



U.S. Department
Of Transportation



REGULATORY IMPACT ANALYSIS

National Priority Safety Programs Under MAP-21 Section 405

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Introduction

This Regulatory Impact Analysis accompanies an Interim Final Rule to establish new uniform procedures governing the implementation of State highway safety grant programs under Chapter 4 of Title 23, U.S.C., as amended by the Moving Ahead for Progress in the 21st Century Act (MAP-21), which on July 6, 2012, was signed into law Pub. L. 112-141. MAP-21 restructured and made various substantive changes to the highway safety grant programs administered by the National Highway Traffic Safety Administration (NHTSA). Specifically, MAP-21 modified the existing formula grant program codified at 23 U.S.C. 402 (Section 402) by requiring States to develop and implement the State highway safety program using performance measures. MAP-21 also rescinded a number of separate incentive grant programs that existed under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, and replaced them with the “National Priority Safety Programs,” codified in a single section of the United States Code (23 U.S.C. 405 (Section 405)). The National Priority Safety Programs include Occupant Protection, State Traffic Safety Information Systems, Impaired Driving Countermeasures, Motorcyclist Safety, and two new grant programs – Distracted Driving and State Graduated Driver Licensing.

Under existing procedures, States must submit a Highway Safety Plan (HSP) each year to NHTSA for approval, describing their highway safety program and the activities they plan to undertake. MAP-21 amended Section 402 to require, among other things, States to submit for fiscal year 2014 and thereafter an HSP with performance measures and targets as a condition of approval of the State’s highway safety program. (23 U.S.C. 402(k)(3))

The National Priority Safety Programs created by MAP-21 continue many aspects of previous grants, but also include changes. (23 U.S.C. 405) Specifically, MAP-21 consolidated several previously separate occupant protection grants into a single occupant protection grant under new Section 405(b), updated the requirements for a State traffic safety information system improvements grant under new Section 405(c), revised the impaired driving countermeasures grant under new Section 405(d), including a new grant for State ignition interlock laws, created a new distracted driving grant under new Section 405(e), extended the motorcyclist safety grant largely unchanged under new Section 405(f), and created a new graduated driver licensing grant under new Section 405(g). None of these grant programs under MAP-21 is identical to a grant program that existed under SAFETEA-LU, but many continue various requirements of the prior grant programs.

This Regulatory Impact Analysis discusses each grant program in terms of the safety problem that it addresses, the countermeasures that have been shown to be successful in the area, and the States' current programs and laws that may satisfy the proposed eligibility requirements. This discussion addresses only the highlights of the problems and solutions. It does not address all of the important details (for example correct use of child restraints) in order to keep the discussion to a reasonable length. We are unable to definitively answer the question of "What are you going to get for this money" for several reasons. For many of the program areas there are multiple efforts underway to improve safety, and a variety of efforts have been underway for many years. For example, occupant protection countermeasures include vehicle and behavioral programs to increase belt use for adults and restraint use for children, State laws, and

enforcement programs. It is extremely difficult to isolate how much any one program would increase belt use or child restraint use.

In addition, States may spend their grant money on a variety of programs and activities. States are required to submit an HSP by July 1, describing how they will spend grant money the following fiscal year. The HSP must include data analysis showing the State's current safety situation, including problem identification, and what countermeasures the State plans to implement. The specific plans will depend on each States' safety posture, as well as its laws (some States are not allowed to use roadside checkpoints, for example). The variety of countermeasures that States can implement under each grant allows them to tailor their programs to most effectively address their individual circumstances, but it also makes it difficult to conduct national evaluations.

For these reasons, we are unable to provide a full analysis of the costs and benefits of each grant program. In certain situations we can identify programs or countermeasures that have been shown in the past to be successful in an area. However, we are continuing to improve our data collection and monitoring efforts and are considering how to provide a more complete evaluation of the effectiveness and net benefits of different countermeasures States may choose to employ under these grant programs. We welcome any input and recommendations from the States regarding the evaluation of the net benefits of countermeasures States choose to employ.

This Regulatory Impact Analysis includes estimates of the number of States that would be eligible for the various grant programs. These are preliminary numbers based on published

information, and are not the result of a detailed review of State laws, regulations, or programs. We expect these numbers to change as we implement the regulations described in the accompanying IFR. The numbers are presented for illustrative purposes only, and the agency will not pre-judge compliance when implementing this IFR.

Occupant Protection

High Seat Belt Use Rate States are defined as having 90% or above belt use and Low Seat Belt Use Rate States are defined as having below 90% belt use in observation surveys.

