8 yrs & younger	\$50	Front	≤ 18 = all seats	No points.
Washington	Primary	\$42	8 yrs & younger and under 4' 9"	\$42	All	All	No statutory provision.

¹² See detail in New York's law in the State-by-State Analysis Section of this document for front seat and back seat passenger safety requirements.

¹³ Primary enforcement does not apply when the violation is by a rear seat passenger.

¹⁴ Where more than one incident occurred, the fine shall be not more than \$50.

State	Seat Belt Enforcement ¹	1st Belt Fine ²	Child Restraint Requirement ³	1st Child Restraint Fine ⁴	Seat Belt Required Seats	Seat Belt Required Ages ⁵ ⁶	Demerit Points
West Virginia	Secondary	Not more than \$25	7 yrs & younger and under 4' 9"	\$10-20	Front	≤ 18 = all seats	No points.
Wisconsin	Primary	\$10	7 yrs & younger, less than 80 lbs and 57" or less	\$30-75	All	All	No points.
Wyoming	Secondary	Not more than \$25 (driver) \$10 (passenger)	8 yrs & younger in rear seat if available	Not more than \$50	All	All	No statutory provision.

Summary Chart of Key Provisions of State Motorcycle Safety Laws through May 1, 2011

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Alabama	Universal	No	All	Persons riding in enclosed cabs	Not more than \$100	Not specified ¹⁸	Not more than 10 days	No	None specified
Alaska	Age-specific	Included	Younger than 18	None	Not more than \$300	Not specified	None	Yes unless windscreen/windshield	None specified
Arizona	Age-specific	No	Younger than 18	Persons riding within an enclosed cab; motorized carts; three-wheeled motorcycles used for agricultural purposes	Not more than \$250	Not specified	None	Yes unless windshield	None specified
Arkansas	Age-specific	No	Younger than 21	None	\$10-\$50	Not specified	Not more than 30 days	Yes	A child must be at least 8 yrs (unless motorcycle is participating in a parade)
California	Universal	Included	All	None	Not more than \$100	None	None	No	None specified
Colorado	Age-specific	Yes	Younger than 18	None	\$100 (plus \$15 surcharge)	Not specified	None	Yes	None specified

¹⁵ A State law requiring all motorcycle operators and passengers to wear a helmet is considered to be a *universal* law. Other State laws require operators and/or passengers of a certain age, e.g., under 18 years of age, to wear helmets. This is indicated as Age-specific. Some State laws include additional restrictions – such restrictions are indicated in this column, with footnotes to provide specific details.

¹⁶ While the sanctions shown are for the first offense, some States provide for greater sanctions for the second and/or subsequent offense(s) for not wearing a motorcycle helmet.

¹⁷ Where “included” is listed, this means the standard includes, but is not limited to FMVSS 218.

¹⁸ While Alabama’s law does not specifically authorize licensing action for this offense, an offender may be subject to such action.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Connecticut	Age-specific	Yes	Younger than 18	None	Not less than \$90	None	None	Yes unless windscreen/windshield	None specified
Delaware	Age-specific	No	Younger than 19	None	\$25-\$115	Not specified	None	Yes	None specified
District of Columbia	Universal	Included	All	None	\$25	None	None	Yes	None specified
Florida	Age and insurance-specific ¹⁹	Yes	Younger than 21	Persons age ≥ 16 in enclosed cabs or on a small motorcycle with speed capability of ≤ 30 mph	\$30 (plus \$18 court costs)	Not specified	None	Yes	None specified
Georgia	Universal	Yes	All	Persons riding in enclosed cabs or carts, or motorcycles with 3 wheels used for agricultural purposes	Not more than \$1000	Not specified	Not more than 12 months	Yes unless windshield	None specified
Hawaii	Age-specific	No	Younger than 18	Persons riding in 3 wheeled motorcycles with full-bodied enclosed cab, electric motor & seat belt/restrain system	Not more than \$1000	Not specified	None	Yes unless windscreen/windshield	No child under the age of 7 ²⁰
Idaho	Age-specific	Yes	Younger than 18	None	Not more than \$100	No	None	No	None specified

¹⁹ Persons who are over 21 years old may operate or ride on motorcycles without protective headgear provided they have at least \$10,000 in medical benefits for any injuries that they may sustain as a result of crash while riding on such motor vehicle.

²⁰ However, if such motorcycle or motor scooter has 3 wheels, is powered by an electric motor, has a full-bodied enclosed cab, and seat belt/child restraint systems in use, then a child under the age of 7 may be a passenger.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Illinois	None	N/A	N/A	N/A	N/A	N/A	N/A	Yes	None specified
Indiana	Age-specific	Yes	Younger than 18	None	Not more than \$500	4 points	None	Yes	None specified
Iowa	None	N/A	N/A	N/A	N/A	N/A	N/A	No	None specified
Kansas	Age-specific	Included	Younger than 18	Persons riding within an enclosed cab, golf cart or any cargo-type vehicle with 3 wheels	Not more than \$30/\$45 ²¹	Not specified	None	Yes unless windshield	None specified
Kentucky	Age and experience-specific ²²	Yes	Younger than 21	None	\$20-\$100	Not specified	None	Yes	None specified
Louisiana	Universal	No	All	Persons riding motorcycles with roofs; persons riding in a parade or other public exhibition	\$50	Not specified	None	Yes unless windshield	A child must be ≥ 5 yrs, and when riding in a car, must not be required to ride in a child safety seat
Maine	Age and experience-specific ²³	Included	Younger than 18	None	\$25-\$500	No	None	No	None specified
Maryland	Universal	Yes	All	Persons riding in enclosed cabs	Not more than \$500	No	None	Yes unless windshield	None specified

²¹ If a person pleads guilty or no contest, then a fine of not more than **\$30** (if in a manner accepted by the court) or **\$45** (if by personal check) as listed in the uniform fine schedule shall be imposed.

²² Any operator, regardless of age, who possesses a motorcycle instruction permit, must wear a helmet. Any operator, regardless of age, who possesses a motorcycle operator's permit for less than 1 year, must wear a helmet.

²³ Any operator, regardless of age, operating under a learner's permit or within one year of successfully completing a driving test, must wear a helmet; any passenger of an operator required to wear a helmet must also wear a helmet.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Massachusetts	Universal	No	All	None	Not more than \$35	Not specified	None	Yes unless windshield/windscreen	None specified
Michigan	Universal	No	All	None	Not listed	Not specified	None	Yes unless windshield	None specified
Minnesota	Age and experience-specific ²⁴	No	Younger than 18	Persons participating in a parade; persons in an enclosed cab	Not more than \$300	Not specified	None	Yes	Passenger's feet must reach the footrests
Mississippi	Universal	No	All	None	Not more than \$100	Not specified	Not more than 10 days	No	None specified
Missouri	Universal	Yes	All	None	Not more than \$25	No	None	No	None specified
Montana	Age-specific	Yes	Younger than 18	None	\$5	Not specified	None	No	During first 6 months, a restricted licensee may not operate with a passenger < 18 yrs
Nebraska	Universal	Yes	All	None	\$50	No	None	No	None specified
Nevada	Universal	Yes	All	Persons participating in a parade; persons in an enclosed cab	Not more than \$1000	2 points	Not more than 6 months	Yes unless windscreen	None specified

²⁴No person with a two-wheeled instruction permit shall drive a motorcycle without wearing State-approved protective headgear.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
New Hampshire	None ²⁵	N/A	N/A	N/A	N/A	Not specified	None	Yes unless windshield/windscreen	None specified
New Jersey	Universal	Yes	All	None	\$50-\$100	Not specified	None	Yes unless windscreen	None specified
New Mexico	Age-specific	No	Younger than 18	None	Not more than \$300	Not specified	Not more than 90 days	Yes unless windshield	None specified
New York	Universal	Yes	All	Persons riding in a parade or other public exhibition	Not more than \$100	Not specified	Not more than 30 days	Yes	None specified
North Carolina	Universal	Yes	All	None	\$25.50 (plus court costs)	No	None	No	None specified
North Dakota	Age-specific	No	Younger than 18	Persons riding in an enclosed cab or golf cart	Not more than \$500	2 points	None	No	None specified
Ohio	Age and experience-specific ²⁶	Yes	Younger than 18	None	Not more than \$150	No	None	Yes	None specified
Oklahoma	Age-specific	Yes	Younger than 18	None	\$5-\$500	Not specified	Not more than 10 days	Yes unless windshield	No driver under age 16 shall transport any passenger
Oregon	Universal	No	All	Persons riding in an enclosed cab or a vehicle with 3 wheels at a speed of < 15 mph or for religious beliefs/practices	Not more than \$90	Not specified	None	No	None specified

²⁵ Each motorcycle rider education student shall wear a helmet meeting FMVSS 218 requirements. A fine of not more than \$1000 is the sanction for this statute. **Note:** NH ST § 265:122 I states that no person under the age of 18 may drive or ride upon a motorcycle unless he wears State approved protective headgear. However, NH ST § 265:122 III states that “If [F]ederal law is altered so that the mandatory wearing of protective headgear on motorcycles by persons less than 18 years of age is not required as a condition to the receipt by the State of any [F]ederal funds, paragraphs I ...shall be void.” Given that the mandatory wearing of protective headgear on motorcycles by persons less than 18 years of age is not currently required as a condition to the receipt of State or Federal funds, for practical purposes protective headgear for motorcycle drivers or passengers is not mandatory.

²⁶No person, regardless of age, who holds a novice motorcycle operator’s license, shall operate or be a passenger on a motorcycle unless wearing an approved helmet. Additionally, any passenger shall wear an approved helmet if the operator is under the age of 18 or holds a novice motorcycle operator’s license.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Pennsylvania	Age, experience and training specific ²⁷	No	Younger than 21	An operator or occupant of a 3-wheeled motorcycle with an enclosed cab	\$25	Not specified	None	Yes	None specified
Puerto Rico	Universal	No	All	None	\$50	Not specified	None	Yes unless windshield	None specified
Rhode Island	Age and experience-specific ²⁸	No	Younger than 21	None	\$85	Not specified	None	Yes	None specified
South Carolina	Age-specific	No	Younger than 21	None	Not more than \$100	Not specified	Not more than 30 days	Yes unless windscreen	None specified
South Dakota	Age-specific	Yes	Younger than 18	Persons riding in an enclosed cab	Not more than \$500	Not specified	Not more than 30 days	Yes unless windscreen	None specified
Tennessee	Universal	Yes	All	Persons riding in an enclosed cab & golf carts; persons age \geq 18 riding in a parade not faster than 30 mph; fully enclosed motorcycles with 3 wheels	Not more than \$50	Not specified	Not more than 30 days	Yes unless windshield	None specified
Texas	Age, insurance, and training-specific ²⁹	Yes	Younger than 21	None	\$10-\$50	Not specified	None	No	Passenger must be at least 5 yrs old unless riding in an attached sidecar
Utah	Age-specific	Yes	Younger than 18	Persons riding in an enclosed cab	Not more than \$750	Not specified	Not more than 90 days	No	None specified

²⁷ Persons \geq 21 years who have completed a motorcycle rider safety course and persons \geq 21 who have been licensed to operate a motorcycle for at least 2 full calendar years are not required to wear a helmet. Passengers of motorcycle operators exempt from the helmet requirement are also exempt.

²⁸ A person, regardless of age, who has not been licensed for more than 1 year, must wear a helmet. Any passenger, regardless of age, must wear a helmet.

²⁹ Persons \geq 21 who have successfully completed a motorcycle safety course or are covered by health insurance providing \$10,000 in benefits are not required to wear a helmet.

State	Type of Helmet Use Law ¹⁵	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1 st Offense ¹⁶			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁷	Age Range	Exemptions	Fine	Points	Jail		
Vermont	Universal	Yes	All	None	Not more than \$100	Not specified	No	Yes unless windshield/windscreen	None specified
Virginia	Universal	Included	All	Persons riding a motorcycle with wheels 8” or less in diameter or 3 wheels with fixed roofs, windshields & enclosed bodies; persons riding in a parade ≤ 15 mph	Not more than \$250	Not specified	No	Yes unless windshield	None specified
Washington	Universal	Yes	All	None	\$42 (plus penalties of \$10, \$5, and \$2)	Not specified	No	Yes unless windshield	Passenger must be at least 5 yrs old
West Virginia	Universal	Included	All	None	Not more than \$100	Not specified	Not more than 10 days	Yes unless windshield/windscreen	None specified
Wisconsin	Age-specific	Yes	Younger than 18	None	\$10-\$200	No	None	Yes	None specified
Wyoming	Age-specific	No	Younger than 18	Persons riding in enclosed cabs or on mopeds; persons riding in a parade	Not more than \$200	Not specified	Not more than 20 days	No	None specified

STATE

General Reference:

ALABAMA

Code of Alabama

Required Use of Seat Belts:See note³⁰

Requirements:

Each front-seat occupant of a “passenger car” (a motor vehicle designed to carry 10 or fewer persons but does not include motorcycles or trailers) shall have a seat belt properly fastened about his/her body any time the vehicle is in motion. AL ST § 32-5B-2; AL ST § 32-5B-4.

Primary or Secondary Enforcement:

Primary Enforcement: A violation of this requirement does not constitute probable cause to search a vehicle. AL ST § 32-5B-5; AL ST § 32-5B-8(c).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: A fine of up to **\$25**. AL ST § 32-5B-5; 49 C.F.R. 392.16.³¹

Note: A violation of this requirement is not to be entered on the driving record of the vehicle operator. AL ST § 32-5B-7. No court costs can be assessed for a violation of this requirement. Any fine given is allocated to the Department of Public Safety and the general fund. AL ST § 32-5B-8.

Effect on Civil Liability:

Failure to wear a seat belt shall not be considered as evidence of contributory negligence and shall not limit the liability of an insurer. AL ST § 32-5B-7.

Required Use of Child Safety Restraint Systems:

Requirements:

Every person who is transporting a child younger than 6 years old in a motor vehicle that is registered in this State shall properly restrain such child in a child passenger restraint system that meets Federal standards, as follows:

- I. Until age 1 or 20 lbs. = rear-facing child restraint;
- II. Until age 5 or 40 lbs. = forward-facing child restraint;
- III. Booster seats until age 6.³² AL ST § 32-5-222(b).

³⁰ **Exemptions:** The following are exempt from the seat belt requirement: (1) children who are required to be in a child passenger restraint system; (2) persons who for medical reasons are unable to use a seat belt; (3) rural letter carriers while on official duty with the U.S. Postal Service; (4) a person (driver or passenger) who is delivering newspapers or mail; (5) passengers riding in vehicles with a model year prior to 1965; and (6) passengers riding in motor vehicles which normally operate in reverse. AL ST § 32-5B-4(b).

³¹ Alabama Rules of Judicial Administration (ARJA), Rule 20, App. B refers to 49 C.F.R. 392.16 for the Alabama Supreme Court’s Extended Schedule of Fines.

³² For children who are 4 or 5 years old, a "child passenger restraint system" that meets Federal standards is defined by statute to include seat belts that have been installed in the motor vehicle. AL ST § 32-5-222(a).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Misdemeanor:** A fine of **\$25** for each offense may be imposed. Additionally, for a first offense, 1 point shall be assessed. Two points shall be assessed for a second or subsequent offense. AL ST § 32-5-222(d), (g).

Effect on Civil Liability: I. In no event shall the failure to wear a child passenger restraint system be considered as contributory negligence. AL ST § 32-5-222(a).
II. AL ST § 32-5-222 does not create a duty or standard of care, right or liability between a parent and a child, not already recognized under the laws of Alabama. AL ST § 32-5-222(c).

Required Use of Safety Restraining Systems on School Buses:

Requirements: See note³³
I. No school bus shall be operated on a public street, highway or elsewhere unless it shall be equipped with a seat belt for the driver. AL ST § 16-27-6(a).
II. The driver of a school bus while transporting students on a public street or highway shall wear a seat belt when the bus is in motion. AL ST § 16-27-6(b).

Sanctions: There is no misdemeanor sanction set out. However, the failure of a bus driver to comply with the seat belt requirement shall be prima facie evidence of nonfeasance of duty and shall subject the driver to possible dismissal. Additionally, said failure shall constitute a breach of contract on the part of the school bus contract operator. AL ST § 16-27-6(b), (c).

Required Use of Motorcycle Protective Headgear:

Requirements: No person shall operate or ride upon a motorcycle or motor-driven cycle unless he/she is wearing protective headgear that complies with State law.³⁴ AL ST § 32-5A-245; AL ST § 32-12-41.

Sanctions for Failure to Use: **I. Misdemeanor:**
First offense - Imprisonment for not more than **10 days** or a fine of not more than **\$100**.
Second offense (within one year after the date of the first offense) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$200**.
Third or subsequent offense (within one year after the date of the first offense) - Imprisonment for not more than **3 months** and/or a fine of not more than **\$500**.

³³ There is no requirement for school buses to be equipped with seat belts for student passengers. See, e.g., *Dentson v. Eddins & Lee Bus Sales, Inc.*, 491 So.2d 942 (Ala. 1986) (holding that the requirement of seat belts for school bus drivers implies that the Alabama Legislature intended to exclude the seat belt requirement for student passengers).

³⁴ This requirement does not apply to persons who are riding in an enclosed cab. AL ST § 32-5A-245(c).

AL ST § 32-5A-8(a), (b).

II. Even though the law does not specifically authorize licensing action for this offense, an offender may be subject to such action. In general, for a traffic law violation, the courts are authorized to issue an order that forbids a person from operating a motor vehicle for either an established period of time or perpetually.

AL ST § 32-5-316.

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions **None**

Required Use of Bicycle Protective Headgear:

Requirements: A person age 16 years old or younger who operates or rides on a bicycle must wear a protective bicycle helmet. AL ST § 32-5A-283(1).

Sanctions for Failure to Use: First offense - A police officer shall: (1) counsel and provide the offender with written information on bicycle helmet safety; and (2) instruct the offender to deliver the information to a parent. AL ST § 32-5A-285(1).
Second offense - A police officer shall counsel and provide the offender with written information on bicycle helmet safety. In addition, a warning citation shall be issued to the offender who is to give such citation to his/her parent. The citation instructs the parent (or guardian) to contact the police for information about the bicycle helmet law and where to obtain a bicycle safety helmet. AL ST § 32-5A-285(2).
Third offense - A police officer shall counsel the offender, confiscate the bicycle, and take the offender to his/her residence. A warning citation shall be issued to either the parent or guardian. If such person is not available, the citation shall be left at the residence with instructions to pick up the bicycle at the police station. AL ST § 32-5A-285(3).
Fourth offense - The bicycle shall be confiscated and the offender taken to his/her residence. A parent or guardian is subject to a fine of **\$50**.³⁵ There are no court costs or fees for this offense. AL ST § 32-5A-285(4).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

³⁵ The fine or penalty is waived or suspended if the operator or passenger presents proof of purchase of a bicycle safety helmet along with an intention of using such device. AL ST § 32-5A-285(4). **Note:** Fines collected for this offense are only to be used to fund local school system safety education programs or the purchase of bicycle helmets for persons who are financially disadvantaged. AL ST § 32-5A-285(5).

STATE

General Reference:

ALASKA

Alaska Statutes

Alaska Administrative Code (AK ADC)

Required Use of Seat Belts:See note³⁶

Requirements:

I. A person may not operate a motor vehicle unless he is restrained by a seat belt. AK ST § 28.05.095(a)(2).
 II. A person age 16 or older may not occupy a motor vehicle while being driven on a highway unless restrained by a seat belt. AK ST § 28.05.095(a)(1).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer cannot stop or detain a motor vehicle to determine compliance with the seat belt requirement above unless the officer has probable cause³⁷ to stop or detain the motor vehicle. AK ST § 28.05.095(e).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Infraction: A fine of up to **\$15**.³⁸
 AK ST § 28.05.099(a).

Effect on Civil Liability:

No statutory provision.³⁹Required Use of Child SafetyRestraint Systems:

Requirements:

I. A child less than one year old or a child one year old or older who weighs less than 20 lbs., shall be secured in a rear-facing child safety seat. AK ST § 28.05.095(b)(1).
 II. A child between 1 and 5 years old who weighs 20 lbs., or more shall be secured in a child restraint device.
 AK ST § 28.05.095(b)(2).
 III. A child over 4 years old but less than 8 who is less than 57 inches in height and weighs 20 lbs., or more but less than 65 lbs., shall be restrained in a booster seat.
 AK ST § 28.05.095(b)(3).
 IV. A child over 4 years of age, exceeding 57 inches in height and 64 lbs., shall be secured in a seat belt. AK ST § 28.05.095(b)(4).
 V. A child between 8 and 15 years old who is less than 57 inches in height and less than 65 lbs., shall be secured in a child safety device

³⁶ **Exemptions:** The use of either seat belts or child passenger safety devices does not apply to: (1) passengers in school buses unless such buses are required by the U.S. Department of Transportation to have such belts for passengers; (2) vehicle operators who are either delivering mail or newspapers; (3) persons or classes of persons who have been exempted via regulations because of either physical or medical reasons; and (4) persons riding in motor vehicles that are not required to have seat belts. AK ST § 28.05.095(c); AK ST § 28.05.096(a).

³⁷ See *Russell v. Anchorage*, 706 P.2d 687, 689 (Alaska App. 1985) (defining “probable cause” as a situation in which the facts and circumstances are sufficient in themselves to warrant a prudent person to believe an offense has been committed or is being committed).

³⁸ The court may waive the fine if the offender donates \$15 to the emergency medical services entity that provides services in the area where the violation occurred. AK ST § 28.05.099(a).

³⁹ The failure to use a seat belt is a relevant factor for apportioning damages when looking at comparative negligence. However, such evidence is not categorized as a “seat belt defense.” *Hutchins v. Schwartz*, 724 P.2d 1194, 1199 (Alaska 1986).

as determined by the driver.
AK ST § 28.05.095(b)(5).

Sanctions for Failure to Require
the Use of Child Restraint
Systems:

Infraction: A fine up to \$50.⁴⁰ AK ST § 28.05.099(b).
Licensing action: For a violation of II above, a person may be
assessed demerit points against his/her driving record.⁴¹ AK ST §
28.05.099(b).

Effect on Civil Liability:

No statutory provision.

Required Use of Safety Restraining
Systems on School Buses:

Requirements:

The requirement to use seat belts and child safety devices does not
apply to passengers in a school bus unless the school bus is required
to be equipped with seat belts by Federal law. AK ST §
28.05.095(c).

The decision whether to equip school buses with seat belts and/or
child safety devices is left to the State's Department of Education,
which shall follow the requirements of the U.S. Department of
Transportation.
AK ST § 14.09.030(b).

Sanctions:

See Sanctions for Failure to Require the Use of Child Restraint
Systems.

Required Use of Motorcycle
Protective Headgear:

Requirements:

Except as provided by statute, a person operating or riding upon a
motorcycle or motor-driven cycle upon a public roadway must wear
protective headgear. 13 AK ADC 04.350. The Alaska statute
provides that a person 18 years of age or older may not be required
to wear a helmet while operating a motorcycle if the person is a
holder of a license or endorsement to operate a motorcycle. AK ST
§ 28.35.245.

Protective headgear must comply with standards of the United
States National Standard Institute, Federal Motor Vehicle Safety
Standard No. 218, or must be approved by the Snell Memorial
Foundation, Underwriter Laboratories, Factory Mutual, U.S. DOT,
or a foreign compatible testing authority. 13 AK ADC 04.350(a).

⁴⁰ If the offender provides an officer proof of purchase or acquisition, and installation, of an approved child safety device or seat belt within 30 days after the issuance of the citation, the court shall dismiss the citation and no points shall be assessed unless: (1) the person has been convicted previously for violation; (2) the person has been cited for failure to provide a child safety device or seat belt and has forfeited bail required by the citation; or (3) provided proof under the code section on a prior occasion. AK ST § 28.05.099(b).

⁴¹ The traffic violations demerit point system has been repealed. See 13 AK ADC 08.210. However, a person convicted of AK ST § 28.05.099(b) may be assessed demerit points as determined by regulations of the Department of Public Safety. There is no point schedule, however, to determine the number of points that may be assessed.

Sanctions for Failure to Use: **Infraction:** A fine not to exceed **\$300**. AK ST § 28.90.010(c).

Required Use of Motorcycle Eye Protection Device:

Requirements: A person operating a motorcycle must wear an eye-protection device that complies with nationally recognized standards. This requirement does not apply if the motorcycle is equipped with either a windscreen or a windshield. AK ST § 28.05.011; 13 AK ADC 04.350(b).

Sanctions for Failure to Use: **Infraction:** A fine of not more than **\$300**. AK ST § 28.90.010(c).

Passenger Age Restrictions **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person may ride on an outside part of a vehicle traveling upon a highway unless that part is specifically designed to carry a passenger when the vehicle is in motion. 13 AK ADC 02.495(e).

STATE

General Reference:

ARIZONAArizona Revised Statutes Annotated
Arizona Administrative Code (AZ ADC)Required Use of Seat Belts:See note⁴²

Requirements:

I. A front seat occupant of a motor vehicle⁴³ is required to use either lap or lap and shoulder belt combination while the vehicle is in motion. AZ ST § 28-909(A).

II. A driver must insure that front-seat passengers younger than 16 years old comply with the above requirement. AZ ST § 28-909(B).

Primary or Secondary Enforcement:

Secondary Enforcement: A law enforcement officer shall not stop or issue a citation for a violation of this requirement unless the vehicle was stopped for some other motor vehicle law violation. AZ ST § 28-909(C).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Penalty: A maximum fine of **\$10**⁴⁴ for each violation. § AZ ST 28-909(G). **Note:** A violation of this requirement cannot be used as a basis for suspending or revoking an offender's driving privileges. AZ ST § 28-909(D).

Effect on Civil Liability:

No statutory provision.⁴⁵Required Use of Child Safety Restraint Systems:See note.⁴⁶

Requirements:

A person transporting a child, who is younger than 5 years old, must restrain such child in a federally approved child passenger restraint system. AZ ST § 28-907(A), (B).

Sanctions for Failure to Require

Civil Penalty: A fine of **\$50**.⁴⁷ AZ ST § 28-907(C).

⁴² **Exemptions:** The requirement does not apply to: (1) children who are subject to being restrained by a child safety seat; (2) persons who are unable for physical or psychological reasons to wear a shoulder or lap belt and possessing a written statement from a physician; and (3) letter carriers of the U.S. Postal Service while on official duties. AZ ST § 28-909(F).

⁴³ This requirement applies to persons operating or riding in motor vehicles that: (1) are designed to carry 10 or fewer persons; (2) were manufactured for the 1972 model year and after; and (3) must be equipped with seat belts under Federal law. AZ ST § 28-909(A).

⁴⁴ An offender is also subject to an assessment in the amount of 47% on the fine, penalty and forfeiture imposed and collected by the courts for criminal offenses and any civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a violation of a motor vehicle statute. An additional penalty assessment shall be levied in the amount of 7%, and 13%. AZ ST § 12-116.01; AZ ST § 12-116.02.

⁴⁵ The Arizona Supreme Court held that failure to use a seat belt can be considered in whether to apportion damages in automobile accident injury situations. Under certain circumstances, the award of damages can be reduced if the persons seeking damages have failed to use seat belts. *Law v. Superior Court*, 755 P.2d 1135 (Ariz. 1988).

⁴⁶ **Exemptions:** A motor vehicle operator does not have to comply with the mandatory child restraint provisions under the following circumstances: (1) the operator is driving a vehicle that was not manufactured with passenger restraint systems; (2) the operator is driving a recreational vehicle defined in AZ ST § 41-2142; (3) the operator is driving a commercial motor vehicle; (4) a person is transporting a child in an emergency in order to obtain medical care; and (5) due to the size of the passenger compartment of the vehicle, the operator cannot secure all of the children who must be restrained. However, the operator must restrain at least one such child and must restrain as many such children as is possible under the conditions. AZ ST § 28-907(G).

the Use of Child Restraint
Systems:

Effect on Civil Liability: The requirements of the child safety law or evidence of a violation are not admissible as evidence in a judicial proceeding except in a judicial proceeding for a violation of the child safety law. AZ ST § 28-907(F).

Required Use of Safety Restraining
Systems on School Buses:

Requirements: While there are no specific statutory provisions requiring school bus drivers and student passengers to wear safety devices, AZ ST § 28-900 provides for the adoption of rules by the Departments of Administration and Public Safety to improve the safety of school bus passengers. Additionally, all school buses shall have installed a seat belt for a school bus driver. AZ ADC R17-9-107(25).

Required Use of Motorcycle
Protective Headgear:

Requirements: A person who is younger than 18 years shall not operate or ride on a motorcycle unless that person wears a protective helmet. AZ ST § 28-964(A).

Sanctions for Failure to Use: **Civil Penalty:** Not more than **\$250**. AZ ST § 28-121(B); AZ ST § 28-1521; AZ ST § 28-1598.⁴⁸
A person's failure to wear a protective helmet can be admitted into evidence to reduce the amount of damages such person will be awarded as a result of injuries sustained in a traffic accident. However, it must be shown that such failure contributed to the person's injuries. See *Warfel v. Cheney*, 758 P.2d 1326 (Ariz. App. 1988).

Required Use of Motorcycle Eye
Protection Device:

Requirements: A person operating a motorcycle shall wear an eye protection device (e.g., glasses, goggles, transparent face shield, etc.) unless the motorcycle is equipped with a protective windshield. AZ ST § 28-964(A).

Sanctions for Failure to Use: **Civil Penalty:** Not more than **\$250**. AZ ST § 28-121(B); AZ ST § 28-1521; AZ ST § 28-1598.

⁴⁷ A civil penalty shall not be imposed if the person makes a sufficient showing that the motor vehicle has been subsequently equipped with a child passenger restraint system that meets the standards adopted pursuant to AZ ST § 28-907(C). "Sufficient showing" may include a receipt mailed to the appropriate court officer that evidences purchase or acquisition of a child passenger restraint system. The court imposing and collecting the civil penalty shall deposit the monies (exclusive of any assessments imposed by AZ ST § 12-116.01; AZ ST § 12-116.02), in the child passenger restraint fund. AZ ST § 28-907(C).

⁴⁸ This requirement does not apply to operators or passengers riding within an enclosed cab or motorized cart or to persons who are operating a three-wheeled motorcycle used only for agricultural purposes.

Passenger Age Restrictions **None**

Required Use of Bicycle Protective
Headgear:
 Requirements: **None**

Prohibition Against Riding in
Unsecured Portion of Vehicle:
 Requirements: **None**

STATE

ARKANSAS

General Reference:

Arkansas Code Annotated

Required Use of Seat Belts:

See note.⁴⁹

Requirements:

When a motor vehicle⁵⁰ is in operation,⁵¹ every driver and front seat passenger shall wear a properly adjusted and fastened seat belt.⁵² AR ST § 27-37-702(a).⁵³

Primary or Secondary Enforcement:

Primary Enforcement⁵⁴

Sanctions for Failure to Use or Require the Use of Seat Belts:

Violation:⁵⁵ A fine of not more than **\$25**.⁵⁶ AR ST § 27-37-706(a). The State shall not include a violation of this requirement in a traffic report. AR ST § 27-37-707.

Effect on Civil Liability:

The failure to wear a seat belt cannot be admitted into evidence at a civil action except in limited product liability cases. AR ST § 27-37-703.

⁴⁹ **Exemptions:** The requirement to use a seat belt does not apply in the following situations: (1) to passenger automobiles manufactured prior to January 1, 1968, and to all other vehicles manufactured prior to January 1, 1972; (2) to passengers and drivers who have a physical condition that would make the use of a seat belt inappropriate, so long as that physical condition is certified by a physician who states the nature of the disability along with the reason the use of a seat belt is inappropriate; (3) to children who are properly restrained under the child passenger protection act, Section 27-34-101 et seq.; and (4) to drivers who are rural letter carriers for the United States Postal Service, carrying out their official duties. AR ST § 27-37-702(b).

⁵⁰ For purposes of seat belt usage, a “motor vehicle” means any motor vehicle except a school bus, church bus, or other public conveyance which is required by Federal law or regulation to be equipped with a passenger restraint system. AR ST § 27-37-701(1).

⁵¹ Every driver who transports a child under 15 years of age in a passenger automobile, van, or pickup truck, other than one operated for hire, which is registered in this or any other State, shall provide, while the motor vehicle is in motion and operated on a public road, street, or highway of this State, for the protection of the child by properly placing, maintaining, and securing the child in a child passenger restraint system properly secured to the vehicle and meeting applicable Federal motor vehicle safety standards in effect on January 1, 1995. AR ST § 27-34-104 (a).

⁵² Any motor vehicle passenger who is riding with a person holding an instruction permit must be secured in a seat belt. AR ST § 27-16-802(a)(4). A person who violates this provision is subject to the following general misdemeanor sanctions for violating the motor vehicle laws: a fine of not more than **\$500**, or jail for not more than **90 days**. AR ST § 27-16-301.

⁵³ This includes each driver or passenger who is seated in a wheelchair who must : (1) wear a properly adjusted and fastened seat belt properly secured to the wheelchair; and (2) have the wheelchair properly secured in the motor vehicle. AR ST § 27-37-702 (c)(1), (2).

⁵⁴ On June 30, 2009, the Arkansas General Assembly repealed the secondary enforcement law, formerly codified as AR ST § 27-37-704. The Assembly found that a primary enforcement law would increase the use of seat belts by motorists, save lives, prevent injuries, and increase the State’s entitlement to receive Federal grant funds. Arkansas 2009 Session Laws 87th General Assembly, Regular Session, Act 308, S.B. 78. These findings, however, have not been codified.

⁵⁵ The offense would normally be considered a misdemeanor under AR ST § 27-37-101. However, Criminal Code, Title 5, provides that, if an offense is punishable by only a fine, it is classified as a violation. AR ST § 5-1-105(b)(3); AR ST § 5-1-108(b).

⁵⁶ No court or other costs can be assessed. AR ST § 27-37-706(b). **Note:** A fine for a moving violation is reduced by \$10 if the offender was in compliance with the seat belt use law when stopped by a law enforcement officer. AR ST § 27-37-705.

Required Use of Child Safety Restraint Systems:

See note.⁵⁷

Requirements:

A driver who transports a child younger than 6 years old and less than 60 pounds in a passenger automobile, van, or pickup truck (other than one operated for hire) shall secure such child in a child passenger safety seat. AR ST § 27-34-104(b).

A driver who transports a child at least 6 years of age or who weighs at least 60 lbs., must secure such child in a seat belt. AR ST § 27-34-104(c).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Violation: A fine of not less than \$25 or more than \$100. AR ST § 27-34-103(a).

Effect on Civil Liability:

The failure to provide or use a child passenger safety seat shall not be considered, under any circumstances, as evidence of comparative or contributory negligence, nor shall the failure to provide or use a child safety seat be considered, under any circumstances, as evidence for any prosecution for negligent homicide. AR ST § 27-34-106.⁵⁸

Required Use of Safety Restraining Systems on School Buses:

Requirements:

The driver or operator of a school bus shall wear a seat belt at all times while operating the school bus whenever the bus is so equipped. AR ST § 6-19-109.

There are no specific statutory provisions for the use of seat belts for student passengers.

Sanctions:

There are no specific sanctions for the failure of a school bus driver to wear a seat belt. However, it would seem logical that such driver would be subject to the same sanctions set out in the seat belt provisions above.

Required Use of Motorcycle Protective Headgear:

Requirements:

All motorcycle passengers and riders younger than 21 years old “shall be equipped” with protective headgear. AR ST § 27-20-104(b)(1).

⁵⁷ **Exemptions:** A driver does not have to comply with the child safety seat requirement under the following circumstances: (1) the motor vehicle is being used as an ambulance or other emergency vehicle; (2) an emergency exists that threatens the life of either the driver or child; or (3) because of medical reasons, the child is unable to be restrained. AR ST § 27-34-105.

⁵⁸ The U.S. Court of Appeals for the 8th Circuit interpreted AR § 27-34-106 as also precluding the admission of evidence concerning the mitigation of damages. *Potts v. Benjamin*, 882 F.2d 1320, 1324-25 (8th Cir. 1989).

Sanctions for Failure to Use: **Misdemeanor:** Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** or more than **\$50**. AR ST § 27-20-102.

Required Use of Motorcycle Eye Protection Device:

Requirements: All motorcycle passengers and riders (regardless of age) “shall be equipped” with protective glasses, goggles or transparent face shields. AR ST § 27-20-104(b)(2).

Sanctions for Failure to Use: **Misdemeanor:** Imprisonment for not more than **30 days** and/or a fine of not less than **\$10** or more than **\$50**. AR ST § 27-20-102.

Passenger Age Restrictions

It is unlawful for a driver of a motorcycle to allow a child to ride as a passenger on a motorcycle on a street or highway unless the child is at least 8 years old. However, this shall not apply to the driver of a motorcycle who is a participant in a parade. AR ST § 27-20-118.

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall ride upon any portion of a vehicle that is not designed or intended for the use of passengers. AR ST § 27-35-104(a).

Sanctions for a Violation: **Misdemeanor:**
First offense - Imprisonment for not more than **10 days** or a fine of not more than **\$100**.
Second offense (within 1 year) - Imprisonment for not more than **20 days** and/or a fine of not more than **\$200**.
Third or subsequent offense (within 1 year) - Imprisonment for not more than **6 months** and/or a fine of not more than **\$500**.
 AR ST § 27-35-101; AR ST § 27-50-304(b).

Exemptions: This requirement does not apply to employees engaged in the discharge of official duties or persons riding within bodies of trucks in a space intended for merchandise. AR ST § 27-35-104(b).

STATE

General Reference:

CALIFORNIAWest's Annotated California Codes
California Code of Regulations (CA ADC)Required Use of Seat Belts:See note.⁵⁹

Requirements:

I. A person shall not operate a motor vehicle⁶⁰ unless such person and all passengers 16 years old and younger are properly restrained by a seat belt. CA Vehicle Code § 27315(d)(1).⁶¹Primary or Secondary
Enforcement:**Primary Enforcement:** There is no statutory provision.⁶²Sanctions for Failure to Use or
Require the Use of Seat Belts:**Infraction:**First offense - A fine of not more than **\$20**;Subsequent offense - A fine of not more than **\$50**.

CA Vehicle Code § 27315(h).

In lieu of the above fine, a first offender may be ordered to attend traffic school in which the proper use of seat belts is demonstrated. CA Vehicle Code § 27315(h).**Note:** No points are assigned for a violation of these requirements. CA Vehicle Code § 12810.2.

Effect on Civil Liability:

A violation does not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation. CA Vehicle Code § 27315(i).

⁵⁹ **Exemptions:** The requirement to use a seat belt does not apply to: (1) passengers older than 16 years old who are using a “sleeper berth”; (2) an operator or passenger possessing certification by a licensed physician, surgeon or chiropractor which states the nature of the physically disabling or medical condition and the reason the restraint is inappropriate; (3) a public employee, when in an authorized emergency vehicle, or to a passenger in a seat behind the front seat of an authorized emergency vehicle operated by the public employee, unless required by the employing agency; (4) a person actually engaged in delivery of newspapers to customers at that time and along the person’s route; (5) a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service; (6) a driver actually engaged in the collection of solid waste or recyclable materials along that driver’s collection route. CA Vehicle Code § 27315(e),(g),(m),(n),(o). **Note:** The law does not provide for a specific exemption for persons riding in motor vehicles that are not required to be equipped with seat belts under Federal law. Additionally, the law does not require the installation of seat belts on vehicles that are not required to be equipped with such belts under Federal law. CA Vehicle Code § 27315(f). However, State law requires that used vehicles manufactured on or after January 1, 1962, cannot be sold unless the vehicle is equipped with at least two seatbelts for the use of persons riding in the front seat. CA Vehicle Code § 27314(a). State law also requires that used vehicles manufactured on or after January 1, 1968, cannot be sold unless the vehicle is equipped with seatbelts for each seating position. CA Vehicle Code § 27314(b).

⁶⁰ “Motor vehicle” means any passenger vehicle, motor truck, truck tractor or farm labor vehicle. However, the term does not include a motorcycle. CA Vehicle Code § 27315(c).

⁶¹ CA Vehicle Code § 27315(d)(1) does not apply to the operator of a taxicab when it is driven on a city street and is engaged in the transportation of a fare-paying passenger.

⁶² See *Hupp v. City of Walnut Creek*, 389 F.Supp.2d 1229 (N.D. Cal. 2005)(holding that an officer may lawfully stop a vehicle for a violation of the seat belt law).

Required Use of Child Safety Restraint Systems:

See note⁶³

Requirements:

I. No child under age 6 or less than 60 lbs., shall be transported in a motor vehicle unless such child is properly restrained in a rear seat in a federally approved child restraint system.

Note: When the parent or guardian is present in the vehicle and is not the driver, the driver is relieved of this obligation. CA Vehicle Code § 27360(a), (b).⁶⁴

II. The operator of a limousine for hire or the operator of an authorized emergency vehicle shall not operate such vehicle unless the operator and front seat passengers who are 6 years old and older or who weigh at least 60 lbs., are restrained by seat belts.

CA Vehicle Code § 27315(d)(2).

III. No person shall operate a taxicab unless front-seat passengers who are 6 years old and older or who weigh at least 60 lbs., are restrained by seat belts.

CA Vehicle Code § 27315(d)(3).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Infraction:

First offense - A fine of **\$100**;⁶⁵

Second or subsequent offense - A fine of **\$250**. CA Vehicle Code § 27360(d)(1), (2).

For either a first or subsequent offense, a person's driving record will be assessed 1 point. CA Vehicle Code § 12810(h).

Effect on Civil Liability:

No provisions

Required Use of Safety Restraining Systems on School Buses:

See note.⁶⁶

⁶³ **Exemptions:** A child under the age of six years old who weighs less than 60 pounds may ride in the front seat only if such child is secured in a federally approved child passenger restraint system, and: (1) there is no rear seat; (2) the rear seats are side-facing jump seats; (3) the child passenger restraint system cannot be installed properly in the rear seat; (4) all rear seats are occupied by children under the age 12; or (5) medical reasons necessitate that the child not ride in the rear seat. CA Vehicle Code § 27360(c).

Further, under no circumstance may a child ride in a front seat with an active passenger air bag if the child is: (1) under one year of age; (2) less than 20 pounds; or (3) riding in a rear-facing child passenger restraint system.

⁶⁴ The provisions above also apply to children who are between the ages of 6-16 years old, or children younger than 6 years old but weighing 60 pounds or more. In these circumstances, however, there is no requirement that such child sit in a rear seat.

⁶⁵ A court may waive or reduce the fine if the defendant establishes that he/she is economically disadvantaged, and the court, instead, refers the defendant to a community education program, located within 50 miles of the defendant's residence, that includes education on the proper installation and use of a child passenger restraint system for children of all ages, or demonstration of proper installation and use of a child passenger restraint system, and certification of completion of the program to the court. The defendant must provide proof of participation. The court shall report the conviction to the Department of Motor Vehicles if the fine is paid, reduced or waived. CA Vehicle Code § 27360(d).

⁶⁶ **Exemption:** A passenger with a physically disabling condition or medical condition which would prevent the appropriate use of a passenger restraint is exempt from this requirement so long as the condition is certified by a

Requirements: I. All school buses manufactured on or after July 1, 2005 (for 16 passenger buses) or manufactured on or after July 1, 2004 (for less-than-16 passenger buses) and purchased or leased for use in the State shall be equipped with federally approved seat belts, consisting of a combination pelvic and upper torso passenger restraint system, for all seating positions. CA Vehicle Code § 27316; CA Vehicle Code § 27316.5; CA Education Code § 38047.5.

II. All passengers in a school bus or school pupil activity bus equipped with passenger restraint systems shall use the passenger restraint system when the bus is in motion. CA Education Code § 38047.5; CA Education Code § 38047.6; 5 CA ADC § 14105.

Sanctions: The sanctions for failure to use or require the use would likely be those described above. However, no person, district or organization may be charged with a violation of failing to require the use of a passenger restraint system, if a passenger on a school pupil activity bus⁶⁷ fails to use or improperly uses the passenger restraint system. CA Vehicle Code § 27316.5.

Required Use of Motorcycle Protective Headgear:

Requirements: When riding on a motorcycle, a driver or passenger must wear a safety helmet meeting national standards. CA Vehicle Code § 27803.

The California Highway Patrol may adopt reasonable regulations establishing specifications and standards for safety helmets. The regulations shall include, but are not limited to, the requirements imposed by Federal Motor Vehicle Safety Standard No. 218.

Sanctions for Failure to Use: **Infraction:**
First offense - A fine of not more than **\$100**;
Second offense (within 1 year) - A fine of not more than **\$200**;
Third and subsequent offense (within 1 year) - A fine of not more than **\$250**. CA Vehicle Code § 42001(a). No points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

licensed physician or licensed chiropractor stating the nature of the condition and reason restraint is inappropriate. 5 CA ADC § 14105(e).

⁶⁷ A “school pupil activity bus” is defined as any motor vehicle, other than a school bus, operated under a contractual agreement between a school and a carrier to transport school pupils at or below the 12th grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult is present to accept the pupil or place the pupil on the bus. CA Education Code § 39830.1.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: A person younger than 18 years old shall not operate or ride on a bicycle unless wearing a bicycle helmet that complies with national standards. CA Vehicle Code § 21212(a).

