

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

WikiLeaks Document Release

<http://wikileaks.org/wiki/CRS-RL32214>

February 2, 2009

Congressional Research Service

Report RL32214

*Safety Belts: Federal Policies, Incentives, and
Reauthorization Issues*

Paul F. Rothberg, Resources, Science, and Industry Division

Updated February 3, 2004

Abstract. This report presents background information and analysis on the policy issues associated with increasing safety belt use rates and the federal role in this area. First, statistics on the use of safety belts are presented. Then, a summary of various state laws and use rates is presented, followed by a discussion on some of the concerns that have been expressed by various parties regarding belt laws. Next, current federal policies and programs affecting safety belt use are detailed, paying particular attention to the activities of NHTSA, the key federal agency responsible for promoting traffic safety and the use of safety belts.

WikiLeaks

CRS Report for Congress

Received through the CRS Web

Safety Belts: Federal Policies, Incentives, and Reauthorization Issues

February 3, 2004

David Randall Peterman
Analyst in Science and Technology
Resources, Science, and Industry Division

<http://wikileaks.org/wiki/CRS-RL32214>

Note: Paul Rothberg, who has retired from CRS, is the author of this report. Randy Peterman is the CRS analyst who currently handles issues covered by this report.

Safety Belts: Federal Policies, Incentives, and Reauthorization Issues

Summary

Congress is debating funding levels and qualification criteria for future federal grants designed to encourage states to increase their safety belt use rates or enact primary safety belt laws. Such laws allow police officers to stop a vehicle when a violation of a safety belt use regulation occurs. That debate is taking place within the context of deliberations over reauthorization of federal surface transportation programs, including various traffic safety grants provided to the states. A proposal also is being discussed that would subject any state that does not adopt and enforce a primary belt law with the loss of a portion of its federal highway trust fund monies (S. 1993). Supporters assert that such action is needed to convince many reluctant state legislatures to enact primary laws, which lead to increases in belt use rates and associated safety payoffs. Opponents of the penalty approach cite federal interference in state matters, potential loss of construction funds, and privacy concerns about allowing officers to stop a vehicle simply because of a belt violation.

In many crashes, research indicates that safety belts, when used properly, are one of the most effective and least costly occupant protection devices, and thus increasing their use is a key strategy intended to reduce crash fatalities and serious injuries. The National Highway Traffic Safety Administration (NHTSA) estimates that more than 164,700 lives were saved as a result of belt use from 1975 through 2002, and each percentage point increase in the national safety belt use rate represents about 2.8 million more Americans using belts, and 270 additional lives saved and 4,000 serious injuries prevented each year. Research has shown that lap/shoulder belts, when used, reduce the risk of fatal injury to front seat occupants of passenger cars by 45% and the risk of moderate-to-critical injury by 50%. Forty-nine states have mandatory adult belt use laws in effect, and 20 of these have primary belt laws. National safety belt use rates (day-time use in the front seats) have been increasing from 58% in 1994 to 79% in 2003. The increases are not consistent nationwide. Most of the states with a use rate above 80% have a primary enforcement law. The Senate Commerce, Science, and Transportation Committee reported out S. 1978, which authorizes a grant program encouraging states to adopt primary laws or increase safety belt use rates. That program is similar to that proposed by the Administration. S. 1978 and the Administration's reauthorization proposal would initially reserve most of these grant funds to encourage states to enforce a primary belt law, and both recommend similar amounts of funding for FY2004 to FY2009 for state grants starting in the \$120-\$125 million range in FY2004. The House Transportation and Infrastructure (T&I) Committee proposal (H.R. 3550) would keep the basic structure of the occupant protection grant authorized in 23 USC 405, but would now allow states with a safety belt use rate of 85% or greater to receive funds. H.R. 3550 would provide \$140 million in FY2004 for occupant protection grants, and would increase that amount by \$5 million per year through FY2009. That bill also would authorize \$10 million per year to support national enforcement campaigns to improve occupant protection (as well as to reduce impaired driving); whereas, the Senate Commerce bill (S. 1978) would provide \$24 million for advertising and educational initiatives to support these campaigns. This report will not be updated.

Contents

Safety Belts: Statistics, Laws, Use Rates, and NHTSA’s Efforts	1
Safety Belt Statistics	2
Safety Belt Laws and Use Rates	3
Concerns Regarding Safety Belt Laws	8
NHTSA’s Efforts to Increase Safety Belt Use	9
Reauthorization Proposals and Issues	11
Reauthorization Proposals	11
Administration’s SAFETEA Proposal	12
S. 1978, Bill Reported by Senate Commerce, Science, and Transportation Committee	13
House Transportation and Infrastructure Committee Bill	14
Other Approaches	15
Issues Associated with Reauthorization	16
Funding Levels	16
Structure of Grants and Eligibility Criteria	18
Financial Penalty or Sanction	20
Conclusion	21

List of Tables

Table 1. State Reported Safety Belt Use Rates, 2002 and 2003	6
Table 2. Bush Administration’s Proposed Safety Belt Use Law Grants and Safety Belt Use Rate Grants	13
Table 3. Funding Levels for Safety Belt Incentives in S. 1978 as Reported by the Senate Commerce, Science, and Transportation Committee	14

Safety Belts: Federal Policies, Incentives, and Reauthorization Issues

Safety Belts: Statistics, Laws, Use Rates, and NHTSA's Efforts

Traffic safety is an important theme integral to the debate on reauthorization of federal surface transportation programs. Attention is focused on ways to reduce the impacts of motor vehicle crashes, which are responsible for about 95% of deaths and 99% of injuries on U.S. highways. According to the National Highway Traffic Safety Administration (NHTSA), "Safety belt use is the single most effective strategy a person can employ to prevent deaths and injuries and reduce the costs associated with motor vehicle crashes."¹ Many experts throughout the traffic safety community agree with this conclusion. As discussed below, the strategies or laws used to increase belt use, however, give rise to controversy among some groups.

This report presents background information and analysis on the policy issues associated with increasing safety belt use rates and the federal role in this area. First, statistics on the use of safety belts are presented. Then, a summary of various state laws and use rates is presented, followed by a discussion on some of the concerns that have been expressed by various parties regarding belt laws. Next, current federal policies and programs affecting safety belt use are detailed, paying particular attention to the activities of NHTSA, the key federal agency responsible for promoting traffic safety and the use of safety belts.

As part of the reauthorization process, Congress is considering proposals that seek to increase belt use rates or encourage states to adopt primary belt laws. These proposals are summarized and compared to each other and to current law authorizing comparable federal incentives. This report then discusses three of the key policy issues associated with increasing the use of safety belts and the reauthorization of funding for the federal highway programs. These issues are: the level of federal funding that might be authorized for federal grants to encourage occupant protection, the eligibility criteria that might be used to determine which states qualify for future funding, and the proposal to impose a financial penalty against a state's federal highway apportionment if that state does not adopt and enforce a primary belt law.

