



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**



DOT HS 812 405

March 2018

Summary of Vehicle Occupant Protection and Motorcycle Laws

Fourteenth Edition

Current as of December 31, 2015

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Suggested APA Format Citation:

National Highway Traffic Safety Administration. (2018, March). *Summary of vehicle occupant protection and motorcycle laws, Fourteenth edition, Current as of December 31, 2015* (Report No. DOT HS 812 405). Washington, DC: Author.

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INTRODUCTION

Research has shown that effective State and local traffic safety laws play an important role in helping to reduce motor vehicle crashes.

This publication provides summary charts of the key provisions of State occupant protection and motorcycle 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 (child car seats and booster seats), and (3) motorcycle or bicycle helmets. Also included are laws concerning age restrictions for motorcycle passengers and laws that prohibit riding in the bed of a pickup truck. Except as noted, the status of the State laws reported is current as of December 31, 2015.

OVERVIEW

Required Use of Seat Belts:

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

State seat belt use laws vary in terms of their limitations and exemptions, i.e., virtually every State exempts people who, for medical reasons or certain physical characteristics, cannot use a seat belt. Other exemptions include specific types of vehicles or vehicles operating under specific conditions. For example, exempted vehicles often include those designed for more than 10 passengers, vehicles of a model year prior to 1972, or farm vehicles. Vehicles used for commercial purposes requiring frequent stops and deliveries are also typically exempt when not exceeding 25 mph between stops. Details regarding these varying exceptions, limitations, and exemptions are listed in the Summary Chart of Key Provisions of Occupant Restraint Laws and the State analysis. State fines for first time violations of seat belt use laws vary from \$5 to \$250. Most States permit fines of up to \$25.

Primary versus Secondary Seat Belt Laws:

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

The 2015 National Occupant Protection Use Survey found that the average seat belt use rate in States with primary enforcement laws was 12.6 percent higher than in States without primary enforcement laws (91.2% in primary law States compared to 78.6% in secondary law States).

15 Passenger Vans:

Recently some States have begun addressing the use of seat belts in passenger vans. In some States, this vehicle occupant protection is incorporated into existing seat belt legislation. In other instances, States are drafting legislation to specifically address this issue.

Required Use of Child Restraint Systems (Child Car Seats and Booster Seats):

All States require, at a minimum, that all children 3 or younger, weighing less than 40 lbs., or less than 40 inches tall, be secured in child restraint systems while traveling in motor vehicles. Most State laws require these devices to meet Federal specifications. 49 CFR 571.213. About half the States provide for a medical or physical exemption from these requirements. State child restraint laws also include numerous other exemptions and exclusions.

Older children, usually defined as those 4 and older, weighing up to 80 pounds or up to 4’9” tall, must be secured in a booster seat or other appropriate child restraint system. Most States include language addressing the specific use of booster seats by children who have outgrown

their forward-facing child restraint system. Specific provisions vary widely from State to State, including the upper age limit, and height and/or weight requirements. Virtually all States exempt the use of a child restraint system for medical or physical reasons (certified in writing by a physician or other medical professional).

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

Motorcycle and Bicycle Helmet Use Laws:

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

Required Use of Motorcycle Eye Protection:

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

Fines:

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

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
Alabama	Primary	Up to \$25	Front	All	Until age 1 or 20 lbs. = rear-facing car seat Age 1-4 or 40 lbs. = forward-facing car seat Age 5 = booster seat Age 6-14 = seat belt (all seats)	\$25	No statutory provision; 1 point for child restraint violation	Back seat: Over age 14
Alaska	Primary	Up to \$15	All	Age 16 & older	Under age 1, or age 1 & < 20 lbs. = rear-facing car seat Age 1-4 & ≥ 20 lbs. = car seat or booster seat Age 4-7 & < 57 in. & 20-64 lbs. = booster seat Over age 4 & > 57 in. & > 64 lbs. = seat belt Age 8-15 & < 57 in. & < 65 lbs. = booster seat as determined by driver	Up to \$50	No statutory provision	None
Arizona	Secondary	Not more than \$10	Front	All	Under age 5 = car seat Age 5-7 & ≤ 4 ft., 9 in. = booster seat Age 8-15 = seat belt	\$50	No statutory provision	Back seat: Over age 15
Arkansas	Primary	Not more than \$25	Front	All	Under age 6 & < 60 lbs. = car seat Age 6 or 60 lbs. = seat belt Age 7-14 = booster seat or seat belt	\$25-100	No statutory provision	Back seat: Over age 14
California	Primary	Not more than \$20	All	Age 16 & older	Under age 8 in rear seat = car seat or booster seat Age 8-15 = booster seat or seat belt	\$100	No points; 1 point for child restraint violation	None
Colorado	Secondary	\$65	Front	All	Under age 1 & < 20 lbs. = rear-facing car seat Age 1-3 & 20-39 lbs. = rear- or forward-facing car seat Age 4-7 = booster seat Age 8-15 = booster seat or seat belt	\$65	No points ⁷	Back seat: Over age 15

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

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

³ Virtually every State exempts persons who, for medical reasons, cannot use a seat belt; and vehicles not originally required to be equipped with seat belts.

⁴ This may include rear-facing and forward-facing child restraint seats (car seats), booster seats and seat belts.

⁵ This amount represents the actual fine set forth by law. Generally, the States add surcharges and court costs to this amount.

⁶ Note: The word "All" used in this category means everyone must be restrained in a seat belt unless he/she is required to be restrained in a child safety restraint.

⁷ 2 points shall be assessed for drivers under age 18.

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
Connecticut	Primary	\$50 (age 18 and older) \$75 (under age 18)	Front	All	Under age 1 or < 20 lbs. = rear-facing car seat Age 1-6 or < 60 lbs. = car seat or booster seat Age 7 or older & ≥ 60 lbs. = booster seat or seat belt.	\$35-90	No points; not less 2 points for child restraint violation	Back seat: Over age 17 ⁸
Delaware	Primary	\$25	All	Age 16 & older	Age 7 & under & ≤ 65 lbs. = car seat or booster seat Age 8-15 or > 65 lbs. = seat belt	\$25	No points	None
District of Columbia	Primary	\$50	All	All	Under age 3 = car seat Age 3-7 = car seat or booster seat Age 8-15 = booster seat or seat belt	\$75 ⁹	2 points for single violation; 3 points for simultaneous multiple violations	None
Florida	Primary	\$30	All	All	Age 3 & under = car seat Age 4-5 = car seat, booster seat or seat belt Age 6-17 = seat belt (all seats)	\$60	3 points for child restraint violation	None
Georgia	Primary	Not more than \$15	Front	All	Under age 8 = car seat or booster seat Age 8 or older = seat belt (all seats)	Not more than \$50	1 point for child restraint violation	None
Hawaii	Primary	\$45	All	All	Under age 4 = car seat Age 4-7 = car seat or booster seat	Not more than \$100	No statutory provision	None
Idaho	Secondary	\$10	All	All	Age 6 & under = car seat or booster seat	Not more than \$300	No points	None
Illinois	Primary	Not more than \$25	All	All	Under age 8 = car seat or booster seat Age 8-15 = seat belt	\$75	No points	None
Indiana	Primary	Up to \$25	All	All	Under age 8 = car seat or booster seat Age 8-15 = booster seat or seat belt	Up to \$25	No points	None
Iowa	Primary	\$50	Front	All	Under age 1 & < 20 lbs. = rear-facing car seat Under age 6 & ≥ 20 lbs. = car seat Age 6-17 = booster seat or seat belt (all seats)	\$100	No statutory provision	Back seat: Over age 17

⁸ If the driver is under age 18 then each of his/her passengers, regardless of age and seat, must wear a seat belt.

⁹ If the person in violation attends a child restraint safety class, the \$75 fine will be waived. However, the class costs \$25.

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
Kansas	Primary	\$10	All	Age 14 & older	Under age 4 = car seat Age 4-7 & < 80 lbs. or < 4 ft. 9 in. = car seat or booster seat Age 8-13 or > 80 lbs. or > 4 ft. 9 in. = seat belt	\$60	No statutory provision	None
Kentucky	Primary	Not more than \$25	All	All	≤ 40 in. tall = car seat Under age 8 & 40-57 in. = booster seat	\$50	No statutory provision	None
Louisiana	Primary	\$25	All	All	Under age 1 or < 20 lbs. = rear facing car seat Age 1-3 or 20-39 lbs. = forward-facing car seat Age 4-5 or 40-60 lbs. = booster seat; Age 6 or > 60 lbs. = booster seat or seat belt	\$100	No statutory provision	None
Maine	Primary	\$50	All	All	< 40 lbs. = car seat Under age 8 & 40-79 lbs. = car seat or booster seat Age 8-17 = seat belt Under age 18 & > 4 ft. 9 in. = seat belt	\$50	No points	None
Maryland	Primary	Not more than \$50	All	All	Under age 8 & < 4 ft. 9 in. = car seat or booster seat Under age 16 = booster seat or seat belt	\$50	No points	None
Massachusetts	Secondary	\$25	All	All	Under age 8 & ≤ 57 in. = car seat or booster seat Under age 13 but > 57 in. = seat belt	Not more than \$25	No statutory provision	None
Michigan	Primary	\$25	Front	All	Under age 4 = car seat Age 4-7 & < 4 ft. 9 in. = booster seat Age 4-16 & ≥ 4 ft. 9 in. = seat belt	Not more than \$10	No points	Back seat: Over age 16
Minnesota	Primary	\$25	All	All	Under age 8 & < 4 ft. 9 in. = car seat or booster seat	Not more than \$50	No statutory provision	None
Mississippi	Primary	\$25	Front	All	Under age 4 = car seat Age 4-6 & < 4 ft. 9 in. or < 65 lbs. = booster seat Under age 7 & ≥ 4 ft. 9 in. / 65 lbs. = seat belt (all seats)	Not more than \$25	No statutory provision	Back seat: Age 7 and over

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
Missouri	Secondary	Not more than \$10	Front	All	Under age 4 = car seat Under 40 lbs. = car seat Age 4-7 & 40-79 lbs. & < 4 ft. 9 in. = car seat or booster seat Under age 18 & ≥ 80 lbs. or > 4 ft. 9 in. = booster seat or seat belt	Not more than \$50	No points	Back seat: Over age 18
Montana	Secondary	\$20	All	All	Under age 6 & < 60 lbs. = car seat	Not more than \$100	No statutory provision	None
Nebraska	Secondary	\$25	Front	All	Up to age 6 = car seat Age 6-17 = seat belt (all seats)	\$25	No points	Back seat: Over age 17
Nevada	Secondary	Not more than \$25	All	All	Under age 6 & < 60 lbs. = car seat Age 6 or older or > 60 lbs. = booster seat or seat belt	\$100-500	No points	None
New Hampshire	No adult law ¹⁰	\$50	All	Under age 18 = all seats	Under age 7 & ≤ 57 in. = car seat or booster seat	\$50	No statutory provision	All seats: Over age 18
New Jersey	Primary ¹¹	\$20	All	All	Under age 2 & < 20 lbs. = rear-facing car seat Under age 4 & < 40 lbs. = rear-facing or forward facing car seat Under age 8 * < 57 in. = car seat or booster seat	\$50-75	No points	None
New Mexico	Primary	\$25	All	All	Under age 1 = rear-facing car seat Age 1-4 or < 40 lbs. = car seat Age 5-6 or < 60 lbs. = car seat or booster seat Age 7-12 = booster seat or seat belt	\$25	2 points	None
New York¹²	Primary	Up to \$50	Front	All	Under age 4 & ≤ 40 lbs. = car seat Under age 4 & > 40 lbs. = booster seat or seat belt Age 4-7 = booster seat Age 8-15 = seat belt (all seats)	\$25-100	No statutory provision; 3 points for child restraint violation	Back Seat: Over age 15

¹⁰ There is no requirement for an adult to wear a seat belt. The fine listed is for a violation by a passenger under age 18, not required to wear a child restraint system.

¹¹ If the violation is committed by a rear seat passenger 18 or older it is treated as a secondary enforcement violation.

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

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
North Carolina	Primary ¹³	Driver or front seat passenger \$25.50; rear-seat \$10	All	All	Under age 8 & < 80 lbs. = car seat or booster seat Under age 16 = booster seat or seat belt	Not more than \$25	2 points for child restraint violation	None
North Dakota	Secondary	Not more than \$20	Front	All	Under age 7 & < 80 lbs. & < 57 in. = car seat Age 7-17 = booster seat or seat belt (all seats)	\$25	1 point for child restraint violation	Back seat: Over age 17
Ohio	Secondary	\$30 driver, \$20 passenger	Front	All	Under age 4 & < 40 lbs. = car seat Under age 8 & < 4 ft. 9 in. = booster seat Age 8-15 = booster seat or seat belt	\$25-75	No points	Back seat: Over age 15
Oklahoma	Primary	Not more than \$20	Front	All	Under age 4 = rear-facing car seat Age 4-7 & < 4 ft. 9 in. = booster seat or car seat Age 8 or > 4 ft. 9 in = seat belt	\$50	No points	Back seat: Over age 12
Oregon	Primary	Not more than \$250	All	All	Under age 1 or ≤ 20 lbs. = rear-facing car seat ≤ 40 lbs. = car seat > 40 lbs. & ≤ 4 ft. 9 in. = booster seat > 4 ft. 9 in. = seat belt Age 8 or older = seat belt	Not more than \$250	No statutory provision	None
Pennsylvania	Secondary	\$10	Front	All	Under age 4 = car seat Age 4-7 = booster seat and seat belt	Not more than \$75	No points	Back seat: Over age 7
Puerto Rico	Primary	\$50	All	All	Under age 4 = car seat Age 4-9 or at least 57 in. = booster seat Under age 12 = back seat	\$100	6 points	None
Rhode Island	Primary	\$40	All	All	Under age 8 & < 57 in. & < 80 lbs. = car seat (rear seat) Age 8, ≥ 57 in. & ≥ 80 lbs. = booster seat or seat belt (rear seat) Age 8-17 = booster seat or seat belt.	\$85	No statutory provision	None

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

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
South Carolina	Primary	Not more than \$25 ¹⁴	All	All	Under age 1 or < 20 lbs. = rear-facing car seat Age 1-5 & 20-39 lbs. = forward-facing car seat Age 1-5 & 40-80 lbs. = booster seat Age 1-5 & > 80 lbs. = seat belt	Not more than \$150	No points	None
South Dakota	Secondary	\$25	Front	All	Under age 5 & < 40 lbs. = car seat Under age 5 & ≥ 40 lbs. = seat belt (all seats) Age 5-17 = seat belt (all seats)	\$25	No points	Back seat: Over age 17
Tennessee	Primary	Not more than \$50 and/or 30 days in jail	Front	All	Under age 1 or ≤ 20 lbs. = rear-facing car seat Age 1-3 & > 20 lbs. = forward-facing car seat Age 4-8 & < 4 ft. 9 in. = booster seat Age 9-12 or through age 12 & ≥ 4 ft. 9 in. = seat belt Age 13-17 = seat belt (all seats)	Not more than \$50 and/or 30 days in jail	No points	Back seat: Over age 17
Texas	Primary	Not less than \$25 or more than \$50	All	All	Under age 8 & < 4 ft. 9 in. = car seat or booster seat	Not less than \$25 or more than \$250	2 points for child restraint violation	None
Utah	Primary ¹⁵	Not more than \$45	All	All	Under age 8 & < 57 in. = car seat or booster seat Age 8 & at least 57 in. = seat belt Age 8-15 = seat belt	Not more than \$45	No points	None
Vermont	Secondary	\$25	All	All	Under age 1 or < 20 lbs. = rear-facing car seat Age 1-7 & > 20 lbs. = car seat or booster seat Age 8-17 = seat belt or booster seat	\$25	No statutory provision	None
Virginia	Secondary	\$25	Front	All	Under age 8 = car seat or booster seat Age 8-17 = seat belt (all seats)	\$50	No points	Back seat: Over age 17
Washington	Primary	\$48	All	Age 16 or older	Under age 8 & < 4 ft. 9 in. = car seat or booster seat Age 8-15 or ≥ 4 ft. 9 in. = seat belt	\$48	No statutory provision	None

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

¹⁵ Reverts to a secondary law beginning on July 1, 2018 for persons age 19 or older.

Summary Chart of Key Provisions of Occupant Restraint Laws
(through December 31, 2015)

State	Seat Belt Enforcement ¹	1st Violation Fine ²	Seat Belt Required ³		Child Occupant Protection ⁴	1st Violation Fine ⁵	Demerit Points	Gaps in Laws
			Seats	Ages ⁶				
West Virginia	Primary	\$25	Front	All	Under age 8 & < 4 ft. 9 in. = car seat or booster seat Age 8 & at least 4 ft. 9 in. = seat belt Under age 18 = seat belt (all seats)	\$10-20	No points	Back seat: Over age 17
Wisconsin	Primary	\$10	All	All	Under age 1 or < 20 lbs. = rear-facing car seat Age 1-3 & ≥ 20-39 lbs. = forward-facing car seat Age 4-7, 40-80 lbs., ≤ 57 in. = booster seat	\$30-75	No points	None
Wyoming	Secondary	Not more than \$25 (driver); \$10 (passenger)	All	All	Under age 9 = car seat or booster seat	Not more than \$50	No statutory provision	None

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
Alabama	Universal	No	All	Riding in enclosed cabs	Not more than \$100	Not specified ¹⁹	Not more than 10 days	No	None specified
Alaska	Age-specific	Included	Under age 18	None	Not more than \$300	Not specified	None	Yes unless windscreen/windshield	None specified
Arizona	Age-specific	No	Under age 18	Riding an electrically-powered 3-wheeled vehicle or enclosed cab of such vehicle.	Not more than \$250	Not specified	None	Yes unless windshield	None specified
Arkansas	Age-specific	No	Under age 21	Police operating a 3-wheeled vehicle with a cab and windshield	\$10-\$50	Not specified	Not more than 30 days	Yes	A child must be at least age 8 (unless motorcycle is in a parade)
California	Universal	Included	All	None	Not more than \$100	None	None	No	None specified
Colorado	Age-specific	Yes	Under age 18	Riding in a 3 wheeled vehicle that does not exceed 25 mph & has a windshield & seat belts	\$100 (plus \$15 surcharge)	Not specified	None	Yes	None specified
Connecticut	Age-specific	Yes	Under age 18	None	Not less than \$90	None	None	Yes unless windscreen/windshield	None specified
Delaware	Age-specific	No	Under age 19	None	\$25-\$75	Not specified	None	Yes	None specified

¹⁶ A State law requiring all motorcycle operators and passengers to wear a helmet is considered to be a *universal* law. Other State laws require operators and/or passengers of a certain age, e.g., under age 18, to wear helmets. This is indicated as age-specific. Some State laws include additional restrictions – such restrictions are indicated in this column, with footnotes to provide specific details.

¹⁷ While the sanctions shown are for the first offense, some States provide for greater sanctions for the second and/or subsequent offense(s) for not wearing a motorcycle helmet.

¹⁸ Where “included” is listed, this means the standard includes, but is not limited to, FMVSS 218.

¹⁹ While Alabama’s law does not specifically authorize licensing action for this offense, an offender may be subject to such action.

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
District of Columbia	Universal	Included	All	None	\$75	None	None	Yes unless wind screen or shield	None specified
Florida	Age and insurance-specific ²⁰	Yes	Under age 21	Persons age ≥ 16 in enclosed cabs or on a motorcycle with speed capacity of ≤ 30 mph	\$30 (plus \$18 court costs)	Not specified	None	Yes	None specified
Georgia	Universal	Yes	All	Riding in enclosed cabs or carts, or motorcycles with 3 wheels used for agricultural purposes	Not more than \$1,000	Not specified	Not more than 12 months	Yes unless windshield	None specified
Hawaii	Age-specific	No	Under age 18	A motorcycle or motor scooter with 3 wheels, powered by an electric motor, has an enclosed cab, and has a seat belt assembly or child restraint	Not more than \$1,000	Not specified	None	Yes unless windscreen/windshield	No child under age 7 ²¹
Idaho	Age-specific	Yes	Under age 18	Riding on private property; used as an implement of husbandry; enclosed autocycles.	Not more than \$300	No	None	No	None specified
Illinois	None	N/A	N/A	N/A	N/A	N/A	N/A	Yes	None specified
Indiana	Age-specific	Yes	Under age 18	None	Up to \$500	4 points	None	Yes	None specified
Iowa	None	N/A	N/A	N/A	N/A	N/A	N/A	No	None specified
Kansas	Age-specific	Included	Under age 18	Riding within an enclosed cab, golf cart or any cargo-type vehicle with 3 wheels	Not more than \$45	Not specified	None	Yes unless windscreen	None specified

²⁰ Persons who are over 21 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.

²¹ However, if such motorcycle or motor scooter has 3 wheels, is powered by an electric motor, has a full-bodied enclosed cab, and seat belt/child restraint systems in use, then a child under age 7 may be a passenger.

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
Kentucky	Age and experience-specific ²²	Yes	Under age 21	None	\$20-\$100	Not specified	None	Yes	None specified
Louisiana	Universal	No	All	Riding autocycles with roofs; riding in a parade or other public exhibition	\$50	Not specified	None	Yes unless windshield	A child must be ≥ age 5
Maine	Age and experience-specific ²³	Included	Under age 18	None	\$25-\$500	No	None	No	None specified
Maryland	Universal	Yes	All	Riding in enclosed cabs	Not more than \$500	No	None	Yes unless windscreen	None specified
Massachusetts	Universal	No	All	Riding in a parade and age 18 or older	Not more than \$35	Not specified	None	Yes unless windshield/windscreen	None specified
Michigan	Age and experience-specific ²⁴	No	Under age 19: moped; under age 21: MC	Riding an autocycle with a roof	Not specified	Not specified	None	Yes unless windshield	None specified
Minnesota	Age -specific	Yes	Under age 18	Participating in a parade; persons in an enclosed cab	Not more than \$300	Not specified	None	Yes	Passenger's feet must reach the footrests
Mississippi	Universal	Yes	All	Persons age 18 and older riding in a parade at a speed of ≤ 30 mph; riding an autocycle	Not more than \$100	Not specified	Not more than 10 days	No	None specified
Missouri	Universal	Yes	All	None	Not more than \$25	No	None	No	None specified

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

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

²⁴ A person who is operating a motorcycle is not required to wear a crash helmet if he or she has had a motorcycle endorsement on his or her operator's or chauffeur's license for not less than 2 years or the person passes an approved motorcycle safety course, and carries at least \$20,000 in medical insurance.

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
Montana	Age-specific	Yes	Under age 18	None	\$5	Not specified	None	No	A restricted licensee may not operate with a passenger < age 18 for first 6 months
Nebraska	Universal	Yes	All	None	\$50	No	None	No	None specified
Nevada	Universal	Yes	All	Operating or riding on tri-mobiles or mopeds	Not more than \$1,000	2 points	Not more than 6 months	Yes unless windscreen	None specified
New Hampshire	None ²⁵	N/A	N/A	N/A	N/A	Not specified	None	Yes unless windshield/windscreen	None specified
New Jersey	Universal	Yes	All	None	\$25-\$100	Not specified	None	Yes unless windscreen	None specified
New Mexico	Age-specific	No	Under age 18	Riding or operating an autocyte	Not more than \$300	Not specified	Not more than 90 days	Yes unless windshield	None specified
New York	Universal	Yes	All	Riding in a parade or other public exhibition	Not more than \$100	Not specified	Not more than 30 days	Yes	None specified
North Carolina	Universal	Yes	All	Riding or operating an autocyte	\$25.50 (plus court costs)	No	None	No	None specified

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

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
North Dakota	Age-specific	Included	Under age 18	Riding in an enclosed cab or golf cart	Not more than \$1,000	2 points	None	No	None specified
Ohio	Age and experience-specific ²⁶	Yes	Under age 18	None	Not more than \$150	No	None	Yes	None specified
Oklahoma	Age-specific	Yes	Under age 18	None	\$5-\$500	Not specified	Not more than 10 days	Yes unless windshield	No driver under age 16 shall transport any passenger
Oregon	Universal	No	All	Riding in an enclosed cab or a vehicle with 3 wheels at a speed of < 15 mph or for religious beliefs/practices	Not more than \$250	Not specified	None	No	None specified
Pennsylvania	Age, experience and training specific ²⁷	No	Under age 21	An operator or occupant of a 3-wheeled motorcycle with an enclosed cab	\$25	Not specified	None	Yes	None specified
Puerto Rico	Universal	Included	All	None	\$50	Not specified	None	Yes unless windshield	No driver may transport a person under age 12
Rhode Island	Age and experience-specific ²⁸	No	Under age 21	None	\$85	Not specified	None	Yes	None specified

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

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

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

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
South Carolina	Age-specific	No	Under age 21	None	Not more than \$100	Not specified	Not more than 30 days	Yes unless windscreen	None specified
South Dakota	Age-specific	Yes	Under age 18	Riding in an enclosed cab	Not more than \$500	Not specified	Not more than 30 days	Yes unless windscreen	None specified
Tennessee	Universal	Yes	All	Riding in an enclosed cab and golf carts; persons age \geq 18 riding in a parade not faster than 30 mph; fully enclosed motorcycles with 3 wheels; a funeral procession or a memorial ride under police escort	Not more than \$50	Not specified	Not more than 30 days	Yes unless windshield	None specified
Texas	Age, insurance, and training-specific	Yes	Under age 21	Persons age \geq 21 who have completed a motorcycle safety course or are covered by health insurance that provides medical benefits for injuries.	\$10-\$50	Not specified	None	No	Passenger must be at least age 5 unless riding in an attached sidecar
Utah	Age-specific	Yes	Under age 18	Riding in an enclosed cab	Not more than \$50	Not specified	None	No	None specified
Vermont	Universal	Yes	All	Riding or operating an autocyce with an enclosed cab	None specified	2 points	No	Yes unless windshield/windscreen	None specified
Virginia	Universal	Included	All	Riding a motorcycle with wheels 8” or less in diameter or 3 wheels with fixed roof, windshield and enclosed body; riding in a parade \leq 15 mph	Not more than \$250	Not specified	No	Yes unless windshield	None specified

Summary Chart of Key Provisions of State Motorcycle Safety Laws
(through December 31, 2015)

State	Type of Helmet Use Law ¹⁶	Helmet Use Requirements			Sanctions for Failure to Use A Helmet – 1st Offense ¹⁷			Is Eye Protection Required?	Passenger Restrictions
		Meets FMVSS 218 ¹⁸	Age Range	Exemptions	Fine	Points	Jail		
Washington	Universal	Yes	All	Riding a motorcycle that: is an antique, and has seat belts, steering wheel and a partially enclosed cab	\$48 (plus penalties \$2 -\$10)	Not specified	No	Yes unless windshield	Passenger must be at least age 5
West Virginia	Universal	Included	All	None	Not more than \$100	Not specified	Not more than 10 days	Yes unless windshield/windscreen	None specified
Wisconsin	Age or experience-specific	Yes	Under age 18	None	\$10-\$200	No	None	Yes, unless windshield or in a parade	None specified
Wyoming	Age-specific	No	Under age 18	Riding in enclosed cabs or mopeds; riding in a parade	Not more than \$200	Not specified	Not more than 20 days	No	None specified

STATES

STATE**ALABAMA**

General Reference:

Code of Alabama (Ala.)

Seat Belts:

Requirements:

Each front-seat occupant of a passenger car²⁹ shall have a seat belt properly fastened about his/her body any time the vehicle is in motion. Ala. §32-5B-4.

Exemptions:

(1) Children who are required to be in a child passenger restraint system; (2) persons with a written statement from a physician that he/she is medically unable to wear a seat belt; (3) rural letter carriers while on official duty with the U.S. Postal Service; (4) a person (driver or passenger) who is delivering newspapers or mail; (5) passengers riding in vehicles with a model year prior to 1965; and (6) passengers riding in motor vehicles which normally operate in reverse. Ala. §32-5B-4(b).

Enforcement Type:

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

Sanctions:

Misdemeanor: A fine of up to **\$25**. Ala. §32-5B-5. **Note:** A violation of this requirement is not to be entered on the driving record of the vehicle operator. 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. Ala. §§32-5B-7; 32-5B-8.

Effect on Civil Liability:

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

15-Passenger Vans:

Not covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

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

- I. Until age 1 or 20 lbs. = rear-facing child restraint;
- II. Until age 5 or 40 lbs. = forward-facing child restraint;
- III. Booster seats until age 6;
- IV. Seat belt until 15 years of age (all seats). Ala. §32-5-222(b).

Exemptions:

N/A

Sanctions:

Misdemeanor: A fine of **\$25** for each offense may be imposed. Additionally, for a first offense, 1 point shall be assessed. Two points shall be assessed for a second or subsequent offense. Ala. §32-5-222(d), (g).

Effect on Civil

I. In no event shall the failure to wear a child passenger restraint system be

²⁹ Passenger car means a motor vehicle designed for carrying 10 or fewer passengers, and does not include a motorcycle or trailer. Ala. §32-5B-2. An autocycle is defined as a motor vehicle designed to travel with 3 wheels on the ground, equipped with a steering wheel, seat belt and complies with the safety requirements for a motorcycle. The operator of an autocycle is subject to the seat belt laws. AL HB 37 2015.

Liability: considered as contributory negligence. Ala. §32-5-222(a).
 II. There is no duty or standard of care, right or liability between a parent and a child, not already recognized under the laws of Alabama. Ala. §32-5-222(c).

School Bus Safety
 Restraint Systems:

Requirements: See note³⁰
 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, and, while transporting students on a public street or highway, the driver shall wear a seat belt when the bus is in motion. Ala. §16-27-6(a), (b).

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

Motorcycle Protective
 Headgear:

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

Sanctions: **I. Misdemeanor:**
First offense - Imprisonment for not more than **10 days** or a fine of not more than **\$100**.
Second offense (within one year after the date of the first offense) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$200**.
Third or subsequent offense (within one year after the date of the first offense) - Imprisonment for not more than **3 months** and/or a fine of not more than **\$500**.
 Ala. §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.
 Ala. §32-5-316.

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

Motorcycle Eye
 Protection Device:

Requirements: **None**

Motorcycle Passenger **None**

³⁰ There is no requirement for school buses to be equipped with seat belts for student passengers. See, e.g., *Dentson v. Eddins & Lee Bus Sales, Inc.*, 491 So.2d 942 (Ala. 1986) (holding that the requirement of seat belts for school bus drivers implies that the Alabama Legislature intended to exclude the seat belt requirement for student passengers).

Age Restrictions:

Bicycle Protective
Headgear:

Requirements: A person under age 16 who operates or rides on a bicycle must wear a protective bicycle helmet. Ala. §32-5A-283(1).

Sanctions: First offense - A police officer shall: (1) counsel and provide the offender with written information on bicycle helmet safety; and (2) instruct the offender to deliver the written information to a parent.

Second offense - A police officer shall counsel and provide the offender with written information on bicycle helmet safety. In addition, a warning citation shall be issued to the offender who is to give such citation to his/her parent. The citation instructs the parent (or guardian) to contact the police for information about the bicycle helmet law and where to obtain a bicycle safety helmet.

Third offense - A police officer shall counsel the offender, confiscate the bicycle, and take the offender to his/her residence. A warning citation shall be issued to either the parent or guardian. If such person is not available, the citation shall be left at the residence with instructions to pick up the bicycle at the police station.

Fourth offense - The bicycle shall be confiscated and the offender taken to his/her residence. A parent or guardian is subject to a fine of \$50.³¹ There are no court costs or fees for this offense.

Ala. §32-5A-285.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

³¹ 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. Ala. §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. Ala. §32-5A-285(5).

STATE**ALASKA**

General Reference:

Alaska Statutes (AS); Alaska Administrative Code (AAC)

Seat Belts:

Requirements:

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

Exemptions:

(1) Passengers in school buses unless such buses are required by the U.S. Department of Transportation to have such belts for passengers; (2) emergency vehicles; (3) vehicle operators who are either delivering mail or newspapers; (4) a person or class of persons who have been exempted via regulations because of either physical or medical reasons; and (5) persons riding in motor vehicles that are not required to have seat belts. AS §§28.05.095(c); 28.05.096(a).

Enforcement Type:

Primary Enforcement: A law enforcement officer cannot stop or detain a motor vehicle to determine compliance with the seat belt requirement above unless the officer has probable cause³² to stop or detain the motor vehicle. AS §28.05.095(e).

Sanctions:

Infraction: A fine of up to \$15.³³ AS §28.05.099(a).

Effect on Civil Liability:

No statutory provision.³⁴

15-Passenger Vans:

May be covered under seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A child less than 1 year old or a child 1 year old or older who weighs less than 20 lbs. = rear-facing child safety seat.
 II. A child 1 year or older but less than 5 who weighs 20 lbs., or more = child restraint device.
 III. A child over 4 years but less than 8 who is less than 57 inches in height and weighs 20 lbs., or more but less than 65 lbs., = booster seat.
 IV. A child over 4 years, exceeding 57 inches in height and 64 lbs., = seat belt.
 V. A child 8 years old but less than 16 who is less than 57 inches in height and less than 65 lbs., = child safety device as determined by

³² 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).

³³ 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. AS §28.05.099(a).

³⁴ The failure to use a seat belt is a relevant factor for apportioning damages when looking at comparative negligence. However, such evidence is not categorized as a “seat belt defense.” *Hutchins v. Schwartz*, 724 P.2d 1194, 1199 (Alaska 1986).

the driver. AS §28.05.095(b).

Exemptions: See exemptions under Seat Belts, above.

Sanctions: **Infraction:** A fine up to **\$50**.³⁵ AS §28.05.099(b).
Licensing action: A person may be assessed demerit points against his/her driving record.³⁶ AS §28.05.099(b).

Effect on Civil Liability: No statutory provision.

School Bus Safety Restraint Systems:

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

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

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

Motorcycle Protective Headgear:

Requirements: Except as provided by statute, a person operating or riding upon a motorcycle or motor-driven cycle upon a public roadway must wear protective headgear. 13 AAC 04.350. The Alaska statute provides that a person 18 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. AS §28.35.245.

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

Sanctions: **Infraction:** A fine not to exceed **\$300**. AS §28.90.010(c).

³⁵ If the offender provides an officer proof of purchase or acquisition, and installation, of an approved child safety device or seat belt within 30 days after the issuance of the citation, the court shall dismiss the citation and no points shall be assessed unless: (1) the person has been convicted previously for violation; (2) the person has been cited for failure to provide a child safety device or seat belt and has forfeited bail required by the citation; or (3) provided proof under the code section on a prior occasion. AS §28.05.099(b).

³⁶ The traffic violations demerit point system has been repealed. 13 AAC 08.210. However, a person convicted of AS §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.

