

JURISDICTION:
General Reference:

VIRGINIA
Code of Virginia Annotated and Virginia Administrative Code (VAC)

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in motion, each person ≥ 16 years old, who is occupying the front seat, shall wear a safety belt.³ §46.2-1094(A)

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. §46.2-1094(F)

Note: City governments with a population $>66,000$ but $\leq 67,000$, have the authority to enact ordinances requiring safety belt usage which are not inconsistent with State law. The sanction for a violation of such an ordinance cannot exceed **\$25**. §46.2-1094(G)

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

Civil Penalty: A penalty of **\$25** and no court costs. No points may be assigned to a person's driving record. §46.2-1094(C)

Effect on Civil Liability:

A violation of these requirements (1) shall not constitute negligence, (2) shall not be considered in the mitigation of damages of whatever nature or (3) shall neither be admitted into evidence nor commented upon by counsel in a civil action. §46.2-1094(D)

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. A person, when transporting a child < 4 years old in a motor

Required Use of Child Safety Restraint Systems:
(continued)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To persons who have a physical or medical condition that makes wearing a safety belt impractical; (2) to law enforcement officers who are transporting a person in custody where the wearing of a safety belt would be impractical; (3) to rural mail carriers of the U.S. Postal Service while performing official duties; (4) to persons performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; (5) to taxicab drivers; (6) to persons required to make frequent stops while operating commercial or public vehicles; (7) to utility meter readers; and, (8) to law enforcement personnel who are enforcing motor vehicle parking laws. §46.2-1094(B)

²Generally, the safety belt use requirement applies to persons occupying "passenger cars" that are equipped with or required by law to be equipped with safety belts. §§46.2-1092 & 46.2-1094(A) & (B) 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. §46.2-100

³**School Bus.** A person must wear a safety belt when operating a school bus. A violation of this requirement is a Class 3 Misdemeanor. §46.2-1091 The sanction for a Class 3 Misdemeanor is a fine of not more than **\$500**. §18.2-11(c) In addition, a school bus operator, who violates this requirement, has 3 points assessed against their driving record. §46.2-492 and 24 VAC 20-30-60

⁴**Exemptions.** There are several provisions of the child restraint law that provided for exemptions. I. Under §46.2-1095(F), such requirements do not apply to taxicabs, school buses, executive sedans, limousines or the rear cargo area of vehicles other than pickup trucks. III. Under §46.2-1099, these requirements do not apply in the following circumstances: (1) To children who are being transported in a vehicle having an interior design which makes the use of a child restraint device impractical; and, (2) to children being transported by public transportation, bus, school bus or farm vehicle. III. And, under §46.2-1096, these requirements do not apply to children who for weight, physical unfitness or other medical reasons cannot practically use a child restraint system.

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Requirements: (continued)

vehicle⁵, must secure such a child in a Federally approved child restraint device. §46.2-1095(A)

II. As an alternative to using a child restraint device, a person, when transporting a child between 3 and 4 years old, may secure such child in a seat belt. The size and weight of the child must make the use of a seat belt practical and the use of a child restraint device impractical. §46.2-1100

III. A person, when transporting a child ≥ 4 but < 16 years old, shall ensure that such child is secured in a safety belt. §46.2-1095(B)

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

I. For violations of I or II above a Civil Penalty of **\$50**. §46.2-1098 (¶1)
Three (3) points are assessed against a person's driving record for a violation of these requirements.⁶ §46.2-492

II. For a violation of III above a Civil Penalty of **\$25** with no court costs. No points shall be assessed for a violation of this requirement. §46.2-1095(D)

Effect on Civil Liability⁷:

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. §46.2-1098 (¶2)

II. Under separate provisions of law, a violation of these requirements is likewise not considered to be negligence per se. In addition, a violation is not to be considered in mitigation of damages, admitted into evidence or commented upon by counsel in any civil action. §46.2-1095(C)

⁵This requirement only applies to motor vehicles manufactured after January 1, 1968. §46.2-1095 Note: The child passenger protection law is not clear but it appears to apply only to vehicles that are required by law to be manufactured with a safety belts.

⁶Persons under 18 years old, who receive points, are subject to the following sanctions. For 1st violation where points have been assigned, the person shall be directed to attend a driver improvement clinic. For a 2nd violation where points have been assigned, the person shall have their driving privileges **suspended for 90 days**. And, for a 3rd violation where points have been assigned, the person shall have their driving privileges **revoked** for either **1 year** or until they reach 18 years old whichever is the longer revocation period. §46.2-334.01(1)(a), (2) & (3)

⁷A person, who installs or inspects a child restraint device, is not liable for any damages caused by any act of omission related to such activity provided such person has obtained the appropriate training for the installation of child restraint systems via standards established by the National Highway Traffic Safety Administration. §8.01-226.5

Required Use of Motorcycle Protective Headgear⁸:

Requirements: When operating or riding on a motorcycle⁹, a person shall wear a State approved protective helmet. Important. This requirement does not apply if the motorcycle is being driven in an authorized parade at a speed ≤15 MPH. §46.2-910(A)

Sanctions for Failure to Use: Traffic Infraction: A fine of not more than **\$200**. §46.2-113

Note: Failure to wear a protective helmet shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Motorcycle Eye Protection Device:

Requirements: When operating a motorcycle⁸, a person shall wear a State approved face shield, safety glasses or goggles. This requirement does not apply if the motorcycle is equipped with windshield. §46.2-910(A)

Sanctions for Failure to Use: Traffic Infraction: A fine of not more than **\$200**. §46.2-113

Note: Failure to wear a face shield, safety glasses or goggles shall not constitute negligence per se in any civil proceeding. §46.2-910(A)

Required Use of Bicycle Protective Headgear:

Requirements: A county, city or town may enact an ordinance providing that every person ≤14 years old shall wear a nationally approved protective helmet when riding or being carried on a bicycle. §46.2-906.1 (¶1)

Sanctions for Failure to Use: A violation of such an ordinance is punishable by a fine of **\$25**. §46.2-906.1 (¶2)

Note: A violation of this requirements (1) shall not constitute negligence, (2) shall not constitute assumption of risk, (3) shall not be considered in the mitigation of damages of whatever nature and (4) shall neither be admitted into evidence nor commented upon by counsel in a civil action. §46.2-906.1 (¶3)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

⁸The requirement to wear a protective helmet does not apply to operators or passengers of (1) motorcycles with wheels of ≤8 inches in diameter or (2) three-wheeled motorcycles which have nonremovable roofs, windshields and enclosed bodies. §46.2-910(A)

⁹The term "motorcycle" does not include a moped. However, the term "moped" is defined to include a motorcycle with an engine displacement of ≤50 cubic inches and a maximum speed of <30 MPH. §46.2-100

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Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

No person <16 years old shall be transported in the rear cargo area of any pickup truck on the State's highways. §46.2-1156.1

Sanctions for a Violation:

Traffic Infraction: A fine of not more than **\$200**. §46.2-113

Exemptions:

This prohibition does not apply to persons who are riding in such cargo area (1) as part of an authorized parade or (2) "across a highway from one field or parcel of land to another field or parcel of land in connection with farming operations." §46.2-1156.1