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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 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 2008, States with primary seat belt laws had a 13 percent higher belt use rate on average compared to States without primary 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 that prohibit riding in the bed of a pickup truck. Except as noted, the status of the State laws reported is October 15, 2008.

### 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 individuals from wearing a seat belt if a medical or physical condition exists. Other exceptions include passengers riding in public transportation vehicles, e.g., buses, and rural letter carriers of the U.S. Postal Service.

#### Primary versus Secondary Seat Belt Laws:

"Primary" seat belt enforcement means that law enforcement officers have the authority to issue a citation for a failure to wear a seat belt based solely on probable cause of such violation and issue a citation for same. Note: "Primary" seat belt laws are also 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 person for some other violation of the law.

#### 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 older children, e.g., ≥4 but <6 years old, State laws usually provide that they may be secured in either a seat belt or a child restraint system. About half the States provide for a medical or physical exemption from these requirements.

#### Motorcycle and Bicycle Helmet Use Laws:

Most State laws mandate that only motorcycle operators and passengers under 18 years old wear protective headgear when operating or riding on a motorcycle. A few States now require children to wear safety helmets when riding a bicycle. Despite numerous legal challenges, the courts have held motorcycle helmet usage laws to be constitutional.

#### Required Use of Motorcycle Eye Protection Device:

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

Fines:

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

**USE OF SEAT BELTS BY OPERATORS  
OF COMMERCIAL MOTOR VEHICLES**

Federal law requires a driver of a commercial motor vehicle to restrain himself/herself a safety belt if such vehicle is equipped with one. 49 C.F.R. § 392.16. Any person who violations this requirement may be subject to civil or criminal penalties. 49 C.F.R. § 390.37. A civil penalty shall not exceed \$2,500. 49 U.S.C.A. § 521(b)(2)(A). A criminal penalty shall consist of a fine of at least \$100 but not more than \$500 for a first violation, and at least \$200 but not more than \$500 for a subsequent violation. 49 U.S.C.A. § 526.

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

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

State seat belt use laws vary in terms of the exceptions, limitations, and exemptions that are provided. For example, virtually every State exempts people who for medical reasons or physical characteristics cannot use a seat belt. Other exemptions include specific types of vehicles and/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 provided in the Summary Chart of Key Provisions of Occupant Restraint Laws and the State analysis.

State seat belt use laws provide for *primary* or *secondary* enforcement. If a State's law provides for *primary* enforcement, law enforcement may stop vehicles based solely upon the probable cause of a violation of the seat belt use law and issue a citation for same. Currently, 31 States plus the District of Columbia and Puerto Rico provide for *primary* enforcement of seat belt laws. If a State's law provides for *secondary* enforcement, law enforcement can enforce violation of the seat belt use law only after the vehicle has been stopped for a violation of some other law. State fines for the first time violation of seat belt use laws vary from not more than \$10 to not more than \$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 a child restraint system (rear-facing child restraint seat, forward-facing child restraint seat, or booster seat) or seat belts for children traveling in a motor vehicle, 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 a motor vehicle. Most States also specifically require that child restraint systems meet applicable Federal Motor Vehicle Safety Standards.

Older children, e.g., 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. Forty-seven States and the District of Columbia require the use of booster seats by children who have outgrown their forward-facing child seat. Specific provisions vary widely from State to State, including the upper age limit, and height and/or weight requirements. Two States require booster seat use until 9 years of age. Virtually all States provide an exemption for the requirement to use a child restraint for medical or physical reasons (verified with written certification 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 June 1, 2010

State	Seat Belt Enforcement <sup>1</sup>	1st Belt Fine <sup>2</sup>	Child Restraint Requirement <sup>3</sup>	1st Child Restraint Fine <sup>4</sup>	Seat Belt Required Seats	Ages <sup>5</sup> <sup>6</sup>	Demerit Points
Alabama	Primary	Not more than \$25	5 yrs & younger = child restraint; booster seat until age 6	\$25	Front	All	No statutory provision.
Alaska	Primary	Not more than \$15	5 yrs & younger & >20 lbs in restraint device; between 4 - 8 yrs & < 57" height & between 20 & 65 lbs in booster seat. <sup>7</sup>	Not more than \$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	\$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 4 yrs & less than 40 lbs; 4-5 yrs & less than 55" = booster seat	\$65	Front	All	No points. <sup>8</sup>
Connecticut	Primary	\$15	1-6 yrs or less than 60 lbs. = child restraint system <sup>9</sup>	\$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	All	All	2 points for a single violation; 3 points - simultaneous multiple violations.
Florida	Primary	\$30	3 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 & 57" or less <sup>10</sup>	Not more than \$100	Front	≤ 17 = all seats	No statutory provision.

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

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

<sup>3</sup> This may include rear-facing and forward-facing child restraint seats, and booster seats.

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

<sup>5</sup> Virtually every State exempts persons who, for medical reasons, cannot use a safety belt; and vehicles not originally required to be equipped with safety belts.

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

<sup>7</sup> Children less than 1 year or less than 20 lbs in rear facing seat.

<sup>8</sup> 2 points shall be assessed for drivers under age 18.

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

<sup>10</sup> For children ages 4 to 7 and at least 40 lbs., a seat belt is required.

### SUMMARY OF VEHICLE OCCUPANT PROTECTION LAWS, 9<sup>th</sup> EDITION



State	Seat Belt Enforcement <sup>1</sup>	1st Belt Fine <sup>2</sup>	Child Restraint Requirement <sup>3</sup>	1st Child Restraint Fine <sup>4</sup>	Seat Belt Required Seats	Seat Belt Required Ages <sup>5</sup> <sup>6</sup>	Demerit Points
Idaho	Secondary	\$10	6 yrs & younger	Not more than \$100	All	All	No statutory provision.
Illinois	Primary	Not to exceed \$25	7 yrs & younger	Not more than \$50	Front	≤ 19 = all seats	No points.
Indiana	Primary	Up to \$25	8 yrs & younger	Not more than \$25	All	All	No points.
Iowa	Primary	\$25	5 yrs & younger and 20 lbs., or more	\$25	Front	≤ 17 = all seats	No statutory provision.
Kansas	Primary	\$10	7 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 40-55" = booster seat	\$50	All	All	No statutory provision.
Louisiana	Primary	\$25	<1 = rear facing seat; between 1-4 = 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 (No statutory provision)	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 statutory provision.
Minnesota	Primary	\$25	7 yrs & younger and <57"	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	5 yrs & younger	\$25	Front	≤ 16 = all seats	No points.
Nevada	Secondary	\$25	5 yrs & younger and less than 60 lbs.	\$100-500	All	All	No points.

**SUMMARY OF VEHICLE OCCUPANT PROTECTION LAWS, 9<sup>th</sup> EDITION**

State	Seat Belt Enforcement <sup>1</sup>	1st Belt Fine <sup>2</sup>	Child Restraint Requirement <sup>3</sup>	1st Child Restraint Fine <sup>4</sup>	Seat Belt Required Seats	Seat Belt Required Ages <sup>5</sup> <sup>6</sup>	Demerit Points
New Hampshire	No adult law <sup>11</sup>	\$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	Front	≤ 17 = all seats	No statutory provision.
New Mexico	Primary	\$25	12 yrs & younger	\$25	All	All	2 points.
New York <sup>12</sup>	Primary	\$50	6 yrs & younger	\$25-100	All	< 16 = all seats	No statutory provision; 3 pts-child restraint violation.
North Carolina	Primary <sup>13</sup>	Driver or front seat passenger \$25.50; rear-seat \$10	Under 16 yrs	\$25	All	All	2 points for child restraint violation.
North Dakota	Secondary	\$20	6 yrs & younger and less than 80 lbs.	\$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.; 4 – 7 yrs, less than 57" in booster seat	\$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 <sup>14</sup>	1-5 yrs; less than 40 lbs.	Not more than \$150	All	All	No points.
South Dakota	Secondary	\$20	4 yrs & younger and less than 40 lbs	\$20	Front	≤ 17 = all seats	No points.
Tennessee	Primary	Not more than \$50 and/or not 30 days in jail	Under 8 yrs and under 4' 9"	Not more than \$50 and/or not more than 30 days in jail	All	All	No points.
Texas	Primary	\$25-50	Under 8 yrs and less than 57"	Not more than \$25	Front	≤ 16 = all seats	2 points for child restraint violation.

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

<sup>12</sup> 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.

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

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

## SUMMARY OF VEHICLE OCCUPANT PROTECTION LAWS, 9<sup>th</sup> EDITION

State	Seat Belt Enforcement <sup>1</sup>	1st Belt Fine <sup>2</sup>	Child Restraint Requirement <sup>3</sup>	1st Child Restraint Fine <sup>4</sup>	Seat Belt Required Seats	Seat Belt Required Ages <sup>5</sup> <sup>6</sup>	Demerit Points
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	Under 8 yrs and under 4' 9"	\$42	All	All	No statutory provision.
West Virginia	Secondary	\$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	\$25	8 yrs & younger in rear seat if available	Not more than \$50	All	All	No statutory provision

STATE	ALABAMA
General Reference:	Code of Alabama
Required Use of Seat Belts:	See note <sup>15</sup>
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 safety 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:	<b>Primary Enforcement:</b> A violation of this requirement does not constitute probable cause to search a vehicle. AL ST § 32-5B-5.
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Misdemeanor:</b> A fine of not more than <b>\$25</b> . AL ST § 32-5B-5; 49 C.F.R. 392.16. <sup>16</sup> <b>Note:</b> 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 safety 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. Age 1 or 20 lbs., or less = rear-facing child restraint; II. Until age 5 or 40 lbs. = forward-facing child restraint; III. Booster seats until age 6. <sup>17</sup> AL ST § 32-5-222(b).

<sup>15</sup> **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 safety 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).

<sup>16</sup> 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.

<sup>17</sup> 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:	<b>Misdemeanor:</b> A fine of <b>\$25</b> for each offense may be imposed. AL ST § 32-5-222(d); AL ST § 32-5A-8(a).
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	See note <sup>18</sup> 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 safety 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).
<u>Required Use of Motorcycle Protective Headgear:</u>	
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. <sup>19</sup> AL ST § 32-5A-245; AL ST § 32-12-41.
Sanctions for Failure to Use:	I. <b>Misdemeanor:</b> <u>First offense</u> - Imprisonment for not more than <b>10 days</b> and/or a fine of not more than <b>\$100</b> . <u>Second offense</u> (within one year) - Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$200</b> . <u>Third or subsequent offense</u> (within one year) - Imprisonment for

<sup>18</sup> There is no requirement for school buses to be equipped with safety 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 safety belts for school bus drivers implies that the Alabama Legislature intended to exclude the safety belt requirement for student passengers).

<sup>19</sup> This requirement does not apply to persons who are riding in an enclosed cab. AL ST § 32-5A-245(c).

	<p>not more than <b>3 months</b> and/or a fine of not more than <b>\$500</b>.  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.</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
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:	<p><u>First offense</u> - 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).</p> <p><u>Second offense</u> - 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).</p> <p><u>Third offense</u> - 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).</p> <p><u>Fourth offense</u> - The bicycle shall be confiscated and the offender taken to his/her residence. A parent or guardian is subject to a fine of <b>\$50</b>.<sup>20</sup> There are no court costs or fees for this offense. AL ST § 32-5A-285(4).</p>

<sup>20</sup> 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).

Prohibition Against Riding in Unsecured Portion of Vehicle:	
Requirements:	<b>None</b>

STATE	ALASKA
General Reference:	Alaska Statutes Alaska Administrative Code (AK ADC)
Required Use of Seat Belts:	See note <sup>21</sup>
Requirements:	I. A person may not operate a motor vehicle unless he is restrained by a safety 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 safety belt. AK ST § 28.05.095(a)(1).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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 cause <sup>22</sup> to stop or detain the motor vehicle.
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Infraction:</b> A fine of not more than \$15. <sup>23</sup> AK ST § 28.05.099(a).
Effect on Civil Liability:	No statutory provision <sup>24</sup>
Required Use of Child Safety Restraint 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 age 1 and 5 year who weights 20 lbs., or more shall be secured in a child restraint device. AK ST § 28.05.095(b)(2). II. 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.

<sup>21</sup> **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 safety belts. AK ST § 28.05.095(c); AK ST § 28.05.096(a).

<sup>22</sup> 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).

<sup>23</sup> 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).

<sup>24</sup> The failure to use a safety 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).



	<p>AK ST § 28.05.095(b)(3).          III. 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).          IV. 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 as determined by the driver.          AK ST § 28.05.095(b)(5).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>I. <b>Infraction:</b> For a violation of I above, a fine of not more than <b>\$50</b>.<sup>25</sup> AK ST § 28.05.099(b).          II. <b>Infraction:</b> For a violation of II above, a fine of not more than <b>\$50</b>. AK ST § 28.05.099(b).  <b>Licensing action:</b> For a violation of II above, a person may be assessed demerit points against his/her driving record.<sup>26</sup> AK ST §28.05.099(b).          III. <b>Infraction:</b> For a violation of III above, a fine of not more than <b>\$15</b>.</p>
Effect on Civil Liability:	No statutory provision.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>The requirement to use safety 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).</p> <p>The decision whether to equip school buses with safety 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).</p>
Sanctions:	See Sanctions for Failure to Require the Use of Child Restraint Systems.
<u>Required Use of Motorcycle Protective Headgear:</u>	

<sup>25</sup> If the offender provides an officer proof of purchase or acquisition, and installation, of an approved child safety device or safety 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 AK ST § 28.05.095; (2) the person has been cited for failure to provide a child safety device or safety 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).

<sup>26</sup> 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.

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.
Sanctions for Failure to Use:	<b>Infraction:</b> A fine of not more than <b>\$300</b> . AK ST § 28.90.010(c).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Infraction:</b> A fine of not more than <b>\$300</b> . AK ST § 28.90.010(c).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	ARIZONA
General Reference:	Arizona Revised Statutes Annotated Arizona Administrative Code (AZ ADC)
Required Use of Seat Belts:	See note <sup>27</sup>
Requirements:	I. A front seat occupant of a motor vehicle <sup>28</sup> 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:	<b>Secondary Enforcement:</b> 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:	<b>Civil Penalty:</b> A fine of not more than <b>\$10</b> <sup>29</sup> for each violation. § AZ ST 28-909(G). <b>Note:</b> 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 <sup>30</sup>
Required Use of Child Safety Restraint Systems:	See note <sup>31</sup>

<sup>27</sup> **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).

<sup>28</sup> 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 safety belts under Federal law. AZ ST § 28-909(A).

<sup>29</sup> 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%. AZ ST § 12-116.01; AZ ST § 12-116.02.

<sup>30</sup> The Arizona Supreme Court held that failure to use a safety 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 safety belts. *Law v. Superior Court*, 755 P.2d 1135 (Ariz. 1988).

<sup>31</sup> **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

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 the Use of Child Restraint Systems:	<b>Civil Penalty:</b> A fine of <b>\$50</b> . <sup>32</sup> AZ ST § 28-907(C).
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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(26).
<u>Required Use of Motorcycle Protective Headgear:</u>	
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:	<b>Civil Penalty:</b> Not more than <b>\$250</b> . AZ ST § 28-121(B); AZ ST § 28-1521; AZ ST § 28-1598. <sup>33</sup>  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

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).

<sup>32</sup> 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 subsection B of AZ ST § 28-907. "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).

<sup>33</sup> 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.

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	person's injuries. <i>See Warfel v. Cheney</i> , 758 P.2d 1326 (Ariz. App. 1988).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Civil Penalty:</b> Not more than <b>\$250</b> . AZ ST § 28-121(B); AZ ST § 28-1521; AZ ST § 28-1598.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	ARKANSAS
General Reference:	Arkansas Code Annotated
Required Use of Seat Belts:	See note <sup>34</sup>
Requirements:	When a motor vehicle <sup>35</sup> is in operation, <sup>36</sup> every driver and front seat passenger shall wear a properly adjusted and fastened seat belt. <sup>37</sup> AR ST § 27-37-702(a). <sup>38</sup>
Primary or Secondary Enforcement:	<b>Primary Enforcement</b> <sup>39</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Violation:</b> <sup>40</sup> A fine of not more than <b>\$25</b> . <sup>41</sup> 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.

<sup>34</sup> **Exemptions:** The requirement to use a safety 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 safety 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).

<sup>35</sup> 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).

<sup>36</sup> 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).

<sup>37</sup> Any motor vehicle passenger who is riding with a person holding an instruction permit must be secured in a safety 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**, and jail for not more than **90 days**. AR ST § 27-16-301.

<sup>38</sup> 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).

<sup>39</sup> 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 87<sup>th</sup> General Assembly, Regular Session, Act 308, S.B. 78. These findings, however, have not been codified.

<sup>40</sup> 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).

<sup>41</sup> 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 safety belt use law when stopped by a law enforcement officer. AR ST § 27-37-705.

Effect on Civil Liability:	The failure to wear a safety belt cannot be admitted into evidence at a civil action except in limited product liability cases. AR ST § 27-37-703.
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>42</sup>
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 restraint system that complies with Federal standards. AR ST § 27-34-104(a).  A driver who transports a child age 6 or older who weighs at least 60 lbs., must secure such child in a safety belt. AR ST § 27-34-104(c).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Violation:</b> A fine of not less than <b>\$25</b> or more than <b>\$100</b> . 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. <sup>43</sup>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	The driver or operator of a school bus shall wear a safety 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 safety belt. However, it would seem logical that such driver would be subject to the same sanctions set out in the seat belt provisions above.

<sup>42</sup> **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.

<sup>43</sup> 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).

<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	All motorcycle passengers and riders younger than 21 years old “shall be equipped” with protective headgear. AR ST § 27-20-104(b)(1).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> Imprisonment for not more than <b>30 days</b> and/or a fine of not less than <b>\$10</b> or more than <b>\$50</b> . AR ST § 27-20-102.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Misdemeanor:</b> Imprisonment for not more than <b>30 days</b> and/or a fine of not less than <b>\$10</b> or more than <b>\$50</b> . AR ST § 27-20-102.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Misdemeanor:</b> First offense - Imprisonment for not more than <b>10 days</b> or a fine of not more than <b>\$100</b> . Second offense (within 1 year) - Imprisonment for not more than <b>20 days</b> and/or a fine of not more than <b>\$200</b> . Third or subsequent offense (within 1 year) - Imprisonment for not more than <b>6 months</b> and/or a fine of not more than <b>\$500</b> . 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	CALIFORNIA
General Reference:	West's Annotated California Codes California Code of Regulations (CA ADC)
Required Use of Seat Belts:	See note <sup>44</sup>
Requirements:	I. A person shall not operate a motor vehicle <sup>45</sup> unless such person and all passengers 16 years old and younger are properly restrained by a safety belt. CA Vehicle Code § 27315(d)(1). <sup>46</sup>
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>47</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Infraction:</b> <u>First offense</u> - A fine of not more than <b>\$20</b> ; <u>Subsequent offense</u> - A fine of not more than <b>\$50</b> . CA Vehicle Code § 27315(h).  In lieu of the above fine, a <u>first offender</u> may be ordered to attend traffic school in which the proper use of safety belts is demonstrated. <b>Note:</b> 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

<sup>44</sup> **Exemptions:** The requirement to use a safety 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 safety 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).

<sup>45</sup> “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).

<sup>46</sup> 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.

<sup>47</sup> 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).

	Vehicle Code § 27315(i).
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>48</sup>
Requirements:	<p>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.</p> <p><b>Note:</b> 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).<sup>49</sup></p> <p>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 safety belts. CA Vehicle Code § 27315(d)(2).</p> <p>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 safety belts. CA Vehicle Code § 27315(d)(3).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Infraction:</b>  <u>First offense</u> - A fine of <b>\$100</b>,<sup>50</sup>  <u>Second or subsequent offense</u> - A fine of not more than <b>\$250</b>. CA Vehicle Code § 27360(c)(1), (2).</p> <p>For either a first or subsequent offense, a person's driving record will be assessed 1 point. CA Vehicle Code § 12810(h).</p>
Effect on Civil Liability:	No provisions

<sup>48</sup> **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 airbag 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.

<sup>49</sup> 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.