Exemptions: **None**

Motorcycle Eye
Protection Device:

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

Sanctions: **Infraction:** A fine of not more than **\$300**. AS §28.90.010(c).

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

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

Exemptions: This requirement does not apply to (1) emergency vehicles; (2) a vehicle engaged in construction work on, along or above a highway; (3) a person seated lower than the sideboards of the unsecured portion; (4) merchandise trucks; or (5) a person riding in a parade. 13 AAC 02.495(g).

STATE**ARIZONA**

General Reference:

Arizona Revised Statutes Annotated (ARS); Arizona Administrative Code (A.A.C.)

Seat Belts:

Requirements:

I. A front seat occupant of a motor vehicle³⁷ is required to use either lap or lap and shoulder belt combination while the vehicle is in motion. ARS §28-909(A).
 II. A driver must insure that passengers younger than 16 comply with the above requirement. ARS §28-909(B).

Exemptions:

(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. ARS §28-909(F).

Enforcement Type:

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

Sanctions:

Civil Penalty: A maximum fine of \$10³⁸ for each violation.
Note: A violation of this requirement cannot be used as a basis for suspending or revoking an offender's driving privileges. ARS §28-909(D), (G).

Effect on Civil Liability:

No statutory provision.³⁹

15-Passenger Vans:

Not covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

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

An operator shall require each passenger at least 5 but under age 8 and not more than 4 feet, 9 inches to be restrained in a child restraint system. ARS §28-907(B).

³⁷ This requirement applies to persons operating or riding in motor vehicles that: (1) are designed to carry 10 or fewer persons; (2) were manufactured for the 1972 model year and after; and (3) must be equipped with seat belts under Federal law. ARS §28-909(A).

³⁸ 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. Additional penalty assessments shall be levied in the amount of 7%, and 13%. ARS §§12-116.01; 12-116.02.

³⁹ The Arizona Supreme Court held that failure to use a seat belt can be considered in whether to apportion damages in automobile accident injury situations. Under certain circumstances, the award of damages can be reduced if the persons seeking damages have failed to use seat belts. *Law v. Superior Court*, 755 P.2d 1135 (Ariz. 1988).

Exemptions: (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 ARS §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, or is operating an authorized emergency vehicle; and (5) due to the size of the passenger compartment of the vehicle, the operator cannot secure all of the children who must be restrained. However, the operator must restrain at least one such child and must restrain as many such children as is possible under the conditions. ARS §28-907(H).

Sanctions: **Civil Penalty:** A fine of \$50.⁴⁰ ARS §28-907(D).

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. ARS §28-907(G).

School Bus Safety Restraint Systems:

Requirements: While there are no specific statutory provisions requiring school bus drivers and student passengers to wear safety devices, ARS §28-900 provides for the adoption of rules by the Department of 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. A.A.C. R17-9-107(25).

Motorcycle Protective Headgear:

See Note⁴¹

Requirements: An operator or passenger younger than 18 shall not operate a motorcycle unless that person wears a protective helmet. ARS §28-964(A).

Sanctions: **Civil Penalty:** Not more than \$250. ARS §§28-121(B); 28-1521; 28-1598. 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. But it must be shown that such failure contributed to the person's injuries. See *Warfel v. Cheney*, 758 P.2d 1326 (Ariz. App. 1988).

Exemptions: This requirement does not apply to operators or passengers riding on an electrically powered three-wheeled vehicle or within an enclosed

⁴⁰ 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 ARS §28-907(D). "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 ARS §§12-116.01; 12-116.02), in the child passenger restraint fund. ARS §28-907(D).

⁴¹ As of July 3, 2015, an autocycle is defined as a three-wheeled motorcycle with an enclosed cab equipped with safety belts, a roll cage, steering wheel and brakes. A special "M" license is not required to operate an autocycle. ARS §§28-101(5); 28-3101.

cab of an electrically powered three-wheeled vehicle. ARS §28-964(A).

Motorcycle Eye
Protection Device:

Requirements

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

Sanctions:

Civil Penalty: Not more than **\$250.**⁴² ARS §§28-121(B); 28-1521; 28-1598.

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements:

None

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements:

None

⁴² An offender is also subject to additional penalty assessments levied by the court. ARS §§12-116.01; 12-116.02.

STATE

ARKANSAS

General Reference:

Arkansas Code Annotated (A.C.A.)

Seat Belts:

Requirements:

Every driver and front seat passenger in any motor vehicle⁴³ operated on a street or highway shall wear a properly adjusted and fastened seat belt.⁴⁴
A.C.A. §27-37-702(a).⁴⁵

Exemptions:

(1) Passenger automobiles manufactured prior to January 1, 1968, and all other vehicles manufactured prior to January 1, 1972; (2) passengers and drivers who have a physical condition that would make the use of a seat belt inappropriate, so long as that physical condition is certified by a physician who states the nature of the disability along with the reason the use of a seat belt is inappropriate; (3) children who are properly restrained in a child safety restraint; and (4) drivers who are rural letter carriers for the United States Postal Service, carrying out their official duties. A.C.A. §27-37-702(b).

Enforcement Type:

Primary Enforcement

Sanctions:

Violation: A fine of not more than **\$25**.⁴⁶ The State shall not include a seat belt violation in a traffic report. A.C.A. §§ 27-37-706(a); 27-37-707.

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered by seat belt law.

Child Safety Restraint Systems:

Requirements:

A driver who transports a child under 15 years old in a passenger automobile, van, or pickup truck (other than one operated for hire) shall secure such child in a child passenger restraint system.

A child younger than age 6 and less than 60 lbs. in a passenger automobile, van, or pickup truck (other than one operated for hire) shall be restrained in a child passenger safety seat.

A child at least 6 years old or who weighs at least 60 lbs., a safety belt properly secured to the vehicle is sufficient to meet the requirements of this section.

⁴³ 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. A.C.A. §27-37-701(1).

⁴⁴ Any motor vehicle passenger who is riding with a person holding an instruction permit must be secured in a seat belt. A.C.A. §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/or jail for not more than **90 days**. A.C.A. §27-16-301.

⁴⁵ 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. A.C.A. §27-37-702(c).

⁴⁶ Court costs only shall be assessed. The State shall not use a violation of this chapter as a basis to revoke or suspend an individual’s driver’s license. A.C.A. §27-37-706(b). Note: A.C.A. § 27–37–705 was repealed by Act 953, H.B. 1699 on April 2, 2015.

A.C.A. §27-34-104(a), (b), (c).

Exemptions: (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 physically unable to be restrained and the medical reasons are certified by a physician who states the nature of the medical conditions as well as the reason the use of a child passenger safety seat system or seat safety belt is inappropriate. A.C.A. §27-34-105.

Sanctions: **Violation:** Fine of not less than **\$25** or more than **\$100**. A.C.A. §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. A.C.A. §27-34-106.

School Bus Safety Restraint Systems:

Requirements: The driver or operator of a school bus shall wear a seat belt at all times while operating the school bus whenever the bus is so equipped. A.C.A. §6-19-109. There are no specific statutory provisions for the use of seat belts for student passengers, but “motor vehicle” as defined in the seat belt statute excludes school buses. A.C.A. §27-37-702.

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

Motorcycle Protective Headgear:

Requirements: All motorcycle passengers and riders younger than 21 shall wear protective headgear. A.C.A. §27-20-104(b)(1).

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

Exemptions: Does not apply to police departments using three-wheeled motorcycles equipped with a cab and a windshield. A.C.A. §27-20-104(c).

Motorcycle Eye Protection Device:

Requirements: All motorcycle passengers and riders (regardless of age) shall wear protective glasses, goggles or transparent face shields. A.C.A. §27-20-104(b)(2).⁴⁷

⁴⁷ Does not apply to police departments using three-wheeled motorcycles equipped with a cab and a windshield. A.C.A. §27-20-104(c)

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

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

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

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

Sanctions: **Misdemeanor:**
First offense - Imprisonment for not more than **10 days** or a fine of not more than **\$100**.

Second offense (within 1 year) - Imprisonment for not more than **20 days** and/or a fine of not more than **\$200**.

Third or subsequent offense (within 1 year of first conviction) - Imprisonment for not more than **6 months** and/or a fine of not more than **\$500**.
A.C.A. §§27-35-101; 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. A.C.A. §27-35-104(b).

STATE

CALIFORNIA

General Reference: West's Annotated California Codes (Cal.Vehicle Code; Cal.Educ. Code); California Code of Regulations (CCR)

Seat Belts:

Requirements: I. A person shall not operate a motor vehicle⁴⁸ unless such person and all passengers 16 and over are properly restrained by a seat belt. Cal.Vehicle Code §27315(d)(1).⁴⁹

II. A person age 16 and over shall not be a passenger in a motor vehicle on a highway unless that person is properly restrained by a seat belt. Cal.Vehicle Code §27315(e).

Exemptions: (1) Passengers older than 16 who are using a “sleeper berth”; (2) an operator or passenger possessing certification by a doctor or chiropractor stating 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 engaged in delivery of newspapers to customers at the time and along the person’s route; (5) a person engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service; (6) a driver engaged in the collection of solid waste or recyclable materials along that driver’s collection route. Cal.Vehicle Code §27315(e),(g),(m),(n),(o).

Enforcement Type: **Primary Enforcement:** There is no statutory provision.⁵⁰

Sanctions: **Infraction:**
First offense - A fine of not more than **\$20**;
Subsequent offense - A fine of not more than **\$50**. Cal.Vehicle Code §27315(h).

In lieu of the above fine, a first offender may be ordered to attend traffic school in which the proper use of seat belts is demonstrated. Cal.Vehicle Code §27315(h).

Note: No points are assigned for a violation of these requirements. Cal.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. Cal.Vehicle Code §27315(i).

15-Passenger Vans: Not covered under the seat belt law.

⁴⁸ “Motor vehicle” means any passenger vehicle, motor truck, truck tractor or farm labor vehicle. However, the term does not include a motorcycle. Cal.Vehicle Code §27315(c).

⁴⁹ Cal.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.

⁵⁰ 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).

Child Safety Restraint Systems:

- Requirements:
- I. No child under age 8 shall be transported in a motor vehicle unless such child is properly restrained in a rear seat in a federally approved child restraint system. **Note:** When the parent or guardian is present in the vehicle and is not the driver, the driver is relieved of this obligation.⁵¹ Cal.Vehicle Code §27360(a), (b).
 - II. No child who is age 8 or older, but less than 16, shall be transported unless such child is properly secured in a child passenger restraint system or seat belt. When the parent or guardian is present in the vehicle and is not the driver, the driver is relieved of this obligation. Cal.Vehicle Code §27360.5.
 - III. 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 8 years or older are restrained by seat belts. Cal.Vehicle Code §27315(d)(3).
 - IV. No person shall operate a taxicab unless front-seat passengers who are 8 years or older are restrained by seat belts. Cal.Vehicle Code §27315(d)(4).

- Exemptions:
- (1) A child may be exempt if it has been determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size; (2) In a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of that system, but the child shall be secured by a seatbelt; (3) A child who weighs more than 40 lbs. may be transported in the backseat while wearing only a lap safety belt when the rear seat is not equipped with a combination lap and shoulder safety belt; (4) a child under age 8 who is 4'9" in height or taller may be properly restrained by a safety belt rather than by a child passenger restraint system; (5) A child under age 8 may ride properly secured in an appropriate federally approved child passenger restraint system in the front seat of a motor vehicle under any of the following circumstances: (a) There is no rear seat; (b) The rear seats are side-facing jump seats; (c) The rear seats are rear-facing seats; (d) The child passenger restraint system cannot be installed properly in the rear seat; (e) All rear seats are already occupied by children age 7 or under; or (f) Medical reasons necessitate that the child or ward not ride in the rear seat. Cal. Vehicle Code § 27363(a), (b), (c), (d), (e).

- Sanctions:
- Infraction:**
First offense - A fine of **\$100**;⁵²
Second or subsequent offense - A fine of **\$250**. Cal.Vehicle Code §27360.6.

A conviction shall result in the assessment of 1 point. Cal.Vehicle Code

⁵¹ This section will only remain in effect until January 1, 2017, and as of that date is repealed, unless a later enacted statute deletes or extends that date.

⁵² 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. Cal.Vehicle Code §27360.6.

§12810(h).

Effect on Civil Liability: No provisions

School Bus Safety Restraint Systems:
Requirements:

See note.⁵³

I. All school buses manufactured on or after July 1, 2005 (buses with more than 16 passengers) or manufactured on or after July 1, 2004 (buses with 16 or fewer passengers) and purchased or leased for use in the State shall be equipped with federally approved seat belts, consisting of a combination pelvic and upper torso passenger restraint system, for all seating positions. Cal.Vehicle Code §§27316; 27316.5; Cal.Educ. Code §39831.1.
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. Cal.Educ. Code §§ 39831.1; 39831.2; 5 CCR §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 bus⁵⁴ fails to use or improperly uses the passenger restraint system. Cal.Vehicle Code §27316.5.

Motorcycle Protective Headgear:

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

The California Highway Patrol may adopt reasonable regulations establishing specifications and standards for safety helmets. The regulations shall include, but are not limited to, the requirements imposed by Federal Motor Vehicle Safety Standard No. 218. Cal.Vehicle Code §27802.

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

Exemptions: This section does not apply to a person operating, or riding as a passenger in, a fully enclosed three-wheeled motor vehicle that is not less than 7 feet in length and not less than 4 feet in width, and has an unladen weight of 900 lbs. or more, if the vehicle meets or exceeds safety requirements. Cal. Vehicle Code §

⁵³ **Exemption:** A passenger with a physically disabling condition or medical condition that 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 CCR §14105(e).

⁵⁴ A “school pupil activity bus” is defined as any motor vehicle, other than a school bus, operated under a contractual agreement between a school and a carrier to transport school pupils at or below the 12th grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult is present to accept the pupil or place the pupil on the bus. Cal.Educ. Code §39830.1.

27803(f).

Motorcycle Eye
Protection Device:

Requirements: **None**

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements: A person under age 18 shall not operate or ride on a bicycle unless wearing a helmet that complies with national standards. Cal.Vehicle Code §21212(a).

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

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: I. No person shall ride on a vehicle or upon any part of a vehicle that is not designed or intended for passenger use, and no vehicle operator shall knowingly permit a person to ride upon any part of a vehicle that is not designed or intended for passenger use. Cal.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. Cal.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. Cal.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. Cal.Vehicle Code §23116(a),(b),(c).

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

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

Exemptions: I. The prohibitions contained in Cal.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. Cal.Vehicle Code §21712(f).
II. The prohibitions contained in Cal.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.
Cal.Vehicle Code §23116(d),(e),(f).

STATE

COLORADO

General Reference:

Colorado Revised Statutes (C.R.S.A.)

Seat Belts:

Requirements:

See note.⁵⁵ A driver and front seat passengers of a motor vehicle⁵⁶ shall wear a seat belt while the vehicle is being operated. C.R.S.A. §42-4-237(2).

Exemptions:

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

Enforcement Type:

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

Sanctions:

Class B Traffic Infraction: A fine of **\$65** and a surcharge of **\$6** shall be imposed.⁵⁷ C.R.S.A. §§42-4-237(4); 42-4-1701(4)(a)(I)(D).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law. C.R.S.A. §42-4-237(1)(a).

Child Safety Restraint Systems:

Requirements:

- I. Every child under age 8 shall be properly restrained in a child restraint system.
- II. A child less than age 1 who weighs less than 20 lbs. = rear-facing child

⁵⁵ **Vehicles Driven by Persons Under Age 18: I.** Under separate statutory provisions, occupants of a vehicle driven by a person younger than 18 shall wear a seat belt under C.R.S.A. §42-4-237 or be secured in a child restraint system under C.R.S.A. §42-4-236. C.R.S.A. §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. C.R.S.A. §§42-2-105.5(5)(b); 42-2-127(5)(hh). **II.** In vehicles driven by persons under age 18, only one passenger may occupy the front seat and the number of rear-seat passengers cannot exceed the number of available seat belts. C.R.S.A. §42-2-105.5(4). A violation of this requirement subjects the offender to a fine of **\$65** and a surcharge of **\$10**. C.R.S.A. §42-4-1701(4)(a)(I)(A). 2 points shall be assessed against the offender's driving record as well. C.R.S.A. §42-2-127(5)(ii).

⁵⁶ 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, low-power scooters, passenger buses, school buses, farm tractors or implements of husbandry exclusively for use in agricultural operations. C.R.S.A. §42-4-237(1)(a).

⁵⁷ 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. C.R.S.A. §42-4-1717.

restraint system in the rear seat.

III. A child age 1 or older but less than 4, and who weighs at least 20 lbs., but less than 40 lbs. = rear-facing or forward-facing child restraint system.

IV. A child who is at least 8 but less than 16 years old = seat belt or child restraint system. C.R.S.A. §42-4-236(2)(a), (b).

- Exemptions: (1) A child who is under age 8 and is being transported as a result of a medical or other life-threatening emergency and a child restraint system is not available; (2) a child who is being transported in a commercial vehicle that is operated by a child care center; or (3) a child who is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a motor vehicle carrier, a contract carrier by motor vehicle, or an operator of a luxury limousine service. C.R.S.A. §42-4-236(3).
- Sanctions: **Class B Traffic Infraction:** A fine of **\$65** and a surcharge of **\$6**. C.R.S.A. §§42-4-236(7); 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. C.R.S.A. §42-4-236(6).

School Bus Safety Restraint Systems:

- 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 childcare center transporting a child under age 8 shall place such child in a child restraint system. C.R.S.A. §§42-4-237(1)(a); 42-4-236(2)(a).
- Sanctions: See Sanction for the Failure to Require the Use of Child Restraint Systems.

Motorcycle Protective Headgear:

- Requirements: Any person under age 18 may not operate a motorcycle or ride as a passenger unless each person under age 18 is wearing a protective helmet with a chinstrap meeting or exceeding standards for Federal Motor Vehicle Safety Standard No. 218. C.R.S.A. §42-4-1502(4.5)(a)(I), (II), (III).
- Sanctions: **Class A Traffic Infraction:** A fine of **\$100** and a surcharge of **\$15**. C.R.S.A. §§42-4-1502(5); 42-4-1701(4)(a)(I)(O).
- Exemptions: A person driving or riding a motorcycle need not wear a helmet if the motorcycle has: (1) three wheels; (2) a maximum design speed of 25 mph or less; (3) a windshield; and (4) seat belts. C.R.S.A. §§42-4-1502(4.5)(c).

Motorcycle Eye Protection Device:

- Requirements: A person shall not operate or ride on a motorcycle or motor-driven cycle unless that person is wearing goggles or eyeglasses with lenses made of safety glass or plastic per standards promulgated by the State, or a helmet containing eye

protection made of safety glass or plastic. C.R.S.A. §42-4-232(1).⁵⁸

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

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: **None.** However, the Department of Transportation in collaboration with the Departments of Education and Public Safety shall make available a curriculum for students under age 18 that shall focus on proper use of bicycle helmets, among other safety issues. C.R.S.A. §42-4-2301.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A person is prohibited from riding on the outside, top, hood or fenders or any other portion of a vehicle except that they may ride, while in a sitting position, in the cargo area of a vehicle if the area is fully or partially enclosed on all four sides. C.R.S.A. §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 sides. C.R.S.A. §42-4-201(6).

Sanctions: **Class A Traffic Infraction:** A fine of **\$35** and a surcharge of **\$10**. C.R.S.A. §§42-4-201(8); 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. C.R.S.A. §42-4-201(7).

⁵⁸ A person driving or riding a motorcycle need not wear eye protection if the motorcycle has: (1) three wheels; (2) a maximum design speed of 25 mph or less; (3) a windshield; and (4) seat belts. C.R.S.A. §42-4-232(b).

STATE

CONNECTICUT

General Reference:

Connecticut General Statutes Annotated (C.G.S.A.)

Seat Belts:

Requirements:

I. The operator and front seat passengers in any motor vehicle or firefighting apparatus originally equipped with seat belts shall wear seat belts while the vehicle is in being operated on any highway. C.G.S.A. §14-100a(c)(1).
 II. An operator under 18 years, and each of his passengers, shall wear a seat belt while the vehicle is operated on any highway. C.G.S.A. §14-100a(c)(1)(C).

Exemptions:

(1) Persons who, at all times while operating a motor vehicle, possess a written statement from a doctor explaining an inability to wear a seat belt and the nature and extent of such condition; (2) an authorized emergency vehicle, other than firefighting 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. C.G.S.A. §14-100a(c)(2).

Enforcement Type:

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

Sanctions:

Infraction: Fine of **\$50** for an operator who is age 18 or older and any passenger. Fine of **\$75** for an operator who is under age 18 and any passenger. **Note:** No points can be assessed against a driver's record for violating this requirement. C.G.S.A. §14-100a(c)(4).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law. C.G.S.A. §14-1(53).

Child Safety Restraint Systems:

Requirements:

I. A person who transports a child age 6 or younger or weighing less than 60 lbs., in a motor vehicle,⁵⁹ shall provide and require that such child be secured in an approved child restraint system.
 II. A child younger than 1 or weighing less than 20 lbs. = rear-facing child seat.
 III. A child age 7 or older and weighing 60 lbs. or more = child restraint system or use a seat belt. C.G.S.A. §14-100a(d).

Exemptions:

N/A

Sanctions:

First offense (Infraction) – A fine of not less than **\$35** nor more than **\$90**;⁶⁰
Second offense – A fine of not more than **\$199**;

⁵⁹ A “motor vehicle” does not include a bus having tonnage rating of 1 ton or more. C.G.S.A. §14-100a(d).

⁶⁰ 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**. C.G.S.A. §51-164m(a), (c).

Third or subsequent offense (Class A Misdemeanor) – Imprisonment for not more than **1 year** and/or a fine of not more than **\$2,000**.
C.G.S.A. §§14-100a(d); 53a-24; 53a-36; 53a-42.

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

Note: Not less than 2 points may be assessed for a violation of this requirement.
C.G.S.A. §14-137a.

Effect on Civil
Liability:

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

School Bus Safety
Restraint Systems:

Requirements:

I. A child age 4 or older must be in an approved child restraint system or a seat belt when riding in a student transportation vehicle.
II. A child under age 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). C.G.S.A. §14-100a(d)(3).

Sanctions:

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

Motorcycle Protective
Headgear:

Requirements:

See note.⁶¹

No person under age 18 may operate or ride on a motorcycle⁶², or be a passenger on a motorcycle unless he/she is wearing protective headgear of a type that conforms to the minimum specifications established in Federal Motor Vehicle Safety Standard No. 218. C.G.S.A. §14-289g.

Sanctions:

Infraction: A fine of not less than **\$90**. C.G.S.A. §14-289g. **Note:** No points are assessed for a violation of this requirement.

Exemptions:

None

Motorcycle Eye
Protection Device:

Requirements:

A person who operates a motorcycle must wear goggles, glasses, or a face shield as approved by the State, unless the motorcycle has a windscreen or

⁶¹ 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).

⁶² An autocycle is a motor vehicle equipped with no more than 3 wheels, a steering wheel, brakes, seats that are fully or partially enclosed and has safety belts. C.G.S.A. §14-1(6). A motorcycle includes (a) an autocycle or (b) a motor vehicle that has no more than 3 wheels, a seat and handlebars. C.G.S.A. §14-1(55).

windshield. C.G.S.A. §14-289d(b).

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

Motorcycle Passenger **None**⁶³
Age Restrictions:

Bicycle Protective
Headgear:

Requirements: A child age 15 or younger shall not ride a bicycle on a highway unless that child is wearing appropriate protective headgear.⁶⁴ C.G.S.A. §14-286d(b).

Sanctions: 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. C.G.S.A. §14-286d(c).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: No person shall operate and carry a passenger younger than 16 on or in an open bed of a truck-type vehicle⁶⁵ or other vehicle. However, such passengers are allowed to ride in such open spaces provided they are properly restrained in a seat belt. C.G.S.A. §14-272a(a).

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

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

⁶³ A person who operates of a motorcycle may not carry a passenger unless they have held an endorsement to operate a motorcycle for a period of 3 months. An operator age 16 or 17 shall not carry a passenger for a period of 6 months after obtaining such endorsement. C.G.S.A. § 14-289a(a).

⁶⁴ 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. C.G.S.A. §14-286d(b).

⁶⁵ A truck-type vehicle is one with a gross vehicle weight rating not exceeding 7,500 lbs. C.G.S.A. §14-272a(a).

STATE	DELAWARE
General Reference:	Delaware Code Annotated (Del.C.)
<u>Seat Belts:</u>	
Requirements:	I. When a motor vehicle (except motorcycles, tractors, electric personal assistive mobility devices or off-highway vehicles) is in operation, the driver and each occupant of the passenger compartment who is 16 years or older shall wear and shall secure his or her seat belt. 21 Del.C. §4802(a)(1); (a)(2);(b).
Exemptions:	(1) Persons who for medical or physical reasons are unable to wear a seat belt and possess written verification from a licensed physician or physical therapist; (2) persons riding in motor vehicles that do not have to be equipped with seat belts; and (3) letter carriers of the U.S. Postal Service when performing official duties. 21 Del.C. §4802(c).
Enforcement Type:	Primary Enforcement: A police officer is authorized to make an administrative stop upon reasonable and articulable suspicion that a seat belt violation has occurred. 21 Del.C. §4802(j).
Sanctions:	Where there is no other violation in addition to a violation of this requirement, a civil penalty of \$25 shall be imposed. Additionally, a penalty assessment of 40% of the fine or fines imposed for other traffic laws committed at the time of the seat belt law violation shall be imposed. However, no assessment shall exceed \$20 of every fine, penalty or forfeiture imposed or collected. 21 Del.C. §4802(g)(2)a, c. No points may be assessed against a person nor may an entry be made on such person's driving record because of a violation of the seat belt use requirement. 21 Del.C. §4802(h).
Effect on Civil Liability:	I. Failure to wear a seat belt shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim adjudication. In addition, such a failure is not admissible as evidence in the trial of any civil action or insurance claim adjudication. 21 Del.C. §4802(i).
<u>15-Passenger Vans:</u>	Covered under the seat belt law.
<u>Child Safety Restraint Systems:</u>	
Requirements:	I. A person who is transporting a child through age 7, up to and including the weight of 65 lbs., shall properly secure such child in a federally approved child safety seat or booster seat. II. A child age 8-15 or greater than 65 lbs. = seat belt. III. No child 65 inches in height or less and under age 12 shall occupy the front passenger seat. ⁶⁶ 21 Del.C. §4803(a), (b).

⁶⁶ **Exception:** 21 Del.C. §4803(b)(1) does not apply to: (1) vehicles equipped with a passenger-side air bag specifically designed or modified by the vehicle's manufacturer for use by children and small adults; or (2) vehicles with no rear passenger seat, or if all rear passenger seats are occupied by other children 65 inches in height or less and younger than 12. 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.

Sanctions:	A fine of \$25 . 21 Del.C. §4803(c).
Exemptions:	The requirement to use a child passenger restraint system does not apply if the child is being transported in a motorbus, limousine, or taxicab. 21 Del.C. §4803(a).
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 age 16 is injured. Evidence of such failure cannot be admitted into evidence at a civil trial. 21 Del.C. §4803(d).

School Bus Safety Restraint Systems:

Requirements:	Requirements: “School bus” is defined as a commercial motor vehicle. Based on the seat belt and child safety seat requirements above, it is likely that if a school bus is equipped with a seat belt and passenger restraints, they must be used. 21 Del.C. §101(63)
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Motorcycle Protective Headgear:

Requirements:	A person younger than 19 shall wear a safety helmet that has been approved by the State when operating or riding a motorcycle ⁶⁷ . Motorcycle operators or passengers age 19 or older are required to have a safety helmet in their possession but are not required to use it. 21 Del.C. §4185(b).
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Sanctions:	<u>First offense</u> – A fine of not less than \$25 nor more than \$75 ; <u>Subsequent offense</u> (within 12 months of the first offense) – A fine of not less than \$57.50 or more than \$95 . 21 Del.C. §4205(a).
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Exemptions:	None
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Motorcycle Eye Protection Device:

Requirements:	Every person operating or riding on a motorcycle shall wear eye protection. 21 Del.C. §4185(b).
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Sanctions:	<u>First offense</u> – A fine of not less than \$25 nor more than \$75 ; <u>Subsequent offense</u> (within 12 months of the first offense) – A fine of not less than \$57.50 or more than \$95 . 21 Del.C. §4205(a).
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Motorcycle Passenger Age Restrictions:

	None
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Bicycle Protective Headgear:

⁶⁷ A motorcycle includes every motor vehicle with no more than 3 wheels except those vehicles included in the definition of an autocycle, tractor, or electric assisted mobility device. 21 Del.C § 101(34).

Requirements: See note.⁶⁸
A person under age 18 shall not operate or ride as a passenger a bicycle unless that person is wearing a bicycle helmet. 21 Del.C. §4198K(a).

Sanctions: A parent or guardian who fails to cause his child to wear a protective helmet shall be fined **\$25** for the first offense, and **\$50** for each subsequent offense. 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.
21 Del.C. §4198K(b), (f).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

⁶⁸ 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 age 18 is injured, nor shall such failure be admissible as evidence in the trial of any civil action. 21 Del.C. §4198K(e).

STATE

DISTRICT OF COLUMBIA

General Reference: D.C. Code (D.C.Code); West’s District of Columbia Municipal Regulations (DCMR)

Seat Belts:

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

Exemptions: (1) Riders in a motor vehicle manufactured before July 1, 1966; (2) riders who possess a written verification from a licensed physician that the rider is unable to wear a seat belt for medical reasons; (3) riders who are passengers in a vehicle if all seating positions with seat belts in the vehicle are occupied by other persons, so long as those riders age 16 and under have preference to seating positions with seat belts over those persons older than 16; 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. D.C.Code §50-1802(b).

Enforcement Type: **Primary Enforcement:** There is no statutory provision.⁶⁹

Sanctions: **Civil Infraction:** A fine of **\$50**. The mayor is authorized to increase the amount of this penalty. D.C.Code §50-1806(b). Two points shall be assigned for a single violation, and 3 points for simultaneous multiple violations. D.C.Code §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. D.C.Code §50-1807.

15-Passenger Vans: Not covered under the seat belt law. D.C.Code §50-1801.

Child Safety Restraint Systems:

Requirements: I. A motor vehicle operator may not transport a child younger than 3 unless such child has been secured in a child restraint seat which conforms to Federal standards.
II. A motor vehicle operator shall not transport a child under age 16 unless such child has been restrained in either a seat belt or child restraint seat. Children under 8 must be in an infant, convertible or booster seat.
III. Automobile rental companies are required to inform each customer of these child restraint requirements. D.C.Code §§50-1703; 50-1704.

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,

⁶⁹ 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).

or who are being transported in a motor vehicle with a seating capacity of more than 8 passengers not including the driver. D.C.Code §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 which exceeds the number of passenger positions equipped with seat belts in the motor vehicle. *However, an unrestrained child may not be transported in the front seat of a motor vehicle.*” (Emphasis added.)

D.C.Code §50-1703(c).

Sanctions:

Moving Violation:

First offense - A fine of **\$75**⁷⁰ or attendance at a child restraint safety class, for which such violator shall be charged **\$25**;

Second offense - A fine of **\$75** plus attendance at child restraint safety class, for which such violator shall be charged **\$25**;

Third offense - A fine of **\$125**;

Fourth and each subsequent offense – A fine of **\$150**.

Two points are assessed to the driving record of anyone convicted of violating child restraint requirements. D.C.Code §50-1706(c); 18 DCMR §303.

Effect on Civil Liability:

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

School Bus Safety Restraint Systems:

Requirements:

There is no specific statutory provision for the use of seat belts on school buses. “Motor vehicle” is defined as any device with 3 or more wheels and a seating capacity of 8 or fewer passengers. Logically, this would exclude school buses. 18 DCMR §737 requires the installation of 2 seat belts or harnesses in the front seat of any motor vehicle (manufactured for the 1966 model or subsequent years and registered as a private passenger vehicle) before such vehicle will pass inspection. Further, that section requires the installation of seat belts or harnesses for each seating position in any motor vehicle (manufactured after January 1, 1968 and registered as a private passenger vehicle) *except* buses.

Motorcycle Protective Headgear:

Requirements:

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

Sanctions:

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

Exemptions:

None

Motorcycle Eye Protection Device:

⁷⁰ 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. D.C.Code §50-1706(b).

Requirements: Persons operating or riding on a motorcycle must wear safety eye protection devices that comply with nationally approved standards, unless the motorcycle is equipped with a windscreen or shield. 18 DCMR §§742; 2215.4; 2215.5.

Sanctions: **Infraction:** A fine of **\$75**. 18 DCMR §2600.

Motorcycle Passenger **None**
Age Restrictions:

Bicycle Protective
Headgear:

Requirements: I. A person younger than 16 shall wear a protective helmet of good fit, fastened securely upon the head with the straps of the helmet. D.C.Code §50-1605(a).
II. A parent or legal guardian or a child younger than 16 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. D.C.Code §50-1605(b).

Sanctions: A parent or legal guardian is subject to a **\$25** fine. However, the fine shall be suspended for first time violators or violators who subsequent to the violation, but prior to the imposition of fine, purchase a protective helmet. D.C.Code §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 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. D.C.Code §50-1606.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

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

Sanctions: **Infraction:** A fine of **\$25**. 18 DCMR §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 DCMR §2213.6.

STATE

FLORIDA

General Reference:

Florida Statutes Annotated (F.S.A.)

Seat Belts:

Requirements:

I. A driver shall not operate a motor vehicle⁷¹ unless such driver and every passenger under age 18 are restrained by a seat belt. F.S.A. §316.614(4).
 II. A front seat passenger 18 years or older must secure him/herself in a seat belt while a motor vehicle is in motion. F.S.A. §316.614(5).

Exemptions:

(1) Persons who have a medical condition that would cause the use of seat belts to be either inappropriate or dangerous; (2) persons while in the course of delivering newspapers; (3) employees of a solid waste or recyclable collection service while in the course of employment; or (4) persons riding either in the living quarters of a recreational vehicle or in the space within a truck body primarily intended for merchandise or property. F.S.A. §316.614(6).

Enforcement Type:

Primary Enforcement: F.S.A. §316.614(9).⁷²

Sanctions:

Nonmoving Traffic Violation:⁷³ A fine of **\$30** with court costs of **\$18**.⁷⁴
 F.S.A. §§316.614(8); 318.14; 318.18(2), (11).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

I. A motor vehicle operator, when transporting a child age 5 or younger, must secure such child in a federally approved child restraint device.
 II. Children age 3 or younger must be secured in either a separate carrier or

⁷¹ 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 26,000 lbs.; and (5) motorcycles, mopeds or bicycles. F.S.A. §316.614(3)(a). **Note:** State law does not specifically exempt vehicles that are not required to have seat belts under Federal law.

