

based on additional information noted herein, the Administrator has determined that the random drug testing rate shall remain at 50 percent for 2006.

The Department has noted the proliferation of products to defraud the USDOT urine screens. Congressional hearings on these products and the GAO Report of 17 May 2005 are indicative of the potential adverse impact these products marketed as adulterate specimens may have on reported random rates and the reliability of those results.

The Secretary of Transportation's Office of Drug & Alcohol Policy & Compliance (ODAPC) has proposed to amend 49 CFR part 40 to require specimen validity tests for all urine specimens collected pursuant to part 40. The Department proposes that each DOT specimen be tested for products that can be used to adulterate and substitute a urine specimen (70 FR 209 October 31, 2005). The Department would require each HHS-certified laboratory to conduct specimen validity testing. This will have the effect of identifying more adulterated and substituted urine specimens and enhance the reliability of test results. The Department believes the safety concerns associated with random testing warrant a one year delay in order to analyze reported random rates after SVT testing has been implemented.

In 2005, the FTA retained the random alcohol testing rate of 10 percent (reduced previously from 25 percent) based on the "positive rate" for random alcohol test data from 2003 and 2004. Because the random alcohol violation rate was again lower than 0.5 percent for the two preceding consecutive years (0.20 percent for 2003 and 0.11 percent for 2004), the random alcohol testing rate will remain at 10 percent for 2006.

FTA detailed reports on the drug and alcohol testing data collected from transit employers may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW., Room 9301, Washington, DC 20590, (202) 366-2896 or at <http://transit-safety.volpe.dog.gov/Publications>.

Issued on: January 24, 2006.

**Sandra K. Bushue,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-23628]

#### Child Safety and Child Booster Seats Incentive Grants

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Announcement of grants for child safety and child booster seats.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) announces a grant program under Section 2011 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy of Users (SAFETEA-LU) to implement programs to purchase and distribute child restraints, support enforcement of child restraint laws, train child passenger safety professionals concerning all aspects of child restraint use, and educate the public concerning the proper use and installation of child restraints. This notice solicits applications from the fifty States, the District of Columbia, and Puerto Rico.

**DATES:** Applications must be received by the office designated below on or before July 1 of the applicable fiscal year.

**ADDRESSES:** Applications must be submitted to the appropriate National Highway Traffic Safety Administration Regional Administrator.

**FOR FURTHER INFORMATION CONTACT:** For program issues: Judy Hammond, Injury Control Operations and Resources, NHT-200, telephone (202) 366-2121, fax (202) 366-7394. For legal issues: David Bonelli, Office of Chief Counsel, NCC-113, telephone (202) 366-1834, fax (202) 366-3820, NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

#### Background

##### *Incentive Grants for Child Safety Seats and Child Booster Seats*

Section 2011 of SAFETEA-LU (Pub. L. 109-59) establishes an incentive grant program for child safety seats and child booster seats. To qualify for grant funds, States must "enforc[e] a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law." Prior to Anton's Law, NHTSA's performance requirements for child safety seats covered children weighing

only up to 50 pounds.<sup>1</sup> Anton's Law (Pub. L. 107-318) was enacted to improve the safety and use of child restraints for children between the ages of 4 and 8. To accomplish these purposes, Congress directed the Department of Transportation, in Section 3 of Anton's Law, to make Federal performance requirements applicable to child restraints recommended for children weighing more than 50 pounds. On June 3, 2003, pursuant to this mandate, NHTSA published a final rule setting performance requirements for child restraints recommended for children weighing up to 65 pounds.<sup>2</sup>

The Section 2011 grant program advances the purposes of Anton's Law by awarding funds to States that extend their child restraint laws to cover children who are too large to fit in child safety seats. Based on the final rule promulgated under Section 3 of Anton's Law, Section 2011 requires States to enforce child restraint laws whose coverage extends to children weighing up to 65 lbs.

