

108TH CONGRESS
1ST SESSION

S. 1993

To amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2003

Mr. WARNER (for himself and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Highway
5 Safety Act of 2003”.

6 **SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

7 (a) SAFETY IMPROVEMENT.—

8 (1) IN GENERAL.—Section 148 of title 23,
9 United States Code, is amended to read as follows:

1 **“§ 148. Highway safety improvement program**

2 “(a) DEFINITIONS.—In this section:

3 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-
4 GRAM.—The term ‘highway safety improvement pro-
5 gram’ means the program carried out under this sec-
6 tion.

7 “(2) HIGHWAY SAFETY IMPROVEMENT
8 PROJECT.—

9 “(A) IN GENERAL.—The term ‘highway
10 safety improvement project’ means a project de-
11 scribed in the State strategic highway safety
12 plan that—

13 “(i) corrects or improves a hazardous
14 road location or feature; or

15 “(ii) addresses a highway safety prob-
16 lem.

17 “(B) INCLUSIONS.—The term ‘highway
18 safety improvement project’ includes a project
19 for—

20 “(i) an intersection safety improve-
21 ment;

22 “(ii) pavement and shoulder widening
23 (including addition of a passing lane to
24 remedy an unsafe condition);

25 “(iii) installation of rumble strips or
26 another warning device, if the rumble

1 strips or other warning devices do not ad-
2 versely affect the safety or mobility of
3 bicyclists and pedestrians;

4 “(iv) installation of a skid-resistant
5 surface at an intersection or other location
6 with a high frequency of accidents;

7 “(v) an improvement for pedestrian or
8 bicyclist safety;

9 “(vi)(I) construction of any project for
10 the elimination of hazards at a railway-
11 highway crossing that is eligible for fund-
12 ing under section 130, including the sepa-
13 ration or protection of grades at railway-
14 highway crossings;

15 “(II) construction of a railway-high-
16 way crossing safety feature; or

17 “(III) the conduct of a model traffic
18 enforcement activity at a railway-highway
19 crossing;

20 “(vii) construction of a traffic calming
21 feature;

22 “(viii) elimination of a roadside obsta-
23 cle;

24 “(ix) improvement of highway signage
25 and pavement markings;

1 “(x) installation of a priority control
2 system for emergency vehicles at signalized
3 intersections;

4 “(xi) installation of a traffic control or
5 other warning device at a location with
6 high accident potential;

7 “(xii) safety-conscious planning;

8 “(xiii) improvement in the collection
9 and analysis of crash data;

10 “(xiv) planning, equipment, oper-
11 ational activities, or traffic enforcement ac-
12 tivities (including police assistance) relat-
13 ing to workzone safety;

14 “(xv) installation of guardrails, bar-
15 riers (including barriers between construc-
16 tion work zones and traffic lanes for the
17 safety of motorists and workers), and
18 crash attenuators;

19 “(xvi) the addition or retrofitting of
20 structures or other measures to eliminate
21 or reduce accidents involving vehicles and
22 wildlife; or

23 “(xvii) installation and maintenance
24 of signs (including fluorescent, yellow-

1 green signs) at pedestrian-bicycle crossings
2 and in school zones.

3 “(3) PRIMARY SAFETY BELT LAW.—The term
4 ‘primary safety belt law’ means a law that author-
5 izes a law enforcement officer to issue a citation for
6 the failure of the operator of, or any passenger in,
7 a motor vehicle to wear a safety belt as required by
8 State law, based solely on that failure and without
9 regard to whether there is any other violation of law.

10 “(4) SAFETY PROJECT UNDER ANY OTHER SEC-
11 TION.—

12 “(A) IN GENERAL.—The term ‘safety
13 project under any other section’ means a
14 project carried out for the purpose of safety
15 under any other section of this title.

16 “(B) INCLUSION.—The term ‘safety
17 project under any other section’ includes a
18 project to—

19 “(i) promote the awareness of the
20 public and educate the public concerning
21 highway safety matters; or

22 “(ii) enforce highway safety laws.

