

**Calendar No. 548**

112TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 112-261

MOTOR VEHICLE AND HIGHWAY SAFETY  
IMPROVEMENT ACT OF 2011

---

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1449



DECEMBER 21, 2012.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 2012

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii <sup>1</sup>	KAY BAILEY HUTCHISON, Texas
JOHN F. KERRY, Massachusetts	OLYMPIA J. SNOWE, Maine
BARBARA BOXER, California	JIM DEMINT, South Carolina
BILL NELSON, Florida	JOHN THUNE, South Dakota
MARIA CANTWELL, Washington	ROGER F. WICKER, Mississippi
FRANK R. LAUTENBERG, New Jersey	JOHNNY ISAKSON, Georgia
MARK PRYOR, Arkansas	ROY BLUNT, Missouri
CLAIRE McCASKILL, Missouri	JOHN BOOZMAN, Arkansas
AMY KLOBUCHAR, Minnesota	PATRICK J. TOOMEY, Pennsylvania
TOM UDALL, New Mexico	MARCO RUBIO, Florida
MARK WARNER, Virginia	KELLY AYOTTE, New Hampshire
MARK BEGICH, Alaska	DEAN HELLER, Nevada

ELLEN DONESKI, *Staff Director*

JAMES REID, *Deputy Staff Director*

JOHN WILLIAMS, *General Counsel*

RICHARD RUSSELL, *Republican Staff Director*

DAVID QUINALTY, *Republican Deputy Staff Director*

REBECCA SEIDEL, *Republican General Counsel*

---

<sup>1</sup>The late Senator Inouye served on the Committee until his death on December 17, 2012.

## Calendar No. 548

112TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 112-261

---

---

### MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2011

DECEMBER 21, 2012.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### R E P O R T

[To accompany S. 1449]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1449) to authorize the appropriation of funds for highway safety programs and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011, is to reauthorize and update the highway safety programs of the National Highway Traffic Safety Administration (NHTSA), enhance NHTSA's safety authorities, increase transparency and accountability in auto safety, and improve vehicle safety standards.

#### BACKGROUND AND NEEDS

NHTSA has two core missions: highway safety and vehicle safety.

The highway safety mission consists of safety and research programs designed to decrease vehicle deaths and injuries by changing driver behavior regarding seat belt use, drunk driving, speeding, motorcycle safety, distracted driving, use of child restraints, and several other areas. NHTSA addresses driver behavior with safety grants to States that enact certain laws or carry out enforcement activities, such as police patrols. NHTSA conducts national adver-

tising campaigns related to seat belts and drunk driving as part of its coordination with the States. The “Click It or Ticket” and “Over the Limit. Under Arrest” campaigns are two examples. NHTSA conducts research on driver behavior safety concerns, such as impaired driving, distracted driving, teen driving, and the emerging problem of older drivers now that the baby boomers have begun to retire. These programs and grants are funded through the Highway Trust Fund (HTF). In 2011, \$740 million was allocated for these purposes.

In its vehicle safety mission, NHTSA establishes Federal Motor Vehicle Safety Standards (FMVSS) that all passenger vehicles must meet. NHTSA also is responsible for ensuring compliance with those safety standards, investigating possible vehicle safety defects, working with automakers to recall vehicles that are non-compliant or that contain safety defects, and conducting vehicle safety research. The vehicle safety programs are funded through annual appropriations. These funds have remained steady at approximately \$140 million for about a decade.

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, 119 Stat. 1144), a reauthorization of Federal highway programs, including NHTSA’s highway and vehicle safety programs. This authorization expired in September 2009, and has been extended several times. The most recent extension expired on March 31, 2012.

#### **Highway safety programs**

In 1956, Congress passed the Highway Revenue Act of 1956 (70 Stat. 387), which established the HTF to help finance the construction of the interstate highway system. Federal motor fuel taxes provide most of the money for the HTF. Using funds from the HTF, Congress created incentive programs that provide grants to States for passing certain safety laws or establishing enforcement, education, and awareness campaigns about safety issues. These incentive programs were last modified and renewed in 2005 under SAFETEA-LU.

The largest proportion of the highway safety program is contained within section 402 of title 23 of the United States Code. This formula grant, which is distributed based on population and vehicle miles traveled within each State, provided \$235 million to the States in 2011 for a range of programs. To qualify for the highway safety grant funding, each State must have a highway safety program approved by the Secretary of Transportation (Secretary) that is designed to reduce traffic crashes and the resulting deaths, injuries, and property damage.

In addition to the section 402 grant program, NHTSA administers several State grant programs that are focused on particular areas of highway safety. Three of these programs focus on vehicle occupant protection. Section 405 of title 23 of the United States Code establishes occupant protection incentive grants. States are eligible for these grants if they meet criteria relating to seat belt laws, enforcement, and education programs. In 2011, 39 States, the District of Columbia (D.C.), Puerto Rico, and 4 other territories qualified for \$25 million in grants under this program. These funds can only be used for the purpose of improving occupant protection in the State. Section 406 provides grants to States that enact laws

establishing primary enforcement of seat belt laws. A primary enforcement law permits police to stop and cite a motorist for a violation. A secondary enforcement law requires that the police have another reason to stop and cite a motorist before they are allowed to cite the individual for the secondary offense. While a number of States qualified for this grant in previous years, only one State qualified in 2011, and the funds for this grant program have largely gone unused. A separate grant program established in SAFETEA-LU provides funds to States that enact and enforce child restraint and booster laws. In 2011, 24 States and D.C. qualified for \$7 million in grant funds.

NHTSA also administers grant programs for impaired driving, motorcycle safety, and State highway safety data systems. A grant program under section 410 of title 23 of the United States Code provides funds to States “that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol.” In 2011, 50 States, D.C., and Puerto Rico qualified for the \$139 million distributed through this grant program. There is an additional incentive grant established under SAFETEA-LU that is available to States that promote motorcycle safety through training and education programs. Forty-eight States and D.C. qualified for the \$7 million of funds under this program. Finally, a grant program under section 408 of title 23 of the United States Code is available for States to improve their highway safety data collection and data systems. All 50 States, D.C., Puerto Rico and 4 territories qualified for grants totaling \$34.5 million under this program.

In addition to administering highway safety grant programs, NHTSA conducts highway safety research and development pursuant to section 403 of title 23. This authority provides funds for research activities designed to develop effective countermeasures against dangerous driving behaviors. It funds the National Center for Statistics and Analysis (NCSA), which collects and analyzes crash data. NCSA is also responsible for the Fatality Analysis Reporting System (FARS), the National Automotive Sampling System (NASS), and the Special Crash Investigations (SCI), all of which contribute to NHTSA’s understanding of the nature, cause, and injury outcomes of crashes. In 2011, \$108 million was allocated to NHTSA for highway safety research and development.

In the six years since SAFETEA-LU was signed into law, there has been ongoing debate about the best way for the Federal government to improve highway safety nationwide and to push the States toward strengthening their highway safety programs. In particular, the debate has focused on the appropriate level of Federal government control and oversight that should be exercised over the use of grant funds. Safety advocates and others have argued that the Federal government should exercise tight control over spending to ensure that States allocate the funds appropriately. The States have long argued that they should be given flexibility to meet the specific safety needs of their population and, thus, to set the allocations without excessive Federal involvement. Some consensus has been developed in recent years that States should work to meet measurable performance goals and should be held, at least to some degree, accountable for meeting those goals.

Concerns have also been raised about the large number of grants and the lack of a coordinated application, distribution, and reporting system among the various programs within the highway program. New safety issues have also emerged in recent years. For instance, there is a growing interest in providing funding for States to combat distracted driving and improve the safety of novice drivers.

#### **Vehicle safety programs**

NHTSA issues Federal Motor Vehicle Safety Standards (FMVSS) that require motor vehicle and equipment manufacturers to design and build safer motor vehicles. For instance, FMVSS 208, which in 1968 was one of the first standards to go into effect, requires motor vehicle manufacturers to include front seat belts and shoulder belts in all passenger vehicles. Since the late 1960s, a number of FMVSS have been issued. They include safety standards dealing with crash avoidance (*e.g.*, brakes, tires, mirrors), crashworthiness (*e.g.*, head restraints, seat belts, airbags, roof strength), and post-crash survival (*e.g.*, fuel system integrity, flammability). The long-term trend of declining vehicle fatalities has been attributed in part to continued improvement in these safety standards. In 2008, for example, an estimated 13,250 lives were saved by seat belts and 2,500 lives were saved by air bags. Other life-saving vehicle technologies, like electronic stability control, also have become prominent in vehicle fleets and will be mandated in all passenger vehicles starting with model year 2012. To comply with an FMVSS, NHTSA has established a “self-certification” process. This requires manufacturers to certify that the vehicle or equipment item meets all elements of the applicable FMVSS. The manufacturer must exercise “reasonable care” in issuing a certification of compliance with safety standards.

As part of its vehicle safety mission, NHTSA is also responsible for identifying motor vehicle safety defects. Through its Office of Defects Investigation (ODI), the agency reviews quarterly reports submitted by manufacturers as well as approximately 30,000 consumer complaints each year. ODI looks for trends indicating potential safety defects and conducts in-depth investigations to determine the presence of problems. When a safety defect is identified, manufacturers are required to provide vehicle owners with a remedy at no cost. Additionally, NHTSA has the authority, following a review by ODI, to issue a mandatory recall. However, the agency generally relies on manufacturers to conduct voluntary recalls and has not issued a mandatory recall since 1979. Once a safety recall is issued, NHTSA oversees compliance and can require the manufacturer to take particular steps to increase the rate of such compliance.

If manufacturers fail to comply with self-certification and compliance obligations or fail to report possible defects, NHTSA can seek civil penalties against those companies. Under current law, those penalties are capped at \$17.4 million for a related series of violations.

In 2010, this Committee looked into NHTSA’s investigations of reported sudden unintended acceleration in Toyota vehicles. While NHTSA found that Toyota had withheld information from the agency, and thus issued several fines against the company, the Committee also found that NHTSA lacked the authority, expertise, and resources to effectively challenge the assertions of auto compa-

nies and to fully investigate possible defects. Following this investigation, Chairman Rockefeller introduced the Motor Vehicle Safety Act of 2010 (MVSA), which would have increased NHTSA's enforcement authorities, required additional accountability and transparency regarding vehicle safety, and increased the authorization of funds for NHTSA's vehicle safety programs. The Committee approved MVSA at an Executive Session. Many of the provisions of that bill are included in this legislation.

#### SUMMARY OF PROVISIONS

As amended in Committee, S. 1449 would modernize NHTSA and reauthorize its highway safety and vehicle safety programs.

Title I of the legislation would reauthorize NHTSA's highway safety programs and research and development provisions, consolidate several of the occupant protection grants to States, streamline the application process for the grants, and add additional accountability measures. The bill amends the section 402 grant program, requiring States to submit to NHTSA plans that establish safety goals across a series of agreed-upon performance measures (such as fatality rate, impaired driving fatality rate, seat belt use rate, etc.) and outline their strategy for achieving those goals. NHTSA could disapprove a State's plan if, in the judgment of the Secretary, the State's safety goals are inadequate or the plan, if implemented, would not allow the State to meet its own goals.

Other grant programs would become similarly performance-based under the language of the bill. The legislation would restructure the impaired driving grant program so that States with the lowest rates of impaired driving fatalities automatically qualify for grants and have flexibility on how those grant funds are spent. States with higher fatality rates would have to meet more criteria in order to qualify for grants and would face additional NHTSA oversight in the spending of those grant funds.

The bill would also address emerging safety issues by creating new grant programs. Section 108 of the bill would establish a new grant to States that enact strict laws banning (1) texting by all drivers and (2) the use of electronic communications devices by teen drivers. Section 112 of the bill would provide grants to States that enact graduated driver licensing laws that establish restrictions on novice drivers. The bill also includes new strategies to address alcohol impaired driving. In addition to updating the existing impaired driving grant program, the bill would establish a new grant for States that enact mandatory ignition interlock laws. Such laws require installation of interlock devices for all drunk driving offenders. A separate provision would establish a funding stream for research into advanced technologies to prevent drunk driving.

Titles II through VI of the bill include provisions relevant to NHTSA's vehicle safety programs. These titles would make changes to NHTSA's authorities as well as manufacturers' obligations with regard to vehicle safety.

Title II includes a range of provisions that would update and strengthen NHTSA's enforcement authorities, improve the agency's ability to control imports of defective motor vehicles and motor vehicle equipment, and modernize the agency's motor vehicle research and development capacity. This title would also increase the

existing cap on civil penalties that NHTSA can seek against a manufacturer from \$17.4 million to \$250 million.

Title III includes provisions aimed at increasing transparency at both NHTSA and the auto companies and at increasing accountability for safety. This title would provide whistleblower protections for employees in the auto business, limit the revolving door between NHTSA and industry, and require that a senior official responsible for safety at a corporation certify the accuracy of submissions to NHTSA during safety investigations. Additional provisions in this title would improve the efficacy of recalls and ensure that bankrupt manufacturers meet their recall obligations.

Title IV includes provisions intended to strengthen NHTSA's expertise in advanced technologies and in developing safety standards for the electronic systems that control modern vehicles. The Committee's investigations into NHTSA's review of Toyota vehicles in 2010 revealed that the agency lacks the resources and capabilities to adequately assess modern electronics-based vehicles. The title would establish a Council for Vehicle Electronics, Software, and Engineering Expertise at NHTSA. The title would require the development of safety standards in five areas identified during the investigation into the issue of sudden unintended acceleration in Toyota vehicles: brake override, pedal placement, electronic systems, pushbutton ignition, and event data recorders. The title also includes a provision that would prohibit electronic visual entertainment in the driver's view.

Title V would require NHTSA to prioritize child safety in its rulemaking. It includes provisions that would require NHTSA to update its standards for child safety seats to account for larger children who are now staying in these seats at higher weights than NHTSA regulations anticipated, require side impact tests for child safety seats, and modernize the testing procedures for frontal impact tests for these seats. It would further direct NHTSA to consider updating its rules for the anchor system that holds child seats in place, issue rules requiring a seat belt reminder system in the rear seat, and conduct research into possible technological solutions for alerting caregivers that a child has been left behind in a vehicle.