Sanctions for Failure to Use: **Infraction:**
First offense - There is **no fine**;
Subsequent offense - A fine of not more than **\$25**.
 CA Vehicle Code § 21212(d), (e).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. No person shall ride on a vehicle or upon any part of a vehicle that is not designed or intended for passenger use, and no vehicle operator shall knowingly permit a person to ride upon any part of a vehicle that is not designed or intended for passenger use. CA Vehicle Code § 21712(a), (b).
 II. No person shall ride in the trunk of a motor vehicle, and no vehicle operator shall knowingly permit a person to ride in the trunk of that motor vehicle. CA Vehicle Code § 21712(c), (d).
 III. No person driving a pickup truck or flatbed motor truck shall transport a person in or on the back thereof unless the passenger is restrained by a federally approved restraint system. CA Vehicle Code § 23116(a), (c).
 IV. No person shall ride in or on the back of a pickup truck or flatbed motor truck on a highway unless they are restrained by a federally approved restraint system. CA Vehicle Code § 23116(a),(b),(c).

Sanctions for a Violation: **Infraction:**
For I: First offense - A fine of not more than **\$100**;
Second offense (within 1 year) - A fine of not more than **\$200**;
Third or subsequent offense (within 1 year) - A fine of not more than **\$250**.
 CA Vehicle Code § 42001(a).

For II, III & IV:
First offense - A fine of **\$100**;
Second offense (within 1 year) - A fine of **\$200**;
Third or subsequent offense (within 1 year) - A fine of **\$250**.
 CA Vehicle Code § 21712(e).

Exemptions: I. The prohibitions contained in CA Vehicle Code § 21712(a), (b) do not apply in situations where a passenger is either an employee discharging duties or riding completely within or upon vehicle

body. CA Vehicle Code § 21712(c).

II. The prohibitions contained in CA Vehicle Code § 23116(a), (b) do not apply if a person is being transported in the back of the vehicle that is: (1) owned by a rancher/farmer within the boundaries of lands owned by the rancher/farmer or on a highway for not more than 1 mile between parts of the ranch/farm; (2) a result of an emergency situation and at the direction of a public agency; and (3) part of an authorized parade at a speed of no greater than 8 mph. CA Vehicle Code § 23116(d),(e),(f).

STATE

COLORADO

General Reference:

Colorado Revised Statutes

Required Use of Seat Belts:

See note.⁶⁸

Requirements:

See note.⁶⁹

I. A driver and front seat passengers of a motor vehicle⁷⁰ shall wear a seat belt while the vehicle is being operated. CO ST § 42-4-237(2).

Primary or Secondary Enforcement:

Secondary Enforcement: A law enforcement officer cannot cite a driver for a violation of section I above, unless the driver was stopped for some other traffic law violation. CO ST § 42-4-237(5).

Sanctions for Failure to Use or Require the Use of Seat Belts:

A violation of I above is a **Class B Traffic Infraction**, however a fine of **\$65** and a surcharge of **\$6** shall be imposed.⁷¹ CO ST § 42-4-237(4); CO ST § 42-4-1701(4)(a)(I)(D).

Effect on Civil Liability:

Evidence of a failure to wear a seat belt in violation of I above shall be admissible to mitigate damages. However, such mitigation is limited only to awards for pain and suffering. CO ST § 42-4-237(7).

Required Use of Child Safety

See note.⁷²

⁶⁸ **Exemptions:** This requirement does not apply to the following: (1) a child who must be restrained according to CO ST § 42-4-236; (2) a member of an ambulance team, except the driver, when involved in patient care; (3) certain law enforcement officers when performing official duties; (4) persons with physically or psychologically disabling conditions which prevent appropriate restraint by a safety system (such persons must possess a written statement by a physician certifying the condition and the reason such restraint is inappropriate); (5) persons riding in motor vehicles that do not have seat belts because such vehicles are exempt from having such equipment; (6) rural letter carriers of the U.S. Postal Service while performing official duties; and (7) persons who are actually performing delivery or pickup services. CO ST § 42-4-237(3).

⁶⁹ **Vehicles Driven by Persons Under 18 Years Old: I.** Under separate statutory provisions, occupants of a vehicle driven by a person younger than 18 years old shall wear a seat belt under CO ST § 42-4-237 or be secured in a child restraint system under CO ST § 42-4-236. CO ST § 42-2-105.5(3). A violation of this requirement constitutes a Class A traffic infraction, for which the offender shall be punished in the following manner: (1) by the imposition of not less than 8 hours nor more than 24 hours of community service for the first offense, and not less than 16 hours nor more than 40 hours for any subsequent offense; (2) a fine of **\$65** for the first offense, **\$130** for the second offense, and **\$195** for any subsequent offense; (3) 2 points will be assessed against the offender’s driving record. CO ST § 42-2-105.5(5)(b); CO ST § 42-2-127(5)(hh). **II.** In vehicles driven by persons under the age of 18, only one passenger may occupy the front seat and the number of rear-seat passengers cannot exceed the number of available seat belts. CO ST § 42-2-105.5(4). A violation of this requirement subjects the offender to a fine of **\$65** and a surcharge of **\$10**. CO ST § 42-4-1701(4)(a)(I)(A). 2 points shall be assessed against the offender’s driving record as well. CO ST § 42-2-127(5)(ii).

⁷⁰ The term “motor vehicle” means a passenger car, a station wagon, a van, a taxicab, an ambulance, a motor home or a pickup truck. However, the term does not include motorcycles, motorscooters, motorbicycles, motorized bicycles, passenger buses, school buses, farm tractors or implements of husbandry. CO ST § 42-4-237(a).

⁷¹ In addition to any penalty or condition, the court may require the offender, at his own expense, to attend and satisfactorily complete a court-approved course of instruction at any designated driver improvement school located and operating in the county of the offender’s residence. CO ST § 42-4-1717.

⁷² **Exemptions:** This requirement does not apply to the following: (1) a child who is less than 8 years old and is

Restraint Systems:

- Requirements:
- I. Every child under the age of 8 shall be properly restrained in a child restraint system. CO ST § 42-4-236(2)(a)(I).
 - II. A child less than age 1 who weighs less than 20 lbs., shall be restrained in a rear-facing child restraint system in the rear seat. CO ST § 42-4-236(2)(a)(II).
 - III. A child age 1 or older but less than 4 years of age, and who weighs at least 20 lbs., but less than 40 lbs., shall be restrained in a rear-facing or forward-facing child restraint system. CO ST § 42-4-236(2)(a)(III).
 - IV. A child who is at least 8 years old but less than 16 years old shall be restrained in a seat belt or child restraint system. CO ST § 42-4-236(2)(b).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Class B Traffic Infraction:** A fine of **\$65** and a surcharge of **\$16**. CO ST § 42-4-236(7); CO ST § 42-4-1701(4)(a)(I)(D).

Effect on Civil Liability: A violation of this statutory provision shall not constitute negligence per se or contributory negligence per se. CO ST § 42-4-236(6).

Required Use of Safety Restraining Systems on School Buses:

Requirements: School buses are excluded from the definition of “motor vehicle” within the seat belt requirement. However, any driver of a vehicle operated by a child care center transporting a child under the age of 4 who weighs less than 40 lbs., shall place such child in a child restraint system. CO ST § 42-4-237(1)(a); CO ST § 42-4-236(2)(a).

Sanctions: See Sanction for the Failure to Require the Use of Child Restraint Systems.

Required Use of Motorcycle Protective Headgear:

Requirements: Any person under the age of 18 may not operate a motorcycle or ride as a passenger unless each person under age 18 is wearing a protective helmet with a chin strap meeting or exceeding standards

being transported as a result of a medical or other life-threatening emergency and a child restraint system is not available; (2) a child who is being transported in a commercial vehicle that is operated by a child care center; (3) a child who weighs more than 40 lbs., and is being transported in a motor vehicle in which the rear seat of the vehicle was not equipped at the time of manufacture with a combination lap and shoulder belts; or (4) a child who is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a motor vehicle carrier, a contract carrier by motor vehicle, or an operator of a luxury limousine service. CO ST § 42-4-236(3).

for Federal Motor Vehicle Safety Standard No. 218. CO ST § 42-4-1502(4.5).

Sanctions for Failure to Use: **Class A Traffic Infraction:** A fine of **\$100** and a surcharge of **\$15**. CO ST § 42-4-1502(5); CO ST § 42-4-1701(4)(a)(I)(O).

Required Use of Motorcycle Eye Protection Device:

Requirements: A person shall not operate or ride on a motorcycle or motor-driven cycle unless that person is wearing goggles or eyeglasses with lenses made of safety glass or plastic per standards promulgated by the State, or a helmet containing eye protection made of safety glass or plastic. CO ST § 42-4-232(1).

Sanctions for Failure to Use: **Class A Traffic Infraction:** A fine of **\$15** and a surcharge of **\$6**. CO ST § 42-4-232(4); CO ST § 42-4-1701(4)(a)(I)(D). No points are assessed for a violation of this requirement.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A person is prohibited from riding on the outside, top, hood or fenders or any other portion of a vehicle except that they may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. CO ST § 42-4-201(6).
II. A driver shall not knowingly permit a person to ride on the top, hood, fenders, or any other portion of a vehicle except that a passenger may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four (4) sides. CO ST § 42-4-201(6).

Sanctions for a Violation: **Class A Traffic Infraction:** A fine of **\$35** and a surcharge of **\$10**. CO ST § 42-4-201(8); CO ST § 42-4-1701(4)(a)(I)(D). No points are assessed for a violation of these requirements.

Exemptions: The above prohibitions do not apply to officially authorized parades, caravans, or exhibitions or to vehicles owned by the U.S. Government, the State of Colorado and its political subdivisions, Federal or State government contractors, or public utilities, and said vehicles are equipped with adequate handrails and safeguards. CO ST § 42-4-201(7).

STATE

General Reference:

CONNECTICUT

Connecticut General Statutes Annotated

Required Use of Seat Belts:See note.⁷³

Requirements:

I. The operator and front seat passengers in any motor vehicle or fire fighting apparatus originally equipped with seat belts, shall wear seat belts while the vehicle is in being operated on any highway.⁷⁴ CT ST § 14-100a(c)(1).

II. An operator under 18 years of age, and each of his passengers, shall wear a seat belt while the vehicle is operated on any highway. CT ST § 14-100a(c)(1).

Primary or Secondary Enforcement:

Primary Enforcement: However, the failure to wear a seat belt as required by law shall not constitute probable cause for a law enforcement officer to conduct a search of a vehicle and its contents. CT ST § 54-33m.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Infraction: A fine of **\$50** for an operator who is age 18 or older and any passenger. A fine of **\$75** for an operator who is under age 18 and any passenger. CT ST § 14-100a(c)(4).

Note: No points can be assessed against a driver's record for violating this requirement. CT ST § 14-100a(c)(4).

Effect on Civil Liability:

Failure to wear a seat belt shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action. CT ST § 14-100a(c)(3).

Required Use of Child Safety Restraint Systems:

Requirements:

I. A person who transports a child 6 years of age or younger or weighing less than 60 lbs., in a motor vehicle,⁷⁵ shall provide and require that such child be secured in an approved child restraint system.

II. A child younger than 1 year or weighing less than 20 lbs., shall ride in a rear-facing child seat.

⁷³ **Exemptions:** The requirement to use a seat belt does not apply to: (1) persons whose physical disability or impairment would prevent restraint in a seat belt, provided such person obtain a written statement from a licensed physician containing reasons for such person's inability to wear such seat belt and including information concerning the nature and extent of such condition, and provided such person carry the statement on his/her person or in the motor vehicle at all times when it is being operated; (2) an authorized emergency vehicle, other than fire fighting apparatus, responding to an emergency call; (3) a motor vehicle operated by a rural letter carrier of the United States Postal Service while performing his or her official duties; or (4) a person engaged in the delivery of newspapers. CT ST § 14-100a(c)(2).

⁷⁴ "Highway" includes any State or other public highway, road, street, avenue, alley, driveway, parkway or place, under the control of the State or any political subdivision of the State, dedicated, appropriated or opened to public travel or other use. CT ST § 14-1.

⁷⁵ A "motor vehicle" does not include a bus having tonnage rating of 1 ton or more. CT ST § 14-100a(d).

III. A child 7 years or older and weighing 60 lbs., or more shall ride in a child restraint system or use a seat belt.
CT ST § 14-100a(d).

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense (Infraction) - A fine of not less than **\$35** nor more than **\$90**;⁷⁶
Second offense (Violation) - A fine of not more than **\$199**;
Third or subsequent offense (Class A Misdemeanor) - Imprisonment for not more than **1 year** and/or a fine of not more than **\$2,000**.
CT ST § 14-100a(d); CT ST § 53a-24; CT ST § 53a-36; CT ST § 53a-42.

A first or second offender shall be required to attend a course on child car seat safety. Failure to attend or successfully complete the course may result in a suspended license for a period of not more than two months. CT ST § 14-100a(d)(5).

Note: Not less than 2 points may be assessed for a violation of this requirement. CT ST § 14-137(a).

Effect on Civil Liability:

Failure to use a child safety restraint system shall not be considered as contributory negligence nor shall such failure be admissible evidence in any civil action. CT ST § 14-100a(d).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

I. A child 4 years or older must be in an approved child restraint system or a seat belt when riding in a student transportation vehicle.
II. A child under the age of 4 weighing less than 40 lbs., must be in a child restraint system approved pursuant to regulations adopted by the Department of Motor Vehicles in accordance with provisions of chapter 54 (Uniform Administrative Procedure Act). CT ST § 14-100a(d)(3).

Sanctions:

Infraction: See Sanctions for Failure to Require the Use of Child Restraint Systems.

Required Use of Motorcycle Protective Headgear:

Requirements:

See note.⁷⁷

No person under the age of 18 may operate or ride on a motorcycle unless he/she is wearing State-approved protective headgear, which conforms with to the minimum specifications listed in Federal Motor Vehicle Safety Standard No. 218. CT ST § 14-289g(a), (b).

Sanctions for Failure to Use:

Infraction: A fine of not less than **\$90**. CT ST § 14-289g(c).

⁷⁶ The law provides that the Judges of the Superior Court shall establish a fine schedule for infractions. The fines established cannot be less than **\$35** or more than **\$90**. CT ST § 51-164m(a); CT ST § 51-164m(c).

⁷⁷ The failure to wear a helmet has been held to be a legally insufficient defense as to negligence or a failure to mitigate damages. See *Ruth v. Poggie*, 1993 WL 498997 (Conn.Super.) (Nov. 23, 1993) (unpublished).

Note: No points are assessed for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements: A person who operates a motorcycle must wear goggles, glasses, or a face shield as approved by the State, unless the motorcycle has a windscreen or windshield. CT ST § 14-289d(b).

Sanctions for Failure to Use: **Infraction:** A fine of not more than **\$50**. CT ST § 14-289d(b); CT ST §14-296. No points are assessed for a violation of this requirement.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: A child age 15 years or younger shall not ride a bicycle on a highway unless that child is wearing appropriate protective headgear.⁷⁸ CT ST § 14-286d(b).

Sanctions for Failure to Use: There are no sanctions for a violation of this requirement. However, a law enforcement officer may issue a verbal warning to the parent or guardian of a child that has violated this requirement. CT ST § 14-286d(c).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall operate and carry a passenger younger than 16 years old on in an open bed of a truck-type vehicle⁷⁹ or other vehicle. However, such passengers are allowed to ride in such open spaces provided they are properly restrained in a seat belt. CT ST § 14-272a(a).

Sanctions for a Violation: **Infraction:** A fine of not more than **\$50**. CT ST § 14-272a(b); CT ST §14-296. No points are assessed for a violation of this requirement.

Exemptions: This prohibition does not apply to: (1) a vehicle used in an authorized parade; (2) a vehicle when such is used for farming purposes; and (3) a vehicle used for a recreational hayride between the months of August and December. CT ST § 14-272a(a).

⁷⁸ Failure to wear protective headgear as required by law shall not be considered to be contributory negligence on the part of a parent or child nor shall such failure be admissible in any civil action. CT ST § 14-286d(b).

⁷⁹ A truck-type vehicle is one with a gross vehicle weight rating not exceeding 7,500 lbs. CT ST § 14-272a(a).

STATE

General Reference:

DELAWARE

Delaware Code Annotated

Required Use of Seat Belts:

See note.⁸⁰

Requirements:

I. When a motor vehicle (except motorcycles, tractors or off-highway vehicles) is in operation, the driver and each occupant of the passenger compartment who is 16 years of age or older shall wear and shall secure his or her seat belt. DE ST TI 21 § 4802(a)(1); (a)(2);(b).

Primary or Secondary Enforcement:

Primary Enforcement: A police officer is authorized to make an administrative stop upon reasonable and articulable suspicion that a seat belt violation has occurred. DE ST TI 21 § 4802(j).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Where there is no other violation in addition to a violation of this requirement, a civil penalty of **\$25** shall be imposed. Additionally, a penalty assessment of 40% of the fine or fines imposed for other traffic laws committed at the time of the seat belt law violation shall be imposed. However, no assessment shall exceed \$20 of every fine, penalty or forfeiture imposed or collected. DE ST TI 21 § 4802(g)(2)a, c.

No points may be assessed against a person nor may an entry be made on such person's driving record because of a violation of the seat belt use requirement. DE ST TI 21 § 4802(h).

Effect on Civil Liability:

I. Failure to wear a seat belt shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication. In addition, such a failure is not admissible as evidence in the trial of any civil action or insurance claim adjudication. DE ST TI 21 § 4802(i).

Required Use of Child Safety Restraint Systems:

See note.⁸¹

Requirements:

I. A person who is transporting a child age 7 or younger and up to and including the weight of 65 lbs., shall properly secure such child in a federally approved child safety seat or booster seat. DE ST TI 21 § 4803(a).

II. A child age 8-15 or greater than 65 lbs. = seatbelt. DE ST TI 21 § 4803(a).

III. No child 65 inches in height or less and under 12 years of age shall occupy the front passenger seat.⁸² DE ST TI 21 § 4803(b)(1).

⁸⁰ **Exemptions:** This requirement does not apply to: (1) persons who for medical or physical reasons are unable to wear a seat belt; (2) persons riding in motor vehicles that do not have to be equipped with seat belts; and (3) letter carriers of the U.S. Postal Service when performing official duties. DE ST TI 21 § 4802(c).

⁸¹ **Exemptions:** The requirement to use a child passenger restraint system does not apply if the child is being transported in a motor bus, limousine, or taxicab. DE ST TI 21 § 4803(a).

Sanctions for Failure to Require the Use of Child Restraint Systems: A fine of **\$25**. DE ST TI 21 § 4803(c).

Effect on Civil Liability: A violation of these requirements shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action, where a child under the age of 16 is injured. Evidence of such failure cannot be admitted into evidence at a civil trial. DE ST TI 21 § 4803(d).

Required Use of Safety Restraining Systems on School Buses:

Requirements: **Requirements:** “School bus” is defined as a motor vehicle. Based on the seat belt and child safety seat requirements above, it is likely that if a school bus is equipped with a seat belt and passenger restraints, they must be used. DE ST TI 21 § 101(61).

Required Use of Motorcycle Protective Headgear:

Requirements: A person younger than 19 years old shall wear a safety helmet that has been approved by the State when operating or riding a motorcycle. Motorcycle operators or passengers at least 19 years old or older are required to have a safety helmet in their possession but are not required to use it. DE ST TI 21 § 4185(b).

Sanctions for Failure to Use: First offense – A fine of not less than **\$25** nor more than **\$115**; Subsequent offense (within 12 months of the first offense) – Imprisonment for not less than **10 days** nor more than **30 days** and/or a fine of not less than **\$57.50** nor more than **\$230**. DE ST TI 21 § 4205(a).

Required Use of Motorcycle Eye Protection Device:

Requirements: Every person operating or riding on a motorcycle shall wear eye protection. DE ST TI 21 § 4185(b).

Sanctions for Failure to Use: Same as for failure to wear protective headgear.

Passenger Age Restrictions: **None**

⁸² **Exception:** Subsection (b)(1) of § 4803, Title 21 does not apply to: (1) vehicles equipped with a passenger-side air bag specifically designed or modified by the vehicle’s manufacturer for use by children and small adults; or (2) vehicles with no rear passenger seat, or if all rear passenger seats are occupied by other children 65 inches in height or less and younger than 12 years old. A violation of this requirement shall be considered a secondary offense, and no motor vehicle shall be stopped by a police officer solely for failure to comply with this requirement. DE ST TI 21 § 4803(b)(1); (b)(2).

Required Use of Bicycle Protective Headgear:

Requirements: See note.⁸³
A person under the age of 18 shall not operate or ride as a passenger a bicycle unless that person is wearing a bicycle helmet. DE ST TI 21 § 4198K(a).

Sanctions for Failure to Use: A parent or guardian who fails to cause his child to wear a protective helmet shall be fined **\$25** for the first offense, and **\$50** for each subsequent offense. DE ST TI 21 § 4198K(b). It is, however, an affirmative defense to a violation of this requirement that the violator is a member of a recognized church or religious denomination and whose religious convictions are against the wearing of a helmet. DE ST TI 21 § 4198K(f).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

⁸³ Failure to wear a bicycle helmet shall not be considered evidence of either comparative or contributory negligence in any civil suit arising out of any accident in which a person under the age of 18 is injured, nor shall such failure be admissible as evidence in the trial of any civil action. DE ST TI 21 § 4198K(e).

STATE

DISTRICT OF COLUMBIA

General Reference:

D.C. Code
Weil's Code of D.C. Municipal Regulations (DC ADC)

Required Use of Seat Belts:

See note.⁸⁴

Requirements:

The driver and all passengers in a motor vehicle shall wear seat belts. DC ST § 50-1802(a).
Except for vehicles for hire, a driver is responsible for insuring that passengers comply with this requirement. DC ST § 50-1806(f).

Primary or Secondary Enforcement:

Primary Enforcement: There is no statutory provision.⁸⁵

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Infraction: A fine of **\$50**. The mayor is authorized to increase the amount of this penalty. DC ST § 50-1806(b). Two points shall be assigned for a single violation, and 3 points for simultaneous multiple violations. DC ST § 50-1806(d),(e).

Effect on Civil Liability:

A violation of this requirement shall not constitute evidence of negligence or contributory negligence, or a basis for a civil action for damages. A violation shall not be used as the basis for mitigating damages arising from a civil liability.
DC ST § 50-1807.

Required Use of Child Safety Restraint Systems:

See note.⁸⁶

Requirements:

I. A motor vehicle operator shall not transport a child younger than 3 years unless such child has been secured in a child restraint seat which conforms to Federal standards. DC ST § 50-1703(a); DC ST § 50-1704.
II. A motor vehicle operator shall not transport a child between 8 and 15 years old unless such child has been restrained in either a seat belt or child restraint seat.

⁸⁴ **Exemptions:** This requirement does not apply to: (1) riders in a motor vehicle manufactured before July 1, 1966; (2) riders who possess a written verification from a licensed physician that the rider is unable to wear a seat belt for medical reasons; (3) riders who are passengers in a vehicle if all seating positions with seat belts in the vehicle are occupied by other persons, so long as those riders age 16 years and under have preference to seating positions with seat belts over those persons older than 16 years; and (4) taxicab operators who possess valid taxicab licenses while picking up or transporting passengers for hire between the hours of 6:00 p.m. and 6:00 a.m. DC ST § 50-1802(b); 18 DC ADC § 737.

⁸⁵ See *Basnueva v. U.S.*, 874 A.2d 363 (D.C. 2005)(holding that an officer's stop of a vehicle for violation of the seat belt and child restraint laws was valid).

⁸⁶ **Exemptions:** I. This requirement does not apply to children who are being transported in vehicles used for livery, sightseeing, taxi, ambulance, funeral, or farm purposes, or who are being transported in a motor vehicle with a seating capacity of more than 8 passengers not including the driver. DC ST § 50-1702(5). II. "A parent or legal guardian may transport his or her own child without restraint herein if that person is transporting a number of his or her own children of less than 16 years of age which exceeds the number of passenger positions equipped with seat belts in the motor vehicle. *However, an unrestrained child may not be transported in the front seat of a motor vehicle.*" (Emphasis added.) DC ST § 50-1703(c).

Children under 8 must be in an infant, convertible or booster seat. DC ST §50-1703(b).

III. Automobile rental companies are required to inform each customer of these child restraint requirements.

DC ST § 50-1703(d).

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense - A fine of **\$75**⁸⁷ or attendance at a child restraint safety class, for which such violator shall be charged **\$25**;
Second offense - A fine of **\$75 plus** attendance at child restraint safety class, for which such violator shall be charged **\$25**;
Third offense - A fine of **\$125**;
Fourth and each subsequent offense – A fine of **\$150**.

Two points are assessed to the driving record of anyone convicted of violating child restraint requirements. DC ST § 50-1706(c); 18 DC ADC § 303.

Effect on Civil Liability:

A violation of the above requirements shall not constitute evidence of negligence or contributory negligence, or as the basis for a civil action for damages. DC ST § 50-1707.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There is no specific statutory provision for the use of seat belts on school buses. “Motor vehicle” is defined as any device with 3 or more wheels and a seating capacity of 8 or fewer passengers. Logically, this would exclude school buses. 18 DC ADC § 737.2 requires the installation of 2 seat belts or harnesses in the front seat of any motor vehicle (manufactured for the 1966 model or subsequent years and registered as a private passenger vehicle) before such vehicle will pass inspection. Further, 18 DC ADC § 737.2 requires the installation of seat belts or harnesses for each seating position in any motor vehicle (manufactured after January 1, 1968 and registered as a private passenger vehicle) *except* buses.

Required Use of Motorcycle Protective Headgear:

Requirements:

Persons operating or riding on a motorcycle must wear helmets that comply with nationally approved standards. 18 DC ADC § 2215.3; 18 DC ADC § 741.

Sanctions for Failure to Use:

Infraction: A fine of **\$75**. 18 DC ADC § 2600. No points are assigned for helmet violations. 18 DC ADC § 2215.6.

⁸⁷ The fine for a first-time violator shall be waived upon presentation of proof of acquisition of a child restraint seat by the operator or parent or legal guardian of the child who was transported without proper restraint. DC ST § 50-1706(b).

Required Use of Motorcycle Eye Protection Device:

Requirements: Persons operating or riding on a motorcycle must wear safety eye protection devices that comply with nationally approved standards. 18 DC ADC § 2215.4; 18 DC ADC § 742.

Sanctions for Failure to Use: **Infraction:** A fine of **\$75**. 18 DC ADC § 2600.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: I. A person younger than 16 years old shall wear a protective helmet of good fit, fastened securely upon the head with the straps of the helmet. DC ST § 50-1605(a).
II. A parent or legal guardian or a child younger than 16 years old shall not knowingly permit such child to operate or be a passenger on a bicycle on a public roadway, public bike path, or other public right-of-way, without wearing a protective bicycle helmet. DC ST § 50-1605(b).

Sanctions for Failure to Use: A parent or legal guardian is subject to a **\$25** fine. However, the fine shall be suspended for first time violators or violators who subsequent to the violation, but prior to the imposition of fine, purchase a protective helmet. DC ST § 50-1605(c).

Failure to wear protective headgear shall not be considered evidence of negligence per se, contributory negligence or assumption of the risk in a civil suit arising out of any civil action in which a person under 16 years of age is injured. Failure to wear a helmet shall not be admissible as evidence in the trial of any civil action, nor in any way diminish or reduce the damages recoverable in such action. DC ST § 50-1606.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall ride and no driver shall allow a person to ride on any portion of any vehicle which is not designed or intended for the use of passengers. 18 DC ADC § 2213.6.

Sanctions for a Violation: **Infraction:** A fine of **\$25**. 18 DC ADC § 2600.

Exemptions: This prohibition does not apply to an employee engaged in the necessary discharge of their duties or to persons riding within truck bodies in a space intended for materials. 18 DC ADC § 2213.6.

STATE

FLORIDA

General Reference:

Florida Statutes Annotated

Required Use of Seat Belts:

See note.⁸⁸

Requirements:

I. Any driver shall not operate a motor vehicle⁸⁹ unless such driver and every passenger under the age of 18 years old are restrained by a seat belt. FL ST § 316.614(4).
 II. A front seat passenger 18 years or older must secure him/herself in a seat belt while a motor vehicle is in motion. FL ST § 316.614(5).

Primary or Secondary Enforcement:

Primary Enforcement: FL ST § 316.614(9).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Nonmoving Traffic Violation:⁹⁰ A fine of **\$30** with court costs of **\$18.**⁹¹ FL ST § 316.614(8); FL ST § 318.14; FL ST § 318.18(2), (11).

Effect on Civil Liability:

A violation of these requirements shall not constitute negligence per se nor shall such a violation be used as *prima facie* evidence of negligence or be considered in mitigation of damages, but such a violation may be considered as evidence of comparative negligence in any civil action. FL ST § 316.614(10).

Required Use of Child Safety

See note.⁹²

⁸⁸ **Exemptions:** This requirement does not apply to: (1) persons who have a medical condition that would cause the use of seat belts to be either inappropriate or dangerous; (2) persons while in the course of delivering newspapers; (3) employees of a solid waste or recyclable collection service while in the course of employment; or (4) persons riding either in the living quarters of a recreational vehicle or in the space within a truck body primarily intended for merchandise or property. FL ST § 316.614(6)

⁸⁹ This requirement does not apply to persons operating the following types of vehicles: (1) a school bus; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing greater than 5,000 lbs.; and (5) motorcycles, mopeds or bicycles. FL ST § 316.614(3)(a). **Note:** State law does not specifically exempt vehicles that are not required to have seat belts under Federal law.

⁹⁰ I. For either a nonmoving or moving traffic infraction, an offender may elect to have a charge adjudicated before a “designated official.” A person electing adjudication waives any rights they may have to the civil penalties under § 318.18. The hearing officer is authorized to impose a fine of not more than **\$500** or require a person to attend a driver improvement school. FL ST § 318.14(5). II. A person who commits a noncriminal traffic infraction may, in lieu of a court appearance elect, only once within a 12-month period, to attend a driver improvement course. If such occurs, adjudication is withheld and points cannot be assessed against the person’s driving record. In addition, the civil penalty imposed under FL ST § 318.18(3) must be reduced by 18 percent. FL ST § 318.14(9).

⁹¹ **Possible Licensing Action:** For any violation of the traffic laws, the court has the authority to either suspend or revoke a driver’s license if it determines that there exists a need to protect persons who use the highways. In determining whether to take such action, the court considers among other things the extent or nature of the violation and whether, as a result of the violation, there was a death, personal injury or property damage. The provision providing for this action does not give specific license suspension or revocation periods. FL ST § 316.655(2). **Note:** Under FL ST § 322.28(1), the licensing agency (not the courts) may only suspend or revoke a license for one year. However, such agency may be able to issue driving privileges for employment purposes under FL ST § 322.271.

⁹² This requirement does not apply to children riding in the following types of vehicles: (1) a bus used to transport persons for compensation; (2) a farm tractor or implement of husbandry; (3) a truck having a gross weight of greater

Restraint Systems:

Requirements: I. A motor vehicle operator, when transporting a child age 5 years or younger, must secure such child in a federally approved child restraint device.
 II. Children age 3 years old or younger must be secured in either a separate carrier or vehicle manufacturer’s integrated child seat.
 III. Children 4 - 5 years old must be secured in a separate carrier, vehicle manufacturer’s integrated child seat or seat belt. FL ST § 316.613(1)(a).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Moving Traffic Violation:** A fine of **\$60** with court costs of **\$35**. FL ST § 316.613(5); FL ST § 318.18(3)(a), (11). Additionally, 3 points are assessed against a driver’s record. FL ST § 316.613(5); FL ST § 322.27(3)(d)(7).
Alternative Sanction: In lieu of the above fine and point sanctions, a person, with the court’s approval, may elect to participate in a child restraint safety program. Upon successful completion, the penalty and associated court costs may be waived, and the point assessment shall be waived. FL ST § 316.613(5).

Effect on Civil Liability: The failure to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. FL ST § 316.613(3).

Required Use of Safety Restraining Systems on School Buses: See note.⁹³

Requirements: I. All school buses purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with seat belts or other federally approved restraint systems in a number sufficient to allow each student who is being transported to use a separate seat belt or restraint system. FL ST § 316.6145(1)(a).
 II. School bus operators are not required to wear safety seat belts. FL ST § 316.614; FL ST § 316.6145.
 III. Each passenger on a school bus equipped with seat belts or a restraint system shall wear a properly adjusted and fastened seat belt at all times while the bus is in operation. FL ST § 316.6145(2).⁹⁴

than 26,000 lbs.; and (4) motorcycles, mopeds or bicycles. FL ST § 316.613(2). **Note:** State law does not specifically exempt vehicles that are not required to have seat belts under Federal law.

⁹³ The law exempts from civil liability governmental entities (the State, counties, school districts) or individuals (school bus operators, agents or employees [e.g., teachers or volunteers serving as chaperones of a school district] in two situations: (1) for an injury by a school bus passenger solely because the injured party was not wearing a seat belt; or (2) for a personal injury by a school bus passenger for an injury caused solely by another passenger’s use or nonuse of a seat belt or restraint system in a dangerous or unsafe manner. FL ST § 316.6145.

⁹⁴ FL ST § 316.613(2) excludes school buses from the child safety restraint system requirement. This appears to be in direct conflict with FL ST § 316.6145. Because the latter statute, added into law in 1999, specifically exempts school buses purchased prior to December 31, 2000, the reader should defer to FL ST § 316.6145.

Sanctions: There are no specific sanctions for a violation; however it likely would be the same as that for a violation of the seat belt use law. FL ST § 318.14(1); FL ST § 318.18.

Required Use of Motorcycle Protective Headgear: See note.⁹⁵

Requirements: No person⁹⁶ shall operate or ride on a motorcycle unless he/she is wearing protective headgear which complies with Federal Motor Vehicle Safety Standard No. 218. FL ST § 316.211(1).

No person under the age of 16 shall operate or ride on a moped unless wearing protective headgear. FL ST § 316.211(4).

Sanctions for Failure to Use: **Nonmoving Traffic Violation:** A fine of **\$30** with court costs of **\$18**. FL ST § 316.655(1); FL ST § 318.14; FL ST § 318.18(2), (11). Failure to wear protective headgear may be considered as comparative negligence *if* it can be shown that such a failure was the proximate cause of the injuries sustained.⁹⁷

Required Use of Motorcycle Eye Protection Device:

Requirements: No persons shall operate motorcycles unless wearing an eye-protection device that complies with State standards. FL ST § 316.211(2).

Sanctions for Failure to Use: **Noncriminal Traffic Infraction:** A fine of **\$30** with court costs of **\$18**. FL ST § 316.655(1); FL ST § 318.14; FL ST § 318.18(2), (11).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: A bicycle rider or passenger younger than 16 years old must wear a federally approved bicycle safety helmet.⁹⁸ FL ST § 316.2065(3)(d).

⁹⁵These requirements do not apply to persons age 16 years old or older who are operating or riding within an enclosed cab and to persons age 16 years old or older who are operating or riding upon a motorcycle with either: (1) with a displacement of 50 cubic centimeters or more; (2) 2 or less brake horsepower; or (3) a speed capability of 30 mph or less. FL ST § 316.211(3)(a).

⁹⁶**Exemption:** Persons who are over 21 years old may operate or ride on motorcycles without protective headgear provided they have at least \$10,000 in medical benefits for any injuries that they may sustain as a result of crash while riding on such motor vehicle. FL ST § 316.211(3)(b).

⁹⁷ *Rex Utilities, Inc. v. Gaddy*, 413 So.2d 1232 (Fla. App. 3 Dist. 1982), *petition for review denied*, 442 So.2d 843 (Fla. 1982).

⁹⁸ The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without wearing a bicycle helmet may not be considered as evidence of negligence or contributory negligence. FL ST § 316.2065(19).

Sanctions for Failure to Use: **Pedestrian Violation:** A fine of **\$15** with court costs of **\$4** may be assessed. The court shall dismiss the charge against the bicycle rider or passenger for a first violation upon proof of purchase of a bicycle helmet. FL ST § 316.2065(3)(e); FL ST § 318.18(2), (11).

Prohibition Against Riding in
Unsecured Portion of Vehicle:

Requirements: No persons age 17 and younger shall ride upon any portion of a vehicle that is not intended for passenger use, except on non-limited access roads if a seat fitted with a seat belt has been added to the cargo area, or local city or county law permits such unrestricted riding. FL ST § 316.2015(2).

Sanctions for a Violation: **Nonmoving Traffic Violation:** A fine of **\$30** with court costs of **\$18**. FL ST § 316.2015(2)(c); FL ST § 318.18(2), (11).

Exemptions: This prohibition does not apply to an employee engaged in the discharge of official duties, to a person riding within truck bodies in a space intended for merchandise, or to a performer in a professional exhibition or a person participating in a parade. FL ST § 316.2015(2).

STATE

General Reference:

GEORGIA

Official Code of Georgia Annotated

Required Use of Seat Belts:

Requirements:

I. Each occupant of the front seat of a passenger vehicle⁹⁹ must be restrained by a federally approved seat belt while such vehicle is being operated.¹⁰⁰ GA ST § 40-8-76.1(b).
 II. A driver transporting a minor under the age of 6 years old must secure such child in a federally approved seat belt. GA ST § 40-8-76.1(e)(3).

Primary or Secondary Enforcement:

Primary Enforcement: Probable cause for a violation of these requirements must be based upon a law enforcement officer's clear and unobstructed view of the unrestrained person. A violation of these requirements cannot constitute probable cause of any other violation of the law. GA ST § 40-8-76.1(f).

Sanctions for Failure to Use or Require the Use of Seat Belts:

I. For a violation of I above, a fine of not more than **\$15**.¹⁰¹ The law specifically provides that "the costs of ... prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge ... be assessed." GA ST § 40-8-76.1(e)(2).
 II. For a violation of II above, a fine of not more than **\$25**. GA ST § 40-8-76.1(e)(3).

Effect on Civil Liability:

Failure of a motor vehicle occupant to comply with these requirements: (1) shall not be considered evidence of negligence or causation; (2) shall not otherwise be considered by the finder of fact on any question of liability of any persons, corporation or insurer; (3) shall not be any basis for cancellation of coverage or increase in insurance rates; and (4) shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy or operation of a motor vehicle. GA ST § 40-8-76.1(d).

⁹⁹ For the purposes of the seat belt requirement, the term "passenger vehicle" means every motor vehicle designed to carry 10 passengers or less and used for the transportation of persons. This does not mean pickup trucks, motorcycles, motor driven cycles or vehicles equipped for off-road use. However, such term does include sport utility vehicles and pickup trucks for any occupant who is younger than 18 years old. GA ST § 40-8-76.1(a).

¹⁰⁰ **Exemptions:** The seat belt use requirement for front seat occupants who are not minors does not apply to: (1) drivers or passengers of a motor vehicle that makes frequent stops to deliver property provided the speed of the vehicle between stops does not exceed 15 mph; (2) drivers or passengers possessing a written statement from a physician, or if such persons are from out of the states or country, an official certificate or license endorsement indicating a medical, physical or other valid reason why such person cannot wear a seat belt; (3) drivers operating passenger vehicles in reverse; (4) persons riding in vehicles with a model year prior to 1965; (5) passenger vehicles that are not required to be equipped with seat belts under Federal law; (6) rural letter carriers of the United States Postal Service performing their official duties; (7) newspaper delivers performing their duties; or (8) persons performing emergency services. GA ST § 40-8-76.1(c).

¹⁰¹ A violation of this provision is not to be considered a criminal act and is not to be considered a moving violation for purposes of licensing action under GA ST § 40-5-57. GA ST § 40-8-76.1(e)(1).

Required Use of Child Safety Restraint Systems:

See note.¹⁰²

Requirements:

A person transporting a child younger than 6 years old in a motor vehicle¹⁰³ shall secure such child in a federally approved child passenger restraint system. GA ST § 40-8-76(b).

Any child under the age of 6 and weighing at least 40 lbs., may be secured by lap belt when the vehicle is not equipped with both lap and shoulder belts or the vehicle is equipped with one or more lap and shoulder belts that are being used to properly restrain other children. GA ST § 40-8-76(b)(1)(A).

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense¹⁰⁴ - A fine of not more than **\$50** and 1 point assessed against an offender's driving record;
Second or subsequent offense - A fine of not more than **\$100** and 2 points assessed against an offender's driving record.
 For either a first or subsequent offense, the court is prohibited from imposing additional fees or surcharges. GA ST § 40-5-57(c)(1)(A); GA ST § 40-8-76(b)(2).

Effect on Civil Liability:

A violation of this requirement shall not constitute negligence per se or contributory negligence per se. GA ST § 40-8-76(d).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

School buses are exempt from the seat belt and child passenger restraining system requirements. GA ST § 40-8-76(d).

Required Use of Motorcycle Protective Headgear:

See note.¹⁰⁵

Requirements:

No person shall operate or ride upon a motorcycle unless that person is wearing protective headgear that meets the specifications of the U.S. Department of Transportation's Federal Motor Vehicle Safety Standards..¹⁰⁶ GA ST § 40-6-315(a); GA ADC 570-13-.01.

Sanctions for Failure to Use:

Misdemeanor: Imprisonment for not more than **12 months** and/or

¹⁰² **Exemption:** This requirement does not apply if a parent or guardian obtains a physician's written statement that explains that a child has a medical condition that prevents him/her from being restrained in a child passenger protection system, or when the parent can show the child's height is over 4 feet 9 inches. GA ST § 40-8-76(b)(1)(D).

¹⁰³ For purposes of this requirement, motor vehicle includes a passenger automobile, a van, or a pickup truck. However, this term does not include a taxicab or public transit vehicle. GA ST § 40-8-76(b)(1).

¹⁰⁴ A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. GA ST § 40-8-76(c).

¹⁰⁵ Failure to wear protective headgear is negligence as a matter of law to the extent that any such violation contributed proximately to the injuries. *Green v. Gaydon*, 331 S.E.2d 106 (Ga. App. 1985).

¹⁰⁶ This requirement does not apply to operators or passengers riding within an enclosed cab or motorized cart or to persons who are operating three-wheeled motorcycle used only for agricultural purposes. GA ST § 40-6-315(c).

a fine of not more than **\$1,000**. GA ST § 17-10-3(a)(1); GA ST § 40-6-1.

Required Use of Motorcycle Eye Protection Device:

Requirements: If a motorcycle is not equipped with a windshield, any person operating or riding on such vehicle must wear an eye-protective device. GA ST § 40-6-315(b).

Sanctions for Failure to Use: **Misdemeanor:** Imprisonment for not more than **12 months** and/or a fine of not more than **\$1,000**. GA ST § 17-10-3(a)(1); GA ST § 40-6-1.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: When operating or riding on a bicycle, a person younger than 16 years old shall wear a bicycle helmet that complies with nationally recognized standards.¹⁰⁷ GA ST § 40-6-296(e)(1).

Sanctions for Failure to Use: I. The law specifically provides that no person younger than 16 years old who violates this provision may be fined or imprisoned. GA ST § 40-6-296(e)(6).
II. However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. GA ST § 40-6-298(b). The sanctions of this offense are imprisonment for not more than **12 months** and/or a fine of not more than **\$1,000**. GA ST § 17-10-3(a)(1).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person younger than 18 years old shall not ride in the uncovered bed of a pickup truck on any interstate highway. GA ST § 40-8-79.

Sanctions for a Violation: **Misdemeanor:** The sanctions for this offense are imprisonment for not more than **12 months** and/or a fine of not more than **\$1,000**. GA ST § 17-10-3(a)(1); GA ST § 40-8-79.

¹⁰⁷ A violation of this requirement shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence of liability. GA ST § 40-6-296(e)(5).

STATE

General Reference:

HAWAII

Hawaii'i Revised Statutes Annotated

Required Use of Seat Belts:See note.¹⁰⁸

Requirements:

I. Before operating motor vehicles, drivers shall restrain themselves and any front- or back-seat passengers between 8 and 14 years old in a federally approved seat belt. HI ST § 291-11.6(a)(1).
 II. Before a motor vehicle is operated, a front-seat passenger age 15 years or older shall be restrained in a federally approved seat belt. HI ST § 291-11.6(a)(2).
 III. Before a motor vehicle is operated, a back-seat passenger between 15 and 17 years old shall be restrained in a federally approved seat belt. HI ST § 291-11.6(a)(3).

Primary or Secondary Enforcement:

Primary Enforcement: No statutory provision.¹⁰⁹

Sanctions for Failure to Use or Require the Use of Seat Belts:

Violation (Non-Criminal): A fine of **\$45** and a surcharge of **\$10** to be deposited in the trauma system special fund. HI ST § 291-11.6(e); HI ST § 701-107(5).