⁷² A police officer may stop a vehicle if the driver is observed to be not wearing a seatbelt; thus such a stop would not violate the Fourth Amendment. [U.S. v. Gayle, C.A.11 \(Fla.\)2015, 608 Fed.Appx. 783, 2015 WL .](#)

⁷³ 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 F.S.A. §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. F.S.A. §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 F.S.A. §318.18(3) must be reduced by 18 percent. F.S.A. §318.14(9).

⁷⁴ **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. F.S.A. §316.655(2). **Note:** Under F.S.A. §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 F.S.A. §322.271.

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 a child booster seat. F.S.A. §316.613(1)(a).⁷⁵

Exemptions: This requirement does not apply to children riding in the following types of vehicles: (1) a school bus; (2) a bus used to transport persons for compensation; (3) a farm tractor or implement of husbandry; (4) a truck having a gross weight of greater than 26,000 lbs.; and (5) motorcycles, mopeds or bicycles. F.S.A. §316.613(2).

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

School Bus Safety Restraint Systems:

See note.⁷⁶

Requirements:
 I. All school buses purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with seat belts or other federally approved restraint systems in a number sufficient to allow each student who is being transported to use a separate seat belt or restraint system. F.S.A. §316.6145(1)(a).
 II. School bus operators are not required to wear safety seat belts. F.S.A. §§316.614; 316.6145.
 III. Each passenger on a school bus equipped with seat belts or a restraint system shall wear a properly adjusted and fastened seat belt at all times while the bus is in operation. F.S.A. §316.6145(2).⁷⁷

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

⁷⁵ This shall not apply if the child is properly restrained in a seat belt and the child is (1) being transported gratuitously and the operator is not the parent; (2) in a medical emergency; or (3) has a medical condition that requires exemption and has written verification. F.S.A. §316.613(1)(2).

⁷⁶ The law exempts from civil liability governmental entities (the State, counties, school districts) or individuals (school bus operators, agents or employees [e.g., teachers or volunteers serving as chaperones of a school district] in two situations: (1) for an injury by a school bus passenger solely because the injured party was not wearing a seat belt; or (2) for a personal injury by a school bus passenger for an injury caused solely by another passenger’s use or nonuse of a seat belt or restraint system in a dangerous or unsafe manner. F.S.A. §316.6145.

⁷⁷ F.S.A. §316.613(2) excludes school buses from the child safety restraint system requirement. This appears to be in direct conflict with F.S.A. §316.6145. However, §316.6145 requires school buses to be equipped with safety belts *or* with any other federally-approved restraint system, so the logical conclusion would be that school buses must be equipped with some form of restraint (mainly seat belts), but are not specifically required to be equipped with infant car seats, convertible car seats or booster seats.

Motorcycle Protective Headgear:

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

No person under age 16 shall operate or ride on a moped unless wearing protective headgear. F.S.A. §316.211(4).

Sanctions: **Nonmoving Traffic Violation:** A fine of **\$30** with court costs of **\$18**. F.S.A. §§316.655(1); 318.14; 318.18(2), (11).

Failure to wear protective headgear may be considered as comparative negligence *if* it can be shown that such a failure was the proximate cause of the injuries sustained.⁷⁸

Exemptions: This requirement does not apply to persons age 16 or older who are operating or riding within an enclosed cab and to persons age 16 or older who are operating or riding upon a motorcycle with either: (1) a displacement of 50 cubic centimeters or more; (2) two or less brake horsepower; or (3) a speed capability of 30 mph or less. F.S.A. §316.211(3)(a).

Additionally, persons who are over 21 years 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 the motorcycle. F.S.A. §316.211(3)(b).

Motorcycle Eye Protection Device:

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

Sanctions: **Noncriminal Traffic Infraction:** A fine of **\$30** with court costs of **\$18**. F.S.A. §§316.655(1); 318.14; 318.18(2), (11).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: A bicycle rider or passenger younger than 16 must wear a federally approved bicycle safety helmet.⁷⁹ F.S.A. §316.2065(3)(d).

Sanctions: **Pedestrian Violation:** A fine of **\$15** with court costs of **\$4** may be assessed. The court shall dismiss the charge against the bicycle rider or passenger for a

⁷⁸ *Rex Utilities, Inc. v. Gaddy*, 413 So.2d 1232 (Fla. App. 3 Dist. 1982), *petition for review denied*, 442 So.2d 843 (Fla. 1982).

⁷⁹ The failure of a person to wear a bicycle helmet or the failure of a parent/guardian to prevent a child from riding a bicycle without a helmet may not be considered as evidence of negligence or contributory negligence. F.S.A. §316.2065(18).

first violation upon proof of purchase of a bicycle helmet.
F.S.A. §§316.2065(3)(e); 318.18(2), (11).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: No persons age 17 and younger shall ride upon any portion of a vehicle that is not intended for passenger use, except on non-limited access roads if a seat fitted with a seat belt has been added to the cargo area, or local city or county law permits such unrestricted riding. F.S.A. §316.2015(2).⁸⁰

Sanctions: **Nonmoving Traffic Violation:** A fine of **\$30** with court costs of **\$18**.
F.S.A. §§316.2015(2)(c); 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. F.S.A. §316.2015(2).

⁸⁰ This prohibition does not apply in a medical emergency if the minor is accompanied by an adult. F.S.A. §316.2015(2)

STATE

GEORGIA

General Reference:

Official Code of Georgia Annotated (OGCA); West’s Georgia Administrative Code (Ga Comp. R. & Regs.)

Seat Belts:

Requirements:

I. Each occupant of the front seat of a passenger vehicle⁸¹ must be restrained by a federally approved seat belt while such vehicle is being operated. OGCA §40-8-76.1(b).
 II. A driver transporting a minor age 8 or older must secure such child in a federally approved seat belt. OGCA §40-8-76.1(e)(3).

Exemptions:

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

Enforcement Type:

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

Sanctions:

I. For a violation of I above, a fine of not more than **\$15**.⁸² The law specifically provides that “the costs of ... prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge ... be assessed.” OGCA §40-8-76.1(e)(2).
 II. For a violation of II above, a fine of not more than **\$25**.
 OGCA §40-8-76.1(e)(3).

Effect on Civil Liability:

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

⁸¹ For the purposes of the seat belt requirement, the term “passenger vehicle” means every motor vehicle designed to carry 15 passengers or less and used for the transportation of persons. This does not mean pickup trucks used for agricultural purposes, motorcycles, motor driven cycles or vehicles equipped for off-road use. It does not apply to motor vehicles designed to carry 11-15 passengers which were manufactured prior to July 1, 2015, and which, as of such date, did not have manufacturer installed seat safety belts. However, such term does include sport utility vehicles and pickup trucks for any occupant who is younger than 18. OGCA §40-8-76.1(a).

⁸² 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 OGCA §40-5-57. OGCA §40-8-76.1(e)(1).

operation of a motor vehicle. OGCA §40-8-76.1(d).

15-Passenger Vans: Covered under the seat belt law.

Child Safety Restraint Systems: See note.⁸³

Requirements: A person transporting a child younger than 8 in a motor vehicle⁸⁴ shall secure such child in a federally approved child passenger restraint system. OGCA §40-8-76(b).

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

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

Sanctions: First offense⁸⁵ – A fine of not more than **\$50** and 1 point assessed against an offender's driving record;
Second or subsequent offense - A fine of not more than **\$100** and 2 points assessed against an offender's driving record.
For either a first or subsequent offense, the court is prohibited from imposing additional fees or surcharges. OGCA §§40-5-57(c)(1)(A); 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. OGCA §40-8-76(c).

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear: See note.⁸⁶

Requirements: No person shall operate or ride upon a motorcycle unless that person is wearing protective headgear that meets the specifications of the U.S. Department of Transportation's Federal Motor Vehicle Safety Standards. OGCA §40-6-315(a); Ga Comp. R. & Regs. 570-13-.02.

⁸⁴ 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. OGCA §40-8-76(b)(1).

⁸⁵ A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. OGCA §40-8-76(c).

⁸⁶ 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).

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

Exemptions: 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 motorcycles used only for agricultural purposes. OGCA §40-6-315.

Motorcycle Eye Protection Device:

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

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

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: When operating or riding on a bicycle, a person younger than 16 shall wear a bicycle helmet that complies with nationally recognized standards.⁸⁷ OGCA §40-6-296(d)(1).

Sanctions: I. The law specifically provides that no person younger than 16 who violates this provision may be fined or imprisoned. OGCA §40-6-296(d)(6).

Prohibition Against Riding in Unsecured Portion of Vehicle:

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

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

⁸⁷ A violation of this requirement shall not constitute negligence per se or contributory negligence per se, or be considered evidence of negligence of liability. OGCA §40-6-296(d)(5).

STATE

HAWAII

General Reference:

Hawai'i Revised Statutes Annotated (HRS)

Seat Belts:

Requirements:

I. No person shall operate a motor vehicle⁸⁸ on any public highway unless such person and all passengers are restrained by a seat belt or child passenger restraint system if under age 8. HRS §291-11.6(a).

Exemptions:

I. Passengers of 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, including a school bus, but excluding a charter or sightseeing service bus) are exempt from the seat belt requirement. HRS §291-11.6(b).

II. The seat belt use requirement does not apply to: (1) persons riding in motor vehicles that do not have to be equipped with a seat belt under Federal law; (2) persons who are unable to use a seat belt because all of the available seat belt assemblies are in use; (3) persons who have a condition that prevents the appropriate use of a seat belt; and (4) persons operating taxicabs. HRS §291-11.6(c).

Enforcement Type:

Primary Enforcement: No statutory provision.⁸⁹

Sanctions:

Violation (Non-Criminal): A fine of **\$45** and a surcharge of **\$10** to be deposited into the neurotrauma special fund. An additional **\$10** may be charged for deposit into the trauma system special fund. HRS §§291-11.6(e); 701-107(5).

Effect on Civil Liability:

The enactment of the seat belt law does not change existing law concerning personal injury civil actions related to vehicle accidents.⁹⁰HRS §291-11.6(d).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A child under age 4 shall be properly restrained in a child passenger restraint system.

II. A child between ages 4 and 7 shall be properly restrained in a child safety seat or booster seat, unless such child is over 4 feet 9 inches in height or over 40 lbs., and traveling in a motor vehicle equipped only with lap belts, without shoulder straps, in the back seat. HRS §291-11.5(a).

Exemptions:

Operators of emergency, commercial, and mass transit vehicles are exempt from the child safety seat requirement. HRS §291-11.5(b). In addition, this

⁸⁸ "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power but which is not operated upon rails, but excludes a moped. HRS § 286-2.

⁸⁹ See, e.g., *State v. Ribbel*, 142 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.

⁹⁰ The Hawaii Supreme Court has indirectly held that a person has no common law duty to mitigate damages by wearing a seat belt. *Kealoha v. County of Hawai'i*, 844 P.2d 670 (Hawaii 1993), *reconsideration denied*, 847 P.2d 263 (Haw.1993).

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. HRS §291-11.5(c).

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

Effect on Civil Liability: Failure to restrain a child under age 8 is not considered contributory negligence, comparative negligence or negligence per se. HRS §291-11.5(d).

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear:

Requirements: No person younger than 18 shall operate or ride on a motorcycle unless that person is wearing a State-approved safety helmet.⁹¹ HRS §286-81(b).

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

Exemptions: A safety helmet is not required if the motorcycle or motor scooter has 3 wheels, is powered by an electric motor, has an enclosed cab, and has a seat belt assembly or child restraint for driver and passenger, that is used during operation. HRS § 286-81(c).

Motorcycle Eye Protection Device:

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

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

⁹¹ 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).

Motorcycle Passenger
Age Restrictions:

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

Bicycle Protective
Headgear:

Requirements:

Persons younger than 16 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. HRS §291C-150(a).

Sanctions:

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

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements:

I. No person shall stand in the bed or load-carrying area of a pickup truck⁹² while such vehicle is in motion. HRS §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 control unlashed cargo. HRS §291-14(a).
 III. A person shall not operate a pickup truck while any passenger 12 years or younger is in the bed or load-carrying area of the vehicle unless there is an emergency threatening the life of the passenger or the vehicle is being operated in a parade. HRS §291-14(c).

Sanctions:

For I and II above: a Non-Criminal **“Violation”** with a fine of **\$25**.
 For III above: a Non-Criminal **“Violation”** with a fine of **\$50**.
 HRS §§291-14(d); 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. HRS §291-14(b).

⁹² 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).

STATE**IDAHO**

General Reference:

Idaho Code (I.C.); Idaho Administrative Code (IDAPA)

Seat Belts:

Requirements:

All occupants of a motor vehicle⁹³ shall be secured in a seat belt when the vehicle is in motion. I.C. §49-673(1).

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

Exemptions:

(1) Persons who are unable to use a seat belt for medical reasons and possess a written statement from a licensed physician; (2) persons riding on motorcycles, using implements of husbandry and occupying emergency vehicles; (3) persons riding in the motor vehicle when all of the available seat belts are already in use; and (4) mail carriers. I.C. §49-673(2).

Enforcement Type:

Secondary Enforcement: Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when the operator of the motor vehicle has been detained for a suspected violation of another law. I.C. §49-673(5).

Sanctions:

Infraction: A fine of **\$10**. I.C. §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.

Effect on Civil Liability:

Failure to wear a safety restraint as required by this section may not be used (1) to determine comparative fault; (2) in the context of a claim under a policy of uninsured/underinsured motorist coverage for automobile insurance; or (3) in an action for recovery of damages of a minor who is not old enough to qualify for driver's training. Such evidence may be admissible where a parent of a minor brings an action for the wrongful death of the minor. I.C. § 6-1608.

15-Passenger Vans:

May be covered by seat belt law.

Child Safety Restraint Systems:

Requirements:

A person, transporting a child age 6 or younger in a noncommercial motor vehicle⁹⁴ shall secure such child in a federally approved child safety restraint. I.C. §49-672(1).

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

⁹³ This requirement applies only to motor vehicles that have a gross vehicle weight of not more than 8,000 lbs., and that comply with Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208). I.C. §49-673(1). **Note:** This Federal standard applies to passenger motor vehicles manufactured after January 1, 1973.

⁹⁴ This requirement applies to motor vehicles that were manufactured with seat belts after January 1, 1966.

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. I.C. §49-672(2)(a),(b).

Sanctions: **Infraction:** A fine of not more than **\$300**. I.C. §§18-113A; 49-110(5); 49-236(2).
Note: The law does not assign points for a violation of this requirement. I.C. §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. I.C. §49-672(3).

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear:

Requirements: No person under age 18 shall operate or ride on a motorcycle unless he is wearing a State approved protective safety helmet meeting Federal Motor Vehicle Safety Standard No. 218. I.C. §49-666; IDAPA §11.07.01.040.

Sanctions: **Infraction:** A fine of not more than **\$300**. I.C. §§18-113A; 49-110(5); 49-236(2). The law does not assign points for a violation of this requirement. I.C. §49-326(3).

Exemptions: A safety helmet is not required when the motorcycle is operated or ridden on private property, or when used as an implement of husbandry, and shall also not apply to completely enclosed autocycles. I.C. §49-666

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

None

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

STATE**ILLINOIS**

General Reference:

West's Smith-Hurd Illinois Compiled Statutes Annotated (ILCS)
Illinois Administrative Code (ILAC)

Seat Belts:

Requirements:

I. Each driver and passenger of a motor vehicle⁹⁵ operated on a street or highway shall wear a properly adjusted and fastened seat belt.⁹⁶ 625 ILCS 5/12-603.1(a).

Exemptions:

(1) A driver or passengers who are operating or riding in a motor vehicle that makes frequent stops for the purpose of delivering property and provided the speed of the vehicle between stops is not greater than 15 mph; (2) drivers and passengers possessing a written statement from a physician or a certificate or license endorsement issued by an appropriate out-of-State agency, that such person is unable, for medical or physical reasons, to wear a seat belt; (3) a driver operating a motor vehicle in reverse; (4) persons operating or riding in motor vehicles either with a model year prior to 1965 or that are not required by Federal law to have seat belts; (5) persons operating or riding on motorcycles, motor driven cycles, or mopeds; (6) rural letter carriers performing their official duties; (7) a driver or passenger of an authorized emergency vehicle; and (8) a back seat passenger in a taxicab. 625 ILCS 5/12-603.1(b).

Enforcement Type:

Primary Enforcement: However, a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a seat belt violation. 625 ILCS 5/12-603.1(f).

Sanctions:

Petty Offense: A fine not to exceed **\$25**. 625 ILCS 5/12-603.1(d). The law does not assign points for a violation of these requirements. 92 ILAC §1040.20(e).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered by the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A person transporting a child under age 8 in a motor vehicle shall secure such child in a federally approved child restraint system.⁹⁷ However a child weighing

⁹⁵ Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles. Motor vehicles are divided into two divisions. 1st Division: those motor vehicles which are designed for the carrying of not more than 10 persons. 2nd Division: those motor vehicles which are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the 1st Division re-modeled for use and used as motor vehicles of the 2nd Division. 625 ILCS 5/1-146.

⁹⁶ Under separate provisions of law, a driver under age 18 shall not operate a motor vehicle with more than one passenger in the front seat or with more passengers in the back seats than there are seat belts. A driver under age 18, when operating a second division vehicle, that has only a front seat and that weighs not more than 8,000 lbs., may transport more than one person in the front seat provided each passenger is wearing a seat belt. 625 ILCS 5/12-603(b-5).

more than 40 lbs. 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; 625 ILCS 5/12-603.1.

II. Every person when transporting a child 8 or older but under age 16 shall be responsible for properly securing that child in a seat belt. 625 ILCS 25/4a; 625 ILCS 5/12-603.1.

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

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.

Sanctions: **Petty Offense:**
First offense: A fine of **\$75**.⁹⁸
Subsequent offense: A fine of **\$200**. 625 ILCS 25/6.
 The law does not assign points for a violation of these requirements.
 92 ILAC §1040.20(e).

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

School Bus Safety
 Restraint Systems:
 Requirements:

See note.⁹⁹

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

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

Sanctions: For I above, first or second violation (**Petty Offense**) – A fine of not more than **\$1000**;
Third violation (within 1 year) (**Class C Misdemeanor**) – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$1,500**.
 625 ILCS 5/16-104.

Motorcycle Protective
 Headgear:

⁹⁷For children younger than 8, the parent or legal guardian shall provide a child restraint system to any person who is transporting his/her child. 625 ILCS 25/4.

⁹⁸A person shall not be convicted of this first offense if the person produces in court satisfactory evidence of possession of an approved child restraint system and proof of completion of an instructional course on the installation of the child restraint system. 625 ILCS 25/6(b).

⁹⁹The corporate authorities of any city with 1,000,000 or greater inhabitants may regulate, license and prescribe safety requirements for motor vehicles used to transport for hire students to or from a school. However, no such municipality may require school buses to be equipped with seat belts while transporting students who reside and attend school situated outside of the corporate limits of the municipality. 65 ILCS 5/11-40-2a.

Requirements: **None**¹⁰⁰ “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).

Motorcycle Eye
Protection Device:

Requirements: A person who operates or rides on a motorcycle must be protected by glasses, goggles or a transparent shield.¹⁰¹ 625 ILCS 5/11-1404(a).

Sanctions: First and second offenses (Petty Offense) - A fine of not more than **\$1,000**; Third or subsequent offense (within 1 year) (**Class C Misdemeanor**) – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$1,500**. 625 ILCS 5/16-104.

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

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

¹⁰⁰ 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).

¹⁰¹ Contact lenses are not acceptable eye protection devices. 625 ILCS 5/11-1404(c).

STATE**INDIANA**

General Reference:

Indiana Code (IC); Indiana Administrative Code (IAC)

Seat Belts:

Requirements:

Each occupant of a motor vehicle¹⁰² shall be secured in a seat belt when the vehicle is in forward motion. IC §9-19-10-2.

Exemptions:

(1) Occupants, who for medical reasons should not wear seat belts, provided the occupant possesses written documentation from a physician; (2) a child required to use a child passenger restraint system; (3) a driver 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) a rural carrier of the U.S. Postal Service and is performing his official duties; (5) a newspaper motor route carrier/bundle hauler who stops to make deliveries from a vehicle; (6) an examiner conducting a driver's license/permit examination; (7) a farm truck being used on a farm in connection with agricultural pursuits that are usual and normal to the farming operation; (8) a motor vehicle participating in a parade; (9) an occupant of the living quarters area of a recreational vehicle; (10) passenger for treatment in an ambulance; (11) occupants in the sleeping area of a tractor; (12) occupants other than the operator in a truck engaged in garbage operations; (13) occupant other than the operator of a truck on a construction site; (14) occupant other than the operator of a tow truck whose vehicle is being towed; (15) occupant other than the operator of a motor vehicle being used by a public utility in an emergency. IC §9-19-10-1.

Enforcement Type:

Primary Enforcement: A vehicle may be stopped to determine compliance with the seat belt law. However, during such stop, the vehicle, its contents, driver, or passengers may not be searched or detained solely because of a violation.¹⁰³

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

Sanctions:

Class D Infraction: A fine of up to **\$25**. IC §§9-19-10-8(a); 34-28-5-4(d). Points may not be assessed against a person's driving record for a violation of this requirement. IC §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. IC §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. IC §9-19-10-7(b),(c).

15-Passenger Vans:

May be covered under the seat belt law.

¹⁰² "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device. IC § 9-13-2-105

¹⁰³ Term "vehicle," as used in seat belt enforcement statute which allows a vehicle to be stopped to determine compliance with seat belt laws, is a "passenger motor vehicle," and does not include trucks, tractors, and recreational vehicles, but does include sport utility vehicles (SUVs). *State v. Price*, App.2000, 724 N.E.2d 670, transfer denied 735 N.E.2d 232.

Child Safety Restraint Systems:

Requirements: I. Before operating a motor vehicle, a driver must secure a child under 8 years in a child passenger restraint system. However, a child weighing more than 40 lbs. may be restrained by a lap seat belt if: (1) the motor vehicle is not equipped with lap and shoulder seat belts; or (2) not including the operator's seat and front passenger seat, all the lap and shoulder belts are being used to properly restrain children less than 16 years. IC §§9-19-11-2; 9-19-11-3.7.
II. A person operating a motor vehicle with a child at least 8 years but less than 16 years shall have such child fastened in a child restraint system or a seat belt. IC §9-19-11-3.6(a).

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. IC §9-19-11-1.

Additionally, if the person carries a certificate stating that it would be impractical to require a child restraint because of a physical condition or medical condition, then there is no violation. IC §9-19-11-2(a).

Sanctions: **Class D Infraction:** A fine of up to \$25.¹⁰⁴ IC §§9-19-11-2; 9-19-11-3.6(a); 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. IC §9-19-11-7. Points may not be assessed against a person's driving record for a violation of this requirement. IC §9-19-11-10.

Effect on Civil Liability: Failure to comply with this requirement does not constitute contributory negligence. IC §9-19-11-8.

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear:

Requirements: A person under age 18 shall wear State approved protective headgear that meets the Federal Motor Vehicle Safety Standard No. 218, when operating or riding on a motorcycle. IC §§9-19-7-1(1).

Sanctions: **Class C Infraction:** A fine of up to \$500.

¹⁰⁴ 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. IC §9-19-11-5.

IC §§9-19-7-3; 34-28-5-4(c). Four points are assessed against a person's driving record. 140 IAC 1-4.5-10.

Exemptions: Does not apply to operators or passengers of an autocycle¹⁰⁵. IC §§9-19-7-1(a).

Motorcycle Eye
Protection Device:

Requirements: A person under age 18 shall wear protective glasses, goggles or transparent face shield when operating or riding on a motorcycle. Does not apply to operators or passengers of an autocycle. IC §9-19-7-1(2), (a).

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

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements: Children in childcare centers shall wear a helmet when riding bicycles. 470 IAC 3-4.7-63(n).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

¹⁰⁵ An autocycle is a three-wheeled vehicle in which the operator and passenger are completely or partially enclosed and is equipped with safety belts, rollcage, brakes, steering wheel, and pedals. IC §9-13-2-6.1.

STATE**IOWA**

General Reference:

Iowa Code Annotated (I.C.A.)

Seat Belts:

Requirements:

When a motor vehicle¹⁰⁶ is in forward motion, the driver and front-seat passengers shall wear seat belts or safety harnesses.
I.C.A. §321.445, subsec. 2(a).

Exemptions:

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

Enforcement Type:

Primary Enforcement: There is no statutory provision.¹⁰⁷

Sanctions:

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

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

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

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A child under age 1 and weighing less than 20 lbs. = rear-facing child restraint system.
II. A child under age 6 and weighing 20 or more lbs. = federally approved child restraint system.
III. A child 6-17 years = a federally approved child restraint system, a seat belt, or a safety harness. I.C.A. §321.446.

Exemptions:

These requirements do not apply to children riding in/on: (1) school buses; (2)

¹⁰⁶ A “motor vehicle” does not include a motorcycle or motorized bicycle. I.C.A. §321.445, subsec. 2.

¹⁰⁷ 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).

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 or motorsports recreational vehicles except when riding in the passenger seat “situated directly” to the right of the driver; and (7) a motor vehicle for whom no back seat belt are available because all seat belts are being used by other occupants or cannot be used due to the use of a child restraint system in the seating position for which a belt is provided. In addition, there is an exemption in cases of children who have a medical, physical, or mental condition that prevents or makes inadvisable the securing of a child in a child restraint system, seat belt, or safety harness. I.C.A. §321.446.

Sanctions: See note¹⁰⁸
Simple misdemeanor, but described as a “**Scheduled Violation**”: A fine of **\$100**. I.C.A. §§321.446, subsec. 4; 805.8; 805.8A, subsec. 14(c).

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

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

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

School Bus Safety
Restraint Systems:

Requirements: Children riding on school buses are exempt from the child restraint system requirements. I.C.A. §321.446.

Motorcycle Protective
Headgear:

Requirements: **None**

Motorcycle Eye
Protection Device:

Requirements: **None**

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements: **None**

¹⁰⁸ 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. I.C.A. §321.446, subsec. 4(c).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

- Requirements: A passenger shall not ride on any part of any vehicle unless it is expressly designed either for passenger use or designed for carrying livestock, merchandise or freight. I.C.A. §321.455.
- Sanctions: Simple misdemeanor but described as a “**Scheduled Violation.**”¹⁰⁹
- Exemptions: **None**

¹⁰⁹ I.C.A. §321.482 lists a violation of this requirement as a simple misdemeanor. However, I.C.A. §805.8A, subsec. 12(c), lists a fine of \$200 when the violation concerns height, weight, width and load. The first part of I.C.A. §321.455 sets out restrictions for load on passenger-type vehicles operated on any highway.

STATE**KANSAS**

General Reference:

Kansas Statutes Annotated (K.S.A.)

Seat Belts:

Requirements:

When a passenger car¹¹⁰ or autocycle¹¹¹ is in motion, each occupant at least age 14 or older shall be properly secured in a seat belt. K.S.A. §8-2503(a).

Exemptions:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable, for medical reasons, to wear a seat belt system; (2) carriers of U.S. mail while actually engaged in delivery and collection of mail along their specified routes; or (3) newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes. K.S.A. §8-2503(b).

Enforcement Type:

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

Sanctions:

For a violation by an occupant age 18 or older, a fine of **\$10** and no court costs. For a violation by an occupant age 14-17, a fine of **\$60** and no court costs. K.S.A. §8-2504(a)(1).

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

Effect on Civil Liability:

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

15-Passenger Vans:

Not covered under the seat belt law. K.S.A. §8-2502.

Child Safety RestraintSystems:

Requirements:

I. Under age 4 = child passenger safety restraining system;
 II. Age 4-7 weighing less than 80 lbs., or measuring less than 4 feet 9 inches = child passenger safety restraining system;¹¹²
 III. Age 8-13, or weighing more than 80 lbs., or measuring more than 4 feet 9 inches = safety belt. K.S.A. §8-1344¹¹³.

Exemptions:

If the number of children under age 14 exceeds the number of passenger securing locations available for use by children under age 14, and all of these securing locations are in use by children. K.S.A. §8-1344(b).

¹¹⁰ A "passenger car" for purposes of the seat belt use act, is defined as a motor vehicle (including vans) manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with seat belts, designed to carry 10 passengers or fewer. It does not include a motorcycle or a motor-driven cycle. K.S.A. §8-2502.

¹¹¹ An autocycle is a three-wheeled motorcycle that has a steering wheel and seating. K.S.A. §8-126(b).

¹¹² If a securing location only has a lap seat belt available, then the child shall be secured in a seat belt as set out in Section II above. K.S.A. §8-1344(c).

¹¹³ Child passenger restraint requirements apply to operators of an autocycle. K.S.A. §8-1344(a).

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

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

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

Effect on Civil Liability: Evidence of failure to secure a child as required shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages. Additionally, failure to employ a child passenger restraint system shall not constitute negligence *per se*. K.S.A. §§8-1345(d); 8-1346.¹¹⁴

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear:

Requirements: No person under age 18 shall operate or ride upon a motorcycle or motorized bicycle unless that person is wearing federally approved protective headgear. K.S.A. §8-1598(a).

Sanctions: **Traffic Infraction:** If a person pleads guilty or no contest, then a fine of not more than **\$45**. K.S.A. §§8-2116(a); 8-2118(c).

Exemptions: This requirement does not apply to persons who are riding within an enclosed cab, an autocycle, a golf cart, or any industrial (e.g., cargo-type) vehicle which has three wheels and which is commonly known as a trickster. K.S.A. §8-1598(d).

Motorcycle Eye Protection Device:

See note.¹¹⁵

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. No person under age 18 shall ride as a passenger unless wearing an eye-protection device. K.S.A. §8-1598(c).

¹¹⁴ The law has been interpreted to include “misuse” as well as “nonuse.” *Watkins v. Hartsock* (Kan. 1989).

¹¹⁵ As with the use of protective headgear, this requirement 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. K.S.A. §8-1598(d).

Sanctions: **Traffic Infraction:** If a person pleads guilty or no contest, then a fine of not more than **\$45**. K.S.A. §§8-2116(a); 8-2118(c).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:
Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

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

Sanctions: **Traffic Infraction:** If a person pleads guilty or no contest, then a fine of not more than **\$75**. K.S.A. §§8-2116(a); 2118(c).

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. K.S.A. §8-1578a(c).

STATE

KENTUCKY

General Reference: Kentucky Revised Statutes (KRS)

Seat Belts:

Requirements: No person shall operate a motor vehicle¹¹⁶ (manufactured after 1981) unless the driver and all passengers are wearing seat belts. KRS §189.125(6).

Exemptions: (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. KRS §189.125(6).

Enforcement Type: **Primary Enforcement:** No statutory provisions.¹¹⁷ However, all law enforcement agencies shall be prohibited from erecting roadblocks for the sole purpose of checking for seatbelt violations. KRS §189.126.

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

Effect on Civil Liability: Failure of any person to wear a seat belt shall not constitute negligence per se, but may be introduced for consideration in awarding damages. *Wemyss v. Coleman*, 729 S.W.2d 174 (Ky. 1987).

15-Passenger Vans: Covered under the seat belt law. KRS §189.125(1).

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. II. When transporting a child under age 8 who is between 40-57 inches in height, a driver of a motor vehicle shall secure such child in a child booster seat. Note: a child of any age who is greater than 57 inches in height shall not be required to be secured in a child booster seat under this section. KRS §189.125(3), (4).

Exemptions: **None**

Sanctions: I. **Violation:** A fine of **\$50 subject to prepayment**, but not subject to court costs or additional fees. KRS §189.990(24). II. **Violation:** A fine of **\$30 subject to prepayment**, but not subject to court costs or additional fees. KRS §189.990(25).¹¹⁸

¹¹⁶ A “motor vehicle” includes a vehicle that is designed to carry 15 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. KRS §189.125(1).

¹¹⁷ Police officer had reasonable suspicion to stop defendant based on officer observing defendant not wearing seat belt in violation of Kentucky statute. *U.S. v. Tillman*, (C.A.6 (Ky.) 2013) 543 Fed.Appx. 557, 2013 WL 6038230.

¹¹⁸ 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. KRS §189.990(25).

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

School Bus Safety Restraint Systems:

Requirements: There is no specific statutory provision. However, the term “school bus” is not directly excluded from the definitions of “motor vehicle” and “vehicle,” for purposes of the seat belt and restraint sections.¹¹⁹

Motorcycle Protective Headgear:

Requirements: The following persons are required to wear State approved protective headgear, meeting standards set out by Federal Motor Vehicle Safety Standard No. 218, when operating or riding as a passenger on a motorcycle: (1) operators or passengers who are under age 21 (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. KRS §189.285(3); 601 KAR 14:010.

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

Exemptions: **None**

Motorcycle Eye Protection Device:

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

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

Motorcycle Passenger Age Restrictions:

None¹²⁰

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

¹¹⁹ A school bus is exempt from the motor carrier law, *except as to safety regulations*. KRS §281.605. (emphasis added). Additionally, in *Montgomery v. Midkiff*, the court held while there was no statutory provision for the requirement and use of seat belts in a bus (a common carrier), it was a question for the jury to decide in a civil negligence matter. 770 S.W.2d 689 (Ky.App. 1989).

¹²⁰ While there are no age restrictions, a motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

Requirements: **None**

STATE

LOUISIANA

General Reference:

West's Louisiana Statutes Annotated: Revised Statutes (La. R.S.)

Seat Belts:

Requirements:

When a motor vehicle¹²¹ is in forward motion, the driver and every passenger shall wear a seat belt. La. R.S. 32:295.1(A), (B). No driver shall transport more passengers than there are seat belts available. La. R.S. 32:295.1(A)(3).

Exemptions:

(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 mph while operating such vehicle; and (5) persons who have a physical or mental condition that prevents the use of a seat belt, so long as the condition is duly certified by a physician stating the nature of the disability 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).

Enforcement Type:

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

Sanctions:

Misdemeanor

First offense – A fine of **\$25** including court costs;

Second offense – A fine of **\$50** including court costs;

Third and subsequent offense – A fine of **\$50 plus** all court costs.

La. R.S. 32:295.1(G)(1).

Note: Notwithstanding any other provision of law, these are the only fines and costs that can be assessed against an offender, except for any person who violates this law in Orleans Parish (subject to an additional \$20 penalty).