Title VI directs NHTSA to issue a rule establishing minimum standards for the daytime and nighttime visibility of agricultural equipment operated on public roads.

#### LEGISLATIVE HISTORY

On July 27, 2011, the Committee held a hearing to consider draft legislation to reauthorize NHTSA. On July 29, 2011, Senator Pryor introduced S. 1449, the Motor Vehicle and Highway Safety Improvement Act of 2011, which was referred to the Committee for consideration. The bill is co-sponsored by Chairman Rockefeller and Senators Klobuchar, Udall, Schumer, and Gillibrand.

On December 14, 2011, in an open Executive Session, the Committee considered the bill, which was modified by a substitute amendment. The Committee incorporated numerous amendments into a managers' package and reported S. 1449 favorably by voice vote.

With modifications, the provisions of S. 1449 were enacted into law as title I of division C of the Moving Ahead for Progress in the

21st Century Act (MAP-21, 126 Stat. 732), which was signed into law on July 6, 2012.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

*S. 1449—Motor Vehicle and Highway Safety Improvement Act of 2011*

Summary: S. 1449 would extend the authority for highway safety programs administered by the National Highway Traffic Safety Administration (NHTSA) and amend various laws that govern those programs. The bill would set the amount of contract authority (the authority to incur obligations in advance of appropriations) for NHTSA programs at \$747 million for 2012 and at \$756 million for 2013.

Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing the baseline, CBO assumes that funding provided by the bill for 2013, the last year of the authorization, would continue at the same rate in each of the following years. Hence, CBO estimates that enacting the bill would result in baseline contract authority totaling \$8.4 billion over the 2012–2022 period. That funding level represents an increase of about \$1 billion above the amounts of contract authority for highway safety programs currently projected in CBO’s baseline for the 2012–2022 period.

CBO expects that most spending for the highway safety programs will continue to be controlled by limits on annual obligations set in appropriation acts. Consequently, the changes in contract authority would not increase outlays from mandatory spending. As a result, CBO estimates that enacting S. 1449 would not affect outlays from direct spending.

Enacting S. 1449 could result in the collection of additional civil penalties because it would increase the amount that NHTSA could impose for violations of certain safety regulations. Penalties are recorded as revenues and deposited in the U.S. Treasury. As a result, pay-as-you go procedures apply. However, CBO estimates that such collections would probably be small, and the effect on revenues would be insignificant.

The bill would not authorize a limit on obligations for the contract authority provided in the bill. However, for this estimate of discretionary outlays, CBO assumes that the limitation for such programs will equal the amount of contract authority provided. The obligation limitation for 2012, which was enacted in the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112–55), was about \$87 million less than the amounts estimated to be authorized by S. 1449 for that year. Assuming enactment of the estimated obligation limitations for 2012 and 2013, CBO estimates that implementing the bill would cost \$843 million over the 2012–2017 period.

S. 1449 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt state laws relating to the safety standards for motor vehicles estab-

lished by the bill. While those preemptions would limit the application of state law, CBO estimates that they would impose no duty on state, local, or tribal governments that would result in additional spending.

S. 1449 would impose private-sector mandates by requiring manufacturers of child safety seats, agricultural equipment, motor vehicles and vehicle parts to comply with new safety standards. It also would impose new requirements on importers of motor vehicles and vehicle parts, as well as car dealerships. The cost of several of the mandates related to motor vehicle safety would depend on future regulations. However, because the requirements would apply to a large number of vehicles intended for sale in the United States each year, CBO estimates that the total cost of the mandates would probably exceed the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1449 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

Basis of estimate:

*Direct spending*

S. 1449 would provide \$747 million in 2012 and \$756 million in 2013 for programs administered by NHTSA, including grants for highway safety programs, operations, and research. The bill would amend the available uses of that contract authority to include grants to states for distracted driving as well as for implementing programs to detect driver alcohol levels and to establish driver's licenses for teens that phase in full driving privileges.

	By fiscal year, in millions of dollars						
	2012	2013	2014	2015	2016	2017	2012–2017
CHANGES IN DIRECT SPENDING							
Budget Authority for NHTSA <sup>a</sup> .....	84	93	93	93	93	93	456
Estimated Outlays .....	0	0	0	0	0	0	0
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Obligation Limitation for NHTSA <sup>b</sup> .....	87	756	0	0	0	0	843
Estimated Outlays .....	10	356	293	101	83	0	843

Notes: NHTSA = National Highway Traffic Safety Administration.

<sup>a</sup>S. 1449 would provide about \$8.4 billion in budget authority in the form of contract authority over the 2012-2022 period—about \$1 billion more than CBO's baseline.

<sup>b</sup>Estimated discretionary outlays reflect use of funds under the 2012 and 2013 obligation limitations estimated by CBO. (Outlays stemming from additional contract authority shown in the table would be authorized in future legislation that covers the period after 2013.)

The current contract authority available through March 31, 2012, for programs administered by NHTSA is \$317 million. Consistent with the rules in the Balanced Budget and Emergency Deficit Control Act for constructing its baseline, CBO assumes that funding provided for the first six months of 2012 will continue at the same rate through the rest of this year (for a total level of \$663 million) and in each subsequent year. Because of those baseline construction rules, CBO estimates that enacting the bill would add a total of \$456 million of contract authority over the next five years to the baseline—\$84 million (\$747 million less \$663 million) in 2012 and \$93 million (\$756 million less \$663 million) annually over the 2013–2017 period. That funding level represents an increase of

about \$1 billion above the total amounts of contract authority for NHTSA programs currently projected in CBO's baseline over the next 10 years.

*Spending subject to appropriation*

CBO expects that the contract authority provided in the bill would be controlled by limitations on obligations set in annual appropriation acts. While this bill would not authorize an obligation limitation level, CBO's estimate of discretionary spending under this legislation reflects obligation limitations that are estimated to equal the contract authority provided in the bill. (Historically, the Congress has set obligation limitations at or near such levels.) For this estimate, CBO did not project this discretionary authority past fiscal year 2013, the authorization period covered by the legislation. Because the 2012 obligation limitation has already been enacted, CBO's estimate of the costs of this bill for 2012 includes the difference between that limit (\$660 million) and the amount of contract authority provided in S. 1449 (\$747 million). We estimate that the obligation limitation for 2013 would be \$756 million. As a result, CBO estimates that the increases in discretionary spending, assuming enactment of such obligation limitations for 2012 and 2013, would be \$843 million over the 2012–2017 period.

*Revenues*

Enacting S. 1449 could result in the collection of additional civil penalties because it would increase the amount of such penalties that NHTSA could impose for violations of certain safety regulations. Penalties are recorded as revenues and deposited in the U.S. Treasury. However, CBO estimates that such collections would likely be small, and the effect on revenues would be insignificant.

Pay-As-You-Go procedures: Enacting S. 1449 could result in the collection of additional civil penalties because it would increase the amount that NHTSA could impose for violations of certain safety regulations. Penalties are recorded as revenues and deposited in the U.S. Treasury. As a result, pay-as-you go procedures apply. However, CBO estimates that such collections would likely be small, and the effect on revenues would be insignificant.

Estimated impact on state, local, and tribal governments: S. 1449 contains intergovernmental mandates as defined in UMRA because it would preempt state laws relating to the safety standards for motor vehicles required by the bill. While those preemptions would limit the application of state law, CBO estimates that they would impose no duty on state, local, or tribal governments that would result in additional spending

Estimated impact on the private sector: S. 1449 contains several private-sector mandates, as defined in UMRA. It would require manufacturers of child safety seats, agricultural equipment, motor vehicles, and vehicle parts to comply with new safety standards. These standards relate to new crash protection measures, new technologies to enhance visibility and safety, as well as new administrative responsibilities. The bill also would impose new requirements on importers of motor vehicles and vehicle parts, as well as car dealerships.

The cost of some of the mandates related to motor vehicle safety would depend on future regulations. However, because the require-

ments would apply to a large number of vehicles intended for sale in the United States each year, CBO estimates that the total cost of the mandates would probably exceed the annual threshold established in UMRA for private-sector mandates (\$146 million in 2012, adjusted annually for inflation) in at least one of the first five years the mandates are in effect.

Estimate prepared by: Federal Costs: Sarah Puro; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Vi Nguyen.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

##### NUMBER OF PERSONS COVERED

The legislation would apply to: (1) motor vehicle manufacturers or motor vehicle equipment manufacturers that sell vehicles and equipment in the United States; (2) dealers and distributors of motor vehicles or motor vehicle equipment within the United States; (3) motor vehicle mechanics; and (4) persons, including corporations with vehicle fleets, who operate motor vehicles.

##### ECONOMIC IMPACT

The legislation would affect the Nation's economy to the extent that it requires, for specific kinds of information, persons covered under the Act to collect, retain, and report safety-related information regarding motor vehicles or motor vehicle equipment. Additional safety-related information may be required by the Secretary as a result of his or her authorized rulemaking authority, the economic impact of which cannot be defined until the rulemaking concludes. The legislation also may require automakers to install some new safety features on passenger motor vehicles.

##### PRIVACY

The impact on the personal privacy of the persons covered by this legislation is difficult to define prior to the completion of the Secretary's rulemaking proceedings authorized under the Act.

##### PAPERWORK

The outcome of the rulemaking proceedings will also determine whether paperwork requirements will be necessary.

##### CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title; Table of Contents.*

Section 1 would establish the short title as the “Motor Vehicle and Highway Safety Act of 2012” or “Mariah’s Act.” The legislation is named after Mariah West of Rogers, Arkansas. A day before her high school graduation in 2009, Mariah was texting while driving when she lost control of her car, clipped a bridge, and flipped back into oncoming traffic. She passed away five days later from her injuries. Her mother is an advocate against distracted driving.

*Section 2. Definition.*

Section 2 would define “Secretary” as the Secretary of Transportation.

## TITLE I - HIGHWAY SAFETY

*Section 101. Authorization of Appropriations.*

This section would authorize appropriations for each of NHTSA’s programs funded through the HTF. This section would establish HTF expenditures for these programs at current funding levels - with a slight increase for inflation - but would eliminate some programs under SAFETEA-LU and redirect the funds to other existing programs or to newly established programs.

The section would require NHTSA to establish one grant application process for all grants under the title, provide some flexibility to States in meeting State spending requirements, give NHTSA the flexibility to transfer unused funds among grant programs, and allow NHTSA to use a portion of the distracted driving grant program for the development and placement of broadcast media.

*Section 102. Highway Safety Programs.*

This section would modify the existing formula grant program that funds the majority of each State’s highway safety programs, known as the 402 program. The section would update the existing requirements for State highway safety programs to eliminate outdated obligations. The section also would establish new statutory requirements for States to submit highway safety plans for review and approval by the Secretary. This section would provide that up to \$2.5 million shall be available to NHTSA to conduct cooperative research with States in order to examine priority highway safety countermeasures. The section would further allow States to use funds allocated to this program for the implementation of a state-wide teen traffic safety program.

*Section 103. Highway Safety Research and Development.*

This section would modify the existing highway safety research program at NHTSA. The section would allow for additional collaborative research and development with non-Federal entities and would allow the Secretary to establish an international highway safety information and cooperation program, as well as a clearinghouse for information about best practices for driver’s licensing concerning drivers with medical issues. It would further allocate funds from the 402 program to provide training for Federal, State, and local highway safety personnel.

As originally introduced, the bill would have established in statute that NHTSA is a “public health authority” for purposes of collecting and analyzing medical data for transportation research purposes. This provision was not included in the bill as approved by the Committee because the Committee believes that statute and regulation have adequately established NHTSA as a “public health authority” entitled to collect such information, and this statutory language is not necessary.

*Section 104. National Driver Register.*

The National Driver Register enables States to share information with each other about drivers with suspended or revoked licenses. This section would direct the Secretary to make continual improvements to modernize the data systems in the Register.

*Section 105. Combined Occupant Protection Grants.*

This section would combine three existing occupant protection grants for States into a single grant for States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from unrestrained or improperly restrained individuals in motor vehicles. Under this provision, States with observed seat belt use rates of 90 percent or higher would be eligible for a grant if they meet 4 criteria: (i) submitting an occupant protection plan; (ii) participating in the “Click It or Ticket” program; (iii) having a network of child restraint inspection stations; and (iv) having a plan to maintain a sufficient number of child passenger safety technicians. States with seat belt use rates below 90 percent would be eligible if they meet those same 4 criteria and at least 3 of 6 additional criteria to the satisfaction of the Secretary. States could use grant funds provided under this section for any one of seven activities to improve proper use of restraints by both children and adults.

*Section 106. State Traffic Safety Information System Improvements.*

SAFETEA-LU established grants for States to improve data systems and allow various State and local agencies to manage these data systems and share information with one another. These data systems enable States and localities to collect and analyze traffic safety information and to track progress in meeting safety goals. This section would make slight modifications to update the existing grant program.

*Section 107. Impaired Driving Countermeasures.*

This section would modify the existing grant program under section 410 of title 23 of the United States Code for States that adopt and implement effective programs to reduce impaired driving. The section would amend the program to focus on State performance and to reward those States that have lower impaired driving fatality rates. Under this provision, States with the lowest impaired driving fatality rates would automatically qualify for grants and have flexibility in spending those funds. States with the highest impaired fatality rates would qualify for grants only if the States met a set of criteria designed to increase their efforts to lower those rates. Those States would also be restricted in how they could spend the grant funds. States with mid-range impaired fatality

rates would have moderate restrictions on the use of grant funds to promote the most effective methods of lowering those rates. This section would also direct the Secretary to make a separate grant to States that enact and enforce mandatory ignition-interlock laws for all individuals convicted of driving under the influence of alcohol.