¹ National Highway Traffic Safety Administration. Initiatives to Increase Seat Belt Use. July 2003.

http://www.nhtsa.dot.gov/people/injury/SafetyBelt/OPIPT_FinalRpt_07-17-03.html

Safety Belt Statistics

Safety belts are part of an occupant protection strategy to reduce injury that includes improvements in vehicle design, proper use of child safety seats and booster seats, and front and side air bags. This report focuses only on the role of safety belts.

Research indicates that lap/shoulder belts, when used, reduce the risk of fatal injury to front seat occupants of passenger cars by 45% and the risk of moderate to critical injury by 50%.² These studies found that for light truck occupants, safety belts also reduce the risk of fatal injury by 60% and moderate to critical injury by 65%.³ Both the literature and experience indicates that safety belts, when used properly, are one of the most effective and least costly ways of saving lives and reducing injuries from many traffic crashes. Sometimes belted passengers and belted drivers, however, die or are severely injured in some crashes. NHTSA estimates in 2002 that about 14,000 lives were saved and 315,000 serious injuries were prevented, saving about \$50 billion in medical care, lost productivity, and other related costs because of the use of safety belts.⁴ For 2002 NHTSA estimates that more than 7,300 people died and 100,000 were seriously injured in traffic crashes due to their failure to wear safety belts. These occurrences cost society over \$20 billion.⁵ NHTSA estimates that more than 164,700 lives were saved as a result of belt use from 1975 through 2002.⁶

According to NHTSA, each percentage point increase in the national safety belt use rate represents about 2.8 million more Americans using belts, and 270 additional lives saved and 4,000 serious injuries prevented each year.⁷ This agency calculates that increasing the national safety belt use rate from the current 79% to 85% would save about 1,600 lives annually.⁸ As the number of belt users increases (e.g., the pool of nonusers decreases), more lives are saved for each incremental point increase in belt use, according to the Transportation Research Board. The Board points out that: “The reason is that those most resistant to buckling up tend to exhibit other high risk-behaviors (e.g., alcohol use, speeding) and are more frequently involved in crashes...”⁹ The literature also indicates that belt use is lower – about 40% for drivers

² NHTSA. Traffic Safety Facts 2002. Occupant Protection. p. 1. <http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/TSF2002/2002ovrfacts.pdf> bid.p.1.

³ Ibid.

⁴ Written communication from NHTSA, 2004.

⁵ Ibid.

⁶ NHTSA. Traffic Safety Facts 2002. Occupant Protection. p. 2.

⁷ This projection was calculated by NHTSA based on the 2003 use rate of 79%.

⁸ DOT. United States Department of Transportation’s Strategic Plan for Fiscal Years 2003-2008. http://www.dot.gov/stratplan2008/strategic_plan.htm#_Toc52257032

⁹ Transportation Research Board. Special Report 278. Buckling Up: Technologies to Increase Seat Belt Use. p. ES-2.

– in severe crashes, and that nonusers of belts tend to be involved in more crashes than belt users.¹⁰

In the United States about one in five drivers and front seat passengers ride unbuckled. Of the 32,598 passenger vehicle occupants killed in U.S. traffic crashes in 2002, 59% were not wearing a safety belt.¹¹ Crash data show repeatedly that not wearing a safety belt could have dire consequences, especially in certain types of crashes. Consider for example, the 8,768 people who were killed in 2002 in single-vehicle rollover crashes of light vehicles, which are those with less than a 10,000 pound gross vehicle weight rating. According to data from NHTSA, 76% of these people were not wearing safety belts and 79% of these unrestrained occupants were partially or completely ejected from the vehicle.¹² Furthermore, NHTSA notes: “Safety belts are 80 percent effective in reducing fatalities in light trucks (including sport utility vehicles) during rollover crashes.”¹³ Also, it is well documented that inpatient medical costs are much lower for those traffic crash survivors who were belted compared to those who were unbelted.

Nevertheless despite all of the research that has been completed on this occupant protection device, there remains some debate in the scientific community on how to measure the benefits and costs that should be attributed to safety belts. There is an associated question of whether some people take greater risks when driving with a belt than they would otherwise without a belt. Some scientists ask: To what extent does offsetting risky behavior attenuate safety benefits from increased belt use rates? How is this phenomena measured objectively? There is also the question of ensuring the proper use of effective safety belts. These devices must be designed to ensure that they work properly and that they are safe; the devices need to be free of flaws, defects and failures; and these devices need to be worn correctly.

Safety Belt Laws and Use Rates

Forty-nine states and the District of Columbia have mandatory adult belt use laws in effect. According to the Insurance Institute for Highway Safety,

In most states, these laws cover front-seat occupants only, although belt laws in 16 jurisdictions (Alaska, California, District of Columbia, Kentucky, Maine, Massachusetts, Montana, Nevada, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington, and Wyoming) cover all rear seat occupants, too. People in passenger cars, pickups, SUVs, and vans are required to comply with belt laws in most jurisdictions, but in a few jurisdictions occupants of some kinds of vehicles (usually pickups) are exempt.¹⁴

¹⁰ Ibid., ES-1.

¹¹ Written communication from NHTSA, 2004.

¹² Ibid.

¹³ NHTSA. The National Initiative for Increasing Safety Belt Use. April 2003. pp. 1-2.

¹⁴ http://www.hwysafety.org/safety_facts/state_laws/restrain.htm. Since state laws may change from time to time, one should check with appropriate state enforcement personnel (continued...)

As of January 2004, 20 states, Puerto Rico, and the District of Columbia have primary laws that allow a police officer to stop a vehicle and issue a citation because of a violation of a safety belt law. The extent and nature (i.e., which occupants are covered and which ages) can vary depending upon the specifics of each state's primary law. For example, in some states, a primary law applies to all occupants of a certain age for all seating positions; in some states, their primary law pertains to occupants of only a certain age in only the front seats; and in other states, other parameters apply. Since 1997, about 10 states have passed a primary enforcement law. The rest of the states, except New Hampshire (which according to NHTSA has no adult safety belt use law), have a secondary law, (i.e., an officer may write a citation for failing to wear a belt only after a vehicle is stopped for some other infraction or reason).

Experience shows that one of the most effective (or near-term) ways to increase belt use rates in a state with a secondary law is to convince that state to adopt and enforce a primary law. Many traffic safety advocates assert that enactment of a primary safety belt law sends a message to motorists that belt use is an important safety issue that must be taken seriously. NHTSA points out that enforcement officers consistently preferred primary laws and that secondary laws were a major deterrent to issuing citations.¹⁵ Many organizations, including the Governors Highway Safety Association, National Transportation Safety Board, and NHTSA, support enactment of primary safety belt laws. (As explained in the next section, there are some who are opposed to primary enforcement laws, in specific; and some who are opposed to belt laws, in general.)