Effect on Civil Liability:

The enactment of the seat belt law does not change existing law concerning personal injury civil actions related to vehicle accidents.¹¹⁰ HI ST § 291-11.6(d).Required Use of Child Safety Restraint Systems:See note.¹¹¹

Requirements:

A child under age 4 shall be properly restrained in a child passenger restraint system.
 A child between ages 4 and 7 shall be properly restrained in a child safety seat or booster seat, unless such child is over 4 feet 9 inches in height or over 40 lbs., and traveling in a motor vehicle equipped

¹⁰⁸ **Exemptions:** **I.** Passengers of either emergency vehicles while on official duties (ambulances, firefighting equipment, rescue vehicles and police vehicles) or mass transit vehicles with a gross vehicle weight rating greater than 10,000 lbs., (bus, school bus but excluding a charter or sightseeing service bus) are exempt from the seat belt requirement. HI ST § 291-11.6(b). **II.** The seat belt use requirement does not apply to: (1) persons riding in motor vehicles that do not have to be equipped with a seat belt under Federal law; (2) persons who are unable to use a seat belt because all of the available seat belt assemblies are in use; (3) persons who have a condition that prevents the appropriate use of a seat belt; and (4) persons operating taxicabs. HI ST § 291-11.6(c).

¹⁰⁹ See, e.g., *State v. Ribbel*, 146 P.3d 290 (Hawaii 2006) (describing the Maui Police Department's operation of a seat belt enforcement team which specifically looked for any motor vehicle travelling on a public roadway with any front seat passengers unrestrained or any children in the rear seats unrestrained).

¹¹⁰ The Hawaii Supreme Court has indirectly held that a person has no common law duty to mitigate damages by wearing a seat belt. *Kealoha v. County of Hawaii'i*, 844 P.2d 670 (Hawaii 1993), *reconsideration denied*, 847 P.2d 263 (Haw.1993).

¹¹¹ **Exemptions:** Operators of emergency, commercial and mass transit vehicles are exempt from the child safety seat requirement. HI ST § 291-11.5(b). In addition, this requirement does not apply if the number of children to be secured exceeds the number of available seat belt assemblies in the vehicles. However, children that are not secured must be placed in the back seat of the motor vehicle. HI ST § 291-11.5(c).

only with lap belts, without shoulder straps, in the back seat.
 HI ST § 291-11.5(a).

Sanctions for Failure to Require
 the Use of Child Restraint
 Systems:

Violation (Non-Criminal):
First offense - A fine of not more than **\$100**;
Second offense (within 3 years) - A fine of not less than **\$100** or
 more than **\$200**;
Third or subsequent offense - A fine of not less than **\$200** or more
 than **\$500**.
First and subsequent offenders are required to take a “Child
 Passenger Restraint System Safety Class” which shall not to exceed
 four hours. Offenders are charged a **\$50** fee to take this course, and
 required to pay a **\$10** surcharge for the neurotrauma special fund
 and a **\$10** surcharge for the trauma system fund if the court so
 orders.
 HI ST § 286G-3(b), HI ST § 291-11.5(e); HI ST § 701-107(5).

Effect on Civil Liability:

Failure to restrain a child under the age of 8 is not considered
 contributory negligence, comparative negligence or negligence per
 se. HI ST § 291-11.5(d).

Required Use of Safety Restraining
 Systems on School Buses:

Requirements:

School buses are exempt from this requirement, as they are
 excluded from the definition of “motor vehicle.”
 HI ST § 291-11.6(b).

Required Use of Motorcycle
 Protective Headgear:

Requirements:

See note.¹¹²
 No person younger than 18 years old shall operate or ride on a
 motorcycle unless that person is wearing a State-approved safety
 helmet.¹¹³ HI ST § 286-81(a)(3), (b).

Sanctions for Failure to Use:

Violation (Non-Criminal): A fine of not more than **\$1,000**. HI ST
 §286-82; HI ST § 701-107(5).

Required Use of Motorcycle Eye
 Protection Device:

Requirements:

No person shall operate or ride on a motorcycle unless that person
 wears safety glasses, goggles or a face shield. However, this
 requirement does not apply if the motorcycle has a windscreen or
 windshield. HI ST § 286-81(a)(1)(A).

¹¹² The requirement to use a safety helmet does not apply if the motorcycle has three wheels, is powered by an electric motor, has a full body-enclosed cab or has a seat belt assembly or a child restraint system which must be used when the vehicle is in motion. HI ST § 286-81(c).

¹¹³ The Hawaii Supreme Court has held that a person has no common law duty to mitigate damages by wearing a motorcycle safety helmet. *Kealoha v. County of Hawaii*, 844 P.2d 670 (Hawaii 1993) *reconsideration denied*, 847 P.2d 263 (Hawaii 1993).

Sanctions for Failure to Use: **Violation** (Non-Criminal): A fine of not more than **\$1,000**. HI ST § 286-82; HI ST § 701-107(5).

Passenger Age Restrictions: It shall be unlawful for any driver of a motorcycle or motor scooter to carry as a passenger or permit to ride thereon any person under the age of 7, unless the motorcycle or motor scooter has 3 wheels, is powered by an electric motor, has a full-bodied enclosed cab and a seat belt assembly or a child restraint system for the passenger and driver, and such belt assembly and restraint system are used by the driver and passenger. HI ST § 291-11(b).

Required Use of Bicycle Protective Headgear:

Requirements: Persons younger than 16 years old shall wear properly fitted and fastened bicycle helmets when operating bicycles. This requirement also applies to a person who is riding in a restraining seat attached to a bicycle. HI ST § 291C-150(a).

Sanctions for Failure to Use: A fine of not more than **\$25**. A parent or legal guardian of a minor in violation of this requirement is liable for paying this fine. HI ST § 291C-150(c).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. No person shall stand in the bed or load-carrying area of a pickup truck¹¹⁴ while such vehicle is in motion. HI ST § 291-14(a).
II. A driver of a pickup truck shall not allow a passenger to ride seated in the bed of such a truck unless the following three conditions are satisfied: (1) there no seats available in the vehicle's cab; (2) the side racks and the tailgate are respectively securely attached and securely closed; and (3) the passengers in the bed are seated on the floor and do not attempt to unlash any cargo. HI ST § 291-14(a).
III. A person shall not operate a pickup truck while any passenger 12 years old or younger is in the bed or load-carrying area of the vehicle unless there is an emergency threatening the life of the passenger or the vehicle is being operated in a parade. HI ST § 291-14(c).

Sanctions for a Violation: For I and II above: a Non-Criminal “**Violation**” with a fine of **\$25**. HI ST § 291-14(d); HI ST § 701-107(5).
For III above: a Non-Criminal “**Violation**” with a fine of **\$50**. HI ST § 291-14(d); HI ST § 701-107(5).

¹¹⁴ For the purposes of this prohibition, a “pickup truck” is defined as “a light truck that has a cab on the front part of the vehicle covering the driver's seat and an open bed behind the cab designed primarily to transport property or cargo, with sides and a tailgate to retain the contents within the confines of the bed, and has a maximum gross vehicle weight rating (GVWR) of 11,000 pounds or less.” HI ST § 291-14(e).

Exemptions:

These requirements do not apply to persons or corporations that are operating a business that serves the public or are under the supervision of State or local authorities that regulate employees while they carry out their duties. HI ST § 291-14(b).

STATE

General Reference:

IDAHOIdaho Code (General Laws of Idaho Annotated)
Idaho Administrative Code (ID ADC)Required Use of Seat Belts:See note.¹¹⁵

Requirements:

All occupants of a motor vehicle¹¹⁶ shall be secured in a seat belt when the vehicle is in motion. ID ST § 49-673(1).

A citation also may be issued to the operator of the motor vehicle if the operator is age 18 or older and any occupant under 18 years of age fails to wear a safety restraint as required in this section. ID ST § 49-673(3)(a)(ii).

Primary or Secondary
Enforcement:**Secondary Enforcement:** Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when the operator of the motor vehicle has been detained for a suspected violation of another law. ID ST § 49-673(5).Sanctions for Failure to Use or
Require the Use of Seat Belts:**Infraction:** A fine of **\$10**. ID ST § 49-673(3)(b). A conviction for this infraction shall neither result in points being assigned to a person's driving record nor be deemed a moving violation for the purpose of establishing rates of motor vehicle insurance. ID ST § 49-673(3)(b).

Effect on Civil Liability:

The failure to use a seat belt shall not be considered any circumstances as evidence of contributory or comparative negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence. ID ST § 49-673(8).

Required Use of Child Safety
Restraint Systems:See note.¹¹⁷

Requirements:

A person, transporting a child 6 years old or younger in a noncommercial motor vehicle¹¹⁸ shall secure such child in a federally approved child safety restraint. ID ST § 49-672(1).

Sanctions for Failure to Require

Infraction: A fine of not more than **\$100**. ID ST § 18-113A; ID

¹¹⁵ **Exemptions:** This requirement does not apply to: (1) persons who are unable to use a seat belt for medical reasons and possess a written statement from a licensed physician; (2) persons riding on motorcycles, using implements of husbandry and occupying emergency vehicles; (3) persons riding in the motor vehicle when all of the available seat belts are already in use; and (4) mail carriers. ID ST § 49-673(2).

¹¹⁶ This requirement applies only to motor vehicles that have a gross vehicle weight of not more than 8,000 lbs., and that comply with Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). ID ST § 49-673(1). **Note:** This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

¹¹⁷ **Exemptions:** This requirement does not apply in the following circumstances: (1) if all of the vehicle's seat belts are in use, so long as the child is placed in the vehicle's rear seat; or (2) if the child is held by an attendant for the purpose of nursing the child or attending to the child's other immediate physiological needs. ID ST § 49-672(2)(a),(b).

¹¹⁸ This requirement applies to motor vehicles that were manufactured with seat belts after January 1, 1966.

the Use of Child Restraint Systems:

ST § 49-110(5); ID ST § 49-236(2). **Note:** The law does not assign points for a violation of this requirement. ID ST § 49-326(2).

Effect on Civil Liability:

The failure to use a child safety seat shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible in any civil action with regard to negligence. ID ST § 49-672(3).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There is no specific statutory provision excluding a school bus from the seat belt requirement or from the definition of “motor vehicle.”

Required Use of Motorcycle Protective Headgear:

Requirements:

No person under the age of 18 shall operate or ride on a motorcycle unless he is wearing a State approved protective safety helmet meeting Federal Motor Vehicle Safety Standard No. 218. ID ST § 49-666; ID ADC § 11.07.01.040.

Sanctions for Failure to Use:

Infraction: A fine of not more than **\$100**. ID ST § 18-113A; ID ST § 49-110(5); ID ST § 49-236(2). The law does not assign points for a violation of this requirement. ID ST § 49-672(3).

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Passenger Age Restrictions:

None

Required Use of Bicycle Protective Headgear:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

STATE

General Reference:

ILLINOISWest's Smith-Hurd Illinois Compiled Statutes Annotated
Illinois Administrative Code (IL ADC)Required Use of Seat Belts:See note.¹¹⁹

Requirements:

I. Each driver and front seat passenger shall wear a properly adjusted seat belt when a motor vehicle is in operation. 625 ILCS 5/12-603.1(a).

II. A driver who is younger than 18 years old and each of such driver's passengers who are younger than 19 years old must wear a seat belt when a motor vehicle is in operation.¹²⁰ 625 ILCS 5/12-603.1(a)Primary or Secondary
Enforcement:**Primary Enforcement:** However, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a seat belt violation. 625 ILCS 5/12-603.1(f).Sanctions for Failure to Use or
Require the Use of Seat Belts:**Petty Offense:** A fine not to exceed **\$25**. 625 ILCS 5/12-603.1(d). The law does not assign points for a violation of these requirements. 92 IL ADC § 1040.20(e).

Effect on Civil Liability:

Failure to wear a seat belt in violation of the law shall not be considered evidence of negligence, shall not limit the liability of an insurer and shall not diminish any recovery for damages arising out of the ownership, maintenance or operation of a motor vehicle. 625 ILCS 5/12-603.1(c).

Required Use of Child Safety
Restraint Systems:See note.¹²¹

Requirements:

I. A person transporting a child under the age of 8 in a motor vehicle¹²² shall secure such child in a federally approved child restraint system.¹²³ 625 ILCS 25/4.

¹¹⁹ **Exemptions:** The requirement to use a seat belt does not apply to: (1) a driver or passengers who are operating or riding in a motor vehicle that makes frequent stops for the purpose of delivering property and provided the speed of the vehicle between stops is not greater than 15 mph; (2) drivers and passengers possessing a written statement from a physician or a certificate or license endorsement issued by an appropriate out-of-State agency, that such person is unable, for medical or physical reasons, to wear a seat belt; (3) a driver operating a motor vehicle in reverse; (4) persons operating or riding in motor vehicles either with a model year prior to 1965 or that are not required by Federal law to have seat belts; (5) persons operating or riding on motorcycles, motor driven cycles, or mopeds; and (6) rural letter carriers performing their official duties. 625 ILCS 5/12-603.1(b).

¹²⁰ I. Under separate provisions of law, a driver less 18 years old is not to operate a motor vehicle either with more than one passenger in the front seat or with more passengers in the back seats than there are seat belts. A driver less than 18 years old when operating a second division vehicle, that has only a front seat and that weighs not more than 8,000 lbs., may transport more than one person in the front seat provided each passenger is wearing a seat belt. 625 ILCS 5/12-603(b-5).

¹²¹ **Exemptions:** The requirement to use a child passenger restraint system or seat belt does not apply with respect to children who have a physical disability of such a nature as to prevent the proper use of such a system or belt. 625 ILCS 25/7.

II. Every person when transporting a child 8 or older but under the age of 16 shall be responsible for properly securing that child in a seat belt. 625 ILCS 25/4a

III. (But) a child weighing more than 40 pounds may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt. 625 ILCS 25/4.

IV. A person who is younger than 18 years old when transporting a child who is 8 years or older but less than 19 years old in a motor vehicle must secure such child in a seat belt or an appropriate child restraint system. 625 ILCS 25/4b.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Petty Offense:

First offense: A fine of not more than **\$75**.¹²⁴

Subsequent offense: A fine of not more than **\$200**. 625 ILCS 25/6. The law does not assign points for a violation of these requirements. 92 IL ADC § 1040.20(e).

Effect on Civil Liability:

In no event shall a person's failure to secure a child under age 8 constitute contributory negligence or be admissible as evidence in the trial of any civil action. 625 ILCS 25/5.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

See note.¹²⁵

I. No school bus shall be operated unless the driver has properly restrained himself with the lap belt assembly. 625 ILCS 5/12-807.

II. Each school bus which is operated for transporting passengers with disabilities shall be equipped with an appropriate restraining or safety device for each such passenger. 625 ILCS 5/12-810.

Sanctions:

For I above, first or second violation (**Petty Offense**) – A fine of not more than **\$1000**;

Third violation (within 1 year) (**Class C Misdemeanor**) – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$1,500**. 625 ILCS 5/16-104.

¹²² For the purposes of this requirement, a “motor vehicle” means: (1) a non-commercial motor vehicle of the first division; (2) a motor vehicle of the second division with a gross vehicle weight rating not greater than 9,000 lbs.; or (3) a recreational vehicle. 625 ILCS 25/4.

¹²³ For children younger than 8 years old, the parent or legal guardian shall provide a child restraint system to any person who is transporting his/her child. 625 ILCS 25/4.

¹²⁴ A person shall not be convicted of this first offense if the person produces in court satisfactory evidence of possession of an approved child restraint system and proof of completion of an instructional course on the installation of the child restraint system. 625 ILCS 25/6(b).

¹²⁵ The corporate authorities of any city with 1,000,000 or greater inhabitants may regulate, license and prescribe safety requirements for motor vehicles used to transport for hire students to or from a school. However, no such municipality may require school buses to be equipped with seat belts while transporting students who reside and attend school situated outside of the corporate limits of the municipality. 65 ILCS 5/11-40-2a.

Required Use of Motorcycle
Protective Headgear:

Requirements:

None¹²⁶

Note: “No unit of local government, including a home rule unit, may enact an ordinance requiring motorcycle users to wear protective headgear.” 625 ILCS 5/11-208(e).

Required Use of Motorcycle Eye
Protection Device:

Requirements:

A person who operates or rides on a motorcycle must be protected by glasses, goggles or a transparent shield.¹²⁷ 625 ILCS 5/11-1404(a).

Sanctions for Failure to Use:

First and second offenses (Petty Offense) - A fine of not more than **\$1,000**;

Third or subsequent offense (within 1 year) (**Class C Misdemeanor**) – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$1,500**. 625 ILCS 5/16-104; 730 ILCS 5/5-9-1.

Five points are assessed against a person's driving record a violation of this requirement. 92 IL ADC § 1040.20(c).

Passenger Age Restrictions:

None

Required Use of Bicycle Protective
Headgear:

Requirements:

None

Prohibition Against Riding in
Unsecured Portion of Vehicle:

Requirements:

None

¹²⁶ Failure to wear protective headgear is not admissible relating to comparative negligence and thus cannot be used as evidence to mitigate damages. *Hukill v. DiGregorio*, 484 N.E.2d 795 (Ill. App. 2 Dist. 1985).

¹²⁷ Contact lenses are not acceptable eye protection devices. 625 ILCS 5/11-1404(c).

STATE

General Reference:

INDIANA

Indiana Code

Indiana Administrative Code (IN ADC)

Required Use of Seat Belts:See note.¹²⁸

Requirements:

Each occupant of a motor vehicle shall be secured in a seat belt when the vehicle is in forward motion. IN ST § 9-19-10-2.

Primary or Secondary
Enforcement:

Primary Enforcement: A vehicle may be stopped to determine compliance with the seat belt law. However, during such stop, neither the vehicle, its contents, driver, nor passengers may be searched or detained solely because of a violation.

A law enforcement agency may not use a seat belt checkpoint to detect and issue a citation for a person's failure to comply with the seat belt law. IN ST § 9-19-10-3.1(a),(b).

Sanctions for Failure to Use or
Require the Use of Seat Belts:

Class D Infraction: A fine of up to **\$25**. IN ST § 9-19-10-8(a); IN ST § 34-28-5-4(d). Points may not be assessed against a person's driving record for a violation of this requirement. IN ST § 9-19-10-8(b).

Effect on Civil Liability:

Failure to comply does not constitute fault and does not limit the liability of an insurer. IN ST § 9-19-10-7(a). Except in product liability cases, a failure to comply may not be admitted in a civil action to mitigate damages. IN ST § 9-19-10-7(b),(c).

Required Use of Child Safety Restraint Systems:See note.¹²⁹

Requirements:

I. Before operating a motor vehicle, a driver must secure a child less than 8 years of age in a child passenger restraint system, except a child weighing more than 40 lbs., may be restrained by a lap seat belt if: (1) the motor vehicle is not equipped with lap and shoulder seat belts; or (2) not including the operator's seat and front passenger seat, all the lap and shoulder belts are being used to

¹²⁸ **Exemptions:** The requirement to wear a seat belt does not apply to an occupant who meets any of the following conditions: (1) for medical reasons should not wear seat belts, provided the occupant possesses written documentation from a physician; (2) is a child required to use a child passenger restraint system; (3) is traveling in a commercial or U.S. Postal Service vehicle that makes frequent stops for the purpose of picking up or delivering goods and services; (4) is a rural carrier of the U.S. Postal Service and is performing his official duties; (5) is a newspaper motor route carrier/bundle hauler who stops to make deliveries from a vehicle; (6) is an examiner conducting a driver's license/permit examination. IN ST § 9-19-10-1.

¹²⁹ **Exemptions:** The requirement that certain children use either a child passenger restraint system or seat belt does not apply to drivers operating the following: (1) a school bus; (2) a taxicab; (3) an ambulance; (4) a passenger bus; (5) a motor vehicle having a seating capacity greater than 9 individuals that is owned/leased by a religious or not-for-profit youth organization; (6) an antique motor vehicle; (7) a motorcycle; (8) a motor vehicle that is owned/leased by a governmental unit and is being used for law enforcement duties; (9) a motor vehicle used in an emergency; (10) a motor vehicle that is funeral equipment used in a funeral procession and/or return trip to a funeral home. IN ST § 9-19-11-1.

properly restrain children less than 16 years old. IN ST § 9-19-11-2; IN ST § 9-19-11-3.7.

II. A person operating a motor vehicle with a child at least 8 years but less than 16 years of age shall have such child fastened in a child restraint system or a seat belt. IN ST § 9-19-11-3.6(a).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Class D Infraction: A fine of not more than \$25.¹³⁰ IN ST § 9-19-11-2; IN ST § 9-19-11-3.7; IN ST § 9-19-11-3.6(a); IN ST § 34-28-5-4(d). An abstract of a violation of this requirement is forwarded to the Bureau of Motor Vehicles for inclusion in the person's driving record. IN ST § 9-19-11-7. Points may not be assessed against a person's driving record for a violation of this requirement. IN ST § 9-19-11-10.¹³¹

Effect on Civil Liability:

Failure to comply with this requirement does not constitute contributory negligence. IN ST § 9-19-11-8.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

School buses are exempt from the seat belt/child passenger restraint requirement. IN ST § 9-19-11-1.

Required Use of Motorcycle Protective Headgear:

Requirements:

A person under the age of 18 shall wear State approved protective headgear that meets the Federal Motor Vehicle Safety Standard No. 218, when operating or riding on a motorcycle. IN ST § 9-19-7-1(1); IN ST § 9-24-8-2(c).

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than \$500. IN ST § 9-19-7-3; IN ST § 34-28-5-4(c). Four points are assessed against a person's driving record. 140 IN ADC § 1-4.5-10.

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person under the age of 18 shall wear protective glasses, goggles or transparent face shield when operating or riding on a motorcycle or motorized bicycle. IN ST § 9-19-7-1(2).

Sanctions for Failure to Use:

Class C Infraction: A fine of not more than \$500. IN ST § 9-19-7-3; IN ST § 34-28-5-4(c).

¹³⁰ If the court finds that the person is a first-time offender and possesses or has acquired a child restraint system, the court shall enter judgment against the person. However, the person may not be liable for any costs or monetary judgment. IN ST § 9-19-11-5.

¹³¹ The Indiana point value table, located in 140 IN ADC § 1-4.5-10, and effective in 1997, lists an assessment of 8 points for a child restraint violation. However, IN ST § 9-19-11-10 became effective July 1, 2005, and therefore supersedes the point value table.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: Children in child care centers shall wear a helmet when riding bicycles. 470 IN ADC 3-4.7-63.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

STATE

General Reference:

IOWA

Iowa Code Annotated

Required Use of Seat Belts:See note.¹³²

Requirements:

When a motor vehicle¹³³ is in forward motion, the driver and front-seat passengers shall wear seat belts or safety harnesses. IA ST § 321.445, subsec. 2.

Primary or Secondary Enforcement:

Primary Enforcement: There is no statutory provision.¹³⁴

Sanctions for Failure to Use or Require the Use of Seat Belts:

Simple misdemeanor but described as a “**Scheduled Violation**”: A fine of **\$50**.
IA ST § 321.482; IA ST § 805.8; IA ST § 805.8A, subsec. 14(c).

A driver shall not be charged for a violation committed by a passenger who is 14 years of age or older unless such passenger is unable to properly fasten a seat belt due to a temporary or permanent disability. IA ST § 321.445, subsec. 3.

Note: In determining license suspension action, the State is not to consider a violation of this requirement.
IA ST § 321.210, subsec. 2(b).

Effect on Civil Liability:

The failure to comply with this requirement shall not be considered evidence of comparative fault. However, such failure may be admitted to mitigate damages under certain circumstances. IA ST § 321.445, subsec. 4(b).

Required Use of Child Safety Restraint Systems:See note.¹³⁵

¹³² **Exemptions:** The requirement to wear a seat belt or safety harness does not apply to: (1) persons driving or riding in vehicles that are not required to have seat belts; (2) drivers or passengers who are actively engaged in work which requires them to alight and reenter the vehicle at frequent intervals, providing the vehicle does not exceed 25 mph between stops; (3) letter carriers of the U.S. Postal Service when performing their duties; (4) passengers on a bus; (5) persons, who for medical or physical reasons, cannot wear a seat belt and possess a written certification issued within the past 12 months; and (6) except for the driver, front seat occupants of an emergency vehicle when such occupants are being transported in an emergency. IA ST § 321.445, subsec. 2.

¹³³ A “motor vehicle” does not include a motorcycle or motorized bicycle. IA ST § 321.445, subsec. 2.

¹³⁴ See *State v. Godfrey*, 491 N.W.2d 173 (Iowa App. 1992) (upholding traffic stop based on officer’s personal observations of automobile driver, coupled with officer’s experience with seat belt violation stops, which gave officer reasonable cause to believe driver was violation seat belt law).

¹³⁵ **Exemptions:** These requirements do not apply to children riding in/on: (1) school buses; (2) motorcycles; (3) motor vehicles operated by law enforcement officers acting on official duty; (4) motor vehicles with a model year of 1965 or older; (5) authorized emergency vehicles; (6) motor homes except when riding in the passenger seat “situated directly” to the right of the driver; and (7) a motor vehicle for whom no back seat belt are available because all seat belts are being used by other occupants or cannot be used due to the use of a child restraint system in the seating position for which a belt is provided. In addition, there is an exemption in cases of children who have a medical, physical, or mental condition that prevents or makes inadvisable the securing of a child in a child restraint system, seat belt, or safety harness. IA ST § 321.446, subsec. 1 – 321.446, subsec. 3.

Requirements: I. A child under 1 year of age and weighing less than 20 lbs., shall be secured in a rear-facing child restraint system. IA ST § 321.446, subsec. 1(a).
 II. A child under age 6 and weighing 20 or more lbs., shall be secured in a federally approved child restraint system. IA ST § 321.446, subsec. 1(b).
 III. A child 6-17 years old shall be secured in a federally approved child restraint system, a seat belt, or a safety harness. IA ST § 321.446, subsec. 2.

Sanctions for Failure to Require the Use of Child Restraint Systems: See note¹³⁶
 Simple misdemeanor, but described as a “**Scheduled Violation**”:
 A fine of **\$100**.
 IA ST § 321.446, subsec. 4; IA ST § 805.8; IA ST § 805.8A, subsec. 14(c).

 First offenders who prove purchase or acquisition of a child restraint system “shall not be convicted.”
 IA ST § 321.446, subsec. 5.

Note: In determining license suspension action, the State is not to consider a violation of this requirement.
 IA ST § 321.210, subsec. 2(b).

Effect on Civil Liability: Failure to use a child restraint system, seat belt or safety harness does not constitute negligence nor is such failure admissible as evidence in a civil action. IA ST § 321.446, subsec. 6.

Required Use of Safety Restraining Systems on School Buses:

Requirements: Children riding on school buses are exempt from the child restraint system requirements. IA ST § 321.446.

Required Use of Motorcycle Protective Headgear:

Requirements: **None**

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

¹³⁶ If a child is being transported in a taxicab in a manner that is not in compliance with requirements, the parent, legal guardian or other responsible adult traveling with the child shall be served with a citation for a violation in lieu of the taxicab operator.

Required Use of Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against Riding in
Unsecured Portion of Vehicle:

Requirements: A passenger shall not ride on any part of any vehicle unless it is expressly designed either for passenger use or designed for carrying livestock, merchandise or freight. IA ST § 321.455.

Sanctions for a Violation: Simple misdemeanor but described as a “**Scheduled Violation.**”¹³⁷

Exemptions: **None**

¹³⁷ IA ST § 321.482 lists a violation of this requirement as a simple misdemeanor. However, IA ST § 805.8A, subsec. 12(c), lists a fine of \$100 when the violation concerns height, weight, width and load. The first part of IA ST § 321.455 sets out restrictions for load on passenger-type vehicles operated on any highway.

STATE

KANSAS

General Reference:

Kansas Statutes Annotated

Required Use of Seat Belts:

See note.¹³⁸

Requirements:

I. When a passenger car¹³⁹ is in operation, each occupant shall be properly secured in a seat belt. KS ST § 8-2503(a)(1).
 II. When a passenger car is in motion, each occupant who is at least 14 years of age but less than 18 years of age shall be properly secured in a seat belt. KS ST § 8-2503(a)(2).

Primary or Secondary Enforcement:

Primary Enforcement: However, law enforcement officers shall not stop drivers for seat belt violations by a back seat occupant in the absence of another violation of law. KS ST § 8-2503(e).

Sanctions for Failure to Use or Require the Use of Seat Belts:

For a violation of section I above:
 until July 1, 2011 - **\$5**;
 after July 1, 2011 - **\$10**.
 KS ST § 8-2504(a)(1).
 For a violation of section II above, a fine of **\$60**.
 KS ST § 8-2504(a)(2).

No court shall report a violation of these requirements to the department of revenue. KS ST § 8-2504(b).

Effect on Civil Liability:

Evidence of failure to use a seat belt shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. KS ST § 8-2504(c).

Required Use of Child Safety Restraint Systems:

Requirements:

I. A driver of a passenger car¹⁴⁰ who transports a child under the age of 14 shall properly secure such child in a child safety restraint system.¹⁴¹ KS ST § 8-1344(a).

¹³⁸ **Exemptions:** The requirement to use a seat belt does not apply to: (1) an occupant of a passenger car who possess a written statement from a licensed physician that such person is unable for medical reasons to wear a seat belt system; (2) carriers of U.S. mail while actually engaged in delivery and collection of mail along their specified routes; or (3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes. KS ST § 8-2503(b).

¹³⁹ A “passenger car” for purposes of the seat belt use act, is defined as a motor vehicle (including vans) manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with seat belts, designed to carry 10 passengers or fewer. It does not include a motorcycle or a motor-driven cycle. KS ST § 8-2502.

¹⁴⁰ This term is given the same definition as that contained in the seat belt use act (*see* Footnote No. 127 above). However, for purposes of the child safety act, the definition of “passenger car” also excludes a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 lbs., or a farm truck registered for a gross weight of more than 16,000 lbs. KS ST § 8-1343a.

II. A driver of a passenger car who transports a child at least 8 years old but less than 14 years old, or who weighs more than 80 lbs., or is more than 4 feet 9 inches in height, shall properly secure such child in a seat belt.^{142, 143} KS ST § 8-1344(a).

Sanctions for Failure to Require the Use of Child Restraint Systems:

A fine of **\$60**. A violation of this requirement is not a moving violation for licensing sanctions purposes. KS ST § 8-1345(a).

Such fine shall be waived if the driver convicted of the violation provides proof to the court that he/she has purchased or acquired the appropriate and approved child passenger safety restraining system. KS ST § 8-1345(b).

However, a driver shall not be convicted if he/she produces proof that the child was 14 years or older at the time of the violation. KS ST § 8-1345(c).

Effect on Civil Liability:

Evidence of failure to secure a child as required shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. KS ST § 8-1345(d).¹⁴⁴

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There is no specific statutory provision. However, “school bus” does not fit the definition of “passenger car” in the seat belt or child safety restraint system provisions. KS ST § 8-2505; KS ST § 8-1343a; KS ST § 8-1461.

Sanctions:

Required Use of Motorcycle Protective Headgear:

Requirements:

No person under the age of 18 shall operate or ride upon a motorcycle or motorized bicycle unless that person is wearing federally approved protective headgear. KS ST § 8-1598(a).

Sanctions for Failure to Use:

Traffic Infraction: If a person pleads guilty or no contest, then a fine of not more than **\$30** (if in a manner accepted by the court) or

¹⁴¹ Such system shall meet or exceed the standards and specifications contained in the Federal Motor Vehicle Safety Standard no. 213. (49 C.F.R. 571.213).

¹⁴² Such seat belt shall be manufactured in compliance with Federal Motor Vehicle Safety Standard no. 208. (49 C.F.R. 571.208).

¹⁴³ If a securing location only has a lap seat belt available, then the child shall be secured in a seat belt as set out in Section II above. KS ST § 8-1344(c).

¹⁴⁴ The law has been interpreted to include “misuse” as well as “nonuse.” *Watkins v. Hartsock*, 783 P.2d 1293 (Kan. 1989). Additionally, failure to employ a child passenger restraint system shall not constitute negligence per se. KS ST § 8-1346.

\$45 (if by personal check), as listed in the uniform fine schedule shall be imposed.
 KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 8-2118b; KS ST § 21-3105.

Required Use of Motorcycle Eye Protection Device:

See note.¹⁴⁵

Requirements:

No person shall operate a motorcycle unless wearing an eye-protection device (i.e., protective glasses, goggles or transparent shields which are shatterproof and impact-resistant). This requirement does not apply if the motorcycle is equipped with a windscreen. KS ST § 8-1598(c).

Sanctions for Failure to Use:

Traffic Infraction: If a person pleads guilty or no contest, then a fine of not more than **\$30** (if in a manner accepted by the court) or **\$45** (if by personal check) as listed in the uniform fine schedule shall be imposed. KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 8-2118b; KS ST § 21-3105,.

Passenger Age Restrictions:

None

Required Use of Bicycle Protective Headgear:

Requirements:

None

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A person under the age of 14 is prohibited from riding upon any portion of a vehicle not designed or intended for passenger use. KS ST § 8-1578a(a).
 II. A driver is not to allow a person under the age of 14 years old to ride upon any portion of a vehicle not designed or intended for passenger use. KS ST § 8-1578a(b).
Note: The above requirements only apply when the vehicle is being operated within the corporate limits of a city or on the State highway system. KS ST § 8-1578a(d).

Sanctions for a Violation:

Traffic Infraction: If a person pleads guilty or no contest, then a fine of not more than **\$45** (if in a manner accepted by the court) or **\$60** (if by personal check), as listed under the uniform fine schedule shall be imposed.
 KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 8-2118b; KS ST § 21-3105.

¹⁴⁵ This requirement, or that of the use of protective head gear, does not apply to persons who are riding within an enclosed cab, a golf cart, or any industrial (e.g., cargo-type) vehicle which has three wheels and which is commonly known as a truckster. KS ST § 8-1598(d).

Exemptions:

This requirement does not apply (1) to an employee younger than 14 who is engaged in the necessary discharge of an employer's duties within a truck body which is intend for merchandise or cargo; or (2) vehicles being operated in parades, caravans, or exhibitions. KS ST § 8-1578a(c).

STATE

KENTUCKY

General Reference:

Kentucky Revised Statutes

Required Use of Seat Belts:

See note.¹⁴⁶

Requirements:

No person shall operate a motor vehicle¹⁴⁷ (manufactured after 1981) unless the driver and all passengers are wearing seat belts. KY ST § 189.125(6).

Primary or Secondary Enforcement:

Primary Enforcement: No statutory provisions. However, all law enforcement agencies shall be prohibited from erecting roadblocks for the sole purpose of checking for seatbelt violations. KY ST § 189.126.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Violation: A fine of not more than **\$25** subject to prepayment, but not subject to court costs or additional fees. KY ST § 189.990(26).

Effect on Civil Liability:

Failure of any person to wear a seat belt shall not constitute negligence per se, but may be introduced for consideration in awarding damages. KY ST § 189.125(5); Wemyss v. Coleman, 729 S.W.2d 174 (Ky. 1987).

Required Use of Child Safety Restraint Systems:

Requirements:

I. When transporting a child 40 inches in height or less, a driver of a motor vehicle shall secure such child in a federally approved child restraint system. KY ST § 189.125(3)(a), (4)(a).

II. When transporting a child under the age of 7 who is between 40-50 inches in height, a driver of a motor vehicle shall secure such child in a child booster seat. KY ST § 189.125(3)(b), (4)(b).

Sanctions for Failure to Require the Use of Child Restraint Systems:

I. **Violation:** A fine of **\$50**. KY ST § 189.990(24).

II. **Violation:** A fine of **\$30**. KY ST § 189.990(25).¹⁴⁸

Effect on Civil Liability:

Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure be admissible as evidence in the trial of any civil action. KY ST § 189.125(5).

¹⁴⁶ **Exemptions:** This requirement does not apply to: (1) persons who possess at the time of the conduct in question a written statement from a physician or licensed chiropractor that they are unable to wear a seat belt because of medical or physical conditions; and (2) letter carriers of the U.S. Postal Service while they are performing their duties. KY ST § 189.125(6).

¹⁴⁷ A “motor vehicle” includes a vehicle that is designed to carry 10 or fewer persons. However, the term does not include: (1) motorcycles; (2) motor driven cycles; or (3) farm trucks having a gross weight 1 ton or more. KY ST § 189.125(1).

¹⁴⁸ This fine is subject to prepayment but not subject to any court costs or additional fees. Further, a first time offender may elect to acquire an approved booster seat, and upon presentation to the court, the charge shall be dismissed with no fees or costs imposed. KY ST § 189.990(25).

Required Use of Safety Restraining Systems on School Buses:

Requirements: There is no specific statutory provision. However, the term “school bus” is not directly excluded from the definitions of “motor vehicle” and “vehicle,” for purposes of the seat belt and restraint sections.¹⁴⁹

Required Use of Motorcycle Protective Headgear:

Requirements: The following persons are required to wear State approved protective headgear, meeting standards set out by Federal Motor Vehicle Safety Standard No. 218, when operating or riding as a passenger on a motorcycle: (1) operators or passengers who are under the age of 21 years (including those passengers who are riding in sidecar attachments); (2) any operator who possesses a motorcycle instruction permit; and (3) any operator who has possessed a motorcycle operator’s permit for less than 1 year. KY ST § 189.285(3).

Sanctions for Failure to Use: **Violation:** A fine of not less than **\$20** or more than **\$100**. KY ST § 189.990(1). The law does not provide for any assignment of points for this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements: When operating a motorcycle, a person must use a State approved eye-protection device. KY ST § 189.285(1)(b).

Sanctions for Failure to Use: **Violation:** A fine of not less than **\$20** or more than **\$100**. KY ST § 189.990(1). The law does not assign points for this requirement.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

¹⁴⁹ A school bus is exempt from the motor carrier law, *except as to safety regulations*. KY ST § 156.153 (emphasis added). Additionally, in *Montgomery v. Midkiff*, the court held while there was no statutory provision for the requirement and use of seat belts in a bus (a common carrier), it was a question for the jury to decide in a civil negligence matter. 770 S.W.2d 689 (Ky.App. 1989).

STATE

General Reference:

LOUISIANA

West's Louisiana Statutes Annotated: Revised Statutes

Required Use of Seat Belts:See note.¹⁵⁰

Requirements:

When a motor vehicle¹⁵¹ is in forward motion, the driver and every passenger shall wear a seat belt. LA R.S. § 32:295.1(A), (B).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer has probable cause to stop a vehicle so long as the officer has a clear and unobstructed view of a person not restrained. However, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of failure to wear a proper restraint.¹⁵² LA R.S. § 32:295.1(F).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: First offense – A fine of **\$25** including court costs; Second offense – A fine of **\$50** including court costs; Third and subsequent offense – A fine of **\$50 plus** all court costs. LA R.S. § 14:7; LA R.S. § 32:295.1(G)(1); LA R.S. § 32:641.

Note: Notwithstanding any other provision of law, these are the only fines and costs that can be assessed against an offender. LA R.S. § 32:295.1(G)(2).

Effect on Civil Liability:

Failure to wear a seat belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages. LA R.S. § 32:295.1(E).

Required Use of Child Safety Restraint Systems:See note.¹⁵³

¹⁵⁰ **Exemptions:** The requirement to use a seat belt does not apply to: (1) rural letters carriers of the U.S. Postal Service while performing official duties; (2) persons operating a farm vehicle within 5 miles of its principal place of use; (3) persons delivering newspapers; (4) utility workers in the course of employment who must emerge from and re-enter a passenger vehicle at frequent intervals, so long as the worker does not exceed 20 miles per hour while operating such vehicle; and (5) persons who have a physical or mental condition that prevents the use of a seat belt, so long as the condition is duly certified by a physician stating the nature of the handicap as well as the reason such restraint is inappropriate. In order to identify persons who satisfy this last exemption, a special vehicle tag shall be issued or a notation on the driver's license shall be made. LA R.S. § 32:295.1(C), (D).

¹⁵¹ The requirement to use a seat belt applies to passenger cars, vans, trucks having gross vehicle weight 10,000 lbs., or less (commonly referred to as pickup trucks), and autocycles. However, the requirement does not apply to persons who are operating or riding in such vehicles manufactured prior to January 1, 1981. LA R.S. § 32:295.1(A)(1), (A)(2), (B). "Autocycle" is defined as "an enclosed motorcycle that is equipped with seat belts, rollbar, windshield wipers, steering wheel, and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time." LA R.S. §32:1(1.1).

¹⁵² This statute does not negate the plain view exception to warrantless seizures. See *State v. Lee*, 836 So.2d 589 (La. App. 5 Cir. 2002) (vehicle was initially stopped because of seatbelt violation, but detained when an officer saw a handgun within plain view).

¹⁵³ **Exemptions:** The requirement to use child passenger restraint does not apply to: (1) children being transported in a motor vehicle that is being used as an ambulance or other emergency vehicle; (2) adults or applicable children where an emergency exists which would threaten the life of any person; and (3) children who, because of medical

Requirements: Any driver operating a motor vehicle¹⁵⁴ equipped with seat belts shall secure each child under the age of 13 in a proper restraint system.^{155, 156}

I. A child younger than 1 year of age or who weighs less than 20 lbs. = rear-facing child safety seat;

II. A child at least 1 but younger than 4 years or at least 20 lbs., but less than 40 lbs. = forward-facing child safety seat;

III. A child at least 4 but younger than 6 years or at least 40 lbs., but not more than 60 lbs. = child booster seat;¹⁵⁷

IV. A child at least 6 years or weighs more than 60 lbs. = seat belt adjusted and fastened around the child's body or a child booster seat. LA R.S. § 32:295.

Sanctions for Failure to Require the Use of Child Restraint Systems: See note.¹⁵⁸

Misdemeanor: First offense - A fine of **\$100**;
Second offense - A fine of not less than **\$250** or more than **\$500**;
Third or subsequent offense - A fine of **\$500 plus** all court costs.¹⁵⁹
 LA R.S. § 14:7; LA R.S. § 32:295(I)(1); LA R.S. § 32:641.

Any person whose violation is limited to failure to utilize an age- or size-appropriate child restraint system to secure an otherwise restrained child shall not be fined more than **\$100** including fees and court costs. LA R.S. § 32:295(I)(2).

Effect on Civil Liability: The failure to secure a child passenger safety seat system shall not be considered as comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. LA R.S. § 32:295(F).

Required Use of Safety Restraining Systems on School Buses:

reasons, cannot be secured in a child passenger safety system or seat belt. LA R.S. § 32:295(E).

¹⁵⁴ Here, the term "motor vehicle" shall not mean the following: bicycle; farm tractor; motorcycle or motor-driven cycle; truck carrying over 2,000 lbs.; ambulance or other emergency vehicle; school, church or private bus; recreational vehicle which has a passenger capacity of over 10 persons; commercial truck; van; or taxi.
 LA R.S. § 32:295(B)(1).

¹⁵⁵ A child who because of age or weight can be placed into more than one category shall be placed into the more protective category. LA R.S. § 32:295(A)(3).

¹⁵⁶ When the number of children under the age of 13 exceeds the number of age- or size-appropriate passenger restraint systems and seat belts available in the motor vehicle, the unrestrained children shall be seated in a rear seat, if available. LA R.S. § 32:295(D).

¹⁵⁷ This provision shall not apply in any seating position where there is only a lap belt available and the child weighs more than 40 lbs.

¹⁵⁸ A violation involving failure to secure a child in any type of child restraint system shall be a primary offense. However, failure to secure a child in an age- or size-appropriate restraint shall be a secondary offense, and a driver may be cited only if stopped for a moving violation. LA R.S. § 32:295(H). The failure to use a child safety restraint system shall not be considered a moving violation. LA R.S. § 32:295(F).

¹⁵⁹ A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. LA R.S. § 32:295(G).

Requirements: Every school bus, whether public or private, must be equipped with occupant restraint systems. LA R.S. § 17:164.2.¹⁶⁰

Sanctions: The Louisiana State Board of Education may issue orders prohibiting the operation of any school bus which does not comply with this requirement. The Louisiana Department of Public Safety shall enforce those orders. LA R.S. § 17:165.

Required Use of Motorcycle Protective Headgear:

See note.¹⁶¹

Requirements: See note.¹⁶²
No person shall operate or ride on a motorcycle, motor-driven cycle or motorized bicycle unless such person is wearing a State-approved safety helmet. LA R.S. § 32:190(A).

Note: A person may obtain an exemption from these requirements when participating in an authorized parade or other public exhibition. LA R.S. § 32:190(C).

Sanctions for Failure to Use: **Misdemeanor:** A fine of **\$50** that includes all court costs. LA R.S. § 14:7; LA R.S. § 32:190(F).

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate a motorcycle, or motor driven cycle unless that person is wearing a State approved eye protection device. This requirement does not apply if the vehicle is equipped with windshield or to persons riding within an enclosed cab. LA R.S. § 32:190.1(A).

Sanctions for Failure to Use: No specific sanction is listed for this violation. Therefore, it seems the general sanctions for misdemeanor offenses would apply.

Misdemeanor: First offense - Imprisonment for not more than **30 days** and/or a fine of not more than **\$175**;
Subsequent offense - Imprisonment for not more than **90 days** and/or a fine of not more than **\$500**. LA R.S. § 14:7; LA R.S. § 32:57(A).

Passenger Age Restrictions:

No operator shall carry or transport an infant or child who is required to be restrained in a rear-facing child safety seat or

¹⁶⁰ This requirement is subject to the appropriation of funds. LA R.S. § 17:164.2(A).

