§ 1200.23 Impaired driving countermeasures grants.

(a) Purpose. This section establishes criteria, in accordance with 23 U.S.C. 405(d), for awarding grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol, drugs, or the combination of alcohol and drugs or that enact alcohol ignition interlock laws.

(b) Definitions. As used in this section—

24–7 sobriety program means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to require an individual who pleads guilty to or was convicted of driving under the influence of alcohol or drugs to—

(1) Abstain totally from alcohol or drugs for a period of time; and

and integration in a core database by demonstrating an improved consistency within the State’s record system or by achieving a higher level of compliance with a national model inventory of data elements, such as the Model Minimum Uniform Crash Criteria (MMUCC), the Model Impaired Driving Records Information System (MIDRIS), the Model Inventory of Roadway Elements (MIRE) or the National Emergency Medical Services Information System (NEMSIS).

(e) Requirement for assessment. The State shall have conducted or updated, within the five years prior to the application due date, an in-depth, formal assessment of its highway safety data and traffic records system accurately performed by a group knowledgeable about highway safety data and traffic records systems that complies with the procedures and methodologies outlined in NHTSA’s Traffic Records Highway Safety Program Advisory (DOT HS 811 644).

(f) Requirement for maintenance of effort. The State shall maintain its aggregate expenditures from all State and local sources for State traffic safety information system programs at or above the average level of such expenditure in fiscal years 2010 and 2011, as provided in Part 2 of Appendix D, signed by the Governor’s Highway Safety Representative.

(g) Qualification criteria. To qualify for a grant under this section in a fiscal year, a State shall submit an executed Part 2 of Appendix D and the following documentation:

(1) Either the TRCC charter or legal citation(s) to the statute or regulation legally mandating a TRCC with the functions required by paragraph (b)(2) of this section;

(2) Meeting schedule, all reports and data system improvement and policy guidance documents promulgated by the TRCC during the 12 months immediately preceding the grant application due date;

(3) A list of the TRCC membership and the organizations and functions they represent;

(4) The name and title of the State’s Traffic Records Coordinator;

(5) A copy of the Strategic Plan required under paragraph (c) of this section, including any updates to the Strategic Plan.

(6) Either a written description of the performance measures, and all supporting data, that the State is relying on to demonstrate quantitative improvement in the preceding 12 months of the grant application due date in one or more of the significant data program attributes or the location where this information is detailed in the Strategic Plan.

(7) The certification provided in Part 2 of Appendix D, signed by the Governor’s Representative for Highway Safety, that an assessment of the State’s highway safety data and traffic records system was conducted or updated within the five years prior to the application due date as provided in paragraph (e) of this section.

(h) Use of grant funds. Grant funds awarded under this section shall be used to make quantifiable, measurable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility or integration of data in a core highway safety database.
(2) Be subject to testing for alcohol or drugs at least twice per day by continuous transdermal alcohol monitoring via an electronic monitoring device, or by an alternative method approved by NHTSA.

Alcohol means wine, beer and distilled spirits.

Average impaired driving fatality rate means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 percent for every 100,000,000 vehicle miles traveled, based on the most recently reported three calendar years of final data from the FARS.

Assessment means a NHTSA-facilitated process that employs a team of subject matter experts to conduct a comprehensive review of a specific highway safety program in a State.

Driving under the influence of alcohol, drugs, or a combination of alcohol and drugs means operating a vehicle while the alcohol and/or drug concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State or is equivalent to the standard offense for driving under the influence of alcohol or drugs in the State.

Driving While Intoxicated (DWI) Court means a court that specializes in cases involving driving while intoxicated and abides by the Ten Guiding Principles of DWI Courts in effect on the date of the grant, as established by the National Center for DWI Courts.

Drugs means controlled substances as that term is defined under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).

High visibility enforcement efforts means participation in national impaired driving law enforcement campaigns organized by NHTSA, participation in impaired driving law enforcement campaigns organized by the State, or the use of sobriety checkpoints and/or saturation patrols, conducted in a highly visible manner and supported by publicity through paid or earned media.

High-range State means a State that has an average impaired driving fatality rate of 0.60 or higher.

Low-range State means a State that has an average impaired driving fatality rate of 0.30 or lower.

Mid-range State means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.

Saturation patrol means a law enforcement activity during which enhanced levels of law enforcement are conducted in a concentrated geographic area (or areas) for the purpose of detecting drivers operating motor vehicles while impaired by alcohol and/or other drugs.

Sobriety checkpoint means a law enforcement activity during which law enforcement officials stop motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while impaired by alcohol and/or other drugs.

Standard offense for driving under the influence of alcohol or drugs means the offense described in a State’s law that makes it a criminal offense to operate a motor vehicle while under the influence of alcohol or drugs, but does not require a measurement of alcohol or drug content.