National safety belt use rates have been increasing from 58% in 1994, 61% in 1996, 69% in 1998, 71% in 2000, 73% in 2001, 75% 2002, to 79% in 2003 – the highest rate since measurements began.¹⁶ Belt use is typically about 8% higher in states with a primary safety belt law (average belt use rate of 83% based on 2003 national survey data) than in a state that enforces a secondary law (average belt use rate of 75% based on 2003 national survey data). This difference can vary year to year.

¹⁴ (...continued)

for the latest state traffic safety code, and should not rely solely on the information presented in this report.

¹⁵ NHTSA. Traffic Safety Facts. Laws. Strengthening Safety Belt Use Laws – Increase Belt Use, Decrease Crash Fatalities and Injuries. May 2003.

¹⁶ <http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/Rpts/2002/809-500.pdf>. The 4% increase in belt use rate from 2002 to 2003 is notable especially when one considers that few states adopted and began to enforce new primary belt use laws during 2003, and the large increase in use rates that has been achieved during the last 10 years.

During the last few years, convincing more and more people to wear their safety belts has often proven to be a difficult challenge.¹⁷ Many people who previously did not regularly wear their safety belt now do so. Despite this challenge, national safety belt use rates in recent years have increased gradually because of the combined impact of numerous interrelated and sometimes overlapping factors. For example, as previously noted, 20 states are enforcing primary belt laws. State grant funds obtained from the Federal Highway Trust Fund (discussed in a later section) have been used in most states to pay for high visibility enforcement efforts intended to increase belt use rates. Also, many insurance companies, state DOT agencies, grass root community organizations, as well as many employers, and various health care groups are sponsoring a diverse array of activities to increase the use of belts.

Many experts suggest that to increase belt use rates, a state should enact a strong belt law, followed up by periodic, highly visible enforcement efforts underpinned by media events that let people know that tickets will be issued for failure to wear a belt.¹⁸ This strategy been used successfully in many states. For example, Washington, which has the highest statewide use rate (93% in 2002 and 95% in 2003), enforces a primary belt law that resulted in more than 1000 citations per month (May through September 2002), and an \$86 penalty per citation of failing to use a belt.¹⁹

As shown in **Table 1**, using 2003 state survey data, about 1/3 of the states have a use rate above 80%, about 1/3 have a use rate between 70 and 80%, and the rest are below (mostly in the 60%-69% range.) Most states with a use rate above 80% have a primary enforcement law.

¹⁷ NHTSA explains the difficulty of converting additional nonusers of belts to belt users as follows:

“Although use has increased about two percentage points per year in recent years, NHTSA does not expect this trend to continue since it would require converting a greater percentage of nonusers each year. That is, as safety belt use rises, each percentage point increase in use becomes increasingly more difficult to achieve. Thus, a conversion model is more appropriate than a linear one for deriving projections. It will even be difficult to maintain an 8.5 percent conversion rate for very long, as hard-core nonusers comprise a growing portion of the “unconverted” in each successive year.” For further information see: http://www.nhtsa.dot.gov/people/injury/SafetyBelt/OPIPT_FinalRpt_07-17-03.html#_ednref1.

¹⁸ Observers suggest that elements of a strong safety belt use law could include: a primary law that pertains to all vehicle types, covers all positions equipped with a safety belt, provides for significant penalties (e.g., \$50 or more) to serve as a deterrent for non-use, and specifies that personal injury awards are reduced for damages from crashes when a safety belt was not worn.

¹⁹ Insurance Institute for Highway Safety. Status Report. January 11, 2003: 2-3.

Table 1. State Reported Safety Belt Use Rates, 2002 and 2003
(percent)

State	Years	
	2002	2003
Alabama	78.7	77.4
Alaska	65.8	78.9
Arizona	73.7	86.2
Arkansas	63.7	62.8
California	91.1	91.2
Colorado	73.2	77.7
Connecticut	78.0	78.0
Delaware	71.2	74.9
District of Columbia	84.6	84.9
Florida	75.1	72.6
Georgia	77.0	84.5
Hawaii	90.4	91.8
Idaho	62.9	71.7
Illinois	73.8	76.2
Indiana	72.2	82.3
Iowa	82.4	86.2
Kansas	61.3	63.6
Kentucky	62.0	65.5
Louisiana	68.6	73.8
Maine	*	*
Maryland	85.5	87.9
Massachusetts	51.0	61.7
Michigan	82.9	83.9
Minnesota	*	*
Mississippi	62.0	62.2
Missouri	69.4	72.9
Montana	78.4	79.5

Table 1. State Reported Safety Belt Use Rates, 2002 and 2003
(percent)

State	Years	
	2002	2003
Nebraska	69.7	76.1
Nevada	74.9	78.7
New Hampshire	*	49.6
New Jersey	80.5	81.2
New Mexico	87.6	87.2
New York	82.8	84.6
North Carolina	84.1	86.1
North Dakota	63.4	63.7
Ohio	70.3	74.7
Oklahoma	70.1	76.7
Oregon	88.2	90.4
Pennsylvania	75.7	79.0
Rhode Island	70.8	74.2
South Carolina	66.3	72.8
South Dakota	64.0	69.9
Tennessee	66.7	68.5
Texas	81.1	84.3
Utah	80.1	85.2
Vermont	84.9	82.4
Virginia	70.4	74.6
Washington	92.6	94.8
West Virginia	71.6	73.6
Wisconsin	66.1	69.8
Wyoming	66.6	*

Source: NHTSA.

*Data unavailable.

Concerns Regarding Safety Belt Laws

In 2000 NHTSA conducted a survey of 6,000 people to determine attitudes and knowledge regarding occupant protection. Most of the surveyed public (87%) support laws that require front-seat occupants to wear belts. Overall 61% of the people surveyed thought that law officers should be allowed to enforce primary belt laws.²⁰ But, in general, many people do not want law enforcement officers to have the authority to stop a vehicle solely because an occupant of their car failed to wear a safety belt. Some maintain that imposition of a primary law would add to their concerns regarding government interference or intrusion in their personal lives and their ability to make safety-oriented decisions for themselves. Some opponents of primary laws see such measures as making government more intrusive and as a means of dismantling an individual's freedom of choice. Some opponents of safety belt laws, especially of primary belt laws, maintain that when they are pulled over for a belt violation, they could be subject to an unwarranted search. During traffic stops conducted as part of an enforcement campaign intended to increase belt use rates, police officers also have issued thousands of citations or arrests for offenses unrelated to safety belt usage.

There are some groups, however, that oppose safety belt laws, in general. Although the National Motorists Association (NMA) encourages seat belt use, it does not support mandatory belt laws and "...the intrusive and punitive policies they spawn."²¹ They maintain that individuals should retain the freedom and responsibility to make choices affecting their own safety and that of their families. NMA states: "At each stage of the evolution of mandatory seat belt laws we warned that this was an incremental process that would eventually lead to heavy handed enforcement practices and onerous penalties. Our predictions are proving correct."²²

Also, some critics of safety belt laws maintain that people should wear a safety belt because it is their choice or it is common sense to do so, and not because they are compelled to by a law. Some view safety belt enforcement campaigns merely as a revenue source. The legal penalty for not wearing a belt varies widely. In many states there are no penalty points assigned against someone's driver license. In most states, the maximum penalty for first offense ranges from \$10 to \$25, and in only a few states is the penalty more than \$50. A spokesman for the Libertarian Party has questioned the diversion of police resources to "...stop, harass, ticket or arrest..." citizens who forget to wear a safety belt.²³ Some people assert that points issued against one's driver's license for not wearing a belt could lead to increased insurance rates and higher financial penalties imposed by the courts or enforcement agencies.

