

JURISDICTION:  
General Reference:

**WASHINGTON**  
Revised Code of Washington Annotated and Washington Administrative Code (WAC)

Required Use of Safety Belts<sup>1</sup>:

Requirements:

I. A person  $\geq 16$  years old, who is either operating or riding in a motor vehicle<sup>2</sup>, shall wear a safety belt. §46.61.688(3)  
II. No person shall operate a motor vehicle<sup>2</sup> unless all child passengers  $< 16$  years old are either wearing a safety belt or using some other approved child restraint device. §46.61.688(4)  
**Secondary Enforcement.** Enforcement of these requirements may only be accomplished as a secondary action when a driver has been detained for a suspected violation of State or local motor vehicle laws or some other offense. However, if a child  $< 16$  years old must be secured in an approved child restraint device, enforcement is primary. §46.61.688(7)  
See Required Use of Child Restraint Systems below.

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

Traffic Infraction: Not more than **\$250**.<sup>3</sup> §§46.61.688(5) & 46.63-110(1)  
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. §46.61.688(5)

Effect on Civil Liability:

Failure to comply with these requirements does not constitute negligence. In addition, failure to wear a safety belt cannot be admitted into evidence as negligence in any civil action. §46.61.688(6) & *Patterson v. Horton*, 929 P.2d 1125 (Wash.App. 2 Div. 1997)

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<sup>1</sup>**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To persons, who are operating or riding in motor vehicles that are not required to be equipped with safety belts under Federal law; (2) to persons, for whom no safety belts are available, when all designated seating positions are occupied; (3) to persons, who for physical or medical reasons, are unable to wear a safety belt; and, (4) to persons, who 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. §46.61.688(2), (8) & (9)

<sup>2</sup>The term "motor vehicle" means either (1) a bus designed to carry  $> 10$  persons, (2) a "multipurpose passenger vehicle" designed to carry  $\leq 10$  persons, (3) a passenger car and (4) a truck. However, the term does not include either (1) motorcycles or (2) trailers designed to carry  $\leq 10$  persons or to transport property. §46.61.688(1) **Important.** The safety belt use law only applies to motor vehicles that are required to meet the manual seat belt standards under Federal law (49 CFR 571.208).

<sup>3</sup>**Fine Schedule.** The State supreme court is required to establish a monetary penalty schedule of traffic infractions. §46.63.110. Under this law, a fine of **\$35** has been established for this offense. Washington Court Rules 6.2(b) & (d)

**Licensing Action.** Although the law does not provide a specific licensing sanction for this offense, the State may suspend a person's licensing for not more than **1 year** based upon an offender's frequent conviction for traffic infractions. §§46.20.291(3) & 46.20.311(1) A person is considered a frequent violator of the traffic laws if they either commit 4 traffic offenses with 12 months or 5 such offenses within 24 months. WAC 308-104-035

**Public Safety and Education Assessment.** In addition to any other fine, an offender is subject to two public safety and education assessments. The first assessment is equal to 60% of any fine imposed. The second is equal to 50% of the first. §3.62.090(1) & (2)

**Other Monetary Penalties.** An offender is also subject to a \$5 fee which is used to support the emergency medical services and trauma case system. §46.63.110(6)

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### Required Use of Child Safety Restraint Systems<sup>4</sup>:

#### Requirements:

I<sup>5</sup>. A person, when transporting a child, who is <6 years old and/or who weighs <60 lbs., in a motor vehicle<sup>6</sup>, shall secure such child in a Federally approved system child restraint provided that the seating position is equipped with a safety belt system that allows sufficient space of installation. §46.61.687(1)(a)

II<sup>5</sup>. A person, when transporting a child, who is <1 year old or who weighs <20 lbs., in a motor vehicle<sup>6</sup>, shall secure such child in a rear-facing infant seat. §46.61.687(1)(b)