To qualify, High Seat Belt Use Rate States must

- Have an Occupant Protection (OP) plan
- Participate in Click It Or Ticket
- Have an active network of child restraint inspection stations, and
- Have a plan to recruit, train, and maintain child safety technicians.

To qualify, Low Seat Belt Use Rate States must

- Meet all the criteria for High States, and

Meet 3 of the following 6 criteria

- Conduct sustained enforcement at a defined level year round
- Enact and enforce a primary belt law
- Implement a countermeasure program for high risk groups
- Enact and enforce laws that require age-appropriate restraint use by front and rear occupants
- Implement a comprehensive occupant protection program, including
 - A program assessment
 - A Statewide strategic plan
 - An Occupant Protection coordinator
 - A Statewide task force
- Conduct an Occupant Protection assessment within the last 3 years, or in first year of the grant.

Low Seat Belt Use Rate States must spend money on

- High Visibility Enforcement (HVE), including paid media
- Training concerning all aspects of Child Passenger Safety and OP
- Community child passenger services
- Information systems concerning OP, including surveys
- Purchasing and distributing seats to low income families, although not more than 5% of funds received in a FY may be used for this.

High Seat Belt Use Rate States may use up to 75% of funds on any activity eligible for Section 402 funding

The Safety Problem

Occupant fatalities in passenger vehicles (passenger cars, light trucks, sport-utility vehicles (SUVs), and vans) decreased from 22,273 in 2010 to 21,253 in 2011. Occupant injuries decreased from 1,986,000 in 2010 to 1,968,000 in 2011. On average, about half of occupant fatalities for whom belt use is known are unbelted.

Promising Countermeasures

Increasing seat belt use and child restraint use are the most promising countermeasures, and State programs and activities focus on increasing restraint use. Seat belt use of drivers and right front passengers in the day time has increased from 84 percent in 2011 to 86 percent in 2012, based on the National Occupant Protection Use Survey (NOPUS). For every one percentage point that seat belt use increases, NHTSA estimates that we can save 200 lives. Thus, going from 84 percent to 86 percent has saved an estimated 400 lives.

Primary seat belt law States have higher belt usage than other (mostly secondary) law States. The difference between primary seat belt law States and other States has been about 11 percentage points in seat belt use: in 2011 primary law States averaged 87% and other law States averaged 76%; in 2012 primary law States averaged 90% and other law States averaged 78%.

According to the 2010 NOPUS child restraint use was 89% of those aged 0 to 7, with 99% restraint use from birth to 1 years old, 94% restraint use for 1 to 3 year olds and 83% restraint use for 4 to 7 year olds. We estimate that child restraints saved 263 child lives in 2011. If children age 0-4 were 100 percent restrained by child safety seats, then lives saved would increase by 51 (from 263 estimated lives saved up to 314 potential lives saved).

Many laws, countermeasures, and strategies have been evaluated and shown to be effective in raising seat belt use. The NHTSA publication *Countermeasures that Work*¹ (CTW) lists a number of countermeasures that have been evaluated and rates their effectiveness. The Centers for Disease Control and Prevention (CDC) hosts a website, the Community Guide,² which conducts systematic reviews of various public health issues and evaluates the effectiveness and cost of different interventions. The Guide is based on reviews of published studies, and compiled by teams of non-federal public health experts.

¹ See “Countermeasures That Work: A Highway safety Countermeasure Guide for State Highway Safety Offices Sixth Edition 2011”, NHTSA, February 2011, DOT HS 811 444, Chapter 1 for Alcohol Impaired and Drugged Driving.

² Available at <http://www.thecommunityguide.org/index.html>

The most effective basic strategy for achieving and maintaining high belt use is highly publicized high-visibility enforcement of strong occupant restraint use laws. Numerous studies have found that these programs increase belt use. CDC's systematic review of 15 high quality studies found that short-term, high-visibility enforcement programs (such as Click it or Ticket) increased belt use by about 16 percentage points, with greater gains when pre-program use was lower. Several of the studies included in CDC's review were conducted when belt use was relatively low, so the impact of this countermeasure now is likely to be lower.³

Current State Laws

All States require child restraint use (up to varying ages). Enforcement is primary for child restraint use for all States except Montana. All States but New Hampshire require adult front seat restraint use. 33 States have primary seat belt laws for adults.

We expect that most States would be able to meet the requirements of this program. Over the last few years of the SAFETEA-LU occupant protection grant program, which has similar eligibility requirements, about 40 States qualified for grant funding. We believe that almost all High Seat Belt Use Rate States can meet the requirements of the grant program, and that the majority of Low Seat Belt Use Rate States will be able to meet 3 of the remaining 6 criteria, which is fewer than the 4 criteria they were required to meet under SAFETEA-LU.