La. R.S. 32:295.1(G).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

Any driver operating a motor vehicle¹²² equipped with seat belts shall secure

¹²¹ The requirement to use a seat belt applies to passenger cars, vans, trucks having gross vehicle weight 10,000 lbs., or less (commonly referred to as pickup trucks), and autocycles. However, the requirement does not apply to persons who are operating or riding in such vehicles manufactured prior to January 1, 1981. La. R.S. 32:295.1(A)(1), (A)(2), (B). "Autocycle" is defined as "an enclosed motorcycle that is equipped with seat belts, rollbar, roll cage, 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).

each child under age 13 in a proper restraint system.^{123,124}

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

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

III. A child at least age 4 but younger than age 6 or at least 40 lbs., but not more than 60 lbs. = child booster seat;¹²⁵

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

Exemptions: (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 seat belt. La. R.S. 32:295(E).

Sanctions: See note.¹²⁶

Misdemeanor:

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

Second offense - A fine of not less than **\$250** or more than **\$500**;

Third or subsequent offense - A fine of **\$500** plus all court costs.¹²⁷

La. R.S. 32:295(I)(1).

Any person whose violation is limited to failure to utilize an age- or size-appropriate child restraint system to secure an otherwise restrained child shall not be fined more than **\$100** including fees and court costs.

La. R.S. 32:295(I)(2).

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

School Bus Safety Restraint Systems:

¹²² 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).

¹²³ 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).

¹²⁴ When the number of children under age 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).

¹²⁵ 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.

¹²⁶ 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).

¹²⁷ A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. La. R.S. 32:295(G).

Requirements: Every school bus, whether public or private, must be equipped with occupant restraint systems. La. R.S. 17:164.2. However, for purposes of a child passenger safety seat system, the term “motor vehicle” does not include a school bus. La. R.S. 32:295(B)(1).

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

Motorcycle Protective Headgear:

See note.¹²⁸

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

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

Sanctions: **Misdemeanor:** A fine of **\$50** that includes all court costs. La. R.S. 14:7; 32:190(F).

Exemptions: This requirement does not apply “to persons operating or riding in an autocycle if the vehicle is equipped with a roof that meets or exceeds standards for a safety helmet or a roll cage.” La. R.S. 32:190(D).

Motorcycle Eye Protection Device:

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

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

Misdemeanor

First offense - Imprisonment for not more than **30 days** and/or a fine of not more than **\$175**;

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

Motorcycle Passenger Age Restrictions:

No operator shall carry or transport an infant or child who is required to be restrained in a rear-facing child safety seat or forward-facing child safety seat. A child at least 5 or older is only authorized to be a passenger if such child is

¹²⁸ 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).

properly seated on the motorcycle and such child is wearing a safety helmet.
La. R.S. 32:191(E).

Bicycle Protective
Headgear:

See note.¹²⁹

Requirements:

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

Sanctions:

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

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

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements:

A person under age 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:

Misdemeanor

First offense – A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$175**;

Subsequent offense – A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$500**.

La. R.S. 14:7; 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).

¹²⁹ The law also provides that a parent, guardian or other person responsible for a child's safety and welfare shall not "knowingly allow" a child who weighs less 40 lbs., or is under 40 inches in height to be a passenger on a bicycle unless he/she is "properly seated in and adequately recurred to a restraining seat." La. R.S. 32:199(B)(2). A "restraining seat" is defined to mean "a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle." La. R.S. 32:199(A)(5).

STATE

MAINE

General Reference:

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

Seat Belts:

Requirements:

I. The operator of a vehicle¹³⁰ and any passenger age 18 or older shall be properly secured in a seat belt. Those passengers age 18 or older are responsible for securing themselves in a seat belt. 29-A M.R.S.A. §2081(3-A).

Exemptions:

Drivers or passengers possessing a physician's certificate documenting a medical condition that warrants an exemption from the seat belt requirement. The 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 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 while engaged in the actual delivery of newspapers or performing newspaper delivery duties that require frequent entry into and exit from a vehicle. 29-A M.R.S.A. §2081(6).

Enforcement Type:

Primary Enforcement: There is no statutory provision. A vehicle, the contents of a vehicle, the driver of or a passenger in a vehicle may not be inspected or searched solely because of a violation of this subsection. 29-A M.R.S.A. §2081(3-A).

Sanctions:

Traffic Infraction:

First offense: A fine of **\$50**;

Second offense: A fine of **\$125**;

Third and subsequent offenses: A fine of **\$250**.

These fines cannot be suspended. The law does not appear to assign points for a violation of these requirements. 29-A M.R.S.A. §§2081(3-A); 2458(3).

Effect on Civil Liability:

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

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint

Systems:

Requirements:

I. A child who weighs less than 40 lbs. shall be secured in a child safety seat.

II. A child under age 8 who weighs at least 40 lbs., but less than 80 lbs., shall be secured in a child restraint system.

IV. A child under age 12 and less than 100 lbs., shall be secured in a rear seat of a vehicle, if possible. 29-A M.R.S.A. §2081(2), (3).

Exemptions:

Unless the vehicle is operated by a person under age 21, the requirements do not apply to a passenger over one year of age when the number of passengers

¹³⁰ The requirement to use a seat belt or child safety seat only applies to persons occupying vehicles that are required to be equipped with seat belts under Federal law. 29-A M.R.S.A. §2081(2), (3), (3-A).

exceeds the vehicle seating capacity and all of the seat belts are in use.
29-A M.R.S.A. §2081(4)(A).

Sanctions:

I. Traffic Infraction:

First offense - A fine of **\$50**;

Second offense – A fine of **\$125**;

Third and subsequent offenses – A fine of **\$250**.

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

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

Effect on Civil
Liability:

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

School Bus Safety
Restraint Systems:

Requirements:

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

Sanctions:

Traffic Infraction: A fine of not less than **\$25** or more than **\$500**, and/or suspension of license. 29-A M.R.S.A. §§103(3); 104.

Motorcycle Protective
Headgear:

Requirements:

See note.¹³¹

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

- (1) A passenger on a motorcycle or in an attached side car who is under age 18;
 - (2) An operator of a motorcycle who is under age 18;
 - (3) An operator of a motorcycle, operating under a learner’s permit or within 1 year of successfully completing a driving test; and
 - (4) A passenger of an operator required to wear headgear.
- 29-AM.R.S.A. §2083(1).

Sanctions:

Traffic Infraction: A fine of not less than **\$25** nor more than **\$500**, and/or suspension of license.¹³² 29-A M.R.S.A. §§103(3); 104; 2083(5).

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

Exemptions:

None

¹³¹ 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).

¹³² This sanction applies to any operator, parent, or guardian who allows a passenger younger than 18 to ride a vehicle in violation of these requirements. 29-A M.R.S.A. §2083(2).

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

Bicycle Protective Headgear:

Requirements: A person under age 16 who is an operator or a passenger on a bicycle on a public roadway or public bikeway must wear a helmet.
29-A M.R.S.A. §2323. **Note:** Passengers riding on a bicycle taxi or a bicycle designed to carry passengers are exempt from this requirement.
29-A M.R.S.A. §§2322(5); 2327.

Sanctions: **Traffic Infraction:**
First violation: A law enforcement officer may provide bicycle safety information to the person and that person’s parent or guardian;
Second violation: A forfeiture of no more than **\$25** may be adjudged. However, the fine may be waived if a person presents proof of purchase of a bicycle helmet since the citation. 29-A M.R.S.A. §2326.

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

Prohibition Against Riding in Unsecured Portion of Vehicle:

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

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

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

STATE

MARYLAND

General Reference:

Annotated Code of Maryland
 Most references are to the Transportation Article (MD Code, Transportation)
 Code of Maryland Regulations (COMAR)

Seat Belts:

Requirements:

I. A person may not operate a motor vehicle¹³³ unless that person and any passenger under age 16 are secured in seat belts (or child safety seats). MD Code, Transportation, §22-412.3(b).
 II. Persons age 16 or older may not be passengers in an "outboard front seat"¹³⁴ or a rear seat of a motor vehicle unless such persons are restrained in seat belts. MD Code, Transportation, §22-412.3(c).

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

Exemptions:

(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 Code, Transportation, §22-412.3(d), (e), (f).

Enforcement Type:

Primary Enforcement. There is no statutory provision.¹³⁵

Sanctions:

Misdemeanor: A fine of not more than **\$50**. MD Code, Transportation, §§22-412.3(k).
Note: A violation of this requirement is not considered a moving violation for licensing sanction purposes. MD Code, Transportation, §22-412.3(g). No points are assessed for a violation of this requirement.

¹³³ 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 Code, Transportation, §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 Code, Transportation, §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 Code, Transportation, §§11-165; 13-912 *et seq.*

¹³⁴ An "outboard front seat" means a front seat position that is adjacent to a door of a motor vehicle. A police officer may enforce this paragraph only as a secondary action when the police officer detains a driver of a motor vehicle for a suspected violation of another provision of the Code. MD Code, Transportation, §22-412.3(a)(3)(i),(ii).

¹³⁵ A law enforcement officer may stop a vehicle when he has reasonable belief a crime, even a minor traffic infraction, is being committed. See *Herring v. State*, 16 A.3d 246 (Md.App. 2011)(holding, as a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred) (citing *Whren v. United States*, 517 U.S. 806 (1996)).

MD Code, Transportation, §16-402.

Effect on Civil Liability:

The failure to use a seat belt may not be considered: (1) as evidence of negligence; (2) as evidence of contributory negligence; (3) to limit liability of a party or insurer; or (4) to diminish recovery for damages arising out of the ownership, maintenance or operation of a motorcycle.¹³⁶

MD Code, Transportation, §22-412.3(h)(1).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A person transporting a child under age 8 in a motor vehicle¹³⁷ shall secure the child in a child safety seat, unless the child is 4 feet, 9 inches tall or taller. MD Code, Transportation, §22-412.2(d).

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

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

Provisional Licenses: Drivers under 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 Code, Transportation, §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 Code, Transportation, §§27-101(b); 27-102.

Exemptions:

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. MD Code, Transportation, §22-412.2(f).

Sanctions:

Misdemeanor: A fine of **\$50**. 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 Code, Transportation, §22-412.2(k).

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

No points are assessed for a violation of this requirement.

MD Code, Transportation, §16-402.

Effect on Civil

A violation of this requirement is not contributory negligence and may not be

¹³⁶ However, such evidence is admissible where the damages alleged are related to a defect in the design or manufacture of the seat belt. MD Code, Transportation, §22-412.3(h)(2), (3).

¹³⁷ The term “motor vehicle” as used in this section means a passenger vehicle, truck or multipurpose vehicle. MD Code, Transportation, §22-412.2(c).

Liability: admitted as evidence in the trial of any civil action. MD Code, Transportation, §22-412.2(h).

School Bus Safety

Restraint Systems:

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

Motorcycle Protective

Headgear:

Requirements: Persons shall not operate or ride on a motorcycle unless wearing State-approved protective headgear that conforms to Federal Motor Vehicle Safety Standard No. 218.¹³⁸ MD Code, Transportation, §21-1306(b); COMAR 11.13.05.02.

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

Exemptions: This requirement does not apply to persons riding in an enclosed cab. MD Code, Transportation, §21-1306.1(a).

Motorcycle Eye

Protection Device:

Requirements: A person shall not operate or ride on a motorcycle unless he/she is wearing a State-approved eye-protection device or using a windscreen. MD Code, Transportation, §21-1306(c). **Note:** This requirement does not apply to persons riding in an enclosed cab. MD Code, Transportation, §21-1306.1(a).

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

Motorcycle Passenger

None

Age Restrictions:

Bicycle Protective

Headgear:

Requirements: Any rider under age 16 may not ride or be a passenger on a bicycle on a highway unless that person wears a nationally approved helmet.¹³⁹ MD Code, Transportation, §21-1207.1(a)(1)(ii), (c).

Sanctions: A person violating this requirement is issued a warning that informs him/her of the requirements and provides educational materials about bicycle helmet use.

¹³⁸ 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 Code, Transportation, §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.

¹³⁹ 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 Code, Transportation, §21-1207.1(a)(2),(b).

MD Code, Transportation, §21-1207.1(d).
 No points are assessed for a violation of this requirement.
 MD Code, Transportation, §16-402.

Prohibition Against
 Riding in Unsecured
 Portion of Vehicle:

- Requirements: I. A person may not operate a truck¹⁴⁰ on a highway while a passenger under age 16 is riding in the unenclosed bed of the vehicle. MD Code, Transportation, §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 Code, Transportation, §21-1107(a), (b).
- Sanctions: **Misdemeanor:** A fine of not more than \$500. MD Code, Transportation, §27-101(a), (b). No points are assessed for a violation of this requirement. MD Code, Transportation, §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 Code, Transportation, §21-1121(b)(1). **Note:** These exemptions do not eliminate the requirements to use child safety seat or seat belts. MD Code, Transportation, §21-1121(b)(2).
 II. The prohibition in II does not apply to: (1) a person delegated to care for livestock; (2) a vehicle controlled or operated by a farmer where such vehicle: (a) is being used to transport agricultural products, farm machinery or farm supplies to or from a farm; (b) is not used in operations of a common or contract motor carrier; and (c) is used within 150 miles of the farm; (3) a vehicle owned or operated by the U.S. Department of Defense and operated either by active-duty personnel or by reserve or National Guard personnel while on either active duty or on part-time training; or (4) a vehicle traveling at a speed of not more than 25mph. MD Code, Transportation, §21-1107(c).

¹⁴⁰ 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 Code, Transportation, §§13-917; 21-1121(a).

STATE

MASSACHUSETTS

General Reference:
Seat Belts:

Massachusetts General Laws Annotated (M.G.L.A.)

Requirements:

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

Exemptions:

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

Enforcement Type:

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

Sanctions:

Civil Motor Vehicle Infraction: A fine of **\$25**.¹⁴¹
M.G.L.A. 90 §13A; 90C §1.

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

Effect on Civil
Liability:

There are no statutory provisions.¹⁴²

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint
Systems:

Requirements:

I. Any passenger in a motor vehicle who is under age 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 age 13, then he/she shall wear a seat belt. M.G.L.A. 90 §7AA.

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,

¹⁴¹ Vehicle operators and passengers age 16 or older in violation of this requirement are subject to a fine of **\$25**. However, if the offender is a passenger at least age 12 but less than age 16, the vehicle operator is subject to an additional fine of **\$25** for each such passenger who was not wearing a seat belt. M.G.L.A. 90 §13A.

¹⁴² The State Supreme Court has not addressed the issue of whether the nonuse of a seat belt can be used to mitigate damages or be considered as contributory negligence. The court refused to consider such issue in one case because no evidence was presented to show that seat belt nonuse was causally related to plaintiff's injuries. *Shahzade v. C.J. Mabardy, Inc.*, 586 N.E.2d 3 (Mass. 1992).

1966, that is not equipped with seat belts; and (3) to a child who for physical reasons cannot use a child passenger restraint system, so long as such condition is certified in writing by a physician who shall State the nature of the disability as well as the reasons such restraints are inappropriate. M.G.L.A. 90 §7AA.

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

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

School Bus Safety Restraint Systems:
Requirements:

The child passenger restraint requirement does not apply to any child riding as a passenger in a school bus. M.G.L.A. 90 §7AA. However, M.G.L.A. 90 §7D states that no person shall operate a school vehicle carrying not more than 8 passengers unless the operator and all passengers are wearing a seat belt. And, M.G.L.A. 90 §7B requires every school bus to be equipped with a safety belt for the operator which must be used while in operation.

Motorcycle Protective Headgear:

Requirements: Every person operating or riding on a motorcycle or riding in a motorcycle sidecar shall wear State approved protective headgear. M.G.L.A. 90 §7.

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

Exemptions: No protective head gear shall be required if the motorcyclist is participating in a properly permitted public parade and is age 18 or older. M.G.L.A. 90 § 7.

Motorcycle Eye Protection Device:

Requirements: If a motorcycle is not equipped with a windshield or screen, the operator of such vehicle shall wear eyeglasses, goggles, or a protective face shield. M.G.L.A. 90 §7.

Sanctions: **Civil Motor Vehicle Infraction:**
First offense - A fine of not more than **\$35**;
Second offense - A fine of not less than **\$35** or more than **\$75**;

3rd or subsequent offense (within 12 months) - A fine of not less than **\$75** or more than **\$150**. M.G.L.A. 90 §20; 90C §1.

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: Any person age 16 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.¹⁴³ 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. M.G.L.A. 85 §11B(2)(iii).

Sanctions: **Civil Disposition:** A fine of not more than **\$20**. M.G.L.A. 40 §21(16B); 85 §11B.
 Note: A bicycle operated by a person under age 18 in violation of this section may be impounded by the police for a period not to exceed 15 days. A violation of any provision of this section by a minor under 18 shall not affect any civil right or liability nor shall such violation be considered a criminal offense. M.G.L.A. 85 §11B.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person shall operate a pickup truck for a distance of more than 5 miles and in excess of 5 mph with persons under age 12 in the body of such truck. M.G.L.A. 90 §13.

Sanctions: **Civil Motor Vehicle Infraction:**
First offense - A fine of not more than **\$35**;
Second offense - A fine of not less than **\$35** nor more than **\$75**;
3rd or subsequent offense (within 12 months) - A fine of not less than **\$75** nor more than **\$150**. M.G.L.A. 90 §20; 90C §1.

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

¹⁴³ A violation of this requirement shall not be used as evidence of contributory negligence in any civil action. M.G.L.A. 85 §11B(2)(iv).

STATE

MICHIGAN

General Reference:

Michigan Compiled Laws Annotated (M.C.L.A.)

Seat Belts:

Requirements:

See note.¹⁴⁴

Each operator and front seat passenger of a motor vehicle operated on a street or a highway shall wear a properly adjusted and fastened seat belt.

M.C.L.A. §257.710e(3).

Additionally, a person operating or riding in an autocycle¹⁴⁵ shall wear seat belts when on a public highway. M.C.L.A. §257.658(8).

Exemptions:

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

M.C.L.A. § 257.710e(1), (2).

Enforcement Type:

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

Sanctions:

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

Effect on Civil Liability:

Failure to wear a seat belt may be considered evidence of negligence and may reduce the recovery for damages by not more than 5%.¹⁴⁶

M.C.L.A. §257.710e(7).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

See note.¹⁴⁷

¹⁴⁴ If there are more passengers than seat belts available for use, and all seat belts are being utilized, the operator of the motor vehicle is held to be in compliance with this requirement. M.C.L.A. §257.710e(4).

¹⁴⁵ "Autocycle" means an enclosed motorcycle that is equipped with safety belts, rollbar, windshield, wipers, steering wheel, and equipment otherwise required on a motorcycle, and which has not more than 3 wheels in contact with the roadway at any 1 time. M.C.L.A. § 257.25a

¹⁴⁶ In situations where an "unbelted" rear-seat passenger is injured, evidence of seat belt nonuse may be admitted as evidence "to support an affirmative defense" of comparative negligence. *Lowe v. Estate Motors Ltd*, 410 N.W.2d 706 (Mich. 1987) (*rehearing denied*, 414 N.W.2d 137 (1987)).

¹⁴⁷ If there are more children than seat belts available for use, a child age 8 or older but less than 16, shall sit in the back seat. If, however, the motor vehicle is a pickup truck without an extended cab or jump seats, then the child shall sit in the front seat without a seat belt. M.C.L.A. §257.710e(5). Additionally, if all available rear seats are occupied by children under age 4, then a

I. Each driver transporting a child less than age 4 in a motor vehicle shall properly secure that child in a rear seat (if available) in a federally approved child restraint system.

M.C.L.A. §257.710d(1).

II. A child who is age 4 or older but less than 8 and who is less than 4 feet 9 inches in height shall be properly secured in a child restraint system.

M.C.L.A. §257.710e(3)(b).

III. A child age 4 or older but less than 16 in a motor vehicle shall be secured in a seat belt, unless such child is younger than age 8 and less than 4 feet, 9 inches in height. M.C.L.A. §257.710e(5).

Exemptions: (1) A bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with seat belts under Federal law or regulation; and (2) the “class” of children who are exempt by the State Secretary of State because of physical unfitness, a medical problem, or body size. M.C.L.A. §257.710d(3), (6).

Sanctions: **Civil Infraction:** A fine of not more than **\$10**. M.C.L.A. §§257.6a; 257.710d(4); 257.907(2). Points shall not be assessed against an offender's driver record. M.C.L.A. §257.710d(5). The court may waive any civil fine, cost, or assessment if, before the appearance date on the citation, the person supplies the court with evidence of acquisition, purchase or rental of a child seating system. M.C.L.A. §257.907(12).

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

School Bus Safety Restraint Systems:

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

Motorcycle Protective Headgear:

Requirements: I. A person under age 19 operating a moped on a thoroughfare shall wear a crash helmet. A person 21 years or older who is operating a motorcycle is *not* required to wear a crash helmet if he or she has had a motorcycle endorsement on his or her operator's or chauffeur's license for not less than 2 years or the person passes a motorcycle safety course, and must carry at least \$20,000 in medical insurance. M.C.L.A. §257.658(4), (5).

Sanctions: **Civil Infraction:** A fine whose amount shall be established by the State court administrator and district court. M.C.L.A. §§257.6a; 257.656; 257.907(7), (8).

Exemptions: Do not apply to a person operating or riding in an auticycle if the vehicle is

child under age 4 may be positioned in the child restraint system in the front seat. A child in a rear-facing child restraint system may be placed in the front seat only if the front passenger air bag is deactivated. M.C.L.A. §257.710d(2).

equipped with a roof that meets or exceeds standards for a crash helmet.
M.C.L.A. §257.658(7).

Motorcycle Eye
Protection Device:

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

Sanctions: **Civil Infraction:** A fine whose amount shall be established by the State court administrator and district court. M.C.L.A. §§257.6a; 257.656; 257.907(7), (8).

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: A motor vehicle operator shall not allow a person younger than 18 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. M.C.L.A. §257.682b(1).

Sanctions: **Civil Infraction:** A fine of not less than **\$100** or more than **\$500**.
M.C.L.A. §§257.682b(3); 257.6a; 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. M.C.L.A. § 257.682b(2).

STATE**MINNESOTA**

General Reference:

Minnesota Statutes Annotated (M.S.A.)

Seat Belts:

Requirements:

The driver and passengers of a passenger¹⁴⁸ or commercial motor vehicle¹⁴⁹ shall wear a seat belt. M.S.A. §169.686, subd. 1(a).

Exemptions:

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

Enforcement Type: **Primary Enforcement**¹⁵⁰

Sanctions:

Petty Misdemeanor: A fine of **\$25**.¹⁵¹ M.S.A. §§169.89, subd. 2; 169.686, subd. 1(b). **Note:** A violation of this requirement shall not be recorded on an offender's driver record. M.S.A. §169.686, subd 1(b). Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person's residence. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the offender to a license, permit, etc., suspension of up to **30 days**. M.S.A. §169.89, subd. 5.

Effect on Civil Liability:

Evidence of either the use or the failure to use a seat belt shall not be admissible in evidence in any litigation involving personal injuries or property damage resulting from the use or operation of any motor vehicle. M.S.A. §169.685, subd. 4(a).¹⁵²

15-Passenger Vans:

Covered under the seat belt law. M.S.A. §169.686, subd. 1(a).

Child Safety Restraint Systems:

¹⁴⁸ A passenger vehicle means: (1) a passenger automobile designed not to carry more than 15 individuals, including the driver; (2) a pickup truck; (3) a van; (4) a commuter van; and (5) a recreational vehicle. M.S.A. §169.686, subd. 1(a); M.S.A. §168.002, subd. 24.

¹⁴⁹ Under State law, the following types of motor vehicles are not required to be equipped with seat belts: (1) bus; (2) school bus; (3) motorcycle; (4) motorized bicycle; (5) farm tractor; (6) road tractor; and (7) truck. M.S.A. §169.685, subd. 1.

¹⁵⁰ See *State v. Wendorf*, App.2012, 814 N.W.2d 359, for a discussion of the legislative amendments that granted law enforcement the authority to issue a seat-belt citation independent of any other moving violation.

¹⁵¹ Individuals age 15 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 the driver or by a passenger under age 15. M.S.A. §169.686, subd.1(b).

¹⁵² 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.

- Requirements:** No motor vehicle operator may transport a child under age 8 and shorter than 4 feet 9 inches on any street or highway unless such child is properly fastened in a federally approved child passenger restraint system. M.S.A. §169.685, subd. 5.
- Exemptions:** (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; and (5) a person while operating a school bus with a gross vehicle weight rating of greater than 10,000. M.S.A. §§169.685, subd. 6; 169.011, subd. 71.
- Sanctions:** **Petty Misdemeanor:** A fine of not more than **\$50**. M.S.A. §169.685, subd. 5(b). The fine may be waived or the amount reduced if the motor vehicle operator proves that, within 14 days after the date of the violation, he obtained or purchased a federally approved child passenger restraint system. Additionally, a person may be required to attend a driver improvement clinic located within 35 miles from the person’s residence. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**.
- 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. M.S.A. §169.685, subd. 4(a).¹⁵³

School Bus Safety
Restraint Systems:

- Requirements:** School buses and Head Start buses must be equipped with driver seat belts. Operators of school buses and Head Start buses shall wear a properly adjusted and fastened seat belt. M.S.A. §169.447, subd. 2.
- A school bus *may* be equipped with a lap belt or lap and shoulder belt installed for each seating position on the bus. If so equipped, a passenger must use the lap or lap and shoulder belts, unless the passenger (or parent if the passenger is a minor) has notified the school district in writing of intent not to wear the lap or lap and shoulder belt. M.S.A. §169.447, subd. 2a.
- However, child restraints in a school bus with a gross vehicle weight rating greater than 10,000 lbs., may not be required. M.S.A. §169.685, subd. 6.

¹⁵³ 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).

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

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

Motorcycle Protective Headgear:

Requirements: No person under age 18 shall operate or ride on a motorcycle or motorized bicycle without wearing protective headgear approved by the U.S. Department of Transportation. M.S.A. §§169.223, subd. 1; 169.974, subd. 4(a); Minnesota Rules, part 7410.5200.

Sanctions: **Petty Misdemeanor:** A fine of not more than **\$300**. M.S.A. §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. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. M.S.A. §169.89, subd. 5.

Exemptions: This requirement does not apply if the operator or rider is participating in an authorized parade, or to persons riding in an enclosed cab. M.S.A. §169.974, subd. 4(b).

Motorcycle Eye Protection Device:

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

Sanctions: **Petty Misdemeanor:** A fine of not more than **\$300**. M.S.A. §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. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. M.S.A. §169.89, subd. 5.

Motorcycle Passenger Age Restrictions:

None, except that no person shall ride on a motorcycle as a passenger unless the person can reach the footrests with both feet. M.S.A. §169.974, subd. 5(b).

Bicycle Protective Headgear:

See note.¹⁵⁴

Requirements: The operator of an electric-assisted bicycle must wear protective headgear approved by the U.S. Department of Transportation until he/she reaches age 18. M.S.A. §169.223, subd. 2(4).

¹⁵⁴ There are no requirements for the use of protective headgear for operators of standard bicycles.

Sanctions: **Petty Misdemeanor:** A fine of not more than **\$300**. M.S.A. §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. Failure or refusal to comply with an order to attend an approved driver improvement clinic may subject the person to a license, permit, etc., suspension of up to **30 days**. M.S.A. §169.89, subd. 5.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:
Requirements:

None

STATE**MISSISSIPPI**

General Reference:

Mississippi Code Annotated (Miss. Code Ann.)

Seat Belts:

Requirements:

Every operator and front-seat passenger in a motor vehicle¹⁵⁵ operated in a forward motion on a public road, street or highway shall wear a properly fastened safety seat belt system. Miss. Code Ann. §63-2-1.

Exemptions:

(1) Vehicles which may be registered for “farm” use, including “implements of husbandry” and “farm tractors”; (2) an operator or passenger possessing a written verification from a licensed physician that he is unable to wear a seat belt system for medical reasons; (3) a passenger car operated by a rural letter carrier of the U.S. Postal Service or by a utility meter reader while on duty; or (4) buses. Miss. Code Ann. §§63-2-1(3); 63-7-301(2).

Enforcement Type:

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

Sanctions:

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

Effect on Civil Liability:

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

15-Passenger Vans:

Covered under the seat belt law. Miss. Code Ann. §63-2-1(2).

Child Safety Restraint Systems:

Requirements:

I. Every person transporting a child under age 4 shall secure such child in a federally approved child passenger restraint device or system.
 II. If a child is at least 4 years but less than 7 and measures less than 4 feet, 9 inches in height or weighs less than 65 lbs. = a belt positioning booster seat system.
 III. If a child is under age 7 and not required to be protected by the use of a child passenger restraint device or system or a belt positioning booster seat system = seat belt system regardless of where the child is seated.
 Miss. Code Ann. §§63-7-301; 63-2-1.¹⁵⁶

Exemptions:

None

Sanctions:

Misdemeanor: A fine of not more than **\$25**. Miss. Code Ann. §§63-7-309; 63-

¹⁵⁵ “Passenger motor vehicle” for purposes of this chapter means a motor vehicle designed to carry fifteen (15) or fewer passengers, including the driver, but does not include motorcycles that are not autocycles as defined in Section 63-3-103, mopeds, all-terrain vehicles or trailers. Miss. Code Ann. §63-2-1(2).

¹⁵⁶ If more than 2 children who are required to use a booster seat are being transported in a vehicle at one time, and the vehicle only has 2 lap and shoulder belts in the rear seat, then only the 2 children sitting in the seats with the lap and shoulder belts are required to use a belt positioning booster seat system and safety belt, and any other children may be secured with a safety seat lap belt only. Miss. Code Ann. §63-7-301(1)(c).

9-11(1). In addition, the offender is required to pay an assessment of **\$88.59**. Miss. Code Ann. §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. Miss. Code Ann. §63-9-11(3).¹⁵⁷

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

School Bus Safety Restraint Systems:

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. Miss. Code Ann. §63-2-1(2). Additionally, buses are exempt from the seat belt requirement. Miss. Code Ann. §63-2-1.

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

Motorcycle Protective Headgear:

Requirements: No person shall operate or ride on a motorcycle or motor scooter unless wearing a crash helmet that complies with FMVSS No. 218. Miss. Code Ann. §63-7-64.

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

All offenders are subject to an assessment of **\$88.59**. Miss. Code Ann. §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. Miss. Code Ann. §63-9-11(3).

Exemptions: (1) Persons age 18 and older riding in a parade at a speed of 30 mph or less are exempt; or (2) persons operating an auticycle. Miss. Code Ann. §63-7-64.

Motorcycle Eye Protection Device:

¹⁵⁷ See Miss. Code Ann. §63-9-11(3)(a)-(i) for the conditions required of a defendant in order to have the violation dismissed upon successful completion.

Requirements: **None**

Motorcycle Passenger **None**
Age Restrictions:

Bicycle Protective
Headgear:
Requirements: **None**

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

STATE

MISSOURI

General Reference:

Missouri Revised Statutes (V.A.M.S.);
Missouri Code of State Regulations (CSR)

Seat Belts:

Requirements:

I. When a passenger car¹⁵⁸ is in operation, every driver, front seat passenger, and person younger than 18 while operating or riding in a truck¹⁵⁹ shall wear a seat belt. V.A.M.S. §307.178(2).

Exemptions:

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

Enforcement Type:

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

Sanctions:

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

Effect on Civil Liability:

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

15-Passenger Vans:

Not covered under the seat belt law. V.A.M.S. §307.178.

Child Safety Restraint Systems:

Requirements:

Every driver who transports a child in a motor vehicle who is under age 16 shall be responsible, when transporting such child as follows:
I. Children less than age 4 regardless of weight = child passenger restraint system;
II. Children who weigh less than 40 lbs., regardless of age = child passenger restraint system;

¹⁵⁸ 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. V.A.M.S. §307.178(1).

¹⁵⁹ A "truck" is defined as a motor vehicle designed, used, or maintained for the transportation of property. V.A.M.S. §301.010(61).

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

IV. Children who are at least 80 lbs., or taller than 4 feet 9 inches = booster seat or seat belt, or in a lap belt if the back seat of the vehicle is not equipped with a combination lap/shoulder belt. V.A.M.S. §307.179(2).

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 V.A.M.S. §§301.010(52); 307.179(4).

Sanctions: **Infraction:** For I-III above, a fine of not more than **\$50** and court costs.¹⁶⁰ For IV above, a fine of not more than **\$10** and no court costs. V.A.M.S. §§307.179(3); 307.178(5). No points shall be assessed for a violation of this requirement. V.A.M.S. §302.302.

Effect on Civil Liability: **None.** The failure to employ a child passenger restraint system shall not be used as a basis for a claim of civil liability or negligence or contributory negligence. Evidence of this failure is inadmissible in the trial of any civil action. V.A.M.S. §210.106.

School Bus Safety Restraint Systems:

Requirements: A child age 4 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. V.A.M.S. §307.179(4).

Motorcycle Protective Headgear:

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

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

Exemptions: **None**

Motorcycle Eye Protection Device:

Requirements: **None**

¹⁶⁰ However, the charges shall be dismissed or withdrawn if the driver prior to or at his/her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation. V.A.M.S. §302.302(3).

Motorcycle Passenger **None**
Age Restrictions:

Bicycle Protective
Headgear:
 Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

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

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

Exemptions: The above requirements do not apply to: (1) an employee engaged in the necessary discharge of his duties where it is necessary to ride in the unenclosed bed of the truck; (2) any person while engaged in agricultural activities where it is necessary to ride in the unenclosed bed of the truck; (3) any person riding in an unenclosed bed while participating in a lawfully authorized parade, caravan or exhibition; (4) any person riding in the unenclosed bed if the truck has a means of preventing such passenger from being thrown, falling, or jumping out from the truck; (5) any person riding in the unenclosed bed if the truck is being operated solely for the purposes of participating in a special event and there is unavailable seating inside of the truck; (6) any person riding in the unenclosed bed for the purpose of providing assistance to or ensuring the safety of other persons that are engaged in a recreational activity; or (7) any person riding in the unenclosed bed of a family-owned truck which is the only vehicle owned by the family and there is insufficient room in the passenger compartment to accommodate all of the passengers. V.A.M.S. §304.665(2).

STATE

MONTANA

General Reference:

Montana Code Annotated (MCA);
Administrative Rules of Montana (Mont.Admin.R.)

Seat Belts:

Requirements:

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

Exemptions:

(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. MCA §61-13-103(2).

Enforcement Type:

Secondary Enforcement: A driver may not be stopped for a violation of this requirement except: (1) 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; or (2) if a person in the vehicle who is under 6 and weighs less than 60 lbs. is not properly restrained. MCA §61-13-103(4)(a), (b).

Sanctions:

A fine of **\$20**. A violation of this requirement is not considered a moving violation of the purposes of suspending a driver's license. In addition, no insurance company may increase a person's premium based on a violation of this requirement. **Note:** The law provides that this offense is not to be considered a misdemeanor but does not define or classify it as some other offense. MCA §61-13-104(1), (3).

