

Calendar No. 656

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-355

DISTRACTED DRIVING PREVENTION ACT OF
2009

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1938



NOVEMBER 30, 2010.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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DISTRACTED DRIVING PREVENTION ACT OF 2009

NOVEMBER 30, 2010.—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. 1938]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1938) to establish a program to reduce injuries and deaths caused by cell phone use and texting while driving, 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. 1938, as reported, is to establish a program to reduce injuries and deaths caused by cell phone use and texting while driving.

BACKGROUND AND NEEDS

The National Highway Traffic Safety Administration (NHTSA) estimates that in 2008, nearly 16 percent of all motor vehicle fatalities and 22 percent of all motor vehicle injuries occurred in crashes in which at least one form of distracted driving was reported in the crash report. As large as these numbers are, they still may not state the true size of the problem, as the identification of distraction by law enforcement and its role in a crash can be very difficult to ascertain. What is clear is that exposure to distracted driving has skyrocketed with the explosion of cell phones and other personal wireless devices. Today, 87 percent of Americans own some form of wireless device.

Distracted driving encompasses a wide range of behavior, including cell phone use, that takes the driver's attention away from his or her primary driving responsibilities. As overall cell phone use

and text messaging have increased year-to-year, the proportion of vehicle fatalities associated with driver distraction has risen—from 12 percent in 2004 to 16 percent in 2008. In a 2009 poll conducted by the AAA Foundation for Traffic Safety, 67 percent of drivers self-reported using a cell phone while driving, and 21 percent self-reported that they send and receive text messages while driving.

Distracted Driving Data

As cell phone use increased dramatically during the past decade, NHTSA researchers began looking into the safety risks of cell phone use by drivers. The NHTSA staff collected and summarized more than 100 private, university, and foreign clinical studies examining driver attention span, the effect of telephone conversations on a driver's cognitive abilities, and driver reaction times when distracted. Looking at its own limited crash data at the time, NHTSA researchers estimated that in 2002, cell phone use was a contributing factor in crashes that killed an estimated 508 to 1,248 people. An exact figure was impossible to determine due to the lack of definitive data.

U.S. Department of Transportation (DOT) Secretary Ray LaHood and NHTSA have focused considerable time and attention on distracted driving research and awareness. At the DOT's Distracted Driving Conference on September 30 and October 1, 2009, NHTSA released a compilation of safety statistics related to cell phone use and texting in passenger cars.¹ The data was drawn from NHTSA's Fatality Analysis Reporting System (FARS) and the National Automotive Sampling System's General Estimates System (NASS GES). The FARS annually collects fatality crash data from the States. The NASS GES is a nationally representative sample of police-reported crashes across a range of causes and accident severity.

According to NHTSA, in 2008, 2.3 million people were injured in motor vehicle traffic crashes. Of these, 37,261 people were killed. Driver distraction played a role in 515,000 vehicle injuries, or 22 percent of all injuries, and played a role in 5,870 fatalities, or 16 percent of all vehicle fatalities. Drivers under 20 years of age accounted for the greatest proportion of distracted driving fatalities.

NHTSA conducts an annual survey of seat belt use in each State, referred to as the National Occupant Protection Use Survey. The survey recently began recording information on the use of electronic devices while driving. In 2008, the survey results show that 11 percent of drivers at any given daylight hour were using an electronic device, whether hand-held or hands-free. The same survey results show that 6 percent of drivers at any given daylight hour, or 812,000 drivers, were holding a cell phone to their ears. That usage rate was a reduction from 2007, when the survey results show that more than one million drivers held a cell phone to their ears at any given daylight hour. The decrease, however, may be the result of more drivers using hands-free devices.

NHTSA's Motor Vehicle Occupant Safety Survey (MVOSS) is a periodic telephone survey to obtain data on attitudes, knowledge, and behavior on seat belt use, child safety, and other aspects of occupant protection. In 2007, the survey showed that 81 percent of

¹ The entire report is available at www.nhtsa.gov.

drivers have a wireless phone with them when they drive.² Of those that have a wireless phone in the vehicle, 64 percent of respondents said they always or usually answer incoming phone calls and 16 percent said they talk while driving during most or all of their trips.³ Only 10 percent said they never make a phone call while in the car.⁴

Prior to NHTSA's compilation of the above statistics, several news reports about distracted driving cited studies that mostly consisted of artificial environments, such as driving simulators in university labs, or placing cameras inside a limited number of passenger cars or trucks to record driver behavior. The most frequently cited study (funded by NHTSA and the Federal Motor Carrier Safety Administration (FMCSA), and performed by Virginia Tech's Transportation Institute) installed video and other recording equipment in 100 passenger vehicles and recorded driver behavior during a one-year period.⁵ The researchers also tracked drivers in 100 commercial vehicles for a period of 18 months. NHTSA warned that the "findings of the 100-car study cannot be generalized to represent the behavior of the Nation's population or the potential causal factors for the crashes that occur across the Nation's roadways."⁶ Texting was studied only for commercial drivers, but not passenger car drivers.

