

# Seat Belts & Police Testimony: Outcome Determinative Issues

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## Seat Belts



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### *Kerby v. Abilene Christian College (TX '73)*

- Distinguished negligence causing crash vs. negligence causing damages.
- Held: Negligence in not wearing seat belt inadmissible because did not cause crash.

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### *Carnation v. Wong (TX '74)*

- Difficulty of admitting seat belt evidence under contributory negligence, mitigation of damages, and apportionment of damages theories.
- Held: plaintiffs should not have damages reduced because of failure to wear seat belts.

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## Texas Legislature in 1985

- Crime for anyone fifteen years or older to ride unbelted in front seat, and drivers responsible for belting children under fifteen years old riding in front seat.
- "Use or non-use of a seatbelt is not admissible evidence in a civil trial."

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## Texas Legislature in 2003 – HB 4

- Repealed prohibition of admission of seat belt evidence in civil cases.
- Revived dormant, but never overruled *Kerby & Carnation* cases.

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