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. MCA §61-13-106.

15-Passenger Vans:

May not be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

A child under age 6 and weighing less than 60 lbs. who is a passenger in a motor vehicle¹⁶¹ must be secured in a federally approved child restraint. MCA §61-9-420(1).

Sanctions:

Misdemeanor: A fine of not more than **\$100**. MCA §§45-2-101(42); 61-9-423; 61-9-511(1).¹⁶²

¹⁶¹ The term "motor vehicle" does not include motorbus, school bus, taxicab, moped, quadricycle, motorcycle, any vehicle that is not required to have a seat belt under Federal law, or a vehicle designed for two persons where there are two persons age 4 or older. MCA §61-9-421.

¹⁶² The fine must be waived if proof of acquisition of an appropriate child safety restraint is presented within 7 days of the violation to the office of the charging officer and there has been no previous dismissal of a violation. MCA §61-9-423(2).

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

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. MCA §61-9-422.

School Bus Safety

Restraint Systems:

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

Motorcycle Protective

Headgear:

Requirements: I. An operator and passenger under age 18 of a motorcycle or quadricycle¹⁶³ operated on the streets or highways shall wear State approved protective headgear which meets the specifications of FMVSS No. 218. MCA §61-9-417(1); Mont.Admin.R. 23.3.417.
II. A person may not operate a motorcycle unless all passengers under age 18 are wearing protective headgear. MCA §61-9-417(2).

Sanctions: A fine of \$5. MCA §61-9-518(1).

Exemptions: **None**

Motorcycle Eye

Protection Device:

Requirements: **None**

Motorcycle Passenger

Age Restrictions:

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

Bicycle Protective

Headgear:

Requirements: **None**

Prohibition Against

Riding in Unsecured

Portion of Vehicle:

Requirements: **None**

¹⁶³ 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.” MCA §61-1-101(57).

STATE

NEBRASKA

General Reference:

Nebraska Revised Statutes of 1943 (Neb.Rev.St.)

Seat Belts:

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 systems (seat belt). Neb.Rev.St. §§60-6,265; 60-6,270(1).

No driver shall operate an autocycle¹⁶⁴ upon a highway or street unless the driver is wearing an occupant protection system (seat belt). Neb.Rev.St. §§60-6,265; 60-6,270(2).

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. Neb.Rev.St. §§60-6,266; 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. Neb.Rev.St. §60-6,270(2).

Enforcement Type:

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

Sanctions:

Traffic Infraction: A fine of \$25.¹⁶⁵ However, no court costs can be assessed and no points can be assessed against a person's driving record. Neb.Rev.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. Neb.Rev.St. §60-6,273.

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A driver who is transporting a child up to age 6 in any motor vehicle required to have occupant protection systems must secure such child in a federally approved child passenger restraint system. Neb.Rev.St. §60-6,267(1).

II. A driver who is transporting a child age 6 through 17 in any motor vehicle must secure such child in an occupant protection system (seat belt). Neb.Rev.St. §§60-6,265; 60-6,267(2).

Note: These provisions apply to autocycles. Neb.Rev.St. §60-6,267(3).

Sanctions:

Infraction: A fine of \$25 and no points can be assessed against a person's

¹⁶⁴ An autocycle means a motor vehicle have a seat, three wheels, fully enclosed cab, rollcage, airbags, brakes, steering wheel, and pedals. Neb.Rev.St. §60-610.01

¹⁶⁵ Regardless of the number of violations occurring at one time, a driver can only be cited for one offense. Neb.Rev.St. §60-6,272.

driving record. Neb.Rev.St. §60-6,268(1).

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. Neb.Rev.St. §60-6,267(3).
 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. Neb.Rev.St. §60-6,267(4), (5), (6).

Effect on Civil Liability: A violation of this requirement shall not constitute *prima facie* evidence of negligence nor shall such compliance constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries. In addition, such a violation shall not constitute a defense for another person to any claim for personal injuries to a child or recovery of medical expenses for injures. Neb.Rev.St. §60-6,269.

School Bus Safety Restraint Systems:

Requirements: The operator of a school bus equipped with an occupant protection system shall wear such system whenever the school bus is in motion. Neb.Rev.St. §79-609(3).

Sanctions: Any operator who violates this requirement may be found guilty of a Class V misdemeanor and subject to a **\$100** fine. Additionally, such employee may be subject to removal from employment or may be found in breach of contract with cancellation of contract. Neb.Rev.St. §§79-607; 28-106.

Motorcycle Protective Headgear:

Requirements: A person shall not operate or ride on a motorcycle¹⁶⁶ or moped unless wearing a federally approved protective helmet meeting or exceeding the Federal Motor Vehicle Safety Standard No. 218. Neb.Rev.St. §§60-6,279; 60-6,280; 60-6,281.

Sanctions: **Traffic Infraction:** A fine of **\$50**. Neb.Rev.St. §§60-688; 60-6,282. No points are assessed against a person's driving record. Neb.Rev.St. § 60-4,182.

Exemptions: **None**

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

None

¹⁶⁶ A motorcycle does not include an auticycle.

Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: There are no specific prohibitions involving the riding in an unsecured portion of a vehicle, however, this likely falls under the child passenger restraint system requirement. Neb.Rev.St. §60-6,268(2) allows for primary enforcement of a violation when a passenger under age 18 is riding in or on any portion of a moving vehicle not designed or intended for the use of passengers.

STATE

General Reference:

Seat Belts:

Requirements:

NEVADA

Nevada Revised Statutes (N.R.S.); Nevada Administrative Code (NAC)

See note.¹⁶⁷ An operator and any passenger age 6 or older or who weighs more than 60 lbs. while driving on any highway, road, or street in a motor vehicle having an unladen weight of less than 10,000 lbs., shall wear a seat belt. N.R.S. §484D.495.

Any passenger 18 or older who rides in the front or back seat of any taxicab shall wear a seat belt if one is available. The owner or operator of a taxicab is required to post a sign inside each vehicle advising passengers of the seat belt requirement. N.R.S. §484D.500.

Exemptions:

(1) To persons who are unable to wear a seat belt for physical or medical reasons and possess written certification by a physician; (2) if the vehicle is not required by Federal law to be equipped with seat belts; (3) to an employee of the U.S. Postal Service while delivering mail in the rural areas of the State; (4) if the vehicle is stopping frequently, it does not exceed 15 mph, and the driver or passenger is frequently leaving or delivering property from the vehicle; (5) to a passenger riding in a means of public transportation, including a taxi, school bus or emergency vehicle. 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. N.R.S. §484D.495(5), (6).

With regard to taxicabs, a seat belt is not required if the taxicab was not required by Federal law at the time of the initial sale to be equipped with seat belts. N.R.S. §484D.500.

Enforcement Type:

Secondary Enforcement: A citation may be issued only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. N.R.S. §§484D.495(3); 484D.500.

Sanctions:

Misdemeanor: A fine of not more than **\$25** or a sentence to perform community service.¹⁶⁸ N.R.S. §§484A.900(1); 484D.495(3); 484D.500. Any person who is twice convicted of violating a provision may be ordered to pay tuition for and attend a school for driver training. A willful failure to comply with such an order results in a misdemeanor conviction, which is punishable for up to **6 months** in jail and/or a fine of not more than **\$1000**. N.R.S. §§494A.900; §193.150. A violation of this requirement is not a moving violation for license sanctioning purposes. N.R.S. §484D.495(4)(a). No demerit points shall be assessed. NAC 483.510.

¹⁶⁷ It shall be unlawful to drive a passenger car manufactured after: (1) January 1, 1968, on a highway unless it is equipped with at least two front seat lap-type seat belt assemblies; (2) January 1, 1970, on a highway unless it is equipped with a lap-type seat belt assembly for each permanent seating position (except for rear seats of police or sheriff vehicles); or (3) January 1, 1970, unless it is equipped with at least two front seat shoulder harness-type seat belt assemblies. N.R.S. §484D.495(1).

¹⁶⁸ If the violator is a child age 6 or older but less than age 18, or less than age 6 weighing more than 60 lbs., 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. N.R.S. §484D.495(3).

Effect on Civil Liability: A violation of this requirement may not be considered as negligence or as causation in any civil action or as negligence or reckless driving. N.R.S. §484D.495(4)(b). In addition, such a violation may not be considered as misuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale, or use of a product. N.R.S. §484D.495(4)(c).

15-Passenger Vans: May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements: I. A person transporting a child in a motor vehicle who is age 6 older or weighs more than 60 lbs. (regardless of age) shall secure such child in a seat belt;
II. A person transporting a child who is less than age 6 and who weighs less than 60 lbs. shall secure such child in a child restraint system.
N.R.S. §§484D.495(3); 484B.157(1).¹⁶⁹

Sanctions: **Misdemeanor:**
(1) First offense: ordered to pay a fine of not less than **\$100** or more than **\$500** or perform not less than 10 hours or more than 50 hours of community service;
(2) Second offense: ordered to pay a fine of not less than **\$500** or more than **\$1000** or perform not less than 50 hours or more than 100 hours or community service;
(3) Third or subsequent offense: have his driver's license suspended for not less than **30 days** or more than **180 days**.

If, within 60 days after sentencing, a defendant provides to the court proof of satisfactory completion of a child restraint system training program, the court shall waive the fine or community service for a first-time offender, and reduce by one-half the fine or community service for a second-time offender.
N.R.S. §484B.157(2), (3).

Any person who is twice convicted of violating a provision may be ordered to pay tuition for and attend a school for driver training. A willful failure to comply with such an order results in a misdemeanor conviction, which is punishable by jail for not more than **6 months** and/or a fine of not more than **\$1,000**. N.R.S. §§484A.900; 193.150.

No demerit points shall be assessed. NAC 483.510.

Exemptions: (1) 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.

¹⁶⁹ As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat, or position children. The term includes, without limitation: (a) booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a seat belt; (b) integrated child seats; and (c) seat belts that are designed specifically to be adjusted to accommodate children. N.R.S. §484B.157(8).

N.R.S. §484B.157(7).

Effect on Civil
Liability:

A violation of this requirement may not be considered as negligence in any civil action or as negligence or reckless driving. N.R.S. §484B.157(6).

School Bus Safety
Restraint Systems:

Requirements:

None. N.R.S. §484D.495 specifically excludes school buses from the group of motor vehicles in which passengers are required to wear seat belts. There are no statutory provisions elsewhere in the Nevada statutes.

Motorcycle Protective
Headgear:

Requirements:

A person operating or riding on a motorcycle shall wear State approved protective headgear, meeting the standards set out in the Federal Motor Vehicle Safety Standard No. 218. N.R.S. §486.231; NAC 486.015

Sanctions:

Misdemeanor: A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$1,000**.¹⁷⁰ N.R.S. §§193.150(1); 486.381. Two points are assessed against a person's driving record. NAC 483.510.

Exemptions:

This requirement does not apply to persons operating or riding on tri-mobiles or mopeds. N.R.S. §486.231(1), (2); NAC 486.015.

Motorcycle Eye
Protection Device:

Requirements:

See note.¹⁷¹

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; (2) motorcycles or trimobiles equipped with a windscreen or enclosed cab; or (3) a motorcycle participating in a parade. N.R.S. §486.231(3), (4), (5).

Sanctions:

Misdemeanor: A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$1,000**. N.R.S. §§193.150(1); 486.381. Two points are assessed against a person's driving record. NAC 483.510.

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements:

None

Prohibition Against

¹⁷⁰ 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. N.R.S. §193.150(2).

¹⁷¹ 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. N.R.S. §486.231(3), (4), (5).

Riding in Unsecured
Portion of Vehicle:

- Requirements: A driver cannot operate a motor vehicle with a person under age 18 riding in an area not designed or intended for passenger use. N.R.S §484B.160(1), (2)(a).
- Sanctions: **Misdemeanor:** A fine of at least **\$35** but not more than **\$100**. This offense is not considered a moving violation, nor may it be considered negligence in a civil action or negligent or reckless driving. N.R.S §484B.160(3), (5).
- Exemptions: This requirement does not apply if the vehicle is being used for farming or ranching, or being used in an authorized parade. N.R.S. §484B.160(2)(b).

STATE

NEW HAMPSHIRE

General Reference:

Revised Statutes Annotated of New Hampshire (N.H. Rev. Stat.);
New Hampshire Administrative Code (N.H. Code Admin. R. Saf-C)

Seat Belts:

Requirements:

I. No person shall drive a motor vehicle unless all passengers under age 18 are wearing a seat or safety belt. Such motor vehicle must be designed for and equipped with federally approved child passenger restraints.
N.H. Rev. Stat. §265:107-a(I).
II. Any person under age 18 driving a motor vehicle or autocycle¹⁷² shall wear a seat belt. N.H. Rev. Stat. §265:107-a(I-a).

Exemptions:

(1) If the motor vehicle is regularly used to transport passengers for hire; (2) if the motor vehicle is a school bus weighing more than 10,000 lbs., or is a school bus weighing less than 10,000 lbs., that was manufactured without seat belts; (3) if there is an individualized education program statement contraindicating the use of restraints; (4) if the motor vehicle was manufactured before 1968; (5) a motorcycle; (6) an antique motor car or motorcycle (over 25 years old); or (7) if the motor vehicle is being operated in a parade authorized by law or ordinance and travelling at a speed of no more than 10 mph.
N.H. Rev. Stat. §265:107-a(II).

Enforcement Type:

Primary Enforcement: There is no statutory provision.¹⁷³

Sanctions:

First offense – A fine of **\$50**;
Second or subsequent offense – A fine of **\$100**.
N.H. Rev. Stat. §265:107-a(III).¹⁷⁴

Effect on Civil Liability:

A violation of these requirements shall not be used as evidence of contributory negligence in any civil action.¹⁷⁵ N.H. Rev. Stat. §265:107-a(IV).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

No person shall transport a child under age 7 and less than 57 inches in height in a motor vehicle unless such child is secured in a federally approved child passenger restraint. N.H. Rev. Stat. §265:107-a(I-b).

Sanctions:

Violation:

¹⁷² An autocycle is a three-wheeled motor vehicle that has a steering wheel, seats, and it equipped with safety belts. Unless otherwise provided an autocycle is a motorcycle. N.H. Rev. Stat. §259:4-d.

¹⁷³ 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).

¹⁷⁴ Drivers under age 20 may have their driving privileges suspended or revoked for "misconduct, misuse or abuse of such privileges." N.H. Rev. Stat. §263:14(III)(d). However, such action does not apply to a person under age 18 who violates §265:107a(I-a) for the first time. N.H. Rev. Stat. §263:14(IV).

¹⁷⁵ 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).

First offense – A fine of **\$50**;
Second or subsequent offense - A fine of **\$100**. N.H. Rev. Stat. §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. N.H. Rev. Stat. §265:107-a(IV).

School Bus Safety Restraint Systems:
 Requirements:

School buses are exempt from the child passenger restraint requirement. N.H. Rev. Stat. §265:107-a(II).

Motorcycle Protective Headgear:
 Requirements:

No person under age 18 may drive or ride upon a motorcycle or autocycle unless he wears State approved protective headgear. N.H. Rev. Stat. §265:122(I).¹⁷⁶

Each motorcycle rider education student shall wear a helmet with eye protection meeting the standards set out in Federal Motor Vehicle Safety Standard No. 218. N.H. Code Admin. R. Saf-C 5306.02(a)(5).

Sanctions: **Violation:**¹⁷⁷ A fine of not more than **\$1,000**.¹⁷⁸ N.H. Rev. Stat. §§265:122(IV); 265:2; 625:9(V); 651:2(IV).

Exemptions: N/A

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. N.H. Rev. Stat. §265:123.

Sanctions: **Violation:** A fine of not more than **\$1,000**. N.H. Rev. Stat. §§265:2; 625:9(V); 651:2(IV)(a).

Motorcycle Passenger Age Restrictions: **None**

¹⁷⁶ However, N.H. Rev. Stat. §265:122(III) states that “If [F]ederal law is altered so that the mandatory wearing of protective headgear on motorcycles by persons less than age 18 is not required as a condition to the receipt by the State of any [F]ederal funds, paragraphs I ...shall be void.” Given that the mandatory wearing of protective headgear on motorcycles by persons less than age 18 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.

¹⁷⁷ The violation applies to any person who transports someone under age 18 when that person is not wearing protective headgear. It is unclear whether the minor (under age 18) would be cited for a violation.

¹⁷⁸ 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. N.H. Rev. Stat. §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. N.H. Rev. Stat. §§651:2(VI), (VI-b); 651:5.

Bicycle Protective
Headgear:

Requirements: No person under age 16 shall operate or ride on a bicycle on a public way unless he/she wears State approved protective headgear. N.H. Rev. Stat. §265:144(X).

Sanctions: **Violation:** A fine of not more than **\$35**. N.H. Rev. Stat. §265:153.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None.**¹⁷⁹

¹⁷⁹ 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 N.H. Rev. Stat. §266:7. N.H. Rev. Stat. §§265:106; 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. N.H. Rev. Stat. §§262:41; 651:2(IV)(a).

STATE

NEW JERSEY

General Reference:

New Jersey Statutes Annotated (N.J.S.A.);
New Jersey Administrative Code (N.J.A.C.)

Seat Belts:

Requirements:

I. Any driver operating a passenger automobile on a street or highway, and all passengers must wear a safety seat belt. N.J.S.A. §39:3-76.2f.

Exemptions:

(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. N.J.S.A. §39:3-76.2g.

Enforcement Type:

Primary Enforcement: While there is no statutory provision, in 1999, N.J.S.A. §39:3-76.2i, which mandated secondary enforcement, was repealed.¹⁸⁰

Sanctions:

See note.¹⁸¹ **Violation:** A fine of **\$20**. Neither drivers licensing nor automobile insurance eligibility points are assessed against a driver's record for a violation. In addition, a person is not subject to a surcharge under the merit-rating plan (N.J.S.A. §17:29A-35). N.J.S.A. §39:3-76.2j.

Effect on Civil Liability:

I. The failure to wear a seat belt is not contributory negligence sufficient to bar recovery in strict liability. However, such failure to wear can be used to reduce damages provided it can be determined that the damages to be reduced could have been avoided by using a seat belt. *Waterson v. General Motors Corp.*, 544 A.2d 357 (N.J. 1988).
The law establishing these seat belt use requirements does not alter existing law with respect to the trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident. N.J.S.A. §39:3-76.2h.

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

See note.¹⁸²

I. A child under age 2 and weighing less than 30 lbs. shall be secured in a rear

¹⁸⁰ However, if the violation is committed by a backseat passenger who is at least age 18 is treated as a secondary enforcement and the driver must be stopped for violating a primary enforcement law. Each rear seat passenger would be responsible for payment of any fine imposed. N.J.S.A. §§39:3-76.2n.

¹⁸¹ **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). N.J.S.A. §§39:5-30; 39:5-31.

¹⁸² This requirement only applies to persons who are operating motor vehicles that are equipped with seat belts. N.J.S.A. §39:3-76.2a.

facing child passenger restraint system, which is equipped with a five-point harness.

II. A child under age 4 years and weighing less than 40 lbs. shall be secured: (1) in a rear facing child passenger restraint system, which is equipped with a five-point harness, until the child outgrows the top height or top weight recommendations at which point the child shall be secured in a rear seat, in a forward facing child passenger restraint system which is equipped with a five-point harness; or (2) in a forward facing child passenger restraint system which is equipped with a five-point harness.

III. A child under age 8 and less than 57 inches in height shall be secured: (1) in a forward facing child passenger restraint system which is equipped with a five-point harness, until the child outgrows the top height or top weight recommendations at which point the child shall be secured in a rear seat, in a booster seat; or (2) in a booster seat. N.J.S.A. 39:3-76.2a.

Exemptions: N/A

Sanctions: **Violation** (child restraint): A fine of not less than **\$50** or more than **\$75**. N.J.S.A. §39:3-76.2d. There is no provision allowing for assessment of points for a violation. N.J.A.C. 13:19-10.1.

Effect on Civil Liability: In no event shall the failure to wear a child passenger restraint system or to use a booster seat be considered as contributory negligence, nor shall the failure to wear such a system be admissible as evidence in the trial of any civil action. N.J.S.A. §39:3-76.2a.

School Bus Safety Restraint Systems:

Requirements: I. Each school bus shall be equipped with seat belts of the lap belt type for each seating position on the bus, or other federally approved child restraint systems. N.J.S.A. §39:3B-10.
 II. Each passenger who is riding in a school bus equipped with seat belts shall wear such a belt when the vehicle is in operation. N.J.S.A. §39:3B-11.
 III. A child who is riding in a school bus equipped with seat belts must be secured in a Federal approved child restraint system. N.J.S.A. §39:3B-11.
Note: This statutory provision does not provide for either age or weight limitations related to child restraint usage.

Sanctions: **Violation:** A fine of not more than **\$50** and/or imprisonment for a term not to exceed **30 days**. N.J.S.A. §39:3B-6.

Effect on Civil Liability: Neither the owner nor the operator of a school bus shall be liable for failure to properly adjust and fasten a seat belt or other child restraint system that is in conformity with Federal standards when a passenger suffers injury as a direct result of that passenger's failure to comply with the requirement. N.J.S.A. §39:3B-11.

Motorcycle Protective Headgear:

Requirements: A person operating or riding on a motorcycle¹⁸³ must wear a State approved protective helmet that meets the standards of the Federal Motor Vehicle Safety Standard No. 218. N.J.S.A. §39:3-76.7(a); N.J.A.C. 13:20-24.10.

Sanctions: I. For the motorcycle operator carrying a passenger in violation of the requirement - A fine of not less than **\$50** or more than **\$100**. N.J.S.A. §39:3-76.5(a).
II. For the motorcycle passenger in violation of this requirement – A fine of not more than **\$25**. N.J.S.A. §39:3-79. No points are assessed against a person's driving record for a violation of this requirement. N.J.S.A. §39:3-76.7(b).

Exemptions: **None**

Motorcycle Eye Protection Device:

Requirements: No persons shall operate a motorcycle unless wearing State approved goggles or a face shield. N.J.S.A. §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. N.J.S.A. §39:3-76.9.

Sanctions: **Violation:** A fine of not more than **\$25**. N.J.S.A. §39:3-79. There is no provision allowing for the assessment of points for a violation. N.J.A.C. 13:19-10.1.

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear: See note¹⁸⁴

Requirements: A person under age 17 shall not operate or ride on a bicycle as a passenger unless wearing a helmet. This includes persons who are riding in a restraining seat or in a trailer being towed by the bicycle. N.J.S.A. §39:4-10.1(a).

Sanctions: I. A person who violates this provision is given a warning citation.¹⁸⁵ N.J.S.A. §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 **\$25** and for a subsequent offense be subject to a fine

¹⁸³ 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; 39:3-76.8.

¹⁸⁴ **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. N.J.S.A. §39:4-10.1(c).

¹⁸⁵ Under separate provisions of law, a juvenile under age 17 who violates this provision may receive a warning or may be subject to a fine of not more than **\$10**. N.J.S.A. §39:4-203.3.

of not more than **\$100**. N.J.S.A. §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. N.J.S.A. §39:4-10.2.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements:

I. No person shall ride on and no operator shall knowingly allow a person to ride on a vehicle or any part of a vehicle that is not designed or intended for passenger use. N.J.S.A. §39:4-69.¹⁸⁶

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. N.J.S.A. §39:4-61.

Sanctions:

Violation: A penalty of not more than **\$50** and/or imprisonment for a term of not more than **15 days**. N.J.S.A. §39:4-203. There is no provision allowing for assessment of points for a violation. N.J.A.C. 13:19-10.1.

Exemptions:

The requirement in I does not apply to an employee engaged in the necessary discharge of a duty. N.J.S.A. §39:4-69.

¹⁸⁶ 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) *pet.cert. denied*, 640 A.2d 850 (N.J. 1994).

STATE**NEW MEXICO**

General Reference:

New Mexico Statutes Annotated (NMSA);
New Mexico Administrative Code (N.M. Admin. Code)

Seat Belts:

Requirements:

I. When a motor vehicle¹⁸⁷ is in operation, all occupants (driver and passengers) shall wear seat belts. NMSA §66-7-372(A).

Exemptions:

The requirement to wear a seat belt does not apply to persons possessing a written statement from a licensed physician stating the medical reasons for not wearing a seat belt, or to rural letter carriers of the U.S. Postal Service while performing official duties. NMSA §66-7-372(B).

Enforcement Type:

Primary Enforcement: The enforcement of this requirement does not have to be associated with the enforcement of any other statute. NMSA §66-7-373(D).

Sanctions:

Misdemeanor: A fine of **\$25**. NMSA §§66-8-7; 66-8-116(A). In addition, a person's driving record is assessed two (2) points. N.M. Admin. Code 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. NMSA §66-7-373(A).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A person shall not operate a passenger car, van or pickup truck unless all passengers less than age 18 are "properly restrained" as follows:
(1) Less than 1 year = rear-facing child passenger restraint in the rear seat of a vehicle;¹⁸⁸
(2) Between 1 and 4 years (regardless of weight) or less than 40 lbs. (regardless of age) = child passenger restraint device;
(3) 5 or 6 years (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 = child passenger restraint device or seat belt.¹⁸⁹
NMSA §66-7-369.

Exemptions:

The requirement to use either a child passenger restraint system or a seat belt does not apply to children being transported in an authorized emergency vehicle, a public transportation vehicle or a school bus. NMSA §66-7-369(A).

Sanctions:

Misdemeanor: A fine of **\$25**. NMSA §§66-8-7; 66-8-116(A). In addition, a

¹⁸⁷ The term "motor vehicle" refers to a motor vehicle having a gross vehicle weight of 10,000 lbs., or less manufactured with federally approved seat belts. NMSA §66-7-372(A).

¹⁸⁸ 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. NMSA §66-7-369(B) (1).

¹⁸⁹ "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." NMSA §66-7-369(C).

person's driving record is assessed 2 points. N.M. Admin. Code 18.19.5.52(G).

Effect on Civil
Liability:

Failure to be secured by a child passenger restraint device or by a seat belt shall not constitute fault or negligence in any instance, and shall not limit or apportion damages. NMSA §§66-7-369(B); 66-7-373(A).

School Bus Safety
Restraint Systems:

Requirements:

NMSA §66-7-369(A) exempts school buses from this requirement. However, N.M. Admin. Code **6.41.4.12(1)** states that “[a]ll school bus drivers shall use the seat belt at all times the vehicle is in motion. Seat belts are required of students only on buses of gross vehicle weight of 10,000 pounds or less or when specific student needs require a seat belt.”

Sanctions:

Misdemeanor: A fine of **\$25**. NMSA §§66-8-7; 66-8-116(A). In addition, a person's driving record is assessed two points. N.M. Admin. Code 18.19.5.52(G).

Motorcycle Protective
Headgear:

Requirements:

No person under age 18 shall operate or ride on a motorcycle unless wearing a State approved safety helmet, and no person shall carry any passenger under age 18 unless the passenger is wearing a safety helmet.¹⁹⁰ This does not apply to autocycles. NMSA §66-7-356(A).

Sanctions:

Misdemeanor: A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$300**. NMSA §66-8-7(A), (B).

Exemptions:

None

Motorcycle Eye
Protection Device:

Requirements:

Unless a motorcycle has a fixed windshield, a motorcycle operator shall wear a State-approved eye protection device. NMSA §66-7-355(B).

Sanctions:

Misdemeanor: A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$300**. NMSA §66-8-7(A), (B). The law does not assign points for a violation of this requirement.

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements:

It is unlawful for a parent or legal guardian of a minor to knowingly permit that minor to operate or be a passenger on a bicycle unless that minor wears a well-fitted protective bicycle helmet. NMSA §32A-24-3.

¹⁹⁰ Failure to wear a safety helmet in compliance with the law shall not constitute contributory negligence. NMSA §66-7-356(B).

Sanctions: A **civil penalty** of not more than **\$10**. A verbal warning may be issued in lieu of a fine if proof of helmet purchase is shown. NMSA §32A-24-3(C).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:
Requirements:

None

STATE**NEW YORK**

General Reference:

McKinney's Consolidated Laws of New York (Vehicle and Traffic Law)
New York Code of Rules and Regulations (NYCRR)

Seat Belts:

Requirements:

No person shall operate a motor vehicle, and no passenger under age 16 shall ride in a motor vehicle unless such person is restrained by a State approved seat belt. Veh & Traf §1229-c(1), (2), (3).

Exemptions:

(1) Persons who for physical or medical conditions cannot use a seat belt, with such condition certified by a physician; (2) taxis, liveries and buses (except for school buses); and (3) rural letter carriers of the U.S. Postal Service while performing official duties. Veh & Traf §1229-c(7), (9), (10).

Enforcement Type: **Primary Enforcement:** No statutory provision.¹⁹¹

Sanctions:

Civil Fine:

Drivers: A fine of up to **\$50**.

Passengers: A fine of not less than **\$25** or more than **\$100**.

Veh & Traf §1229-c(5).

Effect on Civil Liability:

Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead non-compliance as an affirmative defense. Veh & Traf §1229-c(8).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety RestraintSystems:

Requirements:

I. Back seat passengers:

1. Under age 4 and 40 lbs. or less = a specially designed seat which is permanently affixed or affixed by a seat belt;
2. Under age 4 and more than 40 lbs. = appropriate child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness belt is being used;
3. Ages 4-7 = appropriate child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness belt is not available;
4. Under age 16 = seat belt. Veh & Traf §1229-c(1).

II. Front seat passengers:

1. Under age 16 = seat belt;
2. Under age 4 = a specially designed seat permanently affixed or affixed by a seat belt;
3. Under age 4 and more than 40 lbs. = child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a

¹⁹¹ A law enforcement officer observing a violation of the seat belt law may stop the vehicle. *People v. Robinson*, 832 N.Y.S.2d 585 (N.Y.A.D. 2 Dept., 2007).

combination lap/shoulder harness is not available;
 4. Ages 4-7 = child restraint system used with combination lap safety and shoulder harness belts or lap seat belt if a combination lap/shoulder harness is not available. Veh & Traf §1229-c(2).

III. No person age 16 or over shall be a passenger in the front seat of a motor vehicle unless restrained by a seat belt. Veh & Traf §1229-c(3).

Exemptions: These requirements do not apply to children who for physical or medical conditions cannot use a child restraint system. Veh & Traf §1229-c(7).

Sanctions: I-II. **Civil Fine:** A fine of not less than **\$25** or more than **\$100**.
 III. **Civil Fine:** A fine not to exceed **\$50**.

The fine for a first violation involving a child under age 8 is waived with proof of child restraint system acquisition. Veh & Traf §1229-c(5),(6). In addition, a person is assessed three (3) points against the driving record. 15 NYCRR 131.3(b)(6)(vi).

Effect on Civil Liability: Evidence of noncompliance with these requirements shall not be admissible in any civil action with respect to liability but may be introduced as to the mitigation of damages. However, the party introducing such evidence must plead noncompliance as an affirmative defense. Veh & Traf §1229-c(8).

School Bus Safety Restraint Systems:

Requirements: I. Persons transporting children under age 4 in a school bus shall secure such children in a federally approved child restraint system that is detachable or removable. Veh & Traf §1229-c(11).
 II. No person shall operate a school bus for which there are no applicable Federal school bus safety standards unless all occupants are restrained by a seat belt, or for children age 4-6, restrained with a combination lap safety and shoulder harness belts. Veh & Traf §1229-c(13).

Sanctions: **Civil Fine:** A fine not less than **\$25** or more than **\$100**. Veh & Traf §1229-c(5). Three points shall be assessed. 15 NYCRR 131.3(b)(6)(vi).

Motorcycle Protective Headgear:

Requirements: Any person who operates or rides on a motorcycle¹⁹² shall wear a protective helmet meeting the requirements of FMVSS No. 218.¹⁹³ Veh & Traf §381(6).

Sanctions: Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**.

¹⁹² 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.” 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).

¹⁹³ 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).

Veh & Traf §381(13).

Exemptions: This requirement does not apply if local law enforcement authorities exempt a person when they are participating in an authorized parade or other public exhibition. Veh & Traf §381(6).

Motorcycle Eye Protection Device:

Requirements: Any person who operates a motorcycle shall wear State-approved goggles or a face shield. Veh & Traf §381(7).

Sanctions: Imprisonment for not more than **30 days** and/or a fine of not more than **\$100**. Veh & Traf §381(13).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: I. A person under age 14 who operates a bicycle or a scooter shall wear a State approved helmet.¹⁹⁴ Veh & Traf §1238(2)(a), (2-a), (5)(a), (b).
II. No bicycle operator shall allow a person less than 1-year-old to ride as a passenger on a bicycle. Veh & Traf §1238.

Note: The above requirements do not apply where a county, city, town, or village has enacted a local law or ordinance similar to such law. 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 that is attached to the bicycle. Veh & Traf §1238(2)(a), (b), (2-a).

Sanctions: **Civil Fine:** A fine of not more than **\$50**.¹⁹⁵ Veh & Traf §1238(3), (6)(a). The fine for a first violation shall be waived upon proof of purchase of a helmet. Veh & Traf §1238(4).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. An auto truck cannot be operated more than 5 miles if more than one-third of the vehicle's passengers are standing.¹⁹⁶ 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

¹⁹⁴ 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. Veh & Traf §1238(7).

¹⁹⁵ If the violation of the person less than age 14 occurs in the presence of that person's parent or guardian where such parent or guardian is age 18 or older, the summons for the offense is issued only to the parent or guardian. Veh & Traf §1238(8). **Note:** The provisions of Veh & Traf §1238(8) do not apply to violations of the requirement that children under 14 wear a helmet while riding scooters.

¹⁹⁶ This requirement does not apply if the truck has suitable seats that are attached to the vehicle's body, side racks of a least 3 feet in height above the vehicle's floor and a tailboard or gate that is securely closed. Veh & Traf §1222(1).

in the bed of such vehicle who are under age 18. **Note:** This requirement does not apply if at least one person over age 18 is riding in the bed of the vehicle with these persons. Veh & Traf §1222(2).

Sanctions:

Traffic Infraction:

First offense – A term of imprisonment of not more than **15 days** and/or a fine of not more than **\$150**;

Second offense (within 18 months) – A term of imprisonment of not more than **45 days** and/or a fine of not more than **\$300**;

Third or subsequent offense (within 18 months) - A term of imprisonment of not more than **90 days** and/or a fine of not more than **\$450**.

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.

Veh & Traf §1222(1).

II. The requirement in II above does not apply if there is at least one person over age 18 in the body of the truck. Veh & Traf §1222(2).