²⁰ NHTSA. The National Initiative for Increasing Safety Belt Use. p. 12.

²¹ NMA states that is devoted to protecting the rights and interests of North American motorists.

²² http://www.motorists.org/issues/safety/nma_seatbelt_position.html

²³ Libertarian Party Online. Press Release. November 20, 2001.

Also, within the context of increasing enforcement of safety belt laws, the issue of racial profiling or targeting is frequently raised. Some have expressed concern that safety belt enforcement campaigns could be viewed as unfairly targeting a minority group if checkpoints are targeted to specific neighborhoods. In planning and implementing various enforcement campaigns, many public safety officials have dealt with this issue directly. For example, NHTSA points out that in the “Click It or Ticket” campaign (discussed below in detail), efforts have been taken to ensure that no segment of the population received unfair treatment, and that leaders from the African American and Hispanic communities were consulted. On numerous occasions, NHTSA has reached out to various law enforcement and other groups representing various minorities to discuss these and other issues and gain their support for ongoing efforts to increase safety belt use rates. NHTSA points out that the Congressional Black Caucus states that increasing belt use among African Americans is an urgent health priority, that the National Urban League supports primary belt laws, and that ASPIRA, an organization promoting the leadership development of Hispanic youth, also supports primary belt legislation.²⁴ Support for primary enforcement is comparatively greater among Hispanics (72%) and African Americans (68%), as compared to whites (59%).²⁵

NHTSA’s Efforts to Increase Safety Belt Use

NHTSA’s Occupant Protection Division seeks to provide leadership in planning and developing traffic injury control programs in the areas of safety belt and child occupant devices, and automatic occupant protection systems.²⁶ For many years, NHTSA has supported the proper use of safety belts, provided technical assistance to decisionmakers and others on the effectiveness of primary belt use laws, developed estimates to demonstrate the economic benefits to states of increasing safety belt use, and encouraged vigorous enforcement of safety belt use laws.²⁷ In fact, promoting increased safety belt use ranks the highest among this agency’s priorities.²⁸ Also, NHTSA conducts research on various aspects of occupant protection, evaluates the effectiveness of measures to increase belt use, conducts surveys on belt use, and works in partnership with many organizations to improve occupant protection.

As part of DOT’s annual appropriations act, NHTSA receives funds authorized by Section 403 of Title 23 to support research, demonstration and outreach efforts related to occupant protection. For example, this agency conducts research to determine why certain population groups have relatively low safety belt use rates. Using funds provided under Section 403 (as well as other sections of law), NHTSA has invested in efforts to revitalize or refresh safety messages intended to encourage belt use, and to convince specific population groups to buckle up. In recent years

²⁴ NHTSA. The National Initiative for Increasing Safety Belt Use. p. 13.

²⁵ Ibid., p. 12.

²⁶ <http://www.nhtsa.dot.gov/people/injury/airbags/index.html>

²⁷ http://www.nhtsa.dot.gov/people/injury/SafetyBelt/OPIPT_FinalRpt_07-17-03.html#II

²⁸ NHTSA. Budget Estimates FY2004. GEN-2.

NHTSA has received a contract budget of about \$13.4 million per year under Section 403 to conduct a variety of occupant protection activities.²⁹

Currently, one of the key efforts fostered by NHTSA and by many states is the “Click It or Ticket” mobilizations, which are intensive, nationwide enforcement campaigns involving more than 12,500 enforcement agencies and hundreds of thousands of officers from more than 40 states. These efforts are underpinned by millions of dollars each year in national and state television and radio advertising. In the May 2003 campaign NHTSA purchased \$8 million and states purchased \$16 million of advertising to underpin enforcement activities. Many ads warned the public that they may be ticketed and fined for nonuse of belts. During this campaign more than 600,000 tickets were reportedly issued. Supporters would point out that the purpose of the “Click It or Ticket” campaigns is not to issue tickets, but it is to increase belt use, save lives, and prevent injuries.

Pursuant to the Transportation Equity Act for the 21st Century (TEA21 – P.L. 105-178, as amended by Title IX of P.L. 105-206), NHTSA also administers grants to states that seek to increase safety belt use rates or otherwise improve occupant protection. The TEA21 grants started in FY1998 and were authorized through the end of FY2003, but were extended through the first five months of FY2004 by the Surface Transportation Extension Act of 2003, P.L. 108-88.

With respect to promoting the use of safety belts, the TEA21 financial assistance accomplishes several purposes, and as explained below, funds are authorized for Sections 402, 157, and 405 grant activities. The Section 402 funds allow the states to conduct innovative activities to improve traffic safety, including various enforcement and public educational activities intended to increase belt use. The amount of Section 402 funding authorized for FY2003 – the last full year of funding authorized in TEA21 – is \$165 million. NHTSA estimates that at least 16% of the Section 402 funds for FY2003 were proposed to be spent by state and local governments on specified activities to enhance occupant protection, primarily related to encouraging belt use.³⁰ The Section 157 program, which is authorized at \$112 million for FY2003, rewards the states for achieving certain levels of safety belt use and provides funds for innovative programs to increase occupant protection. The Section 405 program, which is authorized at \$20 million for FY2003, rewards the states for accomplishing or implementing certain federally-specified programs, laws, or activities that pertain to occupant protection.³¹ Most states report that they use

²⁹ This sum is provided under the occupant protection portion of NHTSA’s traffic safety appropriation. Additional funds to conduct research pertaining to occupant protection are appropriated under the research portion of the traffic safety account.

³⁰ Because this program enjoys widespread support in its current form and may be reauthorized without substantive changes, it is not discussed further in this report.

³¹ As specified by NHSTA,

A State is eligible for an incentive grant by demonstrating that it has implemented at least 4 of the following 6 criteria: 1. A law requiring safety belt use by all front safety passengers (and beginning in FY2001, in any seat in the vehicle). 2. A safety belt law providing for primary enforcement. 3. Minimum

(continued...)

some TEA21 grant funds to help pay for high visibility enforcement campaigns to promote increased safety belt use. Funds are also used for associated public information and education efforts.³² (These programs are discussed in more detail in CRS report 98-890 entitled “Traffic Safety Provisions in the Transportation Equity Act for the 21st Century: Analysis and Oversight Issues.”)³³

Based on the key legislative proposals considered thus far as part of the reauthorization process, changes to various traffic safety grants, including Sections 157 and 405 programs in particular, may be likely. As discussed below, none of the key bills discussed below would reauthorize the Section 157 program. All but one of the bills (S. 1993) discussed below would amend the Section 405 program.