<sup>50</sup> 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).

<u>Required Use of Safety Restraining Systems on School Buses:</u>	See note <sup>51</sup>
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 safety 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 bus <sup>52</sup> fails to use or improperly uses the passenger restraint system. CA Vehicle Code § 27316.5.
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	When riding on a motorcycle, a driver or passenger must wear a safety helmet meeting national standards. CA Vehicle Code § 27803.
Sanctions for Failure to Use:	<b>Infraction:</b> <u>First offense</u> - A fine of not more than <b>\$100</b> ; <u>Second offense</u> (within 1 year) - A fine of not more than <b>\$200</b> ; <u>Third and subsequent offense</u> (within 1 year) - A fine of not more than <b>\$250</b> . CA Vehicle Code § 42001(a). No points are assigned for a violation of this requirement.
<u>Required Use of Motorcycle Eye Protection Device:</u>	

<sup>51</sup> **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 licensed physician or licensed chiropractor stating the nature of the condition and reason restraint is inappropriate. 5 CA ADC § 14105(e).

<sup>52</sup> 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 12<sup>th</sup> 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.

Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
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:	<b>Infraction:</b> <u>First offense</u> - There is <b>no fine</b> ; <u>Subsequent offense</u> - A fine of not more than <b>\$25</b> . CA Vehicle Code § 21212(d), (e).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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).

<p>Sanctions for a Violation:</p>	<p><b>Infraction:</b>  <b>For I:</b> <u>First offense</u> - A fine of not more than <b>\$100</b>;  <u>Second offense (within 1 year)</u> – A fine of not more than <b>\$200</b>;  <u>Third or subsequent offense (within 1 year)</u> – A fine of not more than <b>\$250</b>.  CA Vehicle Code § 42001(a).</p> <p><b>For II, III &amp; IV:</b>  <u>First offense</u> - A fine of <b>\$100</b>;  <u>Second offense (within 1 year)</u> - A fine of <b>\$200</b>;  <u>Third or subsequent offense (within 1 year)</u> - A fine of <b>\$250</b>.  CA Vehicle Code § 21712(e).</p>
<p>Exemptions:</p>	<p>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).</p> <p>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).</p>

STATE	COLORADO
General Reference:	Colorado Revised Statutes
Required Use of Seat Belts:	See note <sup>53</sup>
Requirements:	See note <sup>54</sup> I. A driver and front seat passengers of a motor vehicle <sup>55</sup> shall wear a safety belt while the vehicle is being operated. CO ST § 42-4-237(2).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <b>Class B Traffic Infraction</b> , however a fine of <b>\$65</b> and a surcharge of <b>\$6</b> shall be imposed. <sup>56</sup> CO ST § 42-4-237(4); CO ST § 42-4-1701(4)(a)(I)(D).

<sup>53</sup> **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 safety 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).

<sup>54</sup> **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 safety 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 safety 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).

<sup>55</sup> 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).

<sup>56</sup> 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.

Effect on Civil Liability:	Evidence of a failure to wear a safety 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).
<u>Required Use of Child Safety Restraint Systems:</u>	
Requirements:	I. A driver of either a privately owned noncommercial passenger vehicle or a vehicle operated by a child care center who transports a child younger than 4 years old and who weighs less than 40 lbs., must properly secure such child in a child restraint system. CO ST § 42-4-236(2)(a), (c). II. A child at least 4 years of age but less than 6 years of age and less than 55 inches tall = child booster seat or a child safety belt-positioning device. CO ST § 42-4-236(2)(b)(I). <sup>57</sup>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Class B Traffic Infraction:</b> A fine of <b>\$65</b> and a surcharge of <b>\$16</b> . 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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(a); CO ST § 42-4-236(2)(a).
Sanctions:	See Sanction for the Failure to Require the Use of Child Restraint Systems.
<u>Required Use of Motorcycle Protective Headgear:</u>	
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 Federal safety standards. CO ST § 42-4-1502(4.5).

<sup>57</sup> If such child is transported in a vehicle equipped with only a two-point lap-belt-only system available, then the child shall be restrained with a lap belt.

Sanctions for Failure to Use:	<b>Class A Traffic Infraction:</b> A fine of <b>\$100</b> and a surcharge of <b>\$15</b> . CO ST § 42-4-1502(5); CO ST § 42-4-1701(4)(a)(I)(O).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Class A Traffic Infraction:</b> A fine of <b>\$15</b> and a surcharge of <b>\$6</b> . 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.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Class A Traffic Infraction:</b> A fine of <b>\$35</b> and a surcharge of <b>\$10</b> . 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	CONNECTICUT
General Reference:	Connecticut General Statutes Annotated
Required Use of Seat Belts:	See note <sup>58</sup>
Requirements:	I. The operator and front seat passengers in a private passenger motor vehicle with a gross weight not exceeding 10,000 lbs., or fire fighting apparatus originally equipped with seat safety belts, shall wear safety belts while the vehicle is in being operated on any highway. <sup>59</sup> CT ST § 14-100a(c)(1). II. An operator under 18 years of age, and each of his passengers shall wear a seat safety belt while the vehicle is operated on any highway. CT ST § 14-100a(c)(1).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> However, the failure to wear a safety 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:	<b>Infraction:</b> A fine of <b>\$15</b> . CT ST § 14-100a(c)(4). <b>Note:</b> 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 safety 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 old or younger or weighing under 60 lbs., in a motor vehicle, <sup>60</sup> shall provide and require that such child be secured in an approved child restraint system.

<sup>58</sup> **Exemptions:** The requirement to use a safety belt does not apply to: (1) persons whose physical disability or impairment would prevent restraint in a safety belt, provided such person obtain a written statement from a licensed physician containing reasons for such person's inability to wear such safety 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).

<sup>59</sup> "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.

<sup>60</sup> A "motor vehicle" does not include a bus having tonnage rating of 1 ton or more. CT ST § 14-100a(d).

	<p>II. A child younger than 1 year or weighing less than 20 lbs., shall ride in a rear-facing child seat.</p> <p>III. A child 7 years or older and weighing 60 lbs., or more shall ride in a child restraint system or use a seat safety belt.</p> <p>CT ST § 14-100a(d).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>First offense (<b>Infraction</b>) - A fine of not less than <b>\$35</b> nor more than <b>\$90</b>;<sup>61</sup></p> <p>Second offense (<b>Violation</b>) - A fine of not more than <b>\$199</b>;</p> <p>Third or subsequent offense (<b>Class A Misdemeanor</b>) - Imprisonment for not more than <b>1 year</b> and/or a fine of not more than <b>\$2,000</b>.</p> <p>CT ST § 14-100a(d); CT ST § 53a-24; CT ST § 53a-36; CT ST § 53a-42.</p> <p>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).</p> <p><b>Note:</b> Not less than 2 points may be assessed for a violation of this requirement. CT ST § 14-137(a).</p>
Effect on Civil Liability:	<p>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).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>I. A child 4 years or older must be in an approved child restraint system or a seat safety belt when riding in a student transportation vehicle.</p> <p>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).</p>
Sanctions:	<p><b>Infraction:</b> See Sanctions for Failure to Require the Use of Child Restraint Systems.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	<p>See note <sup>62</sup></p>

<sup>61</sup> 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).

<sup>62</sup> 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).

Requirements:	No person under the age of 18 may operate or ride on a motorcycle unless he/she is wearing state-approved protective headgear. CT ST § 14-289g(a).
Sanctions for Failure to Use:	<b>Infraction:</b> A fine of not less than <b>\$90</b> . CT ST § 14-289g(c). <b>Note:</b> No points are assessed for a violation of this requirement.
<u>Required Use of Motorcycle Eye Protection Device:</u>	See note
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:	<b>Infraction:</b> A fine of not more than <b>\$50</b> . CT ST § 14-289d(b); CT ST §14-296. No points are assessed for a violation of this requirement.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	A child age 15 years or younger shall not ride a bicycle on a highway unless that child is wearing appropriate protective headgear. <sup>63</sup> 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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	No person shall operate and carry a passenger younger than 16 years old on in an open bed of a truck-type vehicle <sup>64</sup> or other vehicle. However, such passengers are allowed to ride in such open spaces provided they are properly restrained in a safety belt. CT ST § 14-272a(a).
Sanctions for a Violation:	<b>Infraction:</b> A fine of not more than <b>\$50</b> . CT ST § 14-272a(b); CT ST §14-296. No points are assessed for a violation of this requirement.

<sup>63</sup> 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).

<sup>64</sup> A truck-type vehicle is one with a gross vehicle weight rating not exceeding 7,500 lbs. CT ST § 14-272a(a).

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).
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STATE	DELAWARE
General Reference:	Delaware Code Annotated
Required Use of Seat Belts:	See note <sup>65</sup>
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 safety belt. DE ST TI 21 § 4802(a)(1); (a)(2);(b). II. When being transported in a motor vehicle, a child at least 7 years old but younger than 16 shall wear a safety belt at all times. DE ST TI 21 § 4803(b).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> Notwithstanding any law to the contrary, any police officer is authorized to make an administrative stop for purposes of enforcing this section, upon reasonable and articulable suspicion that a violation of this section 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 <b>\$25</b> 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 safety 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. 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 safety belt use requirement. DE ST TI 21 § 4802(h).
Effect on Civil Liability:	I. Failure to wear a safety 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 notes <sup>66, 67</sup>
Requirements:	I. A person who is transporting a child age 7 or younger and up to

<sup>65</sup> **Exemptions:** This requirement does not apply to: (1) persons who for medical or physical reasons are unable to wear a safety belt; (2) persons riding in motor vehicles that do not have to be equipped with safety belts; and (3) letter carriers of the U.S. Postal Service when performing official duties. DE ST TI 21 § 4802(c).

<sup>66</sup> **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).

<sup>67</sup> 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)(2).

	<p>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).</p> <p>II. A child age 8-15 or greater than 65 lbs., = seatbelt. DE ST TI 21 § 4803(a).</p> <p>III. No child 65 inches in height or less and under 12 years of age shall occupy the front passenger seat.<sup>68</sup> DE ST TI 21 § 4803(b)(1).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	A fine of <b>\$25</b> . 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:	<b>Requirements:</b> “School bus” is defined as a motor vehicle. Based on the safety belt and child safety seat requirements above, it is likely that if a school bus is equipped with a safety 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 <b>\$25</b> nor more than <b>\$115</b> ; Subsequent offense (within 12 months) - Imprisonment for not less than <b>10 days</b> nor more than <b>30 days</b> and/or a fine of not less than <b>\$57.50</b> nor more than <b>\$230</b> . DE ST TI 21 § 4205(a).

<sup>68</sup> **Exception:** Subsection (b)(1) of § 4803, Title 21 does not apply to: (1) vehicles equipped with a passenger-side airbag 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. DE ST TI 21 § 4803(b)(1); (b)(2).

<u>Required Use of Motorcycle Eye Protection Device:</u>	
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.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	See note <sup>69</sup> 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 <b>\$25</b> for the first offense, and <b>\$50</b> 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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

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<sup>69</sup> 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(3).

STATE	DISTRICT OF COLUMBIA
General Reference:	D.C. Code Weil’s Code of D.C. Municipal Regulations (DC ADC)
<u>Required Use of Seat Belts:</u>	See note <sup>70</sup>
Requirements:	The driver and all passengers in a motor vehicle shall wear safety 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:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>71</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Civil Infraction:</b> A fine of <b>\$50</b> . 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.
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>72</sup>
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 §

<sup>70</sup> **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 safety 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.

<sup>71</sup> 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).

<sup>72</sup> **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 safety 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).



	<p>50-1704.</p> <p>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 safety belt or child restraint seat. Children under 8 must be in an infant seat, convertible or booster seat. DC ST §50-1703(b).</p> <p>III. Automobile rental companies are required to inform each customer of these child restraint requirements. DC ST § 50-1703(d).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><u>First offense</u> - A fine of <b>\$75</b><sup>73</sup> or attendance at a child restraint safety class, for which such violator shall be charged <b>\$25</b>; <u>Second offense</u> - A fine of <b>\$75 plus</b> attendance at child restraint safety class, for which such violator shall be charged <b>\$25</b>; <u>Third offense</u> - A fine of <b>\$125</b>; <u>Fourth and each subsequent offense</u> – A fine of <b>\$150</b>. 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.</p>
Effect on Civil Liability:	<p>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.</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>There is no specific statutory provision for the use of safety 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 safety 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 safety belts or harnesses for each seating position in any motor vehicle (manufactured after January 1, 1968 and registered as a private passenger vehicle) <i>except</i> buses.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	

<sup>73</sup> 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).

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:	<b>Infraction:</b> A fine of <b>\$25</b> . 18 DC ADC § 2600. No points are assigned for helmet violations. 18 DC ADC § 2215.6.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Infraction:</b> A fine of <b>\$25</b> . 18 DC ADC § 2600.
<u>Required Use of Bicycle Protective Headgear:</u>	
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 <b>\$25</b> 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.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	

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:	<b>Infraction:</b> A fine of <b>\$25</b> . 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 <sup>74</sup>
Requirements:	I. Any driver shall not operate a motor vehicle <sup>75</sup> unless such driver and every passenger under the age of 18 years old are restrained by a safety belt. FL ST § 316.614(4). II. A front seat passenger 18 years or older must secure him/herself in a safety belt while a motor vehicle is in motion. FL ST § 316.614(5).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. FL ST § 316.614.
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Nonmoving Traffic Violation:</b> <sup>76</sup> A fine of <b>\$30</b> with court costs of <b>\$18.</b> <sup>77</sup> FL ST § 316.614(8); FL ST § 318.14; FL ST § 318.18(2), (11).

<sup>74</sup> **Exemptions:** This requirement does not apply to: (1) persons who have a medical condition that would cause the use of safety 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)(a), (c),(d). Note: “The number of front-seat passengers of a pickup truck required to wear a safety belt pursuant to this section [§ 316.614] shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacturer.” FL ST § 316.614(6)(b).

<sup>75</sup> 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 safety belts under Federal law.

<sup>76</sup> 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).

<sup>77</sup> **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.

Effect on Civil Liability:	A violation of these requirements shall not constitute negligence per se nor shall such a violation be used as <i>prima facie</i> 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).
<u>Required Use of Child Safety Restraint Systems:</u>	
Requirements:	See note <sup>78</sup> 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:	<b>Moving Traffic Violation:</b> A fine of <b>\$60</b> with court costs of <b>\$35</b> . 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). <b>Alternative Sanction:</b> 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	See note <sup>79</sup>

<sup>78</sup>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 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 safety belts under Federal law.

<sup>79</sup>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 safety 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 safety belt or restraint system in a dangerous or unsafe manner. FL ST § 316.6145.

	<p>I. All school buses purchased new after December 31, 2000, must be equipped with safety belts or other federally approved restraint systems. FL ST § 316.6145.</p> <p>II. School bus operators are not required to wear safety seat belts. FL ST § 316.614; FL ST § 316.6145.</p> <p>II. Each school bus passenger grades pre-kindergarten through 12 must wear a safety seat belt when a school bus is in operation. FL ST § 316.6145.<sup>80</sup></p>
Sanctions:	<p>There are no specific sanctions for a violation; however it likely would be the same as that for a violation of the safety belt use law. FL ST § 318.14(1); FL ST § 318.18.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	<p>See note<sup>81</sup></p>
Requirements:	<p>No persons<sup>82</sup> shall operate or ride on a motorcycle unless they are wearing protective headgear which complies with Federal standards. FL ST § 316.211(1).</p> <p>No person under the age of 16 shall operate or ride on a moped unless wearing protective headgear. FL ST § 316.211(4).</p>
Sanctions for Failure to Use:	<p><b>Nonmoving Traffic Violation:</b> A fine of <b>\$30</b> with court costs of <b>\$18</b>. 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 <i>if</i> it can be shown that such a failure was the proximate cause of the injuries sustained.<sup>83</sup></p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<p>No persons shall operate motorcycles unless wearing an eye-protection device that complies with State standards. FL ST § 316.211(2).</p>

<sup>80</sup> 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.

<sup>81</sup>These 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).

<sup>82</sup> **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).

<sup>83</sup> *Rex Utilities, Inc. v. Gaddy*, 413 So.2d 1232 (Fla. App. 3 Dist. 1982), *petition for review denied*, 442 So.2d 843 (Fla. 1982).

Sanctions for Failure to Use:	<b>Nonmoving Traffic Violation:</b> A fine of <b>\$30</b> with court costs of <b>\$18</b> . FL ST § 316.655(1); FL ST § 318.14; FL ST § 318.18(2), (11).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	A bicycle rider or passenger younger than 16 years old must wear a federally approved bicycle safety helmet. <sup>84</sup> FL ST § 316.2065(3)(d).
Sanctions for Failure to Use:	<b>Nonmoving Traffic Violation:</b> A fine of <b>\$30</b> with court costs of <b>\$18</b> 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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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 safety 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:	<b>Nonmoving Traffic Violation:</b> A fine of <b>\$30</b> with court costs of <b>\$18</b> . 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).

<sup>84</sup> 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).

STATE	GEORGIA
General Reference:	Official Code of Georgia Annotated
Required Use of Seat Belts:	
Requirements:	I. Each occupant of the front seat of a passenger vehicle <sup>85</sup> must be restrained by a federally approved safety belt while such vehicle is being operated. <sup>86</sup> 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 safety belt. GA ST § 40-8-76.1(e)(3).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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 <b>\$15</b> . <sup>87</sup> 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 <b>\$25</b> . 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

<sup>85</sup> For the purposes of the safety 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).

<sup>86</sup> **Exemptions:** The safety 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 safety 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 safety 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).

<sup>87</sup> 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).



	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).
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>88</sup>
Requirements:	A person transporting a child younger than 6 years old in a motor vehicle <sup>89</sup> shall secure such child in a federally approved child passenger restraint system.
Sanctions for Failure to Require the Use of Child Restraint Systems:	<u>First offense</u> <sup>90</sup> - A fine of not more than <b>\$50</b> and 1 point assessed against an offender’s driving record; <u>Second or subsequent offense</u> - A fine of not more than <b>\$100</b> 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	School buses are exempt from the safety belt and child passenger restraining system requirements. GA ST § 40-8-76(d).
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>91</sup>
Requirements:	No person shall operate or ride upon a motorcycle unless that person is wearing protective headgear that has been approved by the State. <sup>92</sup> GA ST § 40-6-315(a).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> Imprisonment for not more than <b>12 months</b>

<sup>88</sup> **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. GA ST § 40-8-76(b)(1)(D).

<sup>89</sup> 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).

<sup>90</sup> 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).

<sup>91</sup> 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).

<sup>92</sup> 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).

	and/or a fine of not more than <b>\$1,000</b> . GA ST § 17-10-3(a)(1); GA ST § 40-6-1.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Misdemeanor:</b> Imprisonment for not more than <b>12 months</b> and/or a fine of not more than <b>\$1,000</b> . GA ST § 17-10-3(a)(1); GA ST § 40-6-1.
<u>Required Use of Bicycle Protective Headgear:</u>	
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. <sup>93</sup> 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 <b>12 months</b> and/or a fine of not more than <b>\$1,000</b> . GA ST § 17-10-3(a)(1).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Misdemeanor:</b> The sanctions for this offense are imprisonment for not more than <b>12 months</b> and/or a fine of not more than <b>\$1,000</b> . GA ST § 17-10-3(a)(1); GA ST § 40-8-79.

<sup>93</sup> 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	HAWAI'I
General Reference:	Hawai'i Revised Statutes Annotated
Required Use of Seat Belts:	See note <sup>94</sup>
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 safety 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 safety belt. HI ST § 291-11.6(a)(3).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> No statutory provision. <sup>95</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Violation (Non-Criminal):</b> A fine of <b>\$45</b> and a surcharge of <b>\$10</b> to be deposited in the neuro-trauma special fund. HI ST § 291-11.6(e); HI ST § 701-107(5).
Effect on Civil Liability:	The enactment of the safety belt law does not change existing law concerning personal injury civil actions related to vehicle accidents. <sup>96</sup> HI ST § 291-11.6(d).
Required Use of Child Safety Restraint Systems:	See note <sup>97</sup>
Requirements:	Before transporting a child 7 years old or younger, and 57" in

<sup>94</sup> **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 safety belt under Federal law; (2) persons who are unable to use a seat belt because all of the available safety 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).