*Section 108. Distracted Driving Grants.*

This section would establish a new grant program for States that enact and enforce laws limiting distracted driving. States would qualify for grants under this section if they enact and enforce laws that (1) prohibit teen drivers from using any personal wireless communications devices while driving, and (2) prohibit all drivers from texting while driving. The section also sets forth exceptions that would be permitted under these State distracted driving laws.

The section also directs the agency to submit a report to Congress within one year examining the effect of distractions other than the use of personal wireless communications on motor vehicle safety.

*Section 109. High Visibility Enforcement Program.*

This section would update an existing grant to States for high visibility enforcement programs and clarify that this particular grant fund is to be spent solely on advertising and outreach related to such enforcement programs.

*Section 110. Motorcyclist Safety.*

SAFETEA-LU created a grant program for States intended to improve motorcyclist safety through a focus on rider training and motorcycle awareness among motorists. This section would update and extend the existing program.

*Section 111. Driver Alcohol Detection System for Safety Research.*

Over the last several years, NHTSA has partnered with motor vehicle manufacturers to develop alcohol detection technologies that could be installed in vehicles to prevent a vehicle from starting if the driver is legally drunk. These systems would be designed to operate quickly so that the driver is not delayed in starting the vehicle and set at a level that would not prevent a driver from operating a vehicle if that driver's blood alcohol content is below the legal limit. While this research is showing great promise, a lack of dedicated funding could prevent progress. This section would establish a funding source for research to explore the feasibility and potential benefits of, as well as the public policy challenges associated with, more widespread deployment of this technology.

*Section 112. State Graduated Driver Licensing Laws.*

This section would create a new grant program designed to encourage States to enact and enforce graduated driver licensing laws that limit dangerous behaviors by novice drivers. States would qualify for grants if they enacted a two-stage licensing process that begins with a learner's permit stage and is followed by an intermediate stage that can begin no earlier than six months after the start of the learner's permit stage and no earlier than age 16, continuing until at least age 18. During the intermediate stage, driv-

ers would be prohibited from using communication devices in non-emergency situations, could not drive with more than one other teen unless an adult is also in the car, and would face restrictions on nighttime driving. States could use funds from these grants to enforce the license requirements, train law enforcement, conduct other related activities, and carry out a teen traffic safety program.

*Section 113. Agency Accountability.*

NHTSA is currently required to conduct triennial management reviews of State highway safety programs. This section would clarify that such reviews are not required on a triennial basis in the smallest territories and would provide details regarding the required elements of these reviews.

*Section 114. Emergency Medical Services.*

The Secretary established the National Emergency Services Advisory Council (NEMSAC) in 2007 to provide advice and recommendations regarding emergency medical services to NHTSA. This section would formally create NEMSAC in statute.

TITLE II - ENHANCED SAFETY AUTHORITIES

*Section 201. Definition of Motor Vehicle Equipment.*

This section would amend the definition of motor vehicle equipment under section 30102 of title 49 of the United States Code. It would add language to ensure that devices, articles, and apparel, notably motorcycle helmets, may be regulated as motor vehicle equipment, even when they are not directly marketed or sold as motor vehicle equipment.

*Section 202. Permit Reminder System for Non-Use of Safety Belts.*

Existing law prohibits NHTSA from allowing or requiring a manufacturer to comply with a motor vehicle safety standard by using a safety belt interlock - a device designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt - and prohibits NHTSA from requiring a buzzer to alert a driver that a safety belt is not in use, unless that buzzer operates for eight seconds or less. This section would amend the statute to eliminate the eight-second restriction on buzzers and enable NHTSA to allow manufacturers to use safety belt interlocks for compliance purposes. Under this revision, NHTSA could allow manufacturers to crash test vehicles with a belted dummy if a safety belt interlock device were engaged.

*Section 203. Civil Penalties.*

NHTSA's authority to seek civil fines for violations of its statutes is capped at a figure that is currently less than \$20 million, as adjusted by inflation. Subsection (a) would make a technical correction to the civil penalties provision and raise the overall cap on civil penalties from the current figure, now \$17.4 million, to \$250 million for manufacturers that intentionally fail to report vehicle safety defects to NHTSA or intentionally provide misleading information to NHTSA.

Before issuing a fine, the Secretary would be required to consider several relevant factors in setting the level of the fine, including

the nature of the violation; the severity of the risk of injury; the actions taken by the person charged to identify, investigate, or mitigate the violation; the nature of the defect or noncompliance; and the size of the company. Subsection (b) would require the Secretary to issue a final regulation, within one year of enactment, providing the Secretary's interpretation of the penalty factors set forth in subsection (a). Subsection (c) would make clear that civil penalties may be imposed under statute before the issuance of the final rule described in subsection (b).

*Section 204. Motor Vehicle Safety Research Development.*

This section would create a new subchapter in title 49 for NHTSA's vehicle safety research program: Subchapter V - Motor Vehicle Safety Research and Development. Subsection (a) would update NHTSA's existing vehicle safety research and development authority and add language to ensure that some information, patents, and developments related to research and development activities are to be made available to the public without charge. Subsection (b) adds a conforming amendment to delete the statutory provision made redundant by this new section.

As originally introduced, the bill would have established in statute that NHTSA is a "public health authority" for purposes of collecting and analyzing medical data for transportation research purposes. This provision was not included in the bill as approved by the Committee because the Committee believes that statute and regulation have adequately established NHTSA as a "public health authority" entitled to collect such information, and this statutory language is not necessary.

*Section 205. Odometer Requirements Definition.*

This section would amend the definition of an odometer in section 32702(5) of title 49 of the United States Code to account for newer, electronic odometer systems and their related components in motor vehicles.

*Section 206. Electronic Disclosures of Odometer Information.*

This section would amend section 32705 of chapter 327 of title 49 of the United States Code to add a new subsection (g) ("Electronic disclosures") to allow the Secretary to permit, by rule, the electronic completion of all aspects of odometer disclosure.

*Section 207. Increased Penalties and Damages for Odometer Fraud.*

This section would increase the limit on civil penalties for individual violations and a series of violations of chapter 327 of title 49 of the United States Code relating to odometers. The section would also increase the limit on damages to victims of odometer fraud under chapter 327 of title 49 of the United States Code from the greater of three times actual damages or \$1,500, plus attorney's fees, to the greater of three times actual damages or \$10,000, plus attorney's fees.

*Section 208. Extend Prohibitions on Importing Noncompliant Vehicles and Equipment to Defective Vehicles and Equipment*

This section would amend section 30112 of title 49 of the United States Code to prohibit the sale, offer for sale, introduction into

interstate commerce, or import into the United States of motor vehicles or motor vehicle equipment that contain a safety-related defect. The section would provide an exception for the importation of defective motor vehicles for which a recall remedy is available and can be performed prior to retail sale. Finally, this section would provide that the prohibitions under section 30112, as amended, do not apply to a person who had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a safety-related defect for which notice was given under section 30118(c) of such title or an order was issued under section 30118(b) of such title.

*Section 209. Financial Responsibility Requirements for Importers.*

This section would amend provisions under chapter 301 to enable the Secretary to require, by rule, that each person who imports motor vehicles or motor vehicle equipment into the country provide and maintain evidence of sufficient financial responsibility to meet the requirements of NHTSA's statute, including the ability to comply with all obligations stemming from a safety recall of the products imported by the importer. In determining evidence of sufficient financial responsibility, the agency should seek to minimize costs and burdens on manufacturers. For instance, the agency should first examine available public financial data and filings, nonpublic financial data proffered by the manufacturer, existing insurance policies, bonds, contracts with private entities, and certificates of assurance prior to requiring manufacturers to maintain additional financial safeguards. The section includes language to exempt original equipment manufacturers and their wholly owned subsidiaries from these requirements. These manufacturers already provide ample evidence of sufficient financial responsibility to the agency.

*Section 210. Conditions on Importation of Vehicles and Equipment.*

This section would authorize NHTSA to establish, by rule, reporting requirements for manufacturers offering motor vehicles or motor vehicle equipment for import. The reporting requirements would include the name of the product, the name and address of the manufacturer, and each retailer or distributor to which the manufacturer supplies the motor vehicle or motor vehicle equipment. The section would authorize NHTSA to issue regulations conditioning import of motor vehicles or motor vehicle equipment on compliance with the reporting requirements of this section or other requirements in statute. The section includes language to exempt original equipment manufacturers and their wholly owned subsidiaries from these requirements. These manufacturers already provide identifying information to the agency.

*Section 211. Port Inspections; Sample for Examination or Testing.*

This section would expand NHTSA's authority related to management of imported vehicles and equipment at ports of entry. The section would clarify that NHTSA has authority to inspect and impound goods at ports of entry. It would further clarify that NHTSA can request that the Department of Homeland Security obtain samples of motor vehicle equipment to determine compliance with statutory or regulatory requirements and instruct the Department of

Homeland Security to refuse admission of such equipment into the United States if the equipment does not comply with these requirements.

#### TITLE III - TRANSPARENCY AND ACCOUNTABILITY

##### *Section 301. Improved NHTSA Vehicle Safety Database.*

The section would require NHTSA to update and improve its website and its publicly available data to improve public access to and understanding of existing safety data. The section would also direct the Secretary to require motor vehicle safety recall information be publicly available and searchable in a manner that enables the public to know if a particular vehicle is under recall and whether the recall has been completed. The provision would allow the Secretary to require automakers to publish this recall information on their own websites.

##### *Section 302. NHTSA Hotline for Manufacturer, Dealer, and Mechanic Personnel.*

This section would require NHTSA to establish a “hotline” just for mechanics and other auto industry workers to confidentially report potential vehicle defects.

##### *Section 303. Consumer Notice of Software Updates and Other Communications with Dealers.*

This section would require consumer access to information about software updates and modifications developed for their vehicles, many of which are performed during routine maintenance at dealerships without knowledge of the vehicle owner. The section would direct manufacturers to make this information available on publicly accessible websites.

##### *Section 304. Public Availability of Early Warning Data.*

Under the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (114 Stat. 1800), automakers are required to submit to NHTSA “early warning reporting” data on a quarterly basis. This section would amend provisions relating to public disclosure of early warning reporting. It would reverse the presumption of disclosure in the TREAD Act to state that information should be publicly disclosed unless it is exempt from disclosure under the Freedom of Information Act and that the Secretary should presume in favor of maximum public availability of information.

##### *Section 305. Corporate responsibility for NHTSA reports.*

Subsection (a) would direct the Secretary to require, for each company submitting information to NHTSA in response to a request for information in a safety defect or compliance investigation, that a senior official responsible for safety certify that the signing officer has reviewed the submission and that, based on the officer’s knowledge, the submission does not contain an untrue statement of a material fact or omit a material fact.

Subsection (b) would establish that a person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same pursuant to sub-

section (a), would be subject to a civil penalty of not more than \$5,000 per day with a maximum penalty for a related series of violations of \$5,000,000.

*Section 306. Passenger Motor Vehicle Information Program.*

The section would expand the mission and purpose of the New Car Assessment Program, the government's star-rating program for vehicle safety, to include crash avoidance as well as crash-worthiness.

*Section 307. Promotion of Vehicle Defect Reporting.*

In order to improve public knowledge about NHTSA's database of consumer complaints, this section would require the placement of a sticker or other notification in the glove box or another location accessible to the consumer with plain language about how to contact NHTSA to report a potential vehicle safety defect.

*Section 308. Whistleblower Protections For Motor Vehicle Manufacturers, Part Suppliers, and Dealership Employees.*

Section 308 would amend subchapter IV of chapter 301 of title 49 of the United States Code to establish protections for auto industry executives, production workers, dealership employees, and mechanics who are subjected to retaliation for providing information related to a motor vehicle defect or violation of law. The whistleblower protections set forth in this section are consistent with the protections currently provided to airline employees.

Specifically, the section would provide that no motor vehicle manufacturer, part supplier, or dealership may discharge or otherwise discriminate against an employee because the employee: provided or is about to provide to the employer or the Secretary information relating to a motor vehicle defect or a violation of chapter 301 of title 49; has filed or is about to file a proceeding related to a violation of a motor vehicle safety defect or violation of the chapter; testified, assisted, or is about to testify or assist in such a proceeding; or objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary. Under the section, a person who believes that he or she has been discharged or discriminated against in violation of the above would be able to file a complaint with the Secretary of Labor within 180 days after the date of the violation. The complaint would be required to make a *prima facie* showing.

Within 60 days after receipt of the complaint and after affording an opportunity for response from the person named in the complaint, the Secretary of Labor would be required to conduct an investigation. If the Secretary of Labor concludes that there is reasonable cause to believe a violation has occurred, the Secretary of Labor would issue a preliminary order with findings. The person named in the complaint would be able to object to the order and findings and seek a hearing. If a hearing is not requested within 30 days, the preliminary order would be deemed final.

The section further provides that, after a hearing, the Secretary of Labor would be required to issue a final order within 120 days. Upon a finding of a violation, the Secretary of Labor could issue a final order that requires the person who committed the violation to

take affirmative action to abate the violation, reinstate the complainant, and provide compensatory damages. If a complaint is determined to be frivolous, the Secretary of Labor would be able to award the prevailing employer a reasonable attorney's fee not to exceed \$1,000. If the Secretary of Labor has not issued a final order within 210 days of filing a complaint, the complainant would be allowed to bring an action in U.S. District Court. Final orders would be appealable to the U.S. Circuit Court of Appeals. If an employer does not comply with a final order, the Secretary of Labor would be able to file a civil action in the U.S. District Court to enforce that order.

*Section 309. Anti-Revolving Door.*

Subsection (a) would prohibit a covered NHTSA employee, during the two-year period after leaving NHTSA, from communicating with or appearing before the agency on behalf of any manufacturer subject to regulation under chapter 301 of title 49 of the United States Code in connection with any matter involving motor vehicle safety. A covered NHTSA employee would be defined as an individual who, during his or her last 12 months of employment at NHTSA, serves or served in a technical or legal capacity; has job responsibilities that include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; or serves in a supervisory or management capacity over such officers or employees. This subsection would also make it unlawful for manufacturers to employ or contract for the services of these NHTSA employees. The subsection also would include a special rule for detailees, an exception for testimony under oath, and a savings provision indicating that these prohibitions do not affect the application of section 207 of title 18 of the United States Code.