Virtually all State child restraint laws use the age of the child as a means of specifying the children required to be secured in child restraints. However, not all State laws use the weight of the child in defining coverage. Moreover, enforcing a child restraint law based on the age of the child is likely to be more practicable for State and local enforcement officials. For these reasons, we are defining our grant criteria according to the age that correlates to a 65-pound child. According to the most recent U.S. Department of Health & Human Services (DHHS) publication on average body weight for children, the average weight of a 7-year-old child is 59.8 pounds and the average weight of an 8-year-old child is 72 pounds.<sup>3</sup> On the basis of this information, we have selected 7 years old as the age that is reasonably representative of a 65-pound child for the purposes of this grant program.

#### Minimum Requirements for a Grant

To qualify for a grant under this program, therefore, a State must enact

<sup>1</sup> These performance requirements were established using a 6-year-old child dummy. The weight of the dummy is 51.6 pounds. According to U.S. Department of Health & Human Services statistics, 51.7 pounds is the average weight of a 6-year-old child. Cynthia L. Ogden, Ph.D., *et al.*, U.S. Department of Health and Human Services, Mean Body Weight, Height, and Body Mass Index, United States 1960-2002 (2004).

<sup>2</sup> The 2003 performance requirements were established using a 6-year-old child dummy modified through the addition of weight (10.4 pounds) to represent approximately the weight of an 8-year-old child.

<sup>3</sup> OGDEN, *supra* note 1, at 3.

and enforce a law requiring that any child riding in a passenger motor vehicle (*i.e.*, a passenger car, pickup truck, van, minivan or sport utility vehicle) who is under 8 years of age be secured in a child restraint. A child restraint includes a child safety seat, as defined in 23 U.S.C. 405(f), and a booster seat, as defined in 49 CFR 571.213. The State child restraint law must allow enforcement officials to stop or detain a passenger motor vehicle and issue a citation upon observation that a child under 8 years of age is not properly secured in a child restraint, without the need for probable cause to believe that another violation has been committed.

Reading Section 2011 in conjunction with the findings under Anton's Law (Section 2), it is clear that Congress intended States to have continuous coverage for all children subject to the safety restraint requirement. Therefore, to qualify for a grant under this program, a State child restraint law must not leave any gaps in coverage for children under 8 years of age (*e.g.*, gaps between coverage by a child safety seat and a booster seat). Such gaps would be incongruous with the purpose of the grant program. Finally, while all States define coverage under their child restraint laws according to the age of the child, several States include weight and/or height requirements. These laws typically permit children who have attained a certain weight or height to be exempted from child restraint requirements regardless of age. Consistent with the final rule published under Section 3 of Anton's Law, a State law covering children under 8 years of age, but excluding children who have attained a weight in excess of 65 pounds, will not be deemed ineligible under this grant program. In addition, consistent with long-standing NHTSA guidance on booster seat usage, a State law covering children under 8 years of age, but excluding children who have attained a height of 4 feet, 9 inches or taller will not be deemed ineligible under this grant program.

### Exemptions

While NHTSA does not require or encourage the adoption of exemptions, the agency notes that many existing child restraint laws contain a number of exemptions. The agency believes that the Section 2011 program's goal of increasing the use of child restraints would not be served by denying a grant to States whose laws contain exemptions, without regard to the nature of those exemptions. On the other hand, some exemptions would so severely undermine the safety

considerations underlying the grant program as to render a State whose law contains such exemptions ineligible for a grant. The agency will review each State's child restraint law to determine the acceptability of any exemptions. In keeping with NHTSA's practice in 1998 to implement the Section 405 grant program under the Transportation Equity Act for the 21st Century (TEA-21), the agency has reviewed existing child restraint laws and has determined that the following exemptions are not incompatible with the requirements of SAFETEA-LU:

- Children with medical conditions who are unable to use a child restraint, provided there is written documentation from a physician;
- Children riding in a passenger motor vehicle that is not required to be equipped with safety belts.