<sup>95</sup> 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).

<sup>96</sup> The Hawaii Supreme Court has indirectly held that a person has no common law duty to mitigate damages by wearing a safety belt. *Kealoha v. County of Hawai'i*, 844 P.2d 670 (Hawaii 1993), *reconsideration denied*, 847 P.2d 263 (Haw.1993).

<sup>97</sup> **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).

	height or less, in a motor vehicle, the vehicle operator must secure such child in a federally approved child passenger restraint system. However, children ages 4-7 and weighing at least 40 lbs., may use a lap safety belt in the back if no lap-shoulder belt is available. HI ST § 291-11.5(a).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Violation (Non-Criminal):</b>  <u>First offense</u> - A fine of not more than <b>\$100</b>;  <u>Second offense</u> - A fine of not less than <b>\$100</b> or more than <b>\$200</b>;  <u>Third or subsequent offense</u> - A fine of not less than <b>\$200</b> or more than <b>\$500</b>. All offenders are also charged a surcharge of <b>\$10</b>, to be deposited into the neurotrauma special fund, and may be charged an additional <b>\$10</b> surcharge to be deposited into the trauma system fund.</p> <p><u>First and subsequent offenders</u> are required to take a “Child Passenger Restraint System Safety Class” which shall not to exceed four hours. Offenders are charged a <b>\$50</b> fee to take this course. HI ST § 286G-3(a), HI ST § 291-11.5(e); HI ST § 701-107(5).</p>
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	School buses are exempt from this requirement, as they are excluded from the definition of “motor vehicle.” HI ST § 291-11.6(b).
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>98</sup>
Requirements:	No person younger than 18 years old shall operate or ride on a motorcycle unless that person is wearing a State-approved safety helmet. <sup>99</sup> HI ST § 286-81(a)(3), (b).

<sup>98</sup> 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). **Persons Under 7 Years Old:** A motorcycle operator shall not carry a child younger than 7 years old on a motorcycle unless such vehicle: (1) has three wheels; (2) is powered by an electric motor; (3) has a full body-enclosed cab or (4) has a seat belt assembly or a child restraint system which must be used when the vehicle is in motion. HI ST § 291-11(a), (b). A motorcycle operator who violates this provision is subject to a fine of not more than **\$200**. HI ST § 291-11(c).

<sup>99</sup> 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:	<b>Violation (Non-Criminal):</b> A fine of not more than <b>\$1,000</b> . HI ST §286-82; HI ST § 701-107(5).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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).
Sanctions for Failure to Use:	<b>Violation (Non-Criminal):</b> A fine of not more than <b>\$1,000</b> . HI ST § 286-82; HI ST §701-107(5).
<u>Required Use of Bicycle Protective Headgear:</u>	
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.
Sanctions for Failure to Use:	A fine of not more than <b>\$25</b> . A parent or legal guardian of a minor in violation of this requirement is liable for paying this fine. HI ST § 291C-150.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	I. No person shall stand in the bed or load-carrying area of a pickup truck <sup>100</sup> 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

<sup>100</sup> 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).

	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 “ <b>Violation</b> ” with a fine of <b>\$25</b> . HI ST § 291-14(d); HI ST § 701-107(5). For III above: a Non-Criminal “ <b>Violation</b> ” with a fine of <b>\$50</b> . HI ST § 291-14(d); HI ST § 701-107(5).
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	IDAHO
General Reference:	Idaho Code (General Laws of Idaho Annotated)
<u>Required Use of Seat Belts:</u>	See note <sup>101</sup>
Requirements:	All occupants of a motor vehicle <sup>102</sup> shall be secured in a safety 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:	<b>Secondary Enforcement:</b> 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:	<b>Infraction:</b> A fine of <b>\$10</b> . 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 safety 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).
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>103</sup>
Requirements:	A person, transporting a child 6 years old and younger in a noncommercial motor vehicle <sup>104</sup> shall secure such child in a federally approved child safety restraint. ID ST § 49-672(1).

<sup>101</sup> **Exemptions:** This requirement does not apply to: (1) persons who are unable to use a safety 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 safety belts are already in use; and (4) mail carriers. ID ST § 49-673(2).

<sup>102</sup> 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 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.

<sup>103</sup> **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(1)(a),(b).

<sup>104</sup> This requirement applies to motor vehicles that were manufactured with seat belts after January 1, 1966.

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Infraction:</b> A fine of not more than <b>\$100</b> . ID ST § 18-113A; ID ST § 49-110(5); ID ST § 49-236(2.) <b>Note:</b> 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	There is no specific statutory provision excluding a school bus from the safety belt requirement or from the definition of “motor vehicle.”
<u>Required Use of Motorcycle Protective Headgear:</u>	
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. ID ST § 49-666.
Sanctions for Failure to Use:	<b>Infraction:</b> A fine of not more than <b>\$100</b> . 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).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>



STATE	ILLINOIS
General Reference:	West's Smith-Hurd Illinois Compiled Statutes Annotated Illinois Administrative Code (IL ADC)
Required Use of Seat Belts:	See note <sup>105</sup>
Requirements:	I. Any driver and front seat passengers shall wear safety belts 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 safety belt when a motor vehicle is in operation. <sup>106</sup> <b>625 ILCS 5/12-603.1(a)</b>
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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 12-603.1(f).
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Petty Offense:</b> A fine not to exceed <b>\$25</b> . 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 safety 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).

<sup>105</sup> **Exemptions:** The requirement to use a safety 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 safety 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).

<sup>106</sup> 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 safety 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 safety belt. 625 ILCS 5/12-603(b-5). II. A person violating these requirements is subject to the following sanctions. A first or second offense is a Petty Offense and the offender is subject to a fine of not more than **\$1,000**. A third or subsequent offense (within 1 year after the first conviction) is a Class C Misdemeanor and the offender is subject to 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 5/5-8-3(a)(3); 730 ILCS 5/5-9-1(a)(3),(4).

<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>107</sup>
Requirements:	<p>I. A person transporting a child under the age of 8 in a motor vehicle<sup>108</sup> shall secure such child in a federally approved child restraint system.<sup>109</sup> 625 ILCS 25/4.</p> <p>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 safety belt. 625 ILCS 25/4a</p> <p>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.</p> <p>IV. A person who is younger than 18 years old when transporting a child who is 8 years or older but less than 18 years old in a motor vehicle must secure such child in a safety belt or an appropriate child restraint system. 625 ILCS 25/4b.</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Petty Offense:</b>  First offense: A fine of not more than <b>\$50</b>.<sup>110</sup>  Subsequent offense: A fine of not more than <b>\$100</b>. 625 ILCS 25/6.  The law does not assign points for a violation of these requirements. 92 IL ADC § 1040.20(e).</p>
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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	See note <sup>111</sup> I. No school bus shall be operated unless the driver has properly restrained himself with the lap belt assembly. 625 ILCS 5/12-807.

<sup>107</sup> **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.

<sup>108</sup> 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.

<sup>109</sup> 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.

<sup>110</sup> Such fine may be waived upon proof of possession of an approved child restraint system. 625 ILCS 25/6.

<sup>111</sup> 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 safety belts while transporting students who reside and attend school situated outside of the corporate limits of the municipality. 65 ILCS 5/11-40-2a.

	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 ( <b>Petty Offense</b> ) – A fine of not more than <b>\$1000</b> ; Third violation (within 1 year) ( <b>Class C Misdemeanor</b> ) – A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$1,500</b> . 625 ILCS 5/16-104; 730 ILCS 5/5-8-3(a)(3).
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<b>None</b> <sup>112</sup> <b>Note:</b> “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).
Sanctions for Failure to Use:	
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	A person who operates or rides on a motorcycle must be protected by glasses, goggles or a transparent shield. <sup>113</sup> 625 ILCS 5/11-1404(a).
Sanctions for Failure to Use:	First and second offenses ( <b>Petty Offense</b> ) - A fine of not more than <b>\$1,000</b> ; Third or subsequent offense (within 1 year) ( <b>Class C Misdemeanor</b> ) – A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$1,500</b> . 625 ILCS 5/16-104; 730 ILCS 5/5-8-3(a)(3); 730 ILCS 5/5-9-1(a)(3),(4). Five points are assessed against a person's driving record a violation of this requirement. 92 IL ADC § 1040.20(c).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	

<sup>112</sup> 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).

<sup>113</sup> Contact lenses are not acceptable eye protection devices. 625 ILCS 5/11-1404(c).

Requirements:	<b>None</b>

STATE	INDIANA
General Reference:	Indiana Code Indiana Administrative Code (IN ADC)
Required Use of Seat Belts:	See note <sup>114</sup>
Requirements:	Each occupant of a motor vehicle shall be secured in a safety belt when the vehicle is in forward motion. IN ST § 9-19-10-2.
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> A law enforcement agency may not use a safety belt checkpoint to detect and issue a citation for a person's failure to comply with the safety belt law. However, a vehicle may be stopped to determine compliance with this requirement. During such stop, neither the vehicle, its contents, driver, nor passengers may be searched or detained solely because of a violation. IN ST § 9-19-10-3.1(a),(b).
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Class D Infraction:</b> A fine of up to <b>\$25</b> . 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 <sup>115</sup>
Requirements:	I. Before operating a motor vehicle, a driver must secure a child 8 years or younger in a child passenger restraint system, except a child weighing more than 40 lbs., may be restrained by a lap safety

<sup>114</sup> **Exemptions:** The requirement to wear a safety belt does not apply to an occupant who meets any of the following conditions: (1) for medical reasons should not wear safety 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.

<sup>115</sup> **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.

	<p>belt if: (1) the motor vehicle is not equipped with lap and shoulder safety belts; or (2) not including the operator's seat and front passenger seat, all the lap and shoulder belts are being used to properly restrain children less than 16 years old. IN ST § 9-19-11-2; IN ST § 9-19-11-3.7.</p> <p>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 safety belt. IN ST § 9-19-11-3.6(a).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Class D Infraction:</b> A fine of not more than <b>\$25</b>.<sup>116</sup> 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.<sup>117</sup></p>
Effect on Civil Liability:	<p>Failure to comply with this requirement does not constitute contributory negligence. IN ST § 9-19-11-8.</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>School buses are exempt from the safety belt/child passenger restraint requirement. IN ST § 9-19-11-1.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>A person under the age of 18 shall wear state approved protective headgear when operating or riding on a motorcycle. IN ST § 9-19-7-1(1).</p>
Sanctions for Failure to Use:	<p><b>Class C Infraction:</b> A fine of not more than <b>\$500</b>. 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.</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	

<sup>116</sup> 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.

<sup>117</sup> 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.

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:	<b>Class C Infraction:</b> A fine of not more than <b>\$500</b> . IN ST § 9-19-7-3; IN ST §34-28-5-4(c).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	IOWA
General Reference:	Iowa Code Annotated
Required Use of Seat Belts:	See note <sup>118</sup>
Requirements:	When a motor vehicle <sup>119</sup> is in forward motion, the driver and front-seat passengers shall wear safety belts or safety harnesses. IA ST § 321.445, subsec. 2.
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>120</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	Simple misdemeanor but described as a “ <b>Scheduled Violation</b> ”: A fine of <b>\$25</b> . IA ST § 321.482; IA ST § 805.8; IA ST § 805.8A, subsec. 14(c).  <b>Note:</b> In determining license suspension action, the State is not to consider a violation of this requirement. IA ST § 321.210, subsec. 3(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 <sup>121</sup>
Requirements:	I. A child under 1 year of age and weighing less than 20 lbs., shall

<sup>118</sup> **Exemptions:** The requirement to wear a safety belt or safety harness does not apply to: (1) persons driving or riding in vehicles that are not required to have safety 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) to passengers on a bus; (5) persons, who for medical or physical reasons, cannot wear a safety 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.

<sup>119</sup> A “motor vehicle” does not include a motorcycle or motorized bicycle. IA ST § 321.445, subsec. 2.

<sup>120</sup> 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).

<sup>121</sup> **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 safety belt is available because all safety 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, safety belt, or safety harness. IA ST § 321.446, subsec. 1 – 321.446, subsec. 3.



	<p>be secured in a rear-facing child restraint system. IA ST § 321.446, subsec. 1(a).</p> <p>II. A child 5 years old or younger and weighing 20 or more lbs., shall be secured in a federally approved child restraint system. IA ST § 321.446, subsec. 1(b).</p> <p>III. A child 6-17 years old shall be secured in a federally approved child restraint system, a safety belt, or a safety harness. IA ST § 321.446, subsec. 2.</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>See note<sup>122</sup></p> <p>Simple misdemeanor, but described as a “<b>Scheduled Violation</b>”: A fine of <b>\$25</b>.</p> <p>IA ST § 321.446, subsec. 4; IA ST § 805.8; IA ST § 805.8A, subsec. 14(c).</p> <p>First offenders who prove purchase or acquisition of a child restraint system “shall not be convicted.”</p> <p>IA ST § 321.446, subsec. 5.</p> <p><b>Note:</b> In determining license suspension action, the State is not to consider a violation of this requirement.</p> <p>IA ST § 321.210, subsec. 2(b).</p>
Effect on Civil Liability:	Failure to use a child restraint system, safety 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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	Children riding on school buses are exempt from the child restraint system requirements. IA ST § 321.446.
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>

<sup>122</sup> 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.

<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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 <b>“Scheduled Violation.”</b> <sup>123</sup>
Exemptions:	<b>None</b>

<sup>123</sup> 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. Considering the fine for violations of safety belt and child safety restraint systems is \$25, it seems that the \$100 fine may apply specifically to the load restrictions.

<b>STATE</b>	<b>KANSAS</b>
General Reference:	Kansas Statutes Annotated
Required Use of Seat Belts:	See note <sup>124</sup>
Requirements:	I. When a passenger car <sup>125</sup> is in operation, each front-seat occupant shall be properly secured in a safety belt. KS ST § 8-2503(a). 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 safety belt. KS ST § 8-2503(b).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> KS ST § 8-2503(f).
Sanctions for Failure to Use or Require the Use of Seat Belts:	For a violation of section I above: until July 1, 2011 - <b>\$5</b> ; after July 1, 2011 - <b>\$10</b> . KS ST § 8-2504(a)(2), (3). For a violation of section II above, a fine of <b>\$60</b> . KS ST § 8-2504(a)(4).  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 safety 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 car <sup>126</sup> who transports a child under the age of 8 shall properly secure such child in a child safety restraint system. <sup>127</sup> KS ST § 8-1344(a).

<sup>124</sup> **Exemptions:** The requirement to use a safety 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 safety belt system; (2) carriers of U.S. mail while actually engaged in delivery and collection of mail along their specified routes; (3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or (4) an occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act. KS ST § 8-2503(c).

<sup>125</sup> A “passenger car” for purposes of the safety 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 safety belts, designed to carry 10 passengers or fewer. It does not include a motorcycle or a motor-driven cycle. KS ST § 8-2502.

	<p>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 safety belt.<sup>128, 129</sup> KS ST § 8-1344(a).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p>A fine of <b>\$60</b>. A violation of this requirement is not a moving violation for licensing sanctions purposes. KS ST § 8-1345(a).</p> <p>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).</p> <p>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).</p>
<p>Effect on Civil Liability:</p>	<p>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).<sup>130</sup></p>
<p><u>Required Use of Safety Restraining Systems on School Buses:</u></p>	
<p>Requirements:</p>	<p>There is no specific statutory provision. However, “school bus” does not fit the definition of “passenger car” in the safety belt or child safety restraint system provisions. KS ST § 8-2505; KS ST § 8-1343(a); KS ST § 8-1461.</p>
<p>Sanctions:</p>	<p>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).</p>

<sup>126</sup> This term is given the same definition as that contained in the safety belt use act (see Footnote No. 129 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 § 8-1343(a).

<sup>127</sup> 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).

<sup>128</sup> Such safety belt shall be manufactured in compliance with Federal Motor Vehicle Safety Standard no. 208. (49 C.F.R. 571.208).

<sup>129</sup> If a securing location only has a lap safety belt available, then the child shall be secured in a safety belt as set out in Section II above. KS ST § 8-1344(c).

<sup>130</sup> 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.

<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<b>Traffic Infraction:</b> A fine of not more than <b>\$500</b> . However, if a person pleads guilty or no contest, then a fine of <b>\$30</b> , as listed in the uniform fine schedule shall be imposed. KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 21-3105; KS ST § 21-4503a(d).
Sanctions for Failure to Use:	<b>Traffic Infraction:</b> A fine of not more than <b>\$500</b> . However, if a person pleads guilty or no contest, then a fine of <b>\$30</b> , as listed in the uniform fine schedule shall be imposed. KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 21-3105; KS ST § 21-4503a(d).
<u>Required Use of Motorcycle Eye Protection Device:</u>	See note <sup>131</sup>
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(b).
Sanctions for Failure to Use:	<b>Traffic Infraction:</b> A fine of not more than <b>\$500</b> . However, if a person pleads guilty or no contest, then a fine of <b>\$30</b> , as listed in the uniform fine schedule shall be imposed. KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 21-3105; KS ST § 21-4503a(d).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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).

<sup>131</sup> 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(c).

	<b>Note:</b> 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:	<b>Traffic Infraction:</b> A fine of not more than <b>\$500</b> . However, if a person pleads guilty or no contest, then a fine of <b>\$60</b> , as listed under the uniform fine schedule. KS ST § 8-2116(a); KS ST § 8-2118(c); KS ST § 21-3105; KS ST § 21-4503a(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 <sup>132</sup>
Requirements:	No person shall operate a motor vehicle <sup>133</sup> (manufactured after 1981) unless the driver and all passengers are wearing safety belts. KY ST § 189.125(6).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> KY ST § 189.125.
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Violation:</b> A fine of not more than <b>\$25</b> 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 safety 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 40-55 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. <b>Violation:</b> A fine of <b>\$50</b> . KY ST § 189.990(24). II. <b>Violation:</b> A fine of <b>\$50</b> . KY ST § 189.990(25).. <sup>134</sup>
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

<sup>132</sup> **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).

<sup>133</sup> 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).

<sup>134</sup> 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).

	evidence in the trial of any civil action. KY ST § 189.125(5).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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 safety belt and restraint sections. <sup>135</sup>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	The following persons are required to wear state approved protective headgear 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:	<b>Violation:</b> A fine of not less than <b>\$20</b> or more than <b>\$100</b> . KY ST § 189.990(1). The law does not provide for any assignment of points for this requirement.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Violation:</b> A fine of not less than <b>\$20</b> or more than <b>\$100</b> . KY ST § 189.990(1). The law does not assign points for this requirement.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	

<sup>135</sup> 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 safety 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).



Requirements:	<b>None</b>

STATE	LOUISIANA
General Reference:	West's Louisiana Statutes Annotated: Revised Statutes
Required Use of Seat Belts:	See note <sup>136</sup>
Requirements:	When a motor vehicle <sup>137</sup> is in forward motion, the driver and every passenger shall wear a safety belt. LA R.S. § 32:295.1(A), (B).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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 failure to wear a proper restraint. <sup>138</sup> LA R.S. § 32:295.1(F).
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Misdemeanor:</b> First offense – A fine of <b>\$25</b> including court costs; Second offense – A fine of <b>\$50</b> including court costs; Third and subsequent offense – A fine of <b>\$50</b> plus all court costs. LA R.S. § 14:7; LA R.S. § 32:295.1(G)(1); LA R.S. § 32:641.  <b>Note:</b> 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 safety belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages. LA R.S. § 32:295.1(E).

<sup>136</sup> **Exemptions:** The requirement to use a safety 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 safety 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).

<sup>137</sup> The requirement to use a safety 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 safety 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).

<sup>138</sup> 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).

