

JURISDICTION:
General Reference:

FLORIDA
Florida Statutes Annotated

Required Use of Safety Belts¹:

Requirements:

- I. A driver cannot operate a motor vehicle² unless they and ever passenger <18 years old is restrained by a safety belt. §316.614(4)
 - II. A front seat passenger ≥18 years old must secure themselves in a safety belt while a motor vehicle² is in motion. §316.614(5)
- Secondary Enforcement.** Before a person can be charged with a violation of these requirements, the driver of the motor vehicle used in the violation must have been detained either for another violation of Chapter 316 (Traffic Control/Rules of the Road) of Title XXIII or for a violation of either Chapter 320 (Motor Vehicle Registration) or Chapter 322 (Drivers' Licenses) under this same title. §316.614(8)

Required Use of Safety Belts: (continued)

Sanctions for Failure to Use or

¹**Exemptions.** This requirement does not apply in the following circumstances: (1) To persons who have a medical condition that would cause the use of safety belt to be either inappropriate or dangerous; (2) to persons while in the course of delivering newspapers; (3) to employees of a solid waste or recyclable collection service while in the course of employment; or (4) to 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. §316.614(6)(a), (c) & (d) Note: "The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section [§316.614] shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacture." §316.614(6)(b)

School Buses. I. All school buses purchases after December 31, 2000 must be equipped with safety belts or other restraint systems that satisfy U.S. Government standards (49 CFR 571.208). II. Each school bus passenger grades pre-kindergarten through 12 must wear a safety belt when these vehicles are in operation. However, school bus operators are not required to wear safety belts via a vehicle exemption under §316.614. III. The law exempts from civil liability either 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 the two (2) following situations: Either (1) For an injury by a school bus passenger solely because the injured party was not wearing a safety belt; or, (2) for a personal injury by a school bus passenger for an injury caused solely by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner. §316.6145 Note: This law does not state who is responsible (e.g., the vehicle operator) for insuring that the intended school bus passengers wear safety belts (restraints) as required and does not provide for a specific sanction for its violation. However, if a sanction can be imposed, it will be the same as for a violation of the safety belt use law. See Footnote No. 3. §§318.14(1) & 318.18

²This 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 >5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §316.614(3)(a) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

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Require the Use of Safety Belts:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§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 damage, but such a violation may be considered as evidence of comparative negligence, in any civil action. §316.614(9)

Required Use of Child Safety Restraint Systems:

See **School Buses** under Footnote No. 1.

Requirements:

A motor vehicle⁵ operator, when transporting a child ≤5 years old, must secure such child in a Federally approved child restraint device. Children ≤3 years old must be secured in either a separate carrier or vehicle manufacturer's integrated child seat. Children 4 but ≤5 years old must be secured in either a separate

³I. For either a nonmoving or moving traffic infraction, an offender may elect to have a charge adjudicated before a "designated official." A person electing adjudication waives any rights they may have to the civil penalties under §318.18. The hearing officer is authorized to impose a fine of not more than \$500 or require a person to attend a driver improvement school. §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 §318.18(3) must be reduced by 18 percent. §318.14(9)

⁴**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 either a death, personal injury or property damage. The provision providing for this action does not give specific license suspension or revocation periods. §316.655(2) Note: Under §322.28(1), the licensing agency (not the courts) can only suspend or revoke a license for 1 year. However, such agency may be able to issue driving privileges for employment purposes under §322.271.