³ See "Countermeasures That Work: A Highway safety Countermeasure Guide for State Highway Safety Offices Sixth Edition 2011", NHTSA, February 2011, DOT HS 811 444, Chapter 2 for Seat Belt Use and Child Restraints.

State Traffic Safety Information Systems

To qualify, States must

- Have a functioning TRCC that meets at least 3 times per year
- Have a TRCC coordinator
- Have a traffic records strategic plan, approved by the TRCC, which includes specific quantifiable, measurable improvements in core safety databases
- Have demonstrated quantitative progress in a significant program attribute, such as timeliness, completeness, etc.
- Certify that an assessment was conducted or updated in the last 5 years.

Funds may only be used for improving safety data in core safety databases. Improvements must be quantifiable and measurable, and in any of 6 key program attributes (accuracy, completeness, timeliness, uniformity, accessibility, and integration).

While an estimate of the number of lives saved by information technology spending would be difficult and highly speculative, authorization of this grant program indicates that Congress realizes the importance of timely and accurate data in enhancing safety. NHTSA uses data for research into countermeasure effectiveness, trend analysis, and policy direction. High quality data, which is the goal of this grant program, allows States to conduct problem identification, monitor problem drivers, and effectively and efficiently allocate manpower and other resources. Without reliable data, States and localities would have no way to determine whether programs were achieving their desired goals.

Impaired Driving Countermeasures

Based on the most recent 3 calendar years of final FARS data, low-range States have an average Impaired Driving (ID) fatality rate of .30 or below; mid-range States are those with between .31 and .59 impaired driving fatality rate; and high-range States are those with a rate of .60 and above. Average ID fatality rate is the number of fatalities involving a driver with a blood alcohol concentration of at least .08 percent for every 100,000,000 vehicle miles traveled.

Low-range States are eligible for a grant *based on performance*.

To qualify, mid-range States must

- Have a statewide ID plan, approved by an ID task force, within the last 3 years, or it must convene a task force to complete a plan in the first year of receiving a grant.

To qualify, a high-range State must

- Have completed an ID assessment in the last 3 years, or conduct one in the first year of the grant
- Convene an ID task force to develop a statewide plan to implement the recommendations of the ID assessment. The statewide plan must include a detailed spending plan for grant funds, including an explanation of how such spending will support the program.
- The State must submit the plan to NHTSA for review and approval, and annual updates must be submitted as well.

Mid-range and low-range States may use these funds for ID high visibility enforcement (HVE) efforts and:

- Hiring an ID coordinator

- Supporting courts in HVE activities, including training and education for judges, prosecutors, law enforcement officers and others involved in the criminal justice system
- Ignition interlock programs
- Improving BAC testing and reporting
- Paid and earned media in support of HVE
- Standardized Field Sobriety Tests (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE), Screening and Brief Intervention (SBI), Drug Recognition Experts(DRE) training
- Equipment for ID enforcement
- ID data systems, and
- 24/7 sobriety program costs.

High-range States must use grant funds to support HVE efforts and may spend funds on any of the activities listed above if they are included in their statewide plan, subject to NHTSA approval.

Low-range States may also spend funds on other programs designed to reduce impaired driving, based on problem ID. High and medium-range States may use funds for these expenditures upon approval by NHTSA.

Ignition interlock grants are a subset of the Section 405 Impaired Driving grant program. To receive grant funding, States must have and enforce an ignition interlock law that requires all individuals convicted of DUI or DWI to drive only vehicles with interlocks, including first time

offenders. States may spend these funds on any impaired driving activity, or any other behavioral safety activity eligible under Section 402.

The allocation formula is based on the FY09 Section 402 distribution.

The Safety Problem

In 2011, 9,878 alcohol impaired driving fatalities occurred, compared to 10,136 in 2010.

Alcohol impaired driving fatalities account for 31 percent of overall fatalities. An alcohol impaired driving fatality is defined as a fatality in a crash involving a driver or motorcycle rider (operator) with a blood alcohol concentration (BAC) of .08 grams per deciliter (g/dL) or greater.

Promising Countermeasures

Many countermeasures have been evaluated and shown to be effective in deterring alcohol impaired driving. Both *Countermeasures that Work* and the CDC's *Community Guide* list several effective countermeasures to reduce impaired driving. CTW lists the following activities as among the most effective to combat impaired driving: Administrative License Revocation/Suspension, High Visibility Checkpoints/saturation patrols, Preliminary breath test devices and alcohol sensors, DWI courts and limits on plea agreements, alcohol assessment and treatment, interlocks, screening and brief intervention, and minimum 21 drinking laws. The Community Guide lists ignition interlocks, mass media campaigns, high visibility enforcement, minimum legal drinking age laws, and lower BACs for younger drivers.