Subsection (b) would establish civil penalties for violations of these provisions. Subsections (c) and (d) would direct the Department of Transportation Inspector General to review, study, and issue reports to Congress on the Department's applicable policies and procedures on official communications with former employees and post-employment restrictions.

*Sec. 310. Study of Crash Data Collection.*

This section would require the Secretary to issue a report on the quality of data collected through the NASS, including the types of conclusions NHTSA can reach based on the amount of data collected in a given year, the number of investigations per year that would allow for optimal data analysis, and the resources that would be needed to implement these recommendations.

*Section 311. Update Means of Providing Notification; Improving Efficacy of Recalls.*

This section would enable NHTSA, through a rulemaking process, to modify the means by which manufacturers must contact vehicle owners and owners of motor vehicle equipment in the event of a recall. The section would also give NHTSA authority to order manufacturers to send additional notifications or take other steps to locate and notify owners if the first two recall notifications do not result in an adequate number of remedies.

*Section 312. Expanding Choices of Remedy Available to Manufacturers of Replacement Equipment.*

Under current law, a motor vehicle manufacturer conducting a safety recall may offer consumers repair, replacement, or refund of the purchase price. Manufacturers of replacement equipment may only offer repair or replacement. This section would enable a manufacturer of replacement equipment to offer a refund instead of repair or replacement.

*Section 313. Recall Obligations and Bankruptcy of Manufacturer.*

This section would establish that a manufacturer's duty to comply with recall obligations under NHTSA's statutes is not negated by a filing of a petition in bankruptcy under chapter 11 of title II of the United States Code. The section would establish that the manufacturer's obligations under NHTSA's recall statutes should be treated as a claim of the U.S. Government and given priority pursuant to Federal law.

*Section 314. Repeal of Insurance Reports and Information Provision.*

This section would eliminate an outdated reporting requirement.

*Section 315. Monroney Sticker to Permit Additional Safety Rating Categories.*

This section would authorize NHTSA to include additional safety rating information on the label affixed to new motor vehicles at the time of sale.

TITLE IV - VEHICLE ELECTRONICS AND SAFETY STANDARDS

*Section 401. NHTSA Electronics, Software and Engineering Expertise.*

This section would establish within NHTSA a Council for Vehicle Electronics, Vehicle Software and Emerging Technologies (Council) to enhance the agency's expertise in vehicle electronics. The Council would also be charged with investigating the safety of lightweight plastics used in motor vehicles and assessing implications of emerging safety technologies in consultation with affected stakeholders. The section would establish an "Honors Recruitment Program" to train engineering students for a career in vehicle safety.

*Section 402. Vehicle Stopping Distance and Brake Override Standard.*

This section would require the Secretary to initiate a rulemaking to prescribe a motor vehicle safety standard by which every new passenger motor vehicle would be required to be able to stop within a certain distance even if the engine is receiving accelerator input signals. In issuing the rule, the Secretary would be permitted to allow vehicles to temporarily suspend the function for times when both brake and accelerator need to be applied together, such as on a steep hill or for maneuvering a trailer. The rule would require the installation of redundant circuits or mechanisms for the accelerator control system in the event that the primary circuit or mechanism fails. The section would require the Secretary to issue the final rule within one year after enactment. While many manufac-

turers are incorporating “brake override” technology that instructs engine computers to allow the brake to override the accelerator pedal, this mandate is technology neutral. If a better technology or mechanism emerges for stopping vehicles while the vehicle receives accelerator inputs, manufacturers would be free to adopt it.

*Section 403. Pedal Placement Standard.*

This section would require the Secretary to consider issuing a rule for passenger motor vehicles to require minimum distances between floor pedals, minimum distances between foot pedals and the vehicle floor, and minimum distances to account for any other potential obstructions to pedal movement. The Secretary would be required to issue the rule within three years after enactment or, if the Secretary determines that a standard is not warranted, transmit to Congress a report stating the reasons for not issuing a rule.

*Section 404. Electronic Systems Performance Standard.*

This section would require NHTSA to consider issuing a rule requiring passenger motor vehicles to meet minimum performance standards for electronic systems, taking into account electronic components, the interaction of electronic components, and the effect of surrounding environments on the entire vehicle electronic system. The Secretary would be required to issue the rule within four years after enactment or, if the Secretary determines that a standard is not warranted, transmit to Congress a report stating the reasons for not issuing a rule.

*Section 405. Pushbutton Ignition Systems Standard.*

This section would require the Secretary to consider issuing a rule for passenger motor vehicles that establishes a uniform protocol by which a driver, who may be unfamiliar with the vehicle, uses a push-button ignition system during an emergency situation. The Secretary would be required to issue the rule within two years after enactment or, if the Secretary determines that a standard is not warranted, transmit to Congress a report stating the reasons for not issuing a rule.

*Section 406. Vehicle Event Data Recorders.*

This section would revise requirements related to event data recorders (EDRs) in vehicles. Subsection (a) would require the Secretary to mandate the installation of EDRs in all new vehicles. Subsection (b) would establish limitations on information retrieval from EDRs. It would make clear that the data held by EDRs is owned by the owner or lessee of the vehicle and would establish that the data may only be retrieved by someone other than the owner or lessee under certain circumstances. Subsection (c) would direct the Secretary to conduct a study and report to Congress after the first rulemaking to analyze the privacy and safety impacts of mandatory event data recorders. Subsection (d) would call on the Secretary to initiate a rulemaking to require more robust requirements for event data recorders. Under subsection (g), a final rule would be required within four years of enactment of the Act. Subsection (e) would establish a requirement that owners’ manuals or similar documentation disclose the existence of EDRs in vehicles.

Subsection (f) would provide for access to EDR data in NHTSA investigations.

*Section 407. Prohibition on Electronic Visual Entertainment in Driver's View.*

This section would require the Secretary to issue regulations, within two years after the date of enactment, that prohibit electronic screens in cars from displaying visual entertainment in view of the driver while driving. The section would require that the regulation accommodate electronic screens that display information or images regarding vehicle operation, vehicle surroundings, communications systems, and navigation systems.

TITLE V - CHILD SAFETY STANDARDS

*Section 501. Child Safety Seats.*

This section would require the Secretary to conduct three rule-making proceedings to strengthen safety standards for child safety seats. Subsection (a) would direct the Secretary to establish standards for child safety seats marketed to children weighing more than 65 pounds. Subsection (b) would require the Secretary to finalize a side impact crash test for child safety seats. NHTSA has found that one-third of children who die in crashes while properly secured in a child safety seat are killed in side impact crashes. Subsection (c) would require the Secretary to update the test parameters for child safety seats in a frontal impact.

*Section 502. Child Restraint Anchorage Systems.*

This section would direct the Secretary to reexamine the requirements for Lower Anchorages and Tethers for Children (LATCH), which attach a child safety seat to the rear car seat and have been required in all passenger vehicles since 2003. Subsection (a)(1) would direct the Secretary to consider improving the visibility, accessibility, and ease of use of the LATCH system in all rear seating positions where it is feasible for installation of such a system. Subsection (a)(2) would direct the Secretary to consider establishing a maximum weight limit for the LATCH system and to make that limit clear to consumers. The Secretary would be required to either issue a final rule within three years or report to Congress describing the reasons for not issuing a rule.

*Section 503. Rear Seat Belt Reminders.*

This section would direct the Secretary to consider requiring a safety belt use warning system for designated positions in the rear seat of passenger motor vehicles. The legislation would require the Secretary to promulgate a final rule within three years or report to Congress explaining why it did not issue such a rule.

*Section 504. Unattended Passenger Reminders.*

This section would direct the Secretary to conduct a safety research initiative into possible technological means for preventing deaths of children who are accidentally left behind in vehicles by caretakers. The section would require the Secretary to either commence a rulemaking within a year of completing the two-year re-

search initiative or report to Congress on its reasons for not commencing such a rulemaking.

*Section 505. New Deadline.*

This section would direct the Secretary to report to Congress if the Secretary is unable to meet any of the rulemaking deadlines in the legislation and to further explain the delay and set a new deadline.

TITLE VI - IMPROVED DAYTIME AND NIGHTTIME VISIBILITY OF AGRICULTURAL EQUIPMENT.

*Section 601. Rulemaking on Visibility of Agricultural Equipment.*

This section would require the Secretary - after consultation with representatives of the American Society of Agricultural and Biological Engineers, Federal agencies, and other appropriate persons - to issue a rule establishing minimum standards for the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 23. HIGHWAYS

CHAPTER 4. HIGHWAY SAFETY

**§ 402. Highway safety programs**

[(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform guidelines promulgated by the Secretary. Such uniform guidelines shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to prevent accidents and reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, [and] (6) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles)[, and] (7) to improve law enforcement services in motor

vehicle accident prevention, traffic supervision, and post-accident procedures. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, aggressive driving, fatigued driving, distracted driving, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents. In addition such uniform guidelines shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety, and emergency services. Such guidelines as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.】

(a) *PROGRAM REQUIRED.*—

(1) *IN GENERAL.*—*Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.*

(2) *UNIFORM GUIDELINES.*—*Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—*

(A) *include programs—*

(i) *to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;*

(ii) *to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;*

(iii) *to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;*

(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

(v) to reduce injuries and deaths resulting from accidents involving school buses;

(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

(B) improve driver performance, including—

(i) driver education;

(ii) driver testing to determine proficiency to operate motor vehicles; and

(iii) driver examinations (physical, mental, and driver licensing);

(C) improve pedestrian performance and bicycle safety;

(D) include provisions for—

(i) an effective record system of accidents (including resulting injuries and deaths);

(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

(iii) vehicle registration, operation, and inspection; and

(iv) emergency services; and

(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

(b) ADMINISTRATION OF STATE PROGRAMS.—

(1) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

(C) except as provided in paragraph (3), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B);

(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities,

including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State; **and**

*(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;*

**[(E)] (F)** provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—

(i) national law enforcement mobilizations *and high-visibility law enforcement mobilizations coordinated by the Secretary;*

(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative; **and**

(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources**【.】**; *and*

*(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).*

(2) **WAIVER.**—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

(3) **USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.**—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.

**[(c) Funds authorized] (c) USE OF FUNDS.**—

(1) **IN GENERAL.**—*Funds authorized* to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. **【Such funds】**

(2) **APPORTIONMENT.**—*Except for amounts identified in subsection (1) and section 403(e), funds described in paragraph (1) shall be apportioned 75 per centum in the ratio which the pop-*

ulation of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than three-quarters of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior shall not be less than 2 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 per centum of the total apportionment. [The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program] *A highway safety program* approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State. *A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.* Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than [50 per centum] *20 percent* of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. [The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the

other States in accordance with the formula specified in this subsection not later than 30 days after such determination.】

(3) *REAPPORTIONMENT.*—*The Secretary shall promptly apportion the funds withheld from a State’s apportionment to the State if the Secretary approves the State’s highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.*

(d) All provisions of chapter 1 of this title that are applicable to National Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term “State transportation department” as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

【(g) Nothing in this section authorizes the appropriation or expenditure of funds for (1) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines) or (2) any purpose for which funds are authorized by section 403 of this title.】

(g) *SAVINGS PROVISION.*—

(1) *IN GENERAL.*—*Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—*

(A) *highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or*

(B) *any purpose for which funds are authorized by section 403.*

(2) *DEMONSTRATION PROJECTS.*—*A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.*

(h) [Repealed]

[(i)] (h) *APPLICATION IN INDIAN COUNTRY.*—

(1) *USE OF TERMS.*—*For the purpose of application of this section in Indian country, the terms “State” and “Governor of a State” include the Secretary of the Interior and the term “political subdivision of a State” includes an Indian tribe.*

(2) *EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.*—*Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.*

(3) *ACCESS FOR INDIVIDUALS WITH DISABILITIES.*—*The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.*

(4) *INDIAN COUNTRY DEFINED.*—*In this subsection, the term “Indian country” means—*

(A) *all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;*

(B) *all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and*

(C) *all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.*

[(j)] (i) *RULEMAKING PROCEEDING.*—*The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.*

[(k)] (1) *Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title, the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic*

safety recordkeeping system or to obtain and operate components to support highway safety priority programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

[(2) No State may receive a grant under this subsection in more than two fiscal years.

[(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

[(4) A State is eligible for a grant under this subsection if—

[(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system acceptable to the Secretary; or

[(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

[(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.]

[(1)] (j) **LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.**—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

[(m) **CONSOLIDATION OF GRANT APPLICATIONS.**—The Secretary shall establish an approval process by which a State may apply for all grants under this chapter for which a single application process with one annual deadline is appropriate. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter.]

(k) **HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.**—

(1) *IN GENERAL.*—*The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.*

(2) *CONTENTS.*—*State highway safety plans submitted under paragraph (1) shall include—*

(A) *performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—*

(i) *documentation of current safety levels for each performance measure;*

(ii) *quantifiable annual performance targets for each performance measure; and*

(iii) *a justification for each performance target;*

(B) *a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);*

(C) *data and data analysis supporting the effectiveness of proposed countermeasures;*

(D) *a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);*

(E) *beginning with the plan submitted by July 1, 2013, a report on the State's success in meeting State safety goals set forth in the previous year's highway safety plan; and*

(F) *an application for any additional grants available to the State under this chapter.*

(3) *PERFORMANCE MEASURES.*—*For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, "Traffic Safety Performance Measures for States and Federal Agencies" (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor's Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.*

(4) *REVIEW OF HIGHWAY SAFETY PLANS.*—

(A) *IN GENERAL.*—*Not later than 60 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.*

(B) *APPROVALS AND DISAPPROVALS.*—

(i) *APPROVALS.*—*The Secretary shall approve a State's highway safety plan if the Secretary determines that—*

(I) *the plan is evidence-based and supported by data;*

(II) *the performance targets are adequate; and*

(III) *the plan, once implemented, will allow the State to meet such targets.*

(ii) *DISAPPROVALS.*—*The Secretary shall disapprove a State's highway safety plan if the Secretary determines that the plan does not—*

(I) *set appropriate performance targets; or*

(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

(i) inform the State of the reasons for such disapproval; and

(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State's resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State's performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to bring the State's plan into compliance with the performance targets.