⁵This requirement does not apply to children riding in the following types of vehicles: (1) A school bus that complies with the color and identification requirements of chapter 234 and is used to transport children to or from public or private school or in connection with school activities but not including buses operated by common carriers in urban transportation of school children; (2) a bus used to transport persons for compensation; (3) a farm tractor or other implement of husbandry; (4) a truck weighing >5,000 lbs.; and (5) motorcycles, mopeds or bicycles. §§316.03(45) & 316.613(2) Note: State law does not specifically exempt vehicles that are not required to have safety belts under Federal law.

carrier, vehicle manufacturer's integrated child seat or seat belt.⁶ §316.613(1)(a)

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

Moving Traffic Violation³: A fine of \$60 with court costs of \$10. §§316.613(5) and 318.18(3)(a) & (11) In addition, 3 points are assessed against a driver's record.⁴ §§316.613(5) & 322.27(d)(6)

Alternative Sanction. In lieu of the above fine and point sanctions, a

Required Use of Child Safety Restraint Systems:
(continued)

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

person, with the court's approval, may elect to participate in a child restraint safety program. §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. §316.613(3) & *Parker v. Montgomery*, 529 So.2d 1145 (Fla.App. 1 Dist. 1988)

⁶**Bicycles.** A bicycle rider while transporting a child, who is either <4 years old or who weights ≤40 lbs., must secure such child in a seat or carrier that is designed to carry children or that age or weight for the purpose of protecting such child from the bicycle's moving parts. §316.2065(3)(b) A violation of the requirement appears to be a nonmoving violation with a fine of \$30 with court costs of \$6. §§318.14(1) and 318.18(2) & (11)

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Required Use of Motorcycle Protective Headgear⁷:

Requirements: No person⁸ shall operate or ride on a motorcycle unless they are wearing protective headgear which complies with Federal standards.⁹ §316.211(1)

Sanctions for Failure to Use: Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.655(1), 318.14 and 318.18(2) & (11)
Note: 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. *Rex Utilities, Inc. v. Gaddy*, 413 So.2d 1232 (Fla.App. 3 Dist. 1982), & *Currie v. Palm Beach County*, 578 So.2d 760 (Fla.App. 4 Dist. 1991)

Required Use of Motorcycle Eye Protection Device⁷:

Requirements: No person shall operate a motorcycle unless they are wearing an eye-protection device which complies with State standards. §316.211(2)

Sanctions for Failure to Use: Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.655(1), 318.14 and 318.18(2) & (11)

Required Use of Bicycle Protective Headgear:

Requirements: A bicycle rider or passenger <16 years old must wear a nationally

Required Use of Bicycle Protective Headgear:
(continued)

⁷These requirements do not apply under the following circumstances: To persons ≥16 years old who are operating or riding within an enclosed cab; and, to persons ≥16 years old who are operating or riding upon a motorcycle either (1) with a displacement of ≤50 cubic centimeters, (2) with ≤2 brake horsepower or (3) with a speed capability of ≤30 MPH. §316.211(3)(a)

⁸**Exemption.** A person, who is over 21 years old, may operate or ride on a motorcycle 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. §316.211(3)(b)

⁹No person <16 years old shall operate or ride on a moped unless they are wearing protective headgear which complies with Federal standards. §316.211(4)

Requirements: (continued)

approved bicycle safety helmet.¹⁰ §316.2065(3)(d)

Sanctions for Failure to Use:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.¹¹ §§316.2065(3)(e) and 318.18(2) & (11)

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle¹²:

Requirements:

No person shall ride upon any portion of a vehicle that is not intended for passenger use. §316.2015(2)

Sanctions for a Violation:

Nonmoving Traffic Violation³: A fine of \$30 with court costs of \$6.⁴ §§316.2015(2) and 318.18(2) & (11)

Exemptions:

This prohibition does not apply to an employee engaged in the discharge of official duties or to a person riding within truck bodies in a space intended for merchandise. §316.2015(2)

¹⁰The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without wearing a bicycle helmet may not be considered as evidence of negligence or contributory negligence. §316.2065(19)

¹¹**Historical Note:** Prior to January 1, 1998, a law enforcement officer or crossing guard only issued a bicycle safety brochure and a verbal warning to riders who violated this requirement. §316.2065(3)(e)

¹²In addition, such a prohibition may have been indirectly established for certain children via the provisions of the Child Safety Restraint Systems law.