(c) Eligibility determination. A State is eligible to apply for a grant under this section as a low-range State, a mid-range State or a high-range State, in accordance with paragraphs (d), (e) or (f) of this section, as applicable. Independent of this range determination, a State may also qualify for a separate grant under this section as an ignition interlock State, as provided in paragraph (g) of this section.

(d) Qualification criteria for a low-range State. To qualify for an impaired driving countermeasures grant in a fiscal year, a low-range State (as determined by NHTSA) shall submit an executed Part 3 of Appendix D providing assurances, signed by the Governor’s Representative for Highway Safety, that the State will—

(1) Use the funds awarded under 23 U.S.C. 405(d)(1) only for the implementation and enforcement of programs authorized in paragraph (i) of this section; and

(2) Maintain its aggregate expenditures from all State and local sources for impaired driving programs at or
above the average level of such expenditure in fiscal years 2010 and 2011, as provided in Part 3 of Appendix D.

(e) Qualification criteria for a mid-range State. To qualify for an impaired driving countermeasures grant in a fiscal year, a mid-range State (as determined by NHTSA) shall submit the information required in paragraph (d) of this section and the following additional documentation:

(1) Statewide impaired driving plan. If the State has not received a grant under this section for a previously submitted statewide impaired driving plan, the State shall submit a copy of a statewide impaired driving plan that—

(i) Has been developed within the three years prior to the application due date;

(ii) Has been approved by a statewide impaired driving task force that meets the requirements of paragraph (e)(2) of this section;

(iii) Provides a comprehensive strategy that uses data and problem identification to identify measurable goals and objectives for preventing and reducing impaired driving behavior and impaired driving crashes; and

(iv) Covers general areas that include program management and strategic planning, prevention, the criminal justice system, communication programs, alcohol and other drug misuse, and program evaluation and data.

(2) Statewide impaired driving task force. The State shall submit a copy of information describing its statewide impaired driving task force that—

(i) Provides the basis for the operation of the task force, including any charter or establishing documents;

(ii) Includes a schedule of all meetings held in the 12 months preceding the application due date and any reports or documents produced during that time period; and

(iii) Includes a list of membership and the organizations and functions represented and includes, at a minimum, key stakeholders from the State Highway Safety Office and the areas of law enforcement and criminal justice system (e.g., prosecution, adjudication, probation), and, as appropriate, stakeholders from the areas of driver licensing, treatment and rehabilitation, ignition interlock programs, data and traffic records, public health, and communication.

(3) Assurances. For the first year of the grant as a mid-range State, if the State is not able to meet the requirements of paragraph (e)(1) of this section, the State may provide the assurances provided in Part 3 of Appendix D, signed by the Governor’s Representative for Highway Safety, that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan that meets the requirements of paragraph (e)(1) of this section and submit the statewide impaired driving plan by September 1 of the grant year. The agency will require the return of grant funds awarded under this section if the State fails to submit the plan by the deadline and will redistribute any such grant funds in accordance with §1200.20(e) to other qualifying States under this section.

(f) Qualification criteria for a high-range State. To qualify for an impaired driving countermeasures grant in a fiscal year, a high-range State (as determined by NHTSA) shall submit the information required in paragraph (d) of this section and the following additional documentation:

(1) Impaired driving program assessment. (i) The assurances provided in Part 3 of Appendix D, signed by the Governor’s Representative for Highway Safety, providing the date of the NHTSA-facilitated assessment of the State’s impaired driving program conducted within the three years prior to the application due date; or

(ii) For the first year of the grant as a high-range State, the assurances provided in Part 3 of Appendix D, signed by the Governor’s Representative for Highway Safety, that the State will conduct a NHTSA-facilitated assessment by September 1 of the grant year.

(2) Statewide impaired driving plan. (i) First year compliance. For the first year of the grant as a high-range State, the assurances provided in Part 3 of Appendix D, signed by the Governor’s Representative for Highway Safety, that the State will convene a statewide impaired driving task force to develop a statewide impaired driving plan, which will be submitted to NHTSA for review.
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and approval by September 1 of the grant year that—

(A) Meets the requirements of paragraph (e)(1) of this section;

(B) Addresses any recommendations from the assessment of the State’s impaired driving program required in paragraph (f)(1) of this section;

(C) Includes a detailed plan for spending any grant funds provided for high visibility enforcement efforts; and

(D) Describes how the spending supports the State’s impaired driving program and achievement of its performance goals and targets;

(ii) Subsequent year compliance. For subsequent years of the grant as a high-range State, the State shall submit for NHTSA review and comment a statewide impaired driving plan that meets the requirements of paragraph (f)(2)(i)(A) through (D) of this section or an update to its statewide impaired driving plan, as part of its application for a grant.