The Virginia Tech study concluded that:

- Drivers of passenger vehicles are
 - 2.8 times more likely to be in a crash when dialing a cell phone;
 - 1.3 times more likely to be in a crash when talking or listening on a cell phone; and
 - 1.4 times more likely to be in a crash when reaching for an object.
- Drivers of heavy vehicles and trucks are
 - 5.9 times more likely to be in a crash when dialing a cell phone;
 - 1.0 times more likely to be in a crash when talking or listening on a cell phone;
 - 6.7 times more likely to be in a crash when using or reaching for an electronic device; and
 - 23.2 times more likely to be in a crash when text messaging. Text messaging risk is high because that distraction had the longest duration of a driver's eyes leaving sight of the road.
- Drivers' eyes diverted during text messaging for an average of 4.6 seconds over a 6 second interval. A driver traveling 55 miles per hour would cover the length of a football field by the time he or she looked up after 4.6 seconds.⁷

²See *NHTSA 2007 Motor Vehicle Occupant Safety Survey, Volume 4: Crash Injury and Emergency Medical Services Report* at 20.

³Id. at 23-4.

⁴Id. at 29.

⁵See *The 100-Car Naturalistic Driving Study Phase II—Results of the 100-Car Field Experiment*, April 2006. Accessible at <http://www.nhtsa.gov/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/Driver%20Distraction/100CarMain.pdf>.

⁶National Highway Traffic Safety Administration. *Traffic Safety Facts Research Note: An Examination of Driver Distraction as Recorded in NHTSA Databanks*, at 6, September 2009.

⁷See Virginia Tech Transportation Institute, "New Data from VTTI Provides Insight Into Cell Phone Use and Driving Distraction," July 27, 2009.

This driving data comes against the backdrop of the overall surge in cell phone subscriptions and cell phone use. In 2008, there were 270 million wireless subscribers in the U.S.⁸ From 1995 to 2008, the number of wireless subscribers increased by 8 times, and the number of minutes talked increased by 58 times. In 2008, wireless consumers used 2.2 trillion minutes and sent and received 110 billion text messages each month.⁹

Federal and State Roles

Driver licensing, rules of the road, and traffic enforcement are generally a State responsibility. However, the Federal government, through FMCSA, regulates motor carrier and motorcoach safety, and certain aspects of school bus safety. NHTSA regulates the safety of vehicles, and conducts a number of programs, including incentive-based programs with the States, to encourage safer driver behavior.

State Laws on Distracted Driving

There are great variations among State distracted driving laws, including what constitutes a violation, and the penalties for a violation. Some States make the law a “secondary” offense, meaning that a law enforcement officer must have a separate enforcement reason (e.g., speeding) other than the cell phone or texting violation to pull over a driver.

Currently, no State has banned all use of cell phones while driving. 7 states (California, Connecticut, Delaware, New Jersey, Oregon, Utah (2nd),¹⁰ Washington (2nd)) and the District of Columbia have banned the use of a hand-held phone while driving. Texas has banned the use of a hand-held phone in school crossing zones and Illinois has banned the use of a hand-held phone in construction and school zones. Texting while driving has been targeted by a majority of the States as well. As of this writing, 30 States and the District of Columbia ban all drivers from texting.¹¹

A number of States have placed greater restrictions on teen drivers. 25 States and the District of Columbia ban teen drivers from talking on all cell phones.¹² Also, a number of States with no general prohibition on texting prohibit such behavior for teen drivers.¹³

Maine takes a broad view of distracted driving. Maine’s distracted driving law defines “operation of a motor vehicle while distracted” as an activity that is not necessary for the operation of the vehicle, and that actually impairs, or would reasonably be expected to impair, the ability of the driver to safely operate the vehicle.

⁸See Federal Communications Commission, *Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, Including Commercial Mobile Services, Fourteenth Report*. May 20, 2010.

⁹ Id.

¹⁰“2nd” denotes the restriction to be a “secondary” offense under the State law.

¹¹Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Iowa (2nd for adult; primary for teens), Kentucky, Louisiana (2nd), Maryland, Michigan, Minnesota, Nebraska (2nd), New Hampshire, New Jersey, New York (2nd), North Carolina, Oregon, Rhode Island, Tennessee, Utah, Virginia (2nd), Washington, Wisconsin, and Wyoming.

¹²Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana (2nd), Maine, Maryland (2nd), Massachusetts, Minnesota, Nebraska (2nd), New Jersey, North Carolina, Oregon, Rhode Island, Tennessee, Texas (intermediate license holders only), Virginia (2nd), Washington, and West Virginia.

¹³Alabama, Indiana, Kansas, Maine, Mississippi, Montana, Nebraska (2nd), Texas, and West Virginia.

Federal Law on Distracted Driving for Commercial Vehicles

Unlike most passenger vehicle drivers, commercial motor vehicles often serve as office space for their drivers. Devices to receive directions, follow-up on orders, or maintain contact with dispatchers are necessary for a truck or bus driver to perform his or her duties. These devices, too, may be distracting if they divert a driver's attention away from the roadway.