¹⁶¹ Failure to wear a safety helmet is considered negligence. As a result, a motorcycle operator or passenger who is injured in a traffic accident while riding on a motorcycle without wearing appropriate headgear can have any damages for injuries awarded to them reduced because of such a failure. *Landry v. Doe*, 597 So.2d 14 (La. App. 1 Cir. 1992).

¹⁶² These requirements “do not apply to persons operating or riding in an auticycle if the vehicle is equipped with a roof which meets or exceeds standards for a safety helmet.” LA R.S. § 32:190(D).

forward-facing child safety seat. A child at least 5 years of age or older is only authorized to be a passenger if such child is properly seated on the motorcycle and such child is wearing a safety helmet. LA R.S. § 32:191(E).

Required Use of Bicycle Protective Headgear: See note.¹⁶³

Requirements: A parent, guardian, or other person responsible for a child's safety and welfare shall not "knowingly allow" a child under 12 to operate or ride as a passenger on a bicycle without wearing an approved helmet. LA R.S. § 32:199(B)(1).

Sanctions for Failure to Use: Even though a citation can be issued for a violation of this requirement, the law specifically provides that "no civil penalties or court costs shall be assessed for any violation of this section." LA R.S. § 32:199(F).

Note: The law provides that a citation for a violation of this section is not *prima facie* evidence of negligence. However, comparative negligence laws do apply. LA R.S. § 32:199(D).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person under the age of 12 is prohibited from riding: (1) in the open bed of a truck with a gross weight of 6,000 lbs., or less (i.e., a pickup truck); or (2) in a utility trailer. LA R.S. § 32:284(C). No person of any age shall ride in the open bed of a truck (pickup truck) if such truck is moving upon an interstate highway. LA R.S. § 32:284(D).

Sanctions for a Violation: **Misdemeanor: First offense** – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$175**; **Subsequent offense** – A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$500**. LA R.S. § 14:7; LA R.S. § 32:57(A).

Exemptions: This prohibition does not apply: (1) if the pickup truck is traveling not more than 15 mph and is participating in an authorized parade; or (2) in emergency situations if the child is accompanied within the truck bed by an adult. LA R.S. § 32:284(C).

¹⁶³ The law also provides that a parent, guardian or other person responsible for a child's safety and welfare shall not "knowingly allow" a child who weighs less 40 lbs., or is under 40 inches in height to be a passenger on a bicycle unless he/she is "properly seated in and adequately recurred to a restraining seat." LA R.S. § 32:199(B)(2). A "restraining seat" is defined to mean "a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle." LA R.S. § 32:199(A)(5).

STATE

General Reference:

MAINE

Maine Revised Statutes Annotated (M.R.S.A.)

Required Use of Seat Belts:

See note.¹⁶⁴

Requirements:

I. The operator of a vehicle¹⁶⁵ and any passenger 18 years of age or older shall be properly secured in a seat belt. Those passengers age 18 years or older are responsible for securing themselves in a seat belt. 29-A M.R.S.A. § 2081(3-A).

Primary or Secondary Enforcement:

Primary Enforcement: There is no statutory provision.¹⁶⁶

Sanctions for Failure to Use or Require the Use of Seat Belts:

Traffic Infraction:¹⁶⁷ First offense: A fine of **\$50**;
Second offense: A fine of **\$125**;
Third and subsequent offenses: A fine of **\$250**.

These fines cannot be suspended. The law does not appear to assign points for a violation of these requirements. 29-A M.R.S.A. § 2458(3); 29-A M.R.S.A. § 101(44); 29-A M.R.S.A. § 103(1).

Effect on Civil Liability:

The nonuse of a seat belt by either the vehicle operator or a passenger is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. 29-A M.R.S.A. § 2081(5).

Required Use of Child Safety Restraint Systems:

See note.¹⁶⁸

¹⁶⁴ **Exemptions:** Drivers or passengers having a medical condition that, in the opinion of a physician, warrants an exemption from the requirements are not required to wear a seat belt. However, that medical condition and opinion must be documented by a certificate from that physician. That certificate is valid for the period designated by the physician, which may not exceed one year. 29-A M.R.S.A. § 2081(4)(A-1). Additionally, the following exceptions apply: (1) rural mail carriers of the U.S. Postal Service are not required to be secured in a seat belt while engaged in the delivery of mail; (2) an operator of a taxicab or a limousine is not responsible for securing in a seat belt a passenger transported for a fee; and (3) a newspaper delivery person is not required to be secured in a seat belt while engaged in the actual delivery of newspapers from a vehicle or performing newspaper delivery duties that require frequent entry into and exit from a vehicle. 29-A M.R.S.A. § 2081(6).

¹⁶⁵ The requirement to use either a seat belt or child safety seat only applies to persons occupying vehicles that are required to be equipped with seat belts under Federal law. 29-A M.R.S.A. § 2081(2), (3), (3-A).

¹⁶⁶ Subsection 4(E) of § 2081 of Title 29-A M.R.S.A was repealed on April 30, 2007. Therefore, an officer may enforce a seat belt violation on its own. However, an officer may not inspect or search a vehicle, the contents of a vehicle, the driver or a passenger in a vehicle solely because of a seat belt violation. 29-A M.R.S.A. § 2081(3-A).

¹⁶⁷ The Chief Judge of the District Court, by order, establishes a fine schedule for traffic infractions. 4 M.R.S.A. § 164(12)(B). Further, there are surcharges of 14% and 5% added to every fine, forfeiture or penalty imposed by any court within the State which are considered part of the fine. 4 M.R.S.A. § 1057(2-A).

¹⁶⁸ Unless the vehicle is operated by a person under 21 years of age, the requirements do not apply to a passenger over one year of age when the number of passengers exceeds the vehicle seating capacity and all of the seat belts are in use. 29-A M.R.S.A. § 2081(4)(A).

Requirements: I. A vehicle operator must have a child who weighs less than 40 lbs., properly secured in a child safety seat when transporting that child in a motor vehicle required to be equipped with safety seat belts. 29-A M.R.S.A. § 2081(2).
 II. The operator of a motor vehicle that is required to be equipped with safety seat belts must ensure that a child weighing at least 40 lbs., but less than 80 lbs., and who is less than 8 years old, is properly secured in a child restraint system. 29-A M.R.S.A. § 2081(3)(A).
 III. The operator of a motor vehicle that is required to be equipped with safety seat belts must ensure that a child who is at least 8 years old but less than 18 years, or who is under age 18 and more than 4 feet, 9 inches in height is properly secured in a seat belt. 29-A M.R.S.A. § 2081(3)(B).
 IV. The operator shall ensure that a child who is less than 12 years of age and who weighs less than 100 lbs., is properly secured in a rear seat of a vehicle, if possible. 29-A M.R.S.A. § 2081(3)(C).

Sanctions for Failure to Require the Use of Child Restraint Systems:

I. Traffic Infraction:
First offense - A fine of **\$50**;
Second offense – A fine of **\$125**;
Third and subsequent offenses – A fine of **\$250**.

No fine may be suspended by the court.
 29-A M.R.S.A. § 2081(2), (3).

The law does not appear to assign points for a violation of these requirements. 29-A M.R.S.A. § 2458(3); 29-A M.R.S.A. § 101(44); 103(1).

Effect on Civil Liability:

The failure to secure a child in a child safety seat is not admissible in evidence in a civil or criminal trial, except in a trial for a violation of this requirement. 29-A M.R.S.A. § 2081(5).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

See note.¹⁶⁹
 The operator and passengers in a school bus equipped with safety seat belts shall wear those belts when the vehicle is in motion. 29-A M.R.S.A. § 2304(4).

Sanctions:

Traffic Infraction: A fine of not less than **\$25** nor more than **\$500**, and/or suspension of license.
 29-A M.R.S.A. § 103(3); 29-A M.R.S.A. § 104.

¹⁶⁹ **Exemption:** A vehicle designed to carry 15 or fewer passengers, including the driver, used to transport children by a day care facility (except when transporting children to and from school), is exempt from the school bus subchapter. 29-A M.R.S.A. § 2309.

Required Use of Motorcycle Protective Headgear:

See note.¹⁷⁰

Requirements:

The following persons must wear protective headgear conforming with minimum standards of construction and performance as prescribed by the American National Standards Institutes or by the Federal Motor Vehicle Safety Standard No. 218:

- (1) A passenger on a motorcycle or in an attached side car who is under age 18;
- (2) An operator of a motorcycle who is under age 18;
- (3) An operator of a motorcycle, operating under a learner’s permit or within 1 year of successfully completing a driving test; and
- (4) A passenger of an operator required to wear headgear.

29-A M.R.S.A. § 2083(1).

Sanctions for Failure to Use:

Traffic Infraction: A fine of not less than **\$25** nor more than **\$500**, and/or suspension of license.¹⁷¹ 29-A M.R.S.A. § 103(3); 29-A M.R.S.A. § 104; 29-A M.S.R.A. § 2083(5); 29-A M.R.S.A. § 2604.

The law does not appear to assign points for a violation of these requirements. 29-A M.R.S.A. § 2458(3); 29-A M.R.S.A. § 101(44); 29-A M.R.S.A. § 103(1).

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Passenger Age Restrictions:

None

Required Use of Bicycle Protective Headgear:

Requirements:

A person under 16 years of age who is an operator or a passenger on a bicycle on a public roadway or public bikeway must wear a helmet. 29-A M.R.S.A. § 2323.

Note: Passengers riding on a bicycle taxi or a bicycle designed to carry passengers are exempt from this requirement. 29-A M.R.S.A. § 2322(5); 29-A M.R.S.A. § 2327.

Sanctions for Failure to Use:

Civil Violation: First violation: A law enforcement officer may provide bicycle safety information to the person and that person’s parent or guardian;

Second violation: A forfeiture of no more than **\$25** may be adjudged. However, the fine may be waived if a person presents proof of purchase of a bicycle helmet since the citation. 29-A M.R.S.A. § 2326.

¹⁷⁰ In a case involving an all-terrain vehicle, a Federal appellate court held that, under Maine law, failure to wear a helmet may be taken into consideration for purposes of barring recovery of damages or reducing the amount recovered. *Rodgers v. American Honda Motor Co.*, 46 F.3d 1 (1st Cir. 1995).

¹⁷¹ This sanction applies to any operator, parent, or guardian who allows a passenger younger than 18 years old to ride a vehicle in violation of these requirements. 29-A M.R.S.A. § 2083(2).

Admissibility of Evidence: In an accident involving a bicycle, the nonuse of a helmet by the operator or passenger is not admissible as evidence in a civil or criminal trial. 29-A M.R.S.A. § 2328.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: When riding in a pickup truck, a passenger under 19 years old must ride in the passenger compartment. 29-A M.R.S.A. § 2088(1).

Sanctions for a Violation: **Traffic Infraction:** A fine of not less than **\$25** nor more than **\$500**, and/or suspension of license. 29-A M.R.S.A. § 103(3); 29-A M.R.S.A. § 104; 29-A M.R.S.A. § 2604.

Exemptions: This requirement does not apply to the following:
(1) Workers or trainees, including agricultural workers or trainees, engaged in the necessary discharge of their duties or training, or being transported between work or training locations;
(2) Licensed hunters being transported to or from a hunting location, as long as those persons are in compliance with all laws pertaining to possession and transportation of firearms in a motor vehicle;
(3) Participants in parades;
(4) A passenger secured by a seat belt in a manufacturer-installed seat located outside the passenger compartment; or
(5) Campers and hikers being transported in Baxter State Park.
29-A M.R.S.A. § 2088(2).

STATE

General Reference:

MARYLAND

Annotated Code of Maryland.

Most references are to the Transportation Article (Trans.) Code of Maryland Regulations (MD ADC)

Required Use of Seat Belts:

See note.¹⁷²

Requirements:

I. A person may not operate a motor vehicle¹⁷³ unless that person and any passenger under 16 years old are secured in seat belts (or child safety seats). MD TRANS §22-412.3(b).

II. Persons 16 years or older may not be passengers in an "outboard front seat"¹⁷⁴ of a motor vehicle unless such persons are restrained in seat belts. MD TRANS § 22-412.3(c)(2).

Provisional Licenses: Drivers under the age of 18 must have a restriction placed on their driving privileges that prohibits them from operating motor vehicles unless they and all of their passengers are secured in seat belts. The restriction expires on the date the holder turns age 18. The medical exemptions of that law apply. MD TRANS § 16-113(d-1). A person who violates a restriction on his/her license commits a misdemeanor and is subject to a fine of not more than **\$500**. MD TRANS § 27-101(b); MD TRANS § 27-102.

Primary or Secondary Enforcement:

Primary Enforcement. There is no statutory provision.¹⁷⁵

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: A fine of not more than **\$25** (including court costs). MD TRANS § 27-101(a); MD TRANS § 27-106(b).

¹⁷² **Exemptions:** The seat belt requirement does not apply to: (1) persons who cannot use a seat belt for physical or medical reasons so long as they possess in writing a certified statement by a physician who is licensed and practices in Maryland, listing the nature of the physical disability and reason the restraint is inappropriate; and (2) U.S. Postal Service carriers or contractors while delivering mail to local box routes. MD TRANS § 22-412.3(d), (e), (f).

¹⁷³ The term "motor vehicle" means a vehicle that is a Class A (passenger), Class E (truck), Class F (tractor), Class M (multipurpose), or Class P (passenger bus) which are required to be equipped with seat belts under Federal law. However, the term does not include a Class L (historic) vehicle. MD TRANS § 22-412.3(a)(2). **Note:** Operators or passengers of/in the following motor vehicles are **exempt** from using a seat belt by reason of the fact that such vehicles are excluded from the list of classifications of motor vehicles covered by the seat belt use law (MD TRANS § 22-412.3(a)(2)): (1) most vehicles for hire vehicles, e.g., taxicabs; (2) ambulances, mortician flower coach/service wagons, funeral limousine/coach; (3) motorcycles; (4) trailers or semi-trailers; (5) school buses/vehicles; (6) vanpool vehicles; (7) farm vehicles operated only on a farm or within 10 miles of a farm; (8) historic vehicles, i.e., vehicles that are at least 20 years old; (9) "street rod" vehicles, e.g. vehicles that are at least 25 years old which have been substantially modified from the manufacturer's original design; and (10) limousines. MD TRANS § 11-165; MD TRANS § 13-912 *et seq.*

¹⁷⁴ An "outboard front seat" means a front seat position that is adjacent to a door of a motor vehicle. MD TRANS § 22-412.3(a)(3).

¹⁷⁵ A law enforcement officer may stop a vehicle when he has reasonable belief a crime, even a minor traffic infraction, is being committed. See *Whren v. United States*, 517 U.S. 806 (1996); *U.S. v. Meggison*, 2005 WL 2500529 (4th Cir. 2005) (unpublished opinion)(holding State trooper's stop of defendant based on a violation of seat belt law was valid).

Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. MD TRANS § 22-412.3(g). No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Effect on Civil Liability:

The failure to use a seat belt may not be considered: (1) as evidence of negligence; (2) as evidence of contributory negligence; (3) to limit liability of a party or insurer; or (4) to diminish recovery for damages arising out of the ownership, maintenance or operation of a motorcycle.¹⁷⁶ MD TRANS § 22-412.3(h)(1).

Required Use of Child Safety Restraint Systems:

See note.¹⁷⁷

Requirements:

I. A person transporting a child under the age of 8 years in a motor vehicle¹⁷⁸ shall secure the child in a child safety seat, unless the child is 4 feet, 9 inches tall or taller, or weighs more than 65 lbs. MD TRANS § 22-412.2(d).

II. A person transporting a child under the age of 16 shall secure the child in a child safety seat or a seat belt. MD TRANS § 22-412.2(e).

Note: A child safety seat or seat belt may not be used to restrain, seat or position more than one individual at a time. MD TRANS § 22-412.2(g).

Provisional Licenses: Drivers under the age of 18 must have a restriction placed on their driving privileges that prohibits them from operating a motor vehicle unless they comply with the requirements of the child safety restraint law. The medical exemptions of that law apply. MD TRANS § 16-113(d-1). A person who violates a restriction commits a misdemeanor and is subject to a fine of not more than \$500. MD TRANS § 27-101(b) and MD TRANS § 27-102.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of **\$25**. However a judge may waive the fine if the person charged with the violation: (1) did not possess a child safety seat at the time of the violation; (2) acquires a child safety seat prior to the hearing date; and (3) provides proof of acquisition to the court. MD TRANS § 22-412.2(l); MD TRANS § 27-101(a).

¹⁷⁶ However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the seat belt. MD TRANS § 22-412.3(h)(2), (3).

¹⁷⁷ **Exemptions:** The requirements to use either a child safety seat or seat belt do not apply to the following: (1) children whose weight, physical unfitness, or medical condition prevent the practical use of such a restraint, and such condition is certified in writing by a physician licensed to practice in Maryland; (2) children where the number of children riding in the vehicle exceeds the number of available seat belts in the vehicle. MD TRANS § 22-412.2(f), (h).

¹⁷⁸ The term “motor vehicle” as used in this section means a passenger vehicle, truck or multipurpose vehicle. MD TRANS § 22-412.2(c).

Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. MD TRANS § 22-412.2(j).

No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Effect on Civil Liability: A violation of this requirement is not contributory negligence and may not be admitted as evidence in the trial of any civil action. MD TRANS § 22-412.2(i).

Required Use of Safety Restraining Systems on School Buses:

Requirements: The seat belt and child safety seat requirements do not apply to school buses or school vehicles. MD TRANS § 11-154; MD TRANS § 13-932; MD TRANS § 22-412.3(a)(2).

Required Use of Motorcycle Protective Headgear:

Requirements: Persons shall not operate or ride on a motorcycle unless wearing State-approved protective headgear that conforms to Federal Motor Vehicle Safety Standard No. 218.¹⁷⁹ MD TRANS § 21-1306(b); MD ADC 11.13.05.02. **Note:** This requirement does not apply to persons riding in an enclosed cab. MD TRANS § 21-1306(a).

Sanctions for Failure to Use: **Misdemeanor:** A fine of not more than **\$500**. MD TRANS § 27-101(a), (b). **Note:** No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Required Use of Motorcycle Eye Protection Device:

Requirements: A person shall not operate or ride on a motorcycle unless he/she is wearing a State-approved eye-protection device or using a windscreen. MD TRANS § 21-1306(c). **Note:** This requirement does not apply to persons riding in an enclosed cab. MD TRANS § 21-1306(a).

Sanctions for Failure to Use: **Misdemeanor:** A fine of not more than **\$500**. MD TRANS § 27-101(a), (b). **Note:** No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Passenger Age Restrictions: **None**

¹⁷⁹ The failure to use protective headgear may not be considered as evidence of negligence or contributory negligence, or limit liability of a party or insurer, or diminish recovery for damages arising out of the ownership, maintenance, or operation of a motorcycle. MD TRANS § 21-1306(e)(1). However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the headgear. MD TRANS § 22-412.3(h)(2), (3).

Required Use of Bicycle Protective Headgear:

Requirements: Any rider under the age of 16 years may not ride or be a passenger on a bicycle on a highway unless that person wears a nationally approved helmet.¹⁸⁰ MD TRANS § 21-1207.1(a)(1)(ii), (c).

Sanctions for Failure to Use: A person violating this requirement is issued a warning that informs him/her of the requirements and provides educational materials about bicycle helmet use. MD TRANS § 21-1207.1(d).

No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A person may not operate a truck¹⁸¹ on a highway while a passenger under the age of 16 years is riding in the unenclosed bed of the vehicle. MD TRANS § 21-1121(c).

II. A person may not occupy the cargo area of a truck, truck/trailer, or truck tractor/semi-trailer or trailer combination where any of these vehicles has a gross vehicle weight of 10,001 lbs., or more and is being operated on a highway. MD TRANS § 21-1107(a), (b).

Sanctions for a Violation: **Misdemeanor:** A fine of not more than \$500. MD TRANS § 27-101(a), (b). No points are assessed for a violation of this requirement. MD TRANS § 16-402.

Exemptions: I. The prohibition in I does not apply if: (1) the vehicle is traveling not more than 25 mph; (2) an employee is being transported to a work site; or (3) an individual is engaged in farming operations. MD TRANS § 21-1121(b)(1). **Note:** These exemptions do not eliminate the requirements to use child safety seat or seat belts. MD TRANS § 21-1121(b)(2).

II. The prohibition in II does not apply to: (1) a person delegated to care for livestock; (2) a vehicle controlled or operated by a farmer where such vehicle: (a) is being used to transport agricultural products, farm machinery or farm supplies to or from a farm; (b) is not used in operations of a common or contract motor carrier; and (c) is used within 150 miles of the farm; (3) a vehicle owned or operated by the U.S. Department of Defense and operated either by active-duty personnel or by reserve or National Guard personnel while on either active duty or on part-time training; or (4) a vehicle traveling at a speed of not more than 25mph. MD TRANS § 21-1107(c).

¹⁸⁰ This requirement does not apply to: (1) passengers riding in commercial bicycle rickshaws; or (2) persons riding bicycles on certain segments of the boardwalk in Ocean City, Maryland. MD TRANS § 21-1207.1(a)(2), (b).

¹⁸¹ Such truck, registered as a Class E vehicle has a capacity ¾ ton or less and a gross vehicle weight which does not exceed 7,000 lbs. MD TRANS § 13-917; MD TRANS § 21-1121(a).

STATE

MASSACHUSETTS

General Reference:

Massachusetts General Laws Annotated
Code of Massachusetts Regulations (MA ADC)

Required Use of Seat Belts:

See note.¹⁸²

Requirements:

No person shall operate or ride in a private passenger motor vehicle, vanpool vehicle or truck weighing less than 18,000 lbs., unless that person is secured in a seat belt.¹⁸³ MA ST 90 § 13A.

Primary or Secondary Enforcement:

Secondary Enforcement: A law enforcement officer can only enforce this provision when a vehicle operator has been stopped for a violation of other provisions of law. MA ST 90 § 13A.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Motor Vehicle Infraction: A fine of **\$25**.¹⁸⁴ MA ST 90 § 13A; MA ST 90C § 1.

Note: A violation of this requirement shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purpose of determining surcharges on motor vehicle premiums. MA ST 90 § 13A.

Effect on Civil Liability:

There are no statutory provisions.¹⁸⁵

Required Use of Child Safety Restraint Systems:

See note.¹⁸⁶

¹⁸² **Exemptions:** The requirement to use a seat belt does not apply to: (1) any persons riding in a motor vehicle manufactured before July 1, 1966; (2) any person who is physically unable to use a seat belt, provided such condition is certified by a physician who states the nature of the condition and the reason such restraint is inappropriate; (3) rural carriers of the U.S. Postal Service while performing official duties; (4) anyone involved in the operation of taxis, liveries, tractors, trucks with a gross weight 18,000 lbs., or over; (5) buses; (6) passengers of authorized emergency vehicles; and (7) the side facing seat on which the factory did not install a seat belt in any car owned for the purpose of antique collection. MA ST 90 § 13A.

¹⁸³ No person shall transport more than 8 passengers in a motor vehicle unless all of the vehicle's occupants are secured in seat belts. MA ST 90 § 7D. In addition, under separate provisions, a person operating a school bus is required to wear a seat belt while transporting children school pupils. MA ST 90 § 7B. A violation of these requirements is a Civil Motor Vehicle Infraction for which the following sanctions may be imposed: For a first offense, a fine of not more than **\$35**; for a second offense (within 12 months), a fine of not less than **\$35** nor more than **\$75**; and, for a subsequent offense (within 12 months), a fine of not less than **\$75** nor more than **\$150**. MA ST 90 § 20; MA ST 90C § 1.

¹⁸⁴ Vehicle operators and passengers age 16 years or older old in violation of this requirement are subject to a fine of **\$25**. However, if the offender is a passenger at least 12 years but less than 16 years old, the vehicle operator is subject to an additional fine of **\$25** for each such passenger who was not wearing a seat belt. MA ST 90 § 13A.

¹⁸⁵ The State Supreme Court has not addressed the issue of whether the nonuse of a seat belt can be used to mitigate damages or be considered as contributory negligence. The court refused to consider such issue in one case because no evidence was presented to show that seat belt nonuse was causally related to plaintiff's injuries. *Shahzade v. C.J. Mabardy, Inc.*, 586 N.E.2d 3 (Mass. 1992).

¹⁸⁶ **Exemptions:** This requirement does not apply to any such child who is: (1) riding as a passenger in a school bus; (2) riding in a motor vehicle made before July 1, 1966, that is not equipped with seat belts; and (3) to a child who for physical reasons cannot use a child passenger restraint system, so long as such condition is certified in writing by a physician who shall State the nature of the disability as well as the reasons such restraints are inappropriate. MA ST 90 § 7AA.

Requirements: I. Any passenger in a motor vehicle who is under the age of 8 shall be fastened and secured by a child passenger restraint unless such passenger is more than 57 inches in height.
 II. If such child is more than 57 inches in height and under the age of 13, then he/she shall wear a seat belt.
 MA ST 90 § 7AA.

Sanctions for Failure to Require the Use of Child Restraint Systems: **Civil Motor Vehicle Infraction:** The vehicle operator is subject to a fine of not more than \$25. This sanction does not apply to an operator of a taxicab that is not equipped with a child passenger restraint device. MA ST 90 § 7AA; MA ST 90C § 1.
Note: A violation of these requirements is not considered a moving violation for the purpose of determining surcharges on motor vehicle premiums. MA ST 90 § 7AA.

Effect on Civil Liability: A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. MA ST 90 § 7AA.

Required Use of Safety Restraining Systems on School Buses:

Requirements: The child passenger restraint requirement does not apply to any child riding as a passenger in a school bus. MA ST 90 § 7AA. However, 540 MA ADC 7.07 requires a “Type 2 occupant securement system” which provides securement for the occupant’s pelvic lap and upper torso areas, in specially-equipped buses to meet certain needs of passengers.

Sanctions: N/A

Required Use of Motorcycle Protective Headgear:

Requirements: Every person operating or riding on a motorcycle or riding in a motorcycle sidecar shall wear State approved protective headgear. MA ST 90 § 7.

Sanctions for Failure to Use: **Civil Motor Vehicle Infraction:** First offense - A fine of not more than \$35;
Second offense (within 12 months) - A fine of not less than \$35 or more than \$75;
Subsequent offense (within 12 months) - A fine of not less than \$75 or more than \$150.
 MA ST 90 § 20; MA ST 90C § 1.

Required Use of Motorcycle Eye Protection Device:

Requirements: If a motorcycle is not equipped with a windshield or screen, the operator of such vehicle shall wear eyeglasses, goggles, or a protective face shield.

MA ST 90 § 7.

Sanctions for Failure to Use: **Civil Motor Vehicle Infraction:** First offense - A fine of not more than **\$35**;
Second offense (within 12 months) - A fine of not less than **\$35** or more than **\$75**;
Subsequent offense (within 12 months) - A fine of not less than **\$75** or more than **\$150**.
 MA ST 90 § 20; MA ST 90C § 1.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: Any person 16 years of age or younger operating a bicycle or being carried as a passenger on a bicycle on a public way, bicycle path or any other public right-of-way shall wear a nationally approved helmet.¹⁸⁷ This requirement does not apply if the person is in an enclosed trailer or other device that holds the person in place and protects the person’s head from impact in an accident.
 MA ST 85 §11B(2)(iii).

Sanctions for Failure to Use: **Civil Disposition:** A fine of not more than **\$20**. MA ST 40 § 21(16B); MA ST 85 § 11B.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall operate a pickup truck for a distance of more than 5 miles and in excess of 5 mph with persons under 12 years old in the body of such truck. MA ST 90 § 13.

Sanctions for a Violation: **Civil Motor Vehicle Infraction:** First offense - A fine of not more than **\$35**;
Second offense (within 12 months) - A fine of not less than **\$35** nor more than **\$75**;
Subsequent offense (within 12 months) - A fine of not less than **\$75** nor more than **\$150**.
 MA ST 90 § 20; MA ST 90C § 1.

Exemptions: This requirement does not apply to pickup trucks used in an official parade where such truck has affixed to it a legal “Owner Repair” or “Farm” license, or to a pickup truck engaged in farming activities.
 MA ST 90 § 13.

¹⁸⁷ A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. MA ST 85 § 11B(2)(iv).

STATE

General Reference:

MICHIGAN

Michigan Compiled Laws Annotated

Required Use of Seat Belts:See note.¹⁸⁸

Requirements:

See note.¹⁸⁹

I. Each operator and front seat passenger of a motor vehicle operated on a street or a highway shall wear a properly adjusted and fastened seat belt. MI ST § 257.710e(3). Additionally, a person operating or riding in an autocycle shall wear seat belts when on a public highway. MI ST § 257.658(5).

Primary or Secondary Enforcement:

Primary Enforcement: However, enforcement shall be accomplished only as a secondary action if the Office of Highway Safety Planning certifies that there has been less than 80% compliance with the seat belt requirements during the preceding year. MI ST § 257.710e(6).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Infraction: A fine (including court costs) of **\$25**. MI ST § 257.6a; MI ST § 257.710e(8); MI ST § 257.907(2). Points shall not be assessed against an offender's driver record for a violation. MI ST § 257.710e(13).

Effect on Civil Liability:

Failure to wear a seat belt may be considered evidence of negligence and may reduce the recovery for damages by not more than 5%.¹⁹⁰ MI ST § 257.710e(7).

Required Use of Child Safety Restraint Systems:See note.¹⁹¹

¹⁸⁸ **Exemptions:** The requirement to use a seat belt does not apply to an operator or passenger of any of the following: (1) a motor vehicle manufactured before January 1, 1965; (2) a bus; (3) a motorcycle; (4) a moped; (5) a motor vehicle if the operator or passenger possesses a written verification from a physician that the operator or passenger is unable to wear a seat belt for physical or medical reasons; (6) a motor vehicle that is not required to be equipped with seat belts under Federal law; (7) a commercial or United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services; (8) a motor vehicle operated by a rural carrier of the United States Postal Service while serving his/her rural postal route; or (9) a passenger of a school bus. MI ST § 257.710e(1), (2).

¹⁸⁹ If there are more passengers than seat belts available for use, and all seat belts are being utilized, the operator of the motor vehicle is held to be in compliance with this requirement. MI ST § 257.710e(4).

¹⁹⁰ In situations where an "unbelted" rear-seat passenger is injured, evidence of seat belt nonuse may be admitted as evidence "to support an affirmative defense" of comparative negligence. *Lowe v. Estate Motors Ltd*, 410 N.W.2d 706 (Mich. 1987) (*rehearing denied*, 414 N.W.2d 137 (1987)).

¹⁹¹ **Exemptions:** These requirements do not apply to: (1) any child being nursed; (2) a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with seat belts under Federal law or regulation; and (3) the "class" of children who are exempt by the State Secretary of State because of physical unfitness, a medical problem, or body size. MI ST § 257.710d (3), (6).

Requirements: See note.¹⁹²
 I. Each driver transporting a child less than 4 years of age in a motor vehicle shall properly secure that child in a federally approved child restraint system. MI ST § 257.710d(1).
 II. A child who is age 4 or older but less than 8 years of age and who is less than 4 feet 9 inches in height shall be properly secured in a child restraint system. MI ST § 257.710e(3)(b).
 III. A child 4 years of age or older but less than 16 years of age in a motor vehicle shall be secured in a seat belt, unless such child is younger than 8 years old and less than 4 feet, 9 inches in height. MI ST § 257.710e(5).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Civil Infraction:** A fine of not more than \$10. MI ST § 257.6a; MI ST § 257.710d(4); MI ST § 257.907(2). Points shall not be assessed against an offender's driver record. MI ST § 257.710d(5). However, the court shall waive any civil fine, cost, or assessment if, before the appearance date on the citation, the person who received the civil infraction supplies the court with evidence of acquisition, purchase or rental or a child seating system. MI ST § 257.907(12).

Effect on Civil Liability: Failure to wear a seat belt may be considered evidence of negligence and may reduce the recovery for damages by not more than 5 percent. MI ST § 257.710e(7).

Required Use of Safety Restraining Systems on School Buses:

Requirements: A school bus is exempt from the seat belt and child restraint system requirements. MI ST § 257.710d; MI ST § 257.710e.

Required Use of Motorcycle Protective Headgear:

Requirements: See note.¹⁹³
 I. A person operating or riding on a motorcycle shall wear a State-approved crash helmet. MI ST § 257.658(4).

Sanctions for Failure to Use: **Civil Infraction:** A fine whose amount shall be established by the State court administrator and district court. MI ST § 257.6a; MI ST § 257.656; MI ST § 257.907(7), (8).

¹⁹² If there are more children than seat belts available for use, a child 8 years of age or older but less than 16 years of age shall sit in the back seat. If, however, the motor vehicle is a pickup truck without an extended cab or jump seats, then the child shall sit in the front seat without a seat belt. MI ST § 257.710e(5). Additionally, if all available rear seats are occupied by children under the age of 4, then a child under the age of 4 may be positioned in the child restraint system in the front seat. A child in a rear-facing child restraint system may be placed in the front seat only if the front passenger air bag is deactivated. MI ST § 257.710d(2).

¹⁹³ Persons operating or riding in “low-speed vehicles” must wear an approved crash helmet. Generally, a “low-speed vehicle” is a self-propelled motor vehicle that has 4 wheels, is designed to operate a speed between 20-25 mph and weighs less than 3,000 lbs. MI ST § 257.25b; MI ST § 257.658b; 49 C.F.R. 571.3(b).

Required Use of Motorcycle Eye Protection Device:

Requirements: A person who is operating a motorcycle without a windshield and is traveling in excess of 35 mph must wear goggles, a transparent face shield or eyeglasses. MI ST § 257.708a

Sanctions for Failure to Use: **Misdemeanor:** A violation of the requirement to use an eye protection device appears to be a misdemeanor, since no other penalty is prescribed. The sanctions for a misdemeanor are imprisonment for not more than **90 days** and/or a fine of not more than **\$100**. MI ST § 257.708a; MI ST § 257.901. It appears the law does not assign points for a violation of this requirement.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A motor vehicle operator shall not allow a person younger than 18 years of age to ride in the open bed of a pickup truck on any highway, road or street in a city, village or township at a speed greater than 15 mph. MI ST § 257.682b(1).

Sanctions for a Violation: **Civil Infraction:** A fine of not less than **\$100** nor more than **\$500**. MI ST § 257.682b(3); MI ST § 257.6a; MI ST § 257.907(2).

Exemptions: This requirement does not apply to: (1) motor vehicles operated as part of an authorized parade; (2) military vehicles; (3) authorized emergency vehicles; (4) motor vehicles controlled or operated by an employer or an employee of a farm operation, construction business or similar enterprise during the course of employment; and (5) motor vehicles used to transport search and rescue teams to and from an emergency site. MI ST § 257.682b(2).

STATE

General Reference:

MINNESOTA

Minnesota Statutes Annotated

Required Use of Seat Belts:See note.¹⁹⁴

Requirements:

The driver and passengers of a passenger or commercial motor vehicle¹⁹⁵ shall wear a seat belt. MN ST § 169.686, subd. 1(a).

Primary or Secondary Enforcement:

Primary Enforcement¹⁹⁶

Sanctions for Failure to Use or Require the Use of Seat Belts:

Petty Misdemeanor: A fine of **\$25**.¹⁹⁷ MN ST § 169.89, subd. 2; MN ST § 169.686, subd. 1(b). **Note:** A violation of this requirement shall not be recorded on an offender's driver record. MN ST § 169.686, subd 1.

Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person's residence. MN ST § 169.89, subd. 5. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the offender to a license, permit, etc., suspension of up to **30 days**.

MN ST § 169.89, subd. 5.

Effect on Civil Liability:

Evidence of either the use or the failure to use a seat belt shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. MN ST § 169.685, subd. 4(a).¹⁹⁸

¹⁹⁴ **Exemptions:** The following are exempt from the seat belt requirement: (1) a person driving in a passenger vehicle in reverse; (2) a person riding in a vehicle in which all the seating positions equipped with seat belts are occupied by other persons in seat belts; (3) a person who is in possession of a written certificate from a licensed physician verifying that because of medical unfitness or physical disability the person is unable to wear a seat belt; (4) a person who is actually engaged in work that requires the person to alight from and reenter a motor vehicle, traveling 25 mph or less, at frequent intervals; (5) a rural mail carrier of the U.S. Postal Service or a newspaper delivery person while in the performance of duties; (6) a person driving or riding in a passenger vehicle manufactured before January 1, 1965; and (7) a person driving or riding in a pickup truck while engaged in normal farming work or activity. MN ST § 169.686, subd. 2.

¹⁹⁵ Under State law, the following types of motor vehicles are not required to be equipped with seat belts: (1) bus; (2) school bus; (3) motorcycle; (4) motorized bicycle; (5) farm tractor; (6) road tractor; and (7) truck. MN ST § 169.685, subd. 1.

¹⁹⁶ In May, 2009, the provision providing for secondary enforcement was struck from MN ST § 169.686, subd. 1.

¹⁹⁷ Individuals 15 years or older who violate I or II, above, are personally responsible for their actions, and subject to a fine of **\$25**. The driver is responsible for a violation by his own child under the age of 15, or any child under the age of 11. MN ST § 169.686, subd. 1(b).

¹⁹⁸ The law does not affect the right of a person to bring an action for damages in a products liability case, nor does it prohibit the introduction of evidence pertaining to the use of a seat belt in such action.

Required Use of Child Safety
Restraint Systems:

Requirements:

See note.¹⁹⁹

No motor vehicle operator may transport a child under the age of 8 and shorter than 4 feet 9 inches on any street or highway unless such child is properly fastened in a federally approved child passenger restraint system. MN ST § 169.685, subd. 5.

Primary Enforcement: A law enforcement officer may stop a motor vehicle for violation of the child safety restraint requirement, and issue a citation.²⁰⁰

Sanctions for Failure to Require
the Use of Child Restraint
Systems:

Petty Misdemeanor: A fine of not more than **\$50**. MN ST § 169.685, subd. 5(b). The fine may be waived or the amount reduced if the motor vehicle operator proves that, within 14 days after the date of the violation, he obtained or purchased a federally approved child passenger restraint system. Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person's residence. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. MN ST § 169.89, subd. 5.

Effect on Civil Liability:

Evidence of either the use of or the failure to use a child passenger restraint system shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. MN ST § 169.685, subd. 4(a).²⁰¹

Required Use of Safety Restraining
Systems on School Buses:

¹⁹⁹ **Exemptions:** The requirement to use a child passenger restraint system does not apply to: (1) a person transporting a child in an emergency medical vehicle while in the performance of official duties when the physical or medical needs of the child make the use of a child passenger restraint system unreasonable, or when such restraint system is unavailable; (2) a peace officer transporting a child while in the performance of official duties and when a restraint system is not available, provided that a seat belt must be substituted; (3) a person while operating a motor vehicle for hire, including a taxi, airport limousine, and bus (but excluding a rented, leased, or borrowed motor vehicle); (4) children who cannot, in the judgment of a licensed physician, be safely transported in a child passenger restraint system because of a medical condition, body size, or physical disability; (5) a person while operating a school bus; and (6) a person while operating a type III vehicle if the vehicle meets Federal Motor Safety Standard seating and crash protection requirements. A "type III" vehicle is a passenger vehicle weighing 10,000 lbs., or less, and can seat 10 or fewer passengers. MN ST § 169.685, subd. 6; MN ST § 169.011, subd. 71.

²⁰⁰ *State v. Lucas*, 589 N.W.2d 91 (Minn. 1999) (holding that, unlike the seat belt requirement in MN ST § 169.686, which specifically prohibits primary enforcement, the child safety law has no such provision and is unambiguous, thus allowing for primary enforcement).

²⁰¹ This prohibition also applies to wrongful death cases. See *Sweldar v. Lahti*, 473 N.W.2d 77 (Minn. 1991) (interpreting "physical injuries" to include death).

Requirements: School buses and Head Start buses must be equipped with driver seat belts. Operators of school buses and Head Start buses must use the seat belts. MN ST § 169.447, subd. 2.

A school bus *may* be equipped with a lap belt or lap and shoulder belt installed for each seating position on the bus. If so equipped, a passenger must use the lap or lap and shoulder belts, unless the passenger (or parent if the passenger is a minor) has notified the school district in writing of intent not to wear the lap or lap and shoulder belt. MN ST § 169.447, subd. 2a.

Sanctions: **Petty Misdemeanor:** A fine of not more than **\$300**. MN ST § 169.89, subd. 2.

Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person’s residence. However, failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. MN ST § 169.89, subd. 5.

Required Use of Motorcycle Protective Headgear:

Requirements: I. No person with a two-wheeled vehicle instruction *permit* shall drive the motorcycle without State approved protective headgear. MN ST § 169.223; MN ST § 169.974, subd. 2(c)(4).
 II. No person under the age of 18 years shall operate or ride on a motorcycle or motorized bicycle without wearing State approved protective headgear.²⁰² MN ST § 169.223, subd. 1; MN ST § 169.974, subd. 4(a).

Sanctions for Failure to Use: **Petty Misdemeanor:** A fine of not more than **\$300**. MN ST § 169.89, subd. 1, 2. Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person’s residence. MN ST § 169.89, subd. 5. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. MN ST § 169.89, subd. 5.

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate a motorcycle or motorized bicycle without wearing an eye-protection device.²⁰³ MN ST § 169.223, subd. 1; MN ST § 169.974, subd. 4(a).

²⁰² This requirement does not apply if the operator or rider is participating in an authorized parade, or to persons riding in an enclosed cab. MN ST § 169.974, subd. 4(b).

²⁰³ This requirement does not apply to operators of electric-assisted bicycles. MN ST § 169.223, subd. 1(6).

Sanctions for Failure to Use: **Petty Misdemeanor:** A fine of not more than **\$300**. MN ST § 169.89, subds. 1, 2.

Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person’s residence. MN ST § 169.89, subd. 5. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. MN ST § 169.89, subd. 5.

Passenger Age Restrictions: **None**, except that no person shall ride on a motorcycle as a passenger unless the person can reach the footrests with both feet. MN ST § 169.974, subd. 5(b).

Required Use of Bicycle Protective Headgear: See note.²⁰⁴

Requirements: The operator of an electric-assisted bicycle must wear nationally approved headgear. MN ST § 169.223, subd. 1(5).

Sanctions for Failure to Use: **Petty Misdemeanor:** A fine of not more than **\$300**. MN ST § 169.89, subds. 1, 2. Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person’s residence. § MN ST § 169.89, subd. 5. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. MN ST § 169.89, subd. 5.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

²⁰⁴ There are no requirements for the use of protective headgear for operators of standard bicycles.

STATE

MISSISSIPPI

General Reference:

Mississippi Code Annotated

Required Use of Seat Belts:

See note.²⁰⁵

Requirements:

Every operator and front-seat passenger in a motor vehicle operated in a forward motion on a public road, street or highway shall wear a properly fastened safety seat belt system. MS ST § 63-2-1.

Primary or Secondary Enforcement:

Primary Enforcement: An operator of a vehicle may be cited for a violation of the seat belt law. MS ST § 63-2-7.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: A fine of **\$25**. No additional assessments provided for under law shall be imposed against a violator and a violation of this requirement is not to be entered on an offender’s driving record. MS ST § 63-2-7.

Effect on Civil Liability:

Failure to use a seat belt shall not be considered contributory or comparative negligence, nor shall it create any duty of care between driver and passenger. MS ST § 63-2-3.

Required Use of Child Safety Restraint Systems:

Requirements:

I. Every person transporting a child under the age of 4 shall secure such child in a federally approved child passenger restraint device or system.
 II. If a child is at least 4 years old but less than 7 and measures less than 4 feet, 9 inches in height or weighs less than 65 lbs., then such child shall be secured in a belt positioning booster seat system.
 III. If a child is under 7 years of age and not required to be protected by the use of a child passenger restraint device or system or a belt positioning booster seat system, then such child shall be secured by a seat belt system regardless of where the child is seated. MS ST § 63-7-301; MS ST § 63-2-1.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than **\$25**. MS ST § 63-7-309; MS ST § 63-9-11(1). In addition, the offender is required to pay an assessment of **\$77.50**. MS ST § 99-19-73(1). Offenders may be eligible to participate in a traffic safety violator course of not less than 4 hours, which would allow for dismissal of the violation upon completion of the course. MS ST § 63-9-11(3).²⁰⁶

²⁰⁵ **Exemptions:** The requirement to wear a seat belt shall not apply to: (1) vehicles which may be registered for “farm” use, including “implements of husbandry” and “farm tractors”; (2) an operator or passenger possessing a written verification from a licensed physician that he is unable to wear a seat belt system for medical reasons; (3) a passenger car operated by a rural letter carrier of the U.S. Postal Service or by a utility meter reader while on duty; or (4) buses. MS ST § 63-2-1(3); MS ST § 63-7-301(2).

²⁰⁶ See MS ST § 63-9-11(3)(a)-(i) for the conditions required of a defendant in order to have the violation dismissed upon successful completion.

Effect on Civil Liability: Failure to comply with this requirement shall not be considered contributory or comparative negligence. MS ST § 63-7-301(3).

