

Can I File a Car Accident Claim If I Wasn't Wearing a Seat Belt?

It's no secret that wearing a seat belt reduces the risk of serious injury and death in the event of a car accident. But even the most responsible drivers might forget to buckle up on occasion. If you're reading this, chances are you were injured in a crash and you weren't restrained at the time. Fortunately, that fact alone does not bar you from filing a car accident claim.

In fact, pursuant to [South Carolina Code § 56-5-6540](#), failure to wear a seat belt does not constitute negligence per se or contributory negligence, and is not admissible as evidence in a civil action. This differentiates South Carolina from many other states, where failure to wear a seat belt could significantly reduce a car accident victim's financial recovery.

As long as the defendant was 100 percent liable for the crash, you have the right to pursue compensation for 100 percent of your damages even if you were unrestrained at the time of the collision. Unfortunately, some insurance adjusters aren't above making meritless arguments in the hopes that the claimant won't seek legal counsel. If the adjuster says that your settlement will be reduced due to your failure to wear a seat belt, you should contact an attorney right away. In fact, it's best to consult a lawyer before speaking to the insurance company so you don't provide any recorded statements that can be used against you.

When Might Comparative Negligence Affect a Car Accident Claim?

Although failing to wear a seat belt does not constitute comparative negligence, there are circumstances when an accident victim's financial recovery can be reduced due to their own negligence. South Carolina uses a modified comparative negligence system with a 51 percent bar rule, which means an award of damages can be reduced by the claimant's own percentage of fault up to at most 51 percent liability, at which point the claimant is barred from recovering any compensation at all from the defendant.

If, for example, you were speeding, making an illegal turn, or violating another traffic law at the time of the crash, and it is determined that this violation contributed to the accident, you will be assigned a percentage of fault. You might also be held liable for a percentage of your damages if you wait too long to seek medical care, disobey your doctor's orders, or participate in activities that might prolong your recovery or aggravate your condition. If you are deemed less than 51 percent liable, then you can still recover.

If you've incurred significant medical bills and other damages, being assigned just a small percentage of fault could lead to serious financial problems down the road. As such, it's a good idea to hire a skilled [car accident lawyer](#) if you suspect the insurance company might dispute liability. A seasoned attorney can evaluate the facts of your case, perform a thorough investigation, gather evidence, and take the necessary steps to minimize the percentage of fault assigned to you or perhaps eliminate it altogether.

Discuss Your Case with a Car Accident Lawyer in Spartanburg

With more than 50 years in collective legal experience, our attorneys have the tools and resources to make sure you are treated fairly by the insurance company. We won't recommend settling for anything less than you deserve, and we're not afraid to go to trial if the opposing party refuses to cooperate. To set up a free consultation, call xxx-xxx-xxxx or [send us a message](#).

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