In 2006, the National Transportation Safety Board (NTSB) recommended that the FMCSA publish regulations prohibiting cell phone use by commercial driver's license (CDL) holders with passenger or school bus endorsements while operating a motorcoach or bus, except in emergency situations. This recommendation followed an NTSB investigation of a 2004 bus accident in Alexandria, Virginia, that injured 11 of the 27 passengers. The NTSB found that the probable cause of the accident was the bus driver's failure to notice and respond to warning signs due to cognitive distraction resulting from conversing on a hands-free cellular telephone while driving. The NTSB has since added this recommendation to its "Most Wanted" list of transportation safety improvements.

On January 27, 2010, Secretary LaHood issued guidance for commercial motor vehicle drivers regarding an existing motor carrier safety rule to make clear that texting while driving is prohibited. On April 1, 2010, the Secretary formally proposed a rule to directly prohibit texting by commercial motor vehicle drivers operating in interstate commerce, and to impose sanctions and penalties for violations. The proposed rule would also revoke the CDL of any school bus driver convicted of texting while driving a school bus. Comments were due on May 3, 2010.

Although the FMCSA has not yet issued a final rule regarding distracted drivers for CDL holders, commercial motor vehicle drivers are covered by most State laws that have banned hand-held phone use and texting while driving for all drivers. Many States have exceptions for emergencies and emergency workers. Illinois and Oregon reference commercial motor vehicle drivers in their exceptions. In Illinois, a commercial motor vehicle driver is permitted to read a message displayed on a permanently installed communications device that does not exceed 10 square inches. Oregon permits hand-held cell phone use while driving if the person is operating within the scope of the person's employment and if the operation of the motor vehicle is necessary for the person's job.

Role for the Federal Communications Commission

The Federal Communications Commission (FCC) is an independent United States government agency established by the Communications Act of 1934 (Communications Act). The agency is charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. Title III of the Communications Act provides the FCC with authority to regulate "radio communications," or wireless spectrum and services. In practice, that means the agency oversees a wide variety of issues that affect the consumer wireless experience and access to spectrum for commercial wireless providers.

As wireless phones and mobile devices have surged in popularity in recent years, the FCC's focus on wireless issues has increased. To date, however, the agency has not used its regulatory authority to address distracted driving. While there are limits to the FCC's

jurisdiction in this area, the agency can use its authority to work with technology companies to promote solutions. For example, some have proposed technology that would disable certain cell phone functions when inside a car, or send automated responses to callers that the owner of the phone is driving, and thus cannot answer the phone. The FCC may be a natural forum to promote such technological solutions. The FCC can play an important role in determining the technical feasibility and potential issues with proposed devices for jamming cell phone signals in vehicles to stop distracted driving.

The wireless phone industry has recognized that it is in its best interest to address distracted driving. To this end, CTIA—The Wireless Association has begun a campaign with the National Safety Council to educate teenagers about the dangers of texting while driving. This campaign includes a website, educational materials, and a public service announcement for television.

The Federal Role in Traffic Safety

When traffic safety issues of national importance arise, the Federal government has used Federal funding incentives and penalties to influence States. Highway safety programs under the jurisdiction of the Senate Commerce Committee use incentives to affect highway safety behaviors and practices. During past multi-year reauthorizations of the transportation bill, the Commerce Committee has created grant programs that give funding incentives to States to enact highway safety laws and programs. Under the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy For Users, or “SAFETEA-LU” (P.L. 109–59), the last multi-year reauthorization that passed in 2005, the Commerce Committee authorized grant programs that send roughly \$500 million a year to States for highway safety programs and funding incentives to enact safety belt and drunk driving laws.

S. 1938 uses this approach to encourage States to aggressively address the deaths and injuries caused by distracted driving.

SUMMARY OF PROVISIONS

The Distracted Driving Prevention Act would create a new program to make grants to States as an incentive to pass laws against distracted driving. The program is modeled after similar incentive-based programs that have granted States money to fight drunk driving and encourage safety belt use.

To qualify for a grant, a State must adopt a law or amend an existing law to meet certain minimum criteria. Specifically, the State must enact a ban on all texting while driving, require drivers using a cell phone to use a hands-free device, and prohibit drivers under the age of 18 from using any cell phone device while driving. The State must make a violation of the statute a primary offense and enact an unspecified minimum penalty for a violation. The State must also enact increased civil and criminal penalties for a driver who causes an accident while texting or using a cell phone. The State grants for distracted driving would be funded with existing surpluses in the primary safety belt incentive program.

The bill would also create and fund a national education and advertising program to educate the public about the dangers of distracted driving. The campaigns within these programs are meant

to be comprehensive and include more than just direct appeals to drivers not to use a cell phone or text while driving. Part of the reason drivers make calls and send texts while driving is that employers, friends, and family members pressure drivers for immediate responses in non-emergency situations.

The Secretary of Transportation would be required to prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by commercial motor vehicle and school bus drivers during the performance of their duties. The regulations would cover commercial motor vehicles, with gross vehicle weight greater than 10,000 pounds, buses with more than 16 passengers (including the driver), vehicles used to transport hazardous materials in a quantity that requires placarding, and certain school buses. In recognition of the fact that motor carriers and commercial motor vehicle drivers rely on a variety of devices to run their businesses and operations, the Committee's direction allows the Secretary flexibility regarding the regulations to be issued. However, the Committee expects the Secretary to base the regulations on a robust analysis of safety data and research, and ensure the safety of motor vehicle drivers, passengers, and other users of our roads and highways.