When the data are available, these publications provide estimates of the effectiveness of the various programs. For example, CTW describes several literature reviews and one meta-analysis of publicized sobriety checkpoints, which show a range of effectiveness measures from about a 10 to 20 percent reduction in fatal crashes. The specific reduction expected would depend on individual State circumstances.

Another major study by NHTSA evaluated⁴ the overall effect of traffic laws and demographic trends on drunk driving.

Current State Programs

We expect that most States would be able to meet these criteria. Under SAFETEA-LU, all 50 States and the District of Columbia received impaired driving grant funding. This IFR has less stringent eligibility criteria, so all States should again be able to receive funding. Some States will need to commit to performing an impaired driving assessment, which was not required under SAFETEA-LU, but we believe this is a low threshold that any State can easily pass.

⁴ Statistical Analysis of Alcohol-Related Driving Trends, 1982-2005 (NHTSA Report No. DOT HS 810 942, Author: Jennifer N. Dang) <http://www-nrd.nhtsa.dot.gov/Pubs/810942.PDF>

Motorcyclist Safety

This grant program is similar to the SAFETEA-LU S 2010 grant program.

To comply, States must meet at least 2 of the following 6 criteria:

- MC rider training courses meeting certain standards throughout the State
- *An effective* program to enhance passenger vehicle driver awareness of MCs
- A reduction in the most recent calendar year in the number of crashes and fatalities involving MCs
- A statewide program to reduce impaired MC riding
- A reduction in the most recent calendar year in the number of crashes and fatalities involving Impaired MC riders
- The use of all fees collected from MC riders for funding rider training and safety programs must be used for those purposes.

As is the case with the SAFETEA-LU S 2010 grants, these funds may only be used for rider safety training and MC awareness programs.

The Safety Problem

In 2011, 4,612 motorcyclists were fatally injured (compared to 4,518 in 2010) and 2.2 million motorcyclists were injured. Motorcycle fatalities have steadily risen over the last decade, with an interruption in the growth between 2008 and 2009. Motorcycle fatalities rose more than 40 percent between 2002 and 2011.

Promising Countermeasures

No studies that we are aware of confirm that motorcycle training reduces the number of motorcycle crashes. A large percentage of motorcycle crashes occur to riders who have less than 6 months of experience riding a motorcycle. Thus, it makes sense that training programs should be beneficial; several insurance companies believe this and offer discounts for new riders who take motorcycle rider training.⁵

Current State MC rider training courses

Motorcycle rider training is available in every State. The Motorcycle Safety Foundation claims that over 400,000 motorcycle riders take training every year.

⁵ See “Countermeasures That Work: A Highway safety Countermeasure Guide for State Highway Safety Offices Sixth Edition 2011”, NHTSA, February 2011, DOT HS 811 444, Chapter 5 for Motorcycle Safety.

Distracted Driving

MAP-21 created a new distracted driving grant program, authorizing incentive grants to States that enact and enforce laws prohibiting distracted driving. Specifically, States must have statutes that prohibit drivers from texting while driving and youths from using cell phones while driving.

MAP-21 provides that the State statute must prohibit drivers from texting through a personal wireless communications device while driving. (23 CFR 1200.24(c)(1)) MAP-21 defines “personal wireless communications device,” “texting” and “driving”. (23 CFR 1200.20; 23 CFR 1200.24(b)) The State statute prohibiting texting must be consistent with these definitions. For example, MAP-21 defines texting to include “reading” from personal wireless communications devices. A State statute that does not prohibit reading texts or similar forms of electronic data communications would not enable the State to qualify for a distracted driving grant. Similarly, MAP-21 defines “driving” to include being temporarily stopped because of traffic or at a traffic light. If the State statute does not prohibit texting under these circumstances, e.g., a statute prohibiting texting while the vehicle is in motion, the State would not qualify for a distracted driving grant.

MAP-21 requires the State statute to prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving. (23 CFR 1200.24(c)(2)) A State statute prohibiting youth cell phone use while driving must be consistent with the MAP21 definitions.