The agency has accepted these exemptions by long-standing application in safety belt grant programs. A State that enacts a law with any exemption other than these should anticipate that the agency will review the exemption to determine whether its impact on traffic safety is minimal and it is, therefore, acceptable.

### Eligibility

Each of the fifty United States, the District of Columbia and Puerto Rico ("States") may submit an application under this program.

### Application Procedures

#### *First Year Requirements*

To apply for grant funds, a State must submit the certifications required by Appendix 1, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.

#### *Subsequent Year Requirements*

To demonstrate compliance with this criterion in subsequent years a State receives grant funds:

- (a) If the State's law has not changed, the State must submit the certifications required by Appendix 2, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.
- (b) If the State's law has changed, the State must submit the certifications required by Appendix 1, signed by the Governor's Representative for Highway Safety, to the appropriate NHTSA Regional Administrator no later than July 1 of the fiscal year.

A State seeking to determine whether an existing or proposed child restraint

law qualifies under the grant program may submit its law prior to July 1 for preliminary review by the agency.

### Award Procedures

Each fiscal year (FY), a grant will be made to an eligible State upon submission and approval of the application required by this notice. As specified by SAFETEA-LU, the amount of a grant to a State in each fiscal year shall not exceed 25 percent of the amount apportioned to the State for FY 2003 under 23 U.S.C. 402. The release of grant funds shall be subject to the availability of funding for that fiscal year. As required by SAFETEA-LU, in the first 3 fiscal years for which a State receives a grant, it shall be reimbursed for up to 75 percent of the costs of programs and activities authorized by Section 2011(d) of SAFETEA-LU, and in the fourth fiscal year for which a State receives a grant, it shall be reimbursed for up to 50 percent of the costs of programs and activities authorized by Section 2011(d) of SAFETEA-LU.

### Use of Grant Funds

As specified by SAFETEA-LU, eligible uses of grant funds may include any of the following:

#### *1. Programs for Purchasing and Distributing Child Restraints to Low-Income Families*

States may use grant funds for programs to purchase and distribute child restraints to low-income families. However, as required by SAFETEA-LU, not more than 50 percent of the funds received in a fiscal year may be used for these programs. The child restraints purchased and distributed must be certified to meet applicable Federal Motor Vehicle Safety Standards. Low income is calculated at 185 percent of the Federal poverty level. A certified child passenger safety technician/instructor should supervise all child restraint distribution programs and ensure that adequate training based on the Standardized Curriculum is provided to those distributing the selected seats. The certified child passenger safety technician/instructor should also ensure that appropriate training is provided to the recipients of the seats.

#### *2. Programs to Support Enforcement of Child Restraint Laws*

States may use grant funds to carry out a program to support enforcement of child restraint laws. A successful enforcement program should increase enforcement efforts during national high-visibility law enforcement

mobilization campaigns and Child Passenger Safety (CPS) week.

*3. Programs To Train Child Safety Professionals, Police Officers, Fire and Emergency Medical Personnel, Educators, and Parents Concerning All Aspects of the Use of Child Restraints*

States may use grant funds to carry out a program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, parents, and caregivers concerning all aspects of the use of child restraints. When training participants to become national Child Passenger Safety Technicians and/or Instructors, States must use the NHTSA Standardized Child Passenger Safety Training Program with training certification through the national certifying body. States are encouraged to conduct Child Passenger Safety awareness training using NHTSA approved courses.

*4. Programs To Educate the Public Concerning the Proper Use and Installation of Child Restraints*

States may use grant funds to carry out a program to educate the public concerning the proper use and installation of child restraints. States should develop and sustain a cadre of current nationally certified Child Passenger Safety Technicians to serve the public by staffing inspection stations/check-up events/clinics. States should distribute public information and education materials to the public. States should use NHTSA-developed materials that provide information on all the "steps" of child restraints, including infant seats, convertible seats, forward-facing seats, booster seats and safety belts, and should include information on selection, direction, installation and location.