<p><u>Required Use of Child Safety Restraint Systems:</u></p>	<p>See note<sup>139</sup></p>
<p>Requirements:</p>	<p>Any driver operating a motor vehicle<sup>140</sup> equipped with seat belts shall secure each child under the age of 13 in a proper restraint system.<sup>141, 142</sup></p> <p>I. A child younger than 1 year of age = rear-facing child safety seat;          II. A child at least 1 but younger than 4 years or at least 24 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;<sup>143</sup>          IV. A child at least 6 years or weighs more than 60 lbs. = safety belt adjusted and fastened around the child’s body or a child booster seat. LA R.S. § 32:295.</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p>See note<sup>144</sup></p> <p><b>Misdemeanor:</b> First offense - A fine of <b>\$100</b>;          Second offense - A fine of not less than <b>\$250</b> or more than <b>\$500</b>;          Third or subsequent offense - A fine of <b>\$500</b> plus all court costs.<sup>145</sup>          LA R.S. §§ 14:7; 32:295(I)(1); LA R.S. § 32:641.</p> <p>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 <b>\$100</b> including fees and court costs. LA R.S. § 32:295(I)(2).</p>

<sup>139</sup> **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 reasons, cannot be secured in a child passenger safety system or safety belt. LA R.S. § 32:295(E).

<sup>140</sup> 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).

<sup>141</sup> 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).

<sup>142</sup> 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).

<sup>143</sup> 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.

<sup>144</sup> 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).

<sup>145</sup> A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. LA R.S. § 32:295(G).

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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	Every school bus, whether public or private, must be equipped with occupant restraint systems. LA R.S. § 17:164.2. <sup>146</sup>
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.
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>147</sup>
Requirements:	See note <sup>148</sup> 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. <sup>149</sup> LA R.S. § 32:190(A).  <b>Note:</b> 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:	<b>Misdemeanor:</b> A fine of <b>\$50</b> that includes all court costs. LA R.S. § 14:7; LA R.S. § 32:190(F).
<u>Required Use of Motorcycle Eye Protection Device:</u>	

<sup>146</sup> This requirement set a June 30, 2004, deadline by which all school buses had to be equipped with restraint systems. This requirement is subject to the appropriation of funds. LA R.S. § 17:164.2(C).

<sup>147</sup> 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).

<sup>148</sup> 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).

<sup>149</sup> No operator shall carry or transport an infant or child who is required to be restrained in a rear-facing child safety seat or a forward-facing child safety seat. A child at least 5 years 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).

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:	<b>Misdemeanor:</b> First offense - Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$175</b> ; Subsequent offense - Imprisonment for not more than <b>90 days</b> and/or a fine of not more than <b>\$500</b> . LA R.S. § 14:7; LA R.S. § 32:57(A).
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>150</sup>
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).  <b>Note:</b> The law provides that a citation for a violation of this section is not <i>prima facie</i> evidence of negligence. However, comparative negligence laws do apply. LA R.S. § 32:199(D).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Misdemeanor:</b> First offense – A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$175</b> ; Subsequent offense – A term of imprisonment of not more than <b>90</b>

<sup>150</sup> 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).

	<b>days</b> and/or a fine of not more than <b>\$500</b> . 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).

<b>STATE</b>	<b>MAINE</b>
General Reference:	Maine Revised Statutes Annotated (M.R.S.A.)
Required Use of Seat Belts:	See note <sup>151</sup>
Requirements:	I. The operator of a vehicle <sup>152</sup> 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 safety belt. 29-A M.R.S.A. § 2081(3-A).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>153</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Traffic Infraction:</b> <sup>154</sup> First offense: A fine of <b>\$50</b> ; Second offense: A fine of <b>\$125</b> ; Third and subsequent offenses: A fine of <b>\$250</b> .  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 safety 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 <sup>155</sup>

<sup>151</sup> **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 safety 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).

<sup>152</sup> The requirement to use either a safety belt or child safety seat only applies to persons occupying vehicles that are required to be equipped with safety belts under Federal law. 29-A M.R.S.A. § 2081(2), (3), (3-A).

<sup>153</sup> 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).

<sup>154</sup> 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).

<sup>155</sup> 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).

<p>Requirements:</p>	<p>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).</p> <p>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).</p> <p>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).</p> <p>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).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p>I. <b>Traffic Infraction:</b>  <u>First offense</u> - A fine of <b>\$50</b>;  <u>Second offense</u> – A fine of <b>\$125</b>;  <u>Third and subsequent offenses</u> – A fine of <b>\$250</b>.</p> <p>No fine may be suspended by the court.                  29-A M.R.S.A. § 2081(2), (3).</p> <p>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).</p>
<p>Effect on Civil Liability:</p>	<p>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).</p>
<p><u>Required Use of Safety Restraining Systems on School Buses:</u></p>	
<p>Requirements:</p>	<p>See note<sup>156</sup>                  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).</p>

<sup>156</sup> **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.



Sanctions:	<b>Traffic Infraction:</b> A fine of not less than <b>\$25</b> nor more than <b>\$500</b> , and/or suspension of license. 29-A M.R.S.A. § 103(3); 29-A M.R.S.A. § 104.
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>157</sup>
Requirements:	The following persons must wear protective headgear: (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 one 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:	<b>Traffic Infraction:</b> A fine of not less than <b>\$25</b> nor more than <b>\$500</b> , and/or suspension of license. <sup>158</sup> 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).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
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. <b>Note:</b> 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:	<b>Civil Violation:</b> First violation: A law enforcement officer may provide bicycle safety information to the person and that person’s parent or guardian;

<sup>157</sup> 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).

<sup>158</sup> 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).

	<p>Second violation: A forfeiture of no more than <b>\$25</b> 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.</p> <p>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.</p>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Traffic Infraction:</b> A fine of not less than <b>\$25</b> nor more than <b>\$500</b> , 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:	<p>This requirement does not apply to the following:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(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;</li> <li>(3) Participants in parades;</li> <li>(4) A passenger secured by a seat belt in a manufacturer-installed seat located outside the passenger compartment; or</li> <li>(5) Campers and hikers being transported in Baxter State Park.</li> </ul> <p>29-A M.R.S.A. § 2088(2).</p>

STATE	MARYLAND
General Reference:	Annotated Code of Maryland. Most references are to the Transportation Article (Trans.)
<u>Required Use of Seat Belts:</u>	See note <sup>159</sup>
Requirements:	<p>I. A person may not operate a motor vehicle<sup>160</sup> unless that person and any passenger under 16 years old are secured in safety belts (or child safety seat). MD TRANS §22-412.3(b).</p> <p>II. Persons 16 years or older may not be passengers in an "outboard front seat"<sup>161</sup> of a motor vehicle unless such persons are restrained in seat belts. MD TRANS § 22-412.3(c)(2).</p> <p><b>Provisional Licenses:</b> 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 safety 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 <b>\$500</b>. MD TRANS § 27-101(b); MD TRANS § 27-102.</p>
Primary or Secondary Enforcement:	There is no statutory provision. <sup>162</sup>

<sup>159</sup> **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).

<sup>160</sup> 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.*

<sup>161</sup> 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).

<sup>162</sup> 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).

<p>Sanctions for Failure to Use or Require the Use of Seat Belts:</p>	<p><b>Misdemeanor:</b> A fine of not more than <b>\$25</b> (including court costs). MD TRANS § 27-101(a); MD TRANS § 27-106(b). <b>Note:</b> 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.</p>
<p>Effect on Civil Liability:</p>	<p>The failure to use a safety 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.<sup>163</sup> MD TRANS § 22-412.3(h)(1).</p>
<p><u>Required Use of Child Safety Restraint Systems:</u></p>	<p>See note<sup>164</sup></p>
<p>Requirements:</p>	<p>I. A person transporting a child under the age of 8 years in a motor vehicle<sup>165</sup> 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).</p> <p>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).</p> <p><b>Note:</b> A child safety seat or safety belt may not be used to restrain, seat or position more than one individual at a time. MD TRANS § 22-412.2(g).</p> <p><b>Provisional Licenses:</b> 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.</p>

<sup>163</sup> However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the safety belt. MD TRANS § 22-412.3(h)(2), (3).

<sup>164</sup> **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).

<sup>165</sup> The term “motor vehicle” as used in this section means a passenger vehicle, truck or multipurpose vehicle. MD TRANS § 22-412.2(c).

Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Misdemeanor:</b> A fine of <b>\$25</b>. 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).  <b>Note:</b> A violation of this requirement is not considered a moving violation for licensing sanction purposes. MD TRANS § 22-412.2(j).</p> <p>No points are assessed for a violation of this requirement. MD TRANS § 16-402.</p>
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	The safety 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).
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	Persons shall not operate or ride on a motorcycle unless wearing state approved protective headgear. <sup>166</sup> MD TRANS § 21-1306(b). <b>Note:</b> This requirement does not apply to persons riding in an enclosed cab. MD TRANS § 21-1306(a).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> A fine of not more than <b>\$500</b> . MD TRANS § 27-101(a), (b). <b>Note:</b> No points are assessed for a violation of this requirement. MD TRANS § 16-402.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	A person shall not operate or ride on a motorcycle unless he/she is wearing State-approved eye-protection device or using a windscreen. MD TRANS § 21-1306(c). <b>Note:</b> This requirement does not apply to persons riding in an enclosed cab. MD TRANS § 21-1306(a).

<sup>166</sup> 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).

Sanctions for Failure to Use:	<b>Misdemeanor:</b> A fine of not more than <b>\$500</b> . MD TRANS § 27-101(a), (b). <b>Note:</b> No points are assessed for a violation of this requirement. MD TRANS § 16-402.
<u>Required Use of Bicycle Protective Headgear:</u>	
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. <sup>167</sup> MD TRANS § 21-1207.1(a)(1)(ii); MD TRANS § 21-1207.1(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.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	I. A person may not operate a truck <sup>168</sup> 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:	<b>Misdemeanor:</b> A fine of not more than <b>\$500</b> . 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). <b>Note:</b> These exemptions do not eliminate the requirements to use child safety seat or safety 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

<sup>167</sup> 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).

<sup>168</sup> 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).

	<p>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).</p>
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STATE	MASSACHUSETTS
General Reference:	Massachusetts General Laws Annotated Code of Massachusetts Regulations (MA ADC)
Required Use of Seat Belts:	See note <sup>169</sup>
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 safety belt. <sup>170</sup> MA ST 90 § 13A.
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Civil Motor Vehicle Infraction:</b> A fine of <b>\$25</b> . <sup>171</sup> MA ST 90 § 13A; MA ST 90C § 1. <b>Note:</b> 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. <sup>172</sup>
Required Use of Child Safety Restraint Systems:	See note <sup>173</sup>

<sup>169</sup> **Exemptions:** The requirement to use a safety 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 safety 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.

<sup>170</sup> No person shall transport more than 8 passengers in a motor vehicle unless all of the vehicle's occupants are secured in safety belts. MA ST 90 § 7D. In addition, under separate provisions, a person operating a school bus is required to wear a safety belt while transporting children school pupils. MA ST 90 § 7B(8). 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.

<sup>171</sup> 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 safety belt. MA ST 90 § 13A.

<sup>172</sup> The State Supreme Court has not addressed the issues of whether the nonuse of a safety belt can be used to mitigate damages or be considered as contributory negligence. The court refused to consider such issues in one case because no evidence was presented to show that safety belt nonuse was causally related to plaintiff's injuries. *Shahzade v. C.J. Mabardy, Inc.*, 586 N.E.2d 3 (Mass. 1992).



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 safety belt. MA ST 90 § 7AA.
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Civil Motor Vehicle Infraction:</b> The vehicle operator is subject to a fine of not more than <b>\$25</b> . 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. <b>Note:</b> A violation of these requirements is not considered a moving violation for the purpose of determining surcharges on motor vehicle premiums. MA ST 90 § 7 AA.
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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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:	<b>N/A</b>
<u>Required Use of Motorcycle Protective Headgear:</u>	
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:	<b>Civil Motor Vehicle Infraction:</b> <u>First offense</u> - A fine of not more than <b>\$35</b> ; <u>Second offense</u> (within 12 months) - A fine of not less than <b>\$35</b> or more than <b>\$75</b> ; <u>Subsequent offense</u> (within 12 months) - A fine of not less than

<sup>173</sup> **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 safety 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.

	<b>\$75 or more than \$150.</b> MA ST 90 § 20; MA ST 90C § 1.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Civil Motor Vehicle Infraction:</b> <u>First offense</u> - A fine of not more than <b>\$35</b> ; <u>Second offense</u> (within 12 months) - A fine of not less than <b>\$35</b> or more than <b>\$75</b> ; <u>Subsequent offense</u> (within 12 months) - A fine of not less than <b>\$75</b> or more than <b>\$150.</b> MA ST 90 § 20; MA ST 90C § 1.
<u>Required Use of Bicycle Protective Headgear:</u>	
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. <sup>174</sup> 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:	<b>Civil Disposition:</b> A fine of not more than <b>\$20.</b> MA ST 40 § 21(16B); MA ST 85 § 11C.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Civil Motor Vehicle Infraction:</b> <u>First offense</u> - A fine of not more than <b>\$35</b> ; <u>Second offense</u> (within 12 months) - A fine of not less than <b>\$35</b> nor more than <b>\$75</b> ;

<sup>174</sup> A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. MA ST 85 § 11B(2)(iv).

	<p>Subsequent offense (within 12 months) - A fine of not less than <b>\$75</b> nor more than <b>\$150</b>.  MA ST 90 § 20; MA ST 90C § 1.</p>
Exemptions:	<p>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.</p>

STATE	MICHIGAN
General Reference:	Michigan Compiled Laws Annotated
Required Use of Seat Belts:	See note <sup>175</sup>
Requirements:	See note <sup>176</sup> 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 safety 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:	<b>Primary Enforcement:</b> 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 safety belt requirements during the preceding year. MI ST § 257.710e(6).
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Civil Infraction:</b> A fine (including court costs) of <b>\$25</b> . 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 safety belt may be considered evidence of negligence and may reduce the recovery for damages by not more than 5 percent. <sup>177</sup> MI ST § 257.710e(7).
Required Use of Child Safety Restraint Systems:	See note <sup>178</sup>

<sup>175</sup> **Exemptions:** The requirement to use a safety 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 safety belt for physical or medical reasons; (6) a motor vehicle that is not required to be equipped with safety 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).

<sup>176</sup> If there are more passengers than safety belts available for use, and all safety belts are being utilized, the operator of the motor vehicle is held to be in compliance with this requirement. MI ST § 257.710e(4).

<sup>177</sup> In situations where an "unbelted" rear-seat passenger is injured, evidence of safety 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)).

<sup>178</sup> **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 safety 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(2), (3), (6).

Requirements:	<p><i>See note</i><sup>179</sup></p> <p>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).</p> <p>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).</p> <p>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 safety belt, unless such child is younger than 8 years old and less than 4 feet, 9 inches in height. MI ST § 257.710e(5).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Civil Infraction:</b> A fine of not more than <b>\$10</b>. 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.</p> <p>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 of a child seating system.</p> <p>MI ST § 257.907(12).</p>
Effect on Civil Liability:	<p>Failure to wear a safety 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).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>A school bus is exempt from the safety belt and child restraint system requirements. MI ST § 257.710d; MI ST § 257.710e.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	<p><i>See note</i><sup>180</sup></p>
Requirements:	<p>I. A person operating or riding on a motorcycle shall wear a state-approved crash helmet. MI ST § 257.658(4).</p>
Sanctions for Failure to Use:	<p><b>Civil Infraction:</b> 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).</p>

<sup>179</sup> If there are more children than safety 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 safety belt. MI ST § 257.710e(5).

<sup>180</sup> 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).

<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Misdemeanor:</b> 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 <b>90 days</b> and/or a fine of not more than <b>\$100</b> . MI ST § 257.708a; MI ST § 257.901. It appears the law does not assign points for a violation of this requirement.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Civil Infraction:</b> A fine of not less than <b>\$100</b> nor more than <b>\$500</b> . 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	MINNESOTA
General Reference:	Minnesota Statutes Annotated
Required Use of Seat Belts:	See note <sup>181</sup>
Requirements:	The driver and passengers of a passenger or commercial motor vehicle <sup>182</sup> shall wear a safety belt. MN ST § 169.686, subd. 1(a).
Primary or Secondary Enforcement:	<b>Primary Enforcement</b> <sup>183</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Petty Misdemeanor:</b> A fine of <b>\$25</b> . <sup>184</sup> MN ST § 169.89, subd. 2; MN ST § 169.686, subd. 1(b). <b>Note:</b> 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 <b>30 days</b> . MN ST § 169.89, subd. 5.
Effect on Civil Liability:	Evidence of either the use or the failure to use a safety 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). <sup>185</sup>

<sup>181</sup> **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 safety belts are occupied by other persons in safety 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.

<sup>182</sup> Under State law, the following types of motor vehicles are not required to be equipped with safety 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.

<sup>183</sup> In May, 2009, the provision providing for secondary enforcement was struck from MN ST § 169.686, subd. 1.

<sup>184</sup> 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).

<sup>185</sup> 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.

<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>186</sup>
Requirements:	No motor vehicle operator may transport a child under the age of 4 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.  <b>Primary Enforcement:</b> A law enforcement officer may stop a motor vehicle for violation of the child safety restraint requirement, and issue a citation. <sup>187</sup>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Petty Misdemeanor:</b> A fine of not more than <b>\$50</b> . 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. 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 <b>30 days</b> . 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). <sup>188</sup>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	

<sup>186</sup> **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. MN ST § 169.685, subd. 6.

<sup>187</sup> *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).

<sup>188</sup> 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:	<p>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.</p> <p>A school bus <i>may</i> 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.</p>
Sanctions:	<p><b>Petty Misdemeanor:</b> A fine of not more than <b>\$300</b>. MN ST § 169.89, subd. 2.</p> <p>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 <b>30 days</b>. MN ST § 169.89, subd. 5.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>I. No person with a two-wheeled vehicle instruction <i>permit</i> shall drive the motorcycle without state approved protective headgear. MN ST § 169.223; MN ST § 169.974, subd. 2(c)(4).</p> <p>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.<sup>189</sup> MN ST § 169.223, subd. 1; MN ST § 169.974, subd. 4(a).</p>
Sanctions for Failure to Use:	<p><b>Petty Misdemeanor:</b> A fine of not more than <b>\$300</b>. 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 <b>30 days</b>. MN ST § 169.89, subd. 5.</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	

<sup>189</sup> 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).

Requirements:	No person shall operate a motorcycle or motorized bicycle without wearing an eye-protection device. <sup>190</sup> MN ST § 169.223, subd. 1; MN ST § 169.974, subd. 4(a).
Sanctions for Failure to Use:	<b>Petty Misdemeanor:</b> A fine of not more than <b>\$300</b> . 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 <b>30 days</b> . MN ST § 169.89, subd. 5.
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>191</sup>
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:	<b>Petty Misdemeanor:</b> A fine of not more than <b>\$300</b> . 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 <b>30 days</b> . MN ST § 169.89, subd. 5.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

<sup>190</sup> This requirement does not apply to operators of electric-assisted bicycles. MN ST § 169.223, subd. 1(6).

<sup>191</sup> 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 <sup>192</sup>
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:	<b>Primary Enforcement:</b> A driver may generally be cited for a violation only if he or she is cited for another non-seatbelt violation. A driver may not be convicted of the seatbelt violation unless he is convicted of the non-seatbelt violation. However, if a child between the ages of 4 and 8 is not wearing a seatbelt, regardless of where the child is seated, the driver may be cited and convicted without a violation of any other non-seatbelt law. A police officer may enforce the seatbelt law regardless of whether he is patrolling or directing traffic. <sup>193</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Misdemeanor:</b> A fine of <b>\$25</b> . 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 safety 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

<sup>192</sup> **Exemptions:** The requirement to wear a safety 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 safety 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).

<sup>193</sup> See Op.Atty.Gen. No. 2000-0031, Dykes, February 4, 2000.

	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:	<b>Misdemeanor:</b> A fine of not more than <b>\$25</b> . MS ST § 63-7-309; MS ST § 63-9-11(1). In addition, the offender is required to pay an assessment of <b>\$75.50</b> . 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). <sup>194</sup>
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 safety belt requirement. MS ST § 63-2-1.
Sanctions:	If a school bus is equipped with safety belts, the failure to use shall be a misdemeanor, and result in a fine of not less than <b>\$25</b> or more than <b>\$100</b> . 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. MS ST § 63-7-64.
Sanctions for Failure to Use:	<b>Misdemeanor:</b> <u>First offense</u> - Imprisonment for not more than <b>10 days</b> and/or a fine of not more than <b>\$100</b> ; <u>Second offense</u> (within 1 year) - Imprisonment for not more than <b>20 days</b> and/or a fine of not more than <b>\$200</b> ; <u>Third and subsequent offense</u> (within 1 year) - Imprisonment for not more

<sup>194</sup> 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.