MAP-21 requires that the State statute make a violation of both the texting prohibition and the youth cell phone use prohibition a primary offense. (23 CFR 1200.24(c)(1)(ii) and 1200.24(c)(2)(ii)). As defined by MAP-21, a primary offense is “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.” (23 CFR 1200.20(b))

MAP-21 requires that the State statute provide for a minimum fine for a first violation and increased fines for repeat violations. In order to meet the minimum fine requirement, the IFR specifies a minimum fine of \$25 for a first violation of the texting and youth cell phone use law. (23 CFR 1200.24(c)(1)(iii)(A) and 1200.24(c)(2)(iv)(A)) This minimum fine amount is consistent with past practice in other highway safety grant programs from previous authorizations. State laws that provide for fines “up to,” “not more than,” “not to exceed” or similar terms would not satisfy the minimum fine requirement in MAP-21. Such language does not mandate a minimum fine for a violation.

In order to meet the requirement for increased fines for repeat violations, the State statute must provide for a fine greater than the minimum fine for the first violation. (23 CFR 1200.24(c)(1)(iii)(B) and 1200.24(c)(2)(iv)(B)) For State statutes that provide a range of fines for a first violation, the State statute must provide a fine for a repeat violation greater than the maximum fine assessed for a first violation. For example, if the State statute provides that a fine for a first violation is not less than \$25, but not more than \$50, the statute must provide for a fine of more than \$50 for a repeat violation. Further, the IFR requires that violations within five years of the previous violation must be treated as repeat violations. (23 CFR

1200.24(c)(1)(iii)(B) and 1200.24(c)(2)(iv)(B)) This is consistent with past practice in other highway safety grant programs from previous authorizations.

MAP-21 does not require that fines increase with each subsequent offense. In order to qualify for a distracted driving grant, the State statute need not provide for increasing fine amounts for third and subsequent offenses, beyond the increased fine for a second (or repeat) offense.

MAP-21 specifies that a State statute may provide for the following exceptions and still meet the qualification requirements for a distracted driving grant: a driver who uses a personal wireless communications device to contact emergency services; emergency services personnel who use a personal wireless communications device while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel; and 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 31136 of title 49. No other exceptions are permitted under MAP-21. Accordingly, the IFR does not permit any other exceptions. (23 CFR 1200.24(c)(3))

Driving 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.

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.

At least half of a State grant funds must be used for education through advertising of the dangers of distracted driving, for traffic signs about the law, and for law enforcement costs. Up to 50 percent may be spent on any other eligible behavioral safety activity.

The Safety Problem

Distraction is a specific type of inattention that occurs when drivers divert their attention away from the driving task to focus on another activity instead. These distractions can be from electronic distractions, such as navigation systems and cell phones, or from more conventional distractions, such as interacting with passengers and eating.

Distraction can be categorized into the following types:

- Visual: Tasks require the driver to look away from the roadway to obtain information.
- Manual: Tasks require the driver to take a hand off the wheel to manipulate a device.
- Cognitive: Thinking about something other than the driving task.

In 2010, the National Occupant Protection Use Survey found that 5 percent of drivers are holding cell phones to their ears while driving at any one moment. Surveyors can observe a driver

holding a cell phone, but this likely underrepresents the scope of the problem. In addition, 0.9 percent of drivers were visibly texting or manipulating a hand-held device. For the 16-24 year old drivers, 1.5 percent were visibly texting or manipulating a hand-held device.

Drivers under 20 years old are over-represented in fatal distraction affected crashes (13 percent of distracted drivers in fatal crashes were under 20 years old, while young drivers make up 8 percent of all drivers in fatal crashes).

In 2011, 3,331 people were killed in crashes involving a distracted driver and an estimated 387,000 people were injured. This is an estimated 10 percent of fatal crashes and 17 percent of injury crashes. Drivers under 20 years old were again over-represented in fatal-distraction-affected crashes (11 percent of distracted drivers in fatal crashes were under 20 years old, while 7 percent of all drivers in fatal crashes were under 20 years old).

Promising countermeasures

High visibility enforcement, which combines strong State laws, public outreach and highly visible enforcement, has been demonstrated to be effective in reducing impaired driving and increasing seat belt use. To test whether a similar approach would reduce distracted driving, in April 2009 NHTSA launched high visibility law enforcement pilot programs in Hartford, Connecticut and Syracuse, New York to assess whether increased law enforcement efforts combined with paid and new announcements can get drivers to put down their cell phones and focus on the road. Drivers using hand-held cell phones dropped 57% in Hartford (from 6.8% to 2.9%) and 32% in Syracuse (from 3.7% to 2.5%). Drivers who texted while driving declined 72% in Hartford (from 3.9% to 1.1%) and 32% in Syracuse (from 2.8% to 1.9%). Drivers in the

control cities (Albany, New York and Stamford, Connecticut) had either no change or much smaller changes in these metrics. NHTSA is currently working with Delaware and California to expand the city-based enforcement model to larger geographic areas.