To improve safety research, the bill would direct DOT to study distracted driving by passenger and commercial drivers, and direct the FCC to identify technologies with the potential to reduce the dangers of distracted driving. The bill would also require States to collect data on distracted driving accidents as part of the crash data they already collect.

To reduce distractions in new vehicles, the Secretary of Transportation would be required to issue regulations that prohibit screens for visual entertainment in new vehicles that are in the driver's view. Exceptions would be made for images related to vehicle operation, communications systems, and navigation systems.

S. 1938 would not increase the budget deficit. The grant program in section 2, and the national advertising campaign in section 3, are paid for by redirecting unused surpluses from the SAFETEA-LU grants for States that enact a new primary safety belt law. The number of States enacting a new primary safety belt law has slowed in recent years, leaving only a few eligible States.

Any State that enacts a new primary safety belt law in 2010 and 2011 would still receive their safety belt grant from the pool of \$124 million. But funding not claimed for new primary safety belt laws would be redirected to the distracted driving grant program. The first \$7.5 million through the first fiscal quarter of FY 2011 would be directed to the national advertising campaign in section 3. Funding for section 3 is expected to be annualized at \$30 million, which Congress reauthorizes or extends through the highway and transit program, which currently expires on December 31, 2010. The remaining funds—approximately \$94 million dollars—would be divided by existing safety funding formulas among States with a qualifying distracted driving law under section 2. Any surpluses from the safety belt program in fiscal year 2010 would be rolled over into the same account in fiscal year 2011 to add to the pool of funds for States that qualify for a distracted driving grant in fiscal year 2011.

LEGISLATIVE HISTORY

The Distracted Driving Prevention Act of 2009, S. 1938, was introduced on October 27, 2009, by Chairman Rockefeller, Ranking Member Hutchison, and Senators Lautenberg, Thune, Klobuchar and Schumer, and referred to the Committee on Commerce, Science and Transportation. The bill has five additional co-sponsors: Senators Casey, Nelson of Florida, Udall of New Mexico, Vitter, and Warner. On October 28, 2009, the Committee held a hearing on distracted driving. The witnesses were Secretary of Transportation Ray LaHood and FCC Chairman Julius Genachowski. The Committee considered S. 1938 in Executive Session on June 9, 2010, at which time a substitute amendment was offered. The Committee favorably reported the bill, as amended, by a roll call vote of 17 yeas and 8 nays.

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:

JULY 15, 2010.

Hon. JOHN D. ROCKEFELLER IV,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1938, the Distracted Driving Prevention Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sarah Puro (for federal costs) and Samuel Wice (for the impact on the private sector).

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1938—Distracted Driving Prevention Act of 2010

Summary: S. 1938 would authorize the National Highway Transportation Safety Administration (NHTSA) to use previously appropriated contract authority (the authority to incur obligations in advance of appropriations and a mandatory form of budget authority) for activities related to preventing distracted driving (such as using a cell phone while driving) in fiscal year 2011. CBO estimates that enacting the legislation would have no significant impact on the federal budget.

Enacting S. 1938 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

S. 1938 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state, local, or tribal governments would result from complying with conditions of assistance.

The bill would impose private-sector mandates as defined in UMRA on commercial drivers and on the manufacturers and owners of motor vehicles. Because the cost of the requirements on commercial drivers would depend upon future regulations, CBO cannot

estimate whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA for the private sector (\$141 million in 2010, adjusted annually for inflation).

Estimated cost to the Federal Government: S. 1938 would authorize NHTSA to use \$7.5 million of previously appropriated contract authority during the first quarter of fiscal year 2011 for activities related to preventing distracted driving. Those activities include providing grants to states and conducting educational outreach and research.

CBO assumes that use of the contract authority would continue to be controlled by obligations or limitations contained in appropriation acts. CBO expects that the rate of expenditures for activities to prevent distracted driving would be similar to spending that would otherwise occur; therefore, enacting the bill would have no significant impact on the federal budget.

Estimated impact on State, local, and tribal governments: S. 1938 contains no intergovernmental mandates as defined in UMRA. Any costs to State, local, or tribal governments would result from complying with conditions of assistance.

Estimated impact on the private sector: The bill would impose private-sector mandates as defined in UMRA on commercial drivers and on the manufacturers and owners of motor vehicles. Because the cost of the requirements on commercial drivers would depend upon future rules and regulation, CBO cannot estimate whether the aggregate cost of the mandates on private-sector entities would exceed the annual threshold established in UMRA for such mandates (\$141 million in 2010, adjusted annually for inflation).

Commercial motor vehicles and school buses

The bill would prohibit drivers of commercial vehicles and school buses from using electronic or wireless devices in circumstances where such use interferes with their safe operation of the vehicles. The cost of the mandate would be any income forgone by those commercial drivers, typically truck drivers, whose income depends on the distance driven. That cost would depend on the specific regulations the Federal Motor Carrier Safety Administration (FMCSA) imposes. According to FMCSA, there are seven million commercial drivers, and the average full-time driver of a truck makes slightly less than \$20 an hour.