(F) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.

(l) COOPERATIVE RESEARCH AND EVALUATION.—

(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), \$2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

(2) ADMINISTRATION.—The program established under paragraph (1)—

(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.

(m) TEEN TRAFFIC SAFETY PROGRAM.—

(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

(2) STRATEGIES.—The program implemented under paragraph (1)—

(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

- (i) increase safety belt use;*
  - (ii) reduce speeding;*
  - (iii) reduce impaired and distracted driving;*
  - (iv) reduce underage drinking; and*
  - (v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and*
- (B) may include—*
- (i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;*
  - (ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;*
  - (iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;*
  - (iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;*
  - (v) conducting outreach and providing educational resources for parents;*
  - (vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;*
  - (vii) collaborating with law enforcement;*
  - (viii) organizing and hosting State and regional conferences for teen drivers;*
  - (ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and*
  - (x) funding a coordinator position for the teen safety program in the State or region.*

#### **【§ 403. Highway safety research and development**

**【(a) AUTHORITY OF THE SECRETARY.—**The Secretary is authorized to use funds appropriated to carry out this section to—

**【(1)** conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

**【(2)** conduct ongoing research into driver behavior and its effect on traffic safety;

**【(3)** conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

**【(4)** conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

**【(5)** conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

[(6) conduct research on, evaluate, and develop best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration and delivery mechanisms) and make recommendations for harmonizing driver education and multi-stage graduated licensing systems;

[(7) conduct research, training, and education programs related to older drivers;

[(8) conduct demonstration projects; and

[(9) conduct research, training, and programs relating to motorcycle safety, including impaired driving.

[(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

[(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

[(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.

[(3) Measures that may deter drugged driving.

[(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.

[(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.

[(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.

[(c) The research authorized by subsections (a) and (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

[(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

[(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

[(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

[(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

[(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

[(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

[(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.

[(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.]

**§ 403. Highway safety research and development**

(a) *DEFINED TERM.*—*In this section, the term “Federal laboratory” includes—*

- (1) *a government-owned, government-operated laboratory;*
- and*
- (2) *a government-owned, contractor-operated laboratory.*

(b) *GENERAL AUTHORITY.*—

(1) *RESEARCH AND DEVELOPMENT ACTIVITIES.*—*The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—*

- (A) *all aspects of highway and traffic safety systems and conditions relating to—*
  - (i) *vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;*
  - (ii) *accident causation and investigations;*

- (iii) communications;
- (iv) emergency medical services; and
- (v) transportation of the injured;

(B) human behavioral factors and their effect on highway and traffic safety, including—

- (i) driver education;
- (ii) impaired driving;
- (iii) distracted driving; and
- (iv) new technologies installed in, or brought into, vehicles;

(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives; and

(D) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (C).

(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

(A) independently;

(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

(B) Federal laboratories.

(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be

*subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

(d) *TITLE TO EQUIPMENT.*—*In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.*

(e) *TRAINING.*—*Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—*

*(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and*

*(2) to pay for any travel, administrative, and other expenses related to such training.*

(f) *DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.*—*From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend \$1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2011 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.*

(g) *INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.*—

*(1) ESTABLISHMENT.*—*The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—*

*(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;*

*(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and*

*(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.*

*(2) COOPERATION.*—*The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.*

(h) *PROHIBITION ON CERTAIN DISCLOSURES.*—*Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or*

chapter 301 shall be made available to the public in a manner that does not identify individuals.

(i) *MODEL SPECIFICATIONS FOR DEVICES.*—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

(1) *develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;*

(2) *conduct periodic tests of such devices;*

(3) *publish a Conforming Products List of such devices that have met the model specifications; and*

(4) *may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.*

#### **§ 405. Occupant protection incentive grants**

**[(a) GENERAL AUTHORITY.—**

**[(1) AUTHORITY TO MAKE GRANTS.—**Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

**[(2) MAINTENANCE OF EFFORT.—**No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

**[(3) MAXIMUM PERIOD OF ELIGIBILITY.—**No State may receive grants under this section in more than 9 fiscal years beginning after September 30, 2003.

**[(4) FEDERAL SHARE.—**The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

**[(A)** in each of the first and second fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 75 percent;

**[(B)** in each of the third and fourth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 50 percent; and

**[(C)** in each of the fifth through ninth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 25 percent.

**[(b) GRANT ELIGIBILITY.—**A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

**[(1) SAFETY BELT USE LAW.—**The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system)

in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

[(2) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of the safety belt use law of the State.

[(3) MINIMUM FINE OR PENALTY POINTS.—The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual—

[(A) for a violation of the safety belt use law of the State; and

[(B) for a violation of the child passenger protection law of the State.

[(4) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

[(5) CHILD PASSENGER PROTECTION EDUCATION PROGRAM.—The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

[(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

[(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 100 percent of the amount apportioned to the State for fiscal year 2003 under section 402.

[(d) [Repealed]

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

[(f) DEFINITIONS.—In this section, the following definitions apply:

[(1) CHILD SAFETY SEAT.—The term "child safety seat" means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

[(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

[(3) MULTIPURPOSE PASSENGER VEHICLE.—The term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

[(4) PASSENGER CAR.—The term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

[(5) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" means a passenger car or a multipurpose passenger motor vehicle.

[(6) SAFETY BELT.—The term "safety belt" means—

[(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

[(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.]

**§ 405. Combined occupant protection grants**

(a) *GENERAL AUTHORITY.*—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

(b) *FEDERAL SHARE.*—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

(c) *ELIGIBILITY.*—

(1) *HIGH SEAT BELT USE RATE.*—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

(A) submits an occupant protection plan during the first fiscal year;

(B) participates in the Click It or Ticket national mobilization;

(C) has an active network of child restraint inspection stations; and

(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

(2) *LOWER SEAT BELT USE RATE.*—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

(B) the Secretary determines that the State meets at least 3 of the following criteria:

(i) The State conducts sustained (on-going and periodic) seat belt enforcement at a defined level of participation during the year.

(ii) The State has enacted and enforces a primary enforcement seat belt use law.

(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

(v) *The State has implemented a comprehensive occupant protection program in which the State has—*

*(I) conducted a program assessment;*

*(II) developed a statewide strategic plan;*

*(III) designated an occupant protection coordinator; and*

*(IV) established a statewide occupant protection task force.*

(vi) *The State—*

*(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or*

*(II) will conduct such an assessment during the first year of the grant.*

(d) *USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—*

*(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;*

*(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;*

*(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;*

*(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;*

*(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;*

*(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and*

*(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.*

(e) *GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.*

(f) *REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.*

(g) *DEFINITIONS.—In this section:*

(1) *CHILD RESTRAINT.—The term “child restraint” means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety*

*standard prescribed by the National Highway Traffic Safety Administration for child restraints.*

(2) *SEAT BELT.*—*The term “seat belt” means—*

(A) *with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and*

(B) *with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.*

#### **§ 408. State traffic safety information system improvements**

**[(a) GRANT AUTHORITY.**—Subject to the requirements of this section, the Secretary shall make grants to eligible States to support the development and implementation of effective programs by such States to—

**[(1)** improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

**[(2)** evaluate the effectiveness of efforts to make such improvements;

**[(3)** link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and

**[(4)** improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

**[(b) FIRST-YEAR GRANTS.**—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

**[(1)** established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

**[(2)** developed a multiyear highway safety data and traffic records system strategic plan—

**[(A)** that addresses existing deficiencies in the State’s highway safety data and traffic records system;

**[(B)** that is approved by the highway safety data and traffic records coordinating committee;

**[(C)** that specifies how existing deficiencies in the State’s highway safety data and traffic records system were identified;

**[(D)** that prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

**[(E)** that identifies performance-based measures by which progress toward those goals will be determined; and

[(F) that specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

[(c) SUCCESSIVE YEAR GRANTS.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State—

[(1) certifies to the Secretary that an assessment or audit of the State’s highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

[(2) certifies to the Secretary that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

[(3) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

[(4) demonstrates to the Secretary measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

[(5) submits to the Secretary a current report on the progress in implementing the multiyear plan.

[(d) GRANT AMOUNT.—Subject to subsection (e)(3), the amount of a year grant made to a State for a fiscal year under this section shall equal the higher of—

[(1) the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year, by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

[(2) (A) \$300,000 in the case of the first fiscal year a grant is made to a State under this section after the date of enactment of this subparagraph; or

[(B) \$500,000 in the case of a succeeding fiscal year a grant is made to the State under this section after such date of enactment.

[(e) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

[(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

[(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

[(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the SAFETEA-LU.]

[(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.]

[(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.]

[(f) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.]

**§ 408. State traffic safety information system improvements**

(a) *GENERAL AUTHORITY.*—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

(1) *improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;*

(2) *evaluate the effectiveness of efforts to make such improvements;*

(3) *link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;*

(4) *improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and*

(5) *enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.*

(b) *FEDERAL SHARE.*—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

(c) *ELIGIBILITY.*—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

(1) *has a functioning traffic records coordinating committee (referred to in this subsection as “TRCC”) that meets at least 3 times a year;*

(2) *has designated a TRCC coordinator;*

(3) *has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State’s core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;*

(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

- (A) accuracy;
- (B) completeness;
- (C) timeliness;
- (D) uniformity;
- (E) accessibility; or
- (F) integration of a core highway safety database; and

(5) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.

(d) *USE OF GRANT AMOUNTS.*—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

(e) *GRANT AMOUNT.*—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

#### **§ 410. Alcohol-impaired driving countermeasures**

**[(a) GENERAL AUTHORITY.—**

**[(1) AUTHORITY TO MAKE GRANTS.—**Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

**[(2) MAINTENANCE OF EFFORT.—**No grant may be made to a State under this subsection in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

**[(3) FEDERAL SHARE.—**The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

**[(A)** in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

**[(B)** in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

**[(C)** in each of the fifth through eleventh fiscal years in which the State receives a grant under this section, 25 percent.

**[(b) ELIGIBILITY REQUIREMENTS.—**To be eligible for a grant under subsection (a), a State shall—

**[(1)** have an alcohol related fatality rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; or

**[(2)**

[(A) for fiscal year 2006 by carrying out 3 of the programs and activities under subsection (c);

[(B) for fiscal year 2007 by carrying out 4 of the programs and activities under subsection (c); or

[(C) for each of fiscal years 2008 through 2012 by carrying out 5 of the programs and activities under subsection (c).

[(c) STATE PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subsection (b) are the following:

[(1) CHECK POINT, SATURATION PATROL PROGRAM.—A State program to conduct a series of high visibility, statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through the use of sobriety check points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol—

[(A) if the State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, except that this subparagraph does not preclude a State from initiating sustained high visibility, Statewide law enforcement campaigns independently of the cooperative efforts; and

[(B) if, for each fiscal year, the State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations (or any other similar activity approved by the Secretary) initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year.

[(2) PROSECUTION AND ADJUDICATION OUTREACH PROGRAM.—A State prosecution and adjudication program under which—

[(A) the State works to reduce the use of diversion programs by educating and informing prosecutors and judges through various outreach methods about the benefits and merits of prosecuting and adjudicating defendants who repeatedly commit impaired driving offenses;

[(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

[(C) annual statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

[(3) TESTING OF BAC.—An effective system for increasing from the previous year the rate of blood alcohol concentration testing of motor vehicle drivers involved in fatal accidents.

[(4) HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol

whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, “additional penalties” includes—

[(A) a 1-year suspension of a driver’s license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver’s license that would permit the individual to drive—

[(i) only to and from the individual’s place of employment or school; and

[(ii) only in an automobile equipped with a certified alcohol ignition interlock device; and

[(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem with possible referral to counseling if the official determines that such a referral is appropriate.

[(5) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION AND DWI COURTS.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders or a program to refer impaired driving cases to courts that specialize in driving while impaired cases that emphasize the close supervision of high-risk offenders.

[(6) UNDERAGE DRINKING PROGRAM.—An effective strategy, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such a strategy may include—

[(A) the issuance of tamper-resistant drivers’ licenses to individuals under age 21 that are easily distinguishable in appearance from drivers’ licenses issued to individuals age 21 or older; and

[(B) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum—

[(i) the clinical effects of alcohol;

[(ii) methods of preventing second party sales of alcohol;

[(iii) recognizing signs of intoxication;

[(iv) methods to prevent underage drinking; and

[(v) Federal, State, and local laws that are relevant to such personnel; and

[(C) having a law in effect that creates a 0.02 percent blood alcohol content limit for drivers under 21 years old.

[(7) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver’s license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

[(A) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed

by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

[(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; except that under such suspension an individual may operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; except that such individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(B) the suspension and revocation referred to under clauses (i) and (ii) take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

[(8) SELF SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

[(d) USES OF GRANTS.—Subject to subsection (g)(2), grants made under this section may be used for all programs and activities described in subsection (c), and to defray the following costs:

[(1) Labor costs, management costs, and equipment procurement costs for the high visibility, Statewide law enforcement campaigns under subsection (c)(1).

[(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

[(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

[(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

[(5) The costs of the development and implementation of a State impaired operator information system.

[(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

[(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

[(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402.

[(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

[(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

[(B) in coordination with sporting events and concerts and other entertainment events.

[(f) ALLOCATION.—Subject to subsection (g), funds made available to carry out this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula under section 402(c).

[(g) GRANTS TO HIGH FATALITY RATE STATES.—

[(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that—

[(A) is among the 10 States with the highest impaired driving related fatalities as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

[(B) prepares a plan for grant expenditures under this subsection that is approved by the Administrator of the National Highway Traffic Safety Administration.

[(2) REQUIRED USES.—At least one-half of the amounts allocated to States under this subsection may only be used for the program described in subsection (c)(1).

[(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c), except that no State shall be allocated more than 30 percent of the funds made available to carry out this subsection for a fiscal year.