Because high visibility enforcement has proven effective in reducing impaired driving and increasing seat belt use, we expect that a properly designed and vigorously enforced program would be equally effective in reducing distracted driving.

NHTSA has also undertaken research to develop distracted driving guidelines for automakers related to manipulating and operating in-vehicle electronic devices. The goal of the guidelines is to encourage automakers to design in-vehicle device interfaces that minimize driver distraction with non-driving (secondary) tasks such as communication, entertainment, information, and navigation.

Current State Text and Cell Phone Messaging Laws Relating to the Provisions

A preliminary examination of the how the States meet the required provisions suggests that no State would currently meet all the provisions, since no State we were aware of required in statute that distracted driving be tested as part of obtaining a license. The following table shows NHTSA's preliminary estimates; it is likely that a thorough evaluation of State laws would affect some of these estimates. When NHTSA conducts a formal review of distracted driving laws, these estimates will likely change.

Preliminary Estimates Relating State Laws to Distracted Driving Provisions*

* This information is for illustration only, and does not reflect the agency’s opinion of the number of States likely to be eligible for a distracted driving grant.

Provision	Number of State laws with these provisions
(1) Prohibition on texting while driving. The statute shall –	
(i) Prohibit drivers from texting through a personal wireless communications device while driving	39 States, D.C., Puerto Rico, Guam and the U.S. Virgin Islands prohibit drivers from texting through a personal wireless communication device while driving
(ii) Make a violation of the law a primary offense;	35 States, D.C., Puerto Rico, Guam and the U.S. Virgin Islands allow for primary enforcement
(iii) Establish –	
(A) a minimum fine of \$25 for a first violation of the law	21 States have a minimum fine of \$25 or more for a first violation
(B) Increased fines for repeat violations	16 States and D.C. have increased fines for repeat offenders ⁶
(2) Prohibition on youth cell phone use while driving. The statute shall –	
(i) Prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving	14 States prohibit a driver <i>younger than 18</i> from using a wireless communication device while driving
(ii) Makes violation of the statute covering drivers younger than 18 a primary offense	14 States allow for primary enforcement
(iii) Require distracted driving issues to be tested as part of the State’s driver’s license examination;	Only D.C. and the Virgin Islands statutorily require distracted driving issues to be tested as part of the State driver's license exam (several States have proposed legislation)
(iv) Establish –	
(A) a minimum fine of \$25 for a first violation of the	6 States have a minimum fine of

⁶ While these States may have increased fines for repeat offenses, it is unknown how many States classify violations within 5 years as repeat offenses, which is required under the regulation (23 CFR 1200.24).

law; and	\$25 or more for a first violation
(B) increased fines for repeat violations	5 States have increased fines for repeat offenders ⁷

Graduated Driver Licensing

MAP-21 created a new Graduated Driver Licensing (GDL) grant program, authorizing incentive grants to States that enact and enforce a graduated driver licensing program. In general, a graduated driver's licensing system consists of a multi-staged process for issuing driver's licenses to young, novice drivers to ensure that they gain valuable driving experience under controlled circumstances and demonstrate responsible driving behavior and proficiency. The minimum qualification criteria set forth for the GDL grant by MAP-21 are prescriptive; it appears on first review that few potential applicants currently meet all of the minimum qualification criteria prescribed by MAP-21. Beyond the minimum qualification criteria, MAP-21 provides discretion to the agency to establish additional requirements. The IFR establishes minimum qualification criteria for the GDL Incentive Grant.

MAP-21 requires NHTSA to seek public comment on how to implement the minimum qualification criteria for the GDL program. Accordingly, on October 5, 2012, NHTSA published an NPRM in the Federal Register seeking public comment. 77 FR 60956 (Oct. 5, 2012). The agency received numerous comments, which generally expressed support for the GDL State incentive grant and provided specific feedback on particular aspects of the minimum requirements. The IFR takes these comments into account and responds to them as appropriate.

⁷ *Id.*

To receive a grant, MAP-21 requires a State's graduated driver's licensing law to require young, novice drivers to complete a learner's permit stage and an intermediate stage, each meeting certain minimum requirements, prior to receiving a full driver's license (i.e., a license to operate a passenger motor vehicle on public roads at all times).