Required Use of Safety Restraining Systems on School Buses:

Requirements: There are no specific statutory provisions. “School bus” may not fit the definition of “passenger motor vehicle” for safety restraint purposes, as “passenger motor vehicle” is defined as a motor vehicle designed to carry 15 or fewer passengers. MS ST § 63-2-1(2). Additionally, buses are exempt from the seat belt requirement. MS ST § 63-2-1.

Sanctions: If a school bus is equipped with seat belts, the failure to use shall be a misdemeanor, and result in a fine of not less than **\$25** or more than **\$100**. Additionally, school bus drivers or carriers may be discharged from further employment and the contract may be terminated. MS ST § 37-41-49; MS ST § 37-41-47.

Required Use of Motorcycle Protective Headgear:

Requirements: No person shall operate or ride on a motorcycle or motor scooter unless wearing crash helmets that have been approved by the American Association of Motor Vehicle Administrators.²⁰⁷ MS ST § 63-7-64.

Sanctions for Failure to Use: **Misdemeanor:** First offense - Imprisonment for not more than **10 days** or a fine of not more than **\$100**;
Second offense (within 1 year) - Imprisonment for not more than **20 days** and/or a fine of not more than **\$200**;
Third and subsequent offense (within 1 year) - Imprisonment for not more than **6 months** and/or a fine of not more than **\$500**.
 MS ST § 63-7-64; MS ST § 63-9-11.

All offenders are subject to an assessment of **\$77.50**. MS ST § 99-19-73(1). Offenders may also be eligible to participate in a traffic safety violator course of not less than 4 hours, which would allow for dismissal of the violation upon successful completion of the course. MS ST § 63-9-11(3).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

²⁰⁷ The American Association of Motor Vehicle Administrators no longer approves motorcycle helmets. However, the express intent of the legislature was to require individuals to wear helmets when operating motorcycles, even though the type of helmet is no longer regulated. See Op.Atty.Gen. No. 2002-0467, Younger, September 9, 2002.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

STATE

General Reference:

MISSOURI

Missouri Revised Statutes

Missouri Code of State Regulations (MO ADC)

Required Use of Seat Belts:See note.²⁰⁸

Requirements:

I. When a passenger car²⁰⁹ is in operation, every driver, front seat passenger, and person younger than 18 years while operating or riding in a truck²¹⁰ shall wear a seat belt. MO ST § 307.178(2).

Primary or Secondary Enforcement:

Secondary Enforcement: No person shall be stopped, inspected or detained solely to determine compliance with this requirement. Further, noncompliance with the seat belt requirement shall not constitute probable cause for violation of any other provision of law. MO ST § 307.178(2).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Infraction: A fine of not more than **\$10**. No court costs can be imposed and no points can be entered on an offender's driving record. MO ST § 307.178(5); MO ST § 302.302.

Effect on Civil Liability:

Failure to wear a seat belt shall not be considered evidence of comparative negligence. However, such evidence may be admitted for the purpose of mitigating damages if the party seeking to introduce such evidence presents expert evidence proving that such a failure contributed to the plaintiff's injuries. If such is proven, damages may be reduced by not more than 1% of the damages awarded after any reductions for comparative negligence. MO ST § 307.178(4).

Required Use of Child Safety Restraint Systems:See note.²¹¹

²⁰⁸ **Exemptions:** The requirement to use a seat belt does not apply to the following: (1) persons employed by the U.S. Postal Service while performing official duties; (2) persons riding in passenger cars manufactured before January 1, 1968; (3) persons who, for medical reasons, cannot use a seat belt; and (4) persons operating or riding a motor vehicle being used in agricultural work-related activities. MO ST § 307.178(2). In addition, vehicle operators or passengers are not in violation of the seat belt requirement if there are more persons than there are seat belts in the enclosed area of the vehicle. Those persons who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. MO ST § 307.178(7).

²⁰⁹ A "passenger car" means every motor vehicle designed for carrying 10 persons or less but does not include motorcycles, motorized bicycles, motor tricycles, or trucks with a gross weight of 12,000 lbs., or more. MO ST § 307.178(1).

²¹⁰ A "truck" is defined as a motor vehicle designed, used, or maintained for the transportation of property. MO ST § 301.010(61).

²¹¹ **Exemptions:** This requirement does not apply to a public carrier for hire, or to students age 4 or older who are passengers on a school bus designed for carrying 11 passengers or more, as defined in MO ST § 301.010(53). MO ST § 307.179(4).

Requirements: Every driver who transports a child in a motor vehicle who is under the age of 16 shall be responsible, when transporting such child as follows:

- I. Children less than 4 years old regardless of weight = child passenger restraint system;
- II. Children who weigh less than 40 lbs., regardless of age = child passenger restraint system;
- III. Children who are at least 4 years old but less than 8, who also weigh at least 40 lbs., but less than 80 lbs., and are less than 4 feet 9 inches in height = child passenger restraint system or booster seat, or in a lap belt if the back seat of the vehicle is not equipped with a combination lap/shoulder belt;
- IV. Children who are at least 80 lbs., or taller than 4 feet 9 inches = booster seat or seat belt, or in a lap belt if the back seat of the vehicle is not equipped with a combination lap/shoulder belt.

MO ST § 307.179(2).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Infraction:** For I-III above, a fine of not more than **\$50** and court costs. MO ST § 307.179(3).
 For IV above, a fine of not more than **\$10** and **no** court costs. MO ST § 307.179(3); MO ST § 307.178(5). No points shall be assessed for a violation of this requirement. MO ST § 302.302.

Effect on Civil Liability: Failure to wear a seat belt shall not be considered evidence of comparative negligence, but may be admitted to mitigate damages under the following limited circumstances: (1) if expert testimony proves that a failure to wear a seat belt contributed to the injuries claimed; or (2) if the trier of fact finds that failure to wear a seat belt contributed to the claimed injuries.

The trier of fact may reduce the amount of the plaintiff’s recovery by an amount not to exceed 1% of the damages awarded after any reductions for comparative negligence. MO ST § 307.178(4).

Required Use of Safety Restraining Systems on School Buses:

Requirements: A child 4 years of age or older who is a passenger on a school bus designed for carrying 11 or more passengers is exempt from the child passenger restraint system requirements. MO ST § 307.179(4).

Sanctions: **None**

Required Use of Motorcycle Protective Headgear:

Requirements: Every rider or passenger of a motorcycle or motor-tricycle upon any highway shall wear State approved protective headgear meeting the standards and specifications of the Federal Motor Vehicle Safety Standard No. 218. MO ST § 302.020(2); 12 MO ADC 10-24.420.

Sanctions for Failure to Use: **Infraction:** A fine of not more than **\$25**. No court costs can be imposed and no points can be entered on an offender's driving record. MO ST § 302.020(3); MO ST § 302.302.

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall operate a truck with a gross weight of less than 12,000 lbs., on any State or Federal highway or within the corporate limits of any city when any person under 18 year of age is riding in the truck's unenclosed bed, and no person under 18 years of age shall ride in the unenclosed bed of such truck when the truck is in operation. MO ST § 304.665(1), (2).

Sanctions for a Violation: For the operator of the truck, a violation constitutes a **Class C Misdemeanor:** imprisonment for **30 days or less** and/or a fine of not more than **\$300**. MO ST § 557.021; MO ST § 560.016. Section 304.665 does not provide for a sanction when the violation is committed by a person under the age of 18 who is riding in the unenclosed bed of a truck.

Exemptions: The above requirements do not apply to: (1) an employee engaged in the necessary discharge of his duties where it is necessary to ride in the unenclosed bed of the truck; (2) any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck; (3) any person riding in an unenclosed bed while participating in a lawfully authorized parade, caravan or exhibition; (4) any person riding in the unenclosed bed if the truck has a means of preventing such passenger from being thrown, falling, or jumping out from the truck; (5) any person riding in the unenclosed bed if the truck is being operated solely for the purposes of participating in a special event and there is unavailable seating inside of the truck; (6) any person riding in the unenclosed bed for the purpose of providing assistance to or ensuring the safety of other persons that are engaged in a recreational activity; or (7) any person riding in the unenclosed bed of a family-owned truck which is the only vehicle owned by the family and there is insufficient room in the passenger compartment to accommodate all of the

passengers.
MO ST § 304.665(2).

STATE

General Reference:

MONTANAMontana Code Annotated
Administrative Rules of Montana (MT ADC)Required Use of Seat Belts:See note.²¹²

Requirements:

A motor vehicle cannot be operated unless the driver and every passenger of a designated seating position are wearing a seat belt. MT ST § 61-13-103(1).

Primary or Secondary
Enforcement:**Secondary Enforcement:** A driver may not be stopped for a violation of this requirement except upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law. MT ST § 61-13-103(4).Sanctions for Failure to Use or
Require the Use of Seat Belts:A fine of **\$20**. A violation of this requirement is not considered a moving violation of the purposes of suspending a driver's license. MT ST § 61-13-104. In addition, no insurance company may increase a person's premium based on a violation of this requirement. MT ST § 61-13-104(3). **Note:** The law provides that this offense is not to be considered a misdemeanor but does not define or classify it as some other offense. MT ST § 61-13-104(1).

Effect on Civil Liability:

Failure to comply with this requirement shall not be admissible as evidence in any civil action for personal injury or property damage. Furthermore, such failure does not constitute negligence. MT ST § 61-13-106.

Required Use of Child Safety
Restraint Systems:See note.²¹³

Requirements:

A child under 6 years of age and weighing less than 60 lbs., who is a passenger in a motor vehicle,²¹⁴ must be secured in a federally approved child restraint. MT ST § 61-9-420(1), (3).²¹⁵

²¹² **Exemptions:** The requirement to use a seat belt does not apply to: (1) an occupant of a motor vehicle who possesses a written statement from a licensed physician, physician assistant or advanced practice registered nurse that the occupant is unable to wear a seatbelt for medical reasons; (2) an occupant of a motor vehicle in which all seatbelts are being used by other occupants; (3) an operator of a motorcycle or motor-driven cycle; (4) an occupant of a vehicle licensed as special mobile equipment (i.e., road construction equipment, maintenance machinery, ditch-digging apparatus, etc.); or (5) an occupant who makes frequent stops with a motor vehicle during official job duties and who may be exempted by the Department of Justice. MT ST § 61-13-103(2).

²¹³ **Exemptions:** These requirements do not apply to children who, for physical or medical reasons, cannot use child restraint systems or seat belts. MT ST § 61-9-420(3).

²¹⁴ The term "motor vehicle" does not include motorbus, school bus, taxicab, moped, quadricycle, motorcycle, any vehicle that is not required to have a seat belt under Federal law, or a vehicle designed for two persons where there are two persons 4 years of age or older. MT ST § 61-9-421.

²¹⁵ The Department shall, by rule, establish standards in compliance with the child safety restraint laws and applicable Federal standards for approved types of child safety restraint systems. Further, the Department may, by rule, exempt from the safety restraint requirements a child who, because of a physical or medical condition or body size, cannot be placed in a child safety restraint. MT ST § 61-9-420.

Sanctions for Failure to Require the Use of Child Restraint Systems: **Misdemeanor:** A fine of not more than **\$100**. MT ST § 45-2-101(42); MT ST § 61-9-423; MT ST § 61-9-511(1).

Effect on Civil Liability: Evidence of failure to comply with this requirement is admissible in any civil action for personal injury or damages; however, such failure does not alone constitute negligence. MT ST § 61-9-422.

Required Use of Safety Restraining Systems on School Buses:

Requirements: School buses are exempt from the child safety restraint requirements. MT ST § 61-9-421(1). However, there does not appear to be an exception for the use of seat belts for school bus drivers.

Required Use of Motorcycle Protective Headgear:

Requirements: I. An operator and passenger under 18 years of age of a motorcycle or quadricycle²¹⁶ operated on the streets or highways shall wear State approved protective headgear which meets the specifications set out by the Federal Motor Vehicle Safety Standard No. 218. MT ST § 61-9-417(1); MT ADC 23.3.417.
II. A person may not operate a motorcycle unless all passengers under the age of 18 are wearing protective headgear. MT ST § 61-9-417(2).

Sanctions for Failure to Use: A fine of **\$5**. MT ST § 61-9-518(1).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motorcycle with a passenger who is under the age of 18. MT ST § 61-5-133.

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

²¹⁶ A “quadricycle” is defined as "a four-wheeled motor vehicle, not a golf cart, designed for on-road or off-road use, having a seat or saddle upon which the operator sits and a motor capable of producing not more than 50 horsepower." MT ST § 61-1-101(52).

STATE

General Reference:

NEBRASKA

Nebraska Revised Statutes of 1943

Required Use of Seat Belts:See note.²¹⁷

Requirements:

No driver shall operate a motor vehicle upon a highway or street unless the driver and each front-seat occupant are wearing occupant protection system (seat belt). NE ST § 60-6,265; NE ST § 60-6,270(1).

Primary or Secondary Enforcement:

Secondary Enforcement: Enforcement of this requirement by law enforcement officers shall be accomplished only as a secondary action when a driver has been cited or charged with a violation of some other offense. NE ST § 60-6,271.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Traffic Infraction: A fine of \$25.²¹⁸ However, no court costs can be assessed and no points can be assessed against a person's driving record. NE ST § 60-4,182; NE ST § 60-6,272.

Effect on Civil Liability:

Evidence of a violation of the requirement shall not be admissible in regard to the issue of liability or proximate cause but may be admissible as evidence concerning mitigation of damages. However, such evidence shall not reduce recovery for damages by more than 5 percent. NE ST § 60-6,273.

Required Use of Child Safety Restraint Systems:See note.²¹⁹

Requirements:

I. A driver who is transporting a child up to 6 years old in any motor vehicle required to have occupant protection systems must secure such child in a federally approved child passenger restraint system. NE ST § 60-6,267(1).
 II. A driver who is transporting a child age 6 through 17 in any motor vehicle must secure such child in an occupant protection system (seat belt). NE ST § 60-6,265; NE ST § 60-6,267(2).

²¹⁷ **Exemptions:** I. This requirement does not apply to vehicles manufactured before the 1973 model year, farm tractors, implements of husbandry, motorcycles, motor-driven cycles, mopeds, or buses. NE ST § 60-6,266; NE ST § 60-6,270(3). II. This requirement does not apply to: (1) persons who because of medical reasons cannot wear an occupant protection system, so long as they have written verification from a physician; (2) rural carriers of the U.S. Postal Service while performing official duties; and (3) members of an ambulance or rescue service unit while involved in patient care. NE ST § 60-6,270(2).

²¹⁸ Regardless of the number of violations occurring at one time, a driver can only be cited for one offense. NE ST § 60-6,272.

²¹⁹ **Exemptions:** I. These requirements do not apply to persons who are operating taxicabs, mopeds, motorcycles, or motor vehicles manufactured as a 1963 or earlier model year. NE ST § 60-6,267(1). II. These requirements do not apply to: (1) children who cannot use a child passenger restraint system for physical or medical reasons, so long as the condition and reason are verified in writing by a physician; (2) children who are being transported in emergency vehicles when the vehicle operator is performing official duties; and (3) vehicles operated in a lawful parade or exhibition. NE ST § 60-6,267(3), (4).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Infraction: First offense** – A fine of **\$25** and no points can be assessed against a person's driving record. NE ST § 60-6,268(1); NE ST § 60-4,182.

Effect on Civil Liability: A violation of this requirement shall not constitute *prima facie* evidence of negligence nor shall such compliance constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries. In addition, such a violation shall not constitute a defense for another person to any claim for personal injuries to a child or recovery of medical expenses for injuries. NE ST § 60-6,269.

Required Use of Safety Restraining Systems on School Buses:

Requirements: The operator of a school bus equipped with an occupant protection system shall wear such system whenever the school bus is in motion. NE ST § 79-609(3).

Sanctions: Any operator who violates this requirement may be found guilty of a Class V misdemeanor and subject to a **\$100** fine. Additionally, such employee may be subject to removal from employment or may be found in breach of contract with cancellation of contract. NE ST § 79-607; NE ST § 28-106.

Required Use of Motorcycle Protective Headgear:

Requirements: A person shall not operate or ride on a motorcycle or moped unless wearing a federally approved protective helmet meeting or exceeding the Federal Motor Vehicle Safety Standard No. 218. NE ST § 60-6,279; NE ST § 60-6,280; NE ST § 60-6,281.

Sanctions for Failure to Use: **Traffic Infraction:** A fine of **\$50**. NE ST § 60-688; NE ST § 60-6,282. No points are assessed against a person's driving record. NE ST § 60-4,182.

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

There are no specific prohibitions involving the riding in an unsecured portion of a vehicle, however, this likely falls under the child passenger restraint system requirement. NE ST § 60-6,268(2) allows for primary enforcement of a violation when a passenger under the age of 18 is riding in or on any portion of a moving vehicle not designed or intended for the use of passengers.

STATE

General Reference:

NEVADATitle 43, Nevada Revised Statutes
Nevada Administrative Code (NV ADC)Required Use of Seat Belts:See notes.^{220, 221}

Requirements:

See note.²²²

A person driving on any highway, road, or street in a motor vehicle having an unladen weight of less than 10,000 lbs., shall wear a seat belt. NV ST § 484D.495.

Primary or Secondary Enforcement:

Secondary Enforcement: A citation may be issued only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. NV ST § 484D.495(3).Sanctions for Failure to Use or
Require the Use of Seat Belts:**Misdemeanor:** A fine of not more than **\$25** or a sentence to perform community service.²²³ NV ST § 484A.900(1); NV ST § 484D.495(3). Any person who is twice convicted of violating a provision may be ordered to pay tuition for and attend a school for driver training. A willful failure to comply with such an order results in a misdemeanor conviction, which is punishable for up to **6 months** in jail and/or a fine of not more than **\$1000**. NV ST § 494A.900; NV ST § 193.150. A violation of this requirement is not a moving violation for license sanctioning purposes. NV ST § 484D.495(4)(a). No demerit points shall be assessed. NV ADC § 483.510.

²²⁰ **Exemptions:** The requirement to use a seat belt does not apply: (1) to persons who are unable to wear a seat belt for physical or medical reasons and possess written certification by a physician; (2) if the vehicle is not required by Federal law to be equipped with seat belts; (3) to an employee of the U.S. Postal Service while delivering mail in the rural areas of the State; (4) if the vehicle is stopping frequently, it does not exceed 15 mph, and the driver or passenger is frequently leaving or delivering property from the vehicle; (5) to a passenger riding in a means of public transportation, including a taxi, school bus or emergency vehicle. NV ST § 484D.495(6). Additionally, the State can exempt persons from this requirement who ride in motor vehicles or seating posting that the State has determined would make compliance impractical. NV ST § 484D.495(5).

²²¹ With regard to taxicabs, any passenger 18 years of age or older who rides in the front or back seat of any taxicab on any highway, road, or street shall wear a seat belt if one is available for that seating position. Exceptions to this requirement include: (1) passengers who are unable to wear a seat belt for medical or physical reasons and possess a written statement by a physician; and (2) if the taxicab was not required by Federal law at the time of initial sale to be equipped with seat belts. The secondary enforcement provision applies here, and if a citation is issued, it must be to the passenger who will pay a fine of not more than \$25 or perform community service. The owner or operator of a taxicab, however, is required to post a sign inside each taxicab advising passengers of the seat belt requirement. NV ST § 484D.500.

²²² It shall be unlawful to drive a passenger car manufactured after: (1) January 1, 1968, on a highway unless it is equipped with at least two front seat lap-type seat belt assemblies; (2) January 1, 1970, on a highway unless it is equipped with a lap-type seat belt assembly for each permanent seating position (except for rear seats of police or sheriff vehicles); or (3) January 1, 1970, unless it is equipped with at least two front seat shoulder harness-type seat belt assemblies. NV ST § 484D.495(1).

²²³ If the violator is a child at least 5 years old but younger than 18, the driver is cited for the offense. However, if both the driver and such child are in violation of this requirement, only one citation may be issued. NV ST § 484D.495(3).

Effect on Civil Liability: A violation of this requirement may not be considered as negligence or as causation in any civil action or as negligence or reckless driving. NV ST § 484D.495(4)(b). In addition, such a violation may not be considered as misuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale, or use of a product. NV ST § 484D.495(4)(c).

Required Use of Child Safety Restraint Systems:

See note.²²⁴

Requirements:

I. A person transporting a child in a motor vehicle who is 6 years or older or weighs more than 60 lbs., (regardless of age) shall secure such child in a federally approved child restraint system;
 II. A person transporting a child who is less than 6 years old and who weighs less than 60 lbs., shall secure such child in a child restraint system. NV ST § 484D.495(3); NV ST § 484B.157(1).

Sanctions for Failure to Require the Use of Child Restraint Systems:

See note.²²⁵

Misdemeanor: A person who violates these requirements shall be:
 (1) **First offense:** ordered to pay a fine of not less than **\$100** or more than **\$500** or perform not less than 10 hours or more than 50 hours of community service;
 (2) **Second offense:** ordered to pay a fine of not less than **\$500** or more than **\$1000** or perform not less than 50 hours or more than 100 hours of community service;
 (3) **Third or subsequent offense:** have his driver's license suspended for not less than **30 days** or more than **180 days**.

If, within 60 days after sentencing, a defendant provides to the court proof of satisfactory completion of a child restraint system training program, the court shall waive the fine or community service for a first-time offender, and reduce by one-half the fine or community service for a second-time offender.²²⁶

NV ST § 484B.157(2), (3).

Any person who is twice convicted of violating a provision may be ordered to pay tuition for and attend a school for driver training. A

²²⁴ **Exemptions:** The requirement to use a child restraint system does not apply: (1) to a person transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle; (2) when a physician determines that the use of such a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition, and such statement is carried in the vehicle by the driver. NV ST § 484B.157(7).

²²⁵ As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat, or position children. The term includes, without limitation:

(a) booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a seat belt; (b) integrated child seats; and (c) seat belts that are designed specifically to be adjusted to accommodate children. NV ST § 484B.157(8).

²²⁶ A defendant is only eligible for a reduction of a fine or community service if he has not had a fine or community service waived previously.

willful failure to comply with such an order results in a misdemeanor conviction, which is punishable by jail for not more than **6 months** and/or a fine of not more than **\$1000**. NV ST § 484A.900; NV ST § 193.150.

No demerit points shall be assessed. NV ADC § 483.510.

Effect on Civil Liability: A violation of this requirement may not be considered as negligence in any civil action or as negligence or reckless driving. NV ST § 484B.157(6).

Required Use of Safety Restraining Systems on School Buses:

Requirements: **None.** Section 484D.495 specifically excludes school buses from the group of motor vehicles in which passengers are required to wear seat belts. There are no statutory provisions elsewhere in the Nevada statutes.

Required Use of Motorcycle Protective Headgear:

Requirements: A person operating or riding on a motorcycle shall wear State approved protective headgear, meeting the standards set out in the Federal Motor Vehicle Safety Standard No. 218. This requirement does not apply to persons operating or riding on tri-mobiles or mopeds. NV ST § 486.231(1), (2); NV ADC 486.015.

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$1,000**.²²⁷ NV ST § 193.150(1); NV ST § 486.381. Two points are assessed against a person's driving record. NV ADC § 483.510.

Required Use of Motorcycle Eye Protection Device: See note.²²⁸

Requirements: A person operating or riding on a motorcycle or a tri-mobile shall wear State approved glasses, goggles or a face shield. This requirement does not apply to persons operating or riding on mopeds. NV ST § 486.231(1), (2).

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$1,000**. NV ST § 193.150(1); NV ST § 486.381. Two points are assessed against a person's driving record. NV ADC § 483.510.

²²⁷ As an alternative to either imprisonment or a fine, an offender may be sentenced to perform a fixed period of work for the benefit of the community. NV ST § 193.150(2).

²²⁸ This requirement does not apply to persons: (1) operating or riding on a motorcycle or a tri-mobile if such vehicle is equipped with a transparent windscreen; (2) in a motorcycle being driven in an authorized parade; or (3) in a three-wheeled motorcycle where the driver or passengers are within an enclosed cab. NV ST § 486.231(3), (4), (5).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A driver cannot operate a motor vehicle with a person under 18 years old riding in an area not designed or intended for passenger use. NV ST § 484B.160(1), (2)(a).

Sanctions for a Violation: **Misdemeanor:** A fine of at least **\$35** but not more than **\$100**. This offense is not considered a moving violation, nor may it be considered negligence in a civil action or negligent or reckless driving. NV ST § 484B.160(3), (5)(a), (5)(b).

Exemptions: This requirement does not apply if the vehicle is being used for farming or ranching, or being used in an authorized parade. NV ST § 484B.160(2)(b).

STATE

General Reference:

NEW HAMPSHIRE

Revised Statutes Annotated of New Hampshire
New Hampshire Administrative Code (NH ADC)

Required Use of Seat Belts:

See note.²²⁹

Requirements:

I. No person shall drive a motor vehicle unless all passengers under the age of 18 are wearing a seat or seat belt. Such motor vehicle must be designed for and equipped with federally approved child passenger restraints. NH ST § 265:107-a I.
II. Any person under the age of 18 years driving a motor vehicle shall wear a seat or seat belt. NH ST § 265:107-a I-a.

Primary or Secondary Enforcement:

Primary Enforcement: There is no statutory provision.²³⁰

Sanctions for Failure to Use or Require the Use of Seat Belts:

First offense – A fine of **\$50**;
Second or subsequent offense – A fine of **\$100**.
NH ST § 265:107-a III.²³¹

Effect on Civil Liability:

A violation of these requirements shall not be used as evidence of contributory negligence in any civil action.²³² NH ST § 265:107-a IV.

Required Use of Child Safety Restraint Systems:

Requirements:

No person shall transport a child under the age of 6 and 55 inches in height in a motor vehicle unless such child is secured in a federally approved child passenger restraint. NH ST § 265:107-a I-b.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Violation: First offense – A fine of **\$50**;
Second or subsequent offense - A fine of **\$100**.
NH ST § 265:107-a III.

²²⁹ **Exemptions:** These requirements do not apply in the following circumstances: (1) if the motor vehicle is regularly used to transport passengers for hire; (2) if the motor vehicle is a school bus weighing more than 10,000 lbs., or is a school bus weighing less than 10,000 lbs., that was manufactured without seat belts; (3) if there is an individualized education program statement contraindicating the use of restraints; (4) if the motor vehicle was manufactured before 1968; (5) a motorcycle; (6) an antique motor car or motorcycle (over 25 years old); or (7) if the motor vehicle is being operated in a parade authorized by law or ordinance and travelling at a speed of no more than 10 mph. NH ST § 265:107-a II.

²³⁰ A law enforcement officer may stop a vehicle for a violation for which a traffic ticket may be issued. See *U.S. v. Pasciuti*, 793 F.Supp. 373 (D.N.H. 1992)(upholding officer's stop of a defendant who failed to wear a seat belt and whose vehicle had a cracked windshield).

²³¹ Drivers under the age of 20 may have their driving privileges suspended or revoked for "misconduct, misuse or abuse of such privileges." NH ST § 263:14 III (d). However, such action does not apply to a person under 18 years old who violates § 265:107a I-a for the first time. NH ST § 263:14 IV.

²³² In *Thibeault v. Campbell*, the State Supreme Court held that "a party's failure to use a seat belt is inadmissible to show negligence where the nonuse may have contributed to the party's injuries but was not a cause of the collision itself." 622 A.2d 212 (N.H. 1993).

Effect on Civil Liability: A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. NH ST § 265:107-a IV.

Required Use of Safety Restraining Systems on School Buses:

Requirements: School buses are exempt from the child passenger restraint requirement. NH ST § 265:107-a II.

Required Use of Motorcycle Protective Headgear:

Requirements: No person under the age of 18 may drive or ride upon a motorcycle unless he wears State approved protective headgear. NH ST § 265:122 I.²³³

Each motorcycle rider education student shall wear a helmet with eye protection meeting the standards set out in Federal Motor Vehicle Safety Standard No. 218. NH ADC SAF-C 5306.02(a)(5).

Sanctions for Failure to Use: **Violation:**²³⁴ A fine of not more than **\$1000.**²³⁵ NH ST § 265:122 IV; NH ST § 265:2; NH ST § 625:9 V; NH ST § 651:2 IV.

Required Use of Motorcycle Eye Protection Device:

Requirements: Unless a motorcycle is equipped with a windshield or screen that protects a driver's eyes, the operator shall wear either eyeglasses, goggles, or a protective face shield when operating such a motor vehicle. NH ST § 265:123.

Sanctions for Failure to Use: **Violation:** A fine of not more than **\$1,000.** NH ST § 265:2; NH ST § 625:9 V; NH ST § 651:2 IV (a).

Passenger Age Restrictions: **None**

²³³ However, NH ST § 265:122 III states that "If [F]ederal law is altered so that the mandatory wearing of protective headgear on motorcycles by persons less than 18 years of age is not required as a condition to the receipt by the State of any [F]ederal funds, paragraphs I ...shall be void." Given that the mandatory wearing of protective headgear on motorcycles by persons less than 18 years of age is not currently required as a condition to the receipt of State or Federal funds, for practical purposes protective headgear for motorcycle drivers or passengers is not mandatory.

²³⁴ The violation applies to any person who transports someone under the age of 18 when that person is not wearing protective headgear. It is unclear whether the minor (under the age of 18) would be cited for a violation.

²³⁵ The court may order an unconditional or conditional discharge not to exceed 1 year. An unconditional discharge may be granted if the court is of the opinion that no proper purpose would be served by imposing any condition or supervision upon the defendant's release. A sentence of unconditional discharge is a final judgment of conviction. NH ST § 651:2 III-a, IV, VIII. Conditional discharge may include conditions such as restrictions on the defendant's travel, association, place of abode, counseling or any other treatment, restitution or community service. A person sentenced to conditional discharge may apply for annulment (expungement) of the criminal record. NH ST § 651:2 VI, VI-b; NH ST § 651:5.

Required Use of Bicycle Protective Headgear:

Requirements: No person under the age of 16 years shall operate or ride on a bicycle on a public way unless he or she wears State approved protective headgear. NH ST § 265:144 X.

Sanctions for Failure to Use: **Violation:** A fine of not more than **\$35**. NH ST § 265:153.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**²³⁶

²³⁶ There are no specific statutory provisions, however, such a prohibition could exist in certain limited circumstances since the law does prohibit a driver from carrying passengers for “consideration” (express or implied) while operating a vehicle designed to transporting goods, materials, commodities, freight or merchandise. Exemptions do exist for persons who are transporting: (1) individuals enrolled in summer camps; (2) students, teachers or employees of colleges or schools for recreational or religious purposes; (3) employees of any town, county, the State, or an agency of the Federal Government; (4) employees of the owner of such a vehicle while going to or from their place of employment; or (5) individuals in vehicles which have been approved to transport school children under NH ST § 266:7. NH ST § 265:106; NH ST § 265:107. A person who is found guilty of violating this prohibition commits a statutory violation and is subject to a fine of not more than \$1,000. NH ST § 262:41; NH ST § 651:2, IV(a).

STATE

General Reference:

NEW JERSEY

New Jersey Statutes Annotated
New Jersey Administrative Code (NJ ADC)Required Use of Seat Belts:See note.²³⁷

Requirements:

I. Any driver operating a passenger automobile on a street or highway, and all passengers must wear a safety seat belt. NJ ST § 39:3-76.2f.

Primary or Secondary Enforcement:

Primary Enforcement: While there is no statutory provision, in 1999, section 39:3-76.2i, which mandated secondary enforcement was repealed.

Sanctions for Failure to Use or Require the Use of Seat Belts:

See note.²³⁸ **Violation:** A fine of \$20. Neither drivers licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation. In addition, a person is not subject to a surcharge under the merit rating plan (NJ ST § 17:29A-35). NJ ST § 39:3-76.2j.

Effect on Civil Liability:

I. The failure to wear a seat belt is not contributory negligence sufficient to bar recovery in strict liability. However, such failure to wear can be used to reduce damages provided it can be determined that the damages to be reduced could have been avoided by using a seat belt. *Waterson v. General Motors Corp.*, 544 A.2d 357 (N.J. 1988).²³⁹

²³⁷ **Exemptions:** The requirement to use a seat belt does not apply to a driver or front seat passenger of: (1) a passenger automobile manufactured before July 1, 1966, or one that is not required to be equipped with a safety seat belt system under Federal law; (2) a passenger automobile in which the driver or passenger possesses written verification from a licensed physician stating that such person is unable to wear a safety seat belt system for physical or medical reasons; (3) a passenger automobile operated by a rural letter carrier of the U.S. Postal Service while performing such duties; or (4) a passenger automobile which was originally constructed with fewer safety seat belt systems than are necessary to allow the passenger to be buckled. NJ ST § 39:3-76.2g. **Note:** The following definitions are applied: (1) Passenger automobile: any automobile “used and designed for the transportation of passengers, other than omnibuses and school buses.” For purposes of the seat belt law, this includes a van, pickup truck or utility vehicle; (2) Automobile: as any motor vehicle except a motorcycle; (3) Motor vehicle: any vehicle “propelled otherwise than by muscular power, excepting such vehicle as run only upon rails or tracks and motorized bicycles;” NJ ST § 39:1-1; NJ ST § 39:3-76.2f.

²³⁸ **Licensing or Vehicle Registration Action.** A person’s license or his/her vehicle’s registration certificate may be suspended or revoked (for an indefinite period of time) under general provisions of the law which allow the driver licensing agency to take such action when a person has violated the traffic laws (i.e., any provision of Title 39, Motor Vehicle and Traffic Regulation). NJ ST § 39:5-30; NJ ST § 39:5-31. **Note:** All of the provisions, concerning vehicle occupant protection (e.g., seat belt usage, child passenger protection, motorcycle helmets, etc.) are codified in Title 39.

²³⁹ Evidence of seat belt nonuse to reduce damage awards may be limited in cases where the injured party has consumed alcoholic beverages to the point of intoxication. Under such circumstances, the injured party may not understand the dangers associated with not using a seat belt. *Petitto v. Sands Hotel & Casino, Inc.*, 672 A.2d 253 (N.J. Super. A.D. 1996) *cert. den.*, 677 A.2d 761 (N.J. 1996); *c.f.*, *Fisch v. Bellshot*, 640 A.2d 801 (N.J. 1994) (holding exceptional circumstances existed where plaintiff’s decedent, an employee of the dramshop served herself the drinks, violated the dramshop’s drinking policy and was educated in alcohol management).

The law establishing these seat belt use requirements does not alter existing law with respect to the trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident. NJ ST § 39:3-76.2h.

Required Use of Child Safety

Restraint Systems:

Requirements:

See note.²⁴⁰

A person transporting a child under the age of 8 and weighing less than 80 lbs., shall secure such child in a federally approved child passenger restraint system or booster seat in the rear seat. But if the vehicle has no rear seats, the child must be secured in a child restraint system or booster seat. NJ ST § 39:3-76.2a.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Violation: A fine of not less than **\$10** or more than **\$25**. The fine shall be suspended upon proof of possession of a child restraint system. NJ ST § 39:3-76.2d. There is no provision allowing for assessment of points for a violation. NJ ADC 13:19-10.1.

Effect on Civil Liability:

In no event shall the failure to wear a child passenger restraint system or to use a booster seat be considered as contributory negligence, nor shall the failure to wear such a system be admissible as evidence in the trial of any civil action. NJ ST § 39:3-76.2a.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

I. Each school bus shall be equipped with seat belts of the lap belt type for each seating position on the bus, or other federally approved child restraint systems. NJ ST § 39:3B-10.

II. Each passenger who is riding in a school bus equipped with seat belts shall wear such a belt when the vehicle is in operation. NJ ST § 39:3B-11.

III. A child who is riding in a school bus equipped with seat belts must be secured in a Federal approved child restraint system. NJ ST § 39:3B-11.

Note: This statutory provision does not provide for either age or weight limitations related to child restraint usage.

Sanctions:

Violation: A fine of not more than **\$50** and/or imprisonment for a term not to exceed **30 days**. NJ ST § 39:3B-6.

Effect on Civil Liability: Neither the owner nor the operator of a school bus shall be liable for failure to properly adjust and fasten a seat belt or other child restraint system that is in conformity with Federal standards when a passenger suffers injury as a direct result of that passenger's failure to comply with the requirement. NJ ST § 39:3B-11.

²⁴⁰ This requirement only applies to persons who are operating motor vehicles that are equipped with seat belts. NJ ST § 39:3-76.2a.

Required Use of Motorcycle
Protective Headgear:

- Requirements: A person operating or riding on a motorcycle²⁴¹ must wear a State approved protective helmet that meets the standards of the Federal Motor Vehicle Safety Standard No. 218. NJ ST § 39:3-76.7(a); NJ ADC 13:20-24.10.
- Sanctions for Failure to Use: I. For the motorcycle operator carrying a passenger in violation of the requirement - A fine of not less than **\$50** or more than **\$100**. NJ ST § 39:3-76.5(a).
II. For the motorcycle passenger in violation of this requirement – A fine of not more than **\$25**. NJ ST § 39:3-79. No points are assessed against a person's driving record for a violation of this requirement. NJ ST § 39:3-76.7(b).

Required Use of Motorcycle Eye
Protection Device:

- Requirements: No persons shall operate a motorcycle unless wearing State approved goggles or a face shield. NJ ST § 39:3-76.8. However, if the motorcycle is equipped with a State approved windscreen, then the requirement to wear goggles or a face shield does not apply. NJ ST § 39:3-76.9.
- Sanctions for Failure to Use: **Violation:** A fine of not more than **\$25**. NJ ST § 39:3-79. There is no provision allowing for the assessment of points for a violation. NJ ST § 13:19-10.1.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective
Headgear: See note²⁴²

- Requirements: A person under 17 years of age shall not operate or ride on a bicycle as a passenger unless wearing a helmet. This requirement includes persons who are riding in a restraining seat or in a trailer being towed by the bicycle. NJ ST § 39:4-10.1(a).
- Sanctions for Failure to Use: I. A person who violates this provision is given a warning citation.²⁴³ NJ ST § 39:4-10.2(a).

²⁴¹ The term “motorcycle” does not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering. NJ ST § 39:3-76.7; NJ ST § 39:3-76.8.

²⁴² **Exemptions:** A municipality may, by ordinance, exempt from this requirement a person operating or riding on a bicycle as a passenger when the bicycle is being operated on a road or highway closed to motor vehicle traffic, or exclusively on a trail, route, course, boardwalk, path or other area which is set aside for the use of bicycles and pedestrians. However, such exemption may not be granted when such trail, route, course, boardwalk, path, or other area is immediately adjacent to a road or highway used by motor vehicle traffic and where there is no barrier of sufficient height and rigidity to prevent the inadvertent or deliberate entry of a bicycle on such road or highway. NJ ST § 39:4-10.1(c).

II. If it can be proven that a parent or legal guardian failed to exercise reasonable supervision or control over such a person to insure compliance with this requirement, such parent or legal guardian may for a first offense be subject to a fine of not more than **\$25** and for a subsequent offense be subject to a fine of not more than **\$100**. NJ ST § 39:4-10.2(a).

Such penalty may be waived if an offender or his parent or legal guardian presents suitable proof that an approved helmet was owned at the time of the violation or has been purchased subsequently. NJ ST § 39:4-10.2.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. No person shall ride on and no operator shall knowingly allow a person to ride on a vehicle or any part of a vehicle that is not designed or intended for passenger use. NJ ST § 39:4-69.²⁴⁴

II. No person shall ride upon the rear end of a vehicle, without the consent of the driver, and when so riding, no part of the person's body shall protrude beyond the limits of the vehicle. NJ ST § 39:4-61.

Sanctions for a Violation:

Violation: A penalty of not more than **\$50** and/or imprisonment for a term of not more than **15 days**.

NJ ST § 39:4-203. There is no provision allowing for assessment of points for a violation. NJ ADC § 13:19-10.1.

Exemptions:

The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. NJ ST § 39:4-69.

²⁴³ Under separate provisions of law, a juvenile under the age of 17 who violates this provision may receive a warning or may be subject to a fine of not more than **\$10**. NJ ST § 39:4-203.3.

²⁴⁴ A New Jersey Appellate Court has held that this provision prohibits a person from riding in the bed of a pickup truck. *Lombardo v. Hoag*, 634 A.2d 550 (N.J. Super A.D. 1993) *petition. cert. denied*, 640 A.2d 850 (N.J. 1994).

STATE

General Reference:

NEW MEXICO

New Mexico Statutes Annotated

New Mexico Administrative Code (NM ADC)

Required Use of Seat Belts:See note.²⁴⁵

Requirements:

I. When a motor vehicle²⁴⁶ is in operation, all occupants (driver and passengers) shall wear seat belts. NM ST § 66-7-372(A).Primary or Secondary
Enforcement:**Primary Enforcement:** The enforcement of this requirement does not have to be associated with the enforcement of any other statute. NM ST § 66-7-373(D).Sanctions for Failure to Use or
Require the Use of Seat Belts:**Misdemeanor:** A fine of **\$25**. NM ST § 66-8-7; NM ST § 66-8-116(A). In addition, a person's driving record is assessed two (2) points. NM ADC 18.19.5(52)(G).

Effect on Civil Liability:

Failure to comply with this requirement shall not in any instance constitute fault or negligence and shall not limit or apportion damages. NM ST § 66-7-373(A).

Required Use of Child SafetyRestraint Systems:See note.²⁴⁷

Requirements:

I. A person shall not operate a passenger car, van or pickup truck²⁴⁸ unless all passengers less than 18 years old are "properly restrained." NM ST § 66-7-369(A).

II. Unless all seating positions are occupied, each person less than 18 years old shall be properly secured in either a federally approved child passenger restraint or seat belt, as follows:

(1) Less than 1 year of age = rear-facing child passenger restraint in the rear seat of a vehicle;²⁴⁹

(2) Between 1 and 4 years old (regardless of weight) or less than 40 lbs., (regardless of age) = child passenger restraint device;

(3) 5 or 6 years old (regardless of weight) or less than 60 lbs., (regardless of age) = a child booster seat or an appropriate child passenger restraint device;

(4) 7 through 12 years old = child passenger restraint device or seat belt.²⁵⁰ NM ST § 66-7-369(B).

²⁴⁵ **Exemptions:** The requirement to wear a seat belt does not apply to persons possessing a written statement from a licensed physician stating the medical reasons for not wearing a seat belt, and to rural letter carriers of the U.S. Postal Service while performing official duties. NM ST § 66-7-372(B).

²⁴⁶ The term "motor vehicle" refers to a motor vehicle having a gross vehicle weight of 10,000 lbs., or less manufactured with federally approved seat belts. NM ST § 66-7-372(A).

²⁴⁷ **Exemptions:** The requirement to use either a child passenger restraint system or a seat belt does not apply to children being transported in an authorized emergency vehicle, a public transportation vehicle or a school bus. NM ST § 66-7-369(A).

²⁴⁸ The requirement does not apply to persons under 18 years old who are riding in an authorized emergency vehicle, public transportation, or on a school bus. NM ST § 66-7-369(A).

²⁴⁹ In situations where the vehicle is not equipped with a rear seat, the child may ride in the front seat if the passenger-side air bag is deactivated or if the vehicle is not equipped with a deactivation switch for such air bag. NM ST § 66-7-369(B) (1).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Misdemeanor:** A fine of **\$25**. NM ST § 66-8-7; NM ST § 66-8-116(A). In addition, a person's driving record is assessed 2 points. NM ADC 18.19.5(52).

Effect on Civil Liability: Failure to be secured by a child passenger restraint device or by a seat belt shall not constitute fault or negligence in any instance, and shall not limit or apportion damages. NM ST § 66-7-369(B); NM ST § 66-7-373(A).

Required Use of Safety Restraining Systems on School Buses:

Requirements: A person shall not operate a school bus unless all passengers under the age of 18 are properly restrained. NM ST § 66-7-369(A).

Sanctions: **Misdemeanor:** A fine of **\$25**. NM ST § 66-8-7; NM ST § 66-8-116(A). In addition, a person's driving record is assessed two points. NM ADC 18.19.5(52)(G).

Required Use of Motorcycle Protective Headgear:

Requirements: No person under the age of 18 shall operate or ride on a motorcycle unless wearing a State approved safety helmet, and no person shall carry any passenger under the age of 18 unless the passenger is wearing a safety helmet.²⁵¹ NM ST § 66-7-356(A).

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$300**. NM ST § 66-8-7(A), (B).

Required Use of Motorcycle Eye Protection Device:

Requirements: Unless a motorcycle has a fixed windshield, a motorcycle operator shall wear a State-approved eye protection device. NM ST § 66-7-355(B).

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$300**. NM ST § 66-8-7(A), (B). The law does not assign points for a violation of this requirement.

Passenger Age Restrictions: **None**

²⁵⁰ "A child is properly secured in an adult seat belt when the lap belt properly fits across the child's thighs and hips and not the abdomen. The shoulder strap shall cross the center of the child's chest and not the neck, allowing the child to sit all the way back against the vehicle seat with knees bent over the seat edge." NM ST § 66-7-369(C).

²⁵¹ Failure to wear a safety helmet in compliance with the law shall not constitute contributory negligence. NM ST § 66-7-356(B).

Required Use of Bicycle Protective Headgear:

Requirements: It is unlawful for a parent or legal guardian of a minor to knowingly permit that minor to operate or be a passenger on a bicycle unless that minor wears a well-fitted protective bicycle helmet. NM ST § 32A-24-3.