	<p>than <b>6 months</b> and/or a fine of not more than <b>\$500</b>. MS ST § 63-7-64; MS ST § 63-9-11.</p> <p>All offenders are subject to an assessment of <b>\$75.50</b>. 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).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	MISSOURI
General Reference:	Missouri Revised Statutes
Required Use of Seat Belts:	See note <sup>195</sup>
Requirements:	I. When a passenger car <sup>196</sup> is in operation, every driver, front seat passenger, and person younger than 18 years while operating or riding in a truck <sup>197</sup> shall wear a safety belt. MO ST § 307.178(2).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Infraction:</b> A fine of not more than <b>\$10</b> . 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 safety 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 percent of the damages awarded after any reductions for comparative negligence. MO ST § 307.178(4).
Required Use of Child Safety Restraint Systems:	See note <sup>198</sup>

<sup>195</sup> **Exemptions:** The requirement to use a safety 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 safety 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 safety 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).

<sup>196</sup> 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).

<sup>197</sup> A "truck" is defined as a motor vehicle designed, used, or maintained for the transportation of property. MO ST § 301.010(61).

<sup>198</sup> **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.

<p>Requirements:</p>	<p>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:</p> <p>I. Children less than 4 years old regardless of weight = child passenger restraint system;</p> <p>II. Children who weigh less than 40 lbs., regardless of age = child passenger restraint system;</p> <p>III. Children who are at least 4 years old but less than 8, who also weigh at least 40 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;</p> <p>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.</p> <p>MO ST § 307.179(2).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p><b>Infraction:</b> For I-III above, a fine of not more than <b>\$50</b> and court costs. MO ST § 307.179(3).                  For IV above, a fine of not more than <b>\$10</b> 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.</p>
<p>Effect on Civil Liability:</p>	<p>Failure to wear a safety 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 safety belt contributed to the injuries claimed; or (2) if the trier of fact finds that failure to wear a safety belt contributed to the claimed injuries.</p> <p>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).</p>
<p><u>Required Use of Safety Restraining Systems on School Buses:</u></p>	
<p>Requirements:</p>	<p>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).</p>
<p>Sanctions:</p>	<p><b>None</b></p>

<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	Every rider or passenger of a motorcycle or motor-tricycle upon any highway shall wear state approved protective headgear. MO ST § 302.020(2).
Sanctions for Failure to Use:	<b>Infraction:</b> A fine of not more than <b>\$25</b> . 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.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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 <b>Class C Misdemeanor</b> : imprisonment for <b>30 days or less</b> and/or a fine of not more than <b>\$300</b> . 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.



<p>Exemptions:</p>	<p>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).</p>
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STATE	MONTANA
General Reference:	Montana Code Annotated
Required Use of Seat Belts:	See note <sup>199</sup>
Requirements:	A motor vehicle cannot be operated unless the driver and every passenger of a designated seating position is wearing a safety belt. MT ST § 61-13-103(1).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <b>\$20</b> . 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). <b>Note:</b> 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 <sup>200</sup>
Requirements:	A child under 6 years of age and weighing less than 60 lbs., who is a passenger in a motor vehicle, <sup>201</sup> must be secured in a federally approved child restraint. MT ST § 61-9-420(1), (3). <sup>202</sup>

<sup>199</sup> **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).

<sup>200</sup> **Exemptions:** These requirements do not apply to children who, for physical or medical reasons, cannot use child restraint systems or safety belts. MT ST § 61-9-420(3).

<sup>201</sup> The term "motor vehicle" does not include motorbus, school bus, taxicab, moped, quadricycle, motorcycle, any vehicle that is not required to have a safety 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.

<sup>202</sup> The Department shall, by rule, establish standards in compliance with the child safety restraint laws and

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Misdemeanor:</b> A fine of not more than <b>\$100</b> . 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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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 safety belts for school bus drivers.
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	I. An operator and passenger under 18 years of age of a motorcycle or quadricycle <sup>203</sup> operated on the streets or highways shall wear state approved protective headgear. MT ST § 61-9-417(1). 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 <b>\$5</b> . MT ST § 61-9-518(1).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

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.

<sup>203</sup> 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(51).

STATE	NEBRASKA
General Reference:	Nebraska Revised Statutes of 1943
Required Use of Seat Belts:	See note <sup>204</sup>
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 (safety belt). NE ST § 60-6,265; NE ST § 60-6,270(1).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Traffic Infraction:</b> A fine of \$25. <sup>205</sup> However, no court costs can be assessed and no points can be assessed against a person's driving record. NE ST § 60-4,182(13); 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 <sup>206</sup>

<sup>204</sup> **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).

<sup>205</sup> Regardless of the number of violations occurring at one time, a driver can only be cited for one offense. NE ST § 60-6,272.

<sup>206</sup> **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).

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)(a). 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 (safety belt). NE ST § 60-6,265; NE ST § 60-6,267(1)(b).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Infraction:</b> First offense – A fine of <b>\$25</b> and no points can be assessed against a person's driving record. NE ST § 60-6,268(1); NE ST § 60-4,182(13).
Effect on Civil Liability:	A violation of this requirement shall not constitute <i>prima facie</i> 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 injures. NE ST § 60-6,269.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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 <b>\$100</b> 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.
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	A person shall not operate or ride on a motorcycle or moped unless wearing a federally approved protective helmet. NE ST § 60-6,279; NE ST § 60-6,280; NE ST § 60-6,281.
Sanctions for Failure to Use:	<b>Traffic Infraction:</b> A fine of <b>\$50</b> . NE ST § 60-688; NE ST § 60-6,282. No points are assessed against a person's driving record. NE ST § 60-4,182(13).

<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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	NEVADA
General Reference:	Title 43, Nevada Revised Statutes Nevada Administrative Code (NV ADC)
Required Use of Seat Belts:	See notes <sup>207, 208</sup>
Requirements:	See note <sup>209</sup> 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 safety belt. NV ST § 484.641.
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 § 484.641(3).
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Misdemeanor:</b> A fine of not more than <b>\$25</b> or a sentence to perform community service. <sup>210</sup> NV ST § 484.999(1); NV ST § 484.641(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 <b>6 months</b> in jail and/or a fine of not more than <b>\$1000</b> . NV ST § 484.999; NV ST § 193.150. A violation of this requirement is not a moving violation for license sanctioning purposes. NV ST §

<sup>207</sup> **Exemptions:** The requirement to use a safety belt does not apply: (1) to persons who are unable to wear a safety 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 safety 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 § 484.641(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 § 484.641(5).

<sup>208</sup> 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 safety belt if one is available for that seating position. Exceptions to this requirement include: (1) passengers who are unable to wear a safety 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 safety 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 safety belt requirement. NV ST § 484.641(5).

<sup>209</sup> 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 safety belt assemblies; (2) January 1, 1970, on a highway unless it is equipped with a lap-type safety 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 safety belt assemblies. NV ST § 484.641(1).

<sup>210</sup> 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 § 484.641(3).

	484.641(4)(A). 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 or as causation in any civil action or as negligence or reckless driving. NV ST § 484.641(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 § 484.641(4)(c).
Required Use of Child Safety Restraint Systems:	See note <sup>211</sup>
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 § 484.641(3); NV ST § 484.474(1).
Sanctions for Failure to Require the Use of Child Restraint Systems:	See note <sup>212</sup> <b>Misdemeanor:</b> A person who violates these requirements shall be: (1) <u>First offense</u> : ordered to pay a fine of not less than <b>\$100</b> or more than <b>\$500</b> or perform not less than 10 hours or more than 50 hours of community service; (2) <u>Second offense</u> : ordered to pay a fine of not less than <b>\$500</b> or more than <b>\$1000</b> or perform not less than 50 hours or more than 100 hours of community service; (3) <u>Third or subsequent offense</u> : 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

<sup>211</sup> **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 § 484.474(7).

<sup>212</sup> 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 safety belt; (b) integrated child seats; and (c) safety belts that are designed specifically to be adjusted to accommodate children. NV ST § 484.474(8).



	<p>service for a first-time offender, and reduce by one-half the fine or community service for a second-time offender.<sup>213</sup> NV ST § 484.474(2), (3).</p> <p>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 <b>6 months</b> in jail and/or a fine of not more than <b>\$1000</b>. NV ST § 484.999; NV ST § 193.150.</p> <p>No demerit points shall be assessed. NV ADC § 483.510.</p>
Effect on Civil Liability:	<p>A violation of this requirement may not be considered as negligence in any civil action or as negligence or reckless driving. NV ST § 484.474(6).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p><b>None.</b> Section 484.641 specifically excludes school buses from the group of motor vehicles in which passengers are required to wear safety belts. There are no statutory provisions elsewhere in the Nevada statutes.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>A person operating or riding on a motorcycle shall wear state approved protective headgear. This requirement does not apply to persons operating or riding on tri-mobiles or mopeds. NV ST § 486.231(1), (2).</p>
Sanctions for Failure to Use:	<p><b>Misdemeanor:</b> A term of imprisonment of not more than <b>6 months</b> and/or a fine of not more than <b>\$1,000</b>.<sup>214</sup> NV ST § 193.150(1); NV ST § 486.381. Two points are assessed against a person's driving record. NV ADC § 483.510.</p>

<sup>213</sup> 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.

<sup>214</sup> 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).

<u>Required Use of Motorcycle Eye Protection Device:</u>	See note <sup>215</sup>
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:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>6 months</b> and/or a fine of not more than <b>\$1,000</b> . NV ST § 193.150(1); NV ST § 486.381. Two points are assessed against a person's driving record. NV ADC § 483.510.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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 § 484.473(1), (2)(a).
Sanctions for a Violation:	<b>Misdemeanor:</b> A fine of at least <b>\$35</b> but not more than <b>\$100</b> . 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 § 484.473(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 § 484.473(2)(b).

<sup>215</sup> 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).

STATE	NEW HAMPSHIRE
General Reference:	Revised Statutes Annotated of New Hampshire
Required Use of Seat Belts:	See note <sup>216</sup>
Requirements:	I. No person shall drive a motor vehicle unless all passengers under the age of 18 are wearing a seat or safety 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 safety belt. NH ST § 265:107-a I-a.
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>217</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	First offense – A fine of <b>\$50</b> ; Second or subsequent offense – A fine of <b>\$100</b> . NH ST § 265:107-a III. <sup>218</sup>
Effect on Civil Liability:	A violation of these requirements shall not be used as evidence of contributory negligence in any civil action. <sup>219</sup> NH ST § 265:107-a IV.
<u>Required Use of Child Safety Restraint Systems:</u>	
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.

<sup>216</sup> **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 safety 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.

<sup>217</sup> 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).

<sup>218</sup> 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.

<sup>219</sup> 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).

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Violation:</b> First offense – A fine of <b>\$50</b> ; Second or subsequent offense - A fine of <b>\$100</b> . NH ST § 265:107-a III.
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. <sup>220</sup>
Sanctions for Failure to Use:	<b>Violation:</b> <sup>221</sup> A fine of not more than <b>\$1000</b> . <sup>222</sup> 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:	<b>Violation:</b> A fine of not more than <b>\$1,000</b> . NH ST § 265:2; NH ST § 625:9 V; NH ST § 651:2 IV (a).

<sup>220</sup> However, NH ST § 265:122 III states that "If federal 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 federal 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.

<sup>221</sup> 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.

<sup>222</sup> 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.

<u>Required Use of Bicycle Protective Headgear:</u>	
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:	<b>Violation:</b> A fine of not more than <b>\$35</b> .
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b> <sup>223</sup>

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<sup>223</sup> 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	NEW JERSEY
General Reference:	New Jersey Statutes Annotated New Jersey Administrative Code (NJ ADC)
Required Use of Seat Belts:	See note <sup>224</sup>
Requirements:	I. Any driver operating a passenger automobile on a street or highway, along with all front seat passengers must wear a safety seat belt. NJ ST § 39:3-76.2f. II. All passengers who are 7 years of age and younger and weigh more than 80 lbs., and all passengers ages 8 to 18 must wear a safety seat belt when the passenger automobile is being operated on a street or highway. The driver is responsible for securing or causing to be secured in a safety seat belt system, each of these passengers. <sup>225</sup> NJ ST § 39:3-76.2f.
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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 <sup>226</sup> Violation: A fine of <b>\$20</b> . Neither drivers licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation of the requirements in I or II above. 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 safety 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

<sup>224</sup> **Exemptions:** The requirement to use a safety 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 safety 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.

<sup>225</sup> Effective January 2011, all passengers, regardless of age, shall be restrained in a safety seat belt system.

<sup>226</sup> **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., safety belt usage, child passenger protection, motorcycle helmets, etc.) are codified in Title 39.

	<p>determined that the damages to be reduced could have been avoided by using a safety belt. <i>Waterson v. General Motors Corp.</i>, 544 A.2d 357 (N.J. 1988).<sup>227</sup></p> <p>The law establishing these safety 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.</p>
<u>Required Use of Child Safety Restraint Systems:</u>	
Requirements:	<p>See note<sup>228</sup></p> <p>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.</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Violation:</b> A fine of not less than <b>\$10</b> or more than <b>\$25</b>. 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.</p>
Effect on Civil Liability:	<p>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.</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>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.</p> <p>II. Each passenger who is riding in a school bus equipped with safety belts shall wear such a belt when the vehicle is in operation. NJ ST § 39:3B-11.</p>

<sup>227</sup> Evidence of safety 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 safety 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 dram shop served herself the drinks, violated the dram shop's drinking policy and was educated in alcohol management).

<sup>228</sup> This requirement only applies to persons who are operating motor vehicles that are equipped with safety belts. NJ ST § 39:3-76.2a.

	<p>III. A child who is riding in a school bus equipped with safety belts must be secured in a Federal approved child restraint system. NJ ST § 39:3B-11.</p> <p><b>Note:</b> This statutory provision does not provide for either age or weight limitations related to child restraint usage.</p>
Sanctions:	<p><b>Violation:</b> A fine of not more than <b>\$50</b> and/or imprisonment for a term not to exceed <b>30 days</b>. NJ ST § 39:3B-6.</p> <p><b>Effect on Civil Liability:</b> 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.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	A person operating or riding on a motorcycle <sup>229</sup> must wear a state approved protective helmet. NJ ST § 39:3-76.7(a).
Sanctions for Failure to Use:	<p>I. For the motorcycle operator carrying a passenger in violation of the requirement - A fine of not less than <b>\$50</b> or more than <b>\$100</b>. NJ ST § 39:3-76.5(a).</p> <p>II. For the motorcycle passenger in violation of this requirement – A fine of not more than <b>\$25</b>. 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).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Violation:</b> A fine of not more than <b>\$25</b> . NJ ST § 39:3-79. There is no provision allowing for the assessment of points for a violation. NJ ST § 13:19-10.1.

<sup>229</sup> 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.



<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>230</sup>
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. <sup>231</sup> NJ ST § 39:4-10.2(a). 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 <b>\$25</b> and for a subsequent offense be subject to a fine of not more than <b>\$100</b> . 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.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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. <sup>232</sup> 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:	<b>Violation:</b> A penalty of not more than <b>\$50</b> and/or imprisonment for a term of not more than <b>15 days</b> . NJ ST § 39:4-203.3. There is no provision allowing for assessment of points for a violation. NJ ADC § 13:19-10.1.

<sup>230</sup> **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).

<sup>231</sup> Under separate provisions of law, a violator also may be subject to a fine of not more than **\$10**. NJ ST § 39:4-203.3.

<sup>232</sup> 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).

Exemptions:	The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. NJ ST § 39:4-69.
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STATE	NEW MEXICO
General Reference:	New Mexico Statutes Annotated New Mexico Administrative Code (NM ADC)
<u>Required Use of Seat Belts:</u>	See note <sup>233</sup>
Requirements:	I. When a motor vehicle <sup>234</sup> is in operation, all occupants (driver and passengers) shall wear safety belts. NM ST § 66-7-372(A).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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:	<b>Misdemeanor:</b> A fine of <b>\$25</b> . 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).
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>235</sup>
Requirements:	I. A person shall not operate a passenger car, van or pickup truck <sup>236</sup> 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 safety belt, as follows: (1) Less than 1 year of age = rear-facing child passenger restraint in the rear seat of a vehicle; <sup>237</sup> (2) Between 1 and 4 years old (regardless of weight) or less than 40 lbs., (regardless of age) = child passenger restraint device;

<sup>233</sup> **Exemptions:** The requirement to wear a safety belt does not apply to persons possessing a written statement from a licensed physician stating the medical reasons for not wearing a safety belt, and to rural letter carriers of the U.S. Postal Service while performing official duties. NM ST § 66-7-372(B).

<sup>234</sup> The term "motor vehicle" refers to a motor vehicle having a gross vehicle weight of 10,000 lbs., or less manufactured with federally approved safety belts. NM ST § 66-7-372(A).

<sup>235</sup> **Exemptions:** The requirement to use either a child passenger restraint system or a safety 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).

<sup>236</sup> 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).

<sup>237</sup> 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).

	(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. <sup>238</sup> NM ST § 66-7-369(B).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Misdemeanor:</b> A fine of <b>\$25</b> . NM ST § 66-8-7; 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 safety belt shall not constitute fault or negligence in any instance, and shall not limit or apportion damages. NM ST § 66-7-369(B); 66-7-373(A).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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 <b>\$25</b> . NM ST § 66-8-7; 66-8-116(A). In addition, a person’s driving record is assessed two points. NM ADC 18.19.5(52)(G).
<u>Required Use of Motorcycle Protective Headgear:</u>	
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. <sup>239</sup> NM ST § 66-7-356(A).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>90 days</b> and/or a fine of not more than <b>\$300</b> . NM ST § 66-8-7(A), (B).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	Unless a motorcycle has a fixed windshield, a motorcycle operator shall wear a State-approved eye protection device. NM ST § 66-7-

<sup>238</sup> “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).

<sup>239</sup> Failure to wear a safety helmet in compliance with the law shall not constitute contributory negligence. NM ST § 66-7-356(B).

	355(B).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>90 days</b> and/or a fine of not more than <b>\$300</b> . NM ST § 66-8-7(A), (B). The law does not assign points for a violation of this requirement.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	NEW YORK
General Reference:	McKinney's Consolidated Laws of NY (Vehicle and Traffic Law ) New York Code of Rules and Regulations (NY ADC)
<u>Required Use of Seat Belts:</u>	See note <sup>240</sup>
Requirements:	No person shall operate a motor vehicle unless such person is restrained by a state approved safety belt. NY VEH & TRAF § 1229-c(1).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> No statutory provision. <sup>241</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Civil Fine:</b> A fine of not more than <b>\$50</b> .
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).
<u>Required Use of Child Safety Restraint Systems:</u>	See notes <sup>242, 243</sup>
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 safety 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 safety belt if a combination lap/shoulder harness belt is being used; 3. Ages 4-6 = appropriate child restraint system used with combination lap safety and shoulder harness belts or lap safety

<sup>240</sup> **Exemptions:** The requirements to use a safety belt do not apply to: (1) persons who for physical or medical conditions cannot use a safety 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).

<sup>241</sup> A law enforcement officer observing a violation of the seat belt law may stop the vehicle. *People v. Robinson*, 38 A.D.3d. 572 (N.Y.S. 2007).

<sup>242</sup> **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).

<sup>243</sup> 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 safety 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.