The IFR requires that a State's GDL system begin with a learner's permit stage that applies 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. (23 CFR 1200.26(c)(2)(i)(A)) MAP-21 creates limited exceptions for States that enacted a law prior to January 1, 2011, establishing either of the following two classes of permit or license: a permit or license that allows drivers younger than 18 years of age to operate a motor vehicle in connection with work performed on, or the operation of, a farm owned by family members who are directly related; or a permit or license that is issued because demonstrable hardship would result from its denial to the licensee or applicant. For the second class of permit or license, the IFR clarifies that a demonstration of unique, individualized hardship is required. Although a driver may possess one of these classes of permits or licenses, the IFR does not permit States to provide them any other permit, license or endorsement until they complete the GDL process if they are younger than 21 years of age. (23 CFR 1200.26(c)(4))

The IFR requires that the learner's permit stage commence only after an applicant passes vision and knowledge tests, including tests about the rules of the road, signs, and signals. (23 CFR 1200.26(c)(2)(i)(B)) This ensures that novice drivers have a basic level of competency regarding the rules and requirements of driving before being permitted to operate a motor vehicle on public

roadways. As required by MAP-21, the learner's permit stage must be at least six months in duration, and it also may not expire until the driver reaches at least 16 years of age. (23 CFR 1200.26(c)(2)(i)(C))

MAP-21 allows the agency discretion to prescribe additional requirements on a learner's permit holder, and it identifies three potential requirements for the agency's consideration: (1) accompaniment and supervision 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) receipt by the permit holder of at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age, and (3) completion by the permit holder of a driver education or training course. The IFR adopts each of the three requirements. (23 CFR 1200.26(b), 1200.26(c)(2)(i)(D)(1)-(3))

Finally, consistent with the requirements under the regulations for a predecessor GDL program, the IFR requires a learner's permit holder to pass a driving skills test prior to entering the intermediate stage or being issued another permit, license or endorsement. (23 CFR 1200.26(c)(2)(i)(D)(4)) This requirement ensures that all novice drivers who enter the learner's permit stage will be evaluated by the State prior to being permitted to drive unsupervised.

Under MAP-21, the State must require that all drivers who complete the learner's permit stage and are younger than 18 years of age enter an intermediate stage that commences immediately upon the expiration of the learner's permit stage. The intermediate stage must 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. The IFR implements these requirements. (23 CFR 1200.26(c)(2)(ii)(A)-(C))

MAP-21 requires that a State's intermediate stage "restrict[] driving at night," but leaves the details of that requirement to the discretion of the agency. NHTSA received numerous comments on how best to address the most dangerous driving hours for novices. Taking these comments into account, the IFR restricts nighttime driving by requiring accompaniment and supervision of the intermediate license holder by a licensed driver who is at least 21 years of age during the hours of 10 pm through 5 am. While the IFR provides for exceptions in the case of emergency, it does not permit other exceptions during the restricted driving hours. (23 CFR 1200.26(c)(2)(ii)(D)) Other exceptions may be difficult to enforce and could undermine the safety goals of the restriction.

MAP-21 also requires that, during the intermediate stage, drivers be prohibited from operating a motor vehicle with more than one non-familial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle. The IFR adopts this requirement. (23 CFR 1200.26(c)(2)(ii)(E))

MAP-21 requires that, during both the learner's permit and intermediate stages, the driver must be prohibited from using a cellular telephone or any communications device while driving except in case of an emergency. The IFR includes this requirement and specifies that this prohibition be enforced as a primary offense. (23 CFR 1200.26(c)(2)(iii)(A)) The IFR also imposes a requirement that, during both the learner's permit and intermediate stages, the driver must remain conviction-free for a period of not less than six consecutive months immediately prior to the expiration of the current stage. (23 CFR 1200.26(c)(2)(iii)(B)) To remain "conviction-free,"

a driver cannot be convicted of any offense under State or local law relating to the use or operation of a motor vehicle. The definition provides examples of driving-related offenses. (23 CFR 1200.26(b)) With this requirement, any conviction related to the use or operation of a motor vehicle would result in “resetting the clock” for the driver’s current stage.

The IFR also establishes a requirement that the State’s learner’s permit, intermediate license, and full driver’s license be distinguishable from each other. This is necessary to ensure that law enforcement officers are aware of the proper driving restrictions that apply to the driver during a traffic stop. The IFR also clarifies the documentation grant applicants are required to submit in order to prove license distinguishability. (23 CFR 1200.26(c)(3))

The Safety Problem

In 2010, 1,963 young drivers (age 15 to 20) died in motor vehicle crashes and 187,000 were injured. Comparing 2001 to 2010, young drivers’ fatalities have decreased faster than the decrease in all driver fatalities (young drivers’ fatalities have decreased by 46 percent while all driver fatalities have decreased by 19 percent).