Reauthorization Proposals and Issues

Reauthorization Proposals

As part of the debate over reauthorization of federal surface transportation programs, Congress is considering changes to various federal policies and incentives that encourage state efforts to increase safety belt use rates or to adopt and enforce primary safety belt laws. State officials are particularly interested in the funding amount and eligibility criteria for possible future federal incentives. As discussed in a later section, many state officials generally dislike policies that would reduce their flexibility to use federal highway funds or would threaten the loss of these funds, if their state does not enforce a primary safety belt law.

³¹ (...continued)

4. fines or penalty points for safety belt and child safety use law violations. 4. A Statewide special traffic enforcement program for occupant protection that emphasizes publicity. 5. A Statewide child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems. 6. A child passenger protection law that requires minors to be properly secured in a child safety seat or other appropriate restraint system.

³² Governors Highway Safety Association. Survey of the States. Programs. 2003. p. 3.

³³ This report discusses only the behavioral aspects (e.g., public education and enforcement) of safety belts and does not address the vehicle aspects of safety belts. Congressional legislation primarily focuses on the behavioral aspects. Nevertheless, it is important to at least mention that S. 1978 also includes a provision requiring NHTSA to issue regulations pertaining to safety belt reminder systems. NHTSA also is considering different vehicle-based ways to increase the use of safety belts. In 2002 and 2003, NHTSA sent letters to all the major vehicle manufacturers encouraging the installation of enhanced safety belt reminder systems. The agency also requested information on whether the manufacturers intended to install reminder systems, which types of technologies would be used, and the appropriate time frame for installation and any customer feedback on their systems. NHTSA is conducting studies of these systems to obtain information for possible rulemaking initiatives. For additional information see: www.nhtsa.dot.gov/cars/rules/rulings/PriorityPlan/FinalVeh/Index.html.

Key proposals that have received substantial attention in the 108th Congress include: The Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA), which was originally introduced, by request of the Bush Administration, as H.R. 2088 and S. 1072. Hereafter that proposal is referred to as the Administration's SAFETEA proposal. That proposal is no longer under active consideration and the Senate Environmental and Public Works Committee has stricken the Administration's SAFETEA proposal and has substituted its own reauthorization proposal in the bill now being considered by the Senate as S. 1072; S. 1978, which has been reported out of the Senate Committee on Commerce, Science, and Transportation (S.Rept. 108-215); and H.R. 3550, the House Transportation and Infrastructure (T&I) Committee proposal. To a large extent the Administration's SAFETEA proposal and the Senate Commerce Committee bill are similar with respect to many provisions pertaining to occupant protection grants, and therefore these are discussed together. The House T&I proposal is discussed in a separate section.³⁴ The Administration's SAFETEA proposal, S. 1978, and H.R. 3550, would change the structure (i.e., the eligibility criteria) of the Section 405 program and the amount of funding available.

Administration's SAFETEA Proposal. With respect to encouraging improved occupant protection, the Bush Administration's SAFETEA proposal would provide incentive funds to those states that adopt and enforce a primary safety belt law for all passenger motor vehicles or attain a belt use rate of 90% or better for the preceding fiscal year; and secondarily, this proposal would provide additional funds to those states that increase their safety belt use rate.³⁵ With respect to incentive funding provided to the states, the Bush Administration proposal calls for a two-part incentive: *Primary Safety Belt Use Law Grants and Safety Belt Use Rate Grants*. **Table 2** shows the proposed funding level for these two grant programs for FY2004 through FY2009.

³⁴ The discussion presented below deals exclusively with federal grants specifically intended to increase seat belt use rates or the enactment of primary seat belt laws. Nevertheless, it is important to at least mention the reauthorization of the Section 402 program. All of the major bills being considered in the 108th Congress would increase the amount of funding available for the Section 402 grant program. This grant program, which is used to advance many traffic safety objectives, could result in increased funds allocated for occupant protection (over that allocated during the TEA-21 years), but that decision would be left to the states. H.R. 3550 would authorize more funding for the Section 402 program than would S. 1978.

³⁵ The Administration SAFETEA proposal specifies that: "Beginning in FY 2005, 10 percent of a State's HSIP funds must be obligated for section 402 programs, unless the State enacts a primary safety belt law or demonstrates safety belt usage of 90 percent or above. States subject to this provision must have a strategic highway safety plan and the activities funded must be consistent with the plan." HSIP is proposed as a new grant program to be called the Highway Safety Improvement Program. See: <http://www.fhwa.dot.gov/reauthorization/safetkeyinfo.htm#sfs>.

Table 2. Bush Administration's Proposed Safety Belt Use Law Grants and Safety Belt Use Rate Grants

	2004	2005	2006	2007	2008	2009
Primary safety belt use law grants	\$100M	\$100M	\$100M	\$100M	\$100M	\$100M
Safety best use rate grants	\$25M	\$27M	\$29M	\$31M	\$34M	\$36M

Source: SAFETEA.

More specifically, the Administration is proposing a grant program (with the first component identified as *Primary Safety Belt Use Law Grants* in **Table 2**) that initially reserves most of the funds made available to encourage states that did not have a primary safety belt law as of December 31, 2002, to adopt and enforce such a law.³⁶ Under the *Primary Safety Belt Law Grants*, the Administration's SAFETEA also proposes to provide lesser amounts for states that already had a primary law in effect prior to that date; and this SAFETEA proposal also authorizes a second smaller grant program (identified as *Safety Belt Use Rate Grants* in **Table 2**) to reward states based upon their achievement or annual progress in increasing their safety belt use rate.

As specified in the Administration's SAFETEA proposal, states could transfer safety funds among diverse programs administered by DOT if they develop performance-based comprehensive strategic highway safety plans that identify their highest priority safety improvements. Thus, a specified percentage of funds (up to 50%) could be flexed between funds intended for infrastructure purposes and funds authorized for behavioral traffic safety grants, including occupant protection measures. (The Senate Commerce, Science, and Transportation Committee bill, discussed below, also contains a flexing provision.) Several interest groups representing both behavioral and infrastructure concerns have requested Congress to oppose this "flexing."³⁷

S. 1978, Bill Reported by Senate Commerce, Science, and Transportation Committee. This bill is the Senate Commerce Committee's contribution to Senate legislation reauthorizing various federal surface transportation programs. With respect to the financial assistance specifically provided to states to adopt primary safety belt laws, achieve a use rate of 90% or more, or increase belt use rates, this Committee's proposal is similar (and often identical) in many respects to the Administration's SAFETEA proposal. For example, both of these proposals would establish a new safety belt incentive grant program (with two major components – a *Primary Safety Belt Law Grant* and a *Safety Belt Use Rate Grant*) that is described above. But S. 1978 differs in two major aspects: the eligibility

³⁶ If a state does not have a primary belt use law, it can also qualify for funding if it has a belt use rate of 90% or more for the preceding fiscal year.

