

JURISDICTION:  
General Reference:

**WEST VIRGINIA**  
West Virginia Code

Required Use of Safety Belts<sup>1</sup>:

Requirements:

A person may not operate a passenger vehicle<sup>2</sup> unless they, all front seat passengers (regardless of age) and all back seat passengers <18 years old are restrained in a safety belt. §17C-15-49(a)

**Secondary Enforcement.** Enforcement of this requirement shall be accomplished only as a secondary action when the driver has been detained for probable cause of violating another State law. §17C-15-49(c)

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

Misdemeanor: A fine of not more **\$25<sup>3</sup>**. No court costs or other fees shall be assessed against a person for a violation of this requirement. §§17C-15-49(c) & 17C-18-1(a) Note: The law does not appear to assign points for a violation of this requirement.

Effect on Civil Liability:

A violation of these requirements is not admissible as evidence of negligence, contributory negligence or comparative negligence in any civil action. Generally, a violation of this requirement is not admissible in the mitigation of damages. However, under certain circumstances, when it can be shown that such a violation was the proximate cause of injuries, such evidence may be admitted to reduce damages by not more than 5%. §17C-15-49(d)

Required Use of Child Safety Restraint Systems<sup>4</sup>:

Requirements:

I. A person, when transporting a child <3 years old in a passenger automobile<sup>5</sup>, shall secure such child in a Federally approved child passenger safety device. §17C-15-46 (¶1)

Required Use of Child Safety Restraint Systems:  
(continued)

Requirements: (continued)

II. A person, when transporting a child ≥3 but <9 years old in a passenger automobile<sup>5</sup>, shall secure such child either in a Federally approved child passenger safety device or a safety belt. §17C-15-46 (¶1)

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<sup>1</sup>**Exemptions.** The requirement to wear a safety belt does not apply in the following circumstances: (1) To rural mail carriers of the U.S. Postal Service while they are performing official duties; and, (2) to persons who have a physical disability that would prevent appropriate restraint in a safety belt. §17C-15-49(b)

<sup>2</sup>The term "passenger vehicle" means a motor vehicle that is designed to transport ≤10 persons (including the driver). However, the term does not include a motorcycle, a trailer or any motor vehicle that is not required under Federal law to have safety belts. §17C-15-49(a)

<sup>3</sup>**Alternative Sentences.** In lieu of either a fine or incarceration sanction (except mandatory incarceration via statute), a court may impose one of the following sentences: Either (1) a weekend jail program where the offender spends weekends or "other days normally off from work" in confinement; (2) first one or two days in confinement followed by work assignments either within the jail or on other public works projects outside of the jail; or, (3) a community service program with either government entities, charitable or other non-profit organizations which have been approved by the court. §62-11A-1a(a) & (c)(1)

<sup>4</sup>These requirements do not apply if all of the seat belts are being used; i.e., the number of passengers in the vehicle exceeds the number of seat belts available for use. §17C-15-46 (¶5)

<sup>5</sup>This requirement also applies to children riding in a van or a pick-up truck. However, such a requirement does not apply to children who are riding in motor vehicles for hire. §17C-15-46 (¶1)

## WEST VIRGINIA

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

Misdemeanor: Not less than **\$10** nor more than **\$20**<sup>3</sup>. §17C-15-46 (¶2)  
Note: The law does not appear to assign points for a violation of these requirements.

Effect on Civil Liability:

A violation of these requirements does not constitute evidence (1) of negligence, (2) of contributory negligence or (3) of comparative negligence in any civil action. §17C-15-46 (¶3)

### Required Use of Motorcycle Protective Headgear:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless they are wearing an officially approved protective helmet. §17C-15-44(a)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than **10 days** and/or a fine of not more than **\$100**<sup>3</sup>. 2nd offense (within 1 year)-An imprisonment term of not more than **20 days** and/or a fine of not more than **\$200**<sup>3</sup>. 3rd or subsequent offense-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**<sup>3</sup>. §17C-18-1(a) & (b) Note: The law does not appear to assign points for a violation of this requirement.

### Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate or ride on a motorcycle or motor-driven cycle unless they are wearing officially approved safety, shatter-resistant eyeglasses (excluding contact lenses), eyegoggles or a face shield. §17C-15-44(b)

Sanctions for Failure to Use:

Misdemeanor: 1st offense-An imprisonment term of not more than **10 days** and/or a fine of not more than **\$100**<sup>3</sup>. 2nd offense (within 1 year)-An imprisonment term of not more than **20 days** and/or a fine of not more than **\$200**<sup>3</sup>. 3rd or subsequent offense-An imprisonment term of not more than **6 months** and/or a fine of not more than **\$500**<sup>3</sup>. §17C-18-1(a) & (b) Note: The law does not appear to assign points for a violation of this requirement.

### Required Use of Bicycle Protective Headgear<sup>6</sup>:

Requirements:

I. A person <15 years is prohibited from operating or being a passenger on a bicycle unless they wear a protective bicycle helmet. §17C-11A-4(a)

### Required Use of Bicycle Protective Headgear: (continued)

Requirements: (continued)

II. It is unlawful for a parent or legal guardian to knowingly permit their child to violate the above requirement. §17C-11A-4(b)

Sanctions for Failure to Use:

Misdemeanor: A parent or legal guardian, who violates this requirement, either is subject to a fine of **\$10**<sup>3</sup> or must perform 2 hours of community service related to child injury prevention. §§17C-11A-7(a) & 17C-18-1(a)  
Note: There appears to be no sanction against a person <15 years old who violates this requirement.

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<sup>6</sup>State law allows a local government to enact an ordinance requiring the use of bicycle helmets. §17C-11A-8

Required Use of Bicycle Eye Protection Device:

Requirements: **None**

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured  
Portion of Vehicle:

Requirements: Note: See Required Use of Child Safety Restraint Systems above.

Sanctions for a Violation:

Exemptions:

**WEST VIRGINIA**