Sanctions for Failure to Use: A **civil penalty** of not more than **\$10**. However, a verbal warning may be issued in lieu of a fine if proof of helmet purchase is shown. NM ST § 32A-24-3.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

STATE

General Reference:

NEW YORKMcKinney's Consolidated Laws of New York (Vehicle and Traffic Law)
New York Code of Rules and Regulations (NY ADC)Required Use of Seat Belts:See note.²⁵²

Requirements:

No person shall operate a motor vehicle, and no front seat passenger shall ride in a motor vehicle unless such person is restrained by a State approved seat belt. NY VEH & TRAF § 1229-c(3).

Primary or Secondary Enforcement:

Primary Enforcement: No statutory provision.²⁵³

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Fine: A fine of up to **\$50**. NY VEH & TRAF § 1229-c(5).

Effect on Civil Liability:

Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead non-compliance as an affirmative defense. NY VEH & TRAF § 1229-c(8).

Required Use of Child Safety Restraint Systems:See notes.^{254, 255}

Requirements:

I. Back seat passengers:

1. Under the age of 4 and 40 lbs., or less = seat which is permanently affixed or affixed by a seat belt;
 2. Under the age of 4 and more than 40 lbs. = appropriate child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness belt is being used;
 3. Ages 4-7 = appropriate child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness belt is not available;
 4. Under the age of 16 = seat belt.
- NY VEH & TRAF § 1229-c(1).

²⁵² **Exemptions:** The requirements to use a seat belt do not apply to: (1) persons who for physical or medical conditions cannot use a seat belt, with such condition certified by a physician; (2) taxis, liveries and buses (except for school buses); and (3) rural letter carriers of the U.S. Postal Service while performing official duties. NY VEH & TRAF § 1229-c(7), (9), (10).

²⁵³ A law enforcement officer observing a violation of the seat belt law may stop the vehicle. *People v. Robinson*, 832 N.Y.S.2d 585 (N.Y.A.D. 2 Dept., 2007).

²⁵⁴ **Exemptions:** These requirements do not apply to children who for physical or medical conditions cannot use a child restraint system. NY VEH & TRAF § 1229-c(7).

²⁵⁵ The term "motor vehicle" does not include a bus, a school bus (except when carrying children under 4 years old), an authorized emergency vehicle, a taxi or liveries. NY VEH & TRAF § 1229-c(4), (9), (11). The term does not include motor vehicles that do not have to be equipped with seat belts under NY VEH & TRAF § 383(1). NY VEH & TRAF § 1229-c(4). In brief, under NY VEH & TRAF § 383(1), only motor vehicles manufactured after June 30, 1964, and designated as model year 1965 or later must be equipped with seat belts.

II. Front seat passengers:

1. Under the age of 16 = seat belt;
 2. Under the age of 4 = seat permanently affixed or affixed by a seat belt;
 3. Under the age of 4 and more than 40 lbs. = child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness is not available;
 4. Ages 4-7 = child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness is not available.
- NY VEH & TRAF § 1229-c(2).

III. No person age 16 or over shall be a passenger in the front seat of a motor vehicle unless restrained by a seat belt. NY VEH & TRAF § 1229-c(3).

Sanctions for Failure to Require the Use of Child Restraint Systems:

I-II. **Civil Fine:** A fine of not less than **\$25** or more than **\$100**.
 III. **Civil Fine:** A fine not to exceed **\$50**.

The fine for a first violation involving a child under the age of 8 is waived with proof of child restraint system acquisition. NY VEH & TRAF § 1229-c(5), (6). In addition, a person is assessed three (3) points against the driving record. 15 NY ADC 131.3(b)(6)(vi).

Effect on Civil Liability:

Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead noncompliance as an affirmative defense. NY VEH & TRAF § 1229-c(8).

Required Use of Safety Restraining Systems on School Buses:

See note.²⁵⁶

Requirements:

- I. Persons transporting children under the age of 4 in a school bus shall secure such children in a federally approved child restraint system that is detachable or removable. NY VEH & TRAF § 1229-c(11).
- II. No person shall operate a school bus for which there are no applicable Federal school bus safety standards unless all occupants are restrained by a seat belt, or for children age 4-6, restrained with a combination lap safety and shoulder harness belts. NY VEH & TRAF § 1229-c(13).

Sanctions:

Civil Fine: A fine not less than **\$25** or more than **\$100**. NY VEH & TRAF § 1229-c(5)
 Three points shall be assessed. 15 NY ADC 131.3(b)(6)(vi).

²⁵⁶ Any school bus which is scheduled for retrofitting shall be done in a manner so that all passenger seats are equipped with seat belts. NY VEH & TRAF § 383(5)(b).

Required Use of Motorcycle Protective Headgear:See note.²⁵⁷

Requirements: Any person who operates or rides on a motorcycle²⁵⁸ shall wear a protective helmet meeting the requirements set forth in Federal Motor Vehicle Safety Standard No. 218.²⁵⁹ NY VEH & TRAF § 381(6).

Sanctions for Failure to Use: Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**. NY VEH & TRAF § 381(13).

Required Use of Motorcycle Eye Protection Device:

Requirements: Any person who operates a motorcycle shall wear State-approved goggles or a face shield. NY VEH & TRAF § 381(7).

Sanctions for Failure to Use: Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**. NY VEH & TRAF § 381(13).

Passenger Age Restrictions:**None**Required Use of Bicycle Protective Headgear:

Requirements: I. A person under the age of 14 who operates a bicycle or a scooter shall wear a State approved helmet.²⁶⁰ NY VEH & TRAF § 1238(2)(a), (2-a), (5)(a), (b).
 II. No bicycle operator shall allow a person less than one year old to ride as a passenger on a bicycle. NY VEH & TRAF § 1238.
Note: The above requirements do not apply where a county, city, town, or village has enacted a local law or ordinance similar to such law. NY VEH & TRAF § 1238(9).
 III. A person is prohibited from transporting a child ages 1-4 on a bicycle unless such child is wearing a State approved helmet and is placed in a separate seat which is attached to the bicycle. NY VEH & TRAF § 1238(2)(a), (b), (2-a).

²⁵⁷ Local law enforcement authorities may exempt a person from this requirement when they are participating in an authorized parade or other public exhibition. NY VEH & TRAF § 381(6).

²⁵⁸ The term “motorcycle” is defined as “[e]very motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.” NY VEH & TRAF § 123. By judicial interpretation of this provision, this term includes “minibikes.” *Dean v. Holland*, 350 N.Y.S.2d 859 (N.Y.Sup. 1973); *Tyler v. Traveler’s Ins., Co.*, 442 N.Y.S.2d 746 (N.Y.Sup. 1981).

²⁵⁹ There is authority, at the trial court level, indicating that the failure to wear protective headgear might be a factor that can be used to reduce a damage award in favor of motorcycle operators or passengers who have sustained injuries in a traffic accident. *Dean v. Holland*, 350 N.Y.S.2d 859 (N.Y.Sup. 1973); *Penzell v. State*, 466 N.Y.S.2d 562 (N.Y.Ct.Cl. 1983).

²⁶⁰ Failure to comply with these requirements shall not constitute contributory negligence or assumption or risk and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person. In addition, such a failure shall not diminish or reduce the damages recoverable in any action. NY VEH & TRAF § 1238(7).

Sanctions for Failure to Use: **Civil Fine:** A fine of not more than **\$50**.²⁶¹ NY VEH & TRAF § 1238(3), (6)(a). The fine for a first violation shall be waived upon proof of purchase of a helmet. NY VEH & TRAF § 1238(4).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. An auto truck cannot be operated more than 5 miles if more than one-third of the vehicle’s passengers are standing.²⁶² NY VEH & TRAF § 1222(1).
 II. An operator (or an owner) of an auto truck (i.e., pickup truck) shall not allow such vehicle to be driven more than 5 miles while there are more than 5 persons in the bed of such vehicle who are under the age of 18. **Note:** This requirement does not apply if at least one person over 18 years old is riding in the bed of the vehicle with these persons. NY VEH & TRAF § 1222(2).

Sanctions for a Violation: **Traffic Infraction:** First offense – A term of imprisonment of not more than **15 days** and/or a fine of not more than **\$150**;
Second offense (within 18 months) – A term of imprisonment of not more than **45 days** and/or a fine of not more than **\$300**;
Third or subsequent offense (within 18 months) - A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$450**. NY VEH & TRAF § 1800(a), (b).

Exemptions: I. The requirement of I above does not apply to persons or corporations operating an agency or agencies for public service. NY VEH & TRAF § 1222(1).
 II. The requirement in II above does not apply if there is at least one person over the age of 18 in the body of the truck. NY VEH & TRAF § 1222(2).

²⁶¹ If the violation of the person less than 14 years old occurs in the presence of that person's parent or guardian where such parent or guardian is 18 years or older, the summons for the offense is issued only to the parent or guardian. NY VEH & TRAF § 1238(8). **Note:** The provisions of NY VEH & TRAF § 1238(8) do not apply to violations of the requirement that children under 14 wear a helmet while riding scooters.

²⁶² This requirement does not apply if the truck has suitable seats that are attached to the vehicle's body, side racks of a least 3 feet in height above the vehicle's floor and a tail board or gate which is securely closed. NY VEH & TRAF § 1222(1).

STATE

NORTH CAROLINA

General Reference:

North Carolina General Statutes Annotated

Required Use of Seat Belts:

See note.²⁶³

Requirements:

When a passenger motor vehicle is in forward motion, the driver and all passengers shall wear seat belts. NC ST § 20-135.2A(a).

Primary or Secondary Enforcement:

Primary Enforcement: However, failure of a *rear seat* occupant shall not be justification for the stop of a vehicle. NC ST § 20-135.2A(d1).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Infraction: A driver or front seat passenger shall pay a penalty of **\$25.50** plus court costs. A rear-seat occupant shall pay a penalty of **\$10** with no court costs. NC ST § 20-135.2A(e). No driver's license points or insurance surcharges shall be assessed as a result of a violation of this requirement. NC ST § 20-135.2A(f).

Effect on Civil Liability:

Evidence of failure to comply with these requirements shall not be admissible in any criminal or civil trial, action or proceeding except in an action based on a violation or as justification for the stop or detention of a vehicle operator and passengers. NC ST § 20-135.2A(d).

Required Use of Child Safety Restraint Systems:

See note.²⁶⁴

Requirements:

A person who is transporting a person younger than 16 years old shall properly secure such persons in either a federally approved child passenger restraint system or seat belt. NC ST § 20-137.1(a). Specifically:
 I. A child younger than 8 years old and weighing less than 80 lbs., shall be secured in an appropriate child passenger restraint system;
 II. In vehicles with passenger-side front air bags, if there is a rear seat, a child less than 5 years old and weighing less than 40 lbs., shall be secured in a rear seat (unless the restraint system is designed for use with airbags).²⁶⁵ NC ST § 20-137.1(a)(1).

²⁶³ **Exemptions:** The requirement to use a seat belt shall not apply to: (1) persons who for physical or medical reasons cannot appropriately use a seat belt; (2) rural letter carriers of the U.S. Postal Service and newspaper delivery persons while performing official duties; (3) drivers or passengers who frequently stop and leave a vehicle (e.g., delivering property) and the speed of the vehicle between stops does not exceed 20 mph; (4) a vehicle registered and licensed as a property-carrying vehicle, while being used for agricultural purposes in intrastate commerce; (5) persons who are operating certain vehicles that are being used for agricultural or commercial purposes; (6) persons operating or riding in motor vehicles that are not required by Federal law to have seat belts; (7) any occupant of a motor home other than the driver or front-seat passengers; any occupant, while in the custody of law enforcement, being transported in the back seat of a law enforcement vehicle; (8) a passenger of a residential garbage or recycling truck while the truck is operating during rounds. NC ST § 20-135.2A(c).

²⁶⁴ **Exemptions:** This requirement does not apply: (1) to ambulances or other emergency vehicles; (2) if all seating positions equipped with child passenger restraint systems or seat belts are occupied; or (3) to vehicles which are not required by Federal law or regulation to be equipped with seat belts. NC ST § 20-137.1(b).

²⁶⁵ If no seating position is equipped with a lap and shoulder belt to properly secure the weight-appropriate child

Sanctions for Failure to Require the Use of Child Restraint Systems:

Infraction: A “penalty” not to exceed **\$25** (even when more than one child less than 16 years of age was not properly restrained). No driver charged with failure to secure a child under 8 years old shall be convicted if he produces, at the time of his trial, satisfactory proof of acquisition of a child safety restraint system for the vehicle in which the child is normally transported. NC ST § 20-137.1(c).

Additionally, two (2) driver license points shall be assessed for a violation of this requirement. However, no insurance points shall be assessed. NC ST § 20-16(c); NC ST § 20-137.1(d)(1), (2).

Effect on Civil Liability:

A violation of this requirement shall not constitute negligence per se or contributory negligence per se and shall not be evidence of negligence or contributory negligence. NC ST § 20-137.1(d)(3), (4).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There are no statutory provisions.

Required Use of Motorcycle Protective Headgear:

See note.²⁶⁶

Requirements:

No person shall operate or ride on a motorcycle or moped unless wearing a safety helmet complying with Federal Motor Vehicle Safety Standard No. 218. NC ST § 20-140.4(a)(2).

Sanctions for Failure to Use:

Infraction: A fine of **\$25.50** plus court costs. NC ST § 20-140.4(c). No drivers’ license points or insurance surcharges shall be assessed as a result of a violation of these requirements. NC ST § 20-140.4(d).

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Passenger Age Restrictions:

None

Required Use of Bicycle Protective Headgear:

Requirements:

A parent or legal guardian of a person less than 16 years of age shall not knowingly permit such person to operate or ride as a

passenger restraint system is available, then a child less than 8 years of age and between 40-80 lbs., may be restrained by a properly fitted lap belt only. NC ST § 137.1(a1).

²⁶⁶ A violation of this requirement shall not be considered negligence per se or contributory negligence per se in any civil action. NC ST § 20-140.4(b).

passenger on a bicycle²⁶⁷ unless wearing a protective bicycle helmet. NC ST § 20-171.9(a).

Sanctions for Failure to Use:

Infraction: A civil fine of up to **\$10** (inclusive of all penalty assessments and court costs). NC ST § 20-171.9(d). The fine for a first violation may be waived upon proof of helmet purchase. NC ST § 20-171.9(e).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

A person shall not transport a child younger than 16 years old in the open bed or cargo area of a vehicle. An open bed or cargo area is a bed or cargo area without permanent overhead restraining construction. NC ST § 20-135.2B(a).

Sanctions for a Violation:

Infraction: A “penalty” of not more than **\$25**. A person is not assessed court costs for a violation of this requirement. NC ST § 20-135.2B(c). No driver license points or insurance surcharge shall be assessed on account of a violation of this requirement. NC ST § 20-135.2B(d).

Exemptions:

This requirement does not apply in the following circumstances: (1) a supervising adult is present in the bed or cargo area; (2) the child is secured or restrained in a seat belt; (3) an emergency situation exists; (4) the vehicle is being used in an official parade; and (5) the vehicle is operated in an agricultural enterprise. NC ST § 20-135.2B(b).

²⁶⁷ The term “bicycle” in addition to meaning the traditional two-wheeled human-powered vehicle, includes a human-powered pedaled vehicle which has more than two wheels. However, this term does not include a “tricycle” which is defined to mean “a three-wheeled human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is not more than two feet from the ground.” NC ST § 20-171.8(1), (9).

STATE

NORTH DAKOTA

General Reference:

North Dakota Century Code Annotated

Required Use of Seat Belts:

See note.²⁶⁸

Requirements:

Drivers and front seat passengers must wear seat belts when a motor vehicle²⁶⁹ is in operation. ND ST § 39-21-41.4.

Primary or Secondary Enforcement:

Secondary Enforcement: A citation for a violation of this requirement cannot be issued by a law enforcement officer unless the driver has been lawfully stopped or detained for another violation. ND ST § 39-21-41.5.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Non-Criminal Fee: A fine of not more than **\$20**. ND ST § 39-06.1-06(8). Points may not be assessed against any person for a violation of this requirement. ND ST § 39-21-41.5.

Effect on Civil Liability:

A violation for not wearing a seat belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. ND ST § 39-21-41.4.

Required Use of Child Safety Restraint Systems:

See note.²⁷⁰

Requirements:

I. When a motor vehicle²⁷¹ is in motion, a passenger under 7 years old, less than 57 inches tall and weighing less than 80 lbs., must be secured in a federally approved child restraint system. ND ST § 39-21-41.2(1).

II. When a motor vehicle is in motion, a child between the ages of 7 and 17 must be secured by a child restraint system or a seat belt. However, a child who weighs more than 40 lbs., may be restrained by a lap belt only if there are no lap/shoulder belts in the vehicle, or all lap/shoulder belts are in use. ND ST § 39-21-41.2(1).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Non-Criminal Fee: A fine of not more than **\$25**. ND ST § 39-06.1-06(2)(c); ND ST § 39-21-46(1). The law assigns two (2) points for a violation of these requirements. ND ST § 39-06.1-10(3)(a)(34).

²⁶⁸ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) drivers of implements of husbandry or farm vehicles; (2) rural mail carriers while on duty delivering mail; (3) persons who for physical or medical reasons cannot use a seat belt, provided they possess a written statement by a qualified physician listing the nature of the condition and the reason restraint is inappropriate; and (4) persons who cannot use a seat belt because all of the available belts are already in use. ND ST § 39-21-41.4.

²⁶⁹ The term “motor vehicle” applies only to motor vehicles that were designed to carry fewer than 11 persons and originally manufactured with seat belts. ND ST § 39-21-41.4.

²⁷⁰ **Exemptions:** The requirement to use either a child restraint system or a seat belt does not apply when a child is being transported in an emergency situation. ND ST § 39-21-41.2(1).

²⁷¹ The term “motor vehicle” does not include a motor vehicle that was not equipped with seat belts when it was manufactured. ND ST § 39-21-41.2(1).

Effect on Civil Liability: A violation of these requirements is not itself evidence of negligence and a violation is not admissible in any proceeding other than one charging such a violation. ND ST § 39-21-41.2(2).

Required Use of Safety Restraining Systems on School Buses:

Requirements: There is no specific statutory provision. However, only passenger vehicles of 11-passenger capacity or less are required to be equipped with seat belts. ND ST § 39-21-41.4.

Required Use of Motorcycle Protective Headgear:

See note.²⁷²

Requirements: No person under the age of 18 may operate or ride on a motorcycle unless wearing headgear safety helmet meeting U.S. Dept. of Transportation standards. If an operator is required to wear a helmet, all passengers traveling with him must wear a helmet, regardless of age. ND ST § 39-10.2-06(1). This requirement does not apply to persons riding within an enclosed cab or on a golf cart. ND ST § 39-10.2-06(2).

Sanctions for Failure to Use:

Infraction:
First offense – A fine of not more than **\$500**;
Second or subsequent offense (within 1 year) (Class B misdemeanor) – Not more than **30 days** and/or a fine of not more than **\$1000**. ND ST § 12.1-32-01(6), (7); ND ST § 39-07-06. A person violating this requirement is assessed two (2) points against the driver's license record. ND ST § 39-06.1-10(3)(a)(28).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

²⁷² In a traffic accident situation, evidence of failure to wear protective headgear may be admitted into evidence for the purpose of mitigating damages so long as there is competent testimony by a qualified expert that the use of a helmet would have lessened the injuries sustained. *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983).

STATE

General Reference:

OHIOOhio Revised Code Annotated
Ohio Administrative Code (OH ADC)Required Use of Seat Belts:See note.²⁷³

Requirements:

I. No person shall operate an automobile²⁷⁴ unless wearing a seat belt.²⁷⁵ OH ST § 4513.263(B)(1).
 II. A person shall not operate an automobile unless all front seat passengers are wearing seat belts.
 OH ST § 4513.263(B)(2), (3).

Primary or Secondary
Enforcement:

Secondary Enforcement: A law enforcement officer shall not stop a person operating an automobile for the sole purpose of determining a violation of these requirements. OH ST § 4513.263(D).

Sanctions for Failure to Use or
Require the Use of Seat Belts:

I. A person who violates I above is subject to a fine of **\$30. (Minor Misdemeanor)**. OH ST § 4513.263(G).
 II. A passenger who violates II above is subject to a fine of **\$20. (Minor Misdemeanor)**. OH ST § 4513.263(G).

No points are to be assessed against person's driving record for a violation of the above requirements.
 OH ST § 4510.036(C)(13).²⁷⁶

Effect on Civil Liability:

I. A violation of these requirements shall not be considered or used as evidence of negligence or contributory negligence. However, a judge or jury may determine based on evidence admitted that the violation contributed to the harm and may diminish recovery of compensatory damages that represents noneconomic loss that could have been recovered but for the plaintiff's failure to follow the requirements.
 II. Additionally, the failure to follow the requirements may be admissible into evidence in a products liability case where the plaintiff seeks to recover damages for injury or death and the claim is that such injury or death was enhanced or aggravated by some design defect. OH ST § 4513.263(F).

Required Use of Child SafetySee note.²⁷⁷

²⁷³ **Exemptions:** The requirement to use a seat belt does not apply to: (1) employees of the United States Postal Service engaged in delivering mail; (2) newspaper home delivery employees engaged in the delivery of newspapers; (3) a person with a physical impairment possessing a signed affidavit from a licensed physician or chiropractor. OH ST § 4513.263(C).

²⁷⁴ The term "automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to have seat belts under Federal law. OH ST § 4513.263(A)(1).

²⁷⁵ The law refers to a seat belt as an "occupant restraining device." OH ST § 4513.263(A)(2).

²⁷⁶ "Moving violation" means any violation of a statute or ordinance other than OH ST § 4513.263, or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys, or that regulates size or load limitations or fitness requirements. OH ST § 2743.70(D)(1).

Restraint Systems:

- Requirements: I. The operator of a motor vehicle²⁷⁸ shall secure a child under the age of four and/or who weighs less than 40 lbs., properly secured in a federally approved child restraint system. OH ST § 4511.81(A).
 II. Any child less than 8 years of age and less than 4 feet 9 inches in height shall be secured in a booster seat. OH ST § 4511.81(C).
 III. Any child, age 8-15, shall be properly restrained in a child restraint system or seat belt. OH ST § 4511.81(D).
- Sanctions for Failure to Require the Use of Child Restraint Systems: First offense (Minor Misdemeanor) - A fine of not less than **\$25** or more than **\$75**;
Second or subsequent offense (4th Degree Misdemeanor) – Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**.
 OH ST § 4511.81(L); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).
- Effect on Civil Liability: The failure of an operator to comply with this requirement is not negligence that can be imputed to the child. Evidence of such a failure is not admissible in any civil action involving the rights of the child to recover damages against any other person. OH ST § 4511.81(G).

Required Use of Safety Restraining Systems on School Buses:

- Requirements: I. Any child who is under the age of 4 and/or who weighs less than 40 lbs., and is transported in a motor vehicle (other than a taxicab) that is owned, leased, or otherwise under the control of a nursery school, kindergarten, or day-care center, shall be secured in a federally approved child restraint system. OH ST § 4511.81(B).
 II. No person, school board, or governmental entity shall purchase, lease or rent a new school bus less the school bus has seat belts installed for use in its operator’s seat. OH ST § 4511.772(A).
- Sanctions: For a violation of I above:
First offense (Minor Misdemeanor) – a fine of not less than **\$25** or more than **\$75**;
Second or subsequent offense (4th Degree Misdemeanor) – imprisonment for not more than **30 days** and/or a fine of not more than **\$250**. OH ST § 4511.81(J); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a). For a violation of II above, a fine of not more than **\$150**. OH ST § 4511.772(B); OH ST § 2929.28(A)(2)(a).

²⁷⁷ **Exemptions:** The requirement to use a child restraint system does not apply when an emergency exists that threatens the life of either the vehicle operator or the child. OH ST § 4511.81(G).

²⁷⁸ This requirement only applies to motor vehicles that are required to be equipped with seat belts under Federal law, and excludes taxicabs or public safety vehicles. A “public safety vehicle” is an ambulance or other emergency medical service vehicle, a vehicle used by law enforcement or fire departments, or a vehicle used by the commercial motor vehicle safety enforcement unit. OH ST § 4511.01(E); OH ST § 4511.81(A).

Required Use of Motorcycle
Protective Headgear:

Requirements:

- I. No person under the age of 18 who holds a motorcycle operator's license shall operate or be a passenger on a motorcycle unless wearing a State approved protective helmet. OH ST § 4511.53(B).
 II. No person (regardless of age) who holds a novice motorcycle operator's license shall operate or be a passenger on a motorcycle unless wearing a State approved protective helmet. OH ST § 4511.53(B).
 III. Any passenger (regardless of age) on a motorcycle operated by a person under the age of 18 or holding a novice motorcycle operator's license must wear a State-approved protective helmet. OH ST § 4511.53(B).

Helmets must meet the requirements set forth by the Federal Motor Vehicle Safety Standard No. 218. OH ADC 4501-17-02.

Sanctions for Failure to Use:

First offense (Minor Misdemeanor) - A fine of not more than **\$150**;
Second offense (within 1 year) (**4th Degree Misdemeanor**) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**;
Third or subsequent offense (within 1 year) (**3rd Degree Misdemeanor**) - Imprisonment for not more than **60 days** and/or a fine of not more than **\$500**.
 OH ST § 4511.53(D); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a violation of the above requirements. OH ST § 4510.036(C)(13).

Required Use of Motorcycle Eye
Protection Device:

Requirements:

No person shall operate or ride on a motorcycle without using safety glasses or other protective eye device.
 OH ST § 4511.53(B).

Sanctions for Failure to Use:

First offense (Minor Misdemeanor) - A fine of not more than **\$150**;
Second offense (within 1 year) (**4th Degree Misdemeanor**) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**.
Third or subsequent offense (within 1 year) (**3rd Degree Misdemeanor**) - Imprisonment for not more than **60 days** and/or a fine of not more than **\$500**. OH ST § 4511.53(D); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a

violation of the above requirements.
OH ST § 4510.036(C)(13).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

I. A driver of a truck, trailer or semi-trailer shall not knowingly permit a person under the age of 16 to ride in the vehicle's unenclosed or unroofed cargo storage area when such vehicle is traveling faster than 25 mph.
OH ST § 4511.51(E).

II. A driver of a truck, trailer, or semi-trailer shall not permit a person to ride in the cargo storage area or a tailgate of the vehicle while the tailgate is unlatched.
OH ST § 4511.51(F).

III. No operator shall allow a person to and no person shall hang onto or ride on the outside of any motor vehicle, streetcar, or trackless trolley while it is moving.
OH ST § 4511.51(C), (D).

Sanctions for a Violation:

A violation of the requirements in I and II above is a **Minor Misdemeanor**: A fine of not more than **\$100**. OH ST § 2929.21(D); OH ST § 4511.51(G)(1).

The following sanctions apply for a violation of III above. First offense (Minor Misdemeanor) - A fine of not more than **\$150**; Second offense (within 1 year) (**4th Degree Misdemeanor**) - A jail term of not more than **30 days** and/or a fine of not more than **\$250**; Third or subsequent offense (within 1 year) (**3rd Degree Misdemeanor**) - A jail term of not more than **60 days** and/or a fine of not more than **\$500**.
OH ST § 4511.51(G); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a violation of the above requirements.
OH ST § 4510.036(C)(13).

Exemptions:

I. The requirement in I above does not apply in the following circumstances: (1) The person under 16 years old is seated in the cargo area and is wearing a seat belt; and (2) an emergency exists that threatens the life of either the driver or the person under 16 years old.
OH ST § 4511.51(E)(1), (2).

II. The requirement in II above does not apply to workers riding in

such vehicles and who are performing specialized highway or street maintenance or construction under the authority of a public agency.

OH ST § 4511.51(F).

III. The requirement in III does not apply to mechanics or test engineers making repairs or adjustments or to workers performing specialized highway or street maintenance or construction under the authority of a public agency.

OH ST § 4511.51(C), (D).

STATE

General Reference:

OKLAHOMA

Oklahoma Statutes Annotated

Required Use of Seat Belts:See note.²⁷⁹

Requirements:

When a passenger car²⁸⁰ is in use, the driver and every front-seat passenger shall wear a properly adjusted and fastened safety seat belt system. OK ST Title 47 § 12-417(A).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer may initiate a traffic stop for a violation of the seat belt law so long as he has reasonable suspicions or probable cause that a violation is taking place.²⁸¹

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: Fine and court costs cannot exceed **\$20**. No points shall be assessed against an offender's driving record. OK ST Title 47 § 12-417(D), (E); OK ST Title 47 § 17-101(A).

Effect on Civil Liability:

A violation of this requirement may be used in a civil proceeding and use or nonuse of a seat belt shall be submitted into evidence in any civil suit unless the plaintiff in such suit is a child under the age of 16. OK ST Title 47 § 12-420.

Required Use of Child Safety Restraint Systems:See note.²⁸²

²⁷⁹ **Exemptions:** The requirement to use a seat belt system does not apply to: (1) drivers or passengers who are unable to wear such a belt for medical reasons and possess written attestation by a license physician; and (2) route carriers of the U.S. Postal Service while performing official duties. OK ST Title 47 § 12-417(B), (C).

²⁸⁰ The seat belt requirement applies to motor vehicles that are required to have seat belts under Federal law. In addition, the term “passenger car” is defined as a “vehicle,” which means any type of conveyance which transports persons or property on a highway. The term “vehicle” does not include bicycles, trailers (except travel trailers and rental trailers), implements of husbandry (farm vehicles), trucks, truck-tractors, recreational vehicles, motorcycles, and motorized bicycles. However, “passenger car” does include the passenger compartment of pickups, vans, minivans, and sport utility vehicles, but does not include vehicles used primarily for farm use (i.e., a “pickup, truck, truck-tractor owned and operated by one or more farmers and used primarily for farm use and not for commercial or industrial purposes.”). OK ST Title 47 § 12-417(A)(2).

²⁸¹ See *U.S. v. Favela Favela*, 2002 WL 532416 (10th Cir. 2002)(unpublished). In this case, the 10th Circuit held that an Oklahoma police officer had reasonable suspicion and probable cause to stop a vehicle when the officer noticed a seat belt violation by a front seat passenger. There is no statutory provision specifically addressing primary versus secondary enforcement for seat belts. However, OK ST Title 47 § 11-1112(D) specifically permits a law enforcement officer to stop a vehicle if it appears that the driver has violated the child safety restraint requirements.

²⁸² **Exemptions:** These requirements do not apply to: (1) a driver who is operating a school bus, taxicab, moped, motorcycle, or a motor vehicle that is not required to be equipped with seat belts; (2) a driver of an ambulance or emergency vehicle; (3) a driver where all of the available seat belts are in use; and (4) children who for medical reasons are unable to use either a child restraint system or a seat belt. OK ST Title 47 § 11-1112(C)(1), (2), (3), (4).

Requirements: I. Every driver when transporting a child under the age of 6 in a motor vehicle shall secure such child in a federally approved child restraint system. OK ST Title 47 § 11-1112(A).
 II. Every driver when transporting children ages 6-12 years old must secure such child in either a child passenger restraint system or a seat belt. OK ST Title 47 § 11-1112(B).
 III. A child who weighs more than 40 lbs., transported in the *back seat* of a vehicle, may wear a lap seat belt when a combination lap and shoulder belt is not available. OK ST Title 47 § 11-1112(C)(5).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Misdemeanor:** A fine of **\$50** plus court costs. Such fine shall be suspended and court costs limited to a maximum of **\$15** in the case of a first offense, upon proof of purchase or acquisition of a child restraint system. No points shall be assessed for a violation of these requirements. OK ST Title 47 § 11-1112(F); OK ST Title 47 § 17-101(A).

Effect on Civil Liability: A violation of these requirements shall be admissible as evidence in any civil action or proceeding for damages unless the plaintiff in such action or proceeding is a child under the age of 16. In any action brought by or on behalf of an infant for personal injuries or wrongful death, the failure to comply with these requirements shall not be used in the aggravation or mitigation of damages.
 OK ST Title 47 § 11-1112(E), (F).

Required Use of Safety Restraining Systems on School Buses:

Requirements: See note.²⁸³
 The operator of a school bus shall wear a seat belt when such vehicle is in motion.

Sanctions: **Misdemeanor:** A fine of not less than **\$25** or more than **\$100**; OK ST Title 70 § 24-121; OK ST Title 47 § 17-101(A).

Required Use of Motorcycle Protective Headgear:

Requirements: No person under the age of 18 shall operate or ride upon any motorcycle unless wearing a crash helmet which complies with the standards established by the Federal Motor Vehicle Safety Standard No. 218. OK ST Title 47 § 12-609(B).

Sanctions for Failure to Use: **Misdemeanor:** A fine of not less than **\$5** or more than **\$500** or; First offense - A term of imprisonment of not more than **10 days**;

²⁸³ While there is no specific statute requiring the use of child safety restraints, OK ST Title 70 § 9-107 does State that “each school bus shall be operated in conformity with all rules of the road duly established by law and shall observe traffic requirements for the route which it travels.”

Second offense (within 1 year after the first conviction) – A term of not more than **20 days**;

Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than **6 months** and/or a fine of not less than **\$20** or more than **\$500**. OK ST Title 47 § 17-101(B).

Required Use of Motorcycle Eye Protection Device:

Requirements: If a motorcycle or motor scooter is not equipped with a windshield, the operator shall wear goggles or a face shield which is designed to protect them from foreign objects. OK ST Title 47 § 12-609(A)(2).

Sanctions for Failure to Use: **Misdemeanor:** A fine of not less than **\$5** or more than **\$500** or; First offense - A term of imprisonment of not more than **10 days**; Second offense (within 1 year after the first conviction) – A term of not more than **20 days**; Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than **6 months** and/or a fine of not less than **\$20** or more than **\$500**. OK ST Title 47 § 17-101(B).

Passenger Age Restrictions:

No person under the age of 16 shall drive a motorcycle while transporting any other person. OK ST Title 47 § 11-1103(A).

The operator of a motorcycle who has attained the age of 16 years or older may carry a passenger if the wheel diameter is 12 inches or greater, and the motorcycle is equipped with a double seating device with double foot rests or a sidecar attachment. OK ST Title 47 § 11-1103(B).

Required Use of Bicycle Protective Headgear:

Requirements: When operating an electric-assisted bicycle,²⁸⁴ a person 18 years old or younger shall wear a nationally approved bicycle helmet. OK ST Title 47 § 11-805.2(5).

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **6 months** and/or a fine of not less than **\$20** or more than **\$500**. OK ST Title 47 § 17-101(C).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person who is operating a motor vehicle shall not allow passengers to ride outside of the “passenger compartment” of the vehicle. OK ST Title 47 § 11-1114(A).

²⁸⁴ An “electric-assisted bicycle” is any bicycle with 2 or 3 wheels and fully operative pedals for human propulsion and equipped with a motor. OK ST Title 47 § 1-104(B).

Sanctions for a Violation:

Misdemeanor: A fine of **\$10** plus court costs of **\$15**. The law specifically provides that no points shall be assessed against a driver for a violation of this requirement. OK ST Title 47 § 11-1114(B); OK ST Title 47 § 17-101(A).

Exemptions:

This requirement does not apply: (1) to passengers riding in a vehicle either on private property, in parades, or for special events; or (2) to passengers riding “on the bed of a pickup truck.” OK ST Title 47 § 11-1114(A).

STATE

General Reference:

OREGON

Oregon Revised Statutes

Required Use of Seat Belts:

See note.²⁸⁵

Requirements:

- I. A person operating a motor vehicle on the highways must be properly secured with a seat belt or safety harness. OR ST § 811.210(1).
- II. A driver cannot operate a motor vehicle unless all passengers younger than 16 years old are secured in seat belts, child safety systems or safety harnesses. OR ST § 811.210(1)(a)(D).
- III. All motor vehicle passengers age 16 years or older riding in a privately owned commercial vehicle designed and used for the transportation of 15 or fewer persons must secure themselves in a seat belt or safety harness, and must secure any passenger for whom they are responsible in a child safety system. OR ST § 811.210(1)(a)(G), (H).

Primary or Secondary Enforcement:

Primary Enforcement: There is no statutory provision.²⁸⁶

Sanctions for Failure to Use or Require the Use of Seat Belts:

Class D Traffic Violation:²⁸⁷ A fine of not more than **\$90**. OR ST § 153.018(2)(d); OR ST § 801.557; OR ST § 811.210(4).

Effect on Civil Liability:

Evidence of nonuse of a seat belt or harness may be admitted only to mitigate the injured party's damages. The mitigation of damages shall not exceed 5 % of the damages that would have otherwise been awarded. OR ST § 31.760(1). However, this restriction does not apply if nonuse of a seat belt was a substantial or contributing cause of the accident which resulted in the personal injuries. OR ST § 31.760(2).

²⁸⁵ **Exemptions:** The requirements to use a seat belt or harness do not apply to: (1) privately owned commercial vehicles used for the transportation of persons for compensation or profit (except motor carriers when operating in interstate commerce and taxicab operators); (2) any vehicle not required to be equipped with seat belts or harnesses at the time of manufacturing; (3) school buses or school activity vehicles exempted under OR ST § 811.080; (4) persons possessing a certificate of exemption who have a physical or medical condition which makes it harmful or impractical to wear a seat belt or harness; (5) any person who is a passenger in a vehicle if all seating positions are occupied by other persons; (6) any person transported while in the custody of a police or any other law enforcement officer; (7) any person delivering newspapers or mail in the regular course of work; (8) any person riding in an ambulance for the purpose of administering medical aid to another if a seat belt or harness would substantially inhibit the administration of medical aid; (9) any person who is reading utility meters in the regular course of work; (10) any person employed to operate a mass transit vehicle during the regular course of work; and (11) any person who is collecting solid waste or recyclable materials in the regular course of work. OR ST § 811.210; OR ST § 811.215; OR ST § 811.220.

²⁸⁶ See *State v. Bourget-Goddard*, 993 P.2d 814 (Or.App. 1999)(holding an officer may stop a vehicle where he has probable cause to believe a driver or passenger is in violation of the seat belt safety law).

²⁸⁷ There is also a Unitary Assessment of \$37 and a County Assessment of between \$5 and \$18. OR ST § 137.290(1)(d); OR ST § 137.309.

Required Use of Child Safety Restraint Systems:

- Requirements:
- I. A child under one year of age, regardless of weight, or a person who weighs 20 lbs., or less shall be properly secured with a rear-facing child safety system. OR ST § 811.210(2)(a).
 - II. A person weighing 40 lbs., or less = child safety system. OR ST § 811.210(2)(b).
 - III. A person weighing more than 40 lbs., and who is 4 feet 9 inches or shorter = child safety system that elevates the person so that a seat belt or harness properly fits the person.²⁸⁸ However, if the rear seat of a vehicle is not equipped with shoulder belts, then the person shall be secured by a lap belt. OR ST § 811.210(2)(c), (3).
 - IV. A person who is taller than 4 feet 9 inches = seat belt or safety harness. OR ST § 811.210(2)(d).
 - V. A person who is eight years of age or older need not be secured with a child safety system but must be properly secured with a federally approved seat belt or harness. OR ST § 811.210(2)(e).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Class D Traffic Violation:** A fine of not more than **\$90**. OR ST § 153.018(2)(d); OR ST § 801.557; OR ST § 811.210(4)

Effect on Civil Liability: Evidence of nonuse of a seat belt or harness may be admitted only to mitigate the injured party’s damages. The mitigation of damages shall not exceed 5 % of the damages that would have otherwise been awarded. OR ST § 31.760(1). However, this restriction does not apply if nonuse of a seat belt was a substantial or contributing cause of the accident which resulted in the personal injuries. OR ST § 31.760(2).

Required Use of Safety Restraining Systems on School Buses:

Requirements: There are no statutory provisions.

Required Use of Motorcycle Protective Headgear:

Requirements: See note.²⁸⁹

I. A person who operates or rides on a motorcycle or a moped must wear a motorcycle helmet, and must ensure his passenger wears a helmet. OR ST § 814.260(1); OR ST § 814.269(1); OR ST § 814.275(1); OR ST § 814.280(1).

²⁸⁸ “Proper fit” means “the lap belt of the seat belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck.” OR ST § 811.210(2)(c).

²⁸⁹ The requirement to wear a motorcycle helmet does not apply if: (1) the person is riding in an enclosed cab; or (2) the person is riding in a vehicle that is designed to travel with three wheels at a speed of less than 15 mph. OR ST § 814.260(2); OR ST § 814.269(2); OR ST § 814.275(2); OR ST § 814.280(2); OR ST § 814.290.

II. A person who operates a motor-assisted scooter on a highway or on premises open to the public must wear bicycle-type protective headgear. There is an exemption based on a person’s religious beliefs or practices.
OR ST § § 814.534(1), (2).

Sanctions for Failure to Use: I. A violation of the requirements in I above:
Class D Traffic Violation: A fine of not more than **\$90**. OR ST § 153.018(1), (2); OR ST § 801.557; OR ST § 814.260(4); OR ST § 814.269(3); OR ST § 814.275(3); OR ST § 814.280(3).
II. A violation of the requirement in II above:
Traffic Violation: A maximum fine of **\$25**.
OR ST § 814.534(4).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear: See note.²⁹⁰

Requirements: I. A person under the age of 16 who operates or rides on a bicycle on a highway or on premises open to the public must wear protective headgear.²⁹¹ OR ST § 814.485(1).
II. A person cannot operate a bicycle with a passenger younger than 16 years old unless such passenger is wearing protective headgear. OR ST § 814.486(1).
III. It is illegal for a parent or legal guardian to allow his/her child younger than 16 years old to operate or ride a bicycle unless such child wears protective headgear. OR ST § 814.486(1).

Sanctions for Failure to Use: **Traffic Infraction (Violation):** A fine of not more than **\$25**.^{292, 293}
OR ST § 801.557; OR ST § 814.485(3); OR ST § 814.486(3).

Prohibition Against Riding in Unsecured Portion of Vehicle:

²⁹⁰ A person is exempt from this requirement if the use of bicycle protective headgear would violate a religious belief or practice of the person. OR ST § 814.487.

²⁹¹ The State is required to adopt standards for bicycle helmets that conform “insofar as is practicable” to national safety standards and specifications. OR ST § 815.052.

²⁹² If the offender is 11 years old or younger, any citation for a violation of this requirement is issued to the child’s parent or legal guardian. OR ST § 814.488(1). If the offender is at least 12 but under 16 years of age, a citation for a violation of this requirement may be issued to the child or to his/her parent or legal guardian, but not to both. OR ST § 814.488(2).

²⁹³ The first time a person is convicted of failure to wear or require the use of a safety helmet, the person shall not be required to pay a fine if he proves to the satisfaction of the court that he has protective headgear. OR ST § 814.488(3).

- Requirements: It is an offense to carry a minor (under the age of 18) on an external part of a motor vehicle, including the hood, fender, running board, open bed or any other external part of any motor vehicle that is upon a highway. OR ST § 811.205.
- Sanctions for a Violation: **Class B traffic violation:** A fine not to exceed **\$360**. OR ST § 153.018(2).
- Exemptions: This requirement does not apply: (1) to a minor in the open bed of a motor vehicle when the minor is secured with a seat belt or harness; (2) when the vehicle is operated in an organized parade; or (3) when the minor is seated on the floor of the open bed of a motor vehicle in which all of the available passenger seats are occupied by minors and the tailgate is securely closed, and: (i) the minor is being transported in the course and scope of employment; or (ii) the minor is being transported between a hunting camp and hunting site or between hunting sites during hunting season and the minor has a hunting license. OR ST § 815.205(3).

STATE

PENNSYLVANIA

General Reference:

Pennsylvania Consolidated Statutes

Required Use of Seat Belts:

See note.²⁹⁴

Requirements:

I. When a motor vehicle²⁹⁵ is in operation, the driver and front seat passengers shall wear a seat belt. PA ST Title 75 § 4581(a)(2).
 II. A driver under the age of 18 years old may not operate a motor vehicle in which the number of passengers exceeds the number of available seat belts. PA ST Title 75 § 4581(a)(3).

Primary or Secondary Enforcement:

Secondary Enforcement: A conviction for a violation of the requirements shall occur only as a secondary action when a driver has been convicted of another offense under the Vehicle Code. PA ST Title 75 § 4581(a)(2), (b).

Sanctions for Failure to Use or Require the Use of Seat Belts:

See note.²⁹⁶

Summary Offense: A fine of **\$10**. No other costs can be assessed for a violation of these requirements. In addition, a violation of such requirements shall not result in the assessment of points against a person's driver record and is not considered to be a moving violation. PA ST Title 75 § 4581(b). A violation of these requirements cannot be used to increase insurance premiums.²⁹⁷ PA ST Title 75 § 4581(h). No points are assigned for a violation of seat belt requirements. PA ST Title 75 § 4581(a)(2).

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury shall not be instructed that failure to use a seat belt constitutes a violation. Such a violation shall not be considered contributory negligence. PA ST Title 75 § 4581(e).