Prohibition on electronic visual entertainment in driver's view

S. 1938 would direct the Department of Transportation to establish a new standard that would prohibit electronic screens from displaying broadcast television, movies, video games, and other visual entertainment that is visible to the driver while driving. According to information from industry sources, no vehicle manufacturers offer or plan to offer in the future devices providing entertainment in the driver's view while driving. Thus, CBO estimates that the cost of the mandate would be minimal if any.

Similarly, vehicle owners would be prohibited from adding aftermarket devices providing such entertainment in the driver's view. The cost of the mandate would be minimal.

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

Estimate approved by: Peter H. Fontaine, 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 majority of the bill focuses on Federal and State government initiatives. State distracted driving laws would apply to an estimated population of 208 million licensed drivers. Section 8 would apply to commercial motor vehicle drivers, estimated at 3.4 million persons, although that number can fluctuate based on economic conditions. Section 10 would require the Secretary to issue new regulations that would prohibit auto manufacturers from installing entertainment screens in new cars that are in the view of the driver while driving.

ECONOMIC IMPACT

S. 1938 would not increase the budget deficit because it would redirect existing highway trust fund money already allocated to the primary safety belt program. Minimal regulatory costs of prohibiting commercial vehicle drivers from using distracting electronic devices and prohibiting entertainment screens in new cars from the view of drivers would be more than offset by the economic cost savings of reducing traffic accidents that cause property damage, serious injuries, and death.

PRIVACY

This bill would not have any adverse impact on the privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from this legislation.

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 and table of contents

The section would provide that S. 1938 may be cited as Distracted Driving Prevention Act of 2010.

Section 2. Distracted driving incentive grants

The section would amend chapter 4 of title 23, United States Code, by adding a new section 413 entitled "Distracted driving incentive grants." Subsection 413(a) would direct the Secretary of Transportation to create a new program to make grants to States

that enact and implement a statute that meets the requirements set forth in subsections 413(b) and (c). Specifically, a State statute would meet the requirements of subsections 413(b) and (c) if it prohibits the use of a wireless communications device for texting while driving; prohibits a driver from holding a wireless communications device to make a call while driving; requires distracted driving issues to be tested as part of the State driver's license examination; makes a violation a primary offence; creates a minimum fine for a first-time violation of the statute; imposes increased penalties for repeat violations; and provides increased civil and criminal penalties for a driver that causes an accident while using a device in violation of the statute.

A State statute meeting the requirements of the section would be permitted under section 413(d) to provide exceptions for a driver contacting emergency services; the use of hands-free devices for drivers 18 or older; manipulation of a device to use the hands-free functionality; use of a wireless communications device by emergency services in the performance of their duties; and use of a device by commercial motor vehicle drivers, if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

Subsection 413(e) would require the Secretary to make a grant to a State beginning in fiscal year 2011 that enacts a qualifying law before July 1 or maintains a qualifying statute enacted in the previous year that is in effect through the end of June of the grant year. Under subsection 413(f), grants would be apportioned among qualifying States according to the same formula as safety belt and drunk driving grant programs.

Subsection 413(g) would direct a State receiving a grant to use at least 50 percent of funds to educate the public and advertise information about the dangers of texting or using a cellphone while driving; for traffic signs notifying the public of distracted driving laws; for enforcement of the distracted driving law; or for a combination of such efforts. Up to 50 percent of the grant money could be devoted to other projects that improve traffic safety.

Subsection 413(h) sets forth the definition of several terms used in the section.

Section 3. Distracted driving national education program

The section would require NHTSA to establish and administer two nationwide, high-visibility education and advertising campaigns to educate drivers about the dangers of texting and cellphone use while driving. In addition to the national campaigns, the section would allow NHTSA to use funds for targeted advertising campaigns in States or local jurisdictions that have enacted distracted driving laws and would require NHTSA to give consideration to advertising directed at non-English speaking populations. Subsection 3(d) would allow NHTSA to coordinate with States to carry out the educational and advertising campaigns under this section to coincide with high-visibility enforcement of State laws prohibiting texting or use of a cellphone while driving. Subsection 3(e) would require NHTSA to evaluate the effectiveness of the campaigns each year and report the results to Congress.

Section 4. Research and data collection

The section would amend section 408(e)(2) of title 23, United States Code, to revise the data elements regarding vehicle crash causation collected by States that receive certain grants from NHTSA. New subsection 408(e)(2)(A) would add data elements, as determined appropriate by the Secretary, in consultation with the States and law enforcement, on the impact on traffic safety of the use of electronic devices while driving.

In meeting the requirements of subparagraph (A), subsection 408(e)(2)(B) would require that States and local governments to include a space in official vehicle accident investigation reports to record whether a wireless communications device was in use at the time of an accident; require that all law enforcement officers inquire about and record the use of such device; and incorporate the information into its traffic safety information system.

The section would apply to grants under section 408 of title 23, United States Code, for fiscal years beginning after fiscal year 2010.

Section 5. Research program

The section would require the Secretary of Transportation to establish a dedicated program at the Federal level to study distracted driving by passenger and commercial drivers. The program would include studies of driver behavior, vehicle technology, and portable electronic devices that are commonly brought into passenger or commercial vehicles. The section would allow the Secretary to grant research contracts to nongovernmental entities provided that the entities do not produce or sell passenger or commercial vehicles, electronic equipment used in vehicles, or portable electronic equipment commonly brought into vehicles.