Promising Countermeasures

Several studies have shown that graduated driver licensing reduce teenage driver crashes and injuries.⁸ CTW specifically notes that passenger restrictions, nighttime restrictions, and supervised driving are effective in reducing crashes. For example, nighttime restrictions that begin at 9 pm are associated with an 18 percent reduction in fatal crashes, while a 1 am restriction is associated with a 9 percent reduction. However, while we are able to estimate the safety impact of some components, we are only able to qualitatively evaluate others. The Government Accountability Office (GAO) recently reviewed research on teen driving safety, and recommended that NHTSA conduct additional research on specific GDL requirements.⁹ NHTSA is currently performing research on optimal GDL components.

Current State GDL

NHTSA's examined State laws compliance with criteria included in a previous version of a GDL grant program under consideration by Congress. For example, our preliminary evaluation indicates that only 7 States have intermediate licensing lasting to age 18. The criteria below do not exactly match those included in the accompanying IFR. When NHTSA conducts a formal review of State GDL laws, these estimates will likely change.

⁸ See "Countermeasures That Work: A Highway safety Countermeasure Guide for State Highway Safety Offices Sixth Edition 2011", NHTSA, February 2011, DOT HS 811 444, pages 6-1 through 6-30.

⁹ See "Teen Driver Safety: Additional Research Could Help States Strengthen Graduated Driver's Licensing Systems", <http://gao.gov/products/GAO-10-544>

Preliminary Estimates: Number of States with These Common GDL Requirements*

*This information is for illustration only, and does not reflect the agency’s opinion of the number of States likely to be eligible for a GDL grant.

Learners Permit Stage			Intermediate License Stage					
Minimum 6 months duration	Prohibits non emergency cell phone use	Remains in effect until intermediate, or age 18	Begins right after learners stage	Minimum 6 months duration	Prohibits non emergency cell phone use	Some Restrictions on night time driving	Prohibits more than 1 passenger	Remains in effect until age 18
46	31	45	Unknown	27	30	49	15	7

Funding

The annual amount authorized by MAP-21 for highway safety grants is \$265 million in FY 2013 and \$272 million in FY 2014. NHTSA’s action details grant application procedures and qualification criteria; it does not impact the aggregate amount of grant funds distributed to the States. That amount is specified by MAP-21, as is the manner of distribution—most of the funds are required by MAP-21 to be awarded to qualifying States through a formula (75 percent in the ratio of the State population to the total population and 25 percent in the ratio of public road mileage in the State to the total road mileage in the United States, with a specified minimum apportionment for the Section 402 program).

Distribution of Section 405 funds
(in millions of dollars)

	FY 2013	FY 2014	%
Occupant Protection	\$42.4	\$43.5	16
Data	\$38.4	\$39.5	14.5
Alcohol (includes up to \$20.9 in 2013 and \$21.4 in 2014 for interlocks)	\$139.2	\$142.8	52.5
Motorcycle	\$4.0	\$4.1	1.5
Distraction (includes \$5 for national media)	\$22.5	\$23.1	8.5
Graduated Driver License	\$13.2	\$13.6	5
Research*	\$5.3	\$5.4	2
Total	\$265	\$272	

*Research into technology to prevent alcohol impaired driving (Driver Alcohol Detection System for Safety - DADSS) program

In comparison, here is how the 402 funds were spent in fiscal year 2012.

Section 402 Expenditures

Program Area	FY 2012
Accident Investigation	\$212,118
Alcohol	\$18,710,746
Codes and Laws	\$5,562
Community Traffic Safety Project	\$18,934,439
Child Restraint	\$176,109
Distracted Driving	\$2,437,472
Driver Education	\$4,125,479
Driver Licensing	\$109,999
Emergency Medical Services	\$1,802,304
Identification and Surveillance	\$251,171
Motorcycle Safety	\$3,761,726
Occupant Protection	\$26,539,346
Planning and Administration	\$10,809,480
Paid Advertising	\$12,876,992
Pedestrian/Bicycle Safety	\$4,553,783
Police Traffic Services	\$63,026,151
Railroad/Highway Crossings	\$171,504
Roadway Safety	\$3,620,846
Safe Communities	\$6,398,771
School Bus	\$157,417
Speed Control	\$4,257,729
Speed Enforcement	\$1,439,256
Traffic Courts	\$31,543
Traffic Records	\$6,875,525
Youth Alcohol	\$125,398
Total	\$191,410,864

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C §601 et seq.) requires agencies to evaluate the potential effects of their proposed and final rules on small business, small organizations and small Government jurisdictions.

5 U.S.C §603 requires agencies to prepare and make available for public comments initial and final regulatory flexibility analysis (RFA) describing the impact of proposed and final rules on small entities. This grant program affects the States, which are not small Government jurisdictions.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditures by States, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for 2012 results in \$139 million ($113.359/81.606 = 1.389$). The assessment may be included in conjunction with other assessments, as it is here.