**Financial Requirements**

Within 30 days after notification of an award, but in no event later than September 12, a State must submit electronically to the agency a Program Cost Summary (HS Form 217) obligating the funds to this program. A Program Cost Summary is necessary to ensure proper accounting for the Federal funds and is a precondition to receiving grant funds. Additionally, each fiscal year until all grant funds are expended, the State must document how it intends to use the funds in the Highway Safety Plan it submits pursuant to 23 U.S.C. 402 (or in an amendment to that plan).

**Reporting Requirements**

A State that receives a grant is required by SAFETEA-LU to submit a

report describing how funds were obligated and expended. Each fiscal year until all Child Restraint grant funds are expended, a State must include this report in the Annual Report it submits for its highway safety program pursuant to 23 CFR 1200.33. For each of the eligible uses of grant funds selected by the State, include the following:

1. For programs to purchase and distribute child restraints for low-income families:
  - a. A description of the programs used to purchase and distribute child restraints for low-income families.
  - b. The number of child restraints distributed.
2. For programs to support enforcement of child restraint laws:
  - a. A description of the programs used to support enforcement of child restraint laws.
  - b. A list of participating law enforcement agencies and the counties they serve.
3. For programs to train child passenger safety professionals:
  - a. A description of the training classes conducted and the curricula used to train individuals and groups.
  - b. The number and location of training classes conducted and the individuals or groups trained.
  - c. The number of child passenger safety technicians certified.
4. For programs to educate the public:
  - a. A description of the programs used to educate the public concerning the proper use and installation of child restraints.
  - b. A list of child restraint inspection stations/check-up events/clinics, including their locations.
  - c. An estimate of the number of child restraints checked at inspection stations/check-up events/clinics.

**APPENDIX 1—CHILD RESTRAINT PROGRAM CERTIFICATION FORM—NEW OR CHANGED LAW**

State: \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

I hereby certify that the child restraint law, available at

\_\_\_\_\_ (include legal citations to all relevant provisions)

is (check one):

- in effect and being enforced,  
 will be in effect on

\_\_\_\_\_ (date)

and will be enforced on

\_\_\_\_\_ (date)

and that the State (or Commonwealth) of:

- will use the child restraint grant funds awarded exclusively to implement

programs in accordance with the requirements of Section 2011(d) of SAFETEA-LU, Pub. L. 109-59;

- will administer the child restraint grant funds in accordance with 49 CFR Part 18;
- will provide to the NHTSA Regional Administrator a report describing the activities executed with child restraint grant funds and the accomplishments of the fiscal year; and
- will maintain its aggregate expenditures from all other sources for child restraint programs at or above the average level of such expenditures in State or Federal fiscal years (FY) 2003 and 2004.

\_\_\_\_\_  
Governor's Highway Safety Representative

Date: \_\_\_\_\_

**APPENDIX 2—CHILD RESTRAINT PROGRAM CERTIFICATION FORM—UNCHANGED LAW**

State: \_\_\_\_\_

Fiscal Year: \_\_\_\_\_

I hereby certify that the State (or Commonwealth) of

- is enforcing a child restraint law that has been approved by NHTSA to conform to the requirements of Section 2011(d) of SAFETEA-LU, Pub. L. 109-59 and that has remained unchanged since that approval;
- will use the child restraint grant funds awarded exclusively to implement programs in accordance with the requirements of Section 2011(d) of SAFETEA-LU, Pub. L. 109-59;
- will administer the child restraint grant funds in accordance with 49 CFR Part 18;
- will provide to the NHTSA Regional Administrator a report describing the activities executed with child restraint grant funds and the accomplishments of the fiscal year; and
- will maintain its aggregate expenditures from all other sources for child restraint programs at or above the average level of such expenditures in State or Federal fiscal years (FY) 2003 and 2004.

\_\_\_\_\_  
Governor's Highway Safety Representative

Date: \_\_\_\_\_

Issued on: January 25, 2006.

**Jacqueline Glassman,**

*Deputy Administrator.*

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