

JURISDICTION:
General Reference:

DELAWARE
Delaware Code Annotated

Required Use of Safety Belts¹:

Requirements:

I. When a motor vehicle (except motorcycles, tractors or off-highway vehicles) is in operation, a driver shall wear and shall secure all front seat passengers in a safety belt. Title 21, §§101(20) and 4802(a)(1), (a)(2) & (b)

Secondary Enforcement. A motor vehicle shall not be stopped by a police officer for failing to comply with this section. Title 21, §4802(d)

II. When being transported in a motor vehicle, a child ≥ 4 but < 16 years old shall wear a safety belt at all times. Title 21, §4803(b)

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

I. For a violation of I above², a Penalty Assessment of 40% of the fine or fines imposed for other traffic laws committed at the time of the safety belt law violation. However, no assessment can be $> \$20$. Title 21, §4802(g)(2)a Note: Neither shall any points be assessed against a person nor shall an entry made on such person's driving record because of a violation of the safety belt use requirement. Title 21, §4802(h)

II. For a violation of II above², a fine of not more than **\$28.75**. Title 21, §4803(e)

Note: It appears that no points are assessed for a violation of these requirements.

Effect on Civil Liability:

I. Failure to wear a safety belt, per I above, 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. Title 21, §4802(i)

II. A failure to secure a child ≥ 4 but < 16 years old in a safety belt 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. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(f)

Required Use of Child Safety Restraint Systems³:

Requirements:

I. A person, who is transporting a child < 4 years, shall properly secure such child in a Federally approved child passenger restraint system. Title 21, §4803(a) Note: See II under Require Use of Safety Belts above.

II. A child, who is ≤ 65 inches and who is < 12 years old, cannot occupy the front passenger seat of a motor vehicle that is equipped with

Required Use of Child Safety Restraint Systems:
(continued)

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

²A violation is a misdemeanor offense. Title 11, §233(c)

³**Exemptions.** The requirement to use a child passenger restraint system does not apply if the child is being transported in a motor bus, limousine or taxicab. Title 21, §4803(a)

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Requirements: (continued)

a passenger-side airbag unless such airbag has been “deliberately rendered inoperable.”⁴ Title 21, §4803(c) (¶1) Note: This requirement is repealed on January 1, 2003 “provided new federal regulations regarding safer deployment of airbags are in effect.” §2 of Chapter 480, Session Laws of 1998

Secondary Enforcement. A violation of requirement II is “considered a secondary offense, and no motor vehicle shall be stopped by a police officer solely for failure to comply with this section.” Title 21, §4803(c) (¶2)

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

A fine of not more than **\$28.75**.² Title 21, §4803(e) Note: It appears that no points are assessed for a violation of this requirement.

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. Evidence of such failure cannot be admitted into evidence at a civil trial. Title 21, §4803(f)

Required Use of Motorcycle Protective Headgear:

Requirements:

A person <19 years old shall wear a safety helmet, that has been approved, by the State when operating or riding a motorcycle.⁵ Title 21, §4185(b)

Sanctions for Failure to Use:

1st offense-A fine of not less than **\$25** nor more than **\$115**² Subsequent offense (within 12 months)-An imprisonment term of not less than **10 days** nor more than **\$30 days** and/or a fine of not less than **\$57.50** nor more than **\$250**² Title 21, §4205(a) Two (2) points are assessed for a violation of this requirement. Title 21, §§302 & 2733 and Department of Public Safety Police Regulation No. 45

Required Use of Motorcycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

⁴**Exemptions.** I. This requirement does not apply to vehicles that are equipped with passenger-side airbags that are “specifically designed or modified by the vehicle’s manufacturer for use by children and small adults.” Title 21, §4803(c) (¶1) II. In addition, this requirement does not apply in situations where the airbag has not been “deliberately rendered inoperable” if either (1) the vehicle does not have a rear passenger seat or (2) “all rear passenger seats are occupied by other children” who are ≤65 inches in heights and <12 years old. Title 21, §4803(c) (¶2)

⁵Motorcycle operators or passengers ≥19 years old are required to have a safety helmet in their possession but are not required to use it. Title 21, §4185(b)

Required Use of Bicycle Protective Headgear:

Requirements: A person <16 years shall not operate or ride a bicycle unless they wear a properly fitted and fastened bicycle helmet which meets national standards.⁶ Title 21, §4198L(a)

Sanctions for Failure to Use: A child's guardian who fails to cause the child to wear such helmet is subject to a fine. 1st offense-\$25² Subsequent offense-\$50² Title 21, §4198L(b)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements: **None⁷**

Sanctions for a Violation:

Exemptions:

⁶Failure to wear a bicycle safety helmet shall not be considered evidence of either comparative or contributory negligence in any civil suit nor shall such evidence be admissible as evidence in the trial of any civil action. Title 21, §4198L(e)

⁷Even though there is no statutory authority prohibiting this activity, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.

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