	<p>belt if a combination lap/shoulder harness belt is not available;</p> <p>4. Under the age of 16 = safety belt. NY VEH &amp; TRAF § 1229-c(1).</p> <p>II. Front seat passengers:</p> <p>1. Under the age of 16 = safety belt;</p> <p>2. Under the age of 4 = seat permanently affixed or affixed by a safety belt;</p> <p>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 safety belt if a combination lap/shoulder harness is not available;</p> <p>4. Ages 4-6 = child restraint system used with combination lap safety and shoulder harness belts or lap safety belt if a combination lap/shoulder harness is not available. NY VEH &amp; TRAF § 1229-c(2).</p> <p>III. No person age 16 or over shall be a passenger in the front seat of a motor vehicle unless restrained by a safety belt. NY VEH &amp; TRAF § 1229-c(3).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>I-II. <b>Civil Fine:</b> A fine of not less than <b>\$25</b> or more than <b>\$100</b>.</p> <p>III. <b>Civil Fine:</b> A fine not to exceed <b>\$50</b>.</p> <p>The fine for a first violation involving a child under the age of 7 is waived with proof of child restraint system acquisition. NY VEH &amp; 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).</p>
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 <sup>244</sup>
Requirements:	<p>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 &amp; TRAF § 1229-c(11).</p> <p>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 safety belt, or for children age 4-6, restrained with a combination lap safety and shoulder harness belts. NY VEH &amp; TRAF § 1229-c(13).</p>

<sup>244</sup> Any school bus which is scheduled for retrofitting shall be done in a manner so that all passenger seats are equipped with seat safety belts. NY VEH & TRAF § 383(5)(b).

Sanctions:	<b>Civil Fine:</b> A fine not less than <b>\$25</b> or more than <b>\$100</b> . Three points shall be assessed. 15 NY ADC 131.3(b)(6)(vi).
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>245</sup>
Requirements:	Any person who operates or rides on a motorcycle <sup>246</sup> shall wear a State-approved protective helmet. <sup>247</sup> NY VEH & TRAF § 381(6).
Sanctions for Failure to Use:	Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$100</b> . NY VEH & TRAF § 381(13).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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 <b>30 days</b> and/or a fine of not more than <b>\$100</b> . NY VEH & TRAF § 381(13).
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>248</sup>
Requirements:	I. A person under the age of 14 who operates a bicycle or a scooter shall wear a state approved helmet. <sup>249</sup> NY VEH & TRAF § 1238(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. <b>Note:</b> The above requirements do not apply where a county, city,

<sup>245</sup> 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).

<sup>246</sup> 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).

<sup>247</sup> 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).

<sup>248</sup> **Other Requirements.** I. A person is prohibited from transporting a child under 1 year old on a bicycle. This prohibition includes carrying such a child in a pack fastened to the operator. There is no sanction for a first violation of this prohibition. However, for a second violation, an offender is subject to a civil fine of not more than **\$50**. NY VEH & TRAF § 1238(1).

<sup>249</sup> 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).



	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).
Sanctions for Failure to Use:	<b>Civil Fine:</b> A fine of not more than <b>\$50</b> . <sup>250</sup> 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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	I. An auto truck cannot be operated more than 5 miles if more than one-third of the vehicle’s passengers are standing. <sup>251</sup> 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. <b>Note:</b> 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:	<b>Traffic Infraction:</b> First offense – A term of imprisonment of not more than <b>15 days</b> and/or a fine of not more than <b>\$150</b> ; Second offense (within 18 months) – A term of imprisonment of not more than <b>45 days</b> and/or a fine of not more than <b>\$300</b> ; Third or subsequent offense (within 18 months) - A term of imprisonment of not more than <b>90 days</b> and/or a fine of not more than <b>\$450</b> . 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).

<sup>250</sup> 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.

<sup>251</sup> This requirement does not apply if the truck has suitable seats that are attached to the vehicle's body, side racks of a least three 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 <sup>252</sup>
Requirements:	When a passenger motor vehicle is in forward motion, the driver and all passengers shall wear safety belts. NC ST § 20-135.2A(a).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> However, failure of a <i>rear seat</i> 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:	<b>Infraction:</b> A driver or front seat passenger shall pay a penalty of <b>\$25.50</b> plus court costs. A rear-seat occupant shall pay a penalty of <b>\$10</b> 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 <sup>253</sup>
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 safety 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;

<sup>252</sup> **Exemptions:** The requirement to use a safety belt shall not apply to: (1) persons who for physical or medical reasons cannot appropriately use a safety 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 safety 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).

<sup>253</sup> **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).

	<p>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).<sup>254</sup> NC ST § 20-137.1(a)(1).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Infraction:</b> A “penalty” not to exceed <b>\$25</b> (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).</p> <p>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).</p>
Effect on Civil Liability:	<p>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).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>There are no statutory provisions.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	<p><i>See note</i><sup>255</sup></p>
Requirements:	<p>No person shall operate or ride on a motorcycle or moped unless wearing federally approved safety helmets. NC ST § 20-140.4(a)(2).</p>
Sanctions for Failure to Use:	<p><b>Infraction:</b> A fine of <b>\$25.50</b> 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).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<p><b>None</b></p>

<sup>254</sup> If no seating position is equipped with a lap and shoulder belt to properly secure the weight-appropriate child 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(a)(1).

<sup>255</sup> 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).

<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	A parent or legal guardian of a person less than 16 years old shall not knowingly permit such person to operate or ride as a passenger on a bicycle <sup>256</sup> unless wearing a protective bicycle helmet. NC ST § 20-171.9(a).
Sanctions for Failure to Use:	<b>Infraction:</b> A civil fine of up to <b>\$10</b> (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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	A person shall not transport a child younger than 12 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:	<b>Infraction:</b> A “penalty” of not more than <b>\$25</b> . 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 safety 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).

<sup>256</sup> 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 <sup>257</sup>
Requirements:	Drivers and front seat passengers must wear safety belts when a motor vehicle <sup>258</sup> is in operation. ND ST § 39-21-41.4.
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Non-Criminal Fee:</b> A fine of not more than <b>\$20</b> . ND ST § 39-06.1-06(8); ND ST § 39-21-46(1). 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 safety 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 <sup>259</sup>
Requirements:	I. When a motor vehicle <sup>260</sup> is in motion, a passenger 6 years old and younger, 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).

<sup>257</sup> **Exemptions:** The requirement to wear a safety belt does not apply to: (1) drivers of implements of husbandry or farm vehicles; (3) rural mail carriers while on duty delivering mail; (4) persons who for physical or medical reasons cannot use a safety belt, provided they possess a written statement by a qualified physician listing the nature of the condition and the reason restraint is inappropriate; and (5) persons who cannot use a safety belt because all of the available belts are already in use. ND ST § 39-21-41.4.

<sup>258</sup> The term “motor vehicle” applies only to motor vehicles that were designed to carry fewer than 11 persons and originally manufactured with safety belts. ND ST § 39-21-41.4.

<sup>259</sup> **Exemptions:** The requirement to use either a child restraint system or a safety belt does not apply when a child is being transported in an emergency situation. ND ST § 39-21-41.2(1).

<sup>260</sup> The term “motor vehicle” does not include a motor vehicle that was not equipped with safety belts when it was manufactured. ND ST § 39-21-41.2(1).

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Non-Criminal Fee:</b> A fine of not more than <b>\$25</b> . ND ST § 39-06.1-06(2)(c); ND ST § 39-21-46(1). The law assigns two points for a violation of these requirements. ND ST § 39-06.1-10(3)(a)(34).
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	There is no specific statutory provision. However, only passenger vehicles of 11-passenger capacity or less are required to be equipped with safety belts. ND ST § 20-135.2.
<u>Required Use of Motorcycle Protective Headgear:</u>	<i>See note</i> <sup>261</sup>
Requirements:	No person under the age of 18 may operate or ride on a motorcycle unless wearing state approved protective headgear. 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:	<b>Infraction:</b> <u>First offense</u> – A fine of not more than <b>\$500</b> ; <u>Second or subsequent offense</u> (within 1 year) (Class B misdemeanor) – Not more than <b>30 days</b> and/or a fine of not more than <b>\$1000</b> . ND ST § 12.1-32-01(6), (7); ND ST § 39-07-06. A person violating this requirement is assessed two points against the driver's license record. ND ST § 39-06.1-10(3)(a)(28).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>

<sup>261</sup> 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).

Prohibition Against Riding in Unsecured Portion of Vehicle:	
Requirements:	<b>None</b>

STATE	OHIO
General Reference:	Ohio Revised Code Annotated
Required Use of Seat Belts:	See note <sup>262</sup>
Requirements:	I. No person shall operate an automobile <sup>263</sup> unless wearing a safety belt. <sup>264</sup> OH ST § 4513.263(B)(1). II. A person shall not operate an automobile unless all front seat passengers are wearing safety belts. OH ST § 4513.263(B)(2), (3).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <sup>265</sup> above is subject to a fine of <b>\$30. (Minor Misdemeanor)</b> . OH ST § 2901.02(G); OH ST § 4513.99; OH ST § 4513.263(F). II. A passenger who violates II above is subject to a fine of <b>\$20. (Minor Misdemeanor)</b> . OH ST § 2901.02(G); OH ST § 4513.99; 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). <sup>266</sup>
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

<sup>262</sup> **Exemptions:** The requirement to use a safety 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).

<sup>263</sup> The term "automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to have safety belts under Federal law. OH ST § 4513.263(A)(1).

<sup>264</sup> The law refers to a safety belt as an "occupant restraining device." OH ST § 4513.263(A)(2).

<sup>265</sup> **Note:** The law is not clear as to whether there is a penalty for a violation of II. The penalty provision of the law, OH ST § 4513.99, does not provide a specific sanction for a violation of this requirement. However, the sanction for any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is a fine not exceeding **\$150**, community service or a financial sanction. OH ST § 2901.02(G)(2).

<sup>266</sup> "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).



	<p>the requirements.</p> <p>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).</p>
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>267</sup>
Requirements:	<p>I. The operator of a motor vehicle<sup>268</sup> 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).</p> <p>II. Any child, age 4-15, transported shall be properly restrained in a child restraint system or seat belt. OH ST § 4511.81(C).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p>First offense (<b>Minor Misdemeanor</b>) - A fine of not less than <b>\$25</b> or more than <b>\$75</b>;</p> <p>Second or subsequent offense (<b>4<sup>th</sup> Degree Misdemeanor</b>) – Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$250</b>.</p> <p>OH ST § 4511.81(L); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).</p>
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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>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).</p> <p>II. No person, school board, or governmental entity shall purchase, lease or rent a new school bus less the school bus has safety belts installed for use in its operator’s seat. OH ST § 4511.772(A).</p>

<sup>267</sup> **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).

<sup>268</sup> 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).

Sanctions:	<p>For a violation of I above:</p> <p>First offense (<b>Minor Misdemeanor</b>) – a fine of not less than <b>\$25</b>;  Second or subsequent offense (<b>4<sup>th</sup> Degree Misdemeanor</b>) – imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$250</b>. OH ST § 4511.81(J); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).</p> <p>For a violation of II above, a fine of not more than <b>\$150</b>.  OH ST § 4511.772(B); OH ST § 2929.28(A)(2)(a).</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>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).</p> <p>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).</p> <p>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).</p>
Sanctions for Failure to Use:	<p>First offense (<b>Minor Misdemeanor</b>) - A fine of not more than <b>\$150</b>;  Second offense (within 1 year) (<b>4<sup>th</sup> Degree Misdemeanor</b>) - Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$250</b>;  Third or subsequent offense (within 1 year) (<b>3<sup>rd</sup> Degree Misdemeanor</b>) - Imprisonment for not more than <b>60 days</b> and/or a fine of not more than <b>\$500</b>.  OH ST § 4511.53(D); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).</p> <p>No points are to be assessed against person's driving record for a violation of the above requirements. OH ST § 4510.036(C)(13).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<p>No person shall operate or ride on a motorcycle without using safety glasses or other protective eye device.  OH ST § 4511.53(B).</p>

Sanctions for Failure to Use:	<p><u>First offense (Minor Misdemeanor)</u> - A fine of not more than <b>\$150</b>;  <u>Second offense (within 1 year) (4<sup>th</sup> Degree Misdemeanor)</u> - Imprisonment for not more than <b>30 days</b> and/or a fine of not more than <b>\$250</b>.  <u>Third or subsequent offense (within 1 year) (3<sup>rd</sup> Degree Misdemeanor)</u> - Imprisonment for not more than <b>60 days</b> and/or a fine of not more than <b>\$500</b>. OH ST § 4511.53(D); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).</p> <p>No points are to be assessed against person's driving record for a violation of the above requirements.  OH ST § 4510.036(C)(13).</p>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<p>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).</p> <p>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).</p> <p>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).</p>

Sanctions for a Violation:	<p>A violation of the requirements in I and II above is a <b>Minor Misdemeanor</b>: A fine of not more than <b>\$100</b>. OH ST § 2929.21(D); OH ST § 4511.51(G)(1).</p> <p>The following sanctions apply for a violation of III above. First offense (<b>Minor Misdemeanor</b>) - A fine of not more than <b>\$150</b>; Second offense (within 1 year) (<b>4<sup>th</sup> Degree Misdemeanor</b>) - A jail term of not more than <b>30 days</b> and/or a fine of not more than <b>\$250</b>;</p> <p>Third or subsequent offense (within 1 year) (<b>3<sup>rd</sup> Degree Misdemeanor</b>) - A jail term of not more than <b>60 days</b> and/or a fine of not more than <b>\$500</b>.</p> <p>OH ST § 4511.51(G); OH ST § 2929.24(A); OH ST § 2929.28(A)(2)(a).</p> <p>No points are to be assessed against person's driving record for a violation of the above requirements. OH ST § 4510.036(C)(13).</p>
Exemptions:	<p>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 safety 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).</p> <p>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).</p> <p>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).</p>

STATE	OKLAHOMA
General Reference:	Oklahoma Statutes Annotated
Required Use of Seat Belts:	See note <sup>269</sup>
Requirements:	When a passenger car <sup>270</sup> 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:	<b>Primary Enforcement:</b> 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. <sup>271</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Misdemeanor:</b> 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 safety 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 <sup>272</sup>

<sup>269</sup> **Exemptions:** The requirement to use a safety 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).

<sup>270</sup> The safety belt requirement applies to motor vehicles that are required to have safety 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).

<sup>271</sup> See *U.S. v. Favela Favela*, 2002 WL 532416 (10th Cir. 2002)(unpublished). In this case, the 10<sup>th</sup> 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 specifically permits a law enforcement officer to stop a vehicle if it appears that the driver has violated the child safety restraint requirements.

<sup>272</sup> **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 safety belts; (2) a driver of an ambulance or emergency vehicle; (3) a driver where all of the available safety belts are in use; and (4) children who for medical reasons are unable to use either a child restraint system or a safety 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 safety belt. OK ST Title 47 § 11-1112(B). III. A child who weighs more than 40 lbs., transported in the <i>back seat</i> of a vehicle, may wear a lap safety 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:	<b>Misdemeanor:</b> A fine of <b>\$50</b> plus court costs. Such fine shall be suspended and court costs limited to a maximum of <b>\$15</b> 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	See note <sup>273</sup> The operator of a school bus shall wear a safety belt when such vehicle is in motion.
Sanctions:	<b>Misdemeanor:</b> A fine of not less than <b>\$25</b> or more than <b>\$100</b> ; OK ST Title 70 § 24-121; OK ST Title 47 § 17-101(A).
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	No person under the age of 18 shall operate or ride upon any motorcycle unless wearing a federally approved crash helmet. OK ST Title 47 § 12-609(B).

<sup>273</sup> 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.”

Sanctions for Failure to Use:	<b>Misdemeanor:</b> A fine of not less than <b>\$5</b> or more than <b>\$500</b> or; First offense - A term of imprisonment of not more than <b>10 days</b> ; Second offense (within 1 year after the first conviction) – A term of not more than <b>20 days</b> ; Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than <b>6 months</b> and/or a fine of not less than <b>\$20</b> or more than <b>\$500</b> . OK ST Title 47 § 17-101(C).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Misdemeanor:</b> A fine of not less than <b>\$5</b> or more than <b>\$500</b> or; First offense - A term of imprisonment of not more than <b>10 days</b> ; Second offense (within 1 year after the first conviction) – A term of not more than <b>20 days</b> ; Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than <b>6 months</b> and/or a fine of not less than <b>\$20</b> or more than <b>\$500</b> . OK ST Title 47 § 17-101(C).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	When operating an electric-assisted bicycle, <sup>274</sup> 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:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>6 months</b> and/or a fine of not less than <b>\$20</b> or more than <b>\$500</b> . OK ST Title 47 § 17-101(C).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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).

<sup>274</sup> 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:	<b>Misdemeanor:</b> A fine of <b>\$10</b> plus court costs of <b>\$15</b> . 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	OREGON
General Reference:	Oregon Revised Statutes
Required Use of Seat Belts:	See note <sup>275</sup>
Requirements:	<p>I. A person operating a motor vehicle on the highways must be properly secured with a safety belt or safety harness. OR ST § 811.210(1)(a).</p> <p>II. A driver cannot operate a motor vehicle unless all passengers younger than 16 years old are secured in safety belts, child safety systems or safety harnesses. OR ST § 811.210(1)(d).</p> <p>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 safety belt or safety harness, and must secure any passenger for whom they are responsible in a child safety system. OR ST § 811.210(1)(g), (h).</p>
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> There is no statutory provision. <sup>276</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Class D Traffic Violation:</b> <sup>277</sup> A fine of not more than <b>\$90</b> . OR ST § 153.018(2)(d); OR ST § 801.557; OR ST § 811.210(4).
Effect on Civil Liability:	Evidence of nonuse of a safety belt or harness may be admitted only to mitigate the injured party's damages. The mitigation of damages shall not exceed 5 percent of the damages that would have otherwise been awarded. OR ST § 31.760(1). However, this restriction does not apply if

<sup>275</sup> **Exemptions:** The requirements to use a safety 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 safety 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 safety 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 safety 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.

<sup>276</sup> 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).

<sup>277</sup> 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.

	nonuse of a safety belt was a substantial or contributing cause of the accident which resulted in the personal injuries. OR ST § 31.760(2).
<u>Required Use of Child Safety Restraint Systems:</u>	
Requirements:	<p>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).</p> <p>II. A person weighing 40 lbs., or less = child safety system. OR ST § 811.210(2)(b).</p> <p>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 safety belt or harness properly fits the person.<sup>278</sup> 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).</p> <p>IV. A person who is taller than 4 feet 9 inches = safety belt or safety harness. OR ST § 811.210(2)(d).</p> <p>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 safety belt or harness. OR ST § 811.210(2)(e).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Class D Traffic Violation:</b> A fine of not more than <b>\$90</b> . OR ST § 153.018(2)(d); OR ST § 801.557; OR ST § 811.210(4)
Effect on Civil Liability:	<p>Evidence of nonuse of a safety belt or harness may be admitted only to mitigate the injured party's damages. The mitigation of damages shall not exceed 5 percent of the damages that would have otherwise been awarded.</p> <p>OR ST § 31.760(1). However, this restriction does not apply if nonuse of a safety belt was a substantial or contributing cause of the accident which resulted in the personal injuries. OR ST § 31.760(2).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	There are no statutory provisions.
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>279</sup>

<sup>278</sup> "Proper fit" means "the lap belt of the safety 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).

<sup>279</sup> The requirement to wear a motorcycle helmet does not apply if: (1) the person is riding in an enclosed cab; or

Requirements:	<p>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).</p> <p>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).</p>
Sanctions for Failure to Use:	<p>I. A violation of the requirements in I above:  <b>Class D Traffic Violation:</b> A fine of not more than <b>\$90</b>. 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).</p> <p>II. A violation of the requirement in II above:  <b>Traffic Violation:</b> A maximum fine of <b>\$25</b>. OR ST § 814.534(4).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>280</sup>
Requirements:	<p>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.<sup>281</sup> OR ST § 814.485(1).</p> <p>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).</p> <p>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).</p>
Sanctions for Failure to Use:	<b>Traffic Infraction (Violation):</b> A fine of not more than <b>\$25</b> . <sup>282, 283</sup> OR ST § 801.557; OR ST § 814.485(3); OR ST § 814.486(3).

(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.

<sup>280</sup> 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.

<sup>281</sup> 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.

<p><u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u></p>	
<p>Requirements:</p>	<p>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.</p>
<p>Sanctions for a Violation:</p>	<p><b>Class B traffic violation:</b> A fine not to exceed <b>\$360</b>. OR ST § 153.018(2).</p>
<p>Exemptions:</p>	<p>This requirement does not apply: (1) to a minor in the open bed of a motor vehicle when the minor is secured with a safety 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).</p>

<sup>282</sup> 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).