Required Use of Child Safety Restraint Systems:

See note.²⁹⁸

Requirements:

I. Where there is a seating position available with a seat belt, a person who is transporting a child under the age of 4 in a motor

²⁹⁴ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) a driver or front seat occupant of any vehicle manufactured before July 1, 1966; (2) a driver or front seat occupant who possesses written verification from a physician or psychiatrist that he is unable to wear a safety seat belt system for physical, medical or psychological reasons; (3) a rural letter carrier of the U.S. Postal Service while performing official duties; and (4) a driver who make frequent stops for the purpose of delivering goods or services and where the vehicle is traveling less than 15 mph. PA ST Title 75 § 4581(a)(2).

²⁹⁵ The term “motor vehicle” means a passenger car, Class I truck (weighing 5,000 lbs., or less), Class II truck (weighing 5,001 - 7,000 lbs.), or motor home. PA ST Title 75 § 1916(a)(1); PA ST Title 75 § 4581(a)(2).

²⁹⁶ **Junior Drivers:** “Junior drivers” (licensees 16 or 17 years old) are subject to a suspension of the driving privileges until they are 18 years old or for a period not to exceed 90 days if convicted of **any** violation of PA ST Title 75. PA ST Title 75 § 1503(c)(3).

²⁹⁷ In addition, under separate statutory provisions, a violation of these requirements shall not be used as evidence by an insurer for any purpose. PA ST Title 75, § 4585.

²⁹⁸ **Exemptions:** The requirement to use a child passenger restraint system does not apply if the use of such a system would be impractical for physical (e.g., size of the child) or medical reasons. PA ST Title 75 § 4581(g).

vehicle²⁹⁹ must secure such child in a federally approved child passenger restraint system. PA ST Title 75 § 4581(a)(1).

II. A child four years old or older but younger than 8 years old shall be secured in a seat belt or a booster seat.³⁰⁰ PA ST Title 75 § 4581(a)(1.1).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Summary Offense: A fine of not more than **\$100**. This is not considered a moving violation. PA ST Title 75 § 4581(b). The fine is waived upon proof of acquisition of a child restraint system. PA ST Title 75 § 4581(c). No points are assigned for a violation of this requirement. PA ST Title 75 § 4581(a).

Effect on Civil Liability:

A violation of these requirements shall not be admitted into evidence at a civil trial. A jury shall not be instructed that failure to use a child restraint system constitutes a violation. Such a violation shall not be considered contributory negligence. PA ST Title 75 § 4581(e).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There is no specific statutory provision, however PA ST Title 75 § 4551(a) requires all school buses and other vehicles used in the transportation of school children to conform to standards and regulations prescribed by the department.

Sanctions:

Any person operating or permitting to be operated a vehicle not in compliance with the safety requirements will be found to have committed a **summary offense** and receive a fine of not less than **\$50** or more than **\$100**. PA ST Title 75 § 4551(b).

Required Use of Motorcycle Protective Headgear:

See note.³⁰¹

Requirements:

No person age shall operate or ride on a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless wearing State approved protective headgear. PA ST Title 75 § 3525(a).

Sanctions for Failure to Use:

Summary Offense: A fine of **\$25**. PA ST Title 75 § 6502(a).

²⁹⁹ The term “motor vehicle” means a passenger car, Class I truck (weighing 5,000 lbs., or less), Class II truck (weighing 5,001-7,000 lbs.), classic motor vehicle, antique motor vehicle, or motor home. PA ST Title 75 § 1916(a)(1); PA ST Title 75 § 4581(a)(1), (1.1).

³⁰⁰ Secondary enforcement applies to this requirement as well.

³⁰¹ **Exemptions:** The protective headgear requirement does not apply to: (1) the operator or any occupant of a three-wheeled motorcycle equipped with an enclosed cab; (2) a person 21 years or older who has been licensed to operate a motorcycle for at least 2 full calendar years; (3) a person 21 years or older who has completed a motorcycle rider safety course approved by the department or the Motorcycle Safety Foundation; or (4) a 21 year old (or older) passenger of a person falling into an exemption listed. PA ST Title 75 § 3525(d).

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate or ride a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless wearing a State approved eye-protection device. PA ST Title 75 § 3525(b).

Sanctions for Failure to Use: **Summary Offense:** A fine of **\$25**. PA ST Title 75 § 6502(a).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear: See note.³⁰²

Requirements: See note.³⁰³
A person under the age of 12 shall wear a nationally approved pedalcycle (bicycle) helmet when operating or riding on a pedalcycle (bicycle).³⁰⁴ PA ST Title 75 § 3510(a).

Sanctions for Failure to Use: **Summary Offense:** A fine of not more than **\$25**.³⁰⁵ PA ST Title 75 § 3510(d); PA ST Title 75 § 6502(a). **Note:** If a person receives a citation for violation of the safety helmet law, a magistrate or judge shall dismiss the charges if the person displays evidence of acquisition of a helmet. Sufficient evidence shall include a receipt mailed to the appropriate court officer which evidences purchase or transfer of a helmet, evidenced by a notarized letter. PA ST Title 75 § 3510(b).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. If a person is occupying the bed of a truck, it may not be driven at a speed of more than 35 mph. PA ST Title 75 § 3719(a).
II. A person cannot operate either an open-bed pickup truck or open flatbed truck at any speed if a person under the age of 18 is occupying the bed of such truck or trailer. PA ST Title 75 § 3719(b)(1).
III. A child under the age of 4 who is being transported in the cargo area of a motor vehicle must be secured in a child passenger restraint system. PA ST Title 75 § 4581(a)(1).

Sanctions for a Violation: I. For a violation of I or II above, a **Summary Offense**. A fine of

³⁰² This requirement does not apply to a child under the age of 12 who can produce a statement from the family's church authorities attesting that it is against the tenets of the family's religion to wear a helmet. PA ST Title 75 § 3510(b.3).

³⁰³ A violation of this requirement shall not be used as evidence in any civil action. PA ST Title 75 § 3510(c).

³⁰⁴ This requirement also applies if the person under the age of 12 is riding in a restraining seat attached to the pedalcycle (bicycle) or in a trailer towed by a pedal-cycle (bicycle). PA ST Title 75 § 3510(a).

³⁰⁵ The parent or legal guardian of the child who violates this requirement shall be jointly and severally liable with such child for the amount of the fine. PA ST Title 75 § 3510(d).

not more than **\$25**. PA ST Title 75 § 6502(a).

II. For the sanctions related to a violation of requirement III above, see the sanctions for a violation of the requirements for the use of Child Safety Restraint Systems.

Exemptions:

The prohibition contained in requirement II above does not apply to: (1) a child of or a child employed by a farmer where the child is being transported either between parts of the farm or for farm work; (2) a child being transported between a hunting camp and a hunting site; or (3) a child who is participating in an authorized parade. PA ST Title 75 § 3719(b)(2).

STATE

General Reference:

PUERTO RICO

Laws of Puerto Rico Annotated (L.P.R.A.) December 2008

Required Use of Seat Belts:

See note.³⁰⁶

Requirements:

I. Any driver or passenger on the public highways in a motor vehicle which must be equipped with seat belts shall be secured in such seat belts while the vehicle is being driven.
 II. It shall be the duty of every driver to require every occupant of the vehicle to use the available safety seat belts.
 III. There shall not be more passengers than seat belts available.
 PR ST Title 9 § 5382(a)

Primary or Secondary Enforcement:

Primary Enforcement: No statutory provisions.³⁰⁷

Sanctions for Failure to Use or Require the Use of Seat Belts:

Administrative Offense: A fine of **\$50** (for each passenger who fails to wear a seat belt). PR ST Title 9 § 5382.

Effect on Civil Liability:

It appears that Puerto Rico follows a comparative negligence rule.³⁰⁸

Required Use of Child Safety Restraint Systems:

See note.³⁰⁹

Requirements:

I. It is mandatory for every person who drives a motor vehicle on the public highways, in which a child less than four (4) years of age is transported to ensure that such child is seated in a child protection seat.
 II. Every child under 12 years of age shall ride in the back seat of a vehicle unless the motor vehicle is equipped only with front seats.
 PR ST Title 9 § 5383.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Administrative Offense: A fine of **\$100**. PR ST Title 9 § 5383.

Effect on Civil Liability:

It appears that Puerto Rico follows a comparative negligence rule. See note 301 above.

³⁰⁶ **Exemptions:** The seat belt requirement shall not apply to the following: (1) drivers and passengers who are prevented from using seat belts for medical or physical reasons and hold a medical certificate that certifies it; and (2) drivers and passengers of public service vehicles while rendering services in short routes authorized by the Public Service Commission by petition of the interested parties. PR ST Title 9 § 5382(b).

³⁰⁷ See *U.S. v. Nunez-Torres*, 2008 WL 1805756 (D.Puerto Rico 2008) (noting that it is permissible for the police to stop a vehicle to investigate whether the driver was wearing a seat belt).

³⁰⁸ PR ST Title 9 § 2058 provides for benefits for injuries sustained as a result of an automobile accident under the Automobile Accident Social Protection Act. This Act provides for an exemption of \$1,000 for physical and mental sufferings, and \$2,000 for other damages, when the victim is at fault.

³⁰⁹ **Exceptions:** Excepted from this provision are those children who suffer some sort of disability duly certified by a physician, which prevents them from traveling safely in said seats. Unless the motor vehicle is only equipped with front seats, every child less than twelve (12) years of age, shall have to travel in the rear seat of the vehicle. This section does not apply to drivers of public service vehicles. PR ST Title 9 § 5383.

Required Use of Safety Restraining Systems on School Buses:

Requirements: No statutory provisions.³¹⁰

Required Use of Motorcycle Protective Headgear:

Requirements: Any person who drives or is a passenger on a motorcycle, moped or motor scooter on the public roads shall use an approved safety helmet meeting the requirements established by the Department of Transportation while the vehicle is in motion. PR ST Title 9 § 5296(b).

Sanctions for Failure to Use: **Administrative Offense:** A fine of **\$50**. PR ST Title 9 § 5296.

Required Use of Motorcycle Eye Protection Device:

Requirements: A driver shall use goggles, or spectacles, or install a windshield on the vehicle (motor cycle). PR ST Title 9 § 5296(b).

Sanctions for Failure to Use: **Administrative Offense:** A fine of not more than **\$50**. PR ST Title 9 § 5296.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: It shall be illegal to ride a bicycle along the public thoroughfares or recreational centers without wearing a protective helmet. PR ST Title 9 § 5322(k).

Sanctions for Failure to Use: **Administrative Offense:** A fine of not more than **\$50**. PR ST Title 9 § 5322.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**³¹¹

³¹⁰ Although, PR ST Title 9 § 5383 exempts public service vehicles from the child restraint law, it does not appear that school buses fall into this category. The definition of “school bus” does “not include buses operated by transportation businesses that are not exclusively engaged in the transportation of school students.” Moreover, “school bus” is not specifically excluded from the definition of “motor vehicle.” PR ST Title 9 § 5001(68), (101).

³¹¹ However, PR ST Title 9 § 197 provides that no transportation of passengers shall be in motor vehicles which are not designed for such transportation. Workmen engaged in the work of loading and unloading are exempt from this statute, however they must travel in the cab of the vehicle.

STATE

General Reference:

RHODE ISLAND

General Laws of Rhode Island Annotated

Required Use of Seat Belts:

Requirements:

I. Any operator of a motor vehicle shall wear a federally approved seat belt and/or shoulder harness system, and shall ensure any passenger age 18 or older in any seating position is wearing a seat belt and/or shoulder harness system.

RI ST § 31-22-22(f)(1), (g)(1).³¹²

II. Any operator of a motor vehicle who is under the age of 18 shall wear a seat belt and/or shoulder harness system.

RI ST § 31-22-22(b)(2).

Primary or Secondary Enforcement:

Secondary Enforcement: No motor vehicle may be stopped by a law enforcement officer for a violation of these requirements.

RI ST § 31-22-22(k).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Civil Violation:³¹³ A fine of **\$85**. RI ST § 31-22-22(c)(2), (l); RI ST § 31-27-13(a); RI ST § 31-41.1-4(a).

Effect on Civil Liability:

A violation of this requirement is not considered as negligence and the failure to wear a seat belt cannot be admitted into evidence in the trial of any civil action. RI ST § 31-22-22(h).

Required Use of Child Safety

Restraint Systems:

Requirements:

I. A child under the age of 8 years, less than 57 inches in height and less than 80 lbs., shall be secured in a federally approved child passenger restraint system in the rear seat. RI ST § 31-22-22(a)(1).

II. A child under the age of 8 years, but at least 57 inches in height or at least 80 lbs., shall be secured in a seat belt and/or shoulder harness in the rear seat.³¹⁴ RI ST § 31-22-22(a)(1).

III. A child between the ages of 8 through 17 shall be secured in a seat belt and/or shoulder harness system. RI ST § 31-22-22(b)(1).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Civil Violation: A fine of **\$85**. The violation shall be voided upon proof, within 7 days, of purchase of a child restraint system. RI ST § 31-22-22(c)(2), (l); RI ST § 31-27-13(a); RI ST § 31-41.1-4(a).

Effect on Civil Liability:

A violation of these requirements shall not be considered as

³¹² **Exemptions:** This requirement does not apply to: (1) passenger motor vehicles manufactured prior to July 1, 1966, or is not required by Federal law to have seat belts; (2) a person possessing written verification within the past 12 months that states such person is unable to wear a seat belt for physical or medical reasons; (3) a letter carrier of the U.S. Postal Service while performing official duties. RI ST § 31-22-22(f)(2), (g)(2), (i).

³¹³ **EMS Special Assessment.** In addition to any fine, an offender must be assessed **\$1**. RI ST § 31-27-18. **Note:** These funds are deposited into the general State fund.

³¹⁴ If the vehicle is not equipped with a rear seat or all rear seating positions are utilized by other children, then the child must be properly restrained in the front seat. RI ST § 31-22-22(a)(1).

contributory or comparative negligence and such a violation is not admissible as evidence in the trial of any civil action. RI ST § 31-22-22(a)(2), (h).

Required Use of Safety Restraining Systems on School Buses:

- Requirements:
- I. Seat belts shall be worn by all school bus operators. RI ST § 31-23-41.
 - II. Seat belts shall be worn by all passengers riding in a child care vehicle and school extra-curricular vehicle.³¹⁵ RI ST § 31-22-11.6(b)(2).
 - III. No person shall operate a pupil transportation vehicle,³¹⁶ nor knowingly allow any passenger to ride in such vehicle unless the operator and all passengers are wearing a seat belt. RI ST § 31-22.1-3.³¹⁷

Sanctions: **Civil Violation:** A fine of not more than **\$500**. RI ST § 31-27-13(a), (b).

Required Use of Motorcycle Protective Headgear:

- Requirements:
- I. When operating a motorcycle, motor scooter or a motor-driven cycle, a person younger than 21 years shall wear a State approved helmet. RI ST § 31-10.1-4.
 - II. When operating a motorcycle, motor scooter or a motor-driven cycle, any person (regardless of age) who has not been licensed for more than 1 year to operate such vehicles shall wear a State approved helmet. RI ST § 31-10.1-4.
 - III. A passenger (regardless of age) riding on a motorcycle, motor scooter or motor-driven cycle must wear a “properly fitting” State approved helmet. RI ST § 31-10.1-6.

Sanctions for Failure to Use: **Civil Violation:** A fine of **\$85**. RI ST § 31-10.1-4; RI ST § 31-10.1-6; RI ST § 31-41.1-4.

Required Use of Motorcycle Eye Protection Device:

³¹⁵ “School extra-curricular vehicle” is defined as a vehicle designed to transport fewer than 15 students to and from school-sponsored activities. “Child care vehicle” is defined as a motor vehicle owned or leased by a licensed child care agency that does not exceed 15 passengers and is being used to transport children from schools to child care facilities and/or from child care facilities to school. However, 2-door sedans shall not be considered child care vehicles or school extra-curricular vehicles. RI ST § 31-22-11.6(2).

³¹⁶ “Pupil transportation vehicle” is defined as a motor vehicle designed and constructed to seat no more than 8 passengers, used by a school committee to provide transportation services required by law or regulation to students being conveyed along a fixed school transportation route. RI ST § 31-22.1-1.

³¹⁷ Based on a combined reading of RI ST § 31-23-41; RI ST § 31-22-11.6; RI ST § 31-22.1-3, it appears that school buses do not require the use of child restraint systems or seat belts for its passengers, unlike school extra-curricular vehicles, child care vehicles and pupil transportation vehicles.

Requirements: When operating a motorcycle, motor scooter or a motor-driven cycle, a person (regardless of age) shall wear a State approved eye protection device. RI ST § 31-10.1-4.

Sanctions for Failure to Use: **Civil Violation:** A fine of **\$85**. RI ST § 31-10.1-4; RI ST § 31-41.1-4(a).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: I. A person age 15 years or younger shall wear a nationally approved helmet when operating or riding as a passenger on a bicycle on a public highway, bicycle path, shared use park, park and/or recreational area, school property or on any other public right-of-way. RI ST § 31-19-2.1.
 II. A parent or guardian of any child shall not authorize or knowingly permit such child or ward to violate this requirement. RI ST § 31-19-2.

Sanctions for Failure to Use: A violation of this requirement shall be adjudicated administratively. RI ST § 31-19-1.³¹⁸

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall operate an open motor truck or other similar vehicle while carrying or transporting any child under the age of 16 without securely fastening the child to prevent them from becoming loose or detached in any manner. RI ST § 31-25-10(f).

Sanctions for a Violation: **Civil Violation:**
First offense: a fine of not more than **\$100**;
Subsequent offenses: a fine of not less than **\$100** or more than **\$500**. RI ST § 31-25-10(d).

³¹⁸ There is no specific fine listed in the administrative fine schedule. However, the lowest amount listed in the schedule of fines is **\$85**.

STATE

SOUTH CAROLINA

General Reference:

Code of Laws of South Carolina 1976 Annotated
South Carolina Administrative Code (SC ADC)

Required Use of Seat Belts:

See note.³¹⁹

Requirements:

I. When operating a motor vehicle, the driver and every occupant shall wear a seat belt. SC ST § 56-5-6520.
II. When operating a motor vehicle,³²⁰ the driver shall require that every passenger 17 years old or younger wear a seat belt or child restraint device.³²¹ SC ST § 56-5-6520.

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer may only stop a driver for a violation of this requirement when the officer has probable cause to believe a violation has occurred based on his clear and unobstructed view of the driver or an occupant. SC ST § 56-5-6540(E).³²²

Sanctions for Failure to Use or Require the Use of Seat Belts:

A fine of not more than **\$25**, no part of which may be suspended.³²³ In addition, a person cannot be fined more than **\$50** for any one incident where more than one violation occurred. SC ST § 56-5-6540. No points may be assessed against a person's driving record for a violation of these requirements. SC ST § 56-5-6550.

Effect on Civil Liability:

A violation of these requirements does not constitute negligence per se or contributory negligence and is not admissible as evidence in a civil action. SC ST § 56-5-6540(C).

Required Use of Child Safety Restraint Systems:

See note.³²⁴

³¹⁹ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) a person who possess written verification from a physician that he/she is unable to wear a seat belt because of physical or medical reasons; (2) medical or rescue personnel attending to injured or sick individuals in an emergency vehicle; (3) school, church or daycare buses; (4) public transportation vehicles except taxis; (5) occupants of vehicles in a parade; (6) United States mail carriers; (7) occupants for which no seat belt is available because all belts are being used by other occupants; or (8) persons in a vehicle not originally equipped with seat belts. SC ST § 56-5-6530.

³²⁰ For purposes of the seat belt use law, the term "motor vehicle" is defined as "car, truck, van, or recreational vehicle required to be equipped with seat belts by the Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208), manufactured after July 1966." SC ST § 56-5-6510. Under separate provisions of law, "passenger car" is defined as "every motor vehicle except motorcycles and motor-driven cycles, designed for carrying 10 passengers or less and used the transportation of persons...." SC ST § 56-5-361.

³²¹ A driver is not responsible for an occupant 17 years of age or younger who has a driver's license, special restricted license, or beginner's permit and who is not wearing a seat belt; such occupant is in violation of the article. SC ST § 56-5-6520.

³²² A driver may not be searched, nor may consent to search be requested solely because of a violation of this requirement. SC ST § 56-5-6540(D).

³²³ There are no court costs, assessments or surcharges for this offense. Additionally, a violation of these requirements cannot be included in the State's motor vehicle or criminal records. SC ST § 56-5-6540(A).

³²⁴ **Exemptions:** The requirement to wear a child restraint system does not apply to: (1) taxi drivers; (2) drivers of emergency vehicles when operating in an emergency situation; (3) church, day care and school bus drivers; (4)

Requirements:	When a person transporting in a motor vehicle ³²⁵ a child age 5 years or younger, he/she shall secure such child in a <u>rear</u> ³²⁶ seat as follows: Children under the age of 1 or weighing less than 20 lbs. = federally approved rear-facing child restraint systems; Children at least 1 year old but younger than 6 and weighing at least 20 but less than 40 lbs. = forward-facing child safety seats; Children at least 1 year old but younger than 6 and weighing at least 40 but not more than 80 lbs. = belt-positioning booster seats; ³²⁷ Children at least 1 year old but younger than 6 and weighing more than 80 lbs. = adult seat belts. SC ST § 56-5-6410.
Sanctions for Failure to Require the Use of Child Restraint Systems:	A fine of not more than \$150 . The fine is waived upon proof of acquisition, purchase or rental of a child restraint system. SC ST § 56-5-6450.
Effect on Civil Liability:	A violation of these requirements shall not constitute negligence per se or contributory negligence and shall not be admissible as evidence in any civil action. SC ST § 56-5-6460.

Required Use of Safety Restraining Systems on School Buses:

Requirements:	The seat belt and child safety restraint statutes specifically exempt church, day care and school bus drivers. SC ST § 56-5-6440; SC ST § 56-5-6530.
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Required Use of Motorcycle Protective Headgear:

Requirements:	See note. ³²⁸ When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person under the age of 21 shall wear a State approved helmet. SC ST § 56-5-3660.
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public transportation operators; or (5) commercial vehicles. SC ST § 56-5-6440. Additionally, if all seating positions with restraint devices are occupied by children under the age of 6, a child may be transported and the driver of the motor vehicle may not be held in violation of this requirement. However, priority must be given to children under 6 years old, according to their ages. SC ST § 56-5-6420.

³²⁵ The term “motor vehicle” refers to a passenger car, pickup truck, van, or recreational vehicle. SC ST § 56-5-6410. The requirements under the child passenger restraint law apply only to motor vehicles that are equipped with seat belts. SC ST § 56-5-6445. Under separate provisions of the law, “passenger car” is defined as “every motor vehicle except motorcycles and motor-driven cycles, designed for carrying 10 passengers or less and used the transportation of persons....” SC ST § 56-5-361.

³²⁶ If the motor vehicle does not have rear passenger seats or if all rear passenger seats are occupied by other children less than 6 years old, then the rear seat requirement does not apply. SC ST § 56-5-6410(5).

³²⁷ The belt-positioning booster seat must be used with both lap and shoulder belts. A booster seat must not be used with a lap belt alone. SC ST § 56-5-6410(3).

³²⁸ For persons 21 years old and younger, the failure to wear a helmet is not considered contributory negligence in a civil action. *Mayer v. Paxton*, 437 S.E. 2d 66 (S.C. 1993).

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **30 days** or a fine of not more than **\$100**. SC ST § 56-5-3700.

Required Use of Motorcycle Eye Protection Device:

Requirements: When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person under the age of 21 shall wear State approved goggles or face shield. SC ST § 56-5-3670. This requirement does not apply if the vehicle is equipped with a windscreen. SC ST § 56-5-3680.

Sanctions for Failure to Use: **Misdemeanor:** A term of imprisonment of not more than **30 days** or a fine of not more than **\$100**. SC ST § 56-5-3700.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: Children at day care facilities shall wear properly fitting helmets when riding a bicycle. SC ADC 114-507; SC ADC 114-517; SC ADC 114-526.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: Persons younger than 15 may not be transported in an open bed or open cargo area of a pickup truck. SC ST § 56-5-3900(A).

Sanctions for a Violation: **Misdemeanor:** A fine of **\$25**. SC ST § 56-5-3900(C). No points shall be assessed. SC ST § 56-5-3900(D).

Exemptions: The following do not apply to the prohibition: (1) when an adult is present; (2) the child is secured by a seat belt; (3) an emergency situation exists; (4) the vehicle is operated in an organized hayride or parade; (5) the vehicle is operated for hunting or agricultural purposes; (6) the vehicle is operated in a county with no incorporated area with a population greater than 3500; and (7) the vehicle has a closed metal tailgate and is operated less than 36 mph. SC ST § 56-5-3900(B).

STATE

General Reference:

SOUTH DAKOTA

South Dakota Codified Laws

Required Use of Seat Belts:See note.³²⁹

Requirements:

I. Every operator and front-seat passenger of a passenger vehicle³³⁰ in forward motion shall wear a safety seat belt system. SD ST § 32-38-1.

II. Every operator shall secure front-seat passengers at least 5 years of age but younger than 18 years of age in seat belts or a safety seat belt system. SD ST § 32-38-1; SD ST § 32-37-1.2.

III. Any operator who is at least 14 years old and under 18 shall wear a safety seat belt system. SD ST § 32-37-1.2.

Primary or Secondary Enforcement:

Secondary Enforcement: A law enforcement officer enforces this requirement only as a secondary action. SD ST § 32-38-5.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Petty Offense: A “**judgment**” of \$25. SD ST § 23-1A-22; SD ST § 32-38-5. This is not a moving violation. SD ST § 32-38-1. The law does not assign points for a violation of this requirement. SD ST § 32-12-49.1.

Effect on Civil Liability:

A violation of these requirements does not constitute contributory negligence, comparative negligence or assumption of the risk. And, except for criminal litigation for violations of these requirements, evidence of such violations may not be introduced as evidence in any civil litigation on the issue of injuries or on the issue of mitigation of damages. SD ST § 32-38-4.

Required Use of Child Safety Restraint Systems:See note.³³¹

Requirements:

I. Any operator of a passenger vehicle transporting a child under the age of 5 shall secure the child in a child passenger restraint system.

However, the requirement is met if a child under the age of 5 but weighing at least 40 lbs., is secured in a seat belt. SD ST § 32-37-1.

II. Any passenger who is at least 14 years of age and under 18 shall wear a safety seat belt system. SD ST § 32-37-1.3.

³²⁹ **Exemptions:** The requirement to wear a safety seat belt does not apply to: (1) any occupant of a passenger vehicle manufactured before September 1, 1973; (2) any occupant of a passenger vehicle who possesses a written statement from a licensed doctor that the individual is unable for medical reasons to wear a safety seat belt system; (3) any occupant of a vehicle not equipped with a safety seat belt system because there is no Federal law requirement; or (4) any rural carrier of the U.S. Postal Service or person delivering newspapers or periodicals while performing their duties. SD ST § 32-38-3.

³³⁰ A “passenger vehicle” is defined as any self-propelled vehicle intended primarily for use and operation on the public highways including passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks and pickups. A “passenger vehicle” does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses and school buses, farm tractors and other farm vehicles designed primarily or exclusively for use in agricultural operations. SD ST § 32-38-2.

³³¹ **Exemptions:** This requirement does not apply to children who are riding in passenger cars manufactured before 1966 that have not been equipped with seat belts. SD ST § 32-37-2.

Sanctions for Failure to Require the Use of Child Restraint Systems: **Petty Offense:** A “**judgment**” of **\$25**. SD ST § 23-1A-22; SD ST § 32-37-1 through 32-37-1.3. The law does not assign points for a violation of these requirements. SD ST § 32-12-49.1.

Effect on Civil Liability: A violation of these requirements is not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. SD ST § 32-37-4.

Required Use of Safety Restraining Systems on School Buses:

Requirements: I. By virtue of SD ST § 32-38-2, a school bus driver is not required to wear a seat belt system. (School buses are specifically excluded from the definition of “passenger vehicle” within the seat belt laws.)
 II. There are no statutory provisions requiring the use of child passenger restraint system.

Required Use of Motorcycle Protective Headgear:

Requirements: I. No person under the age of 18 may operate or ride upon a motorcycle on the public streets or highways unless wearing a protective helmet meeting Federal Motor Vehicle Safety Standard No. 218. SD ST § 32-20-4.
 II. No person may operate a motorcycle with any person under the age of 18 as a passenger if the passenger is not wearing a protective helmet. SD ST § 32-20-4.
 These requirements do not apply to persons who are riding within an enclosed cab. SD ST § 32-20-4.2

Sanctions for Failure to Use: **Class 2 Misdemeanor:** A jail term of not more than **30 days** and/or a fine of not more than **\$500**. SD ST § 22-6-2(2); SD ST § 32-20-4.

Required Use of Motorcycle Eye Protection Device:

Requirements: No person may operate a motorcycle unless he is wearing an eye protective device or unless the motorcycle is equipped with a windscreen that provides adequate eye protection. SD ST § 32-20-4.1.
 This requirement does not apply to persons who are riding within an enclosed cab. SD ST § 32-20-4.2.

Sanctions for Failure to Use: **Petty Offense:** A “**judgment**” of **\$25**. SD ST § 23-1A-22; SD ST § 32-20-4.1

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against Riding in
Unsecured Portion of Vehicle:

Requirements: **None**

STATE

General Reference:

TENNESSEE

Tennessee Code Annotated
Rules and Regulations of the State of Tennessee (TN ADC)

Required Use of Seat Belts:

See note.³³²

Requirements:

I. No person shall operate a passenger motor vehicle³³³ unless the driver and all front seat passengers age 4 years or older are restrained by seat belts. TN ST § 55-9-603(a), (b)(1).
II. Drivers or passengers 16 or 17 years old shall wear seat belts when operating a motor vehicle in a forward motion. TN ST § 55-9-603(i)(1).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer may issue a citation to but cannot arrest a person for an observed violation. TN ST § 55-9-603(f), (i)(3).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Class C Misdemeanor: A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. TN ST § 40-35-111(e)(3); TN ST § 55-9-603(d)(1).
In lieu of a court appearance, however, a first offender may pay a fine of **\$10** and, for a second or subsequent offense, pay a fine of **\$20**. TN ST § 55-9-603(d)(2). For a violation of II above, an offender may pay a fine of **\$20** in lieu of a court appearance. TN ST § 55-9-603(d)(3)(A).
A driver cannot be fined for a violation of this requirement for the failure of a passenger over the age of 16 to wear a seat belt. TN ST § 55-9-606.
Neither court costs nor a litigation tax shall be imposed. TN ST § 55-9-603(e). In addition, no points can be assigned to an offender's driving record for a violation of this requirement. TN ST § 55-9-603(g).

Effect on Civil Liability:

Generally, a violation of this requirement is not admissible into evidence in a civil action except in cases of product liability. TN ST § 55-9-604.

³³²**Exemptions:** The requirement to wear a seat belt does not apply to: (1) persons with a physical disability which prevent the use of a seat belt, and who possess certification by a physician who shall State the nature of the disability as well as the reason such restraint is in appropriate; (2) rural letter carriers of the U.S. Postal Service while performing official duties; (3) automobile dealership salespersons or mechanics who test drive 50 or more vehicles a day and where test drives are within one mile of the dealership; (4) utility workers, water, gas and electric meter readers while performing official duties; (5) persons who are in the process of delivering newspapers; (6) a vehicle used in a parade or hayride if operated at less than 15 mph; or (7) a vehicle crossing a highway from one field to another if operated at less than 15 mph. TN ST § 55-9-603(h).

³³³The term “passenger motor vehicle” means a vehicle having a gross vehicle weight of 8,500 lbs., or less, and is not used as a public or livery conveyance for passengers. In addition, such term does not include a motor vehicle that does not have to be equipped with seat belts under Federal law. TN ST § 55-9-603(c).

Required Use of Child Safety Restraint Systems:

See note.³³⁴

Requirements:

- I. Any person transporting any child under one year of age or weighing 20 lbs., or less, shall secure such child in a rear facing child passenger restraint system, in the rear seat if available. TN ST § 55-9-602(a)(1).
- II. Child age 1-3, weighing greater than 20 lbs. = forward facing child passenger restraint system in the rear seat if available. TN ST § 55-9-602(a)(2).
- III. Child age 4-8 and measuring less than 4 feet, 9 inches in height = belt positioning booster seat system. TN ST § 55-9-602(a)(3).
- IV. If a child is not capable of being safely transported in a conventional child passenger restraint system, a professionally specially modified restraint system shall be in use.³³⁵
- V. Child age 9-12, or a child through 12 years of age measuring 4 feet, 9 inches or more in height = seat belt system with a recommendation that such child sit in a rear seat if available. TN ST § 55-9-602(g)(1)(A).
- VI. Child age 13-15 = passenger restraint system, including seat belts. TN ST § 55-9-602(g)(1)(B).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Class C Misdemeanor: A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. TN ST § 40-35-111(e)(3); TN ST § 55-9-602(c)(1).
 In addition to or in lieu of the above sanctions, an offender may be required to attend a class designed to educate offenders on the hazards of not properly transporting children. TN ST § 55-9-602(c)(2).
 In lieu of a court appearance for violations of V and VI above, an offender may pay a fine of **\$50**. Also, no court costs or litigation tax may be assessed against an offender. TN ST § 55-9-602(g)(2).
 Only one citation may be issued regardless of the number of children involved. TN ST § 55-9-602(g)(5).

³³⁴**Exemptions:** Tennessee law provides that before a motor vehicle can be sold in the State, it must be equipped with a seat belt. However, motor vehicles manufactured prior to the 1964 model year, public or livery conveyance passenger motor vehicles weighing 8,500 lbs., and any motor vehicle that is not required by Federal law to be equipped with seat belts are exempt from this requirement. TN ST § 55-9-601. Although the law is not specific, there appears to be an indirect exemption from the use of child passenger protection systems in motor vehicles that are not required to have seat belts by reason of the fact that seat belts are needed in order to secure child passenger protection systems in place. The law does not require that motor vehicles be retrofitted with seat belts.

³³⁵ These provisions shall not be satisfied by use of the vehicle’s standard lap or shoulder seat belts independent of any other child passenger restraint system. A vehicle transporting a child in a specially modified restraint system shall possess a copy of the physician’s signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system. TN ST § 55-9-602(a)(4)(A).

Effect on Civil Liability: A person who has successfully met the minimum required training standards for installation of child restraint devices, who in good faith installs or inspects the installation of a child restraint device shall not be liable for any damages resulting from any act or omission related unless such act or omission was the result of the person’s gross negligence or willful misconduct. TN ST § 55-9-602(i).

The failure to use a child restraint system is not admissible into evidence in a civil action, except in product liability cases.³³⁶ TN ST § 55-9-602(k).

Required Use of Safety Restraining Systems on School Buses:

Requirements: There are no statutory provisions for the use of safety restraint systems on school buses. However, TN ST § 55-9-603(c); TN ST § 55-9-602(h) seem to provide an exemption for school buses.

Required Use of Motorcycle Protective Headgear:

See note.³³⁷

Requirements: Any operator or passenger of a motorcycle, motorized bicycle or motor-driven cycle must wear a crash helmet meeting the requirements of Federal Motor Vehicle Safety Standard No. 218.³³⁸ TN ST § 55-9-302.

Sanctions for Failure to Use: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. TN ST § 40-35-111(e)(3); TN ST § 55-9-306.

Required Use of Motorcycle Eye Protection Device:

Requirements: Every operator or passenger of a motorcycle, motor-driven cycle shall wear safety goggles, face shields, or glasses containing impact-resistant lenses, if such vehicle is not equipped with a windshield. TN ST § 55-9-304.

³³⁶ **Exception:** If a party to the civil action is not the parent or legal guardian, then evidence of failure to use a child restraint system may be admitted as to the causal relationship between noncompliance and the injuries alleged. TN ST § 55-9-602(k)(3).

³³⁷ The helmet requirement does not apply to persons riding: (1) within an enclosed cab; (2) motorcycles that are fully enclosed, have 3 wheels in contact with the ground, weigh less than 1,500 lbs., and have capacity to maintain posted highway speed limits; (3) golf carts; or (4) in a parade at a speed not exceeding 30 mph, so long as the person is 18 years or older. TN ST § 55-9-302(b).

³³⁸ An operator or passenger age 21 years or older shall wear a federally approved helmet, however the ventilation airways, protective surface and label standards may differ. TN ST § 55-9-302.

Sanctions for Failure to Use: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. TN ST § 40-35-111(e)(3); TN ST § 55-9-306.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: I. A person younger than 16 years old shall not operate or be a passenger on a bicycle unless wearing a protective cycle helmet. TN ST § 55-52-105(1).
 II. No parent or legal guardian shall knowingly permit his/her child under the age of 12 to violate the above requirement. TN ST § 55-52-105(3).

Sanctions for Failure to Use: See note.³³⁹
 I. **Violation:** An adult who violates the above requirement is guilty of a violation and shall be assessed a civil penalty of \$2 fine and court costs. TN ST § 55-52-106(a).
 II. For a first violation, the law provides that only a warning citation may be issued. For either a second or subsequent violation, a citation may be issued but no arrest can be made. TN ST § 55-52-106.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. No person shall transport a child under the age of 6 in the bed of a pickup truck (not exceeding ¾ ton). TN ST § 55-8-189(a).
 II. No person shall transport on any interstate defense highway or State highway a child 6-11 years old in a pickup truck (not exceeding ¾ ton). TN ST § 55-8-189(b)(1).
Note: A city or county may establish this same prohibition on its roads or highways. TN ST § 55-8-189(b)(2).

Sanctions for a Violation: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. TN ST § 40-35-111(e)(3); TN ST § 55-8-189(e). **Note:** The law is not specific as to whether points can be assigned for a violation of this requirement. However, since this offense is codified under the rules of the road provisions of the vehicle code, an offender may be subject to a three-point assessment against his/her driving record under the miscellaneous point assessment provisions of the point system regulations, or an assessment of 8 points under child endangerment if a child is a passenger. TN ADC 1340-01-04-.03(1)(y), (5).

³³⁹ A violation of this requirement is not admissible as evidence in any civil action. TN ST § 55-52-106(c).

Exemptions:

I. This requirement does not apply if the child is being transported in the bed of such a vehicle as part of an organized parade, procession or other ceremonial event and when the vehicle is not traveling more than 20 mph. TN ST § 55-8-189(c).

II. This requirement does not apply if the child being transported in is involved in agricultural activities.

TN ST § 55-8-189(d).

STATE

General Reference:

TEXAS

Texas Revised Statutes Annotated (Transportation Code)
Texas Administrative Code (TX ADC)

Required Use of Seat Belts:

See note.³⁴⁰

Requirements:

I. All passengers in a vehicle being operated shall be secured in a seat belt if such vehicle is equipped with seat belts.^[2] TX TRANSP § 545.413(a).

II. A person shall not operate a passenger vehicle equipped with seat belts unless all of the passengers who are younger than 17 years old (but not required to be secured in a child passenger safety seat system) are secured by a seat belt. TX TRANSP § 545.413(b).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer may arrest without a warrant a person found committing a violation of the rules of the road. TX TRANSP § 543.001.

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor:

I. For a violation of the requirements of I above, a fine of not less than **\$25** nor more than **\$50**. TX TRANSP § 545.413(d)

II. For a violation of the requirements in II above, a fine of not less than **\$100** or more than **\$200**. However, the court may defer proceedings and require an offender to complete a special course including child passenger safety. This course is in lieu of requiring the offender to complete a “driving safety course.”³⁴¹ TX TRANSP § 545.413(d), (i).

No points are assigned for a violation of this requirement. TX TRANSP § 708.052.

Effect on Civil Liability:

Statute (TX TRANSP § 545.413(g)) prohibiting the admissibility into evidence in a civil trial the nonuse of a seat belt has been repealed by Acts 2003, 78th Leg., ch. 204, § 8.01.³⁴²

³⁴⁰ **Exemptions:** The requirements to use a seat belt do not apply to: (1) persons who are unable to use a seat belt for physical or medical reasons and possess a written statement stating such reasons, or provide to the court within 10 days such written statement; (2) persons employed by the U.S. Postal Service while performing official duties; (3) persons who are in the process of delivering newspapers from a vehicle; (4) persons employed by either a public or a private utility and who are engaged in reading meters or performing other duties that require that they frequently enter and exit a vehicle; or (5) persons who are operating commercial vehicles that are registered as farm vehicles and that weigh less than 48,000 lbs. TX TRANSP § 545.413(e).

^[2] “Passenger vehicle” means a passenger car, light truck, sport utility vehicle, truck, or truck tractor. TX TRANSP § 545.412(f)(2); TX TRANSP § 545.413(h).

³⁴¹ **Deferred Disposition.** Persons charged with traffic offenses may be allowed to participate in a deferred disposition program. Under this program, an offender must plead guilty or no contest to the offense and complete a driving safety course. The court may defer imposition of judgment for 90 days and dismiss the charge when the course has been completed. TX CRIM PRO Art. 45.0511.

³⁴² There have been no cases found to guide whether evidence of nonuse is admissible to show contributory or comparative negligence. However, the fact that the prohibition of such evidence has been repealed indicates accepted admissibility.

Required Use of Child Safety Restraint Systems:

See note.³⁴³

Requirements:

A person shall not operate a passenger vehicle when transporting a child younger than 8 years old and less than 4 feet, 9 inches in height unless such child is secured in a federally approved child passenger safety seat system. TX TRANSP § 545.412(a), (f).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: A fine of not more than **\$25** for a first offense, and not more than **\$250** for a second or subsequent offense. But, the court may defer proceedings and require an offender to complete a special course including child passenger safety. This course is in lieu of requiring the offender to complete a “driving safety course”.³⁴⁴ TX TRANSP § 545.412(b), (g). Two (2) points are assigned for a violation of this requirement. TX TRANSP §708.052.

Effect on Civil Liability:

Statute (TX TRANSP § 545.412(d)) prohibiting the admissibility into evidence in a civil trial the nonuse of a seat belt was repealed by Acts 2003, 78th Leg., ch. 204, § 8.01; See footnote no. 336.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

Any student riding a school bus shall wear a seat belt if the bus is equipped with seat belts for all passengers. TX EDUC § 34.013.

Whenever passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that each passenger is secured by a seat belt. TX EDUC § 34.003(c).³⁴⁵

Sanctions:

A school district may implement a disciplinary policy to enforce the use of seat belts by students. TX EDUC § 34.013. However, there is no specific statutory provision addressing the sanctions for a violation of the requirement.

Required Use of Motorcycle Protective Headgear:

See note.³⁴⁶

³⁴³ **Exemptions:** These requirements do not apply to: (1) children who are being transported in emergency or law enforcement vehicles; (2) children being transported in passenger for hire vehicles; or (3) children being transported in a vehicle in which all seating position equipped with child passenger safety seat systems or seat belts are occupied. TX TRANSP § 545.412(c), (e).

³⁴⁴ It is a defense, however, that the defendant provides to the court satisfactory evidence of possession of an appropriate child passenger safety seat system for each child required to be secured. TX TRANSP § 545.4121.

³⁴⁵ “Passenger van” is defined as a motor vehicle other than a motorcycle or passenger car, used to transport 15 or fewer passengers, including the driver. TX EDUC § 34.003(d).

³⁴⁶ A person at least 21 years of age may be exempt from this requirement if he/she had successfully completed a motorcycle operator training and safety course or was covered by a health insurance plan providing \$10,000 in medical benefits for injuries. A law enforcement officer may not arrest a person or issue a citation to such a person if he/she presents evidence of either successful completion of the course or health insurance. TX TRANSP § 661.003(c). However, there may be a common law duty under Texas law to wear protective headgear or eye protection. See, e.g., *Kennon v. Slipstreamer, Inc.*, 794 F.2d 1067 (5th Cir. 1986).

Requirements: Any person who operates a motorcycle shall wear and require all passengers to wear State approved protective headgear meeting the minimum standards of Federal Motor Vehicle Safety Standard No. 218. Any passenger on a motorcycle shall wear State approved protective headgear. TX TRANSP § 661.003(a), (b); 37 TX ADC § 21.2.

Sanctions for Failure to Use: **Misdemeanor:** A fine of not less than **\$10** or more than **\$50**. TX TRANSP § 661.003(h).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: An operator may not carry another person on a motorcycle unless that person is at least 5 years of age. However, an operator may carry a person under the age of 5 in a sidecar attached to the motorcycle. TX TRANSP § 545.416(d), (e).

Required Use of Bicycle Protective Headgear:

Requirements: **None**³⁴⁷

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: When operating either an open-bed pickup truck or an open flatbed truck or when drawing an open flatbed trailer, a driver shall not transport a passenger younger than 18 years old in the bed of such truck or trailer. TX TRANSP § 545.414(a).

Sanctions for a Violation: **Misdemeanor:** A fine of not less than **\$25** or more than **\$200**. TX TRANSP § 545.414(b).

Exemptions: This requirement does not apply if the person was: (1) operating such vehicle in a parade, emergency, or authorized hayride; (2) operating a vehicle on a beach; (3) driving such vehicle on a farm-to-market road, ranch-to-market road, or county road outside of municipality; or (4) operating a vehicle that is the only vehicle owned or operated by the members of a household.³⁴⁸ TX TRANSP § 545.414(c).

³⁴⁷ The department of health and safety may establish and administer a statewide bicycle safety program and may adopt rules to implement the program. Such program must include instruction concerning correct use of bicycle helmets, among other instructions. TX Health & S § 758.002

³⁴⁸ “Household” is defined to mean “a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.” TX FAMILY § 71.005; TX TRANSP § 545.414(e).