STATE

NORTH CAROLINA

General Reference:

North Carolina General Statutes Annotated (N.C.G.S.A.)

Seat Belts:

Requirements:

When a passenger motor vehicle is in forward motion, the driver and all passengers shall wear seat belts. N.C.G.S.A. §20-135.2A(a).

Exemptions:

(1) Persons who for physical or medical reasons cannot appropriately use a seat belt; (2) rural letter carriers of the U.S. Postal Service and newspaper delivery persons while performing official duties; (3) drivers or passengers who frequently stop and leave a vehicle (e.g., delivering property) and the speed of the vehicle between stops does not exceed 20 mph; (4) a vehicle registered and licensed as a property-carrying vehicle, while being used for agricultural purposes in intrastate commerce; (5) persons who are operating certain vehicles that are being used for agricultural or commercial purposes; (6) persons operating or riding in motor vehicles that are not required by Federal law to have seat belts; (7) any occupant of a motor home other than the driver or front-seat passengers; any occupant, while in the custody of law enforcement, being transported in the back seat of a law enforcement vehicle; (8) a passenger of a residential garbage or recycling truck while the truck is operating during rounds. N.C.G.S.A. §20-135.2A(c).

Enforcement Type:

Primary Enforcement: However, failure of a *rear seat* occupant shall not be justification for the stop of a vehicle. N.C.G.S.A. §20-135.2A(d1).

Sanctions:

Infraction: A driver or front seat passenger shall pay a penalty of **\$25.50** plus court costs. A rear-seat occupant shall pay a penalty of **\$10** with no court costs. No driver's license points or insurance surcharges shall be assessed as a result of a violation of this requirement. N.C.G.S.A. §20-135.2A(e), (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. N.C.G.S.A. §20-135.2A(d).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

A person who is transporting a passenger younger than age 16 shall properly secure such person in a federally approved child passenger restraint system or seat belt. N.C.G.S.A. §20-137.1(a). Specifically:
 I. A child younger than age 8 and weighing less than 80 lbs. = an appropriate child passenger restraint system;
 II. In vehicles with passenger-side front air bags, if there is a rear seat, a child younger than 5 and weighing less than 40 lbs. = in rear seat (unless the restraint system is designed for use with airbags).¹⁹⁷ N.C.G.S.A. §20-137.1(a1).

¹⁹⁷ 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 age 8 and between 40-80 lbs. may be restrained by a properly fitted lap belt only. N.C.G.S.A. §137.1(a1).

Exemptions: (1) 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. N.C.G.S.A. §20-137.1(b).

Sanctions: **Infraction:** A “penalty” not to exceed **\$25** (even when more than one child under age 16 was not properly restrained). No driver charged with failure to secure a child under age 8 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. N.C.G.S.A. §20-137.1(c).

Additionally, two (2) driver license points shall be assessed for a violation of this requirement. However, no insurance points shall be assessed. N.C.G.S.A. §§20-16(c); 20-137.1(d)(1), (2).

Effect on Civil Liability: A violation of this requirement shall not constitute negligence per se or contributory negligence per se and shall not be evidence of negligence or contributory negligence. N.C.G.S.A. §20-137.1(d)(3), (4).

School Bus Safety Restraint Systems:

Requirements: There are no statutory provisions.

Motorcycle Protective Headgear:

See note.¹⁹⁸

Requirements: No person shall operate or ride on a motorcycle or moped unless wearing a safety helmet complying with Federal Motor Vehicle Safety Standard No. 218. This does not apply to autocycles. N.C.G.S.A. §20-140.4(a)(2).

Sanctions: **Infraction:** A fine of **\$25.50** plus court costs. No drivers’ license points or insurance surcharges shall be assessed as a result of a violation of these requirements. N.C.G.S.A. §20-140.4(c), (d).

Exemptions: **None**

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

None

Bicycle Protective Headgear:

Requirements: A parent or legal guardian of a person younger than age 16 shall not knowingly permit such person to operate or ride as a passenger on a bicycle¹⁹⁹ unless

¹⁹⁸ A violation of this requirement shall not be considered negligence per se or contributory negligence per se in any civil action. N.C.G.S.A. §20-140.4(b).

wearing a protective bicycle helmet. N.C.G.S.A. §20-171.9(a).

Sanctions: **Infraction:** A civil fine of up to **\$10** (inclusive of all penalty assessments and court costs). The fine for a first violation may be waived upon proof of helmet purchase. N.C.G.S.A. §20-171.9(d), (e).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person shall not transport a child younger than age 16 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. N.C.G.S.A. §20-135.2B(a).

Sanctions: **Infraction:** A “penalty” of not more than **\$25**. A person is not assessed court costs for a violation of this requirement. No driver license points or insurance surcharge shall be assessed on account of a violation of this requirement. N.C.G.S.A. §20-135.2B(c), (d).

Exemptions: This requirement does not apply in the following circumstances: (1) a supervising adult is present in the bed or cargo area; (2) the child is secured or restrained in a seat belt; (3) an emergency situation exists; (4) the vehicle is being used in an official parade; and (5) the vehicle is operated in an agricultural enterprise. N.C.G.S.A. §20-135.2B(b).

¹⁹⁹ The term “bicycle” in addition to meaning the traditional two-wheeled human-powered vehicle, includes a human-powered pedaled vehicle that 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 age 6, the seat of which is not more than two feet from the ground.” N.C.G.S.A. §20-171.8(1), (9).

STATE

NORTH DAKOTA

General Reference:

North Dakota Century Code Annotated (NDCC)

Seat Belts:

Requirements: Drivers and front seat passengers must wear seat belts when a motor vehicle²⁰⁰ is in operation. NDCC §39-21-41.4.

Exemptions: (1) Drivers of implements of husbandry or farm vehicles; (2) rural mail carriers while on duty delivering mail; (3) persons who for physical or medical reasons cannot use a seat belt, provided they possess a written statement by a qualified physician listing the nature of the condition and the reason restraint is inappropriate; and (4) persons who cannot use a seat belt because all of the available belts are already in use. NDCC §39-21-41.4.

Enforcement Type: **Secondary Enforcement:** A citation for a violation of this requirement cannot be issued by a law enforcement officer unless the driver has been lawfully stopped or detained for another violation. NDCC §39-21-41.5.

Sanctions: **Non-Criminal Fee:** A fine of not more than **\$20**. NDCC §39-06.1-06(2). Points may not be assessed against any person for a violation of this requirement. NDCC §39-21-41.5.

Effect on Civil Liability: A violation for not wearing a seat belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation. NDCC §39-21-41.4.

15-Passenger Vans: Not covered under the seat belt law. NDCC §39-21-41.4.

Child Safety Restraint Systems:

Requirements: I. When a motor vehicle is in motion, a passenger under age 7, less than 57 inches tall and weighing less than 80 lbs., must be secured in a federally approved child restraint system. NDCC §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. NDCC §39-21-41.2(1).

Exemptions: The requirement to use either a child restraint system or a seat belt does not apply when a child is being transported in an emergency situation or in vehicles that were not manufactured with seatbelts. NDCC §39-21-41.2(1).

Sanctions: **Non-Criminal Fee:** A fine of **\$25**. NDCC §§39-06.1-06(2)(c); 39-21-46(1). The law assigns one (1) point for a violation of these requirements. NDCC §39-06.1-10(3)(a)(34).

²⁰⁰ The term “motor vehicle” applies only to motor vehicles that were designed to carry fewer than 11 persons and originally manufactured with seat belts. NDCC §39-21-41.4.

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. NDCC §39-21-41.2(2).

School Bus Safety Restraint Systems:

Requirements: There is no specific statutory provision. However, only passenger vehicles of 11-passenger capacity or less are required to be equipped with seat belts. NDCC §39-21-41.4.

Motorcycle Protective Headgear:

Requirements: See note.²⁰¹
 No person under age 18 may operate or ride on a motorcycle unless wearing headgear safety helmet meeting U.S. Dept. of Transportation standards. If an operator is required to wear a helmet, all passengers traveling with him must wear a helmet, regardless of age. No person may operate a motorcycle if a person under age 18 is a passenger and is not wearing a helmet. NDCC §39-10.2-06(1), (3).

Sanctions: **Infraction:**
First offense – A fine of not more than **\$1,000**;
Second or subsequent offense (within 1 year) (Class B misdemeanor) – Not more than **30 days** and/or a fine of not more than **\$1,500**. NDCC §§12.1-32-01(6), (7); 39-07-06. A person violating this requirement is assessed two (2) points against the driver's license record. NDCC §39-06.1-10(3)(a)(28).

Exemptions: This requirement does not apply to persons riding within an enclosed cab or on a golf cart. NDCC §39-10.2-06(2).

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

None

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

²⁰¹ In a traffic accident situation, evidence of failure to wear protective headgear may be admitted into evidence for the purpose of mitigating damages so long as there is competent testimony by a qualified expert that the use of a helmet would have lessened the injuries sustained. *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983).

STATE**OHIO**

General Reference:

Ohio Revised Code Annotated (R.C.); Ohio Administrative Code (OAC)

Seat Belts:

Requirements:

- I. No person shall operate an automobile²⁰² unless wearing a seat belt.²⁰³
 II. A person shall not operate an automobile unless all front seat passengers are wearing seat belts. R.C. §4513.263(B).

Exemptions:

- (1) Employees of the U.S. 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. R.C. §4513.263(C).

Enforcement Type:

Secondary Enforcement: A law enforcement officer shall not stop a person operating an automobile for the sole purpose of determining a violation of these requirements. R.C. §4513.263(D).

Sanctions:

- I. A person who violates I above is subject to a fine of **\$30. (Minor Misdemeanor)**.
 II. A passenger who violates II above is subject to a fine of **\$20. (Minor Misdemeanor)**.
 R.C. §4513.263(G).
 No points are to be assessed against person's driving record for a violation of the above requirements. R.C. §4510.036.

Effect on Civil Liability:

- I. A violation of these requirements shall not be considered or used as evidence of negligence or contributory negligence. However, a judge or jury may determine based on evidence admitted that the violation contributed to the harm and may diminish recovery of compensatory damages that represents noneconomic loss that could have been recovered but for the plaintiff's failure to follow the requirements.
 II. Additionally, the failure to follow the requirements may be admissible into evidence in a products liability case where the plaintiff seeks to recover damages for injury or death and the claim is that such injury or death was enhanced or aggravated by some design defect. R.C. §4513.263(F).

15-Passenger Vans:

Not covered under the seat belt law. R.C. §§4501.01(E); 4513.263(A).

Child Safety Restraint Systems:

Requirements:

- I. The operator of a motor vehicle²⁰⁴ shall secure a child under age four and/or who weighs less than 40 lbs. properly secured in a federally approved child restraint system. R.C. §4511.81(A).

²⁰² The term "automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to have seat belts under Federal law. R.C. §4513.263(A)(1).

²⁰³ The law refers to a seat belt as an "occupant restraining device." R.C. §4513.263(A)(2).

²⁰⁴ 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. R.C. §§4511.01(E); 4511.81(A).

II. Any child less than age 8 and less than 4 feet 9 inches in height shall be secured in a booster seat. R.C. §4511.81(C).

III. Any child, age 8-15, shall be properly restrained in a child restraint system or seat belt. R.C. §4511.81(D).

Exemptions: The requirement to use a child restraint system does not apply when (1) an emergency exists that threatens the life of either the vehicle operator or the child or (2) a person with a physical impairment possessing a signed affidavit from a licensed physician or chiropractor. R.C. §4511.81(H).

Sanctions: First offense (Minor Misdemeanor) - A fine of not less than **\$25** or more than **\$75**;
Second or subsequent offense (4th Degree Misdemeanor) – Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**.
R.C. §§4511.81(L); 2929.24(A); 2929.28(A)(2)(a).

Effect on Civil Liability: The failure of an operator to comply with this requirement is not negligence that can be imputed to the child. Evidence of such a failure is not admissible in any civil action involving the rights of the child to recover damages against any other person. R.C. §4511.81(G).

School Bus Safety Restraint Systems:

Requirements:

I. Any child who is under age 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 or daycare center, shall be secured in a federally approved child restraint system. R.C. §4511.81(B).

II. No person, school board, or governmental entity shall purchase, lease or rent a new school bus less the school bus has seat belts installed for use in its operator's seat. R.C. §4511.772(A).

Sanctions: For a violation of I above:
First offense (Minor Misdemeanor)– a fine of not less than **\$25** or more than **\$75**;
Second or subsequent offense (4th Degree Misdemeanor) – imprisonment for not more than **30 days** and/or a fine of not more than **\$250**.
R.C. §§4511.81(L); 2929.24(A); 2929.28(A)(2)(a).

For a violation of II above, a fine of not more than **\$150**. R.C. §§4511.772(B); 2929.28(A)(2)(a).

Motorcycle Protective Headgear:

Requirements: I. No person under age 18 or who holds a novice motorcycle operator's license shall operate or be a passenger on a motorcycle unless wearing a protective helmet. II. Any passenger (regardless of age) on a motorcycle operated by a person under age 18 or holding a novice motorcycle operator's license must wear a U.S. DOT - approved protective helmet. R.C. §4511.53(C).

Helmets must meet the requirements of FMVSS No. 218. OAC 4501-17-02.

Sanctions: First offense (Minor Misdemeanor) - A fine of not more than **\$150**;
Second offense (within 1 year) (4th Degree Misdemeanor) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**;
Third or subsequent offense (within 1 year) (3rd Degree Misdemeanor) - Imprisonment for not more than **60 days** and/or a fine of not more than **\$500**.
 R.C. §§4511.53(E); 2929.24(A); 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a violation of the above requirements. R.C. §4510.036.

Exemptions: The requirement for a protective helmet and eyewear not apply to a person who operates or is a passenger in a cab-enclosed motorcycle when the occupant compartment top is in place. R.C. §4511.53(3).

Motorcycle Eye Protection Device:

Requirements: No person shall operate or ride on a motorcycle without using safety glasses or other protective eye device. R.C. §4511.53(C).

Sanctions: First offense (Minor Misdemeanor) - A fine of not more than **\$150**;
Second offense (within 1 year) (4th Degree Misdemeanor) - Imprisonment for not more than **30 days** and/or a fine of not more than **\$250**.
Third or subsequent offense (within 1 year) (3rd Degree Misdemeanor) - Imprisonment for not more than **60 days** and/or a fine of not more than **\$500**.
 R.C. §§4511.53(E); 2929.24(A); 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a violation of the above requirements. R.C. §4510.036.

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: I. A driver of a truck, trailer or semi-trailer shall not knowingly permit a person under age 16 to ride in the vehicle's unenclosed or unroofed cargo storage area when such vehicle is traveling faster than 25 mph.
 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.
 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. R.C. §4511.51(C), (D), (E), (F).

Sanctions: A violation of the requirements in I and II above is a **Minor Misdemeanor**: A fine of not more than **\$150**. R.C. §§2929.24; 4511.51(G)(1).

The following sanctions apply for a violation of III above:

First offense (**Minor Misdemeanor**) - A fine of not more than **\$150**;

Second offense (within 1 year) (**4th Degree Misdemeanor**) - A jail term of not more than **30 days** and/or a fine of not more than **\$250**;

Third or subsequent offense (within 1 year) (**3rd Degree Misdemeanor**) - A jail term of not more than **60 days** and/or a fine of not more than **\$500**.

R.C. §§4511.51(G); 2929.24(A); 2929.28(A)(2)(a).

No points are to be assessed against person's driving record for a violation of the above requirements. R.C. §4510.036.

Exemptions:

I. The requirement in I above does not apply in the following circumstances: (1) The person under age 16 is seated in the cargo area and is wearing a seat belt; and (2) an emergency exists that threatens the life of either the driver or the person under age 16. R.C. §4511.51(E)(1), (2).

II. The requirement in II above does not apply to workers riding in such vehicles and who are performing specialized highway or street maintenance or construction under the authority of a public agency. R.C. §4511.51(F).

III. The requirement in III does not apply to mechanics or test engineers making repairs or adjustments or to workers performing specialized highway or street maintenance or construction under the authority of a public agency. R.C. §4511.51(C), (D).

STATE

OKLAHOMA

General Reference:

Oklahoma Statutes Annotated (Okl.St. Ann.)

Seat Belts:

Requirements:

When a passenger vehicle²⁰⁵ is in use, the driver and every front-seat passenger shall wear a properly adjusted and fastened safety seat belt system. 47 Okl.St. Ann. §12-417(A).

Exemptions:

(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. 47 Okl.St. Ann. §12-417(B), (C).

Enforcement Type:

Primary Enforcement: A law enforcement officer may initiate a traffic stop for a violation of the seat belt law so long as he has reasonable suspicions or probable cause that a violation is taking place.²⁰⁶

Sanctions:

Misdemeanor: Fine and court costs cannot exceed \$20. No points shall be assessed against an offender's driving record. 47 Okl.St. Ann. §§12-417(D), (E); 17-101(A).

Effect on Civil Liability:

A violation of this requirement may be used in a civil proceeding and use or nonuse of a seat belt shall be submitted into evidence in any civil suit unless the plaintiff in such suit is a child under age 16. 47 Okl.St. Ann. §12-420.

15-Passenger Vans:

Covered under the seat belt law. 47 Okl.St. Ann. §§12-417(A)(2); 1-107.4(B).

Child Safety Restraint Systems:

Requirements:

I. Every driver when transporting a child under age 4 in a motor vehicle shall secure such child in a federally approved rear-facing child restraint system until the child reaches age 2 or the height and/or weight limit of the rear-facing restraint system as allowed by the manufacturer of the restraint system, whichever occurs first;

II. Every driver when transporting children ages 4-7, if not taller than 4 feet 9 inches, must secure such child in either a child passenger restraint system or a booster seat.

III. Every driver when transporting children age 8 or taller than 4 feet 9 inches shall secure such child in a seat belt.

IV. A child who weighs more than 40 lbs., transported in the *back seat* of a vehicle, may wear a lap seat belt when a combination lap and shoulder belt is not available. 47 Okl.St. Ann. § 11-1112(A), (B), (C)(5).

²⁰⁵ "Passenger vehicle" means a Class D motor vehicle, but shall not include trucks, truck-tractors, recreational vehicles, motorcycles, or motorized bicycles, or a vehicle used primarily for farm use. 47 Okl.St. Ann. §12-417(A)(2). A Class D motor vehicle shall not include any vehicle that is designed to carry 16 or more passengers, including the driver. 47 Okl.St. Ann. §1-107.4(B).

²⁰⁶ See *U.S. v. Favela Favela*, 2002 WL 532416 (10th Cir. 2002) (unpublished). In this case, the 10th Circuit held that an Oklahoma police officer had reasonable suspicion and probable cause to stop a vehicle when the officer noticed a seat belt violation by a front seat passenger.

Exemptions: (1) A driver who is operating a school bus, taxicab, moped, motorcycle, or a motor vehicle that is not required to be equipped with seat belts; (2) a driver of an ambulance or emergency vehicle; (3) a driver where all of the available seat belts are in use; and (4) children who for medical reasons are unable to use either a child restraint system or a seat belt and possess written documentation from a physician. 47 Okl.St. Ann. §11-1112(C).

Sanctions: **Misdemeanor:** A fine of **\$50** plus court costs. Such fine shall be suspended and court costs limited to a maximum of **\$15** in the case of a first offense, upon proof of purchase or acquisition of a child restraint system. No points shall be assessed for a violation of these requirements. 47 Okl.St. Ann. §§11-1112(F); 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 age 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. 47 Okl.St. Ann. §11-1112(D).

School Bus Safety Restraint Systems:

Requirements: See note.²⁰⁷ The operator of a school bus shall wear a seat belt when such vehicle is in motion.

Sanctions: **Misdemeanor:** A fine of not less than **\$5** or more than **\$500**; 70 Okl.St. Ann. §24-121; 47 Okl.St. Ann. §17-101(A).

Motorcycle Protective Headgear:

Requirements: No person under age 18 shall operate or ride upon any motorcycle unless wearing a crash helmet that complies with the standards established by the Federal Motor Vehicle Safety Standard No. 218. 47 Okl.St. Ann. §12-609(B).

Sanctions: **Misdemeanor:** A fine of not less than **\$5** or more than **\$500** or; First offense - A term of imprisonment of not more than **10 days**; Second offense (within 1 year after the first conviction) – A term of not more than **20 days**; Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than **6 months** and/or a fine of not less than **\$5** or more than **\$500**. 47 Okl.St. Ann. §17-101(B).

Exemptions: **None**

²⁰⁷ While there is no specific statute requiring the use of child safety restraints, 70 Okl.St. Ann. §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.”

Motorcycle Eye Protection Device:

Requirements: If a motorcycle or motor scooter is not equipped with a windshield, the operator shall wear goggles or a face shield that is designed to protect them from foreign objects. 47 Okl.St. Ann. §12-609(A)(2).

Sanctions: **Misdemeanor:** A fine of not less than **\$5** or more than **\$500** or;
First offense - A term of imprisonment of not more than **10 days**;
Second offense (within 1 year after the first conviction) – A term of not more than **20 days**;
Third or subsequent offense (within 1 year after the date of the first conviction) – A term of not more than **6 months** and/or a fine of not less than **\$5** or more than **\$500**. 47 Okl.St. Ann. §17-101(B).

Motorcycle Passenger Age Restrictions:

No person under age 16 shall drive a motorcycle while transporting any other person. 47 Okl.St. Ann. §11-1103(A).

The operator of a motorcycle who has attained age 16 or older may carry a passenger if the wheel diameter is 12 inches or greater, and the motorcycle is equipped with a double seating device with double foot rests or a sidecar attachment. 47 Okl.St. Ann. §11-1103(B).

Bicycle Protective Headgear:

Requirements: When operating an electric-assisted bicycle²⁰⁸ a person 18 years or younger shall wear a nationally approved bicycle helmet. 47 Okl.St. Ann. §11-805.2(5).

Sanctions: **Misdemeanor:** A term of imprisonment of not more than **6 months** and/or a fine of not less than **\$5** or more than **\$500**. 47 Okl.St. Ann. §17-101(C).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: A person who is operating a motor vehicle shall not allow passengers to ride outside of the “passenger compartment” of the vehicle. 47 Okl.St. Ann. §11-1114(A).

Sanctions: **Misdemeanor:** A fine of **\$10** plus court costs of **\$15**. The law specifically provides that no points shall be assessed against a driver for a violation of this requirement. 47 Okl.St. Ann. §§11-1114(B).

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.” 47 Okl.St. Ann. §11-1114(A).

²⁰⁸ An “electric-assisted bicycle” is any bicycle with 2 or 3 wheels and fully operative pedals for human propulsion and equipped with a motor. 47 Okl.St. Ann. §1-104(B).

STATE

OREGON

General Reference:

Oregon Revised Statutes (O.R.S.)

Seat Belts:

Requirements:

- I. A person operating a motor vehicle on the highways must be properly secured with a seat belt or safety harness.
 - II. A driver cannot operate a motor vehicle unless all passengers younger than age 16 are secured in seat belts, child safety systems or safety harnesses.
 - III. All motor vehicle passengers age 16 or older riding in a privately owned commercial vehicle designed and used for the transportation of 15 or fewer persons must secure themselves in a seat belt or safety harness, and must secure any passenger for whom they are responsible in a child safety system.
- O.R.S. §811.210(1).

Exemptions:

(1) Privately owned commercial vehicles used for the transportation of persons for compensation or profit (except motor carriers when operating in interstate commerce and taxicab operators); (2) any vehicle not required to be equipped with seat belts or harnesses at the time of manufacturing; (3) school buses or school activity vehicles exempted under O.R.S. §815.080; (4) persons possessing a certificate of exemption who have a physical or medical condition which makes it harmful or impractical to wear a seat belt or harness; (5) any person who is a passenger in a vehicle if all seating positions are occupied by other persons; (6) any person transported while in the custody of a police or any other law enforcement officer; (7) any person delivering newspapers or mail in the regular course of work; (8) any person riding in an ambulance for the purpose of administering medical aid to another if a seat belt or harness would substantially inhibit the administration of medical aid; (9) any person who is reading utility meters in the regular course of work; (10) any person employed to operate a mass transit vehicle during the regular course of work; and (11) any person who is collecting solid waste or recyclable materials in the regular course of work. O.R.S. §§811.210; 811.215; 811.220.

Enforcement Type:

Primary Enforcement: There is no statutory provision.²⁰⁹

Sanctions:

Class D Traffic Violation: A fine of not more than **\$250**.
O.R.S. §§153.018(2)(d); 801.557; 811.210(4).

Effect on Civil Liability:

Evidence of nonuse of a seat belt or harness may be admitted only to mitigate the injured party's damages. The mitigation of damages shall not exceed 5% of the damages that would have otherwise been awarded. However, this restriction does not apply if nonuse of a seat belt was a substantial or contributing cause of the accident that resulted in the personal injuries. O.R.S. §31.760.

15-Passenger Vans:

Covered under the seat belt law.

Child Safety Restraint Systems:

²⁰⁹ 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).

Requirements: I. A child under age one, regardless of weight, or a person who weighs 20 lbs., or less shall be properly secured with a rear-facing child safety system.
 II. A person weighing 40 lbs. or less = child safety system.
 III. A person weighing more than 40 lbs. and who is 4 feet 9 inches or shorter = child safety system that elevates the person so that a seat belt or harness properly fits the person.²¹⁰ However, if the rear seat of a vehicle is not equipped with shoulder belts, then the person shall be secured by a lap belt.
 IV. A person who is taller than 4 feet 9 inches = seat belt or safety harness.
 V. A person who is age 8 or older need not be secured with a child safety system but must be properly secured with a federally approved seat belt or harness. O.R.S. §811.210(2).

Exemptions: N/A

Sanctions: **Class D Traffic Violation:** A fine of not more than **\$250**.
 O.R.S. §§153.018(2)(d); 801.557; 811.210(4)

Effect on Civil Liability: Evidence of nonuse of a seat belt or harness may be admitted only to mitigate the injured party’s damages. The mitigation of damages shall not exceed 5 % of the damages that would have otherwise been awarded. However, this restriction does not apply if nonuse of a seat belt was a substantial or contributing cause of the accident that resulted in the personal injuries. O.R.S. §31.760.

School Bus Safety

Restraint Systems:

Requirements: There are no statutory provisions.

Motorcycle Protective

Headgear:

Requirements: 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.
 O.R.S. §§814.269(1);814.260(1); 814.269(1); 814.275(1); 814.280(1).

 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.
 O.R.S. §814.534(1),(2).

Sanctions: I. A violation of the requirements in I above:
Class D Traffic Violation: A fine of not more than **\$250**. O.R.S. §§153.018(1),(2); 801.557; 814.260(4); 814.269(3); 814.275(3); 814.280(3).

II. A violation of the requirement in II above:
Traffic Violation: A maximum fine of **\$25**. O.R.S. §814.534(4).

Exemptions: This requirement does not apply if the person is riding in an enclosed cab, or the person is riding in a vehicle that is designed to travel with three wheels at a

²¹⁰ “Proper fit” means “the lap belt of the seat belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck.” O.R.S. §811.210(2)(c).

speed of less than 15 mph. O.R.S. §814.290.

Motorcycle Eye Protection Device:

Requirements: **None**

Motorcycle Passenger Age Restrictions:

None

Bicycle Protective Headgear:

See note.²¹¹

Requirements: I. A person under age 16 who operates or rides on a bicycle on a highway or on premises open to the public must wear protective headgear. O.R.S. §814.485(1).
 II. A person cannot operate a bicycle with a passenger younger than age 16 unless such passenger is wearing protective headgear. O.R.S. §814.486(1).
 III. It is illegal for a parent or legal guardian to allow his/her child younger than 16 to operate or ride a bicycle unless such child wears protective headgear. O.R.S. §814.486(1).

Sanctions: **Traffic Infraction (Violation):** A fine of not more than **\$25**.^{212,213}
 O.R.S. §§801.557; 814.485(3); 814.486(3).

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: It is an offense to carry a minor (under age 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. O.R.S. §811.205.

Sanctions: **Class B traffic violation:** A fine not to exceed **\$1,000**. O.R.S. §153.018(2).

Exemptions: This requirement does not apply: (1) to a minor in the open bed of a vehicle when the minor is secured with a seat belt or harness; (2) when the vehicle is operated in an organized parade; or (3) when the minor is seated on the floor of the open bed of a 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 hunting sites during hunting season and the minor has a hunting license. O.R.S. §815.205(3).

²¹¹ A person is exempt from this requirement if the use of bicycle protective headgear would violate a religious belief or practice of the person. O.R.S. §814.487.

²¹² If the offender is age 11 or younger, any citation for a violation of this requirement is issued to the child's parent or legal guardian. If the offender is at least age 12 but under 16, 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. O.R.S. §814.488.

²¹³ 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. O.R.S. §814.488(3).

STATE

PENNSYLVANIA

General Reference:
Seat Belts:

Pennsylvania Consolidated Statutes (Pa.C.S.A.)

Requirements:

I. When a motor vehicle²¹⁴ is in operation, the driver and front seat passengers shall wear a seat belt. 75 Pa.C.S.A. §4581(a)(2).
II. A driver under age 18 may not operate a motor vehicle in which the number of passengers exceeds the number of available seat belts. 75 Pa.C.S.A. §4581(a)(3).

Exemptions:

(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 makes frequent stops for the purpose of delivering goods or services and where the vehicle is traveling less than 15 mph. 75 Pa.C.S.A. §4581(a)(2).

Enforcement Type:

Secondary Enforcement: A conviction for a violation of the requirements shall occur only as a secondary action when a driver has been convicted of another offense under the Vehicle Code. 75 Pa.C.S.A. §4581(a)(2), (b).

Sanctions:

See note.²¹⁵ **Summary Offense:** A fine of **\$10**. No other costs can be assessed for a violation of these requirements. In addition, a violation of such requirements shall not result in the assessment of points against a person's driver record and is not considered to be a moving violation. A violation of these requirements cannot be used to increase insurance premiums. No points are assigned for a violation of seat belt requirements. 75 Pa.C.S.A. §4581(b), (h).

Effect on Civil Liability:

A violation of these requirements cannot be admitted into evidence at a civil trial. A jury shall not be instructed that failure to use a seat belt constitutes a violation. Such a violation shall not be considered contributory negligence. 75 Pa.C.S.A. §4581(e).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. Where there is a seating position available with a seat belt, a person who is transporting a child under age 4 in a motor vehicle must secure such child in a federally approved child passenger restraint system. 75 Pa.C.S.A. §4581(a)(1).
II. A child age 4 or older but younger than 8 shall be secured in a seat belt and a booster seat. 75 Pa.C.S.A. §4581(a)(1.1).

Exemptions:

The requirement to use a child passenger restraint system does not apply if the

²¹⁴ 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. 75 Pa.C.S.A. §§1916(a)(1); 4581(a)(2).

²¹⁵ **Junior Drivers:** “Junior drivers” (licensees 16 or 17 years old) are subject to a suspension of driving privileges until they are age 18, or for a period not to exceed 90 days if convicted of **any** violation in Title 75 of the Pennsylvania Code. 75 Pa.C.S.A. §1503(c)(3).

use of such a system would be impractical for physical (e.g., size of the child) or medical reasons. 75 Pa.C.S.A. §4581(g).

Sanctions: **Summary Offense:** A fine of not more than **\$75**. This is not considered a moving violation. The fine is waived upon proof of acquisition of a child restraint system. No points are assigned for a violation of this requirement. 75 Pa.C.S.A. §4581(a), (b), (c).

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. 75 Pa.C.S.A. §4581(e).

School Bus Safety Restraint Systems:

Requirements: There is no specific statutory provision. However, 75 Pa.C.S.A. §4551(a) requires all school buses and other vehicles used in the transportation of school children to conform to standards and regulations prescribed by the department.

Sanctions: Any person operating or permitting to be operated a vehicle not in compliance with the safety requirements will be found to have committed a **summary offense** and receive a fine of not less than **\$50** or more than **\$100**. 75 Pa.C.S.A. §4551(b).

Motorcycle Protective Headgear:

Requirements: No person shall operate or ride on a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless wearing State approved protective headgear. 75 Pa.C.S.A. §3525(a).

Sanctions: **Summary Offense:** A fine of **\$25**. 75 Pa.C.S.A. §6502(a).

Exemptions: This requirement does not apply to: (1) the operator or any occupant of a three-wheeled motorcycle equipped with an enclosed cab; (2) a person age 21 or older who has been licensed to operate a motorcycle for at least 2 full calendar years; (3) a person age 21 or older who has completed a motorcycle rider safety course approved by the department or the Motorcycle Safety Foundation; or (4) a passenger age 21 or older falling into an exemption listed above. 75 Pa.C.S.A. §3525(d).

Motorcycle Eye Protection Device:

Requirements: No person shall operate or ride a motorcycle or motor-driven cycle (except a motorized pedal-cycle) unless wearing a State approved eye-protection device. 75 Pa.C.S.A. § 3525(b).

Sanctions: **Summary Offense:** A fine of **\$25**. 75 Pa.C.S.A. §6502(a).

Motorcycle Passenger **None**

Age Restrictions:Bicycle Protective
Headgear:

Requirements:

See note.²¹⁶

See note.²¹⁷ A person under age 12 shall wear a nationally approved pedal cycle (bicycle) helmet when operating or riding on a pedal cycle (bicycle).²¹⁸
75 Pa.C.S.A. §3510(a).

Sanctions:

Summary Offense: A fine of not more than **\$25**.²¹⁹ 75 Pa.C.S.A. §§3510(d); 6502(a). **Note:** If a person receives a citation for violation of the safety helmet law, a magistrate or judge shall dismiss the charges if the person displays evidence of acquisition of a helmet. Sufficient evidence shall include a receipt mailed to the appropriate court officer, which evidences purchase or transfer of a helmet, evidenced by a notarized letter. 75 Pa.C.S.A. §3510(b).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements:

I. If a person is occupying the bed of a truck, it may not be driven at a speed of more than 35 mph. 75 Pa.C.S.A. §3719(a).
II. A person cannot operate either an open-bed pickup truck or open flatbed truck at any speed if a person under age 18 is occupying the bed of such truck or trailer. 75 Pa.C.S.A. §3719(b)(1).
III. A child under age 4 who is being transported in the cargo area of a motor vehicle must be secured in a child passenger restraint system.
75 Pa.C.S.A. §4581(a)(1).

Sanctions:

I. For a violation of I or II above, a **Summary Offense**. A fine of not more than **\$25**. 75 Pa.C.S.A. §6502(a).
II. For the sanctions related to a violation of requirement III above, see the sanctions for a violation of the requirements for the use of Child Safety Restraint Systems.