<sup>283</sup> 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).

STATE	PENNSYLVANIA
General Reference:	Pennsylvania Consolidated Statutes
Required Use of Seat Belts:	See note <sup>284</sup>
Requirements:	I. When a motor vehicle <sup>285</sup> is in operation, the driver and front seat passengers shall wear a safety 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 safety belts. PA ST Title 75 § 4581(a)(3).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <sup>286</sup> <b>Summary Offense:</b> A fine of <b>\$10</b> . 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. <sup>287</sup> PA ST Title 75 § 4581(h). No points are assigned for a violation of safety 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 safety belt constitutes a violation. Such a violation shall not be considered contributory negligence. PA ST Title 75 § 4581(e).
Required Use of Child Safety	See note <sup>288</sup>

<sup>284</sup> **Exemptions:** The requirement to wear a safety 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).

<sup>285</sup> 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).

<sup>286</sup> **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).

<sup>287</sup> 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.

<sup>288</sup> **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).

<u>Restraint Systems:</u>	
Requirements:	I. Where there is a seating position available with a safety belt, a person who is transporting a child under the age of 4 in a motor vehicle <sup>289</sup> 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 safety belt or a booster seat. <sup>290</sup> PA ST Title 75 § 4581(a)(1.1).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Summary Offense:</b> A fine of not more than <b>\$100</b> . 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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 <b>summary offense</b> and receive a fine of not less than <b>\$50</b> or more than <b>\$100</b> . PA ST Title 75 § 4551(b).
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>291</sup>

<sup>289</sup> 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).

<sup>290</sup> Secondary enforcement applies to this requirement as well.

<sup>291</sup> **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).

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:	<b>Summary Offense:</b> A fine of <b>\$25</b> . PA ST Title 75 § 6502(a).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Summary Offense:</b> A fine of <b>\$25</b> . PA ST Title 75 § 6502(a).
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>292</sup>
Requirements:	See note <sup>293</sup> A person under the age of 12 shall wear a nationally approved pedalcycle (bicycle) helmet when operating or riding on a pedalcycle (bicycle). <sup>294</sup> PA ST Title 75 § 3510(a).
Sanctions for Failure to Use:	<b>Summary Offense:</b> A fine of not more than <b>\$25</b> . <sup>295</sup> PA ST Title 75 § 3510(d); PA ST Title 75 § 6502(a). <b>Note:</b> 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).
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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

<sup>292</sup> 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).

<sup>293</sup> A violation of this requirement shall not be used as evidence in any civil action. PA ST Title 75 § 3510(c).

<sup>294</sup> 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).

<sup>295</sup> 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).

	<p>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).</p> <p>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).</p>
Sanctions for a Violation:	<p>I. For a violation of I or II above, a <b>Summary Offense</b>. A fine of not more than <b>\$25</b>. PA ST Title 75 § 6502(a).</p> <p>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.</p>
Exemptions:	<p>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).</p>



STATE	PUERTO RICO
General Reference:	Laws of Puerto Rico Annotated (L.P.R.A.) December 2008
Required Use of Seat Belts:	See note <sup>296</sup>
Requirements:	I. Any driver or passenger on the public highways in a motor vehicle which must be equipped with safety seat belts shall be secured in such safety 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 seatbelts available. PR ST Title 9 § 5382(a)
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> No statutory provisions. <sup>297</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Administrative Offense:</b> A fine of <b>\$50</b> (for each passenger who fails to wear a safety seat belt). PR ST Title 9 § 5382.
Effect on Civil Liability:	It appears that P.R. follows a comparative negligence rule. <sup>298</sup>
Required Use of Child Safety Restraint Systems:	See note <sup>299</sup>
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	<b>Administrative Offense:</b> A fine of <b>\$100</b> . PR ST Title 9 § 5383.

<sup>296</sup> **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).

<sup>297</sup> 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).

<sup>298</sup> 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.

<sup>299</sup> **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.

Systems:	
Effect on Civil Liability:	<b>Administrative Offense:</b> A fine of <b>\$100</b> . PR ST Title 9 § 5383.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	No statutory provisions <sup>300</sup>
<u>Required Use of Motorcycle Protective Headgear:</u>	
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 while the vehicle is in motion. PR ST Title 9 § 5296(b).
Sanctions for Failure to Use:	<b>Administrative Offense:</b> A fine of <b>\$50</b> . PR ST Title 9 § 5296.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Administrative Offense:</b> A fine of not more than <b>\$50</b> . PR ST Title 9 § 5296.
<u>Required Use of Bicycle Protective Headgear:</u>	
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:	<b>Administrative Offense:</b> A fine of not more than <b>\$50</b> . PR ST Title 9 § 5322.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b> <sup>301</sup>

<sup>300</sup> 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).

<sup>301</sup> 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	RHODE ISLAND
General Reference:	General Laws of Rhode Island Annotated
Required Use of Seat Belts:	
Requirements:	I. Any operator of a motor vehicle shall wear a federally approved safety belt and/or shoulder harness system, and shall ensure any passenger 18 or over in any seating position is wearing a safety belt and/or shoulder harness system. RI ST § 31-22-22(f)(1), (g)(1). <sup>302</sup> II. Any operator of a motor vehicle who is under the age of 18 shall wear a safety belt and/or shoulder harness system. RI ST § 31-22-22(b)(2).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Civil Violation:</b> <sup>303</sup> A fine of <b>\$85</b> . 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 safety 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 safety belt and/or shoulder harness in the rear seat. <sup>304</sup> RI ST § 31-22-22(a)(1). III. A child between the ages of 8 through 17 shall be secured in a safety belt and/or shoulder harness system. RI ST § 31-22-22(b)(1).

<sup>302</sup> **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 safety belts; (2) a person possessing written verification within the past 12 months that states such person is unable to wear a safety 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).

<sup>303</sup> **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.

<sup>304</sup> 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).

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Civil Violation:</b> A fine of <b>\$85</b> . 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 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).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	I. Safety belts shall be worn by all school bus operators. RI ST § 31-23-41. II. Safety belts shall be worn by all passengers riding in a child care vehicle and school extra-curricular vehicle. <sup>305</sup> RI ST § 31-22-11.6(b)(2). III. No person shall operate a pupil transportation vehicle, <sup>306</sup> nor knowingly allow any passenger to ride in such vehicle unless the operator and all passengers are wearing a safety belt. RI ST § 31-22.1-3. <sup>307</sup>
Sanctions:	<b>Civil Violation:</b> A fine of not more than <b>\$500</b> . RI ST § 31-27-13(a), (b).
<u>Required Use of Motorcycle Protective Headgear:</u>	
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

<sup>305</sup> “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).

<sup>306</sup> “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.

<sup>307</sup> 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 safety belts for its passengers, unlike school extra-curricular vehicles, child care vehicles and pupil transportation vehicles.

	scooter or motor-driven cycle must wear a “properly fitting” state approved helmet. RI ST § 31-10.1-6.
Sanctions for Failure to Use:	<b>Civil Violation:</b> A fine of <b>\$85</b> . RI ST § 31-10.1-4; RI ST § 31-10.1-6; RI ST § 31-41.1-4.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Civil Violation:</b> A fine of <b>\$85</b> . RI ST § 31-10.1-4; RI ST § 31-41.1-4(a).
<u>Required Use of Bicycle Protective Headgear:</u>	
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. <sup>308</sup>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Civil Violation:</b> <u>First offense:</u> a fine of not more than <b>\$100</b> ; <u>Subsequent offenses:</u> a fine of not less than <b>\$100</b> or more than <b>\$500</b> . RI ST § 31-25-10(d).

<sup>308</sup> 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
Required Use of Seat Belts:	See note <sup>309</sup>
Requirements:	I. When operating a motor vehicle, the driver and every occupant shall wear a safety belt. SC ST § 56-5-6520. II. When operating a motor vehicle, <sup>310</sup> the driver shall require that every passenger 17 years old or younger wear a safety belt or child restraint device. <sup>311</sup> SC ST § 56-5-6520.
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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). <sup>312</sup>
Sanctions for Failure to Use or Require the Use of Seat Belts:	A fine of not more than <b>\$25</b> , no part of which may be suspended. <sup>313</sup> In addition, a person cannot be fined more than <b>\$50</b> 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).

<sup>309</sup> **Exemptions:** The requirement to wear a safety belt does not apply to: (1) a person who possess written verification from a physician that he/she is unable to wear a safety 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 safety belt is available because all belts are being used by other occupants; or (8) persons in a vehicle not originally equipped with safety belts. SC ST § 56-5-6530.

<sup>310</sup> For purposes of the safety belt use law, the term "motor vehicle" is defined as "car, truck, van, or recreational vehicle required to be equipped with safety 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.

<sup>311</sup> 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.

<sup>312</sup> 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).

<sup>313</sup> 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).

<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>314</sup>
Requirements:	When a person transporting in a motor vehicle <sup>315</sup> a child age 5 years or younger, he/she shall secure such child in a rear <sup>316</sup> 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; <sup>317</sup> Children at least 1 year old but younger than 6 and weighing more than 80 lbs. = adult safety belts. SC ST § 56-5-6410.
Sanctions for Failure to Require the Use of Child Restraint Systems:	A fine of not more than <b>\$150</b> . 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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	The safety 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.

<sup>314</sup> **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) 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.

<sup>315</sup> 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 safety 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.

<sup>316</sup> 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).

<sup>317</sup> 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).

<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>318</sup>
Requirements:	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.
Sanctions for Failure to Use:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> or a fine of not more than <b>\$100</b> . SC ST § 56-5-3700.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> or a fine of not more than <b>\$100</b> . SC ST § 56-5-3700.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Misdemeanor:</b> A fine of <b>\$25</b> . 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 safety 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).

<sup>318</sup> 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).



STATE	SOUTH DAKOTA
General Reference:	South Dakota Codified Laws
Required Use of Seat Belts:	See note <sup>319</sup>
Requirements:	I. Every operator and front seat passenger of a passenger vehicle <sup>320</sup> 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 safety 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:	<b>Secondary Enforcement:</b> 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:	<b>Petty Offense:</b> A “ <b>judgment</b> ” of <b>\$20</b> . 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 <sup>321</sup>
Requirements:	I. Any operator of a passenger vehicle transporting a child under

<sup>319</sup> **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.

<sup>320</sup> A “passenger vehicle” is defined as any self-propelled vehicle intended primarily for use and operation on the public highways including passenger cars, stations 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.

<sup>321</sup> **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.

	<p>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.</p> <p>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.</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Petty Offense:</b> A “<b>judgment</b>” of <b>\$20</b>. 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.</p>
Effect on Civil Liability:	<p>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.</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>I. By virtue of SD ST § 32-38-2, a school bus driver is not required to wear a safety seat belt system. (School buses are specifically excluded from the definition of “passenger vehicle” within the seat belt laws.)</p> <p>II. There are no statutory provisions requiring the use of child passenger restraint system.</p>
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>I. No person under the age of 18 may operate or ride upon a motorcycle on the public streets or highways unless wearing a federally approved protective helmet. SD ST § 32-20-4.</p> <p>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.</p> <p>These requirements do not apply to persons who are riding within an enclosed cab. SD ST § 32-20-4.2</p>
Sanctions for Failure to Use:	<p><b>Class 2 Misdemeanor:</b> A jail term of not more than <b>30 days</b> and/or a fine of not more than <b>\$500</b>. SD ST § 22-6-2(2); SD ST § 32-20-4.</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	

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:	<b>Petty Offense:</b> A “ <b>judgment</b> ” of <b>\$20</b> . SD ST § 23-1A-22; SD ST § 32-20-4.1
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

STATE	TENNESSEE
General Reference:	Tennessee Code Annotated Rules and Regulations of the State of Tennessee (TN ADC)
Required Use of Seat Belts:	See note <sup>322</sup>
Requirements:	I. No person shall operate a passenger motor vehicle <sup>323</sup> unless the driver and all front seat passengers age 4 years or older are restrained by safety belts. TN ST § 55-9-603(a), (b)(1). II. Drivers or passengers 16 or 17 years old shall wear safety belts when operating a motor vehicle in a forward motion. TN ST § 55-9-603(i)(1).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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:	<b>Class C Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$50</b> . 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 <b>\$10</b> and, for a second or subsequent offense, pay a fine of <b>\$20</b> . TN ST § 55-9-603(d)(2). For a violation of II above, an offender may pay a fine of <b>\$20</b> 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 safety 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.

<sup>322</sup>**Exemptions:** The requirement to wear a safety belt does not apply to: (1) persons with physically disabling conditions who possess certification by a physician who shall state the nature of the handicap 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).

<sup>323</sup>The 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 safety belts under Federal law. TN ST § 55-9-603(c).

<p><u>Required Use of Child Safety Restraint Systems:</u></p>	<p>See note<sup>324</sup></p>
<p>Requirements:</p>	<p>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.<sup>325</sup>                  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 safety belts. TN ST § 55-9-602(g)(1)(B).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p><b>Class C Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$50</b>. 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 <b>\$50</b>. 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).</p>

<sup>324</sup>**Exemptions:** Tennessee law provides that before a motor vehicle can be sold in the State, it must be equipped with a safety 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 safety 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 safety belts by reason of the fact that safety belts are needed in order to secure child passenger protection systems in place. The law does not require that motor vehicles be retrofitted with safety belts.

<sup>325</sup> These provisions shall not be satisfied by use of the vehicle’s standard lap or shoulder safety 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. <sup>326</sup> TN ST § 55-9-602(k).
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
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.
<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>327</sup>
Requirements:	Any operator or passenger of a motorcycle, motorized bicycle or motor-driven cycle must wear a federally approved crash helmet. <sup>328</sup>
Sanctions for Failure to Use:	<b>Class C Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$50</b> . TN ST § 40-35-111(e)(3); TN ST § 55-9-306.
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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.

<sup>326</sup> **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).

<sup>327</sup> 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).

<sup>328</sup> 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:	<b>Class C Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$50</b> . TN ST § 40-35-111(e)(3); TN ST § 55-9-306.
<u>Required Use of Bicycle Protective Headgear:</u>	
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 <sup>329</sup> I. Violation: An adult who violates the above requirement is guilty of a violation and is liable for a <b>\$2</b> fine plus 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.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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). <b>Note:</b> 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:	<b>Class C Misdemeanor:</b> A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$50</b> . TN ST § 40-35-111(e)(3); TN ST § 55-8-189(e). <b>Note:</b> 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 1340-1-4-.03(1)(y), (5).

<sup>329</sup> A violation of this requirement is not admissible as evidence in any civil action. TN ST § 55-52-106(c).

<p>Exemptions:</p>	<p>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).</p> <p>II. This requirement does not apply if the child being transported in is involved in agricultural activities. TN ST § 55-8-189(d).</p>



STATE	TEXAS
General Reference:	Texas Revised Statutes Annotated (Transportation Code)
Required Use of Seat Belts:	See note <sup>330</sup>
Requirements:	I. Any front seat passenger age 15 or younger in a vehicle being operated shall be secured in a seat belt if such vehicle is equipped with safety belts. <sup>331</sup> TX TRANSP § 545.413(a). II. A person shall not operate a passenger vehicle equipped with safety 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 safety belt. TX TRANSP § 545.413(b).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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:	<b>Misdemeanor:</b> I. For a violation of the requirements of I above, a fine of not less than <b>\$25</b> nor more than <b>\$50</b> . TX TRANSP § 545.413(d) II. For a violation of the requirements in II above, a fine of not less than <b>\$100</b> or more than <b>\$200</b> . 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.” <sup>332</sup> 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 safety belt has been repealed by Acts 2003, 78 <sup>th</sup> Leg., ch. 204, § 8.01. <sup>333</sup>

<sup>330</sup> **Exemptions:** The requirements to use a safety belt do not apply to: (1) persons who are unable to use a safety 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).

<sup>331</sup> “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).

<sup>332</sup> **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 180 days and dismiss the charge when the course has been completed. TX CRIM PRO Art. 45.0511.

<sup>333</sup> 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

<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>334</sup>
Requirements:	A person shall not operate a passenger vehicle when transporting a child younger than 5 years old and less than 36 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:	<b>Misdemeanor:</b> A fine of not more than <b>\$25</b> for a first offense, and not more than <b>\$250</b> 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”. <sup>335</sup> 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 safety belt was repealed by Acts 2003, 78 <sup>th</sup> Leg., ch. 204, § 8.01; See footnote no. 347.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	Any student riding a school bus shall wear a safety 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 safety belt. TX EDUC § 34.003(c). <sup>336</sup>
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.
<u>Required Use of Motorcycle Protective Headgear:</u>	

accepted admissibility.

<sup>334</sup> **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 safety belts are occupied. TX TRANSP § 545.412(c), (e).

<sup>335</sup> 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.

<sup>336</sup> “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).

Requirements:	See note <sup>337</sup> Any person who operates a motorcycle shall wear and require all passengers to wear state approved protective headgear. Any passenger on a motorcycle shall wear state approved protective headgear. TX TRANSP § 661.003(a), (b).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> A fine of not less than <b>\$10</b> or more than <b>\$50</b> . TX TRANSP § 661.003(h).
Required Use of Motorcycle Eye Protection Device:	
Requirements:	<b>None</b>
Required Use of Bicycle Protective Headgear:	
Requirements:	<b>None</b> <sup>338</sup>
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:	<b>Misdemeanor:</b> A fine of not less than <b>\$25</b> or more than <b>\$200</b> . TX TRANSP § 545.414(b).
Exemptions:	This 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 by the household. <sup>339</sup> TX TRANSP § 545.414(c).

<sup>337</sup> 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).

<sup>338</sup> 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

<sup>339</sup> "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	UTAH
General Reference:	Utah Code Annotated
<u>Required Use of Seat Belts:</u>	See note <sup>340</sup>
Requirements:	<p>I. When a motor vehicle<sup>341</sup> is operated on a highway, the driver shall wear a safety belt. UT ST § 41-6a-1803(1)(a)(i).</p> <p>II. When a motor vehicle is operated on a highway, the driver shall secure all passengers age 8 up to 16 in a safety belt. UT ST § 41-6a-1803(1)(a)(iii).</p> <p>III. When a motor vehicle is operated on a highway, the driver shall secure all passengers younger than age 8 but 57 inches or greater in height, in a safety belt. UT ST § 41-6a-1803(b).</p> <p>IV. When a motor vehicle is operated on a highway, a passenger 16 years or older shall wear a safety belt. UT ST § 41-6a-1803(2).</p>
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> Law enforcement officers shall only enforce requirements I and IV above as a secondary action when either the driver or passenger age 19 years 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:	<b>Infraction:</b> A maximum fine of <b>\$45</b> . UT ST § 41-6a-1805(1)(a). The fine may be reduced to <b>\$15</b> if the offender completes a two-hour course on the benefits of using safety 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 safety 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.
<u>Required Use of Child Safety Restraint Systems:</u>	

<sup>340</sup> **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 safety 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 safety belt system under Federal law; or (4) persons where all of the seating positions are occupied by other passengers. UT ST § 41-6a-1804.

<sup>341</sup> 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 safety belts by the manufacturer. UT ST § 41-1a-102(33); UT ST § 41-6a-1802.

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).
Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Infraction:</b> A fine of not more than <b>\$45</b> . UT ST § 41-6a-1805(1)(a). The fine may be reduced to <b>\$15</b> if the offender completes a two-hour course on the benefits of using safety 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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	There are no specific statutory provisions requiring the use of safety 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 safety 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 safety belts under Federal law.
<u>Required Use of Motorcycle Protective Headgear:</u>	
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. UT ST § 41-6a-1505(1). 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 old <sup>342</sup> who is operating or riding on either a motorcycle snowmobile, or a Type I all-terrain vehicle shall wear protective headgear. <sup>343</sup> UT ST § 41-22-10.8(1).

<sup>342</sup> 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)(a).

<sup>343</sup> 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).

