

(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.

(Added Pub. L. 97-364, title I, §101(a), Oct. 25, 1982, 96 Stat. 1738; amended Pub. L. 98-363, §§ 4, 7, July 17, 1984, 98 Stat. 436, 438; Pub. L. 100-17, title II, §203(a), (b), Apr. 2, 1987, 101 Stat. 219; Pub. L. 109-59, title II, §2006(a), Aug. 10, 2005, 119 Stat. 1527.)

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

The date of enactment of the SAFETEA-LU, referred to in subsec. (e)(3), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109-59 amended section catchline and text generally, substituting provisions relating to State traffic safety information system improvements for provisions relating to alcohol traffic safety programs.

1987—Subsec. (c). Pub. L. 100-17, §203(a), substituted “5” for “three” in introductory provisions and “third, fourth, and fifth fiscal years” for “third fiscal year” in par. (3).

Subsec. (g). Pub. L. 100-17, §203(b), inserted “and except that sums authorized by this subsection shall remain available until expended” before period at end of second sentence.

1984—Subsec. (a). Pub. L. 98-363, §§4(a), 7(a), struck out “basic and supplemental” after “Secretary shall make” and inserted “or a controlled substance” after “alcohol”.

Subsec. (c)(1). Pub. L. 98-363, §4(b), inserted “and controlled substance” after “alcohol”.

Subsec. (d)(3). Pub. L. 98-363, §7(b), added par. (3).

Subsec. (e)(3). Pub. L. 98-363, §7(c), added par. (3).

Subsec. (f)(8). Pub. L. 98-363, §4(c), added par. (8).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-59 effective Oct. 1, 2005, see section 2022 of Pub. L. 109-59, set out as a note under section 402 of this title.

EFFECTIVENESS OF DRUNK DRIVING LAWS

Pub. L. 104-59, title III, §358(d), Nov. 28, 1995, 109 Stat. 626, required the Secretary to conduct a study to evaluate the effectiveness of certain State laws on reducing drunk driving.

REGULATIONS; CONGRESSIONAL VETO OF SUPPLEMENTAL GRANTS

Pub. L. 97-364, title I, §101(c), Oct. 25, 1982, 96 Stat. 1740, required the Secretary of Transportation, before Feb. 1, 1983, to issue regulations to implement this section.

§ 409. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying,

evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 148 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.

(Added Pub. L. 100-17, title I, §132(a), Apr. 2, 1987, 101 Stat. 170; amended Pub. L. 102-240, title I, §1035(a), Dec. 18, 1991, 105 Stat. 1978; Pub. L. 104-59, title III, §323, Nov. 28, 1995, 109 Stat. 591; Pub. L. 109-59, title I, §1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225.)

AMENDMENTS

2005—Pub. L. 109-59 substituted “148” for “152”.
 1995—Pub. L. 104-59 inserted “or collected” after “data compiled”.
 1991—Pub. L. 102-240 substituted “Discovery and admission” for “Admission” in section catchline and “subject to discovery or admitted into evidence in a Federal or State court proceeding” for “admitted into evidence in Federal or State court” in text.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

§ 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 tenth 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 fiscal years 2008, 2009, 2010, and 2011 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 ap-