23 “(5) STATE HIGHWAY SAFETY IMPROVEMENT
24 PROGRAM.—The term ‘State highway safety im-
25 provement program’ means projects or strategies in-

1 cluded in the State strategic highway safety plan
 2 carried out as part of the State transportation im-
 3 provement program under section 135(f).

4 “(6) STATE STRATEGIC HIGHWAY SAFETY
 5 PLAN.—The term ‘State strategic highway safety
 6 plan’ means a plan developed by the State transpor-
 7 tation department that—

8 “(A) is developed after consultation with—

9 “(i) a highway safety representative of
 10 the Governor of the State;

11 “(ii) regional transportation planning
 12 organizations, if any;

13 “(iii) representatives of major modes
 14 of transportation;

15 “(iv) local traffic enforcement offi-
 16 cials;

17 “(v) persons responsible for admin-
 18 istering section 130 at the State level;

19 “(vi) representatives conducting Oper-
 20 ation Lifesaver;

21 “(vii) representatives conducting a
 22 motor carrier safety program under section
 23 31104 or 31107 of title 49;

24 “(viii) motor vehicle administration
 25 agencies; and

1 “(ix) other major State and local safe-
2 ty stakeholders;

3 “(B) analyzes and makes effective use of
4 State, regional, or local crash data;

5 “(C) addresses engineering, management,
6 operation, education, enforcement, and emer-
7 gency services elements of highway safety as
8 key factors in evaluating highway projects;

9 “(D) considers safety needs of, and high-
10 fatality segments of, public roads;

11 “(E) considers the results of State, re-
12 gional, or local transportation and highway
13 safety planning processes in existence as of the
14 date of enactment of this section;

15 “(F) describes a program of projects or
16 strategies to reduce or eliminate safety hazards;

17 “(G) is approved by the Governor of the
18 State or a responsible State agency; and

19 “(H) is consistent with the requirements of
20 section 135(f).

21 “(b) PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall carry
23 out a highway safety improvement program.

24 “(2) PURPOSE.—The purpose of the highway
25 safety improvement program shall be to achieve a

1 significant reduction in traffic fatalities and serious
2 injuries on public roads.

3 “(c) ELIGIBILITY.—

4 “(1) IN GENERAL.—To receive funds under this
5 section, a State shall have in effect a State highway
6 safety improvement program under which the
7 State—

8 “(A) develops and implements a State
9 strategic highway safety plan that identifies and
10 analyzes highway safety problems and opportu-
11 nities as provided in paragraph (2);

12 “(B) produces a program of projects or
13 strategies to reduce identified safety problems;
14 and

15 “(C) evaluates the plan on a regular basis
16 to ensure the accuracy of the data and priority
17 of proposed improvements.

18 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
19 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
20 part of the State strategic highway safety plan, a
21 State shall—

22 “(A) have in place a crash data system
23 with the ability to perform safety problem iden-
24 tification and countermeasure analysis;

1 “(B) based on the analysis required by
2 subparagraph (A), identify hazardous locations,
3 sections, and elements (including roadside ob-
4 stacles, railway-highway crossing needs, and un-
5 marked or poorly marked roads) that constitute
6 a danger to motorists, bicyclists, pedestrians,
7 and other highway users;

8 “(C) adopt strategic and performance-
9 based goals that—

10 “(i) address traffic safety, including
11 behavioral and infrastructure problems and
12 opportunities on all roads and bridges on
13 the Federal-aid system;

14 “(ii) focus resources on areas of
15 greatest need; and

16 “(iii) are coordinated with other State
17 highway safety programs;

18 “(D) advance the capabilities of the State
19 for traffic records data collection, analysis, and
20 integration with other sources of safety data
21 (such as road inventories) in a manner that—

22 “(i) complements the State highway
23 safety program under chapter 4 and the
24 commercial vehicle safety plan under sec-
25 tion 31102 of title 49;

