

JURISDICTION:
General Reference:

NORTH DAKOTA
North Dakota Century Code Annotated

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in operation, front seat occupants (driver and passengers) shall wear safety belts. §39-21-41.4 See Required Use of Child Safety Restraint Systems below.

Secondary Enforcement. A citation for a violation of this requirement cannot be issued by a law enforcement officer unless the driver has been lawfully stopped or detained for another violation. §39-21-41.5

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

Non-Criminal Fee: A fee of not more than \$20. §§39-06.1-06(9) & 39-21-46(1) Note: Driver's license points may not be assessed against any person for a violation of this requirement. §39-21-41.5

Effect on Civil Liability:

There are no statutory provisions.³

Required Use of Child Safety Restraint Systems⁴:

Requirements:

I. When a motor vehicle⁵ is in motion, a passenger (child) <4 years old must be secured in a Federally approved child restraint system. §39-21-41.2(1)

II. When a motor vehicle⁵ is in motion, a passenger (child) ≥4 but ≤17 years old must be secured either (1) in a Federally approved child restraint system or (2) in a safety belt. §39-21-41.2(1)

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

No fine or incarceration sanction. However, the law does assign one (1) point for a violation of these requirements. §39-06.1-10(3)(a)

Effect on Civil Liability:

A violation of these requirements is not, in itself, evidence of negligence and a violation is not admissible in any proceeding other than one charging such a violation. §39-21-41.2(2)

¹**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To driver of implements of husbandry or farm vehicles; (2) to rural mail carriers while on official business; (3) to persons who for physical or medical reasons cannot use a safety belt; and, (4) to persons who cannot use a safety belt because all of the available belts are already in use. §39-21-41.4

²The term "motor vehicle" applies only to motor vehicles that were (1) designed to carry fewer than 11 persons and (2) originally manufactured with safety belts. §39-21-41.4

³Given the holding in *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983), concerning the non-use of protective headgear by a motorcycle rider, it is possible that evidence of a failure to wear a safety belt could be admitted to determine if such a failure was a factor in causing injuries to the non-wearer.

⁴**Exemptions.** The requirement to use either a child restraint system or a safety belt does not apply either (1) to a child if all of the available safety belts in the vehicle are in use by other family members or (2) to a child being transported in an emergency situation. §39-21-41.2(1)

⁵The term "motor vehicle" does not include a motor vehicle that was not equipped with safety belts when it was manufactured. §39-21-41.2(1)

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Required Use of Motorcycle Protective Headgear⁶:

Requirements: No person <18 years old may operate or ride on a motorcycle unless they wear State approved protective headgear. §39-10.2-06(1) This requirement does not apply to persons riding within an enclosed cab or on a golf cart. §39-10.2-06(2)

Sanctions for Failure to Use: Infraction: A fine of not more than **\$500**.⁷ §§12.1-32-01(7) & 39-07-06
Note: A person violating this requirement is assessed two (2) points against their driver's license record.⁸ §39-06.1-10(3)(a)(28)

Required Use of Motorcycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

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: **None⁹**

Sanctions for a Violation:

⁶In a traffic accident situation, evidence of failure to wear protective headgear may be admitted into evidence to determine if such a failure was a factor in causing injuries to the non-user. In analyzing this evidence, the court should also consider whether a person would have worn a helmet in order to avoid or to mitigate their injuries. *Halvorson v. Voeller*, 336 N.W.2d 118 (N.D. 1983)

⁷A person, who is convicted of any subsequent infraction within 18 months of a previous infraction offense conviction, may be sentenced as if they had been convicted of a Class B Misdemeanor. The sanctions for this misdemeanor are an imprisonment term of not more than **30 days** and/or a fine of not more than **\$500**. §12.1-32-01(6) & (7)

⁸**Persons Under 18 Years Old.** A person under 18 yrs old, who has accumulated >5 points, must have their driving privileges canceled. Such a person is considered to never to have had a license and, after any period of suspension or revocation, they may apply for and be issued an instructional permit. Such individuals must complete certain State required classroom and behind-the-wheel instruction and satisfy all other requirements for licensing prior to being issued a driver's license. §§14-10-01 & 39-06-01.1

⁹Even though there is no statutory authority prohibiting this activity, such a prohibition may have been established for certain children via the provisions of the Child Safety Restraint Systems law.