³⁷ Some organizations seek certainty in the funding amounts that will be allocated to their specific interests.

criteria used to determine the allocation of funds specifically seeking to increase safety belt use rates (*Safety Belt Use Rate Grants*), and the total funding level for the grant program pertaining to safety belts.

Eligibility Criteria for the Safety Belt Use Rate Grants. S. 1978 states that a qualifying state must achieve specified increases in safety belt use rates within a specified period of time or by a certain year in order to receive a *Safety Belt Use Rate Grant*. For example, a state can qualify for funding if it increases its measured use rate by three percentage points above its average of the two previous years. In contrast, the Administration’s proposal would allow NHTSA, through rulemaking, to set the eligibility criteria for receiving funds under the safety belt use rate grant.

Funding Level. As shown in **Table 3**, funding amounts for the proposed *Primary Safety Belt Use Law Grants* for FY2004-2009 as reported by the Senate Commerce Committee are the same as those proposed in the Administration’s SAFETEA proposal (see **Table 2**), but the amounts proposed by the Commerce Committee for the *Safety Belt Use Rate Grants* are slightly less each year than those proposed by the Bush Administration. The Senate Commerce Committee bill (S. 1978) also requires the Administrator of NHTSA to establish and administer a program under which three high visibility traffic safety law enforcement campaigns would be carried out each year nationwide to increase belt use and to combat impaired driving. The bill authorizes \$24 million per year for FY2004 through FY2009 for advertising and educational initiatives to support the campaigns.³⁸

Table 3. Funding Levels for Safety Belt Incentives in S. 1978 as Reported by the Senate Commerce, Science, and Transportation Committee

	2004	2005	2006	2007	2008	2009
Primary safety belt use law grants	\$100M	\$100M	\$100M	\$100M	\$100M	\$100M
Safety belt use rate grants	\$20M	\$22M	\$24M	\$26M	\$28M	\$30M

Source: S. 1978, S. Rpt.108-215. M= millions, all years are fiscal years.

House Transportation and Infrastructure Committee Bill. The House Transportation and Infrastructure (T&I) Committee bill (H.R. 3550) differs significantly from both the Senate Commerce, Science, and Transportation

³⁸ Other provisions of the Senate Commerce Committee bill that would likely affect federal support for efforts to increase belt use rates include:

- Increasing funds for the Section 402 program, which authorizes funds for state and local governments to improve many different aspects of their traffic safety programs, including occupant protection; and
- Increasing authorization for Section 403 efforts, which provides funds for NHTSA’s traffic safety activities, including those to increase belt use rates.

Committee bill and the Administration's SAFETEA initiative. The House T&I bill would essentially keep the current structure of the existing occupant protection grant program known as the Section 405 program, but would add a separate criterion under which a state could qualify for funding, namely a performance-based criterion. More specifically, H.R. 3550 would allow a state to continue to qualify for funding if it meets four of the existing six criteria (previously discussed), and the bill also would allow states with a safety belt use rate of 85% or greater (as of the date of the grant) to receive Section 405 funds.

The T&I bill would provide more funds specifically for occupant protection incentives than would either the Administration's SAFETEA proposal or the Senate Commerce bill. For occupant protection grants, The T&I proposal would authorize \$140 million in FY 2004, and would increase that amount by \$5 million per year through FY2009. The House committee proposal also would authorize \$10 million per year to support a high visibility enforcement program to improve occupant protection (as well as to reduce impaired driving); whereas, (as previously indicated), the Senate Commerce bill would authorize \$24 million for that purpose.

Other Approaches. Several other bills to improve occupant protection have been introduced in the 108th Congress. These include S. 1993 and S. 1337.

S. 1993 proposes a two-prong approach to encourage occupant protection measures. The first approach is known as a "transfer penalty." The bill specifies that for FY2005 and each fiscal year thereafter, 10% of the funds made available to a state under the proposed Highway Safety Improvement Program (HSIP) must be obligated for projects under section 402, unless by October 1 of the fiscal year, that state has in effect a primary safety belt law; or demonstrates that its safety belt use rate is at least 90 percent.³⁹ Also, that bill includes a penalty or sanction approach that threatens a state with the loss of a portion of its federal aid funds unless that state by October 1, 2010, has in effect a primary safety belt law or demonstrates that its safety belt use rate is at least 90%. The details of this proposal are presented below.⁴⁰

³⁹ HSIP is a new categorical infrastructure program seeking primarily to improve safety-oriented highway infrastructure, such as grade crossing improvements and hazards elimination.

⁴⁰ As specified in S. 1993,

"(2) WITHHOLDING-

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

`(i) have in effect a primary safety belt law; or

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

`(B) RESTORATION- If, within 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated

(continued...)

S. 1337 would establish an incentive program intended to promote effective safety belt laws and increase safety belt use, however, this proposal was defeated during the markup session held on S. 1978 by the Senate Commerce Committee.⁴¹

Issues Associated with Reauthorization

As part of the reauthorization process, Congress is considering several policy issues that pertain to safety belts. These include:

- How much money might be allocated to increase safety belt use rates or encourage states to adopt primary belt laws?
- How might these grant programs be structured to maximize benefits? What criteria must a state meet in order to be eligible to receive these grants?
- If a state does not adopt and enforce a primary safety belt law, should it lose a portion of its federal highway trust fund monies?

Funding Levels. For FY2003, the last full year of funding under TEA21, \$132 million was authorized to reward states for achieving certain levels of safety belt use or conducting certain activities or enforcing certain laws pertaining to occupant protection. The proposal reported by the Senate Commerce Committee and that offered by the Administration would each authorize about \$125 million during FY2004, and slightly larger amounts through FY2009 (see **Tables 2** and **3**), to encourage the states to adopt primary safety belt laws or achieve a use rate of 90% or more, or increase their safety belt use rates. (However, under both bills, it is not possible to determine the exact amount of funds that would be spent on occupant protection measures, because, as previously indicated, both bills allow funds to be flexed for infrastructure purposes.) With respect to the House T&I proposal, there is no flexing allowed so therefore, it can be concluded that there would be more funds made available and used to promote occupant protection.

⁴⁰ (...continued)

that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

(C) LAPSE- If, within 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse."

⁴¹ As specified in S. 1337, the Secretary is to implement a safety belt use grant program that is designed to "... (A) maximize the effectiveness of the awarded funds and the fairness of the distribution of such funds; (B) increase the national belt usage rate as expeditiously as possible; (C) reward States that maintain a seat belt usage rate above 85 percent (as determined by the National Highway Traffic Safety Administration); and (D) reward States that demonstrate an increase in their seat belt usage rates."