Section 6. FCC Report on distracted driving technology

The section would require the FCC within 180 days after the date of enactment to submit a report identifying data the FCC can collect to help understand the problem of distracted driving; existing and developing technologies with potential to reduce the dangers of distracted driving; and existing FCC authority to take the initiative to reduce the dangers of distracted driving.

Section 7. Provision of information to the states

The section would provide a limited exception to the prohibition on NHTSA from conveying safety information to States unless specifically requested to do so by a State entity. NHTSA would be permitted to provide government-sponsored research and highway safety data or technical assistance relating to legislative proposals addressing the potential dangers of texting and cell phone use.

Section 8. Commercial motor vehicles and school buses

The section would amend subchapter II of chapter 311 of title 49, United States Code, by adding a new section 31152. Within one year of the date of enactment, the Secretary would be required to prescribe regulations on the use of electronic or wireless devices—including cell phones and other distracting devices—by commercial motor vehicle and school bus drivers during the performance of their duties. The regulations would cover commercial motor vehi-

cles, including large trucks (gross vehicle weight greater than 10,000 pounds), buses with more than 16 passengers (including the driver), vehicles used to transport hazardous materials in a quantity that requires placarding, and certain school buses. The section would require the Secretary to prohibit the use of such devices in circumstances in which the Secretary determines that their use would interfere with the safe operation of the vehicle. The Secretary would be allowed to permit the use of wireless and electronic devices that would otherwise be prohibited, if the Secretary determines that they are necessary for the safety of the driver or the public in emergency circumstances.

Section 9. Funding

The section would amend section 2001(a)(4) of Public Law 109–59 to fund the State grant program and the national advertising campaign, by redirecting unused surpluses from the SAFETEA–LU grants for States to enact a new primary safety belt law. The section would designate \$7.5 million for carrying out the national advertising campaign established for the first quarter of FY 2010 in section 3. Unallocated funds available for grants for States to enact a new primary safety belt law would be carried over to the next year for use under section 406 and 413 (the distracted driving incentive grants).

Section 10. Prohibition on electronic visual entertainment

The section would require the Secretary of Transportation to issue regulations, within two years after the date of enactment, that prohibit electronic screens in cars from displaying visual entertainment that is visible to the driver while driving. The section would require that the regulation allow electronic screens that display information or images regarding vehicle operation, vehicle surroundings, communications systems, and navigation systems. The section also provides that, if the Secretary determines a deadline for a final rule cannot be met, the Secretary shall notify Congress and establish a new deadline for that rule.

ROLLCALL VOTES IN COMMITTEE

In executive session on June 9, 2010, Senator Rockefeller offered an amendment in the nature of a substitute to S. 1938. Senator Wicker then requested a rollcall vote on the bill, as amended. The Committee favorably reported S. 1938 by a vote of 17 ayes and 8 nays.

YEAS—17	NAYS—8
Mr. Inouye ¹	Ms. Snowe
Mr. Kerry	Mr. Ensign ¹
Mr. Dorgan	Mr. DeMint
Mrs. Boxer ¹	Mr. Wicker
Mr. Nelson	Mr. LeMieux
Ms. Cantwell	Mr. Isakson
Mr. Lautenberg	Mr. Brownback ¹
Mr. Pryor	Mr. Johanns
Mrs. McCaskill	
Ms. Klobuchar	
Mr. Udall	

Mr. Warner
 Mr. Begich
 Mrs. Hutchison
 Mr. Thune
 Mr. Vitter¹
 Mr. Rockefeller

¹ By proxy.

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):

UNITED STATES CODE

TITLE 23. HIGHWAYS

CHAPTER 4. HIGHWAY SAFETY

§ 406. Safety belt performance grants

(a) IN GENERAL.—The Secretary shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

(B) in the case of a State that does not have such a primary safety belt use law, has after December 31, 2005, a State safety belt use rate of 85 percent or more for each of the 2 calendar years immediately preceding the fiscal year of a grant, as measured under criteria determined by the Secretary.

(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) shall equal 475 percent of the amount apportioned to the State under section 402(c) for fiscal year 2003.

(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a conforming primary safety belt use law enacted after June 30th of any year shall—

(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

(B) be considered as if it were enacted after October 1 of the next Federal fiscal year.

(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, the Secretary shall make grants under this subsection to States in the order in which—

(A) the conforming primary safety belt use law came into effect; or

(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured under by criteria determined by the Secretary), whichever first occurs.

(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's conforming primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to the condition in paragraph (4)).

[(c) GRANTS FOR PRE-2003 LAWS.—

[(1) IN GENERAL.—To the extent that amounts made available for grants under this section for any of fiscal years 2006 through 2009 exceed the total amount of grants to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003.

[(2) AMOUNT; INSTALLMENTS.—The amount of a grant available to a State under this subsection shall be equal to 200 percent of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The Secretary may award the grant in annual installments.