1 “(ii) includes all roads and bridges on
2 the Federal-aid system; and

3 “(iii) identifies hazardous locations,
4 sections, and elements on public roads that
5 constitute a danger to motorists, bicyclists,
6 and pedestrians;

7 “(E)(i) determine priorities for the correc-
8 tion of hazardous road locations, sections, and
9 elements (including railway-highway crossing
10 improvements), as identified through crash data
11 analysis;

12 “(ii) identify opportunities for preventing
13 the development of such hazardous conditions;
14 and

15 “(iii) establish and implement a schedule
16 of highway safety improvement projects for haz-
17 ard correction and hazard prevention; and

18 “(F)(i) establish an evaluation process to
19 analyze and assess results achieved by highway
20 safety improvement projects carried out in ac-
21 cordance with procedures and criteria estab-
22 lished by this section; and

23 “(ii) use the information obtained under
24 clause (i) in setting priorities for highway safety
25 improvement projects.

1 “(d) ELIGIBLE PROJECTS.—

2 “(1) IN GENERAL.—A State may obligate funds
3 apportioned to the State under this section to carry
4 out—

5 “(A) any highway safety improvement
6 project on any—

7 “(i) road or bridge on the Federal-aid
8 system; or

9 “(ii) publicly owned bicycle or pedes-
10 trian pathway or trail; or

11 “(B) as provided in subsection (e), for
12 other safety projects.

13 “(2) USE OF OTHER FUNDING FOR SAFETY.—

14 “(A) EFFECT OF SECTION.—Nothing in
15 this section prohibits the use of funds made
16 available under other provisions of this title for
17 highway safety improvement projects.

18 “(B) USE OF OTHER FUNDS.—States are
19 encouraged to address the full scope of their
20 safety needs and opportunities by using funds
21 made available under other provisions of this
22 title (except a provision that specifically pro-
23 hibits that use).

24 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-
25 TEGIC HIGHWAY SAFETY PLAN.—

1 “(1) IN GENERAL.—To further the implementa-
2 tion of a State strategic highway safety plan, a State
3 may use up to 25 percent of the amount of funds
4 made available under this section for a fiscal year to
5 carry out safety projects under any other section as
6 provided in the State strategic highway safety plan.

7 “(2) OTHER TRANSPORTATION AND HIGHWAY
8 SAFETY PLANS.—Nothing in this subsection requires
9 a State to revise any State process, plan, or program
10 in effect on the date of enactment of this section.

11 “(f) REPORTS.—

12 “(1) IN GENERAL.—A State shall submit to the
13 Secretary a report that—

14 “(A) describes progress being made to im-
15 plement highway safety improvement projects
16 under this section;

17 “(B) assesses the effectiveness of those im-
18 provements; and

19 “(C) describes the extent to which the im-
20 provements funded under this section contribute
21 to the goals of—

22 “(i) reducing the number of fatalities
23 on roadways;

24 “(ii) reducing the number of roadway-
25 related injuries;

1 “(iii) reducing the occurrences of
2 roadway-related accidents;

3 “(iv) mitigating the consequences of
4 roadway-related accidents; and

5 “(v) reducing the occurrences of road-
6 way-railroad grade crossing accidents.

7 “(2) CONTENTS; SCHEDULE.—The Secretary
8 shall establish the content and schedule for a report
9 under paragraph (1).

10 “(g) FEDERAL SHARE OF HIGHWAY SAFETY IM-
11 PROVEMENT PROJECTS.—The Federal share of the cost
12 of a highway safety improvement project carried out with
13 funds made available under this section shall be 90 per-
14 cent.

15 “(h) USE OF FUNDS.—

16 “(1) PROJECTS UNDER SECTION 402.—For fis-
17 cal year 2005 and each fiscal year thereafter, 10
18 percent of the funds made available to a State under
19 this section shall be obligated for projects under sec-
20 tion 402, unless by October 1 of the fiscal year, the
21 State—

22 “(A) has in effect a primary safety belt
23 law; or

24 “(B) demonstrates that the safety belt use
25 rate in the State is at least 90 percent.