Congress has heard from many state officials and safety organizations seeking substantially increased funding for traffic safety activities, including funding to promote occupant protection. Given the difficult budgetary constraints facing many states, supplemental federal funds for traffic safety (including funds for occupant protection) take on increased importance. Some groups, such as the Governors Highway Safety Association (GHSA), are disappointed in the funding levels proposed in SAFETEA as well as those specified in the Senate Commerce Committee bill for the behavioral safety traffic safety grant programs. GHSA favors the higher amounts proposed by the House T&I bill. As K. Swanson, representing GHSA, stated:

With increased funding, states could put more resources into enforcement of traffic safety laws, particularly safety belt, speed and impaired driving laws. Better enforcement would help deter violations of traffic laws. Funds could be used to enhance staffing levels and to purchase new enforcement technology. Better enforcement would help convince populations that are resistant to traditional safety messages – such as the 25 percent of unbuckled drivers – of the need for compliance.⁴²

In its recommendations to Congress, GHSA requested \$175 million in yearly funding for occupant protection incentives. This amount is considerably more than the amount proposed by the Administration in SAFETEA (before any flexing) and the amount in the bill reported by the Senate Commerce Committee (before any flexing), as well as the amount proposed by the House T&I Committee. Also, Advocates for Auto and Highway Safety, an alliance of consumer, health and safety groups and insurance companies and agents, testified in favor of additional funding for NHTSA's programs, including increased funds for the states to emphasize more enforcement of laws encouraging belt use.⁴³

As part of the reauthorization process, requests for additional funding to promote occupant protection are being considered within the context of many other funding requests. More specifically, Congress faces the difficult challenge of allocating limited funds that are likely to be set aside to address the behavioral aspects of traffic safety among many diverse challenges, including increasing safety belt use rates, reducing impaired driving, enhancing the safety and mobility of older Americans, and providing sufficient funds to enhance driver licensing systems. Not only are funds allocated among such diverse behavioral concerns, but funds are also allocated to enhance other safety purposes, e.g., to finance hazards elimination infrastructure (barriers and guardrails) and to promote safety at highway/rail grade crossings. Also, there are tradeoffs between meeting various safety specific objectives and meeting other broader transportation needs that address primarily

⁴² Testimony of Ms. Katheryn Swanson. Governors Highway Safety Association. Before Senate Committee on Commerce, Science, and Transportation, Subcommittee on Competition, Foreign Commerce, and Infrastructure. May 22, 2003.

⁴³ Testimony of Jackie Gillian. Vice President, Advocates for Highway and Auto Safety. Senate Committee on Commerce, Science, and Transportation. Subcommittee on Competition, Foreign Commerce, and Infrastructure. May 22, 2003.

mobility and congestion concerns, each competing for scarce resources from the Federal Highway Trust Fund.

Structure of Grants and Eligibility Criteria. As previously indicated, both the Administration's SAFETEA proposal and the bill reported by the Senate Commerce Committee include a provision that specifies that if a state enacts and enforces a primary safety belt law for all passenger motor vehicles after December 31, 2002 or achieves a use rate of 90% or more in the preceding fiscal year, it receives a one-time grant of five times that state's share of the Section 402 funds for FY2003. States that already have adopted and enforced a primary law prior to that date receive one-times their FY2003 Section 402 allotment. Under both proposals, any funds left over after bonuses to states with primary safety belt laws or use rates of 90% or more have been paid would be made available to all states based on their safety belt use rates. Such carryover funds would be added to the sums identified as *Safety Belt Use Rate Grants* funds in **Tables 2** and **3**.

At least for the first two years of the grant program proposed by either bill (SAFETEA and Senate Commerce), most of the funding would likely be used to reward states that either already had enacted primary safety belt laws or to reward states that have newly enacted primary safety belt use laws. About \$72 million of the \$100 million that would be authorized would be used to pay states with primary enforcement laws in effect before the end of December 2002, according to a DOT spokesman. The balance of the \$500 million proposed under the *Primary Belt Law Grants* would be available to states that adopt and enforce new primary laws after that date or achieve a use rate of 90% or better in the preceding fiscal year. In some states, an incentive of five times its Section 402 allotment, as proposed in both SAFETEA and the Senate Commerce bill, might help convince some legislators to vote for a primary belt law. This might be especially true in a state that was close to passing such a bill even in the absence of a federal incentive, or in a state with a particularly difficult budget situation adversely affecting transportation funds. In fact, a DOT spokesman has indicated that an incentive of five times a state's Section 402 allotment may be sufficient to convince several states to adopt and enforce a primary safety belt use law.⁴⁴ Nevertheless, because the potential impacts of this incentive generally remain uncertain and would vary state to state, it is not possible to predict with much accuracy how many additional states would adopt a primary belt law because of this proposed incentive.

The grant eligibility criteria proposed in both SAFETEA and S. 1978 would represent a substantial change from the eligibility criteria now used for the occupant protection financial incentives (Section 157 and 405 funds) authorized in TEA21. Under TEA21 a state receives grant funds under these sections based on: use rates exclusively (see Section 157 incentive portion of the grant program), or enactment of certain occupant protection laws and performance of certain programs or activities (see Section 405).

The eligibility criteria and grant structure of the Administration's proposal as well as those included in S. 1978 have raised the concerns of the GHSA and others.

⁴⁴ Personal communication with DOT spokesperson, 2003.

Although this association supports incentives to encourage states to enact primary belt laws, GHSA is concerned about aspects of both bills, especially the provision that would reward states that enact a primary belt law with a grant of five times their basic highway safety allotment. GHSA wants each state to be rewarded equally for passing that legislation.⁴⁵ Instead of the approach recommended by the Administration, the GHSA proposes a financial incentive program to encourage increases in safety belt use rates, similar to that included in the existing Section 157 program, or other incentives to enact a primary belt law. Details of some of key aspects of the GHSA proposal are presented below.⁴⁶

The House T&I Committee bill does not include provisions that would reward a state with financial incentives if it only adopted and enforced a primary safety belt law. As previously indicated, H.R. 3550 would allow a state to continue to qualify for funding if it meets four of the six criteria now specified in Section 405, but the bill also would allow states with a safety belt use rate of 85% or greater (as of the date of the grant) to receive Section 405 funds.

Although the T&I bill provides the states with an additional way to qualify for this grant, it does not appear that this proposal would greatly increase the number of states receiving assistance over the number of states that now qualify for funding. During FY2003, 31 states qualified for assistance under Section 405. These same states would likely continue to qualify in FY2004 (and later years) under the T&I proposal, unless the Secretary determines that their occupant protection laws or enforcement and educational programs no longer qualify for purposes of meeting the Section 405 criteria, which is rather unlikely. Also, every state, except one (Arizona), that has a safety belt use rate above 85% (as measured by the latest state survey data available) already qualifies for the Section 405 program under the

⁴⁵ http://www.statehighwaysafety.org/html/media/press_releases/061103.html

⁴⁶ As specified by GHSA,

Eighty percent of the funds would be available for grants to states that meet either of the following criteria.

- Increase in safety belt usage rate above base rate or above national average. The base rate would be determined by averaging belt use between 2000 and 2002. (This would continue the criteria under the current 157 incentive grant program but update the years used for determining a state's base safety belt use rate.) Or
- Enact and enforce a primary belt law.