III<sup>5</sup>. A person, when transporting a child, who is >1 year old but <4 years old or who weighs ≥20 lbs. but <40 lbs., in a motor vehicle<sup>6</sup>, shall secure such child in a forward facing child safety seat. §46.61.687(1)(c)

IV<sup>5</sup>. A person, when transporting a child, who is 4 years old but <6 years old or who weighs ≥40 lbs. but <60 lbs. in a motor vehicle<sup>6</sup>, shall secure such child in a child booster seat<sup>7</sup>. §46.61.687(1)(d)

V<sup>5</sup>. A person, when transporting a child, who is ≥6 years old but <16 years old or who weighs >60 lbs., in a motor vehicle<sup>6</sup>, shall secure such child in either a safety belt which has been properly adjusted and fastened or an appropriately fitting booster seat<sup>7</sup>. §46.61.687(1)(e)

VI. A person, when transporting a child, who is <6 years old or who weighs <60 lbs. in a motor vehicle<sup>6</sup> that is equipped with an activated passenger side air bag system, shall transport such child, if practical to do so, in the back seat. §46.61.687(1)(f)

Note: It is illegal to transport a child <5 years old on a motorcycle or

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<sup>4</sup>**Exemptions.** These requirements do not apply in the following circumstances: (1) to children riding in for hire vehicles; (2) to children riding in vehicles designed to transport ≤16 persons (including the driver) and that are operated by auto transportation companies; (3) to children riding in vehicles providing customer shuttle service between parking, convention and hotel facilities and airport terminals; and, (4) school buses. §46.61.687(4)

<sup>5</sup>**Important.** This requirement does not apply if the seating position has only a lap belt available and the child weighs >40 lbs. §46.61.687(6)

<sup>6</sup>The term "motor vehicle" means passenger cars that are required by law to have safety belts. §§46.37.510 & 46.61.687(1) The "passenger car" is defined as every motor vehicle, except motorcycles and motor-driven cycles, that is used to and designed to carry ≤10 persons. §46.04.382

<sup>7</sup>"Child booster seat" is defined to mean "a child passenger restraint system that meets Federal Motor Vehicle Standards set forth in 49 CFR 571.213 that is designed to elevate a child to properly sit in a federally approved lap/shoulder belt system." §46.61.687(5)

motor-driven cycle. §46.37.530(d)

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

Traffic Infraction: Not more than **\$250**.<sup>3</sup> §§46.61.687(2) & 46.63-110(1)

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. §46.61.687(3) & *Patterson v. Horton*, 929 P.2d 1125 (Wash.App. 2 Div. 1997)

Required Use of Motorcycle Protective Headgear<sup>8</sup>:

Requirements:

A person, who operates or rides on a motorcycle, motor-driven cycle or moped, must wear State approved protective helmet. §46.37.530(c)

Sanctions for Failure to Use:

Traffic Infraction: Not more than **\$250**.<sup>3</sup> §§46.63.020 & 46.63.110(1)

Required Use of Motorcycle Eye Protection Device:

Requirements:

A person, who operates a motorcycle or a motor-driven cycle, which does not have a windshield, must wear State approved glasses, goggles or a face shield. §46.37.530(1)(b)

Sanctions for Failure to Use:

Traffic Infraction: Not more than **\$250**.<sup>3</sup> §§46.63.020 & 46.63.110(1)

Required Use of Bicycle Protective Headgear:

Requirements:

**None**

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

**None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured  
Portion of Vehicle:

Requirements:

**None<sup>9</sup>**

Sanctions for a Violation:

Exemptions:

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<sup>8</sup>Failure to wear a helmet is not an affirmative defense to the causation of an accident. *Keller v. City of Spokane*, 82 Wash. App. 1061 (Wash. App. 1996) (The State supreme court denied review, 936 P.2d 417 (Wash. 1997).)

<sup>9</sup>The safety belt usage and child passenger protection laws may have indirectly established such a prohibition.

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