

JURISDICTION:
General Reference:

GEORGIA
Code of Georgia Annotate (Code of 1981)

Required Use of Safety Belts:

Requirements:

I. While being transported in a passenger vehicle¹, each front seat occupant (i.e., vehicle operator or passenger) must be restrained by a Federally approved safety belt.² §40-8-76.1(b)

II. A driver transporting a minor³ >4 years old must secure such child in a Federally approved safety belt. §40-8-76.1(e)(3)

Enforcement. (1) 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. (2) A violation of these requirements cannot constitute probable cause of any other violation of the law. §40-8-76.1(f)

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

I. For a violation of I above, a fine of not more than **\$15**.⁴ The law specifically provides that "the costs of ... prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge ... be assessed." §40-8-76.1(e)(2)

II. For a violation of II above, a fine of not more than **\$25**.⁴ §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, (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 operation of a motor vehicle. §40-8-76.1(d)

¹For the purposes of the safety belt requirement, the term "passenger vehicle" means every motor vehicle designed to carry ten passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driver cycles or vehicles equipped for off-road use. However, such term does include (1) sport utility vehicles and (2) pickup trucks for any occupant who is <18 years old. §40-8-76.1(a) Note: The State supreme court has held that this law does not violate constitutional principles of equal protection of the laws even though it excludes adult drivers and passengers from wearing safety belts when operating or riding in pick-up trucks. *Farley v. State*, 531 S.E.2d 100 (Ga. 2000)

²**Exemptions.** The safety belt use requirement for front seat occupants, who are not minors, does not apply in the following circumstances: (1) To operators or passengers of a motor vehicle making frequent stops to deliver property provided the speed of the vehicle between stops is ≤15 MPH; (2) to operators or passengers who are unable to use a safety belt due to medical, physical or other valid reasons; (3) to persons operating passenger vehicles in reverse; (4) to persons riding in vehicles with a model year prior to 1965; (5) to persons riding in vehicles that are not required to have safety belts under Federal law; (6) to rural letter carriers of the U.S. Postal Service while performing official duties; (7) to persons delivering newspapers; and, (8) to persons performing emergency services. §40-8-76.1(c)

³The age of legal majority is 18. Until then, a person is considered a minor. §39-1-1(a)

⁴A 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 §40-5-57. §40-8-76.1(e)(1)

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Required Use of Child Safety Restraint Systems⁵:

Requirements:	A person transporting a child ≤ 4 years old in a motor vehicle ⁶ shall secure such child in a Federally approved child passenger restraint system. However, for children, who are either 3 or 4 years old, this requirement is satisfied if they are restrained in a seat belt. §40-8-76(b)(1)
Sanctions for Failure to Require the Use of Child Restraint Systems:	<u>1st offense</u> -A fine of not more than \$50 and 1 point is assessed against an offender's driving record. <u>2nd or subsequent offense</u> -A fine of not more than \$100 and 2 points are assessed against an offender's driving record. For either a 1st or subsequent offense, the court is prohibited from imposing additional fees or surcharges. §§40-5-57(c)(1)(A) & 40-8-76(2)
Effect on Civil Liability:	A violation of this requirement shall not constitute negligence per se nor contributory negligence per se. ⁷ §40-8-76(d)

Required Use of Motorcycle Protective Headgear⁸:

⁵**Bicycles.** I. A child < 1 year old cannot be transported on a bicycle unless they are transported either on a bicycle trailer or in an infant sling. §40-6-292(c) II. A child ≥ 1 but ≤ 4 years old cannot be transported on a bicycle unless they are transported either in a child passenger bicycle seat, on a bicycle trailer or in an infant sling. §40-6-292(c) The law specifically provides that a person < 16 years old, who violates these provisions, is subject to neither an imprisonment sentence nor a fine. §40-6-292(f) However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**. §17-10-3(a)(1) A violation of these provisions shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence or liability. §40-6-292(f)

⁶For purposes of this requirement, motor vehicle includes either a passenger automobile, van or pickup truck. However, this term does not include a taxicab or public transit vehicle. §40-8-769(b)(1)

⁷Note: A violation of this requirement shall not be the basis for cancellation of coverage or increase in insurance rates. §40-8-76(d)

⁸Note: Failure to wear protective headgear is negligence as a matter of law (i.e., negligence per se). *Green v. Gaydon*, 331 S.E.2d 106 (Ga.App. 1985)

Requirements: No person shall operate or ride upon a motorcycle unless they are wearing protective headgear that has been approved by the State.⁹ §40-6-315(a)

Sanctions for Failure to Use: Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §§17-10-3(a)(1) & 40-6-1 Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Motorcycle Eye Protection Device:

Requirements: If a motorcycle is not equipped with a windshield, no person shall operate or ride on such vehicle unless they are wearing an eye-protective device.⁹ §40-6-315(b)

Sanctions for Failure to Use: Misdemeanor: An imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §§17-10-3(a)(1) & 40-6-1 Note: It appears that no points are assigned for a violation of this requirement.

Required Use of Bicycle Protective Headgear:

⁹This requirement does not apply to either (1) to operators or passengers who are riding within an enclosed cab or motorized cart or (2) to persons who are operating three-wheeled motorcycle used only for agricultural purposes. §40-6-315(c)

¹⁰An additional fine equal to 5% of the original fine is imposed and deposited into the Peace Officer's Annuity and Benefit Fund. §15-21-131

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Requirements: When either operating or riding on a bicycle, a person <16 years old shall wear a bicycle helmet that complies with nationally recognized standards.¹¹ §40-6-296(e)

Sanctions for Failure to Use: I. The law specifically provides that a person <16 years old, who violates this provision, is subject to neither an imprisonment sentence nor a fine. §40-6-296(6)
II. However, it is misdemeanor for a parent or guardian to knowingly permit a child or ward to violate this provision. §40-6-298(b) The sanctions of this offense are an imprisonment sentence of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §17-10-3(a)(1)

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle¹²:

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

Sanctions for a Violation: A driver, who allows a person <18 years old to ride in a pickup truck in violation of this prohibition, commits a misdemeanor. The sanctions for this offense are an imprisonment term of not more than **12 months** and/or a fine of not more than **\$1,000**.¹⁰ §§17-10-3(a)(1) & 40-8-79 Note: It appears that no points are assigned for a violation of this requirement.

Exemptions:

¹¹A violation of this requirement shall not constitute negligence per se nor contributory negligence per se or be considered evidence of negligence of liability. §40-6-296(5)

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

