

## 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.

**§ 162. National scenic byways program**

## (a) DESIGNATION OF ROADS.—

(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as—

- (A) National Scenic Byways;
- (B) All-American Roads; or
- (C) America's Byways.

(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

## (3) NOMINATION.—

(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

- (i) jurisdiction over the road; or
- (ii) responsibility for managing the road.

(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

- (A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or
- (B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

## (b) GRANTS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

- (A) implement projects on highways designated as—
  - (i) National Scenic Byways;
  - (ii) All-American Roads;
  - (iii) America's Byways;
  - (iv) State scenic byways; or
  - (v) Indian tribe scenic byways; and

(B) plan, design, and develop a State or Indian tribe scenic byway program.

(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway, All-American Road, or 1 of America's Byways and that is consistent with the corridor management plan for the byway;

(B) each eligible project along a State or Indian tribe scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as—

- (i) a National Scenic Byway;
- (ii) an All-American Road; or
- (iii) 1 of America's Byways; and

(C) each eligible project that is associated with the development of a State or Indian tribe scenic byway program.

(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

(1) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

(8) Development and implementation of a scenic byway marketing program.

(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section

shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

(Added Pub. L. 105-178, title I, §1219(a), June 9, 1998, 112 Stat. 219; amended Pub. L. 109-59, title I, §1802, Aug. 10, 2005, 119 Stat. 1456; Pub. L. 110-244, title I, §101(o), June 6, 2008, 122 Stat. 1576.)

#### AMENDMENTS

2008—Subsec. (a)(3)(B). Pub. L. 110-244, §101(o)(1), substituted “a National Scenic Byway, an All-American Road, or one of America’s Byways under paragraph (1)” for “a National Scenic Byway under subparagraph (A)” in introductory provisions.

Subsec. (c)(3). Pub. L. 110-244, §101(o)(2), substituted “All-American Road, or one of America’s Byways” for “or All-American Road” in two places.

2005—Subsec. (a)(1). Pub. L. 109-59, §1802(a)(1), substituted “the roads as—” and subpars. (A) to (C) for “the roads as National Scenic Byways or All-American Roads.”

Subsec. (a)(3), (4). Pub. L. 109-59, §1802(a)(2), added pars. (3) and (4) and struck out heading and text of former par. (3). Text read as follows: “To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.”

Subsec. (b)(1). Pub. L. 109-59, §1802(b)(1), inserted “and Indian tribes” after “States” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 109-59, §1802(b)(2), substituted “designated as—” and cls. (i) to (v) for “designated as National Scenic Byways or All-American Roads, or as State scenic byways; and”.

Subsec. (b)(1)(B). Pub. L. 109-59, §1802(b)(3), inserted “or Indian tribe” after “State”.

Subsec. (b)(2)(A). Pub. L. 109-59, §1802(b)(4), substituted “Byway, All-American Road, or 1 of America’s Byways” for “Byway or All-American Road”.

Subsec. (b)(2)(B). Pub. L. 109-59, §1802(b)(5), substituted “State or Indian tribe” for “State-designated” and “designation as—” and cls. (i) to (iii) for “designation as a National Scenic Byway or All-American Road; and”.

Subsec. (b)(2)(C). Pub. L. 109-59, §1802(b)(6), inserted “or Indian tribe” after “State”.

Subsec. (c)(1). Pub. L. 109-59, §1802(c)(1), inserted “or Indian tribe” after “State”.

Subsec. (c)(3). Pub. L. 109-59, §1802(c)(2), inserted “Indian tribe scenic byway,” after “improvements to a State scenic byway,” and “designation as a State scenic byway.”

Subsec. (c)(4). Pub. L. 109-59, §1802(c)(3), struck out “passing lane,” before “overlook.”

Subsec. (e). Pub. L. 109-59, §1802(d), inserted “or Indian tribe” after “State”.

### § 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) GENERAL AUTHORITY.—The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) GRANTS.—For each fiscal year, funds authorized to carry out this section shall be appor-

tioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

(1) the amount authorized to carry out this section for the fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) USE OF GRANTS.—A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) PENALTY.—

(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).<sup>1</sup>

(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).

(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$55,000,000 for fiscal year 1998, \$65,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, \$110,000,000 for fiscal year 2003, \$110,000,000 for fiscal year 2004, and \$110,000,000 for fiscal year 2005 \$91,315,068 for the period of October 1, 2004, through July 30, 2005.<sup>2</sup>

(2) AVAILABILITY OF FUNDS.—Notwithstanding section 118(b), the funds authorized by this subsection shall remain available until expended.

(Added Pub. L. 105-178, title I, §1404(a), June 9, 1998, 112 Stat. 240; amended Pub. L. 108-88, §6(a)(2), Sept. 30, 2003, 117 Stat. 1119; Pub. L.

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

<sup>2</sup> So in original. The words “\$91,315,068 for the period of October 1, 2004, through July 30, 2005” probably should not appear.