1 “(2) WITHHOLDING.—

2 “(A) IN GENERAL.—For fiscal year 2007,
3 the Secretary shall withhold 2 percent, and for
4 each fiscal year thereafter, the Secretary shall
5 withhold 4 percent, of the funds apportioned to
6 a State under paragraphs (1), (3), and (4) of
7 section 104(b) and section 144 if, by October 1
8 of that fiscal year, the State does not—

9 “(i) have in effect a primary safety
10 belt law; or

11 “(ii) demonstrate that the safety belt
12 use rate in the State is at least 90 percent.

13 “(B) RESTORATION.—If, within 3 years
14 after the date on which funds are withheld from
15 a State under subparagraph (A), the State has
16 in effect a primary safety belt law or has dem-
17 onstrated that the safety belt use rate in the
18 State is at least 90 percent, the apportionment
19 of the State shall be increased by the amount
20 withheld.

21 “(C) LAPSE.—If, within 3 years after the
22 date on which funds are withheld from a State
23 under subparagraph (A), the State does not
24 have in effect a primary safety belt law or has
25 not demonstrated that the safety belt use rate

1 in the State is at least 90 percent, the amount
2 withheld shall lapse.”.

3 (2) ALLOCATIONS OF APPORTIONED FUNDS.—
4 Section 133(d) of title 23, United States Code, is
5 amended—

6 (A) by striking paragraph (1);

7 (B) by redesignating paragraphs (2)
8 through (5) as paragraphs (1) through (4), re-
9 spectively;

10 (C) in paragraph (2) (as redesignated by
11 subparagraph (B))—

12 (i) in the first sentence of subpara-
13 graph (A)—

14 (I) by striking “subparagraphs
15 (C) and (D)” and inserting “subpara-
16 graph (C)”; and

17 (II) by striking “80 percent” and
18 inserting “90 percent”;

19 (ii) by striking subparagraph (C);

20 (iii) by redesignating subparagraphs
21 (D) and (E) as subparagraphs (C) and
22 (D), respectively; and

23 (iv) in subparagraph (C) (as redesi-
24 gnated by clause (iii)), by adding a period
25 at the end; and

1 (D) in paragraph (4)(A) (as redesignated
 2 by subparagraph (B)), by striking “paragraph
 3 (2)” and inserting “paragraph (1)”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Chapter 1 of title 23, United States
 6 Code, is amended by striking the item relating
 7 to section 148 and inserting the following:

“148. Highway safety improvement program.”.

8 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
 9 PROVEDMENT PROGRAM FUNDS.—Section 104(b) of title
 10 23, United States Code, is amended—

11 (1) in the matter preceding paragraph (1), by
 12 inserting after “Improvement program,” the fol-
 13 lowing: “the highway safety improvement program,”;
 14 and

15 (2) by adding at the end the following:

16 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
 17 GRAM.—

18 “(A) IN GENERAL.—For the highway safe-
 19 ty improvement program, in accordance with
 20 the following formula:

21 “(i) 25 percent of the apportionments
 22 in the ratio that—

23 “(I) the total lane miles of Fed-
 24 eral-aid highways in each State; bears
 25 to

1 “(II) the total lane miles of Fed-
2 eral-aid highways in all States.

3 “(ii) 40 percent of the apportionments
4 in the ratio that—

5 “(I) the total vehicle miles trav-
6 eled on lanes on Federal-aid highways
7 in each State; bears to

8 “(II) the total vehicle miles trav-
9 eled on lanes on Federal-aid highways
10 in all States.

11 “(iii) 35 percent of the apportion-
12 ments in the ratio that—

13 “(I) the estimated tax payments
14 attributable to highway users in each
15 State paid into the Highway Trust
16 Fund (other than the Mass Transit
17 Account) in the latest fiscal year for
18 which data are available; bears to

19 “(II) the estimated tax payments
20 attributable to highway users in all
21 States paid into the Highway Trust
22 Fund (other than the Mass Transit
23 Account) in the latest fiscal year for
24 which data are available.