Exemptions:

The prohibition contained in requirement II above does not apply to: (1) a child of or a child employed by a farmer where the child is being transported either between parts of the farm or for farm work; (2) a child being transported between a hunting camp and a hunting site; or (3) a child who is participating in an authorized parade. 75 Pa.C.S.A. §3719(b)(2).

²¹⁶ This requirement does not apply to a child under age 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. 75 Pa.C.S.A. §3510(b.3).

²¹⁷ A violation of this requirement shall not be used as evidence in any civil action. 75 Pa.C.S.A. §3510(c).

²¹⁸ This requirement also applies if the person under age 12 is riding in a restraining seat attached to the pedal cycle (bicycle) or in a trailer towed by a pedal-cycle (bicycle). 75 Pa.C.S.A. §3510(a).

²¹⁹ 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. 75 Pa.C.S.A. §3510(d).

TERRITORY

PUERTO RICO

General Reference:

Laws of Puerto Rico Annotated (LPRA) (December 2012)

Seat Belts:

Requirements:

- I. Any driver or passenger on the public highways in a motor vehicle, which must be equipped with seat belts, shall be secured in such seat belts while the vehicle is being driven.
 - II. It shall be the duty of every driver to require every occupant of the vehicle to use the available safety seat belts.
 - III. There shall not be more passengers than seat belts available.
- 9 LPRA §5382(a)

Exemptions:

- (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. 9 LPRA §5382(b).

Enforcement Type:

Primary Enforcement: No statutory provisions.²²⁰

Sanctions:

Administrative Offense: A fine of **\$50** (for each passenger who fails to wear a seat belt). 9 LPRA §5382.

Effect on Civil Liability:

It appears that Puerto Rico follows a comparative negligence rule.²²¹

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint

Systems:

Requirements:

- I. It is mandatory for every person who drives a motor vehicle on the public highways, in which a child less than age 4 is transported to ensure that such child is seated in a child protection seat.
- II. Every child between ages 4-9, or who measures at least 4 ft., 9 inches (57 inches) must be secured in a booster seat.
- III. Every child under age 12 shall ride in the back seat of a vehicle unless the motor vehicle is equipped only with front seats. 9 LPRA §5383.

Exemptions:

Exempt 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. This section does not apply to drivers of public service vehicles. 9 LPRA §5383.

Sanctions:

Administrative Offense: A fine of **\$100** and **6 points**. 9 LPRA §5383.

²²⁰ See *U.S. v. Nunez-Torres*, 601 F.Supp.2d 388 (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).

²²¹ 9 LPRA §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.

Effect on Civil Liability: It appears that Puerto Rico follows a comparative negligence rule.

School Bus Safety

Restraint Systems:

Requirements: No statutory provisions.²²²

Motorcycle Protective

Headgear:

Requirements: Any person who drives or is a passenger on a motorcycle, moped or motor scooter on the public roads shall use an approved safety helmet meeting the requirements established by the Department of Transportation while the vehicle is in motion. 9 LPRA §5296(B).

Sanctions: **Administrative Offense:** A fine of \$50. 9 LPRA §5296.

Exemptions: **None**

Motorcycle Eye

Protection Device:

Requirements: A driver shall use goggles, or spectacles, or install a windshield on the vehicle (motor cycle). 9 LPRA §5296(B).

Sanctions: **Administrative Offense:** A fine of not more than \$50. 9 LPRA §5296.

Motorcycle Passenger

Age Restrictions:

No driver may transport a person under age 12. 9 LPRA §5296(a).

Bicycle Protective

Headgear:

Requirements: It shall be illegal to ride a bicycle along the public thoroughfares or recreational centers without wearing a protective helmet. 9 LPRA §5322(K).

Sanctions: **Administrative Offense:** A fine of not more than \$50. 9 LPRA §5322.

Prohibition Against

Riding in Unsecured

Portion of Vehicle:

Requirements: **None**²²³

²²² Although, 9 LPRA §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 “vehicle” or “motor vehicle.” 9 LPRA §5001(68), (100), (102), (103), (104).

²²³ However, 9 LPRA §197 provides that no transportation of passengers shall be in motor vehicles that are not designed for such transportation. Workmen engaged in the work of loading and unloading are exempt, however, they must travel in the cab of the vehicle.

STATE

RHODE ISLAND

General Reference:

General Laws of Rhode Island Annotated (Gen.Laws 1956)

Seat Belts:

Requirements:

I. Any operator of a motor vehicle shall wear a federally approved seat belt and/or shoulder harness system, and shall ensure any passenger age 18 or older in any seating position is wearing a seat belt and/or shoulder harness system. Gen.Laws 1956, §31-22-22(f)(1), (g)(1).
 II. Any operator of a motor vehicle who is under age 18 shall wear a seat belt and/or shoulder harness system. Gen.Laws 1956, § 31-22-22(b)(2).

Exemptions:

(1) Passenger motor vehicles manufactured prior to July 1, 1966, or is not required by Federal law to have seat belts; (2) a person possessing written verification within the past 12 months that states such person is unable to wear a seat belt for physical or medical reasons; (3) a letter carrier of the U.S. Postal Service while performing official duties. Gen.Laws 1956, §31-22-22(f)(2), (g)(2), (i).

Enforcement Type:

Primary Enforcement: However, a law enforcement officer may not search a vehicle or its occupants solely based upon a violation of this section. Gen.Laws 1956, §31-22-22(l), (m).

Sanctions:

Civil Violation:²²⁴ A fine of **\$40**. Gen.Laws 1956, §§31-27-13(a); 31-41.1-4(a).

Effect on Civil Liability:

A violation of this requirement is not considered as negligence and the failure to wear a seat belt cannot be admitted into evidence in the trial of any civil action. Gen.Laws 1956, §31-22-22(h).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. A child under age 8, 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.
 II. A child under age 8, but at least 57 inches in height or at least 80 lbs., shall be secured in a seat belt and/or shoulder harness in the rear seat.²²⁵
 III. A child between the ages of 8 through 17 shall be secured in a seat belt and/or shoulder harness system. Gen.Laws 1956, §31-22-22(a), (b)(1).

Exemptions:

N/A

Sanctions:

Civil Violation: A fine of **\$85**. The violation shall be voided upon proof, within 7 days, of purchase of a child restraint system. It is not recorded on the person's driving record. Gen.Laws 1956, §§31-22-22(c); 31-27-13(a); 31-41.1-4(a).

²²⁴ **EMS Special Assessment.** In addition to any fine, an offender must be assessed **\$1**. Gen.Laws 1956, §31-27-18. **Note:** These funds are deposited into the general State fund.

²²⁵ 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. Gen.Laws, 1956, §31-22-22(a)(1).

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. Gen.Laws 1956, §31-22-22(a)(2), (h).

School Bus Safety Restraint Systems:

Requirements: I. Seat belts shall be worn by all school bus operators. Gen.Laws 1956, §31-23-41.
 II. Seat belts shall be worn by all passengers riding in a childcare vehicle and school extra-curricular vehicle.²²⁶ Gen.Laws 1956, §31-22-11.6(b)(2).
 III. No person shall operate a pupil transportation vehicle,²²⁷ or knowingly allow any passenger to ride in such vehicle unless the operator and all passengers are wearing a seat belt. Gen.Laws 1956, §31-22.1-3.²²⁸

Sanctions: **Civil Violation:** A fine of not more than \$500. Gen.Laws 1956, §31-27-13(a), (b).

Motorcycle Protective Headgear:

Requirements: I. When operating a motorcycle, motor scooter or a motor-driven cycle, a person younger than 21 shall wear a State approved helmet. Gen.Laws 1956, §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. Gen.Laws 1956, §31-10.1-4.
 III. A passenger (regardless of age) riding on a motorcycle, motor scooter or motor-driven cycle must wear a “properly fitting” State approved helmet. Gen.Laws 1956, §31-10.1-6.

Sanctions: **Civil Violation:** A fine of \$85. Gen.Laws 1956, §§31-10.1-4; 31-10.1-6; 31-41.1-4.

Exemptions: **None**

Motorcycle Eye Protection Device:

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.

²²⁶ “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 daycare center that does not exceed 15 passengers and is being used to transport children from schools to childcare facilities and/or from childcare facilities to schools or other activities of the child day care center. However, 2-door sedans shall not be considered childcare vehicles or school extra-curricular vehicles. Gen.Laws 1956, §31-22-11.6(a)(2).

²²⁷ “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. Gen.Laws 1956, §31-22.1-1.

²²⁸ Based on a combined reading of Gen.Laws 1956, §§31-23-41; 31-22-11.6; 31-22.1-3, it appears that school buses do not require the use of child restraint systems or seat belts for its passengers, unlike school extra-curricular vehicles, child care vehicles and pupil transportation vehicles.

Gen.Laws 1956, §31-10.1-4.

Sanctions: **Civil Violation:** A fine of **\$85**. Gen.Laws 1956, §§31-10.1-4; 31-41.1-4(a).

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements: I. A person age 15 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. Gen.Laws 1956, §31-19-2.1.²²⁹
II. A parent or guardian of any child shall not authorize or knowingly permit such child or ward to violate this requirement. Gen.Laws 1956, §31-19-2.

Sanctions: A violation of this requirement shall be adjudicated administratively. Gen.Laws 1956, §31-19-1.²³⁰

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: No person shall operate an open motor truck or other similar vehicle while carrying or transporting any child under age 16 without securely fastening the child to prevent them from becoming loose or detached in any manner. Gen.Laws 1956, §31-25-10(f).

Sanctions: **Civil Violation:**
First offense: a fine of not more than **\$100**;
Subsequent offenses: a fine of not less than **\$100** or more than **\$500**.
Gen.Laws 1956, §31-25-10(d).

Exemptions: **None**

²²⁹ Failure to wear a helmet shall not be considered as contributory or comparative negligence and shall not be admissible in a civil trial. Gen.Laws 1956, §31-19-2.1.

²³⁰ There is no specific fine listed in the administrative fine schedule. But the lowest amount listed in the schedule of fines is **\$40**.

STATE

SOUTH CAROLINA

General Reference:

Code of Laws of South Carolina 1976 Annotated (Code 1976);
South Carolina Administrative Code (S.C. Code Regs.)

Seat Belts:

Requirements:

I. When operating a motor vehicle, the driver and every occupant shall wear a seat belt.
II. When operating a motor vehicle,²³¹ the driver shall require that every passenger age 17 or younger wear a seat belt or child restraint device.²³²
Code 1976 §56-5-6520.

Exemptions:

(1) A person who possess written verification from a physician that he/she is unable to wear a seat belt because of physical or medical reasons; (2) medical or rescue personnel attending to injured or sick individuals in an emergency vehicle; (3) school, church or daycare buses; (4) public transportation vehicles except taxis; (5) occupants of vehicles in a parade; (6) United States mail carriers; (7) occupants for which no seat belt is available because all belts are being used by other occupants; or (8) persons in a vehicle not originally equipped with seat belts. Code 1976 §56-5-6530.

Enforcement Type:

Primary Enforcement: A law enforcement officer may only stop a driver for a violation of this requirement when the officer has probable cause to believe a violation has occurred based on his clear and unobstructed view of the driver or an occupant. Code 1976 §56-5-6540(E).²³³

Sanctions:

A fine of not more than **\$25**, no part of which may be suspended.²³⁴ In addition, a person cannot be fined more than **\$50** for any one incident where more than one violation occurred. Code 1976 §56-5-6540. No points may be assessed against a person's driving record for a violation of these requirements. Code 1976 §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. Code 1976 §56-5-6540(C).

15-Passenger Vans:

May not be covered under the seat belt law.

Child Safety Restraint Systems:

²³¹ For purposes of the seat belt use law, the term "motor vehicle" is defined as "car, truck, van, or recreational vehicle required to be equipped with seat belts by the Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208), manufactured after July 1966." Code 1976 §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...." Code 1976 §56-5-361.

²³² A driver is not responsible for an occupant age 17 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. Code 1976 §56-5-6520.

²³³ A driver may not be searched, nor may consent to search be requested solely because of a violation of this requirement. Code 1976 §56-5-6540(D).

²³⁴ 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. Code 1976 §56-5-6540(A).

- Requirements:** When a person transporting in a motor vehicle a child age 5 or younger, he/she shall secure such child in a rear²³⁵ seat as follows:
 Children under age 1 or weighing less than 20 lbs. = rear-facing child safety seat;
 Children at least 1-year-old but younger than 6 and weighing at least 20 but less than 40 lbs. = forward-facing child safety seat;
 Children at least 1-year-old but younger than 6 and weighing at least 40 but not more than 80 lbs. = belt-positioning booster seat;²³⁶
 Children at least 1-year-old but younger than 6 and weighing more than 80 lbs. = adult seat belt. Code 1976 §56-5-6410.
- Exemptions:** (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. Code 1976 §56-5-6440. Additionally, if all seating positions with restraint devices are occupied by children under age 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, according to their ages. Code 1976 §56-5-6420.
- Sanctions:** A fine of not more than **\$150**. The fine is waived upon proof of acquisition, purchase or rental of a child restraint system. Code 1976 §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. Code 1976 §56-5-6460.

School Bus Safety Restraint Systems:

Requirements: The seat belt and child safety restraint statutes specifically exempt church, day care and school bus drivers. Code 1976 §§56-5-6440; 56-5-6530.

Motorcycle Protective Headgear:

See note.²³⁷

Requirements: When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person under age 21 shall wear a State approved helmet. Code 1976 §56-5-3660.

Sanctions: **Misdemeanor:** A term of imprisonment of not more than **30 days** or a fine of not more than **\$100**. Code 1976 §56-5-3700.

Exemptions: **None**

²³⁵ If the motor vehicle does not have rear passenger seats or if all rear passenger seats are occupied by other children less than age 6, then the rear seat requirement does not apply. Code 1976 § 56-5-6410(5).

²³⁶ 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. Code 1976 §56-5-6410(3).

²³⁷ For persons age 21 and younger, the failure to wear a helmet is not considered contributory negligence in a civil action. *Mayes v. Paxton*, 437 S.E.2d 66 (S.C. 1993).

Motorcycle Eye
Protection Device:

Requirements: When operating or riding on a two-wheeled motorized vehicle (motorcycle), a person under age 21 shall wear State approved goggles or face shield. Code 1976 §56-5-3670. This requirement does not apply if the vehicle is equipped with a windscreen. Code 1976 §56-5-3680.

Sanctions: **Misdemeanor:** A term of imprisonment of not more than **30 days** or a fine of not more than **\$100**. Code 1976 §56-5-3700.

Motorcycle Passenger
Age Restrictions: **None**

Bicycle Protective
Headgear:

Requirements: Children at daycare facilities shall wear properly fitting helmets when riding a bicycle. S.C. Code Regs. 114-507(C)(16); 114-517(C)(16); 114-526(C)(15).

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: Persons younger than 15 may not be transported in an open bed or open cargo area of a pickup truck. Code 1976 §56-5-3900(A).

Sanctions: **Misdemeanor:** A fine of **\$25**. No points shall be assessed. Code 1976 §56-5-3900(C), (D).

Exemptions: The following do not apply to the prohibition: (1) when an adult is present; (2) the child is secured by a seat belt; (3) an emergency situation exists; (4) the vehicle is operated in an organized hayride or parade; (5) the vehicle is operated for hunting or agricultural purposes; (6) the vehicle is operated in a county with no incorporated area with a population greater than 3500; and (7) the vehicle has a closed metal tailgate and is operated less than 36 mph. Code 1976 §56-5-3900(B).

STATE

SOUTH DAKOTA

General Reference:

South Dakota Codified Laws (SDCL)

Seat Belts:

Requirements:

- I. Every operator and front-seat passenger of a passenger vehicle²³⁸ in forward motion shall wear a safety seat belt system. SDCL §32-38-1.
- II. Every operator shall secure front-seat passengers at least age 5 but younger than 18 in seat belts or a safety seat belt system. SDCL §32-38-1.
- III. Any operator who is at least age 14 and under 18 shall wear a safety seat belt system. SDCL §32-37-1.2.

Exemptions:

- (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. SDCL §32-38-3.

Enforcement Type:

Secondary Enforcement: A law enforcement officer enforces this requirement only as a secondary action. SDCL §32-38-5.

Sanctions:

Petty Offense: A “**judgment**” of **\$25**. SDCL §§23-1A-22; 32-38-5. This is not a moving violation. SDCL §32-38-1. The law does not assign points for a violation of this requirement. SDCL §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. SDCL §32-38-4.

15-Passenger Vans:

Covered under the seat belt law. SDCL §32-38-2.

Child Safety Restraint Systems:

Requirements:

- I. Any operator of a passenger vehicle transporting a child under age 5 shall secure the child in a child passenger restraint system. However, the requirement is met if a child under age 5 but weighing at least 40 lbs. is secured in a seat belt. SDCL §32-37-1.
- II. Any passenger who is at least age 14 and under 18 shall wear a safety seat belt system. SDCL §32-37-1.3.

²³⁸ A “passenger vehicle” is defined as any self-propelled vehicle intended primarily for use and operation on the public highways including passenger cars, station wagons, vans, taxicabs, emergency vehicles, motor homes, trucks and pickups. A “passenger vehicle” does not include motorcycles, motor scooters, motor bicycles, motorized bicycles, passenger buses and school buses, farm tractors and other farm vehicles designed primarily or exclusively for use in agricultural operations. SDCL §32-38-2.

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. SDCL §32-37-2.

Sanctions: **Petty Offense:** A “**judgment**” of **\$25**. SDCL §§23-1A-22; 32-37-1 through 32-37-1.3. The law does not assign points for a violation of these requirements. SDCL §32-12-49.1.

Effect on Civil Liability: A violation of these requirements is not considered as contributory negligence, comparative negligence or assumption of the risk and is not admissible as evidence in the trial of any civil action. SDCL §32-37-4.

School Bus Safety Restraint Systems:

Requirements: By virtue of SDCL §32-38-2, a school bus driver is not required to wear a seat belt system. (School buses are specifically excluded from the definition of “passenger vehicle” within the seat belt laws.) However, there are no statutory provisions requiring the use of child passenger restraint system.

Motorcycle Protective Headgear:

Requirements: I. No person under age 18 may operate or ride upon a motorcycle on the public streets or highways unless wearing a protective helmet meeting Federal Motor Vehicle Safety Standard No. 218. No person may operate a motorcycle with any person under age 18 as a passenger if the passenger is not wearing a protective helmet. SDCL §32-20-4.

Sanctions: **Class 2 Misdemeanor:** A jail term of not more than **30 days** and/or a fine of not more than **\$500**. SDCL §§22-6-2(2); 32-20-4.

Exemptions: This requirement does not apply to persons who are riding within an enclosed cab. SDCL §32-20-4.2.

Motorcycle Eye Protection Device:

Requirements: No person may operate a motorcycle unless he is wearing an eye protective device or unless the motorcycle is equipped with a windscreen that provides adequate eye protection. SDCL §32-20-4.1. This requirement does not apply to persons who are riding within an enclosed cab. SDCL §32-20-4.2.

Sanctions: **Petty Offense:** A “**judgment**” of **\$25**. SDCL §§23-1A-22; 32-20-4.1

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

STATE

TENNESSEE

General Reference:

Tennessee Code Annotated (T.C.A.);
Rules and Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.)

Seat Belts:

Requirements:

I. No person shall operate a passenger motor vehicle²³⁹ unless the driver and all front seat passengers age 4 or older are restrained by seat belts.
II. Drivers or passengers ages 16 or 17 shall wear seat belts when operating a motor vehicle in a forward motion. T.C.A. §55-9-603(a), (b)(1), (i)(1).

Exemptions:

(1) Persons with a physical disability which prevent the use of a seat belt, and who possess certification by a physician who shall State the nature of the disability as well as the reason such restraint is in appropriate; (2) rural letter carriers of the U.S. Postal Service while performing official duties; (3) automobile dealership salespersons or mechanics who test drive 50 or more vehicles a day and where test drives are within one mile of the dealership; (4) utility workers, water, gas and electric meter readers while performing official duties and the speed does not exceed 40 mph; (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. T.C.A. §55-9-603(h).

Enforcement Type:

Primary Enforcement: A law enforcement officer may issue a citation to but cannot arrest a person for an observed violation. T.C.A. §55-9-603(f), (i)(3).

Sanctions:

Class C Misdemeanor: A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. T.C.A. §§40-35-111(e)(3); 55-9-603(d)(1). In lieu of a court appearance, however, a first offender may pay a fine of **\$10** and, for a second or subsequent offense, pay a fine of **\$20**. T.C.A. §55-9-603(d)(2). For a violation of II above, an offender may pay a fine of **\$20** in lieu of a court appearance. T.C.A. §55-9-603(d)(3)(A).
A driver cannot be fined for a violation of this requirement for the failure of a passenger over age 16 to wear a seat belt. T.C.A. §55-9-606.
Neither court costs nor a litigation tax shall be imposed. T.C.A. §55-9-603(e).
In addition, no points can be assigned to an offender's driving record for a violation of this requirement. T.C.A. §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. T.C.A. §55-9-604.

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

²³⁹ 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. Such term does not include a motor vehicle that does not have to be equipped with seat belts under Federal law. T.C.A. §55-9-603(c).

Requirements: I. Any person transporting any child under age 1 or weighing 20 lbs., or less = rear facing child passenger restraint system, in the rear seat if available.
 II. Child age 1-3, weighing greater than 20 lbs. = forward facing child passenger restraint system in the rear seat if available.
 III. Child age 4-8 and measuring less than 4 feet, 9 inches in height = belt positioning booster seat system.
 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.²⁴⁰
 V. Child age 9-12, or a child through age 12 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. T.C.A.
 VI. Child age 13-15 = passenger restraint system, including seat belts. T.C.A. §55-9-602.

Exemptions: Although the law is not specific, there appears to be an indirect exemption from the use of child passenger protection systems in motor vehicles that are not required to have seat belts by reason of the fact that seat belts are needed in order to secure child passenger protection systems in place. The law does not require that motor vehicles be retrofitted with seat belts.

Sanctions: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. T.C.A. §§40-35-111(e)(3); 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. T.C.A. §55-9-602(c)(2). In lieu of a court appearance for violations of V and VI above, an offender may pay a fine of **\$50**. Also, no court costs or litigation tax may be assessed against an offender. T.C.A. §55-9-602(g)(2). Only one citation may be issued regardless of the number of children involved. T.C.A. §55-9-602(g)(5).

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. T.C.A. §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.²⁴¹ T.C.A. §55-9-602(k).

School Bus Safety

²⁴⁰ These provisions shall not be satisfied by use of the vehicle's standard lap or shoulder seat belts independent of any other child passenger restraint system. A vehicle transporting a child in a specially modified restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system. T.C.A. §55-9-602(a)(4)(A).

²⁴¹ **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. T.C.A. §55-9-602(k)(3).

Restraint Systems:

Requirements: There are no statutory provisions for the use of safety restraint systems on school buses. However, T.C.A. §§55-9-603(c); 55-9-602(h) seem to provide an exemption for school buses.

Motorcycle Protective

Headgear:

Requirements: Any operator or passenger of a motorcycle, motorized bicycle or motor-driven cycle must wear a crash helmet meeting the requirements of FMVSS No. 218.²⁴² T.C.A. §55-9-302.

Sanctions: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. T.C.A. §§40-35-111(e)(3); 55-9-306.

Exemptions: This 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; (4) in a parade at a speed not exceeding 30 mph, so long as the person is age 18 or older or (5) in a funeral procession, memorial ride under police escort, or body escort detail so long as the person is at least 21, does not exceed 30 mph, and does exceed a distance of 50 miles. T.C.A. §55-9-302(b).

Motorcycle Eye

Protection Device:

Requirements: Every operator or passenger of a motorcycle, motor-driven cycle shall wear safety goggles, face shields, or glasses containing impact-resistant lenses, if such vehicle is not equipped with a windshield. T.C.A. §55-9-304.

Sanctions: **Class C Misdemeanor:** A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. T.C.A. §§40-35-111(e)(3); 55-9-306.

Motorcycle Passenger

None

Age Restrictions:

Bicycle Protective

Headgear:

Requirements: I. A person younger than 16 shall not operate or be a passenger on a bicycle unless wearing a protective cycle helmet. T.C.A. §55-52-105(1).
II. No parent or legal guardian shall knowingly permit his/her child under age 12 to violate the above requirement. T.C.A. §55-52-105(3).

Sanctions: See note.²⁴³
Violation: An adult who violates the above requirement is guilty of a violation and shall be assessed a civil penalty of **\$2** fine and court costs. For a first violation, the law provides that only a warning citation may be issued. For

²⁴² An operator or passenger age 21 or older shall wear a federally approved helmet, however the ventilation airways, protective surface and label standards may differ. T.C.A. §55-9-302.

²⁴³ A violation of this requirement is not admissible as evidence in any civil action. T.C.A. §55-52-106(c).

either a second or subsequent violation, a citation may be issued but no arrest can be made. T.C.A. §55-52-106.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

- I. No person shall transport a child under age 6 in the bed of a pickup truck (not exceeding ¾ ton). T.C.A. §55-8-189(a).
 - II. No person shall transport on any interstate defense highway or State highway a child age 6-11 in a pickup truck (not exceeding ¾ ton). T.C.A. §55-8-189(b)(1).
- Note:** A city or county may establish this same prohibition on its roads or highways. T.C.A. §55-8-189(b)(2).

Sanctions:

Class C Misdemeanor: A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$50**. T.C.A. §§40-35-111(e)(3); 55-8-189(e).

Note: The law is not specific as to whether points can be assigned for a violation of this requirement. However, since this offense is codified under the rules of the road provisions of the vehicle code, an offender may be subject to a 3 point assessment against his/her driving record under the miscellaneous point assessment provisions of the point system regulations.

Tenn. Comp. R. & Regs.1340-01-04-.03(2)(bb).

Exemptions:

- I. This requirement does not apply if the child is being transported in the bed of such a vehicle as part of an organized parade, procession or other ceremonial event and when the vehicle is not traveling more than 20 mph, or if the child being transported is involved in agricultural activities. T.C.A. §55-8-189.

STATE**TEXAS**

General Reference:

Texas Revised Statutes Annotated (V.T.C.A. Transportation Code);
Texas Administrative Code (TAC)Seat Belts:

Requirements:

I. A driver and all passengers in a vehicle shall be secured in a seat belt if such vehicle is equipped with seat belts.²⁴⁴ V.T.C.A. §545.413(a).

II. A person shall not operate a passenger vehicle equipped with seat belts unless all of the passengers who are younger than 17 (but not required to be secured in a child passenger safety seat system) are secured by a seat belt. V.T.C.A. §545.413(b).

Exemptions:

(1) Persons who are unable to use a seat belt for physical or medical reasons and possess a written statement stating such reasons, or provide to the court within 10 days such written statement; (2) persons employed by the U.S. Postal Service while performing official duties; (3) persons who are in the process of delivering newspapers from a vehicle; (4) persons employed by either a public or a private utility and who are engaged in reading meters or performing other duties that require that they frequently enter and exit a vehicle; or (5) persons who are operating commercial vehicles that are registered as farm vehicles and that weigh less than 48,000 lbs. V.T.C.A. §545.413(e).

Enforcement Type:

Primary Enforcement: A law enforcement officer may arrest without a warrant a person found committing a violation of the rules of the road. V.T.C.A. §543.001.

Sanctions:

Misdemeanor:

I. For a violation of the requirements of I above, a fine of not less than **\$25** nor more than **\$50**. V.T.C.A. §545.413(d)

II. For a violation of the requirements in II above, a fine of not less than **\$100** or more than **\$200**. However, the court may defer proceedings and require an offender to complete a special course including child passenger safety. This course is in lieu of requiring the offender to complete a “driving safety course.”²⁴⁵ V.T.C.A. §545.413(d), (i).

No points are assigned for a violation of this requirement.
V.T.C.A. §708.052.

Effect on Civil
Liability:

Statute (V.T.C.A. §545.413(g)) prohibiting the admissibility into evidence in a civil trial the nonuse of a seat belt has been repealed by Acts 2003, 78th Leg., ch. 204, §8.01.²⁴⁶

15-Passenger Vans:

Covered under the seat belt law. V.T.C.A. §545.412(f)(2).

²⁴⁴ “Passenger vehicle” means a passenger car, light truck, sport utility vehicle, truck, or truck tractor. V.T.C.A. § 545.412(f)(2); V.T.C.A. § 545.413(h).

²⁴⁵ **Deferred Disposition.** Persons charged with traffic offenses may be allowed to participate in a deferred disposition program. Under this program, an offender must plead guilty or no contest to the offense and complete a driving safety course. The court may defer imposition of judgment for 90 days and dismiss the charge when the course has been completed. Vernon’s Ann. Texas C. C. P. Art. 45.0511.

²⁴⁶ There have been no cases on point 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 may indicate accepted admissibility in some circumstances.

Child Safety Restraint Systems:

- Requirements:** A person shall not operate a passenger vehicle when transporting a child younger than 8 and less than 4 feet, 9 inches in height unless such child is secured in a federally approved child passenger safety seat system. V.T.C.A. §545.412(a).
- Exemptions:** (1) Children who are being transported in emergency or law enforcement vehicles; (2) children being transported in passenger for hire vehicles; or (3) children being transported in a vehicle in which all seating position equipped with child passenger safety seat systems or seat belts are occupied. V.T.C.A. §545.412(c), (e).
- Sanctions:** **Misdemeanor:** A fine of not less than **\$25** or more than **\$250**. 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”.²⁴⁷V.T.C.A. §545.412(b), (g). Two (2) points are assigned for a violation of this requirement. V.T.C.A. §708.052.
- Effect on Civil Liability:** Statute (V.T.C.A. §545.412(d)) prohibiting the admissibility into evidence in a civil trial the nonuse of a seat belt was repealed by Acts 2003, 78th Leg., ch. 204, §8.01.

School Bus Safety Restraint Systems:

- Requirements:** Any student riding a school bus shall wear a seat belt if the bus is equipped with seat belts for all passengers. V.T.C.A., Education Code §34.013. Whenever passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that each passenger is secured by a seat belt. V.T.C.A., Education Code §34.003(c).²⁴⁸
- Sanctions:** A school district may implement a disciplinary policy to enforce the use of seat belts by students. V.T.C.A., Education Code §34.013. However, there is no specific statutory provision addressing the sanctions for a violation of the requirement.

Motorcycle Protective Headgear:

- Requirements:** Any person who operates a motorcycle or autocycle²⁴⁹ shall wear and require all passengers to wear State approved protective headgear meeting the minimum standards of Federal Motor Vehicle Safety Standard No. 218. Any passenger on a motorcycle shall wear State approved protective headgear. V.T.C.A. §661.003(a), (b); 661.0015; 37 TAC §21.6.

²⁴⁷ It is a defense to prosecution, however, that subsequent to the time of the offense, the defendant obtained an appropriate child passenger safety seat system for each child required to be secured. V.T.C.A. §545.4121.

²⁴⁸ “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. V.T.C.A., Education Code §34.003(d).

²⁴⁹ An autocycle has no more than 3 wheels and is equipped with a steering wheel and seats. V.T.C.A. §661.0015.

Sanctions: **Misdemeanor:** A fine of not less than **\$10** or more than **\$50**.
V.T.C.A. §661.003(h).

Exemptions: A person at least age 21 may be exempt if he/she successfully completed a motorcycle operator training and safety course or was covered by a health insurance plan providing medical benefits for injuries. A law enforcement officer may not arrest a person or issue a citation if there evidence of successful completion of the course or health insurance. V.T.C.A. §661.003(c).²⁵⁰

Motorcycle Eye
Protection Device:

Requirements: **None**

Motorcycle Passenger
Age Restrictions:

An operator may not carry another person on a motorcycle unless that person is at least age 5. However, an operator may carry a person under age 5 in a sidecar attached to the motorcycle. V.T.C.A. §545.416(d), (e).

Bicycle Protective
Headgear:

Requirements: **None**²⁵¹

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 in the bed of such truck or trailer. V.T.C.A. §545.414(a).

Sanctions: **Misdemeanor:** A fine of not less than **\$25** or more than **\$200**.
V.T.C.A. §545.414(b).

Exemptions: This requirement does not apply if the person was: (1) operating such vehicle in a parade, emergency, or authorized hayride; (2) operating a vehicle on a beach; (3) driving such vehicle on a farm-to-market road, ranch-to-market road, or county road outside of municipality; or (4) operating a vehicle that is the only vehicle owned or operated by the members of a household.
V.T.C.A. §545.414(c).

²⁵⁰ There may be a common law duty under Texas law to wear protective headgear or eye protection. See *Kennon v. Slipstreamer, Inc.*, 794 F.2d 1067 (5th Cir. 1986).

²⁵¹ 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. V.T.C.A. Health & Safety Code §758.002.

STATE

UTAH

General Reference:
Seat Belts:

Utah Code Annotated (U.C.A. 1953)

Requirements:

When a motor vehicle²⁵² is operated on a highway, the driver and all passengers shall wear a seat belt. U.C.A. 1953 §41-6a-1803(1)(a), (2).

Exemptions:

(1) A passenger or operator of a motor vehicle manufactured before July 1, 1966; (2) a person who possess written verification from a licensed physician stating that such person is unable to wear a seat belt for physical or medical reasons; (3) persons riding in either a motor vehicle or a seating position within a motor vehicle that is not required to be equipped with a seat belt system under Federal law; or (4) persons where all of the seating positions are occupied by other passengers. U.C.A. 1953 §41-6a-1804.

Enforcement Type:

Primary Enforcement: U.C.A. 1953 §41-6a-1803(4). Note: Beginning on July 1, 2018, for a person 19 years of age or older, enforcement shall be only as a secondary action when a person has been detained for another offense.

Sanctions:

Infraction: A maximum fine of **\$45**. The fine may waived if the offender completes a 30-minute course on the benefits of using seat belts and child restraint devices. No points may be assessed against any person for a violation of these requirements. U.C.A. 1953 §41-6a-1805.

Effect on Civil Liability:

Failure to wear a seat belt does not constitute contributory or comparative negligence. Evidence of such a failure may not be introduced as evidence in any civil litigation on the issues of negligence, injuries or the mitigation of damages. U.C.A. 1953 §41-6a-1806.

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

When a motor vehicle is in operation, the driver shall secure all passengers younger than age 8 and less than 57 inches in height, in a child restraint device. U.C.A. 1953 §41-6a-1803(1)(a)(ii), (b).

A child less than age 8 who is 57 inches or taller shall use a properly adjusted and fastened safety belt. U.C.A. 1953 §41-6a-1803(1)(a)(ii), (b)(i)(ii).

An operator of a motor vehicle shall provide for the protection of each person age 8 up to 16 by securing or causing to be secured a properly adjusted and fastened seat belt. U.C.A. 1953 §41-6a-1803(1)(a)(iii).