[(d) ALLOCATION OF UNALLOCATED FUNDS.—

[(1) ADDITIONAL GRANTS.—The Secretary shall make additional grants under this section of any amounts made available for grants under this section that, on July 1, 2009, have not been allocated to States under this section.

[(2) ALLOCATION.—The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing conforming primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).**]**

(e) USE OF GRANT FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

- (A) intersection improvements;
- (B) pavement and shoulder widening;
- (C) installation of rumble strips and other warning devices;
- (D) improving skid resistance;
- (E) improvements for pedestrian or bicyclist safety;
- (F) railway-highway crossing safety;
- (G) traffic calming;

- (H) the elimination of roadside obstacles;
- (I) improving highway signage and pavement marking;
- (J) installing priority control systems for emergency vehicles at signalized intersections;
- (K) installing traffic control or warning devices at locations with high accident potential;
- (L) safety-conscious planning; and
- (M) improving crash data collection and analysis.

(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least \$1,000,000 of amounts received by States under this section are obligated for safety activities under this chapter.

(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

(g) FEDERAL SHARE.—The Federal share payable for grants under this section shall be 100 percent.

(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term “passenger motor vehicle” means—

- (1) a passenger car;
- (2) a pickup truck; and
- (3) a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

§ 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.】

(2) DATA ON USE OF ELECTRONIC DEVICES.—

(A) *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.*

(B) *In order to meet the requirements of subparagraph*

(A), *State and local governments shall—*

(i) require that official vehicle accident investigation reports include a designated space to record whether or not the use of a personal wireless communications device (as defined in section 413(h)(3)) was in use at the time of the accident by any driver involved in the accident;

(ii) require that all law enforcement officers, as part of a vehicle accident investigation, inquire about and record the information required by clause (i); and

(iii) incorporate the information collected under clause (i) into its traffic safety information system.

(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.

§ 413. Distracted driving incentive grants

(a) *IN GENERAL.*—The Secretary shall make a grant under this section to any State that enacts and implements a statute that meets the requirements of subsections (b) and (c) of this section.

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

(1) prohibits the use of a personal wireless communications device by a driver for texting 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 HANDHELD CELLPHONE USE WHILE DRIVING.*—A State statute meets the requirements of this subsection if the statute—

(1) prohibits a driver from holding a personal wireless communications device to conduct a telephone call 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 of subsections (b) and (c) may provide exceptions for—

(1) use of a personal wireless communications device by a driver to contact emergency services;

(2) allows the use of hands-free devices that enable a driver, other than a driver who has not attained the age of 18, to initiate, conduct, or receive a telephone call without holding the device;

(3) manipulation of such a device by a driver to activate, deactivate, or initialize the hands-free functionality of the device;

(4) use of a personal wireless communications device by emergency services personnel while operating an emergency services vehicle and engaged in the performance of their duties as emergency services personnel; and

(5) use of a device by an individual employed as a commercial motor vehicle driver, or a school bus driver, 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) *GRANT YEAR.*—The Secretary shall make a grant under this section to a State in any year beginning fiscal year 2011 in which the State—

(1) enacts a law that meets the requirements of subsections (b) and (c) before July 1; or

(2) maintains a statute, that meets the requirements of subsections (b) and (c), enacted in a previous year that is in effect through June 30th of the grant year.

(f) *DISBURSEMENT AND APPORTIONMENT.*—Grants to qualifying States shall be disbursed after July 1 each year according to the apportionment criteria of section 402(c).

(g) *USE OF GRANT FUNDS.*—A State that receives a grant under this section—

(1) shall use at least 50 percent of the grant—

(A) to educate and advertise to the public information about the dangers of texting or using a cellphone while driving;

(B) for traffic signs that notify drivers about the distracted driving law of the State;

(C) for law enforcement of the distracted driving law; or

(D) for a combination of such uses; and

(2) may use up to 50 percent of the grant for other projects that improve traffic safety and that are consistent with the criteria in section 402(a).

(h) *DEFINITIONS.*—In this section:

(1) *DRIVING.*—The term “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. It 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.

(2) *HANDS-FREE DEVICE.*—The term “hands-free device” means a device that allows a driver to use a personal wireless communications device to initiate, conduct, or receive a telephone call without holding the personal wireless communications device.

(3) *PERSONAL WIRELESS COMMUNICATIONS DEVICE.*—The term “personal wireless communications device” 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. It does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

(4) *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.

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

(6) *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.

UNITED STATES CODE

TITLE 49. TRANSPORTATION

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

PART B—COMMERCIAL

CHAPTER 311. COMMERCIAL MOTOR VEHICLE SAFETY

SUBCHAPTER III. SAFETY REGULATION

§ 31152. Regulation of the use of distracting devices in commercial motor vehicles and school buses

(a) *IN GENERAL.*—No later than 1 year after the enactment of the Distracted Driving Prevention Act of 2010, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of—

(1) a commercial motor vehicle while that individual is engaged in the performance of such individual's duties as the operator of the commercial motor vehicle; or

(2) a school bus (as defined in section 30125(a)(1)) that is a commercial motor vehicle (as defined in section 31301(4)(A)) while that individual is engaged in the performance of such individual's duties as the operator of the school bus.