1 “(B) MINIMUM APPORTIONMENT.—Not-
2 withstanding subparagraph (A), each State
3 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
4 the funds apportioned under this paragraph.”.

5 (c) ELIMINATION OF HAZARDS RELATING TO HIGH-
6 WAY FACILITIES.—

7 (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-
8 tion 130(e) of title 23, United States Code, is
9 amended—

10 (A) in the heading, by striking “PROTEC-
11 TIVE DEVICES” and inserting “RAILWAY-HIGH-
12 WAY CROSSINGS”;

13 (B) by striking the first sentence and in-
14 serting the following:

15 “(1) IN GENERAL.—For each fiscal year, at
16 least \$200,000,000 of the funds authorized and ex-
17 pended under section 148 shall be available for the
18 elimination of hazards and the installation of protec-
19 tive devices at railway-highway crossings.”; and

20 (C) by striking “Sums authorized” and in-
21 serting the following:

22 “(2) OBLIGATION.—Sums authorized”.

23 (2) BIENNIAL REPORTS TO CONGRESS.—Sec-
24 tion 130(g) of title 23, United States Code, is
25 amended in the third sentence—

1 (A) by inserting “and the Committee on
2 Commerce, Science, and Transportation,” after
3 “Public Works”; and

4 (B) by striking “not later than April 1 of
5 each year” and inserting “every other year”.

6 (3) EXPENDITURE OF FUNDS; APPORTION-
7 MENT.—Section 130 of title 23, United States Code,
8 is amended by adding at the end the following:

9 “(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—
10 Funds made available to carry out this section shall be—

11 “(1) available for expenditure on compilation
12 and analysis of data in support of activities carried
13 out under subsection (g); and

14 “(2) apportioned in accordance with section
15 104(b)(5).”.

16 (d) TRANSITION.—

17 (1) IMPLEMENTATION.—Except as provided in
18 paragraph (2), to qualify for funding under section
19 148 of title 23, United States Code (as amended by
20 subsection (a)), a State shall develop and implement
21 a State strategic highway safety plan as required by
22 subsection (c) of that section not later than October
23 1 of the second fiscal year after the date of enact-
24 ment of this Act.

25 (2) INTERIM PERIOD.—

1 (A) IN GENERAL.—Before October 1 of the
2 second fiscal year after the date of enactment
3 of this Act and until the date on which a State
4 develops and implements a State strategic high-
5 way safety plan, the Secretary shall apportion
6 funds to a State for the highway safety im-
7 provement program and the State may obligate
8 funds apportioned to the State for the highway
9 safety improvement program under section 148
10 for projects that were eligible for funding under
11 sections 130 and 152 of that title, as in effect
12 on the day before the date of enactment of this
13 Act.

14 (B) NO STRATEGIC HIGHWAY SAFETY
15 PLAN.—If a State has not developed a strategic
16 highway safety plan by October 1 of the second
17 fiscal year after the date of enactment of this
18 Act, but demonstrates to the satisfaction of the
19 Secretary that progress is being made toward
20 developing and implementing such a plan, the
21 Secretary shall continue to apportion funds for
22 1 additional fiscal year for the highway safety
23 improvement program under section 148 of title
24 23, United States Code, to the State, and the
25 State may continue to obligate funds appor-

1 tioned to the State under this section for
2 projects that were eligible for funding under
3 sections 130 and 152 of that title, as in effect
4 on the day before the date of enactment of this
5 Act.

6 (C) PENALTY.—If a State has not adopted
7 a strategic highway safety plan by the date that
8 is 2 years after the date of enactment of this
9 Act, funds made available to the State under
10 section 1101(6) shall be redistributed to other
11 States in accordance with section 104(b) of title
12 23, United States Code.

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