Exemptions:

None

Sanctions:

Infraction: A fine of not more than **\$45**. The fine may be waived if the offender completes a 30-minute course on the benefits of using seat belts and child

²⁵² The term “motor vehicle” means “a self-propelled vehicle intended primarily for use and operation on the highways.” The term does not include vehicles that are not equipped with seat belts by the manufacturer. U.C.A. 1953 §§41-1a-102(32); 41-6a-1802.

restraint devices, and shows proof of acquisition of a child restraint device. No points may be assessed against any person for a violation of these requirements. U.C.A. 1953 §41-6a-1805.

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. U.C.A. 1953 §41-6a-1806.

School Bus Safety Restraint Systems:

Requirements:

There are no specific statutory provisions requiring the use of seat belts or child restraint devices on school buses. However, “school bus” is not excluded from the definition of “motor vehicle” as it pertains to the use of seat belts and child restraint devices. Yet, it is unclear whether school buses fall into the exceptions that exclude vehicles not required to be equipped with seat belts under Federal law.

Motorcycle Protective Headgear:

Requirements:

I. Persons under age 18 may not operate or ride on motorcycles or motor-driven cycles on a highway unless wearing State approved protective headgear meeting the requirements of Federal Motor Vehicle Safety Standard No. 218. U.C.A. 1953 §§41-6a-1505(1),(3); 41-22-10.8(1).
 II. For off-highway vehicles, a person under age 18 who is operating or riding on a motorcycle, snowmobile, or a Type I all-terrain vehicle shall wear protective headgear. U.C.A. 1953 §41-22-10.8(1).

Sanctions:

A violation is an **infraction** with a fine sanction of not more than **\$50**. U.C.A. 1953 §41-22-10.8(4).

Exemptions:

This requirement does not apply to operators or riders within an enclosed cab, or to operators or passengers of off-highway implements or husbandry when operated according to U.C.A. 1953 §41-22-5.5(3), (4). U.C.A. 1953 §§41-22-10.8(3); 41-6a-1505(2).

Motorcycle Eye Protection Device:

Requirements:

None

Motorcycle Passenger Age Restrictions:

None

Bicycle Protective Headgear:

Requirements:

None

Prohibition Against Riding in Unsecured

Portion of Vehicle:

Requirements:

I. No person shall ride or knowingly allow a person to ride upon any portion of any vehicle that is not designed or intended for passenger use. U.C.A. 1953 §41-6a-1703.

Sanctions:

Infraction: A fine of not more than **\$750**. U.C.A. 1953 §§76-3-205; 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. U.C.A. 1953 §41-6a-1703(2).

STATE

VERMONT

General Reference:

Vermont Statutes Annotated (V.S.A.);
Vermont Administrative Code (Vt. Admin. Code)

Seat Belts:

Requirements:

A person shall not operate a motor vehicle²⁵³ unless all persons (including the operator) who are occupying a seating position with seat belts are wearing such belts. 23 V.S.A. §1259(a).

Exemptions:

(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. 23 V.S.A. §1259(b).

Enforcement Type:

Secondary Enforcement: A law enforcement officer can only enforce this requirement if a vehicle operator has been detained for another traffic law violation. An offender is not subject to a fine for a violation of the seat belt requirement unless the operator is required to pay a penalty for the primary traffic law offense. 23 V.S.A. §1259(e).

Sanctions:

Traffic Offense:

First violation: \$25;

Second violation: \$50;

Third and subsequent violations: \$100. 23 V.S.A. §§1259(f); 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. 23 V.S.A. §1259(c), (d).

15-Passenger Vans:

May be covered under the seat belt statute.

Child Safety Restraint Systems:

Requirements:

Any child under age 18 shall be secured in a federally approved child restraint system or seat belt, as follows:

- (1) All children under age 1, and all children weighing less than 20 lbs., regardless of age = a rear-facing position, which shall not be installed in front of an active air bag;
- (2) a child weighing more than 20 lbs., and who is age 1-7 = a child passenger restraining system; and

²⁵³ "Motor vehicle" includes all vehicles propelled or drawn by power other than muscular power, except for farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, snowmobiles, or tracked vehicles or electrical personal assistive mobility devices. 23 V.S.A. §4(21).

(3) a child age 8-17 = a seat belt system or a child passenger restraining system. 23 V.S.A. §1258(a).

Exemptions: (1) Children being transported as passengers for hire (except motor vehicles owned by day care facilities); (2) children who are riding in motor vehicles that were not manufactured with seat belts; or (3) a driver who has been ordered by an enforcement officer, firefighter, or authorized civil authority to evacuate persons from a stricken area. 23 V.S.A. §1258(b).

Sanctions: **Traffic Offense:**
First violation: \$25;
Second violation: \$50;
Third and subsequent violations: \$100. 23 V.S.A. §§1258(c); 2201.

Effect on Civil Liability: No statutory provisions.²⁵⁴

School Bus Safety Restraint Systems:

Requirements: There is no specific statutory provision.²⁵⁵

Motorcycle Protective Headgear:

Requirements: A person may not operate or ride on a motorcycle on a highway unless he or she properly wears protective headgear conforming to the Federal Motor Vehicle Safety Standard No. 218. 23 V.S.A. §1256.

Sanctions: **Traffic Offense:** 2 points shall be assessed. 23 V.S.A. §2502(a)(1)(CCC).

Exemptions: Occupants of fully enclosed autocycles are exempt from this rule. 23 V.S.A. §1256.

Motorcycle Eye Protection Device:

Requirements: If a motorcycle is not equipped with a windshield or screen, the operator shall wear eyeglasses, goggles, or a face shield. 23 V.S.A. §1257.

Sanctions: **Traffic Violation:** 2 points shall be assessed. 23 V.S.A. §2502(a)(1)(DDD).

Motorcycle Passenger **None**

²⁵⁴ Unlike 23 V.S.A. §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.

²⁵⁵ 23 V.S.A. §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.

²³ V.S.A. §4(34)(A), (B). **Note:** Since there is no provision requiring the installation of seat belts in school buses, it seems logical that if a school bus is not equipped with seat belts, there would be no violation. On the other hand, if a Type I school bus is equipped with seat belts, a violation would likely result in a fine under the same provisions as 23 V.S.A. §1258(c), described above.

Age Restrictions:

Bicycle Protective
Headgear:

Requirements: Children in daycare shall wear a safety helmet when riding a bicycle.
Vt. Admin. Code 12-3-102:6; 12-3-103:6.

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

STATE

VIRGINIA

General Reference:

Virginia Code Annotated (Va. Code Ann.)

Seat Belts:

Requirements:

When a motor vehicle²⁵⁶ is in motion, each person age 18 or older occupying the front seat shall wear a seat belt. The driver is required to ensure that any child less than age 18 is secured in a child restraint or seat belt.
Va. Code Ann. §§46.2-1094(A); 46.2-1095(B).

Exemptions:

(1) Persons who possess a written statement from a physician stating the physical or medical grounds/conditions which make wearing a seat belt impractical; (2) law enforcement officers who are transporting a person in custody where the wearing of a seat belt would be impractical; (3) rural mail carriers of the U.S. Postal Service while performing official duties; (4) persons performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; (5) taxicab drivers and passengers; (6) persons required to make frequent stops while operating commercial or public vehicles; (7) utility meter readers; or (8) law enforcement personnel who are enforcing motor vehicle parking laws. Va. Code Ann. §46.2-1094(B).

Enforcement Type:

Secondary Enforcement: No citation for a violation of this requirement shall be issued unless a law enforcement officer has cause to stop or arrest the driver for a violation of the State's law or a local ordinance related to motor vehicles. Va. Code Ann. §46.2-1094(F).

Sanctions:

A civil penalty of **\$25**. No demerit points or court costs shall be assessed. Va. Code Ann. §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. Code Ann. §§46.2-1092; 46.2-1094(D).

15-Passenger Vans:

May be covered under the seat belt statute.

Child Safety Restraint Systems:

Requirements:

I. A person, when transporting a child under age 8 in a motor vehicle,²⁵⁷ 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.
II. A child under age 18 shall be secured in a seat belt system. Va. Code Ann.

²⁵⁶ Generally, the seat belt use requirement applies to persons occupying “passenger cars” that are equipped with or required by law to be equipped with seat belts. Va. Code Ann. §§46.2-1092; 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. However, the term “motor vehicle” includes every vehicle that is self-propelled or designed for self-propulsion. Va. Code Ann. §46.2-100.

²⁵⁷ This requirement only applies to motor vehicles manufactured after January 1, 1968. Va. Code Ann. §46.2-1095. **Note:** The child passenger protection law appears to apply only to vehicles that are required by law to be manufactured with seat belts.

§46.2-1095.

Exemptions: There are several provisions of the child restraint law that provide for exemptions. **I.** Under Va. Code Ann. §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. Code Ann. §46.2-1099, these requirements do not apply to: (1) children who are being transported in a vehicle having an interior design which makes the use of a child restraint device impractical; and (2) children being transported by public transportation, bus, school bus, or farm vehicle. **III.** Additionally, these requirements do not apply to children who for weight, physical unfitness, or other medical reasons cannot practically use a child restraint system. Such children age 4-7 may be secured in a seat belt if the use is practical. Operators carrying such children must carry a statement from a doctor or risk being fined **\$20**.
Va. Code Ann. §§46.2-1096; 46.2-1098; 46.2-1100.

Sanctions: First offense: a civil penalty of **\$50** and no court costs;
Second or subsequent offense (on different dates): a fine of up to **\$500**.²⁵⁸
No points are assessed against a person’s driving record.
Va. Code Ann. §46.2-1098

Effect on Civil Liability: I. A violation of these requirements shall not constitute negligence per se. Such violations shall not constitute a defense for personal injuries to a child for injuries sustained in a motor vehicle accident. Va. Code Ann. §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. Code Ann. §46.2-1095(C).

School Bus Safety Restraint Systems:

Requirements: A person must wear a seat belt when operating a school bus.
Va. Code Ann. §46.2-1091. However, school buses are not required to be equipped with child restraint devices. Va. Code Ann. §46.2-1095(E).

Sanctions: **Class 3 Misdemeanor:** a fine of not more than **\$500**.
Va. Code Ann. §§46.2-1091; 18.2-11(c). Additionally, a school bus operator who violates this requirement may have 3 points assessed against his/her driving record. Va. Code Ann. §46.2-492(D)(3).

Motorcycle Protective Headgear:

Requirements: Every operator and passenger of a motorcycle²⁵⁹ or auticycle shall wear a State approved protective helmet.²⁶⁰ This requirement does not apply if the motorcycle is being driven in an authorized parade at a speed of 15 mph or less.

²⁵⁸ 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. Va. Code Ann. §46.2-1098.

²⁵⁹ The term “motorcycle” does not include a moped. Va. Code Ann. §46.2-100.

²⁶⁰ Such helmet shall meet or exceed the standards and specifications of the Snell Memorial Foundation, the American National Standards Institute, Inc., or the U.S. Department of Transportation. Va. Code Ann. §46.2-910(A).

Va. Code Ann. §46.2-910(A).

Sanctions: **Traffic Infraction:** A fine of not more than **\$250**. Va. Code Ann. §§46.2-113; 18.2-11(d). Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. Va. Code Ann. § 46.2-910(A).

Exemptions: This requirement does not apply to operators or passengers of motorcycles with wheels of 8 inches or less in diameter or three-wheeled motorcycles that have non-removable roofs, windshields and enclosed bodies. Va. Code Ann. §46.2-910(A).

Motorcycle Eye Protection Device:

Requirements: Every person operating a motorcycle or autocyte, 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. Code Ann. §46.2-910(A).

Sanctions: **Traffic Infraction:** A fine of not more than **\$250**. Va. Code Ann. §§46.2-113; 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. Code Ann. §46.2-910(A).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: There are no statutory provisions mandating the use of a protective helmet, but the governing body of any county, city or town may enact an ordinance providing that every person 14 or younger shall wear a nationally approved protective helmet when riding or being carried on a bicycle. Va. Code Ann. §46.2-906.1.

Sanctions: A violation of such an ordinance is punishable by a fine of **\$25**. Such fine, however, shall be suspended for first-time violators who purchase helmets subsequent to the violation but prior to the imposition of the fine. Va. Code Ann. §46.2-906.1.

A violation of this requirement shall not: (1) constitute negligence; (2) constitute assumption of risk; (3) be considered in the mitigation of damages of whatever nature; or (4) not be admitted into evidence or commented upon by counsel in a civil action. Va. Code Ann. §46.2-906.1.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: No person under age 16 shall be transported in the rear cargo area of any pickup

truck on the highways of Virginia. Va. Code Ann. §46.2-1156.1.

Sanctions: **Traffic Infraction:** A fine of not more than **\$250**. Va. Code Ann. §§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. Code Ann. §46.2-1156.1.

STATE

WASHINGTON

General Reference:

Revised Code of Washington Annotated (RCWA);
Washington Administrative Code (WAC)

Seat Belts:

Requirements:

I. Every person age 16 or older who is operating or riding in a motor vehicle²⁶¹ shall wear a seat belt assembly. RCWA §46.61.688(3).
II. No person shall operate a motor vehicle unless all child passengers younger than 16 are wearing seat belts or using some other approved child restraint devices. RCWA §46.61.688(4).

Exemptions:

(1) Persons who are operating or riding in motor vehicles that are not required to be equipped with seat belts under Federal law; (2) persons for whom no seat belts are available, when all designated seating positions are occupied; (3) persons who for physical or medical reasons are unable to wear seat belts and possess written verification from a licensed physician; and (4) persons whom the State has exempted via regulation and who are operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops. RCWA §46.61.688(2), (7), (8).

Enforcement Type:

Primary Enforcement: An officer may stop and briefly detain any person who violates this requirement. However, no *arrest* can be made solely for a violation of this requirement, and any detention must last no longer than the time it takes to issue a citation. RCWA §46.64.015.

Sanctions:

Traffic Infraction: A penalty of **\$48**. IRLJ 6.2(b)²⁶²; RCWA §46.64.050. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. **Note:** A violation of these requirements shall be recorded on a driver's record. However, such information shall not be available to insurance companies or employers. RCWA §46.61.688(5).

Effect on Civil Liability:

Failure to comply with these requirements does not constitute negligence. In addition, failure to wear a seat belt cannot be admitted into evidence as negligence in any civil action. RCWA § 46.61.688(6).

15-Passenger Vans:

Covered under the seat belt law. RCWA §46.61.688.

Child Safety RestraintSystems:

Requirements:

Any child under age 16 transported in a motor vehicle²⁶³ shall be restrained as follows:

²⁶¹ 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. RCWA §46.61.688(1). **Important:** The seat belt use law applies only to motor vehicles that are required to meet the manual seat belt standards under Federal law (49 C.F.R. 571.208).

²⁶² This abbreviation stands for the Washington Infraction Rules for Courts of Limited Jurisdiction.

²⁶³ The term "motor vehicle" means passenger cars that are required by law to have seat belts. RCWA §§46.37.510; 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. RCWA §46.04.382.

- I. Any child under age 8 and less than 4 ft. 9 inches tall = child restraint system;
- II. Any child age 8 or older or 4 feet 9 inches or greater in height = seat belt;
- III. Any child under age 13 = seated and secured in a back seat position, if practical. RCWA §46.61.687.

- Exemptions:** (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. RCWA §46.61.687(5). Additionally, the requirement does not apply if the seating position has only a lap belt and the child weighs more than 40 lbs. RCWA §46.61.687(7).
- Sanctions:** **Traffic Infraction:** A penalty of **\$48**. IRLJ 6.2(b). Additionally, penalties of \$5, \$10 and \$2 shall be assessed. For a first violation, however, the infraction will be dismissed if, within 7 days, proof of acquisition of a child restraint system is presented. RCWA §46.61.687(3).
- Effect on Civil Liability:** Failure to comply with these requirements shall not constitute negligence by a parent or legal guardian. In addition, failure to use a child restraint system is not admissible as evidence of negligence in any civil action. RCWA §46.61.687(4).²⁶⁴

School Bus Safety Restraint Systems:

- Requirements:** School buses are exempt from the child safety restraint device requirement. RCWA §46.61.687(5).

Motorcycle Protective Headgear:

- Requirements:** A person who operates or rides on a motorcycle, motor-driven cycle or moped on a State highway, county road, or city street must wear a protective motorcycle helmet in accordance with FMVSS No. 218. RCWA §46.37.530(1), (c).
- Sanctions:** **Traffic Infraction:** A penalty of **\$48**. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. IRLJ 6.2(d); RCWA §46.64.050.
- Exemptions:** When the vehicle is an antique or when the vehicle is equipped with (1) a steering wheel, (2) seat belts and (3) partially or completely enclosed cab. RCWA §46.37.530(1)(c).

Motorcycle Eye Protection Device:

- Requirements:** A person who operates a motorcycle or a motor-driven cycle that does not have

²⁶⁴ 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. RCWA §§46.61.687(8)(a); 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. RCWA §46.61.687(8)(b).

a windshield must wear State-approved glasses, goggles, or a face shield. RCWA §46.37.530(1)(b).

Sanctions: **Traffic Infraction:** A penalty of **\$48**. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. IRLJ 6.2(d); RCWA §46.64.050.

Motorcycle Passenger Age Restrictions: A person who carries a passenger under age 5 on a motorcycle, will have committed a non-moving violation. WAC 308-104-160(60).

Bicycle Protective Headgear:
Requirements: **None**

Prohibition Against Riding in Unsecured Portion of Vehicle:
Requirements: No person shall transport any other person on the running board, fenders, hood or other outside part of any vehicle. RCWA §46.61.660.

Sanctions: **Traffic Infraction:** A penalty of **\$48**. Additionally, penalties of \$5, \$10 and \$2 shall be assessed. IRLJ 6.2(b); RCWA §46.64.050.

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. RCWA §46.61.660.

STATE**WEST VIRGINIA**

General Reference: West Virginia Code (W. Va. Code)

Seat Belts:

- Requirements:** A person may not operate a passenger vehicle²⁶⁵ unless the operator, all front-seat passengers (regardless of age) and all back-seat passengers under age 18 are restrained in seat belts. W. Va. Code §17C-15-49(a).
- Exemptions:** (1) Rural mail carriers of the U.S. Postal Service while they are performing official duties; and (2) persons who have a physical disability that would prevent appropriate restraint in a seat belt provided such disability is certified by a physician stating the nature of the disability and the reason restraint is inappropriate. W. Va. Code §17C-15-49(b).
- Enforcement Type:** **Primary Enforcement.** W. Va. Code §17C-15-49(c).
- Sanctions:** **Misdemeanor:** A fine of **\$25**. No court costs or other fees shall be assessed against a person for a violation of this requirement. W. Va. Code §§17C-15-49(c); 17C-18-1(a). No points are assessed for a violation of this requirement. W. Va. Code §17C-15-49(e).
- Effect on Civil Liability:** 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%. W. Va. Code §17C-15-49(d).

15-Passenger Vans: Not covered under the seat belt law. W. Va. Code §17C-15-49(a).

Child Safety RestraintSystems:

- Requirements:** A person transporting a child under age 8 and less than 4'9" tall shall secure the child in a federally approved child passenger safety device. If the child is under 8 and at least 4'9" tall a safety belt will suffice. W. Va. Code §17C-15-46.
- Exemptions:** This does not apply if all the seat belts are being used, i.e., the number of passengers in the vehicle exceeds the number of seat belts available for use, and to children riding in motor vehicles for hire. W. Va. Code §17C-15-46.
- Sanctions:** **Misdemeanor:** Not less than **\$10** or more than **\$20**. W. Va. Code §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. W. Va. Code §17C-15-46.

²⁶⁵ The term "passenger vehicle" means a motor vehicle that is designed to transport 10 passengers or less (including the driver) that was manufactured after January 1, 1967. However, the term does not include a motorcycle, a trailer or any motor vehicle that is not required under Federal law to have seat belts. W. Va. Code §17C-15-49(a).

School Bus Safety
Restraint Systems:

Requirements:

There is no specific statutory requirement concerning school buses and the use of seat belts and child passenger safety devices within. “School bus” is not included in the definition of “passenger vehicle” per W. Va. Code §17C-15-49 (seat belts) and “passenger automobile” per W. Va. Code §17C-15-46 (child passenger safety devices). However, “school bus” is considered to be a motor vehicle pursuant to W. Va. Code §17C-1-7.

Additionally, W. Va. Code §17C-14-12 requires the West Virginia Board of Education to adopt and enforce rules consistent with the traffic regulations and laws of the road (which includes the use of seat belts and child passenger safety devices). Therefore, a combined reading of all applicable statutes mentioned seems to require the use of seat belts and child passenger safety devices only when they have been installed in a school bus.

Sanctions:

A sanction for such a violation would likely follow the sanctions listed above for seat belts violation and child passenger safety device violation. Additionally, any officer or employee violating said rule or failing to include the obligation to comply with said rule may be guilty of misconduct and subject to removal from office/employment. Any contract employee may be found in breach of contract and such contract may be cancelled. W. Va. Code §17C-14-12.

Motorcycle Protective
Headgear:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless wearing an officially approved protective helmet meeting the standards and specifications established by the American National Standards Institute Standard Z 90.1, FMVSS No. 218 or Snell Safety Standards for Protective Headgear for Vehicle Users. W. Va. Code §17C-15-44(a).

Sanctions:

Misdemeanor:

First offense – A term of imprisonment of not more than **10 days** or a fine of not more than **\$100**;

Second offense (within 1 year) - A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;

Third or subsequent offense – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**. W. Va. Code §17C-18-1(a), (b).

Exemptions:

None

Motorcycle Eye
Protection Device:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless wearing officially approved safety, shatter-resistant eyeglasses (excluding contact lenses), and eye goggles. If the motorcycle is equipped with a windshield or windscreen, the windshield or windscreen shall be constructed of federally approved shatter-resistant material. W. Va. Code §17C-15-44(b).

Sanctions: **Misdemeanor:**
First offense – A term of imprisonment of not more than **10 days** or a fine of not more than **\$100**;
Second offense (within 1 year) - A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;
Third or subsequent offense – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**. W. Va. Code §17C-18-1(a), (b).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: A person under age 15 is prohibited from operating or being a passenger on a bicycle unless wearing a protective bicycle helmet. Additionally, it is unlawful for a parent or legal guardian to knowingly permit his/her child under age 15 to violate the above requirement. W. Va. Code §17C-11A-4.

Sanctions: See note.²⁶⁶
Misdemeanor: A parent or legal guardian who violates this requirement is subject to a fine of **\$10** or must perform **2 hours** of community service related to child injury prevention. No court costs may be assessed. The fine may be waived upon proof of helmet acquisition. W. Va. Code §§17C-11A-7(a); 17C-18-1(a). **Note:** There appears to be no sanction against a child who violates this requirement.

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None**

²⁶⁶ 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). W. Va. Code §17C-11A-7(c).

STATE

WISCONSIN

General Reference:

Wisconsin Statutes Annotated (W.S.A.);
Wisconsin Administrative Code (Wis. Adm. Code § Trans)

Seat Belts:

Requirements:

I. When operating a motor vehicle, a person shall be “properly restrained”²⁶⁷ in a seat belt. W.S.A. §347.48(2m)(b).
II. No person shall operate a motor vehicle unless all passengers at least age 8 are properly restrained in seat belts. W.S.A. §347.48(2m)(c).

Exemptions:

(1) Persons operating or riding in emergency vehicles (e.g. law enforcement vehicles, ambulances, etc.) if such use could endanger the operator or another; (2) motor vehicle operators or passengers who are required to make more than 10 stops per mile in the scope of their employment; (3) persons who, because of physical or medical conditions, cannot be properly restrained in seat belts; (4) persons operating or riding in taxicabs or motor vehicles not required to be equipped with seat belts; (5) privately owned motor vehicles while being operated by a rural letter carrier or a newspaper delivery person; (6) persons operating or riding in motor vehicles while such vehicles are being used in land surveying; 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. W.S.A. §347.48(2m).

Enforcement Type:

Primary Enforcement: A law enforcement officer, however, may not take a person into physical custody solely for a violation of the seat belt safety law. W.S.A. §347.48(2m)(gm).

Sanctions:

Forfeiture: A fine of \$10. W.S.A. §347.50(2m)(a). However, no forfeiture may be assessed if the offender is younger than age 16. W.S.A. §347.50(2m)(b). No points may be assessed against a person's driving record for a violation of these requirements. Wis. Adm. Code § 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 %. W.S.A. §347.48(2m)(g).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

I. No person shall transport a child under age 8 unless properly restrained in a federally approved child safety restraint system as follows:
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.
III. A child at least 1-year-old and who weighs 20 lbs. or more, but younger than 4 or who weighs less than 40 lbs. = forward-facing child safety restraint system in a back seating position if applicable.

²⁶⁷ “Properly restrained” means “wearing a seat belt approved by the department...and fastened in a manner prescribed by the manufacturer of the seat belt which permits the seat belt to act as a body restraint.” W.S.A. §347.48(2m)(a).

IV. A child between the ages of 4-7, between 40-80 lbs., and who is not more than 57 inches in height = child booster seat. W.S.A. § 347.48(4)(as).

Exemptions: (1) A child who has a physical, medical condition or body size that prevents the use of either a child safety restraint system or seat belt; (2) a child who is riding in a motor bus, school bus, taxicab, moped, motorcycle, or a vehicle that is not required to be equipped with seat belts under Federal law. W.S.A. §347.48(4).

Sanctions: I. **Forfeiture:** For a violation of I-III above there is an assessment of not less than **\$30** or more than **\$75**. The assessment is waived upon proof of acquisition and installation of a child restraint system within 30 days of the citation’s issuance. Additionally, if such person has not received a citation for such violation within the immediate preceding 3 years, then the assessment is waived. W.S.A. §347.50.

II. **Forfeiture:** For a violation of IV above:
First offense – an assessment of not less than **\$10** nor more than **\$25**;
Second or subsequent offense (within 3 years) – an assessment of not less than **\$25** or more than **\$200**. W.S.A. §347.50(4).

No points may be assessed against a person's driving record for a violation of these requirements. Wis. Adm. Code § Trans 101.02(5)(a).

Effect on Civil Liability: Evidence of a failure to comply with these requirements is admissible in any civil action. However, such failure to comply does not by itself constitute negligence. W.S.A. §347.48(4)(d).

School Bus Safety Restraint Systems:

Requirements: The required use of a child safety restraint system does not apply to school buses that are not required by Federal law to be equipped with seat belts. W.S.A. §347.48(4)(c).

Motorcycle Protective Headgear:

Requirements: I. No person who holds a motorcycle instructional permit, regardless of age, shall operate or ride upon a Type 1 motorcycle²⁶⁸ unless wearing protective headgear meeting Federal Motor Vehicle Safety Standard No. 218.
 II. No person younger than 18 shall operate or ride upon a Type 1 motorcycle or ride as a passenger unless wearing federally approved protective headgear.
 III. No person may operate a Type 1 motorcycle while carrying a passenger under age 18 unless the passenger is wearing protective headgear.
 W.S.A. §347.485.

Sanctions: **Forfeiture:** An assessment of not less than **\$10** or more than **\$200**. W.S.A. §347.50(1). No points may be assessed against a person's driving record for a violation of these requirements. Wis. Adm. Code § Trans 101.02(5)(e).

²⁶⁸ 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. W.S.A. §340.01(32).

Exemptions: **None**

Motorcycle Eye Protection Device:

Requirements: A motorcycle²⁶⁹ operator shall wear a protective face shield, glasses, or goggles. This requirement does not apply to persons who are operating motorcycles in a parade that is sanctioned by a local government or equipped with a windshield. W.S.A. §347.485(2).

Sanctions: **Forfeiture:** An assessment of not less than **\$10** or more than **\$200**. W.S.A. §347.50(1).

Although the law is not specific, a person's driving record may be assessed two points for a violation. Wis. Adm. Code § Trans 101.02(4)(e).

Motorcycle Passenger Age Restrictions: **None**

Bicycle Protective Headgear:

Requirements: **None**

Sanctions:

Prohibition Against Riding in Unsecured Portion of Vehicle: See note.²⁷⁰

Requirements: I. No person shall drive a vehicle when any person is riding upon any portion of the vehicle that is not designed or intended for passenger use. W.S.A. §346.92.
II. No person shall operate a truck weighing 10,000 lbs., or less when a child under age 16 is in the open cargo area. W.S.A. §346.922(1).

Sanctions: I. For a violation of I above:
First offense - An assessment not less than **\$20** nor more than **\$40**;
Second or subsequent offense (within 1 year) - An assessment not less than **\$50** nor more than **\$100**. W.S.A. §346.95(1).

II. For a violation of II above:
First offense - An assessment not less than **\$10** nor more than **\$25**;
Second or subsequent offense (within 3 years) - An assessment not less than **\$25** nor more than **\$200**. W.S.A. §346.95(7).

Although the law is not specific, a person's driving record may be assessed two points for a violation. Wis. Adm. Code § Trans 101.02(4)(e).

²⁶⁹ 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. W.S.A. §347.485(2).

²⁷⁰ This requirement does not apply to persons operating motorcycles in a parade that is sanctioned by a local government. W.S.A. §347.485(2)(d).

Exemptions:

I. The prohibition under I above does not apply to employees discharging necessary duties as part of their employment or to persons riding within truck bodies in spaces intended for merchandise. W.S.A. §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. W.S.A. §346.922(2).

STATE

WYOMING

General Reference:

Wyoming Statutes Annotated (W.S. 1977)

Seat Belts:

Requirements:

I. Every driver and passenger shall wear a seat belt when a motor vehicle²⁷¹ is in motion on public streets and highways.
 II. When a motor vehicle is in motion, the driver shall require each passenger under age 12 to wear a seat belt. W.S. 1977 §31-5-1402(a).

Exemptions:

(1) Persons who have a written statement from a physician that it is not advisable for the person to wear a seat belt for physical or medical reasons; (2) any passenger vehicle not required to be equipped with seat belts under Federal law; (3) carriers of the U.S. Postal Service while performing official duties; (4) persons occupying a seat where all operable seat belts are being used by the driver or other passengers; or (5) any person occupying a seat in a vehicle originally manufactured without a seat belt. W.S. 1977 §31-5-1402(b).

Enforcement Type:

Secondary Enforcement: No motor vehicle shall be halted solely for a violation of these requirements. W.S. 1977 §31-5-1402(d).

Sanctions:

See note.²⁷²

I. **Misdemeanor:** A driver who violates the requirements in either I or II above is subject to a fine of not more than **\$25**.

II. A passenger who violates the requirement in I above is subject to a fine of not more than **\$10**.

No violation of these requirements may be counted as a moving violation for license suspension purposes. Additionally, a violation of these requirements shall not be grounds for increasing insurance premiums or made part of a person's driving record. W.S. 1977 §§31-5-1201; 31-5-1402.

Effect on Civil Liability:

Evidence of a person's failure to comply with these requirements is not admissible in any civil action. W.S. 1977 §31-5-1402(f).

15-Passenger Vans:

May be covered under the seat belt law.

Child Safety Restraint Systems:

Requirements:

A person transporting a child under age 9 in a passenger vehicle²⁷³ 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. W.S. 1977 §31-5-1303(a).

²⁷¹ "Motor vehicle" "means every vehicle which is self-propelled except vehicles moved solely by human power and motorized skateboards." W.S. 1977 §31-5-102(a)(xxiv). This is the definition of "motor vehicle" under the general definitions provision of the motor vehicle code (Title 31). There is no definition of "motor vehicle" specifically in the seat belt use law. However, the seat belt use law does define "passenger vehicle" as "a vehicle...designed to carry 11 persons or less, including pickup trucks, but excluding emergency vehicles, motorcycles and buses." W.S. 1977 §31-5-1401(a)(ii).

²⁷² If a person is cited for a violation of other traffic laws, that person may have the fine reduced by **\$10** if a seat belt was in use at the time of the other violation. W.S. 1977 §31-5-1402(e).

²⁷³ The term "passenger vehicle" means a motor vehicle, excluding emergency and law enforcement vehicles, designed to carry people and that was equipped with seat belts at the time of manufacture. The terms "school bus" and "commercial vehicle" are excluded from this definition. W.S. 1977 §31-5-1302(a)(v).

Exemptions: (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. W.S. 1977 §31-5-1303(b).

Sanctions: **Misdemeanor:**
First offense - A fine of not more than **\$50**, which shall be waived upon proof of acquisition of a child restraint system;
Second or subsequent offense - A fine of not more than **\$100**.
 W.S. 1977 §§31-5-1201(a); 31-5-1304(a).

Note: The law does not specifically provide for licensing action for a violation of this requirement. However, the law does allow the State to suspend a person's license for not more than **12 months** for repeated convictions of "moving violations." W.S. 1977 §31-7-129(a)(i).²⁷⁴

Effect on Civil Liability: A violation of this requirement does not constitute evidence of negligence or recklessness and does not constitute a basis for criminal prosecution other than a violation of this requirement. W.S. 1977 §31-5-1305.

School Bus Safety
 Restraint Systems:
 Requirements:

School buses are excluded from the requirement to use child safety restraint systems. W.S. 1977 §§31-5-1302(a)(v)(B); 31-5-1303(a).

Motorcycle Protective
 Headgear:

Requirements: I. No minor²⁷⁵ shall operate or ride on a motorcycle on public highway, street or thoroughfare unless wearing State approved protective headgear.
 II. A motorcycle operator shall not allow a minor to ride on a motorcycle unless such minor is wearing protective headgear. W.S. 1977 §31-5-115(o).

Sanctions: **Misdemeanor:**
First offense – A term of imprisonment of not more than **20 days** and/or a fine of not more than **\$200**;
Second offense (within 1 year) - A term of imprisonment of not more than **30 days** and/or a fine of not more than **\$300**;
Third or subsequent offense (within 1 year) – A term of imprisonment of not more than **6 months** and/or a fine of not more than **\$500**.
 W.S. 1977 §31-5-1201(a), (b).

²⁷⁴ The statute does not specifically exclude this requirement as a moving violation, as does the seat belt statute (W.S. 1977 §31-5-1402(c)). Therefore, the law is unclear whether a license suspension applies.

²⁷⁵ A "minor" is defined as a person who has not yet reached his/her 18th birthday. W.S. 1977 §8-1-102(a)(iii)(B).

Exemptions: This does not apply to persons riding on mopeds or within enclosed cabs, or on motorcycles in an officially authorized parade. W.S. 1977 §31-5-115(o), (q).

Motorcycle Eye
Protection Device:

Requirements: **None**

Motorcycle Passenger
Age Restrictions:

None

Bicycle Protective
Headgear:

Requirements: **None**

Prohibition Against
Riding in Unsecured
Portion of Vehicle:

Requirements: **None**

DOT HS 812 405
March 2018



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