States qualifying under the first criteria would receive grants equal to the cost savings to the federal government of wearing safety belts (the same allocation method as the current 157 program). All the remaining funds would be allocated to states that have enacted primary safety belt laws (criteria two). In order to implement this program, NHTSA would determine how many states would qualify under criteria one and how much each would receive. Any remaining funds would be awarded to states that qualify under criteria two. Funds to primary belt states would be apportioned based on a formula that is the same as the 402 formula. If a state enacts a primary belt law and increases its belt use rate, the state would receive funds under the criteria that yields the larger share of funding.

The remaining 20% of funds would be available as grants to non-complying states.

existing TEA21 criteria and would likely continue to qualify for funding under the House T&I proposal. Experience also shows that the same states that qualify for the Section 405 funding in one year do so the next, unless eligibility criteria are changed.⁴⁷ Furthermore, all of the states that are close – those with a use rate of 80% or above – to reaching the 85% performance-based incentive criteria already qualify for Section 405 funds. On the other hand, H.R. 3550 would provide greater amounts of funds directly to the qualifying states to support occupant protection enforcement and paid media activities than would be provided by the Senate bill.

Financial Penalty or Sanction. As part of the debate over reauthorization, some are considering legislation that would impose a financial penalty (sometimes called a sanction) against any state that is not enforcing a primary safety belt law by a specified date. Under such a proposal (e.g., S. 1993), a state would lose a certain percentage of much of its highway trust fund monies if it did not adopt and enforce such a law or achieve a 90% or better use rate by a specified date. Congress has used a sanction approach in other areas of traffic safety. For example, this approach has proven effective in convincing all states to adopt national minimum drinking age laws and zero tolerance laws for drivers under 21 years of age, and more recently, in encouraging most of the states – more than 40 – to adopt and enforce a 0.08 blood alcohol concentration (BAC) level standard for drunk driving.

Supporters of a sanction approach present many arguments in support of their position. They quote NHTSA’s estimate that if all states adopted primary laws, an additional 1400 lives now lost in traffic crashes would be saved each year.⁴⁸ Many of those supporting a sanction approach note that even after many years of debate, only 20 states have adopted primary belt laws. Furthermore, they assert that many state legislatures are not inclined to adopt such a measure without federal pressure in the form of a financial penalty or sanction against that state’s federal aid highway apportionment. They note that many state legislators are responding to their constituent’s objections to the prospect of a traffic stop solely to enforce a safety belt law. As the National Conference of State Legislatures points out, many bills establishing a primary safety belt law die in state legislatures because of “... the perception that they will provide law enforcement officers the opportunity to stop and search vehicles under the guise of enforcing the seat belt law.”⁴⁹

Although Advocates for Highway and Auto Safety supports enactment of DOT’s proposed incentive grant program encouraging primary laws (SAFETEA), that association recommends a mandatory sanction of a state’s federal aid highway funds after a reasonable time period to ensure that each state passes such a law by the end of the authorization period. That organization asserts that financial incentives have been tried for years, and that the funding redirection program proposed by the

⁴⁷ For example, 31 states also qualified for the Section 403 program in FY2001.

⁴⁸ Personal communication with NHTSA, 2004. Also, in a study conducted for the National Safety Council prepared by Neil K. Chaudhary et al., it was concluded that: “Failure to implement primary laws in all states resulted in more than 12,000 lives were lost during the years 1995-2002. If the situation remains the same as in 2002, an estimated additional 1,400 motorists will be killed next year alone.”

⁴⁹ National Conference of State Legislatures. Transportation Series. Dec. 2002:6.

Administration will not be effective.⁵⁰ Advocates for Highway and Auto Safety also asserts that switching from a secondary enforcement law to a primary enforcement law entails no additional costs or burdens and is, therefore, not an unfunded mandate.⁵¹

On the other hand, some are opposed to the sanction approach. For example, the GHSA states that: “Sanctions are a heavy-handed, one-size-fits-all policy that are not suited to diverse state needs and problems.”⁵² Some critics also note that sanctions or financial penalties will adversely affect funds needed for highway construction. Many state legislators and highway safety officials maintain that each state should determine its own traffic safety laws without federal pressure. GHSA states: “Sanctions create a tremendous amount of state resentment toward the federal government, even if the sanctions are for good public policy purposes. Repeated use of penalties and sanctions do much to reinforce negative state attitudes toward safety issues – exactly the opposite of what the federal government intends.”⁵³ Some further observe that penalties threatened against the highway apportionment of a state have not always worked because they have been revoked before implemented. In sum, many state officials don’t want the to be “forced” to enact primary belt laws because of a federal law.

Conclusion

Experience demonstrates that a safety belt use law and concerted enforcement underpinned by effective public educational messages will convince more people to buckle up. Many assert that the United States could continue to increase the national average belt use rate using this strategy. Some suggest that a national safety belt use rate of 90% or better is a reasonable and attainable goal. They point out that several states and foreign countries already have reached this use rate. On the other hand, others assert that the setting of traffic safety goals should be up to the states. Some state advocates simply do not want the DOT heavily influencing state safety matters. Thus, there is disagreement on whether and how occupant protection goals should be achieved and what the federal role should be.

Despite this controversy, support for at least continuing the current federal role in occupant protection, and probably for expanding it with additional incentives, appears to be growing. The progress made in the reauthorization process to date documents the support of many in the Senate, particularly among members of the Commerce, Science, and Transportation Committee, for a new financial incentives

⁵⁰ Reference is made to the Administration’s proposal to divert 10% of a state’s Highway Safety Improvement Program (HSIP) funds if that state does not adopt and enforce a primary belt law. That provision is not included in either of the key committee bills.

⁵¹ Jackie Gillian.

⁵² Governors Highway Safety Association. Taking the Temperature of TEA-21. Ten Recommendations for Progress. January 2003.

⁵³ National Association of Governors’ Highway Safety Representatives. Letter. March 24, 1997. (That association was renamed the Governors Highway Safety Association.)

grant aimed at encouraging all of the states to enact primary safety belt laws or achieve a use rate of 90% or more, and secondarily to increase belt use rates. In the House, particularly among members of the T&I Committee, there is support for continuing the Section 405 eligibility criteria and allowing the states to also qualify for funding by incorporating a performance-based eligibility criterion. Thus, it appears likely that eligibility criteria and structure of a reauthorized federal occupant protection grant program will change from the TEA21 model in order to meet new policy goals.

It remains uncertain whether there is sufficient support to impose a financial penalty or sanction against a state's apportionment of its federal aid highway funds for not adopting and enforcing a primary safety belt law. Based on the results of similar penalty provisions now in current federal law (e.g., the .08 BAC and minimum drinking age laws), such an approach would likely accelerate the rate of enactment of primary safety belt laws. On the other hand, opponents of sanctions assert that such penalties adversely affect state's rights, delay highway projects, and impose other costs on society that need to be balanced against potential benefits.