[(4) FUNDING.—Not more than 15 percent per fiscal year of amounts made available to carry out this section for a fiscal year shall be made available by the Secretary for making grants under this subsection.

[(h) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

[(i) DEFINITIONS.—In this section, the following definitions apply:

[(1) ALCOHOLIC BEVERAGE.—The term “alcoholic beverage” has the meaning given such term in section 158(c).

[(2) CONTROLLED SUBSTANCES.—The term “controlled substances” has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

[(3) MOTOR VEHICLE.—The term “motor vehicle” has the meaning given such term in section 405.

[(4) IMPAIRED OPERATOR.—The term “impaired operator” means a person who, while operating a motor vehicle—

[(A) has a blood alcohol content of 0.08 percent or higher; or

[(B) is under the influence of a controlled substance.

[(5) IMPAIRED DRIVING RELATED FATALITY RATE.—The term “impaired driving related fatality rate” means the rate of alcohol related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.]

**§ 410. Impaired driving countermeasures**

(a) *GRANTS AUTHORIZED.*—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

- (1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or
- (2) alcohol-ignition interlock laws.

(b) *FEDERAL SHARE.*—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

(c) *ELIGIBILITY.*—

(1) *LOW-RANGE STATES.*—Low-range States shall be eligible for a grant under this section.

(2) *MID-RANGE STATES.*—A mid-range State shall be eligible for a grant under this section if—

- (A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or
- (B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

(3) *HIGH-RANGE STATES.*—A high-range State shall be eligible for a grant under this section if the State—

(A)(i) conducted an assessment of the State’s impaired driving program during the most recent 3 calendar years;

or

(ii) will conduct such an assessment during the first year of the grant;

(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

(i) addresses any recommendations from the assessment conducted under subparagraph (A);

(ii) includes a detailed plan for spending any grant funds provided under this section; and

(iii) describes how such spending supports the statewide program;

(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency’s review and approval;

(ii) annually updates the statewide plan in each subsequent year of the grant; and

(iii) submits each updated statewide plan for the agency’s review and comment; and

(D) appoints a full or part-time impaired driving coordinator—

- (i) to coordinate the State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and
- (ii) to oversee the implementation of the statewide plan.

(d) *USE OF GRANT AMOUNTS.—*

(1) *REQUIRED PROGRAMS.—High-range States shall use grant funds for—*

- (A) high visibility enforcement efforts; and
- (B) any of the activities described in paragraph (2) if—
  - (i) the activity is described in the statewide plan; and
  - (ii) the Secretary approves the use of funding for such activity.

(2) *AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—*

- (A) any of the purposes described in paragraph (1);
- (B) paid and earned media in support of high visibility enforcement efforts;
- (C) hiring a full-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;
- (D) court support of high visibility enforcement efforts;
- (E) alcohol ignition interlock programs;
- (F) improving blood-alcohol concentration testing and reporting;
- (G) establishing driving while intoxicated courts;
- (H) conducting—
  - (i) standardized field sobriety training;
  - (ii) advanced roadside impaired driving evaluation training; and
  - (iii) drug recognition expert training for law enforcement;
- (I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;
- (J) traffic safety resource prosecutors;
- (K) judicial outreach liaisons;
- (L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;
- (M) training on the use of alcohol screening and brief intervention;
- (N) developing impaired driving information systems; and
- (O) costs associated with a "24-7 sobriety program".

(3) *OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.*

(e) *GRANT AMOUNT.—Subject to subsection (g), the allocation of grant funds to a State under this section for a fiscal year shall be*

in proportion to the State's apportionment under section 402(c) for fiscal year 2009.

(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State's alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

(g) DEFINITIONS.—In this section:

(1) 24-7 SOBRIETY PROGRAM.—The term “24-7 sobriety program” means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

(B) require the individual to be subject to testing for alcohol or drugs—

(i) at least twice a day;

(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

(iii) by an alternate method with the concurrence of the Secretary.

(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term “average impaired driving fatality rate” means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

(3) HIGH-RANGE STATE.—The term “high-range State” means a State that has an average impaired driving fatality rate of 0.60 or higher.

(4) LOW-RANGE STATE.—The term “low-range State” means a State that has an average impaired driving fatality rate of 0.30 or lower.

(5) MID-RANGE STATE.—The term “mid-range State” means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

**§ 411. State highway safety data improvements**

**[(a) GENERAL AUTHORITY.—**

**[(1) AUTHORITY TO MAKE GRANTS.—**Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs—

**[(A)** to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

**[(B)** to evaluate the effectiveness of efforts to make such improvements;

**[(C)** to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

**[(D)** to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. Such grants may be used by recipient States only to implement such programs.

**[(2) MODEL DATA ELEMENTS.—**The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

**[(3) MAINTENANCE OF EFFORT.—**No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

**[(4) MAXIMUM PERIOD OF ELIGIBILITY.—**No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

**[(5) FEDERAL SHARE.—**The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

**[(A)** in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

**[(B)** in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

**[(C)** in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

**[(b) FIRST-YEAR GRANTS.—**

**[(1) ELIGIBILITY.—**A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either—

[(A) demonstrates, to the satisfaction of the Secretary, that the State has—

[(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

[(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

[(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that—

[(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

[(II) identifies performance-based measures by which progress toward those goals will be determined; and

[(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

[(B) provides, to the satisfaction of the Secretary—

[(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

[(ii) a multiyear highway safety data and traffic records strategic plan that—

[(I) meets the requirements of subparagraph (A)(iii); and

[(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

[(iii) a certification that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan described in clause (ii).

[(2) GRANT AMOUNTS.—The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal—

[(A) if the State is eligible for the grant under paragraph (1)(A), \$125,000; and

[(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying—

[(i) the amount appropriated to carry out this section for such fiscal year; by

[(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than \$250,000.

[(3) STATES NOT MEETING CRITERIA.—The Secretary may award a grant of up to \$25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The

grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

[(c) SUCCEEDING YEAR GRANTS.—

[(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

[(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

[(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

[(C) reports annually on the progress of the State in implementing the multiyear plan.

[(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year; by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than \$225,000.

[(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.]

**§ 411. Distracted driving grants**

(a) *IN GENERAL.*—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

(b) *PROHIBITION ON TEXTING WHILE DRIVING.*—A State statute meets the requirements set forth in this subsection if the statute—

(1) prohibits drivers from texting through a personal wireless communications device while driving;

(2) makes violation of the statute a primary offense;

(3) establishes—

(A) a minimum fine for a first violation of the statute;

and

(B) increased fines for repeat violations; and

(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

(c) *PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.*—A State statute meets the requirements set forth in this subsection if the statute—

- (1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;
- (2) makes violation of the statute a primary offense;
- (3) requires distracted driving issues to be tested as part of the State driver's license examination;
- (4) establishes—
- (A) a minimum fine for a first violation of the statute; and
- (B) increased fines for repeat violations; and
- (5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.
- (d) **PERMITTED EXCEPTIONS.**—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—
- (1) a driver who uses a personal wireless communications device to contact emergency services;
- (2) emergency services personnel who use a personal wireless communications device while—
- (A) operating an emergency services vehicle; and
- (B) engaged in the performance of their duties as emergency services personnel; and
- (3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.
- (e) **USE OF GRANT FUNDS.**—Of the grant funds received by a State under this section—
- (1) at least 50 percent shall be used—
- (A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;
- (B) for traffic signs that notify drivers about the distracted driving law of the State; or
- (C) for law enforcement costs related to the enforcement of the distracted driving law; and
- (2) up to 50 percent may be used for other projects that—
- (A) improve traffic safety; and
- (B) are consistent with the criteria set forth in section 402(a).
- (f) **ADDITIONAL GRANTS.**—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—
- (1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and
- (2) are otherwise ineligible for a grant under this section.
- (g) **DEFINITIONS.**—In this section:
- (1) **DRIVING.**—The term “driving”—
- (A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and
- (B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active road-

way and has stopped in a location where it can safely remain stationary.

(2) **PERSONAL WIRELESS COMMUNICATIONS DEVICE.**—The term “personal wireless communications device”—

(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

(3) **PRIMARY OFFENSE.**—The term “primary offense” means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

(4) **PUBLIC ROAD.**—The term “public road” has the meaning given that term in section 402(c).

(5) **TEXTING.**—The term “texting” means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

#### § 412. Agency accountability

[(a) **TRIENNIAL STATE MANAGEMENT REVIEWS.**—At least once every 3 years the Secretary shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs funded under this chapter. The Secretary shall provide review-based recommendations on how each State could improve the management and oversight of its grant activities and may provide a management and oversight plan for such grant programs.]

(a) **TRIENNIAL STATE MANAGEMENT REVIEWS.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

(2) **EXCEPTIONS.**—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

(3) **COMPONENTS.**—Reviews under this subsection shall include—

(A) a management evaluation of all grant programs funded under this chapter;

(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

(D) the development of recommendations on how each State could—

(i) improve the management and oversight of its grant activities; and

(ii) *provide a management and oversight plan for such grant programs.*

(b) **RECOMMENDATIONS BEFORE SUBMISSION.**—In order to provide guidance to State highway safety agencies on matters that should be addressed in the goals and initiatives of the State highway safety program before the program is submitted for review, the Secretary shall provide data-based recommendations to each State at least 90 days before the date on which the program is to be submitted for approval.

(c) **STATE PROGRAM REVIEW.**—The Secretary shall—

(1) conduct a program improvement review of a highway safety program under this chapter of a State that does not make substantial progress over a 3-year period in meeting its priority program goals; and

(2) provide technical assistance and safety program requirements to be incorporated in the State highway safety program for any goal not achieved.

(d) **REGIONAL HARMONIZATION.**—The Secretary and the Inspector General of the Department of Transportation shall undertake an administrative review of the practices and procedures of the management reviews and program reviews of State highway safety programs under this chapter conducted by the regional offices of the National Highway Traffic Safety Administration and prepare a written report of best practices and procedures for use by the regional offices in conducting such reviews. The report shall be completed within 180 days after the date of enactment of this section.

(e) **BEST PRACTICES GUIDELINES.**—

(1) **UNIFORM GUIDELINES.**—The Secretary shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties under this section.

(2) **PUBLICATION.**—The Secretary shall make publicly available on the Web site (or successor electronic facility) of the Administration the following documents upon their completion:

(A) The Secretary's management review guidelines and program review guidelines.

(B) All State highway safety programs submitted under this chapter.

(C) State annual accomplishment reports.

(D) The Administration's Summary Report of findings from Management Reviews and Improvement Plans.

(3) **REPORTS TO STATE HIGHWAY SAFETY AGENCIES.**—The Secretary may not make publicly available a program, report, or review under paragraph (2) that is directed to a State highway safety agency until after the date on which the program, report, or review is submitted to that agency under this chapter.

(f) **GAO REVIEW.**—

(1) **ANALYSIS.**—The Comptroller General shall analyze the effectiveness of the Administration's oversight of traffic safety grants under this chapter by determining the usefulness of the Administration's advice to the States regarding administration and State activities under this chapter, the extent to which the States incorporate the Administration's recommendations into their highway safety programs, and the improvements that re-

sult in a State's highway safety program that may be attributable to the Administration's recommendations.

【(2) REPORT.—Not later than September 30, 2008, the Comptroller General shall submit a report on the results of the analysis to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.】

**§ 413. In-vehicle alcohol detection device research**

(a) *IN GENERAL.*—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

(b) *REPORTS.*—The Administrator shall submit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) describing progress in carrying out the collaborative research effort; and

(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

(c) *DEFINITIONS.*—In this title:

(1) *ALCOHOL-IMPAIRED DRIVING.*—The term “alcohol-impaired driving” means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

(2) *LEGAL LIMIT.*—The term “legal limit” means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.

**§ 414. State Graduated Driver Licensing Incentive Grant**

(a) *GRANTS AUTHORIZED.*—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

(b) *MINIMUM REQUIREMENTS.*—

(1) *IN GENERAL.*—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver's license.

(2) *LICENSING PROCESS.*—A State is in compliance with the 2-stage licensing process described in this paragraph if the State's driver's license laws include—

(A) a learner's permit stage that—

(i) is at least 6 months in duration;

(ii) prohibits the driver from using a cellular telephone or any communications device in a non-emergency situation; and

- (iii) remains in effect until the driver—
  - (I) reaches 16 years of age and enters the intermediate stage; or
  - (II) reaches 18 years of age;
- (B) an intermediate stage that—
  - (i) commences immediately after the expiration of the learner's permit stage;
  - (ii) is at least 6 months in duration;
  - (iii) prohibits the driver from using a cellular telephone or any communications device in a non-emergency situation;
  - (iv) restricts driving at night;
  - (v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and
  - (vi) remains in effect until the driver reaches 18 years of age; and
- (C) any other requirement prescribed by the Secretary of Transportation, including—
  - (i) in the learner's permit stage—
    - (I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;
    - (II) a driver training course; and
    - (III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and
  - (ii) in the learner's permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense, including—
    - (I) driving while intoxicated;
    - (II) misrepresentation of his or her true age;
    - (III) reckless driving;
    - (IV) driving without wearing a seat belt;
    - (V) speeding; or
    - (VI) any other driving-related offense, as determined by the Secretary.

(c) **RULEMAKING.**—

(1) **IN GENERAL.**—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

(2) **EXCEPTION.**—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

(d) *ALLOCATION.*—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State's apportionment under section 402 for such fiscal year.

(e) *USE OF FUNDS.*—Grant funds received by a State under this section may be used for—

(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);

(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

(4) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

(5) carrying out a teen traffic safety program described in section 402(m).

## TITLE 49. TRANSPORTATION

### SUBTITLE VI. MOTOR VEHICLE AND DRIVER PROGRAMS

#### PART A. GENERAL

#### CHAPTER 301. MOTOR VEHICLE SAFETY

#### SUBCHAPTER I. GENERAL

### § 30102. Definitions

(a) *GENERAL DEFINITIONS.*—In this chapter—

(1) “dealer” means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(2) “defect” includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(3) “distributor” means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(4) “interstate commerce” means commerce between a place in a State and a place in another State or between places in the same State through another State.

