

project under this section for provisions relating to apportionment of funds made available under subsec. (b) to the States. See subsec. (e) of this section.

Subsec. (e). Pub. L. 95-599 substituted provisions relating to apportionment of funds to the States under this section for provisions relating to progress reports required of the States under this section. See subsec. (g).

Subsecs. (f) to (h). Pub. L. 95-599 added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

1976—Subsec. (f). Pub. L. 94-280 added subsec. (f).

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to the requirement that the Secretary of Transportation submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103-7.

### § 153. Use of safety belts and motorcycle helmets

(a) **AUTHORITY TO MAKE GRANTS.**—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

(b) **USE OF GRANTS.**—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

(1) **EDUCATION.**—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

(2) **TRAINING.**—To train law enforcement officers in the enforcement of State laws described in subsection (a).

(3) **MONITORING.**—To monitor the rate of compliance with State laws described in subsection (a).

(4) **ENFORCEMENT.**—To enforce State laws described in subsection (a).

(c) **MAINTENANCE OF EFFORT.**—A grant may not 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 any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

(d) **FEDERAL SHARE.**—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

(e) **MAXIMUM AGGREGATE AMOUNT OF GRANTS.**—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

(f) **ELIGIBILITY FOR GRANTS.**—

(1) **GENERAL RULE.**—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

(2) **SECOND-YEAR GRANTS.**—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

(3) **THIRD-YEAR GRANTS.**—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

(g) **MEASUREMENTS OF RATES OF COMPLIANCE.**—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

(h) **PENALTY.**—

(1) **PRIOR TO FISCAL YEAR 2012.**—If, at any time in a fiscal year beginning after September 30, 1994, and before October 1, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104<sup>1</sup> of this title to the apportionment of the State under section 402 of this title.

<sup>1</sup> See References in Text note below.

(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (4) of section 104(b) to the apportionment of the State under section 402.

(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) MOTORCYCLE.—The term “motorcycle” means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

(2) MOTOR VEHICLE.—The term “motor vehicle” has the meaning such term has under section 154<sup>1</sup> of this title.

(3) PASSENGER VEHICLE.—The term “passenger vehicle” means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

(4) SAFETY BELT.—The term “safety belt” means—

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available \$17,000,000 for fiscal year 1992 and \$24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.

(Added Pub. L. 102-240, title I, §1031(a)(1), Dec. 18, 1991, 105 Stat. 1970; amended Pub. L. 104-59, title II, §205(e), Nov. 28, 1995, 109 Stat. 577; Pub. L. 112-141, div. A, title I, §1404(e), July 6, 2012, 126 Stat. 558; Pub. L. 114-94, div. A, title I, §1446(a)(7), Dec. 4, 2015, 129 Stat. 1437.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (c) and (i)(3), is the date of enactment of Pub. L. 102-240, which was approved Dec. 18, 1991.

Section 104 of this title, referred to in subsec. (h)(1), was amended generally by Pub. L. 112-141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

Section 154 of this title, referred to in subsec. (i)(2), was repealed by Pub. L. 104-59, title II, §205(d)(1)(B), Nov. 28, 1995, 109 Stat. 577. A new section 154, containing a similar definition of “motor vehicle”, was enacted by Pub. L. 105-178, title I, §1405(a), as added Pub. L. 105-206, title IX, §9005(a), July 22, 1998, 112 Stat. 843.

#### PRIOR PROVISIONS

A prior section 153, added Pub. L. 93-87, title II, §210(a), Aug. 13, 1973, 87 Stat. 287; amended Pub. L. 94-280, title I, §131, May 5, 1976, 90 Stat. 441, related to a program for the elimination of roadside obstacles, prior to repeal by Pub. L. 95-599, title I, §168(b), Nov. 6, 1978, 92 Stat. 2723.

#### AMENDMENTS

2015—Subsec. (h)(2). Pub. L. 114-94 substituted “paragraphs (1), (2), and (4)” for “paragraphs (1) through (3)”.

2012—Subsec. (h)(1), (2). Pub. L. 112-141 redesignated par. (2) as (1), substituted “PRIOR TO FISCAL YEAR 2012” for “THEREAFTER” in par. heading, inserted “and before October 1, 2011,” after “September 30, 1994,” in text, added par. (2), and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: “If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.”

1995—Subsec. (h)(1), (2). Pub. L. 104-59 struck out “a law described in subsection (a)(1) and” after “have in effect”.

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

## EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-59, title II, §205(e), Nov. 28, 1995, 109 Stat. 577, provided that the amendment made by that section is effective Sept. 30, 1995.

## EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

## STOP MOTORCYCLE CHECKPOINT FUNDING

Pub. L. 114-94, div. A, title IV, §4007, Dec. 4, 2015, 129 Stat. 1510, provided that: "Notwithstanding section 153 of title 23, United States Code, the Secretary [of Transportation] may not provide a grant or any funds to a State, county, town, township, Indian tribe, municipality, or other local government that may be used for any program—

"(1) to check helmet usage; or

"(2) to create checkpoints that specifically target motorcycle operators or motorcycle passengers."

## STUDY OF BENEFITS OF SAFETY BELTS AND MOTORCYCLE HELMETS TO INDIVIDUALS INVOLVED IN CRASHES

Pub. L. 102-240, title I, §1031(b), Dec. 18, 1991, 105 Stat. 1973, provided that:

"(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

"(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

"(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available \$5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended."

**§ 154. Open container requirements**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" has the meaning given the term in section 158(c).

(2) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term "open alcoholic beverage container" means any bottle, can, or other receptacle—

(A) that contains any amount of alcoholic beverage; and

(B)(i) that is open or has a broken seal; or  
(ii) the contents of which are partially removed.

(4) PASSENGER AREA.—The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

## (b) OPEN CONTAINER LAWS.—

(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

## (c) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (2), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

## (2) FISCAL YEAR 2012 AND THEREAFTER.—

(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the