



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

Title 63. Motor Vehicles & Traffic Regulations

▢ [Chapter 2. Mandatory Use of Safety Seat Belts](#)

→→ § 63-2-1. **Seat belts required; definition; exemptions**

(1) When a passenger motor vehicle is operated in forward motion on a public road, street or highway within this state, every operator, every front-seat passenger and every child under seven (7) years of age who is not required to be protected by the use of a child passenger restraint device or system or a belt positioning booster seat system under the provisions of [Sections 63-7-301](#) through [63-7-311](#), regardless of the seat that the child occupies, shall wear a properly fastened safety seat belt system, required to be installed in the vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208.

(2) "Passenger motor vehicle" for purposes of this chapter means a motor vehicle designed to carry fifteen (15) or fewer passengers, including the driver, but does not include motorcycles, mopeds, all-terrain vehicles or trailers.

(3) This section shall not apply to:

(a) Vehicles which may be registered for "farm" use, including "implements of husbandry" as defined in [Section 63-21-5\(d\)](#), and "farm tractors" as defined in [Section 63-3-105\(a\)](#);

(b) An operator or passenger possessing a written verification from a licensed physician that he is unable to wear a safety belt system for medical reasons;

(c) A passenger car operated by a rural letter carrier of the United States Postal Service or by a utility meter reader while on duty; or

(d) Buses.

CREDIT(S)

Laws 1990, Ch. 436, § 1; [Laws 1998, Ch. 501, § 1, eff. July 1, 1998](#); [Laws 2008, Ch. 520, § 2, eff. July 1, 2008](#).

CROSS REFERENCES

Negligence, comparative negligence and jury questions, see [§§ 11-7-15, 11-7-17](#).

LIBRARY REFERENCES

[Automobiles](#)  [5\(2\)](#).
[Westlaw Topic No. 48A](#).
[C.J.S. Motor Vehicles §§ 38 to 40, 42 to 44, 49](#).

UNITED STATES CODE ANNOTATED

[Highway safety, child safety, incentive grants, see 23 U.S.C.A. § 405](#).

[Highway safety, safety belt use laws, grants, see 23 U.S.C.A. § 406](#).

[Seatbelts and safety equipment, see 49 U.S.C.A. § 30111 et seq.](#)

JUDICIAL DECISIONS

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1. Preemption

The matter of seat belt usage has been addressed by state law and a city is therefore preempted from enacting more stringent regulations through local ordinances on the same topic. Op.Atty.Gen. No. 98-0335, [Mills, June 19, 1998, 1998 WL 382973](#).

2. Construction and application

If a driver or a front-seat passenger is not wearing a seatbelt as required by Section **63-2-1**, the driver may generally be cited for the seatbelt violation only if he or she is cited for another non-seatbelt violation. The driver also generally may not be convicted of the seatbelt violation unless he or she is also convicted of the non-seatbelt violation. However, if a child between the ages of four (4) and eight (8) is not wearing a seatbelt, regardless of where the child is seated, the driver of the car may be cited and convicted of Section **63-2-1** without a violation of any other non-seatbelt law, and a police officer may enforce the seatbelt law regardless of whether he is patrolling or directing traffic. Op.Atty.Gen. No. 2000-0031, [Dykes, February 4, 2000, 2000 WL 297618](#).

A driver of a vehicle may not be ticketed for having his seatbelt disconnected at a traffic roadblock unless the driver was operating the vehicle with the seatbelt disconnected and committed another non-seatbelt violation for which he

may be cited. The driver may be given a warning citation for violation of the seatbelt law, however, he may not be prosecuted unless there is another non-seatbelt violation. Op.Atty.Gen. No. 99-0453, [Kossman, September 3, 1999, 1999 WL 1075174](#).

3. 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 WL 283629](#).

4. Primary and secondary violations

If a child between the ages of four (4) and eight (8) is not wearing a seat belt, regardless of where he is seated, the driver of the car may be cited and convicted of violating Section **63-2-1** without a violation of any other non-seat belt law (primary violation). If a driver or a front-seat passenger is not wearing a seat belt as required by Section **63-2-1**, the driver may be cited for the seat belt violation only if he is cited for another non-seat belt violation. He may not be convicted of the seat belt violation unless he is also convicted of the non-seat belt violation (secondary violation). An officer may not use a primary seat belt violation in order to charge an offender with a secondary seat belt violation. Op.Atty.Gen. No. 2001-0573, [Gordon, September 14, 2001, 2001 WL 1229362](#).

5. Personal injury actions

In personal injury action arising from rear-end automobile collision, leading motorist's use of seat belt was relevant to issues of whether leading motorist sustained injuries from impact as well as to extent of those injuries. [Herring v. Poirrier \(Miss. 2000\) 797 So.2d 797. Damages ↪ 166\(1\)](#)

Miss. Code Ann. § **63-2-1**, MS ST § **63-2-1**

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