(5) “manufacturer” means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(7) “motor vehicle equipment” means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

[(C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.]

*(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—*

*(i) is not a system, part, or component of a motor vehicle; and*

*(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.*

(8) “motor vehicle safety” means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(9) “motor vehicle safety standard” means a minimum standard for motor vehicle or motor vehicle equipment performance.

(10) “State” means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) “United States district court” means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b) LIMITED DEFINITIONS.—

(1) In sections 30117(b), 30118-30121, and 30166(f) of this title—

(A) “adequate repair” does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) “first purchaser” means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) “original equipment” means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) “replacement equipment” means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

**§ 30107. Restriction on covered motor vehicle safety officials**

(a) *IN GENERAL.*—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

(b) *MANUFACTURERS.*—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

(c) *SPECIAL RULE FOR DETAILEES.*—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(d) *SAVINGS PROVISION.*—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

(e) *EXCEPTION FOR TESTIMONY.*—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

(f) *DEFINED TERM.*—In this section, the term “covered vehicle safety official” means any officer or employee of the National Highway Traffic Safety Administration—

(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

(g) *EFFECTIVE DATE.*—*This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2011.*

SUBCHAPTER II. STANDARDS AND COMPLIANCE

**§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment**

(a) GENERAL.—

(1) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multi-function school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.

(3) *Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.*

(b) NONAPPLICATION.—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter; **[or]**

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter; or

(C) *having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);*

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing; or

(9) a motor vehicle that is at least 25 years old.

### § 30119. Notification procedures

(a) CONTENTS OF NOTIFICATION.—Notification by a manufacturer required under section 30118 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(3) the measures to be taken to obtain a remedy of the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30120 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30120 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30120 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) EARLIEST REMEDY DATE.—The date specified by a manufacturer in a notification under subsection (a)(5) of this section or section 30121(c)(2) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) TIME FOR NOTIFICATION.—Notification required under section 30118 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30118(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30118(c) of this title.

(d) MEANS OF PROVIDING NOTIFICATION.—

(1) Notification required under section 30118 of this title about a motor vehicle shall be sent **[by first class mail]** *in the manner prescribed by the Secretary, by regulation—*

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer through State records or other available sources; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notification required under section 30118 of this title about replacement equipment **[(except a tire) shall be sent by first class mail]** *shall be sent in the manner prescribed by the Secretary, by regulation* to the most recent purchaser known to the manufacturer. **[In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.]**

(3) **[Notification required under section 30118 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer.]** In addition *to the notification required under paragraphs (1) and (2)*, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given *by the manufacturer* in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified **[by certified mail or quicker means if available]** *in the manner prescribed by the Secretary, by regulation.*

(e) **[SECOND] ADDITIONAL NOTIFICATION.—[If the Secretary]**

*(1) SECOND NOTIFICATION.—If the Secretary decides that a notification sent by a manufacturer under this section has not resulted in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer to send a 2d notification in the way the Secretary prescribes by regulation.*

*(2) ADDITIONAL NOTIFICATIONS.—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result*

*in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—*

*(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;*

*(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and*

*(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.*

(f) NOTIFICATION BY LESSOR TO LESSEE.—

(1) In this subsection, “leased motor vehicle” means a motor vehicle that is leased to a person for at least 4 months by a lessor that has leased at least 5 motor vehicles in the 12 months before the date of the notification.

(2) A lessor that receives a notification required by section 30118 of this title about a leased motor vehicle shall provide a copy of the notification to the lessee in the way the Secretary prescribes by regulation.

**§ 30120. Remedies for defects and noncompliance**

(a) WAYS TO REMEDY.—

(1) Subject to subsections (f) and (g) of this section, when notification of a defect or noncompliance is required under section 30118(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

[(B) if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.]

*(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.*

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement of a motor vehicle or refund of its price.

\* \* \* \* \*

(i) LIMITATION ON SALE OR LEASE OF NEW VEHICLES OR EQUIPMENT.—

(1) If notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer (including retailers of motor vehicle equipment) notification about a new motor vehicle or new item of replacement equipment in the dealer’s possession at the time of notification that contains

a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—

- (A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or
- (B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(2) This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment.

(j) **PROHIBITION ON SALES OF [REPLACED] REPLACEMENT EQUIPMENT.**—No person may sell or lease any motor vehicle equipment (including a tire), for installation on a motor vehicle, that is the subject of a decision under section 30118(b) or a notice required under section 30118(c) in a condition that it may be reasonably used for its original purpose unless—

- (1) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or
- (2) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is set aside in a civil action to which section 30121(d) applies.

**§ 30120A. Recall obligations and bankruptcy of a manufacturer**

*A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority, pursuant to section 3710 of such chapter, to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.*

**§ 30122. Making safety devices and elements inoperative**

(a) **DEFINITION.**—In this section, “motor vehicle repair business” means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) **PROHIBITION.**—A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) **REGULATIONS.**—The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define “make inoperative”.

[(d) NONAPPLICATION.—This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30124 of this title.]

**【§ 30124. Buzzers indicating nonuse of safety belts**

A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the “start” or “on” position.】

**§ 30124. Nonuse of safety belts**

*A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.*

SUBCHAPTER III. IMPORTING **【NONCOMPLYING】** MOTOR VEHICLES AND EQUIPMENT

**§ 30147. Responsibility for defects and noncompliance**

(a) DEEMING DEFECT OR NONCOMPLIANCE TO CERTAIN VEHICLES AND IMPORTER AS MANUFACTURER.—

(1) In carrying out sections 30117(b), 30118-30121, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

[(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30117(b), 30118-30121, and 30166(f) of this title.】

(b) *FINANCIAL RESPONSIBILITY REQUIREMENT.*—

(1) *RULEMAKING.*—*The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f).*

(2) *REFUSAL OF ADMISSION.*—*If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.*

(3) *EXCEPTION.*—*This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2011—*

*(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;*

*(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and*

*(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.*

## SUBCHAPTER IV. ENFORCEMENT AND ADMINISTRATIVE

§ 30164. **Service of process; conditions on importation of vehicles and equipment**

(a) *DESIGNATING AGENTS.*—*A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.*

(b) *SERVICE.*—*An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.*

(c) *IDENTIFYING INFORMATION.*—*A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—*

*(1) the product by name and the manufacturer's address; and*

*(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.*

(d) *RULEMAKING.*—*The Secretary may issue regulations that—*

(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

- (A) the requirements under this section;
- (B) any rules issued with respect to such requirements; or
- (C) any other requirements under this chapter or rules issued with respect to such requirements;

(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

(e) *EXCEPTION.*—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2011—

(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.

### § 30165. Civil penalty

(a) CIVIL PENALTIES.—

(1) *IN GENERAL.*—A person that violates any of section 30112, 30115, 30117 through 30122, [30123(d)] 30123(a), 30125(c), 30127, or 30141 through 30147, or a regulation prescribed thereunder, is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum penalty under this subsection for a related series of violations is [ \$15,000,000 ] \$250,000,000.

(2) *SCHOOL BUSES.*—

(A) *IN GENERAL.*—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be \$10,000 in the case of—

- (i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or
- (ii) a violation of section 30112(a)(2) of this title.

(B) *RELATED SERIES OF VIOLATIONS.*—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is \$15,000,000.

(3) SECTION 30166.—**[A person]** *Except as provided in paragraph (4), a person who violates section 30166 or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$5,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is **[\$15,000,000]** \$250,000,000.*

(4) *FALSE, MISLEADING, OR INCOMPLETE REPORTS.*—*A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is \$5,000,000.*

(5) *IMPROPER INFLUENCE.*—*An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—*

(A) *an amount equal to not less than \$100,000; and*

(B) *an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.*

(b) **COMPROMISE AND SETOFF.**—

(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

**[(c) CONSIDERATIONS.**—*In determining the amount of a civil penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.]*

(c) *RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.*—*In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—*

(1) *the nature of the defect or noncompliance;*

(2) *knowledge by the person charged of its obligation to recall or notify the public;*

(3) *the severity of the risk of injury;*

(4) *the occurrence or absence of injury;*

(5) *the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;*

(6) *the existence of an imminent hazard;*

(7) *actions taken by the person charged to identify, investigate, or mitigate the condition;*

(8) *the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;*

(9) *whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and*

(10) *other appropriate factors.*

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpoena for a witness may be served in any judicial district.

### § 30166. Inspections, investigations, and records

(a) DEFINITION.—In this section, “motor vehicle accident” means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) AUTHORITY TO INSPECT AND INVESTIGATE.—

(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) MATTERS THAT CAN BE INSPECTED AND IMPOUNDMENT.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter; **[and]**

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce (*including at United States ports of entry*);

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment, *including any electronic data contained within the vehicle’s diagnostic system or event data recorder*; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident**[.]**;

(4) *shall obtain from the Secretary of Homeland Security without charge, upon the request of the Secretary of Transpor-*

*tation, a reasonable number of samples of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter; and*

*(5) shall instruct the Secretary of Homeland Security to refuse admission of the motor vehicle equipment into the customs territory of the United States if the Secretary of Transportation determines, after examination of the samples obtained under paragraph (4), that such refusal is warranted due to non-compliance with—*

*(A) this chapter;*

*(B) a regulation prescribed under this chapter; or*

*(C) an order issued under this chapter.*

(d) REASONABLE COMPENSATION.—When a motor vehicle (except a vehicle subject to subchapter I of chapter 135 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) RECORDS AND MAKING REPORTS.—The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable the Secretary to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor or dealer in addition to those imposed under subsection (f) of this section and section 30117(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30117(b).

(f) PROVIDING COPIES OF COMMUNICATIONS ABOUT DEFECTS AND NONCOMPLIANCE.—**[A manufacturer shall give the Secretary of Transportation]**

*(1) IN GENERAL.— A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website, a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.*

*(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.*

*(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—*

(A) identifies the make, model, and model year of the affected vehicles;

(B) includes a concise summary of the subject matter of the communication; and

(C) shall be made available by the Secretary to the public on the Internet in a searchable format.

\* \* \* \* \*

(m) EARLY WARNING REPORTING REQUIREMENTS.—

(1) RULEMAKING REQUIRED.—Not later than 120 days after the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, the Secretary shall initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary's ability to carry out the provisions of this chapter.

(2) DEADLINE.—The Secretary shall issue a final rule under paragraph (1) not later than June 30, 2002.

(3) REPORTING ELEMENTS.—

(A) WARRANTY AND CLAIMS DATA.—As part of the final rule promulgated under paragraph (1), the Secretary shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) OTHER DATA.—As part of the final rule promulgated under paragraph (1), the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) REPORTING OF POSSIBLE DEFECTS.—The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States, or in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical

or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

(4) HANDLING AND UTILIZATION OF REPORTING ELEMENTS.—

(A) SECRETARY'S SPECIFICATIONS.—In requiring the reporting of any information requested by the Secretary under this subsection, the Secretary shall specify in the final rule promulgated under paragraph (1)—

(i) how such information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety;

(ii) the systems and processes the Secretary will employ or establish to review and utilize such information; and

(iii) the manner and form of reporting such information, including in electronic form.

(B) INFORMATION IN POSSESSION OF MANUFACTURER.—The regulations promulgated by the Secretary under paragraph (1) may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.

[(C) DISCLOSURE.—None of the information collected pursuant to the final rule promulgated under paragraph (1) shall be disclosed pursuant to section 30167(b) unless the Secretary determines the disclosure of such information will assist in carrying out sections 30117(b) and 30118 through 30121.]

(C) DISCLOSURE.—

(i) IN GENERAL.—*The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.*

(ii) PRESUMPTION.—*In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.*

(D) BURDENSOME REQUIREMENTS.—In promulgating the final rule under paragraph (1), the Secretary shall not impose requirements unduly burdensome to a manufacturer of a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and the Secretary's ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

(5) PERIODIC REVIEW.—As part of the final rule promulgated pursuant to paragraph (1), the Secretary shall specify procedures for the periodic review and update of such rule.

(n) SALE OR LEASE OF DEFECTIVE OR NONCOMPLIANT TIRE.—

(1) IN GENERAL.—The Secretary shall, within 90 days of the date of the enactment of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, issue a final rule requiring any person who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire which is not compliant with an applicable tire safety standard with actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance as

required under section 30118(c) or as required by an order under section 30118(b) to report such sale or lease to the Secretary.

(2) DEFECT OR NONCOMPLIANCE REMEDIED OR ORDER NOT IN EFFECT.—Regulations under paragraph (1) shall not require the reporting described in paragraph (1) where before delivery under a sale or lease of a tire—

(A) the defect or noncompliance of the tire is remedied as required by section 30120; or

(B) notification of the defect or noncompliance is required under section 30118(b) but enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) applies.

(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

(1) IN GENERAL.—*The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—*

(A) *the signing official has reviewed the submission; and*

(B) *based on the official's knowledge, the submission does not—*

(i) *contain any untrue statement of a material fact;*

*or*

(ii) *omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.*

(2) NOTICE.—*The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).*

### **§ 30168. Research, testing, development, and training**

**[(a) GENERAL AUTHORITY.—**

**[(1) The Secretary of Transportation shall conduct research, testing, development, and training necessary to carry out this chapter. The research, development, testing, and training shall include—**

**[(A) collecting information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—**

**[(i) accidents involving motor vehicles; and**

**[(ii) the occurrence of death or personal injury resulting from those accidents;**

**[(B) obtaining experimental and other motor vehicles and motor vehicle equipment for research or testing; and**

**[(C) selling or otherwise disposing of test motor vehicles and motor vehicle equipment and crediting the proceeds to current appropriations available to carry out this chapter.**

**[(2) The Secretary may carry out this subsection through grants to States, interstate authorities, and nonprofit institutions.**

**[(b) USE OF PUBLIC AGENCIES.—In carrying out this chapter, the Secretary shall use the services, research, and testing facilities of**

public agencies to the maximum extent practicable to avoid duplication.