(g) Ignition interlock State. To qualify for a separate grant as an ignition interlock State in a fiscal year, a State shall submit the assurances in Part 3 of Appendix D, signed by the Governor’s Representative for Highway Safety, providing legal citation(s) to the State statute demonstrating that the State has enacted and is enforcing a law that requires all individuals convicted of driving under the influence of alcohol or of driving while intoxicated to drive only vehicles with alcohol ignition interlocks for a period of not less than 30 days.

(h) Award. (1) The amount available for grants under paragraphs (d), (e) and (f) of this section shall be determined based on the total amount of eligible States for these grants and after deduction of the amount necessary to fund grants under paragraph (g) of this section.

(2) The amount available for grants under paragraph (g) of this section shall not exceed 15 percent of the total amount made available to States under this section for the fiscal year.

(i) Use of grant funds. (1) Low-range States may use grant funds awarded under this section for the following authorized programs:

(i) High visibility enforcement efforts;

(ii) Hiring a full-time or part-time impaired driving coordinator of the State’s activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

(iii) Court support of high visibility enforcement efforts, training and education of criminal justice professionals (including law enforcement, prosecutors, judges, and probation officers) to assist such professionals in handling impaired driving cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing driving while intoxicated courts;

(iv) Alcohol ignition interlock programs;

(v) Improving blood-alcohol concentration testing and reporting;

(vi) Paid and earned media in support of high visibility enforcement of impaired driving laws, and conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and drug recognition expert training for law enforcement, and equipment and related expenditures used in connection with impaired driving enforcement;

(vii) Training on the use of alcohol screening and brief intervention;

(viii) Developing impaired driving information systems; and

(ix) Costs associated with a 24–7 sobriety program.

(x) Programs designed to reduce impaired driving based on problem identification.

(2) Mid-range States may use grant funds awarded under this section for any of the authorized uses described in paragraph (i)(1) of this section, provided that use of grant funds for programs described in paragraph (i)(1)(x) of this section requires advance approval from NHTSA.

(3) High-range States may use grant funds awarded under this section for high visibility enforcement efforts and any of the authorized uses described in paragraph (i)(1) of this section, provided the proposed uses are described in a statewide impaired driving plan submitted to and approved by NHTSA in accordance with paragraph (f)(2) of this section and subject to the conditions in paragraph (j) of this section.
Ignition interlock States may use grant funds awarded under this section for any of the authorized uses described under paragraph (i)(1) of this section and for eligible activities under 23 U.S.C. 402.

(j) Special conditions for use of funds by high-range States. No expenses incurred or vouchers submitted by a high-range State shall be approved for reimbursement until such State submits for NHTSA review and approval a statewide impaired driving plan as provided in paragraph (f)(2) of this section. If a high-range State fails to timely provide the statewide impaired driving plan required under paragraph (f)(2) of this section, the agency will redistribute any grant funds in accordance with §1200.20(e) to other qualifying States under this section.

§ 1200.24 Distracted driving grants.

(a) Purpose. This section establishes criteria, in accordance with 23 U.S.C. 405(e), for awarding grants to States that enact and enforce laws prohibiting distracted driving, beginning with fiscal year 2014 grants.

(b) Definitions. As used in this section—

Driving means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise, but does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

Texting means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(c) Qualification criteria. To qualify for a distracted driving grant in a fiscal year, a State shall submit the assurances in Part 4 of Appendix D, signed by the Governor’s Representative for Highway Safety, providing legal citations to the State statute or statutes demonstrating compliance with the following requirements:

(1) Prohibition on texting while driving. The statute shall—

(i) Prohibit drivers from texting through a personal wireless communications device while driving;

(ii) Make a violation of the law a primary offense; and

(iii) Establish—

(A) A minimum fine of $25 for a first violation of the law; and

(B) Increased fines for repeat violations within five years of the previous violation.

(2) Prohibition on youth cell phone use while driving. The statute shall—

(i) Prohibit a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

(ii) Make a violation of the law a primary offense;

(iii) Require distracted driving issues to be tested as part of the State’s driver’s license examination; and

(iv) Establish—

(A) A minimum fine of $25 for a first violation of the law; and

(B) Increased fines for repeat violations within five years of the previous violation.

(3) Permitted exceptions. A State statute providing for the following exceptions, and no others, shall not be deemed out of compliance with the requirements of this section:

(i) A driver who uses a personal wireless communications device to contact emergency services;

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

(iii) An individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual’s employment if such use is permitted under the regulations promulgated pursuant to 49 U.S.C. 31136.

(d) Use of grant funds. (1) At least 50 percent of the grant funds awarded under this section shall be used to educate the public through advertising containing information about the dangers of texting or using a cell phone...