

(j) *Use of fees collected from motorcyclists for motorcycle programs.* (1) To satisfy this criterion, a State shall have a process under which all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are used for motorcycle training and safety programs. A State may qualify under this criterion as either a Law State or a Data State.

(i) A Law State is a State that has a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs.

(ii) A Data State is a State that does not have a statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs but can show through data and/or documentation from official records that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs, without diversion.

(2)(i) To demonstrate compliance as a Law State, the State shall submit the legal citation(s) to the statute or regulation requiring that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs are to be used for motorcycle training and safety programs and the legal citation(s) to the State's current fiscal year appropriation (or preceding fiscal year appropriation, if the State has not enacted a law at the time of the State's application) appropriating all such fees to motorcycle training and safety programs.

(ii) To demonstrate compliance as a Data State, a State shall submit data or documentation from official records from the previous State fiscal year showing that all fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs were, in fact, used for motorcycle training and safety programs. Such data or documentation shall show that revenues collected for

the purposes of funding motorcycle training and safety programs were placed into a distinct account and expended only for motorcycle training and safety programs.

(k) *Award limitation.* A grant awarded under the procedures described in §1200.20(e)(1) may not exceed the amount of a grant made to State for fiscal year 2003 under 23 U.S.C. 402.

(l) *Use of grant funds.* (1) *Eligible uses.* A State may use grant funds awarded under this section for motorcyclist safety training and motorcyclist awareness programs, including—

(i) Improvements to motorcyclist safety training curricula;

(ii) Improvements in program delivery of motorcycle training to both urban and rural areas, including—

(A) Procurement or repair of practice motorcycles;

(B) Instructional materials;

(C) Mobile training units; and

(D) Leasing or purchasing facilities for closed-course motorcycle skill training;

(iii) Measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

(iv) Public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the "share-the-road" safety messages developed using Share-the-Road model language available on NHTSA's Web site at <http://www.trafficsafetymarketing.gov>.

(2) *Suballocation of funds.* 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 grant activities under this section.

§ 1200.26 State graduated driver licensing incentive grants.

(a) *Purpose.* This section establishes criteria, in accordance with 23 U.S.C. 405(g), for awarding grants to States that adopt and implement graduated driver's licensing laws that require novice drivers younger than 21 years of age to comply with a 2-stage licensing process prior to receiving a full driver's license.

(b) *Definitions.* As used in this section—

Conviction-free means that, during the term of the permit or license covered by the program, the driver has not been convicted of any offense under State or local law relating to the use or operation of a motor vehicle, including but not limited to driving while intoxicated, reckless driving, driving without wearing a seat belt, speeding, prohibited use of a personal wireless communications device, and violation of the driving-related restrictions applicable to the stages of the graduated driver's licensing process set forth in paragraph (c) of this section, as well as misrepresentation of a driver's true age.

Driving, for purposes of paragraph (c)(2)(iii) of this section, 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, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

Full driver's license means a license to operate a passenger motor vehicle on public roads at all times.

Licensed driver means a driver who possesses a valid full driver's license.

Novice driver means a driver who has not been issued by a State an intermediate license or full driver's license.

(c) *Qualification criteria.* (1) *General.* To qualify for a grant under this section, a State shall submit the assurances in Part 6 of Appendix D, signed by the Governor's Representative for Highway Safety, providing legal citations to the State statute or statutes demonstrating compliance with the requirements of paragraph (c)(2) of this section, and provide legal citation(s) to the statute or regulation or provide documentation demonstrating compliance with the requirements of paragraph (c)(3) of this section.

(2) *Graduated driver's licensing law.* A State's graduated driver's licensing law shall include a learner's permit stage and an intermediate stage meeting the following minimum requirements:

- (i) The learner's permit stage shall—
 - (A) Apply to any novice driver who is younger than 21 years of age prior to the receipt by such driver from the

State of any other permit or license to operate a motor vehicle;

(B) Commence only after an applicant for a learner's permit passes vision and knowledge tests, including tests about the rules of the road, signs, and signals;

(C) Subject to paragraph (c)(2)(iii)(B), be in effect for a period of at least six months, but may not expire until the driver reaches at least 16 years of age; and

(D) Require the learner's permit holder to—

(1) Be accompanied and supervised by a licensed driver who is at least 21 years of age at all times while the learner's permit holder is operating a motor vehicle;

(2) Receive not less than 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

(3) Complete a driver education or training course that has been certified by the State; and

(4) Pass a driving skills test prior to entering the intermediate stage or being issued another permit, license or endorsement.