[(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than \$100,000 for planning, design, or construction may be made only if the planning, design, or construction is approved by substantially similar resolutions by the Committees on Commerce and Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. To obtain that approval, the Secretary shall submit to Congress a prospectus on the proposed facility. The prospectus shall include—

[(1) a brief description of the facility being planned, designed, or built;

[(2) the location of the facility;

[(3) an estimate of the maximum cost of the facility;

[(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

[(5) a justification of the need for the facility.

[(d) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility approved under subsection (c) of this section may be increased by an amount equal to the percentage increase in construction costs from the date the prospectus is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the prospectus. The Secretary shall decide what increase in construction costs has occurred.

[(e) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. However, the owner of a background patent may not be deprived of a right under the patent.]

**§ 30171. Protection of employees providing motor vehicle safety information**

(a) *DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—*

*(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;*

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

(3) testified or is about to testify in such a proceeding;

(4) assisted or participated or is about to assist or participate in such a proceeding; or

(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

(b) COMPLAINT PROCEDURE.—

(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the “Secretary”) alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION; PRELIMINARY ORDER.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this sub-

section and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) *SHOWING BY EMPLOYER.*—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) *CRITERIA FOR DETERMINATION BY SECRETARY.*—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) *PROHIBITION.*—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) *FINAL ORDER.*—

(A) *DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.*—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

(B) *REMEDY.*—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

- (i) to take affirmative action to abate the violation;
- (ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and
- (iii) to provide compensatory damages to the complainant.

(C) *ATTORNEYS' FEES.*—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

(D) *FRIVOLOUS COMPLAINTS.*—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

(E) *DE NOVO REVIEW.*—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

(4) *REVIEW.*—

(A) *APPEAL TO COURT OF APPEALS.*—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) *LIMITATION ON COLLATERAL ATTACK.*—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) *ENFORCEMENT OF ORDER BY SECRETARY.*—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

(6) *ENFORCEMENT OF ORDER BY PARTIES.*—

(A) *COMMENCEMENT OF ACTION.*—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) *ATTORNEY FEES.*—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to

*any party whenever the court determines such award is appropriate.*

(c) *MANDAMUS.*—*Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.*

(d) *NONAPPLICABILITY TO DELIBERATE VIOLATIONS.*—*Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.*

#### **SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT**

##### **§ 30181. Policy**

*The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.*

##### **§ 30182. Powers and duties**

- (a) *IN GENERAL.*—*The Secretary of Transportation shall—*
- (1) *conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;*
  - (2) *collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—*
    - (A) *accidents involving motor vehicles; and*
    - (B) *deaths or personal injuries resulting from those accidents;*
  - (3) *promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—*
    - (A) *planning, implementing, conducting, and presenting results of program activities; and*
    - (B) *travel and related expenses;*
  - (4) *obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;*
  - (5)(A) *use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or*
    - (B) *sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;*
  - (6) *award grants to States and local governments, interstate authorities, and nonprofit institutions; and*
  - (7) *enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships,*

*sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and foreign governments and research organizations.*

(b) *USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.*

(c) *FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.*

(d) *AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.*

**§ 30183. Prohibition on certain disclosures.**

*Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.*

CHAPTER 303. NATIONAL DRIVER REGISTER

**§ 30302. National Driver Register**

(a) *ESTABLISHMENT AND CONTENTS.—The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—*

(1) *to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;*

(2) *to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;*

(3) *to refer the request to the chief driver licensing official of a State of record; and*

(4) *in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.*

(b) *ACCURACY OF INFORMATION.—The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall main-*

tain the Register in a way that ensures against inadvertent alteration of information during a relay. *The Secretary shall make continual improvements to modernize the Register's data processing system.*

\* \* \* \* \*

PART C. INFORMATION, STANDARDS, AND REQUIREMENTS

CHAPTER 323. CONSUMER INFORMATION

**§ 32301. Definitions**

In this chapter—

(1) *“crash avoidance” means preventing or mitigating a crash;*

**[(1)]** (2) *“crashworthiness” means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.* **].** *; and*

**[(2)]** (3) *“damage susceptibility” means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.*

**§ 32302. Passenger motor vehicle information**

(a) **INFORMATION PROGRAM.**—The Secretary of Transportation shall maintain a program for developing the following information on passenger motor vehicles:

(1) damage susceptibility.

(2) crashworthiness, *crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles.*

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

**[(4)]** vehicle operating costs dependent on the characteristics referred to in clauses (1)-(3) of this subsection, including insurance information obtained under section 32303 of this title. **]**

(b) **MOTOR VEHICLE INFORMATION.**—To assist a consumer in buying a passenger motor vehicle, the Secretary shall provide to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)-(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers.

(c) **INSURANCE COST INFORMATION.**—The Secretary shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness.

(d) **MOTOR VEHICLE DEFECT REPORTING INFORMATION.**—

(1) **RULEMAKING REQUIRED.**—*Not later than 1 year after the date of the enactment of the Motor Vehicle and Highway Safety Improvement Act of 2011, the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—*

*(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable*

language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

(B) to prominently print the information described in subparagraph (A) on a separate page within the owner's manual; and

(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

(2) *APPLICATION.*—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).

#### CHAPTER 327. ODOMETERS

### § 32702. Definitions

In this chapter—

(1) “auction company” means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) “dealer” means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) “distributor” means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) “leased motor vehicle” means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) “odometer” means an instrument or system of components for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) “repair” and “replace” mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) “title” means the certificate of title or other document issued by the State indicating ownership.

(8) “transfer” means to change ownership by sale, gift, or any other means.

### § 32705. Disclosure requirements on transfer of motor vehicles

\* \* \* \* \*

(g) *ELECTRONIC DISCLOSURES.*—In carrying out this section, the Secretary may prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.

### § 32709. Penalties and enforcement

(a) *CIVIL PENALTY.*—

(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than **[\$2,000] \$10,000** for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The

maximum penalty under this subsection for a related series of violations is ~~【\$100,000】~~ *\$1,000,000*.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) **CRIMINAL PENALTY.**—A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

(c) **CIVIL ACTIONS BY ATTORNEY GENERAL.**—The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpoena for a witness in the action may be served in any judicial district.

(d) **CIVIL ACTIONS BY STATES.**—

(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

### **§ 32710. Civil actions by private persons**

(a) **VIOLATION AND AMOUNT OF DAMAGES.**—A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or ~~【\$1,500】~~ *\$10,000*, whichever is greater.

(b) CIVIL ACTIONS.—A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney’s fee to the person when a judgment is entered for that person.

CHAPTER 331. THEFT PREVENTION

**§ 33112. Insurance reports and information**

[(a) PURPOSES.—The purposes of this section are—

[(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

[(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

[(3) to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

[(b) DEFINITIONS.—In this section—

[(1) “insurer” includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental or lease and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

[(2) “motor vehicle” includes a truck, a multipurpose passenger vehicle, and a motorcycle.

[(c) ANNUAL INFORMATION REQUIREMENT.—

[(1) An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on—

[(A) the thefts and recoveries (in any part) of motor vehicles;

[(B) the number of vehicles that have been recovered intact;

[(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

[(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

[(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

[(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

[(2) The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

[(d) REPORTS ON REDUCED CLAIMS PAYMENTS.—An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle—

[(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 or 33103 of this title; and

[(2) the reduction is not made at the express election of the insured.

[(e) GENERAL EXEMPTIONS.—The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because—

[(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

[(2) the information from that insurer will not contribute significantly to carrying out this chapter.

[(f) SMALL INSURER EXEMPTIONS.—

[(1) In this subsection, “small insurer” means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for—

[(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

[(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

[(2) The Secretary shall exempt by regulation a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

[(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

[(g) PRESCRIBED FORM.—Information required by this section shall be provided in the form the Secretary prescribes.

[(h) PERIODIC COMPILATIONS.—Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

[(i) CONSULTATION.—In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.】

SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU)

**SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM.**

[23 U.S.C. 402 note]

(a) **IN GENERAL.**—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which **[at least 2]** *at least 3* high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of **[years 2006 through 2012.]** *fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).*

(b) **PURPOSE.**— The purpose of each law enforcement campaign under this section shall be to achieve **[either or both]** *outcomes related to at least 1* of the following objectives:

(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(2) Increase use of seat belts by occupants of motor vehicles.

(c) **ADVERTISING.**—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising *and Internet-based outreach* in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

(d) **COORDINATION WITH STATES.**— The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—

(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, 406, and 410 of title 23, United States Code; and

(2) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

(e) **USE OF FUNDS.**— Funds made available to carry out this section may only be used for activities described in **[subsections (a), (c), and (f)]** *subsection (c).*

**[(f)] ANNUAL EVALUATION.**— The Secretary shall conduct an annual evaluation of the effectiveness of campaigns referred to in subsection (a). **]**

**[(g)] (f) STATE DEFINED.**— The term “State” has the meaning such term has under section 401 of title 23, United States Code.

**SEC. 2010. MOTORCYCLIST SAFETY.**

[23 U.S.C. 402 note]

(a) **AUTHORITY TO MAKE GRANTS.**—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.

**[(b)] MAINTENANCE OF EFFORT.**—No grant may be made to a State under this section in a fiscal year unless the State enters into

such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.】

【(c)】 (b) ALLOCATION.—The amount of a grant made to a State for a fiscal year under this section may not be less than \$100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

【(d)】 (c) GRANT ELIGIBILITY.—

(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating 【to the satisfaction of the Secretary—

(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2); and

(B) for the second, third, fourth, fifth, sixth, and seventh fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2).】, *to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).*

(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.

(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).

(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety programs.

【(e)】 (d) ELIGIBLE USES.—

(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—

(A) improvements to motorcyclist safety training curricula;

(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

(i) procurement or repair of practice motorcycles;

(ii) instructional materials;

(iii) mobile training units; and

(iv) leasing or purchasing facilities for closed-course motorcycle skill training;

(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(D) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the “share-the-road” safety messages developed under subsection (g).

(2) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.

[(f)] (e) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTORCYCLIST SAFETY TRAINING.—The term “motorcyclist safety training” means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(2) MOTORCYCLIST AWARENESS.—The term “motorcyclist awareness” means individual or collective awareness of—

(A) the presence of motorcycles on or near roadways; and

(B) safe driving practices that avoid injury to motorcyclists.

(3) MOTORCYCLIST AWARENESS PROGRAM.—The term “motorcyclist awareness program” means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(4) STATE.—The term “State” has the same meaning such term has in section 101(a) of title 23, United States Code.

[(g)] SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver’s manuals, and other driver’s training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.]

**SEC. 10202. FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.**

[42 U.S.C. 300d-4]

**(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—**

(1) **ESTABLISHMENT.**—The Secretary of Transportation, the Secretary of Health and Human Services, and the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services.

(2) **MEMBERSHIP.**—The Interagency Committee shall consist of the following officials, or their designees:

(A) The Administrator, National Highway Traffic Safety Administration.

(B) The Director, Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.

(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.

(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.

(E) The Administrator, United States Fire Administration, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.

(F) The Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services.

(G) The Under Secretary of Defense for Personnel and Readiness.

(H) The Director, Indian Health Service, Department of Health and Human Services.

(I) The Chief, Wireless Telecommunications Bureau, Federal Communications Commission.

(J) A representative of any other Federal agency appointed by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.

(K) A State emergency medical services director appointed by the Secretary.

(3) **PURPOSES.**—The purposes of the Interagency Committee are as follows:

(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9-1-1 systems.

(B) To identify State, local, tribal, or regional emergency medical services and 9-1-1 needs.

(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9-1-1.

(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.

(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.

(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.

(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Administrator of the Health Resources and Services Administration of the Department of Health and Human Services and the Director of the Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee each year.

(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.

(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress regarding the Committee's activities, actions, and recommendations.

(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—*The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the "Advisory Council").*

(2) MEMBERSHIP.—*The Advisory Council shall be composed of 25 members, who—*

*(A) shall be appointed by the Secretary of Transportation; and*

*(B) shall collectively be representative of all sectors of the emergency medical services community.*

(3) PURPOSES.—*The purposes of the Advisory Council are to advise and consult with—*

*(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and*

*(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.*

(4) ADMINISTRATION.—*The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.*

(5) LEADERSHIP.—*The members of the Advisory Council shall annually select a chairperson of the Council.*

(6) *MEETINGS.*—*The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.*

(7) *ANNUAL REPORTS.*—*The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council's actions and recommendations.*

### AUTOMOBILE INFORMATION DISCLOSURE ACT

#### SEC. 3. LABEL AND ENTRY REQUIREMENTS.

[15 U.S.C. 1232]

Every manufacturer of new automobiles distributed in commerce shall, prior to the delivery of any new automobile to any dealer, or at or prior to the introduction date of new models delivered to a dealer prior to such introduction date, securely affix to the windshield, or side window of such automobile a label on which such manufacturer shall endorse clearly, distinctly and legibly true and correct entries disclosing the following information concerning such automobile—

(a) the make, model, and serial or identification number or numbers;

(b) the final assembly point;

(c) the name, and the location of the place of business, of the dealer to whom it is to be delivered;

(d) the name of the city or town at which it is to be delivered to such dealer;

(e) the method of transportation used in making delivery of such automobile, if driven or towed from final assembly point to place of delivery;

(f) the following information:

(1) the retail price of such automobile suggested by the manufacturer;

(2) the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment, physically attached to such automobile at the time of its delivery to such dealer, which is not included within the price of such automobile as stated pursuant to paragraph (1);

(3) the amount charged, if any, to such dealer for the transportation of such automobile to the location at which it is delivered to such dealer; and

(4) the total of the amounts specified pursuant to paragraphs (1), (2), and (3);

(g) if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

(2) refers to *safety rating categories that may include* frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including <http://www.safecar.gov>; and

(4) is presented in a legible, visible, and prominent fashion and covers at least—

(A) 8 percent of the total area of the label; or

(B) an area with a minimum length of 4 1/2 inches and a minimum height of 3 1/2 inches; and

(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.