STATE

General Reference:

UTAH

Utah Code Annotated

Required Use of Seat Belts:See note.³⁴⁹

Requirements:

When a motor vehicle³⁵⁰ is operated on a highway, the driver and any passenger age 16 years or older shall wear a seat belt. UT ST § 41-6a-1803(1)(a)(i), (2).

Primary or Secondary Enforcement:

Secondary Enforcement: Law enforcement officers shall only enforce the seat belt requirements as a secondary action when either the driver or passenger age 19 years old or older has been detained for a suspected violation of some other provision of the motor vehicle laws or for another offense. UT ST § 41-6a-1803(4).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Infraction: A maximum fine of **\$45**. UT ST § 41-6a-1805(1)(a). The fine may be reduced to **\$15** if the offender completes a two-hour course on the benefits of using seat belts and child restraint devices. UT ST § 41-6a-1805(1)(b). No points may be assessed against any person for a violation of these requirements. UT ST § 41-6a-1805(2).

Effect on Civil Liability:

Failure to wear a seat belt does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. UT ST § 41-6a-1806.

Required Use of Child Safety Restraint Systems:

Requirements:

When a motor vehicle is in operation, the driver shall secure all passengers younger than 8 years of age and less than 57 inches in height, in a child restraint device. UT ST § 41-6a-1803(1)(a)(ii), (b).

An operator of a motor vehicle shall provide for the protection of each person 8 years of age up to 16 years of age by securing or causing to be secured a properly adjusted and fastened seat belt. UT ST § 41-6a-1803(1)(a)(iii).

³⁴⁹ **Exemptions:** This requirement does not apply to: (1) a passenger or operator of a motor vehicle manufactured before July 1, 1966; (2) a person who possess written verification from a licensed physician stating that such person is unable to wear a seat belt for physical or medical reasons; (3) persons riding in either a motor vehicle or a seating position within a motor vehicle that is not required to be equipped with a seat belt system under Federal law; or (4) persons where all of the seating positions are occupied by other passengers. UT ST § 41-6a-1804.

³⁵⁰ The term “motor vehicle” means “a self-propelled vehicle intended primarily for use and operation on the highways.” The term does not include vehicles that are not equipped with seat belts by the manufacturer. UT ST § 41-1a-102(33); UT ST § 41-6a-1802.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Infraction: A fine of not more than **\$45**. UT ST § 41-6a-1805(1)(a). The fine may be reduced to **\$15** if the offender completes a two-hour course on the benefits of using seat belts and child restraint devices, and shows proof of acquisition of a child restraint device. UT ST § 41-6a-1805(1)(b). No points may be assessed against any person for a violation of these requirements. UT ST § 41-6a-1805(2).

Effect on Civil Liability:

Failure to use a child restraint device does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. UT ST § 41-6a-1806.

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There are no specific statutory provisions requiring the use of seat belts or child restraint devices on school buses. However, “school bus” is not excluded from the definition of “motor vehicle” as it pertains to the use of seat belts and child restraint devices. Yet, it is unclear whether school buses fall into the exceptions which exclude vehicles not required to be equipped with seat belts under Federal law.

Required Use of Motorcycle Protective Headgear:

Requirements:

I. Persons under the age of 18 years old may not operate or ride on motorcycles or motor-driven cycles on a highway unless wearing State approved protective headgear meeting the requirements of Federal Motor Vehicle Safety Standard No. 218. UT ST § 41-6a-1505(1), (3). This requirement does not apply if the operator or rider is within an enclosed cab. UT ST § 41-6a-1505(2).
 II. For off-highway vehicles, a person under the age of 18 years old³⁵¹ who is operating or riding on either a motorcycle snowmobile, or a Type I all-terrain vehicle shall wear protective headgear.³⁵² UT ST § 41-22-10.8(1).

Sanctions for Failure to Use:

I. A violation of I is a **Class C misdemeanor** which carries a term of imprisonment of not more than **90 days** and/or a fine of not more than **\$750**. UT ST § 41-6a-202(1); UT ST § 76-3-204(3); UT ST § 76-3-301(1)(e).
 II. A violation of II above is an **infraction** with a fine sanction of not more than **\$50**. UT ST § 41-22-10.8(4).

³⁵¹ The requirement to wear protective headgear also applies to operators or riders regardless of age who are participating in competitive events on lands or highways designated as open for off-highway vehicle use. UT ST § 41-22-10.8(1).

³⁵² The requirement to wear protective headgear does not apply to operators or passengers of off-highway implements of husbandry when operated according to UT ST § 41-22-5.5(3), (4). UT ST § 41-22-10.8(3).

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. No person shall ride or knowingly allow a person to ride upon any portion of any vehicle that is not designed or intended for passenger use. UT ST § 41-6a-1703.

Sanctions for a Violation: **Infraction:** A fine of not more than **\$750**. UT ST § 41-6a-202(2); UT ST § 76-3-205; UT ST § 76-3-301(1)(e).

Exemptions: This prohibition does not apply to: (1) a vehicle that is not being operated upon a highway; (2) an employee engaged in the necessary discharge of his duties; or (3) a person riding within or on a motor vehicle in a space intended for any load. UT ST § 41-6a-1703(2).

STATE

General Reference:

VERMONTVermont Statutes Annotated
Vermont Administrative Code (VT ADC)Required Use of Seat Belts:See note.³⁵³

Requirements:

A person shall not operate a motor vehicle³⁵⁴ unless all persons (including the operator) who are occupying a seating position with seat belts are wearing such belts. VT ST Title 23 § 1259(a).

Primary or Secondary Enforcement:

Secondary Enforcement: A law enforcement officer can only enforce this requirement if a vehicle operator has been detained for another traffic law violation. An offender is not subject to a fine for a violation of the seat belt requirement unless the operator is required to pay a penalty for the primary traffic law offense. VT ST Title 23 § 1259(e).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Traffic Offense:
First violation: \$25;
Second violation: \$50;
Third and subsequent violations: \$100
VT ST Title 23 § 1259(f); VT ST Title 23 § 2201.

Effect on Civil Liability:

A failure to comply with this requirement is not admissible as evidence in any civil proceeding, and does not constitute negligence or contributory negligence in any civil proceeding or criminal action. Further failure to comply with this requirement shall not be entered as evidence to bar prosecution of a criminal offense. VT ST Title 23 § 1259(c), (d).

Required Use of Child Safety Restraint Systems:See note.³⁵⁵

Requirements:

Any child under the age of 18 shall be secured in a federally approved child restraint system or seat belt, as follows:

(1) All children under the age of 1, and all children weighing less than 20 lbs., regardless of age = a rear-facing position, which shall not be installed in front of an active air bag;

³⁵³ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) rural mail carriers of the U.S. Postal Service while performing official duties; (2) persons who make frequent stops for the purpose of delivering property and where the vehicle does not exceed 15 mph; (3) persons performing official duties in an emergency vehicle; (4) persons operating any farm tractor; (5) persons occupying either a bus or a taxi; (6) persons required to be in a child restraint system; or (7) persons ordered by law enforcement, authorized civil authority, or a firefighter to evacuate persons from a stricken area. VT ST Title 23 § 1259(b).

³⁵⁴ The requirement to use a seat belt only applies to persons who are occupying a seating position that has been manufactured with a federally approved seat belt system. VT ST Title 23 § 1259(a).

³⁵⁵ **Exemptions:** These requirements do not apply to: (1) children being transported as passengers for hire (except motor vehicles owned by day care facilities); (2) children who are riding in motor vehicles that were not manufactured with seat belts; or (3) a driver who has been ordered by an enforcement officer, firefighter, or authorized civil authority to evacuate persons from a stricken area. VT ST Title 23 § 1258(b).

(2) a child weighing more than 20 lbs., and who is age 1-7 = a child passenger restraining system; and

(3) a child age 8-17 = a seat belt system or a child passenger restraining system. VT ST Title 23 § 1258(a).

Sanctions for Failure to Require the Use of Child Restraint Systems:

Traffic Offense:
First violation: **\$25**;
Second violation: **\$50**;
Third and subsequent violations: **\$100**.
 VT ST Title 23 § 1258(c); VT ST Title 23 § 2201.

Effect on Civil Liability:

No statutory provisions.³⁵⁶

Required Use of Safety Restraining Systems on School Buses:

Requirements:

There is no specific statutory provision.³⁵⁷

Required Use of Motorcycle Protective Headgear:

Requirements:

A person may not operate or ride on a motorcycle on a highway unless he or she properly wears protective headgear conforming to the Federal Motor Vehicle Safety Standard No. 218 VT ST Title 23 § 1256.

Sanctions for Failure to Use:

Traffic Offense: a fine of not more than **\$100**.
 VT ST Title 23 § 2201.

Required Use of Motorcycle Eye Protection Device:

Requirements:

If a motorcycle is not equipped with a windshield or screen, the operator shall wear eye glasses, goggles, or a face shield.
 VT ST Title 23 § 1257.

Sanctions for Failure to Use:

Traffic Violation: a fine of not more than **\$100**. VT ST Title 23 § 2201.

³⁵⁶ Unlike VT ST Title § 1259, there is no provision addressing civil liability. It appears that the exclusion of any provision would imply the admissibility of evidence of non-compliance in a civil action.

³⁵⁷ VT ST Title 23 § 1258(a) requires the use of a child restraint system in motor vehicles, except for a Type I school bus. A “school bus” is defined as a motor vehicle with a seating capacity of 11 or fewer passengers, including the operator, used to transport children to or from school or school activities. Excluded from this definition are common carriers and certain private vehicles. A “Type I” school bus is defined as a school bus designed to transport more than 15 passengers including the operator. VT ST Title 23 § 4(34)(A), (B). **Note:** Since there is no provision requiring the installation of seat belts in school buses, it seems logical that if a school bus is not equipped with seat belts, there would be no violation. On the other hand, if a Type I school bus is equipped with seat belts, a violation would likely result in a fine under the same provisions as VT ST Title 23 § 1258(c), described above.

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: Children in daycare shall wear a safety helmet when riding a bicycle. VT ADC 12-3-102:6; VT ADC 12-3-103:6.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

STATE

VIRGINIA

General Reference:

Virginia Code Annotated

Required Use of Seat Belts:

See note.³⁵⁸

Requirements:

When a motor vehicle³⁵⁹ is in motion, each person age 18 years of age or older occupying the front seat shall wear a seat belt. The driver is required to ensure that any child less than 18 years of age is secured in a child restraint or seat belt. VA ST § 46.2-1094(A); VA ST § 46.2-1095(B).

Primary or Secondary Enforcement:

Secondary Enforcement: No citation for a violation of this requirement shall be issued unless a law enforcement officer has cause to stop or arrest the driver for a violation of the State's law or a local ordinance related to motor vehicles. VA ST § 46.2-1094(F).

Sanctions for Failure to Use or Require the Use of Seat Belts:

A civil penalty of **\$25**. No demerit points or court costs shall be assessed VA ST § 46.2-1094(C).

Effect on Civil Liability:

A violation of this requirement shall not constitute negligence, shall not be considered in the mitigation of damages of whatever nature, or shall neither be admitted into evidence nor commented upon by counsel in a civil action. VA ST § 46.2-1092; VA ST § 46.2-1094(D).

Required Use of Child Safety Restraint Systems:

See note.³⁶⁰

Requirements:

I. A person when transporting a child under the age of 8 in a motor vehicle³⁶¹ must secure such a child in a federally approved child

³⁵⁸ **Exemptions:** The requirement to use a seat belt does not apply to: (1) persons who possess a written statement from a physician identifying the person and stating the physical or medical grounds/conditions which make wearing a seat belt impractical; (2) law enforcement officers who are transporting a person in custody where the wearing of a seat belt would be impractical; (3) rural mail carriers of the U.S. Postal Service while performing official duties; (4) persons performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; (5) taxicab drivers and passengers; (6) persons required to make frequent stops while operating commercial or public vehicles; (7) utility meter readers; or (8) law enforcement personnel who are enforcing motor vehicle parking laws. VA ST §46.2-1094(B).

³⁵⁹ Generally, the seat belt use requirement applies to persons occupying “passenger cars” that are equipped with or required by law to be equipped with seat belts. VA ST § 46.2-1092; VA ST § 46.2-1094(A). The term “passenger car” means every motor vehicle other than a motorcycle designed and used primarily for the transporting of no more than 10 persons including the driver. VA ST § 46.2-100.

³⁶⁰ **Exemptions:** There are several provisions of the child restraint law that provide for exemptions. **I.** Under VA ST § 46.2-1095(E), such requirements do not apply to taxicabs, school buses, executive sedans, limousines, or the rear cargo area of vehicles other than pickup trucks. **II.** Under VA ST § 46.2-1099, these requirements do not apply to: (1) children who are being transported in a vehicle having an interior design which makes the use of a child restraint device impractical; and (2) children being transported by public transportation, bus, school bus, or farm vehicle. **III.** Additionally, these requirements do not apply to children who for weight, physical unfitness, or other medical reasons cannot practically use a child restraint system. Such children age 4-7 may be secured in a seat belt if the use is practical. Operators carrying such children must carry a statement from a doctor or risk being fined **\$20**. VA ST § 46.2-1096; VA ST § 46.2-1098; VA ST § 46.2-1100.

restraint device. A rear-facing child restraint device shall be placed in the back seat of a vehicle. If there is no back seat, then such device may be placed in the front seat if the vehicle is not equipped with a passenger side air bag, or it is deactivated. VA ST § 46.2-1095(A).

II. A child under the age of 18 shall be secured in a seat belt system. VA ST § 46.2-1095(B).

Sanctions for Failure to Require the Use of Child Restraint Systems:

First offense: a civil penalty of **\$50** and no court costs;
Second or subsequent offense (on different dates): a fine of up to **\$500**.³⁶²

No points are assessed against a person’s driving record.
VA ST § 46.2-1098

Effect on Civil Liability:

I. A violation of these requirements shall not constitute negligence per se. Such violations shall not constitute a defense for personal injuries to a child for injuries sustained in a motor vehicle accident. VA ST § 46.2-1098. Additionally, violation is not to be considered in litigation of damages, admitted into evidence or commented upon by counsel in any civil action. VA ST § 46.2-1095(C).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

A person must wear a seat belt when operating a school bus. VA ST § 46.2-1091.

Sanctions:

Class 3 Misdemeanor: a fine of not more than **\$500**.
VA ST § 46.2-1091; VA ST §18.2-11(c). Additionally, a school bus operator who violates this requirement shall have 3 points assessed against his/her driving record. VA ST § 46.2-492(D)(3).

Required Use of Motorcycle Protective Headgear:

See note.³⁶³

Requirements:

Every operator and passenger of a motorcycle³⁶⁴ shall wear a State approved protective helmet.³⁶⁵ This requirement does not apply if the motorcycle is being driven in an authorized parade at a speed of 15 mph or less. VA ST § 46.2-910(A).

³⁶¹ This requirement only applies to motor vehicles manufactured after January 1, 1968. VA ST § 46.2-1095. **Note:** The child passenger protection law appears to apply only to vehicles that are required by law to be manufactured with seat belts.

³⁶² The court may waive or suspend the imposition of the penalty for a violation if it finds that the failure of the defendant to comply with the requirement was due to financial inability to acquire a child restraint system. § 46.2-1098.

³⁶³ The requirement to wear a protective helmet does not apply to operators or passengers of motorcycles with wheels of 8 inches or less in diameter or three-wheeled motorcycles which have non-removable roofs, windshields and enclosed bodies. VA ST § 46.2-910(A).

³⁶⁴ The term “motorcycle” does not include a moped. VA ST § 46.2-100.

³⁶⁵ Such helmet shall meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the U.S. Department of Transportation. VA ST § 46.2-910(A).

Sanctions for Failure to Use: **Traffic Infraction:** A fine of not more than **\$250**. VA ST § 46.2-113; VA ST §18.2-11(d).

Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. VA ST § 46.2-910(A).

Required Use of Motorcycle Eye Protection Device:

Requirements: Every person operating a motorcycle, person shall wear a State approved face shield, safety glasses, or goggles. This requirement does not apply if the motorcycle is equipped with windshield. VA ST § 46.2-910(A).

Sanctions for Failure to Use: **Traffic Infraction:** A fine of not more than **\$250**. VA ST § 46.2-113; VA ST §18.2-11(d).

Failure to wear a face shield, safety glasses or goggles shall not constitute negligence per se in any civil proceeding. VA ST § 46.2-910(A).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: There are no statutory provisions mandating the use of a protective helmet, but the governing body of any county, city or town may enact an ordinance providing that every person 14 years of age or younger shall wear a nationally approved protective helmet when riding or being carried on a bicycle. VA ST §§ 46.2-906.1.

Sanctions for Failure to Use: A violation of such an ordinance is punishable by a fine of **\$25**. Such fine, however, shall be suspended for first-time violators who purchase helmets subsequent to the violation but prior to the imposition of the fine. VA ST § 46.2-906.1.

A violation of this requirement shall not: (1) constitute negligence; (2) constitute assumption of risk; (3) be considered in the mitigation of damages of whatever nature; or (4) not be admitted into evidence or commented upon by counsel in a civil action. VA ST § 46.2-906.1.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person under the age of 16 shall be transported in the rear cargo area of any pickup truck on the highways of Virginia. VA ST § 46.2-1156.1.

Sanctions for a Violation:

Traffic Infraction: A fine of not more than **\$250**. VA ST § 46.2-113; 18.2-11(d).

Exemptions:

This prohibition does not apply to persons who are riding in such cargo area as part of an authorized parade or “across a highway from one field or parcel of land to another field or parcel of land in connection with farming operations.” VA ST § 46.2-1156.1.

STATE

General Reference:

WASHINGTONRevised Code of Washington Annotated
Washington Administrative Code (WA ADC)Required Use of Seat Belts:See note.³⁶⁶

Requirements:

I. Every person age 16 or older who is operating or riding in a motor vehicle³⁶⁷ shall wear a seat belt assembly.

WA ST § 46.61.688(3).

II. No person shall operate a motor vehicle unless all child passengers younger than 16 years old are either wearing seat belts or using some other approved child restraint devices.

WA ST § 46.61.688(4).

Primary or Secondary
Enforcement:**Primary Enforcement:** An officer may stop and briefly detain any person who violates this requirement. However, no *arrest* can be made solely for a violation of this requirement, and any detention must last no longer than the time it takes to issue a citation.³⁶⁸

WA ST § 46.64.015.

Sanctions for Failure to Use or
Require the Use of Seat Belts:**Traffic Infraction:** A penalty of **\$42**. WA R INFR LTD JURIS IRLJ 6.2(b)³⁶⁹; WA ST § 46.63.110; WA ST § 46.64.050.Additionally, penalties of \$5, \$10 and \$2 shall be assessed. **Note:** A violation of these requirements shall be recorded on a driver's record. However, such information shall not be available to insurance companies or employers. WA ST § 46.61.688(5).

Effect on Civil Liability:

Failure to comply with these requirements does not constitute negligence. In addition, failure to wear a seat belt cannot be admitted into evidence as negligence in any civil action.

WA ST § 46.61.688(6).

Required Use of Child Safety
Restraint Systems:See note.³⁷⁰

³⁶⁶ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) persons who are operating or riding in motor vehicles that are not required to be equipped with seat belts under Federal law; (2) persons for whom no seat belts are available, when all designated seating positions are occupied; (3) persons who for physical or medical reasons are unable to wear seat belts and possess written verification from a licensed physician; and (4) persons whom the State has exempted via regulation and who are operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops. WA ST § 46.61.688(2), (7), (8).

³⁶⁷ The term "motor vehicle" includes (1) a bus designed to carry more than 10 persons; (2) a "multipurpose passenger vehicle" designed to carry 10 persons or less; (3) a passenger car; or (4) a truck. However, the term does not include (1) motorcycles or (2) trailers designed to carry 10 or more persons or to transport property. WA ST § 46.61.688(1). **Important:** The seat belt use law applies only to motor vehicles that are required to meet the manual seat belt standards under Federal law (49 C.F.R. 571.208).

³⁶⁸ See *State v. Chapin*, 879 P.2d 300 (Wash.App. Div. 1, 1994) (recognizing that a law enforcement officer may stop and investigate a violation of a traffic infraction)(overruled on other grounds).

³⁶⁹ This abbreviation stands for the Washington Infraction Rules for Courts of Limited Jurisdiction.

³⁷⁰ **Exemptions:** These requirements do not apply to: (1) for hire vehicles; (2) vehicles designed to transport 16 or less passengers including the driver, operated by auto transportation companies; (3) vehicles providing customer

Requirements:	See note. ³⁷¹ Any child under the age of 16 years transported in a motor vehicle ³⁷² shall be restrained as follows: I. Any child under the age of 8 and less than 4 feet 9 inches tall = child restraint system; WA ST § 46.61.687(1)(a). II. Any child 8 years of age or older or 4 feet 9 inches or greater in height = seat belt; WA ST § 46.61.687(1)(b). III. Any child under the age of 13 years = seated and secured in a back seat position, if practical. WA ST § 46.61.687(1)(c), (2).
Sanctions for Failure to Require the Use of Child Restraint Systems:	Traffic Infraction: A penalty of \$42 . WA R INFR LTD JURIS IRLJ 6.2(b); WA ST § 46.63.110(1). Additionally, penalties of \$5, \$10 and \$2 shall be assessed. For a first violation, however, the infraction will be dismissed if, within 7 days, proof of acquisition of a child restraint system is presented. WA ST § 46.61.687(3).
Effect on Civil Liability:	Failure to comply with these requirements shall not constitute negligence by a parent or legal guardian. In addition, failure to use a child restraint system is not admissible as evidence of negligence in any civil action. WA ST § 46.61.687(4). ³⁷³

Required Use of Safety Restraining Systems on School Buses:

Requirements:	School buses are exempt from the child safety restraint device requirement. WA ST § 46.61.687(5).
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Required Use of Motorcycle Protective Headgear:

Requirements:	A person who operates or rides on a motorcycle, motor-driven cycle or moped on a State highway, county road, or city street must wear a protective motorcycle helmet in accordance with Federal Motor Vehicle Safety Standard No. 218. WA ST § 46.37.530(1), (3).
Sanctions for Failure to Use:	Traffic Infraction: A penalty of \$42 . Additionally, penalties of \$5, \$10 and \$2 shall be assessed. WA R INFR LTD JURIS IRLJ 6.2(d). WA ST § 46.64.050; WA ST § 46.63.110(1).

shuttle service between parking, convention and hotel facilities, and airport terminals; and (4) school buses. WA ST § 46.61.687(5).

³⁷¹ This requirement does not apply if the seating position has only a lap belt available and the child weighs more than 40 lbs. WA ST § 46.61.687(7).

³⁷² The term “motor vehicle” means passenger cars that are required by law to have seat belts. WA ST § 46.37.510; WA ST § 46.61.687(1). “Passenger car” is defined as every motor vehicle, except motorcycles and motor-driven cycles, that is used to and designed to carry 10 persons or less. WA ST § 46.04.382.

³⁷³ A person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment or educational services is not liable for civil damages resulting from any act or omission, other than acts or omissions constituting gross negligence or willful or wanton misconduct. WA ST § 46.61.687(8)(a); WA ST § 46.61.6871. However, this immunity does not apply to a paid technician employed by a retailer who provides inspection, adjustment or educational services during his hours of employment. WA ST § 46.61.687(8)(b).

Required Use of Motorcycle Eye Protection Device:

Requirements: A person who operates a motorcycle or a motor-driven cycle which does not have a windshield must wear State-approved glasses, goggles, or a face shield. WA ST § 46.37.530(1)(b).

Sanctions for Failure to Use: **Traffic Infraction:** A penalty of \$42. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. WA R INFR LTD JURIS IRLJ 6.2(d); WA ST § 46.64.050; WA ST § 46.63.110(1).

Passenger Age Restrictions:

A person who carries a passenger under the age of 5 years on a motorcycle, will have committed a non-moving violation. WA ADC 308-104-160.

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall transport any other person on the running board, fenders, hood or other outside part of any vehicle. WA ST § 46.61.660.

Sanctions for a Violation: **Traffic Infraction:** A penalty of \$42. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. WA R INFR LTD JURIS IRLJ 6.2(b); WA ST § 46.64.050; WA ST § 46.63.110(1).

Exemptions: This requirement shall not apply to authorized emergency vehicles or to solid waste collection vehicles that are engaged in the course of ordinary business and no travelling at speeds or greater than 20 mph. WA ST § 46.61.660.

STATE

General Reference:

WEST VIRGINIA

West Virginia Code

Required Use of Seat Belts:See note.³⁷⁴

Requirements:

A person may not operate a passenger vehicle³⁷⁵ unless the operator, all front-seat passengers (regardless of age) and all back-seat passengers under the age of 18 are restrained in seat belts. WV ST § 17C-15-49(a).

Primary or Secondary Enforcement:

Secondary Enforcement: Enforcement of this requirement shall be accomplished only as a secondary action when the driver has been detained for probable cause of violating another section under the West Virginia Code. WV ST § 17C-15-49(c).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Misdemeanor: A fine of not more than **\$25**. No court costs or other fees shall be assessed against a person for a violation of this requirement. WV ST § 17C-15-49(c); WV ST § 17C-18-1(a). No points are assessed for a violation of this requirement. WV ST § 17C-15-49(e).

Effect on Civil Liability:

A violation of this requirement is not admissible as evidence of negligence, contributory negligence or comparative negligence in any civil action. Generally, a violation of this requirement is not admissible in the mitigation of damages. However, under certain circumstances, when it can be shown that such a violation was the proximate cause of injuries, such evidence may be admitted to reduce medical damages by not more than 5 %. WV ST § 17C-15-49(d).

Required Use of Child Safety Restraint Systems:See notes.^{376, 377}

Requirements:

A person when transporting a child under the age of 8 and less than 4'9" tall shall secure such child in a federally approved child passenger safety device. WV ST § 17C-15-46.

Sanctions for Failure to Require the Use of Child Restraint Systems:

Misdemeanor: Not less than **\$10** or more than **\$20**. WV ST § 17C-15-46.

³⁷⁴ **Exemptions:** The requirement to wear a seat belt does not apply to: (1) rural mail carriers of the U.S. Postal Service while they are performing official duties; and (2) persons who have a physical disability that would prevent appropriate restraint in a seat belt provided such disability is certified by a physician stating the nature of the disability and the reason restraint is inappropriate. WV ST § 17C-15-49(b).

³⁷⁵ The term "passenger vehicle" means a motor vehicle that is designed to transport 10 persons or less (including the driver) that was manufactured after January 1, 1967. However, the term does not include a motorcycle, a trailer or any motor vehicle that is not required under Federal law to have seat belts. WV ST § 17C-15-49(a).

³⁷⁶ This requirement does not apply if all the seat belts are being used, i.e., the number of passengers in the vehicle exceeds the number of seat belts available for use. WV ST § 17C-15-46.

³⁷⁷ This requirement does not apply to children riding in motor vehicles for hire. WV ST § 17C-15-46.

Effect on Civil Liability: A violation of these requirements does not constitute evidence of negligence, contributory negligence, or comparative negligence in any civil action. WV ST § 17C-15-46.

Required Use of Safety Restraining Systems on School Buses:

Requirements: There is no specific statutory requirement concerning school buses and the use of seat belts and child passenger safety devices within. “School bus” is not included in the definition of “passenger vehicle” per WV ST § 17C-15-49 (seat belts) and “passenger automobile” per WV ST § 17C-15-46 (child passenger safety devices). However, “school bus” is considered to be a motor vehicle pursuant to WV ST § 17C-1-7.

Additionally, WV ST § 17C-14-12 requires the West Virginia Board of Education to adopt and enforce rules consistent with the traffic regulations and laws of the road (which includes the use of seat belts and child passenger safety devices). Therefore, a combined reading of all applicable statutes mentioned seems to require the use of seat belts and child passenger safety devices only when they have been installed in a school bus.

Sanctions: A sanction for such a violation would likely follow the sanctions listed above for seat belts violation and child passenger safety device violation. Additionally, any officer or employee violating said rule or failing to include the obligation to comply with said rule may be guilty of misconduct and subject to removal from office/employment. Any contract employee may be found in breach of contract and such contract may be cancelled. WV ST § 17C-14-12.

Required Use of Motorcycle Protective Headgear:

Requirements: No person shall operate or ride on a motorcycle or motor-driven cycle unless wearing an officially approved protective helmet meeting the standards and specifications established by the American National Standards Institute Standard Z 90.1, FMVSS No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users. WV ST § 17C-15-44(a).

Sanctions for Failure to Use: **Misdemeanor:**
First offense – A term of imprisonment of not more than **10 days** or a fine of not more than **\$100**;
Second offense (within 1 year) - A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;
Third or subsequent offense – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**.
 WV ST § 17C-18-1(a), (b).

Required Use of Motorcycle Eye Protection Device:

Requirements: No person shall operate or ride on a motorcycle or motor-driven cycle unless wearing officially approved safety, shatter-resistant eyeglasses (excluding contact lenses), and eye goggles. If the motorcycle is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of federally approved shatter-resistant material. WV ST § 17C-15-44(b).

Sanctions for Failure to Use: **Misdemeanor:**
First offense – A term of imprisonment of not more than **10 days** or a fine of not more than **\$100**;
Second offense (within 1 year) - A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;
Third or subsequent offense – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**.
 WV ST § 17C-18-1(a), (b).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear: See note.³⁷⁸

Requirements: I. A person under the age of 15 years is prohibited from operating or being a passenger on a bicycle unless wearing a protective bicycle helmet. WV ST § 17C-11A-4(a).
 II. It is unlawful for a parent or legal guardian to knowingly permit his/her child under the age of 15 to violate the above requirement. WV ST § 17C-11A-4(b).

Sanctions for Failure to Use: See note.³⁷⁹
Misdemeanor: A parent or legal guardian who violates this requirement is subject to a fine of **\$10** or must perform **2 hours** of community service related to child injury prevention. No court costs may be assessed. The fine may be waived upon proof of helmet acquisition.
 WV ST § 17C-11A-7(a); WV ST § 17C-18-1(a). **Note:** There appears to be no sanction against a child who violates this requirement.

Prohibition Against Riding in Unsecured Portion of Vehicle:

³⁷⁸ State law allows a local government to enact an ordinance requiring the use of bicycle helmets. WV ST §17C-11A-8.

³⁷⁹ A parent or legal guardian who demonstrates his/her inability to pay for a bicycle helmet shall not be found in violation of the requirement. The parent or legal guardian may demonstrate financial inability by filing a financial affidavit. Any person falling under this category shall be referred to the governor’s highway safety program for assistance in obtaining the appropriate helmet(s). WV ST § 17C-11A-7(c).

Requirements:

None

STATE

General Reference:

WISCONSIN

Wisconsin Statutes Annotated
Wisconsin Administrative Code (WI ADC)

Required Use of Seat Belts:

See note.³⁸⁰

Requirements:

I. When operating a motor vehicle, a person shall be “properly restrained”³⁸¹ in a seat belt. WI ST § 347.48(2m)(b).
II. No person shall operate a motor vehicle unless all passengers at least 8 years of age are properly restrained in seat belts. WI ST § 347.48(2m)(c).

Primary or Secondary Enforcement:

Primary Enforcement: A law enforcement officer, however, may not take a person into physical custody solely for a violation of the seat belt safety law. WI ST § 347.48(2m)(gm).

Sanctions for Failure to Use or Require the Use of Seat Belts:

Forfeiture: A fine of **\$10**. WI ST § 347.50(2m)(a). However, no forfeiture may be assessed if the offender is younger than 16 years old. WI ST § 347.50(2m)(b). No points may be assessed against a person's driving record for a violation of these requirements. WI ADC § TRANS 101.02(5)(b).

Effect on Civil Liability:

Evidence of noncompliance with these requirements may be admitted into evidence in any civil action. However, such noncompliance shall not reduce recovery for damages by more than 15 %. WI ST § 347.48(2m)(g).

Required Use of Child Safety Restraint Systems:

See note.³⁸²

Requirements:

I. No person shall transport a child under the age of 8 unless properly restrained in a federally approved child safety restraint system as follows: WI ST § 347.48(4)(am).

³⁸⁰ **Exemptions:** The requirements to use a seat belt do not apply to: (1) persons operating or riding in emergency vehicles (e.g. law enforcement vehicles, ambulances, etc.) if such use could endanger the operator or another (WI ST § 347.48(2m)(dm)); (2) motor vehicle operators or passengers who are required to make more than 10 stops per mile in the scope of their employment (WI ST § 347.48(2m)(dr)); (3) persons who, because of physical or medical conditions, cannot be properly restrained in seat belts (WI ST § 347.48(2m)(e)); (4) persons operating or riding in taxicabs or motor vehicles not required to be equipped with seat belts (WI ST § 347.48(2m)(f)(1)); (5) privately owned motor vehicles while being operated by a rural letter carrier or a newspaper delivery person (WI ST § 347.48(2m)(f)(2)); (6) persons operating or riding in motor vehicles while such vehicles are being used in land surveying (WI ST § 347.48(2m)(f)(3)); or (7) persons operating or riding in farm trucks while such vehicles are being used in conjunction with the planting or harvesting of crops and are not being operated on a highway (WI ST § 347.48(2m)(f)(7)).

³⁸¹ “Properly restrained” means “wearing a seat belt approved by the department...and fastened in a manner prescribed by the manufacturer of the seat belt which permits the seat belt to act as a body restraint.” WI ST § 347.48(2m)(a).

³⁸² **Exemptions:** These requirements do not apply to: (1) a child who has a physical, medical condition or body size that prevents the use of either a child safety restraint system or seat belt (WI ST § 347.48(4)(b)); (2) a child who is riding in a motor bus, school bus, taxicab, moped, motorcycle, or a vehicle that is not required to be equipped with seat belts under Federal law (WI ST § 347.48(4)(c)).

II. A child less than 1 year old or who weighs less than 20 lbs. = rear-facing child safety restraint system in a back seating position if applicable. WI ST § 347.48(4)(as)(1).

III. A child at least 1 year old and who weighs 20 lbs., or more, but younger than 4 years old or who weighs less than 40 lbs. = forward-facing child safety restraint system in a back seating position if applicable. WI ST § 347.48(4)(as)(2).

IV. A child between the ages of 4-7 years, weighing between 40-80 lbs., and who is not more than 57 inches in height = child booster seat. WI ST § 347.48(4)(as)(3).

Sanctions for Failure to Require the Use of Child Restraint Systems:

I. **Forfeiture:** For a violation of I-III above there is an assessment of not less than **\$30** or more than **\$75**.

WI ST § 347.50(3)(a). The assessment is waived upon proof of acquisition and installation of a child restraint system within 30 days of the citation’s issuance. WI ST § 347.50(3)(b)(2).

Additionally, if such person has not received a citation for such violation within the immediate preceding 3 years, then the assessment is waived. WI ST § 347.50(3)(b)(3).

II. **Forfeiture:** For a violation of IV above:

First offense – an assessment of not less than **\$10** nor more than **\$25**;

Second or subsequent offense (within 3 years) – an assessment of not less than **\$25** nor more than **\$200**.

WI ST § 347.50(4).

No points may be assessed against a person's driving record for a violation of these requirements. WI ADC § TRANS 101.02(5)(a).

Effect on Civil Liability:

Evidence of a failure to comply with these requirements is admissible in any civil action. However, such failure to comply does not by itself constitute negligence. WI ST § 347.48(4)(d).

Required Use of Safety Restraining Systems on School Buses:

Requirements:

The required use of a child safety restraint system does not apply to school buses that are not required by Federal law to be equipped with seat belts. WI ST § 347.48(4)(c).

Required Use of Motorcycle Protective Headgear:

Requirements: I. No person who holds a motorcycle instructional permit, regardless of age, shall operate or ride upon a Type 1 motorcycle³⁸³ unless wearing protective headgear meeting Federal Motor Vehicle Safety Standard No. 218. WI ST § 347.485(1)(a).
 II. No person younger than 18 years old shall operate or ride upon a Type 1 motorcycle or ride as a passenger unless wearing federally approved protective headgear. WI ST § 347.485(1)(a).
 III. No person may operate a Type 1 motorcycle while carrying a passenger under the age of 18 unless the passenger is wearing protective headgear. WI ST § 347.485(1)(am).

Sanctions for Failure to Use: **Forfeiture:** An assessment of not less than \$10 or more than \$200. WI ST § 347.50(1). No points may be assessed against a person's driving record for a violation of these requirements. WI ADC § TRANS 101.02(5)(e).

Required Use of Motorcycle Eye Protection Device:

Requirements: See note.³⁸⁴
 A motorcycle³⁸⁵ operator shall wear a protective face shield, glasses, or goggles. WI ST § 347.485(2).

Sanctions for Failure to Use: **Forfeiture:** An assessment of not less than \$10 or more than \$200. WI ST § 347.50(1).

Although the law is not specific, a person's driving record may be assessed two points for a violation of this requirement. WI ADC § TRANS 101.02(4)(e).

Passenger Age Restrictions: **None**

Required Use of Bicycle Protective Headgear:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle: See note.³⁸⁶

³⁸³ A Type 1 motorcycle is generally a two- (tandem) or three-wheeled motor vehicle designed to carry a 150 lb. person at a speed greater than 30 mph. WI ST § 340.01(32).

³⁸⁴ This requirement does not apply to persons who are operating motorcycles in a parade that is sanctioned by a local government. WI ST § 347.485(2)(d).

³⁸⁵ If the motorcycle is a Type 2 motorcycle equipped with a windshield or a Type 1 motorcycle equipped with a windshield that rises a minimum of 15 inches above the handlebar, the use of other eye protective devices is not mandatory. WI ST § 347.485(2)(c).

³⁸⁶ This requirement does not apply to persons operating motorcycles in a parade that is sanctioned by a local government. WI ST § 347.485(2)(d).

Requirements:

- I. No person shall drive a vehicle when any person is riding upon any portion of the vehicle that is not designed or intended for passenger use. This requirement does not apply to employees discharging necessary duties as part of employment. WI ST § 346.92.
- II. No person shall operate a truck weighing 10,000 lbs., or less when a child under the age of 16 years old is in the open cargo area. WI ST § 346.922(1).

Sanctions for a Violation:

- I. For a violation of I above:
First offense - An assessment not less than **\$20** nor more than **\$40**;
Second or subsequent offense (within 1 year) - An assessment not less than **\$50** nor more than **\$100**.
 WI ST § 346.95(1).
- II. For a violation of II above:
First offense - An assessment not less than **\$10** nor more than **\$25**;
Second or subsequent offense (within 3 years) - An assessment not less than **\$25** nor more than **\$200**.
 WI ST § 346.95(7).

Although the law is not specific, a person's driving record may be assessed two points for a violation of these requirements. WI ADC § TRANS 101.02(4)(e).

Exemptions:

- I. The prohibition under I above does not apply to employees discharging necessary duties as part of their employment or to persons riding within truck bodies in spaces intended for merchandise. WI ST § 346.92.
- II. The prohibition under II above does not apply to persons: (1) who are operating a farm truck while performing farm operations; (2) who are operating a truck in a parade sanctioned by a local municipality; or (3) who are transporting licensed deer hunters during authorized deer-hunting season with firearms.
 WI ST § 346.922(2).

STATE

General Reference:

WYOMING

Wyoming Statutes Annotated

Required Use of Seat Belts:

See note.³⁸⁷

Requirements:

I. Every driver and passenger shall wear a seat belt when a motor vehicle³⁸⁸ is in motion on public streets and highways. WY ST § 31-5-1402(a).
 II. When a motor vehicle is in motion, the driver shall require each passenger under the age of 12 to wear a seat belt. WY ST § 31-5-1402(a).

Primary or Secondary Enforcement:

Secondary Enforcement: No motor vehicle shall be halted solely for a violation of these requirements. WY ST § 31-5-1402(d).

Sanctions for Failure to Use or Require the Use of Seat Belts:

See note.³⁸⁹

I. **Misdemeanor:** A driver who violates the requirements in either I or II above is subject to a fine of not more than **\$25**. WY ST § 31-5-1201(a); WY ST § 31-5-1402(e)
 II. A passenger who violates the requirement in I above is subject to a fine of not more than **\$10**. WY ST § 31-5-1201(a); WY ST § 31-5-1402(e).
 No violation of these requirements may be counted as a moving violation for license suspension purposes. WY ST § 31-5-1402(c)(i). Additionally, a violation of these requirements shall not be grounds for increasing insurance premiums or made part of a person's driving record. WY ST § 31-5-1402(c)(ii).

Effect on Civil Liability:

Evidence of a person's failure to comply with these requirements is not admissible in any civil action. WY ST § 31-5-1402(f).

Required Use of Child Safety Restraint Systems:

See note.³⁹⁰

³⁸⁷ **Exemptions:** The requirement to use a seat belt does not apply to: (1) persons who have a written statement from a physician that it is not advisable for the person to wear a seat belt for physical or medical reasons; (2) any passenger vehicle not required to be equipped with seat belts under Federal law; (3) carriers of the U.S. Postal Service while performing official duties; (4) persons occupying a seat where all operable seat belts are being used by the driver or other passengers; or (5) any person occupying a seat in a vehicle originally manufactured without a seat belt. WY ST § 31-5-1402(b).

³⁸⁸ "Motor vehicle" "means every vehicle which is self-propelled except vehicles moved solely by human power and motorized skateboards." WY ST § 31-5-102(a)(xxiv). This is the definition of "motor vehicle" under the general definitions provision of the motor vehicle code (Title 31). There is no definition of "motor vehicle" specifically in the seat belt use law. However, the seat belt use law does define "passenger vehicle" as "a vehicle...designed to carry 11 persons or less, including pickup trucks, but excluding emergency vehicles, motorcycles and buses." WY ST § 31-5-1401(a)(ii).

³⁸⁹ If a person is cited for a violation of other traffic laws, that person may have the fine reduced by **\$10** if a seat belt was in use at the time of the other violation. WY ST § 31-5-1402(e).

³⁹⁰ **Exemptions:** This requirement does not apply to: (1) a child whose weight or physical or medical condition prohibits the use of a child safety restraint system, so long as the driver of the vehicle carries a signed statement from a physician certifying such condition; (2) the driver of the vehicle is rendering aid or assistance to the child or

Requirements: A person transporting a child under the age of 9 in a passenger vehicle³⁹¹ shall secure such child in a federally approved child restraint system in a seat other than the front seat, or in the front seat if there is only one row of seats in the vehicle. WY ST § 31-5-1303(a).

Sanctions for Failure to Require the Use of Child Restraint Systems: **Misdemeanor:**
First offense - A fine of not more than **\$50**, which shall be waived upon proof of acquisition of a child restraint system;
Second or subsequent offense - A fine of not more than **\$100**.
 WY ST §31-5-1201(a); WY ST § 31-5-1304(a).

Note: The law does not specifically provide for licensing action for a violation of this requirement. However, the law does allow the State to suspend a person's license for not more than **12 months** for repeated convictions of “moving violations.” WY ST § 31-7-129(a)(i).³⁹²

Effect on Civil Liability: A violation of this requirement does not constitute evidence of negligence or recklessness and does not constitute a basis for criminal prosecution other than a violation of this requirement. WY ST § 31-5-1305.

Required Use of Safety Restraining Systems on School Buses:

Requirements: School buses are excluded from the requirement to use child safety restraint systems. WY ST § 31-5-1303(a); WY ST § 31-5-1302(a)(v)(B).

Required Use of Motorcycle Protective Headgear:

Requirements: See note.³⁹³
 I. No minor³⁹⁴ shall operate or ride on a motorcycle on public highway, street or thoroughfare unless wearing State approved protective headgear. WY ST § 31-5-115(o).
 II. A motorcycle operator shall not allow a minor to ride on a motorcycle unless such minor is wearing protective headgear. WY ST § 31-5-115(o).

his parent or guardian; or (3) a child if the lap and shoulder belts of the vehicle will fit properly across the collarbone, chest and hips of the child and the belts do not pose a danger to the neck, face or abdominal area of the child in the event of a crash or a sudden stop. WY ST § 31-5-1303(b).

³⁹¹ The term “passenger vehicle” means a motor vehicle, excluding emergency and law enforcement vehicles, designed to carry people and that was equipped with seat belts at the time of manufacture. The terms “school bus” and “commercial vehicle” are excluded from this definition. WY ST § 31-5-1302(a)(v).

³⁹² The statute does not specifically exclude this requirement as a moving violation, as does the seat belt statute (WY ST § 31-5-1402(c)(ii)). Therefore, the law is unclear whether a license suspension applies.

³⁹³ The helmet requirement does not apply to persons operating or riding on mopeds or riding within enclosed cabs, or operators of motorcycles in an officially authorized parade. WY ST § 31-5-115(o), (q).

³⁹⁴ A “minor” is defined as a person who has not yet reached his/her 18th birthday. WY ST § 8-1-102(a)(iii)(B).

Sanctions for Failure to Use:

Misdemeanor:

First offense – A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;

Second offense (within 1 year) - A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$300**;

Third or subsequent offense (within 1 year) – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**.

WY ST § 31-5-1201(a), (b).

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Passenger Age Restrictions:

None

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

None

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