(ii) The intermediate stage shall—

(A) Apply to any driver who has completed the learner's permit stage and who is younger than 18 years of age;

(B) Commence immediately after the expiration of the learner's permit stage;

(C) Subject to paragraph (c)(2)(iii)(B), be in effect for a period of at least six months, but may not expire until the driver reaches at least 18 years of age;

(D) Require the intermediate license holder to be accompanied and supervised by a licensed driver who is at least 21 years of age during the period of time between the hours of 10:00 p.m. and 5:00 a.m., except in case of emergency; and

(E) Prohibit the intermediate license holder from operating a motor vehicle with more than one 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.

(iii) During both the learner's permit and intermediate stages, the State shall—

(A) Impose a prohibition enforced as a primary offense on use of a cellular

telephone or any communications device by the driver while driving, except in case of emergency; and

(B) Require that the driver who possesses a learner's permit or intermediate license remain conviction-free for a period of not less than six consecutive months immediately prior to the expiration of that stage.

(3) *Requirement for license distinguishability.* The State learner's permit, intermediate license, and full driver's license shall be distinguishable from each other. A State may satisfy this requirement by submitting—

(i) Legal citations to the State statute or regulation requiring that the State learner's permit, intermediate license, and full driver's license be visually distinguishable;

(ii) Sample permits and licenses that contain visual features that would enable a law enforcement officer to distinguish between the State learner's permit, intermediate license, and full driver's license; or

(iii) A description of the State's system that enables law enforcement officers in the State during traffic stops to distinguish between the State learner's permit, intermediate license, and full driver's license.

(4) *Exceptions.* A State that otherwise meets the minimum requirements set forth in paragraph (c)(2) of this section will not be deemed ineligible for a grant under this section if—

(i) The State enacted a law prior to January 1, 2011, establishing a class of permit or license that allows drivers younger than 18 years of age to operate 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, provided that the State requires the applicant or licensee to affirmatively and adequately demonstrate unique undue hardship to the individual; and

(ii) Drivers who possess only the permit or license permitted under paragraph (c)(4)(i) of this section are treated as novice drivers subject to the graduated driver's licensing require-

ments of paragraph (c)(2) of this section as a pre-condition of receiving any other permit, license or endorsement.

(d) *Award.* (1) *Grant Amount.* Subject to paragraph (d)(2) of this section, grant funds for a fiscal year under this section shall be allocated among States that meet the qualification criteria on the basis of the apportionment formula under 23 U.S.C. 402 for that fiscal year.

(2) *Limitation.* Amount of grant award to a State under this section may not exceed 10 percent of the total amount made available for Section 405(g) for that fiscal year.

(e) *Use of grant funds.* A State may use grant funds awarded under this section as follows:

(1) At least 25 percent of the grant funds shall be used, in connection with the State's graduated driver's licensing law that complies with the minimum requirements set forth in paragraph (c) of this section, to:

(i) Enforce the graduated driver's licensing process;

(ii) Provide training for law enforcement personnel and other relevant State agency personnel relating to the enforcement of the graduated driver's licensing process;

(iii) Publish relevant educational materials that pertain directly or indirectly to the State graduated driver's licensing law;

(iv) Carry out administrative activities to implement the State's graduated driver's licensing process; or

(v) Carry out a teen traffic safety program described in 23 U.S.C. 402(m);

(2) No more than 75 percent may be used for any eligible project or activity under 23 U.S.C. 402.

Subpart D—Administration of the Highway Safety Grants

§ 1200.30 General.

Subject to the provisions of this subpart, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs and projects carried out under 23 U.S.C. Chapter 4. Cost principles include those referenced in 49 CFR 18.22.