(b) *BASIS FOR REGULATIONS.*—The Secretary shall base the regulations required by subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

(c) *PROHIBITED USE.*—The Secretary shall prohibit the use of such devices in circumstances in which the Secretary determines that their use interferes with the driver's safe operation of a school bus or commercial motor vehicle.

(d) *PERMITTED USE.*—Under the regulations, the Secretary may permit the use of a device, the use of which is prohibited under subsection (c), if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.

PUBLIC LAW 109–59: SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) *IN GENERAL.*—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) *HIGHWAY SAFETY PROGRAMS.*—For carrying out section 402 of title 23, United States Code, \$163,680,000 for fiscal year 2005, \$217,000,000 for fiscal year 2006, \$220,000,000 for fiscal year 2007, \$225,000,000 for fiscal year 2008, \$235,000,000 for fiscal year 2009, \$235,000,000 for fiscal year 2010, and \$58,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(2) *HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.*—For carrying out section 403 of title 23, United States Code, \$71,424,000 for fiscal year 2005, \$110,000,000 for fiscal year 2006, \$107,750,000 for fiscal year 2007, \$107,750,000 for fiscal

year 2008, \$105,500,000 for fiscal year 2009, \$107,329,000 for fiscal year 2010, and \$27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(3) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, \$19,840,000 for fiscal year 2005, \$25,000,000 for fiscal year 2006, \$25,000,000 for fiscal year 2007, \$25,000,000 for fiscal year 2008, \$25,000,000 for fiscal year 2009, \$25,000,000 for fiscal year 2010, and \$6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(4) SAFETY BELT PERFORMANCE GRANTS.—For carrying out section 406 of title 23, United States Code, \$124,500,000 for fiscal year 2006, \$124,500,000 for fiscal year 2007, \$124,500,000 for fiscal year 2008, \$124,500,000 for fiscal year 2009, \$124,500,000 for fiscal year 2010, and **[\$31,125,000]** \$23,625,000 for the period beginning on October 1, 2010, and ending on December 31, **[2010.]** 2010, of which \$7,500,000 shall be for carrying out section 3 of the Distracted Driving Prevention Act of 2010. If any amount of the funds authorized by this paragraph has not been allocated to States meeting the criteria of section 406 of title 23, United States Code, by July 1 of a fiscal year beginning after fiscal year 2009, the unallocated amount shall be allocated to States meeting the criteria of section 413 of that title. Unallocated amounts from sections 406 and 413 in a fiscal year shall be carried over to the next fiscal year for use under sections 406 and 413.

(5) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code, \$34,500,000 for fiscal year 2006, \$34,500,000 for fiscal year 2007, \$34,500,000 for fiscal year 2008, \$34,500,000 for fiscal year 2009, \$34,500,000 for fiscal year 2010, and \$8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(6) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title 23, United States Code, \$39,680,000 for fiscal year 2005, \$120,000,000 for fiscal year 2006, \$125,000,000 for fiscal year 2007, \$131,000,000 for fiscal year 2008, and \$139,000,000 for fiscal year 2009, \$139,000,000 for fiscal year 2010, and \$34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code, \$3,968,000 for fiscal year 2005, \$4,000,000 for fiscal year 2006, \$4,000,000 for fiscal year 2007, \$4,000,000 for fiscal year 2008, \$4,000,000 for fiscal year 2009, \$4,078,000 for fiscal year 2010, and \$1,029,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of this title \$29,000,000 for fiscal year 2006, \$29,000,000 for fiscal year 2007, \$29,000,000 for fiscal year 2008, \$29,000,000 for fiscal year 2009, \$29,000,000 for fiscal year 2010, and \$7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of this title \$6,000,000 for fiscal year 2006, \$6,000,000 for fiscal year 2007, \$6,000,000 for fiscal year 2008, \$7,000,000 for fiscal year 2009, \$7,000,000 for fiscal year 2010, and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(10) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—For carrying out section 2011 of this title \$6,000,000 for fiscal year 2006, \$6,000,000 for fiscal year 2007, \$6,000,000 for fiscal year 2008, \$7,000,000 for fiscal year 2009, \$7,000,000 for fiscal year 2010, and \$1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(11) DISTRACTED DRIVING PROGRAM.—For carrying out section 3 of the *Distracted Driving Prevention Act of 2010*, \$7,500,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

[(11)] (12) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title \$17,500,000 for fiscal year 2006, \$17,750,000 for fiscal year 2007, \$18,250,000 for fiscal year 2008, and \$18,500,000 for fiscal year 2009, \$25,047,000 for fiscal year 2010, and \$6,332,000 for the period beginning on October 1, 2010, and ending on December 31, 2010.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, (including the amendments made by this title), the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter shall only be used to carry out such program and may not be used by States or local governments for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2005 through 2011 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (5), or (6) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 408, and 410 of title 23, United States Code.

(e) CLARIFICATIONS.—The amounts made available by each of subsections (a)(1) through (a)(7) shall be less any amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by laws enacted before the date of enactment of this Act for the respective programs referred to in each of such subsections for fiscal year 2005. Amounts authorized by such sub-

sections are post-rescission and shall not be subject to any rescission after the date of enactment of this Act.