Sanctions for Failure to Use:	I. A violation of I is a <b>Class C misdemeanor</b> which carries a term of imprisonment of not more than <b>90 days</b> and/or a fine of not more than <b>\$750</b> . 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 <b>infraction</b> with a fine sanction of not more than <b>\$50</b> . UT ST § 41-22-10.8(4).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
Sanctions for Failure to Use:	
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Infraction:</b> A fine of not more than <b>\$750</b> . 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	VERMONT
General Reference:	Vermont Statutes Annotated
Required Use of Seat Belts:	See note <sup>344</sup>
Requirements:	A person shall not operate a motor vehicle <sup>345</sup> unless all persons (including the operator) who are occupying a seating position with safety belts are wearing such belts. VT ST Title 23 § 1259(a).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 safety 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:	<b>Traffic Offense:</b> <u>First violation: \$25;</u> <u>Second violation: \$50;</u> <u>Third and subsequent violations: \$100</u> 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 <sup>346</sup>
Requirements:	Any child under the age of 16 shall be secured in a federally approved child restraint system or safety belt, as follows: (1) All children under the age of 1, and all children weighing less

<sup>344</sup> **Exemptions:** The requirement to wear a safety 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).

<sup>345</sup> The requirement to use a safety belt only applies to persons who are occupying a seating position that has been manufactured with a federally approved safety belt system. VT ST Title 23 § 1259(a).

<sup>346</sup> **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 safety 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.

	<p>than 20 lbs., regardless of age = a rear-facing position, which shall not be installed in front of an active air bag;                  (2) a child weighing more than 20 lbs., and who is age 1-7 = a child passenger restraining system; and                  (3) a child age 8-15 = a safety belt system or a child passenger restraining system. VT ST Title 23 § 1258(a).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><b>Traffic Offense:</b>  <u>First violation: \$25;</u>  <u>Second violation: \$50;</u>  <u>Third and subsequent violations: \$100.</u>                  VT ST Title 23 § 1258(c); VT ST Title 23 § 2201.</p>
Effect on Civil Liability:	No statutory provisions <sup>347</sup>
Required Use of Safety Restraining Systems on School Buses:	
Requirements:	There is no specific statutory provision. <sup>348</sup>
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 Standards in 49 C.F.R. part 571.218 VT ST Title 23 § 1256.
Sanctions for Failure to Use:	<b>Traffic Offense:</b> a fine of not more than <b>\$100.</b> 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.

<sup>347</sup> 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.

<sup>348</sup> 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 safety belts in school buses, it seems logical that if a school bus is not equipped with safety belts, there would be no violation. On the other hand, if a Type I school bus is equipped with safety belts, a violation would likely result in a fine under the same provisions as VT ST Title 23 § 1258(c), described above.



	VT ST Title 23 § 1257.
Sanctions for Failure to Use:	<b>Traffic Violation:</b> a fine of not more than <b>\$100</b> . VT ST Title 23 § 2201.
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

<b>STATE</b>	<b>VIRGINIA</b>
General Reference:	Virginia Code Annotated
Required Use of Seat Belts:	See note <sup>349</sup>
Requirements:	When a motor vehicle <sup>350</sup> is in motion, each person age 18 years of age or older occupying the front seat shall wear a safety belt. <sup>351</sup> The driver is required to ensure that any child less than 16 years of age is secured in a child restraint or safety belt. VA ST § 46.2-1094(A); VA ST § 46.2-1095B
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <b>\$25</b> . 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 <sup>352</sup>

<sup>349</sup> **Exemptions:** The requirement to use a safety 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 safety belt impractical; (2) law enforcement officers who are transporting a person in custody where the wearing of a safety 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; (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).

<sup>350</sup> Generally, the safety belt use requirement applies to persons occupying “passenger cars” that are equipped with or required by law to be equipped with safety 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.

<sup>351</sup> Effective July 1, 2010.

<sup>352</sup> **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

Requirements:	<p>I. A person when transporting a child under the age of 8 in a motor vehicle<sup>353</sup> must secure such a child in a federally approved child 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).</p> <p>II. A child age 8-15 shall be secured in a safety belt system. VA ST § 46.2-1095(B).</p>
Sanctions for Failure to Require the Use of Child Restraint Systems:	<p><u>First offense</u>: a civil penalty of <b>\$50</b> and no court costs;  <u>Second or subsequent offense</u> (on different dates): a fine of up to <b>\$500</b>.<sup>354</sup>                      No points are assessed against a person’s driving record.                      VA ST § 46.2-1098</p>
Effect on Civil Liability:	<p>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).</p>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>A person must wear a safety belt when operating a school bus. VA ST § 46.2-1091.</p>
Sanctions:	<p><b>Class 3 Misdemeanor</b>: a fine of not more than <b>\$500</b>.                      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).</p>

medical reasons cannot practically use a child restraint system. Such children age 4-7 may be secured in a safety 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.

<sup>353</sup> 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 safety belts.

<sup>354</sup> 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.

<u>Required Use of Motorcycle Protective Headgear:</u>	See note <sup>355</sup>
Requirements:	Every operator and passenger of a motorcycle <sup>356</sup> shall wear a state approved protective helmet. 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).
Sanctions for Failure to Use:	<b>Traffic Infraction:</b> A fine of not more than <b>\$250</b> . VA ST § 46.2-113; VA ST §18.2-111(d).  Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. VA ST § 46.2-910(A).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Traffic Infraction:</b> A fine of not more than <b>\$250</b> . 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).
<u>Required Use of Bicycle Protective Headgear:</u>	
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 <b>\$25</b> . 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.

<sup>355</sup> 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).

<sup>356</sup> The term “motorcycle” does not include a moped. VA ST § 46.2-100.

	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.
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Traffic Infraction:</b> A fine of not more than <b>\$250</b> . 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	WASHINGTON
General Reference:	Revised Code of Washington Annotated
Required Use of Seat Belts:	See note <sup>357</sup>
Requirements:	I. Every person age 16 or older who is operating or riding in a motor vehicle <sup>358</sup> shall wear a safety 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 safety belts or using some other approved child restraint devices. WA ST § 46.61.688(4).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> An officer may stop and briefly detain any person who violates this requirement. However, no <i>arrest</i> can be made solely for a violation of this requirement, and any detention must last no longer that the time it takes to issue a citation. <sup>359</sup> WA ST § 46.64.015.
Sanctions for Failure to Use or Require the Use of Seat Belts:	<b>Traffic Infraction:</b> A penalty of <b>\$42</b> . WA R INFR LTD JURIS IRLJ 6.2(b) <sup>360</sup> ; WA ST § 46.63.110; WA ST § 46.64.050. <b>Note:</b> 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 safety belt cannot be admitted into evidence as negligence in any civil action. WA ST § 46.61.688(6).

<sup>357</sup> **Exemptions:** The requirement to wear a safety belt does not apply to: (1) persons who are operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (2) persons for whom no safety belts are available, when all designated seating positions are occupied; (3) persons who for physical or medical reasons are unable to wear safety 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).

<sup>358</sup> 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 safety 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).

<sup>359</sup> 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).

<sup>360</sup> This abbreviation stands for the Washington Infraction Rules for Courts of Limited Jurisdiction.

<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>361</sup>
Requirements:	See note <sup>362</sup> Any child under the age of 16 years transported in a motor vehicle <sup>363</sup> 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 = safety 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:	<b>Traffic Infraction:</b> A penalty of <b>\$42</b> . WA R INFR LTD JURIS IRLJ 6.2(b); WA ST § 46.63.110(1). For a first violation, however, the infraction will be dismissed if, within 7 days, proof of acquisition of a child restraint system is presented. <u>WA ST § 46.61.687(3).</u>
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). <sup>364</sup>
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	School buses are exempt from the child safety restraint device requirement. <u>WA ST § 46.61.687(5).</u>
<u>Required Use of Motorcycle Protective Headgear:</u>	

<sup>361</sup> **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 shuttle service between parking, convention and hotel facilities, and airport terminals; and (4) school buses. WA ST § 46.61.687(5).

<sup>362</sup> 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).

<sup>363</sup> The term “motor vehicle” means passenger cars that are required by law to have safety 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.

<sup>364</sup> 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).

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 federally approved protective motorcycle helmet. WA ST § 46.37.530(c).
Sanctions for Failure to Use:	<b>Traffic Infraction:</b> A penalty of <b>\$42</b> . WA R INFR LTD JURIS IRLJ 6.2(d). WA ST § 46.64.050; WA ST § 46.63.110(1).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<b>Traffic Infraction:</b> A penalty of <b>\$42</b> . WA R INFR LTD JURIS IRLJ 6.2(d); WA ST § 46.64.050; WA ST § 46.63.110(1).
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
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:	<b>Traffic Infraction:</b> A penalty of <b>\$42</b> . 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	WEST VIRGINIA
General Reference:	West Virginia Code
<u>Required Use of Seat Belts:</u>	See note <sup>365</sup>
Requirements:	A person may not operate a passenger vehicle <sup>366</sup> unless the operator, all front-seat passengers (regardless of age) and all back-seat passengers under the age of 18 are restrained in safety belts. WV ST § 17C-15-49(a).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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:	<b>Misdemeanor:</b> A fine of not more <b>\$25</b> . 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 percent. WV ST § 17C-15-49(d).
<u>Required Use of Child Safety Restraint Systems:</u>	See notes <sup>367, 368</sup>
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.

<sup>365</sup> **Exemptions:** The requirement to wear a safety 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 safety 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).

<sup>366</sup> 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 safety belts. WV ST § 17C-15-49(a).

<sup>367</sup> This requirement does not apply if all the safety 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.

<sup>368</sup> This requirement does not apply to children riding in motor vehicles for hire. WV ST § 17C-15-46.

Sanctions for Failure to Require the Use of Child Restraint Systems:	<b>Misdemeanor:</b> Not less than <b>\$10</b> or more than <b>\$20</b> . 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.
<u>Required Use of Safety Restraining Systems on School Buses:</u>	
Requirements:	<p>There is no specific statutory requirement concerning school buses and the use of safety belts and child passenger safety devices within. "School bus" is not included in the definition of "passenger vehicle" per WV ST § 17C-15-49 (safety 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.</p> <p>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 safety belts and child passenger safety devices). Therefore, a combined reading of all applicable statutes mentioned seems to require the use of safety belts and child passenger safety devices only when they have been installed in a school bus.</p>
Sanctions:	A sanction for such a violation would likely follow the sanctions listed above for safety 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.
<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	No person shall operate or ride on a motorcycle or motor-driven cycle unless wearing an officially approved protective helmet. WV ST § 17C-15-44(a).

Sanctions for Failure to Use:	<p><b>Misdemeanor:</b>  <u>First offense</u> – A term of imprisonment of not more than <b>10 days</b> or a fine of not more than <b>\$100</b>;  <u>Second offense</u> (within 1 year) - A term of imprisonment of not more than <b>20 days</b> and/or a fine of not more than <b>\$200</b>;  <u>Third or subsequent offense</u> – A term of imprisonment of not more than <b>6 months</b> and/or a fine of not more than <b>\$500</b>.  WV ST § 17C-18-1(a), (b).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
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:	<p><b>Misdemeanor:</b>  <u>First offense</u> – A term of imprisonment of not more than <b>10 days</b> or a fine of not more than <b>\$100</b>;  <u>Second offense</u> (within 1 year) - A term of imprisonment of not more than <b>20 days</b> and/or a fine of not more than <b>\$200</b>;  <u>Third or subsequent offense</u> – A term of imprisonment of not more than <b>6 months</b> and/or a fine of not more than <b>\$500</b>.  WV ST § 17C-18-1(a), (b).</p>
<u>Required Use of Bicycle Protective Headgear:</u>	See note <sup>369</sup>
Requirements:	<p>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).</p>
Sanctions for Failure to Use:	<p>See note<sup>370</sup>  <b>Misdemeanor:</b> A parent or legal guardian who violates this requirement is subject to a fine of <b>\$10</b> or must perform <b>2 hours</b> of</p>

<sup>369</sup> State law allows a local government to enact an ordinance requiring the use of bicycle helmets. WV ST §17C-11A-8.

<sup>370</sup> 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).

	<p>community service related to child injury prevention. No court costs may be assessed. The fine may be waived upon proof of helmet acquisition.</p> <p>WV ST § 17C-11A-7(a); WV ST § 17C-18-1(a). <b>Note:</b> There appears to be no sanction against a child who violates this requirement.</p>
<p><u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u></p>	
<p>Requirements:</p>	<p><b>None</b></p>

STATE	WISCONSIN
General Reference:	Wisconsin Statutes Annotated Wisconsin Administrative Code (WI ADC)
<u>Required Use of Seat Belts:</u>	See note <sup>371</sup>
Requirements:	I. When operating a motor vehicle, a person shall be “properly restrained” <sup>372</sup> in a safety 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 safety belts. WI ST § 347.48(2m)(c).
Primary or Secondary Enforcement:	<b>Primary Enforcement:</b> 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:	<b>Forfeiture:</b> A fine of <b>\$10</b> . 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 percent. WI ST § 347.48(2m)(g).
<u>Required Use of Child Safety Restraint Systems:</u>	See note <sup>373</sup>

<sup>371</sup> **Exemptions:** The requirements to use a safety 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 safety belts (WI ST § 347.48(2m)(e)); (4) persons operating or riding in taxicabs or motor vehicles not required to be equipped with safety 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)).

<sup>372</sup> “Properly restrained” means “wearing a safety belt approved by the department...and fastened in a manner prescribed by the manufacturer of the safety belt which permits the safety belt to act as a body restraint.” WI ST § 347.48(2m)(a).

<sup>373</sup> **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 safety 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 safety belts under Federal law (WI ST § 347.48(4)(c)).

<p>Requirements:</p>	<p>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).</p> <p>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).</p> <p>III. A child at least 1 year old and who weights 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).</p> <p>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).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p>I. <b>Forfeiture:</b> For a violation of I-III above there is an assessment of not less than <b>\$30</b> or more than <b>\$75</b>. 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).</p> <p>II. <b>Forfeiture:</b> For a violation of IV above: First offense – an assessment of not less than <b>\$10</b> nor more than <b>\$25</b>; Second or subsequent offense (within 3 years) – an assessment of not less than <b>\$25</b> nor more than <b>\$200</b>. WI ST § 347.50(4).</p> <p>No points may be assessed against a person's driving record for a violation of these requirements. WI ADC § TRANS 101.02(5)(a).</p>
<p>Effect on Civil Liability:</p>	<p>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).</p>
<p>Required Use of Safety Restraining Systems on School Buses:</p>	
<p>Requirements:</p>	<p>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 safety belts. WI ST § 347.48(4)(c).</p>

<u>Required Use of Motorcycle Protective Headgear:</u>	
Requirements:	<p>I. No person who holds a motorcycle instructional permit, regardless of age, shall operate or ride upon a Type 1 motorcycle<sup>374</sup> unless wearing federally approved protective headgear. WI ST § 347.485(1)(a).</p> <p>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).</p> <p>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).</p>
Sanctions for Failure to Use:	<p><b>Forfeiture:</b> An assessment of not less than <b>\$10</b> or more than <b>\$200</b>. 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).</p>
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<p>See note<sup>375</sup>  A motorcycle<sup>376</sup> operator shall wear a protective face shield, glasses, or goggles. WI ST § 347.485(2).</p>
Sanctions for Failure to Use:	<p><b>Forfeiture:</b> An assessment of not less than <b>\$10</b> or more than <b>\$200</b>. § 347.50(1).</p> <p>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).</p>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
Sanctions for Failure to Use:	

<sup>374</sup> 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).

<sup>375</sup> 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).

<sup>376</sup> 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).

<p><u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u></p>	<p>See note<sup>377</sup></p>
<p>Requirements:</p>	<p>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).</p>
<p>Sanctions for a Violation:</p>	<p>I. For a violation of I above:                  First offense - An assessment not less than <b>\$20</b> nor more than <b>\$40</b>;                  Second or subsequent offense (within 1 year) - An assessment not less than <b>\$50</b> nor more than <b>\$100</b>.                  WI ST § 346.95(1).                   II. For a violation of II above:                  First offense - An assessment not less than <b>\$10</b> nor more than <b>\$25</b>;                  Second or subsequent offense (within 3 years) - An assessment not less than <b>\$25</b> nor more than <b>\$200</b>.                  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).</p>
<p>Exemptions:</p>	<p>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).</p>

<sup>377</sup> 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).



STATE	WYOMING
General Reference:	Wyoming Statutes Annotated
Required Use of Seat Belts:	See note <sup>378</sup>
Requirements:	I. Every driver and passenger shall wear a safety belt when a motor vehicle <sup>379</sup> 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 safety belt. WY ST § 31-5-1402(a).
Primary or Secondary Enforcement:	<b>Secondary Enforcement:</b> 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 <sup>380</sup> I. <b>Misdemeanor:</b> A driver who violates the requirements in either I or II above is subject to a fine of not more than <b>\$25</b> . 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 <b>\$10</b> . 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).

<sup>378</sup> **Exemptions:** The requirement to use a safety 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 safety belt for physical or medical reasons; (2) any passenger vehicle not required to be equipped with safety belts under Federal law; (3) carriers of the U.S. Postal Service while performing official duties; (4) persons occupying a seat where all operable safety belts are being used by the driver or other passengers; or (5) any person occupying a seat in a vehicle originally manufactured without a safety belt. WY ST § 31-5-1402(b).

<sup>379</sup> "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 safety belt use law. However, the safety 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).

<sup>380</sup> If a person is cited for a violation of other traffic laws, that person may have the fine reduced by **\$10** if a safety belt was in use at the time of the other violation. WY ST § 31-5-1402(e).

<p><u>Required Use of Child Safety Restraint Systems:</u></p>	<p>See note<sup>381</sup></p>
<p>Requirements:</p>	<p>A person transporting a child under the age of 9 in a passenger vehicle<sup>382</sup> 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).</p>
<p>Sanctions for Failure to Require the Use of Child Restraint Systems:</p>	<p><b>Misdemeanor:</b>  <u>First offense</u> - A fine of not more than <b>\$50</b>, which shall be waived upon proof of acquisition of a child restraint system;  <u>Second or subsequent offense</u> - A fine of not more than <b>\$100</b>.  WY ST §31-5-1201(a); WY ST § 31-5-1304(a).</p> <p><b>Note:</b> 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 <b>12 months</b> for repeated convictions of “moving violations.” WY ST § 31-7-129(a)(i).<sup>383</sup></p>
<p>Effect on Civil Liability:</p>	<p>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.</p>
<p><u>Required Use of Safety Restraining Systems on School Buses:</u></p>	
<p>Requirements:</p>	<p>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).</p>
<p><u>Required Use of Motorcycle Protective Headgear:</u></p>	

<sup>381</sup> **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 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).

<sup>382</sup> The term “passenger vehicle” means a motor vehicle, excluding emergency and law enforcement vehicles, designed to carry people and that was equipped with safety 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).

<sup>383</sup> The statute does not specifically exclude this requirement as a moving violation, as does the safety belt statute (WY ST § 31-5-1402(c)(ii)). Therefore, the law is unclear whether a license suspension applies.

Requirements:	See note <sup>384</sup> I. No minor <sup>385</sup> 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).
Sanctions for Failure to Use:	<b>Misdemeanor:</b> <u>First offense</u> – A term of imprisonment of not more than <b>20 days</b> and/or a fine of not more than <b>\$200</b> ; <u>Second offense</u> (within 1 year) - A term of imprisonment of not more than <b>30 days</b> and/or a fine of not more than <b>\$300</b> ; <u>Third or subsequent offense</u> (within 1 year) – A term of imprisonment of not more than <b>6 months</b> and/or a fine of not more than <b>\$500</b> . WY ST § 31-5-1201(a), (b).
<u>Required Use of Motorcycle Eye Protection Device:</u>	
Requirements:	<b>None</b>
<u>Required Use of Bicycle Protective Headgear:</u>	
Requirements:	<b>None</b>
Sanctions for Failure to Use:	
<u>Prohibition Against Riding in Unsecured Portion of Vehicle:</u>	
Requirements:	<b>None</b>

<sup>384</sup> 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).

<sup>385</sup> A “minor” is defined as a person who has not yet reached his/her 18<sup>th</sup> birthday. WY ST § 8-1-102(a)(iii)(B).

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