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West's Annotated Mississippi Code [Currentness](#)

Title 63. Motor Vehicles & Traffic Regulations

▣ [Chapter 7](#). Equipment and Identification

▣ Child Passenger Restraint Devices

→→ § 63-7-301. Requirement; failure as negligence

(1)(a) Every person transporting a child under the age of four (4) years in a passenger motor vehicle, and operated on a public roadway, street or highway within this state, shall provide for the protection of the child by properly using a child passenger restraint device or system meeting applicable federal motor vehicle safety standards.

(b) Every person transporting a child in a passenger motor vehicle operated on a public roadway, street or highway within this state, shall provide for the protection of the child by properly using a belt positioning booster seat system meeting applicable federal motor vehicle safety standards if the child is at least four (4) years of age, but less than seven (7) years of age and measures less than four (4) feet nine (9) inches in height or weighs less than sixty-five (65) pounds.

(c) If more than two (2) children who are required under subsection (1) of this section to use a booster seat are being transported in a vehicle at one time, and the vehicle only has two (2) lap and shoulder belts in the rear seat, then only the two (2) children sitting in the seats with the lap and shoulder belts are required to use a belt positioning booster seat system and safety belt, and any other children may be secured with a safety seat lap belt only.

(2) The term "passenger motor vehicle" as used in Sections 63-7-301 through 63-7-311 has the same meaning as defined in [Section 63-2-1\(2\)](#). Sections 63-7-301 through 63-7-311 do not apply to the vehicles described in [Section 63-2-1\(3\)](#).

(3) Failure to provide and use a child passenger restraint device or system or a belt positioning booster seat system shall not be considered contributory or comparative negligence.

CREDIT(S)

Laws 1983, Ch. 400, § 1; [Laws 1994, Ch. 325, § 1](#); [Laws 1998, Ch. 501, § 3, eff. July 1, 1998](#); [Laws 2008, Ch. 520, § 1, eff. July 1, 2008](#).

CROSS REFERENCES

Comparative negligence, see § 11-7-15.
Safety seat belt, requirement of use, see § 63-2-1.
Sanctions, mandatory use of the safety seat belts, see § 63-2-7.

LIBRARY REFERENCES

[Automobiles](#)  224.
Westlaw Topic No. 48A.
[C.J.S. Motor Vehicles](#) §§ 880 to 881, 937 to 962.

JUDICIAL DECISIONS

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1. Exempt carriers

Child care centers and/or Head Start centers are exempt from the child restraint law only if, in fact, the vehicle used in transporting the children is not registered as a “private carrier of passengers.” Op.Atty.Gen. No. 95-0283, [Mahan, June 28, 1995, 1995 WL 398256](#).

Whether a particular vehicle should be classified as a private carrier of passengers, commercial vehicle, common carrier of passengers, etc., is a factual determination made by the Tax Commission pursuant to its regulatory authority under [Section 27-19-121](#). Op.Atty.Gen. No. 95-0283, Mahan, June 28, 1995, 1995, WL 398256.

2. Construction with other law

Under the “elements” test for determination of whether using the same transaction to support two criminal charges constitutes a violation of double jeopardy, if each offense requires proof of an additional fact which the other does not, they are not the same offense. As to the offenses of failure to use a child restraint device and child abuse and neglect, each has an element which is not a part of the other. A simple restraint violation, in and of itself and without additional facts, would not be sufficient to constitute child neglect. Whether any such charges are appropriate in a particular case would be a factual determination left to the investigating officer, and for the prosecuting attorney. Op.Atty.Gen. No. 2000-0733, Bishop, February 16, 2001, [2001 WI 283629](#).

3. Primary and secondary violations

A violation of Section [63-7-301\(1\)](#) is a primary violation that requires no other infraction. Op.Atty.Gen. No. 2001-0573, [Gordon, September 14, 2001, 2001 WL 1229362](#).

Miss. Code Ann. § **63-7-301**, MS ST § **63-7-301**

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