

108TH CONGRESS  
1ST SESSION

# S. 1993

To amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

---

## IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2003

Mr. WARNER (for himself and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

---

## A BILL

To amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Highway  
5       Safety Act of 2003”.

6       **SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

7       (a) SAFETY IMPROVEMENT.—

8               (1) IN GENERAL.—Section 148 of title 23,  
9       United States Code, is amended to read as follows:

1 **“§ 148. Highway safety improvement program**

2 “(a) DEFINITIONS.—In this section:

3 “(1) HIGHWAY SAFETY IMPROVEMENT PRO-  
4 GRAM.—The term ‘highway safety improvement pro-  
5 gram’ means the program carried out under this sec-  
6 tion.

7 “(2) HIGHWAY SAFETY IMPROVEMENT  
8 PROJECT.—

9 “(A) IN GENERAL.—The term ‘highway  
10 safety improvement project’ means a project de-  
11 scribed in the State strategic highway safety  
12 plan that—

13 “(i) corrects or improves a hazardous  
14 road location or feature; or

15 “(ii) addresses a highway safety prob-  
16 lem.

17 “(B) INCLUSIONS.—The term ‘highway  
18 safety improvement project’ includes a project  
19 for—

20 “(i) an intersection safety improve-  
21 ment;

22 “(ii) pavement and shoulder widening  
23 (including addition of a passing lane to  
24 remedy an unsafe condition);

25 “(iii) installation of rumble strips or  
26 another warning device, if the rumble

1 strips or other warning devices do not ad-  
2 versely affect the safety or mobility of  
3 bicyclists and pedestrians;

4 “(iv) installation of a skid-resistant  
5 surface at an intersection or other location  
6 with a high frequency of accidents;

7 “(v) an improvement for pedestrian or  
8 bicyclist safety;

9 “(vi)(I) construction of any project for  
10 the elimination of hazards at a railway-  
11 highway crossing that is eligible for fund-  
12 ing under section 130, including the sepa-  
13 ration or protection of grades at railway-  
14 highway crossings;

15 “(II) construction of a railway-high-  
16 way crossing safety feature; or

17 “(III) the conduct of a model traffic  
18 enforcement activity at a railway-highway  
19 crossing;

20 “(vii) construction of a traffic calming  
21 feature;

22 “(viii) elimination of a roadside obsta-  
23 cle;

24 “(ix) improvement of highway signage  
25 and pavement markings;

1 “(x) installation of a priority control  
 2 system for emergency vehicles at signalized  
 3 intersections;

4 “(xi) installation of a traffic control or  
 5 other warning device at a location with  
 6 high accident potential;

7 “(xii) safety-conscious planning;

8 “(xiii) improvement in the collection  
 9 and analysis of crash data;

10 “(xiv) planning, equipment, oper-  
 11 ational activities, or traffic enforcement ac-  
 12 tivities (including police assistance) relat-  
 13 ing to workzone safety;

14 “(xv) installation of guardrails, bar-  
 15 riers (including barriers between construc-  
 16 tion work zones and traffic lanes for the  
 17 safety of motorists and workers), and  
 18 crash attenuators;

19 “(xvi) the addition or retrofitting of  
 20 structures or other measures to eliminate  
 21 or reduce accidents involving vehicles and  
 22 wildlife; or

23 “(xvii) installation and maintenance  
 24 of signs (including fluorescent, yellow-

1 green signs) at pedestrian-bicycle crossings  
 2 and in school zones.

3 “(3) PRIMARY SAFETY BELT LAW.—The term  
 4 ‘primary safety belt law’ means a law that author-  
 5 izes a law enforcement officer to issue a citation for  
 6 the failure of the operator of, or any passenger in,  
 7 a motor vehicle to wear a safety belt as required by  
 8 State law, based solely on that failure and without  
 9 regard to whether there is any other violation of law.

10 “(4) SAFETY PROJECT UNDER ANY OTHER SEC-  
 11 TION.—

12 “(A) IN GENERAL.—The term ‘safety  
 13 project under any other section’ means a  
 14 project carried out for the purpose of safety  
 15 under any other section of this title.

16 “(B) INCLUSION.—The term ‘safety  
 17 project under any other section’ includes a  
 18 project to—

19 “(i) promote the awareness of the  
 20 public and educate the public concerning  
 21 highway safety matters; or

22 “(ii) enforce highway safety laws.

23 “(5) STATE HIGHWAY SAFETY IMPROVEMENT  
 24 PROGRAM.—The term ‘State highway safety im-  
 25 provement program’ means projects or strategies in-

1       cluded in the State strategic highway safety plan  
 2       carried out as part of the State transportation im-  
 3       provement program under section 135(f).

4           “(6) STATE STRATEGIC HIGHWAY SAFETY  
 5       PLAN.—The term ‘State strategic highway safety  
 6       plan’ means a plan developed by the State transpor-  
 7       tation department that—

8           “(A) is developed after consultation with—

9           “(i) a highway safety representative of  
 10       the Governor of the State;

11          “(ii) regional transportation planning  
 12       organizations, if any;

13          “(iii) representatives of major modes  
 14       of transportation;

15          “(iv) local traffic enforcement offi-  
 16       cials;

17          “(v) persons responsible for admin-  
 18       istering section 130 at the State level;

19          “(vi) representatives conducting Oper-  
 20       ation Lifesaver;

21          “(vii) representatives conducting a  
 22       motor carrier safety program under section  
 23       31104 or 31107 of title 49;

24          “(viii) motor vehicle administration  
 25       agencies; and

1 “(ix) other major State and local safe-  
2 ty stakeholders;

3 “(B) analyzes and makes effective use of  
4 State, regional, or local crash data;

5 “(C) addresses engineering, management,  
6 operation, education, enforcement, and emer-  
7 gency services elements of highway safety as  
8 key factors in evaluating highway projects;

9 “(D) considers safety needs of, and high-  
10 fatality segments of, public roads;

11 “(E) considers the results of State, re-  
12 gional, or local transportation and highway  
13 safety planning processes in existence as of the  
14 date of enactment of this section;

15 “(F) describes a program of projects or  
16 strategies to reduce or eliminate safety hazards;

17 “(G) is approved by the Governor of the  
18 State or a responsible State agency; and

19 “(H) is consistent with the requirements of  
20 section 135(f).

21 “(b) PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall carry  
23 out a highway safety improvement program.

24 “(2) PURPOSE.—The purpose of the highway  
25 safety improvement program shall be to achieve a

1 significant reduction in traffic fatalities and serious  
 2 injuries on public roads.

3 “(c) ELIGIBILITY.—

4 “(1) IN GENERAL.—To receive funds under this  
 5 section, a State shall have in effect a State highway  
 6 safety improvement program under which the  
 7 State—

8 “(A) develops and implements a State  
 9 strategic highway safety plan that identifies and  
 10 analyzes highway safety problems and opportu-  
 11 nities as provided in paragraph (2);

12 “(B) produces a program of projects or  
 13 strategies to reduce identified safety problems;  
 14 and

15 “(C) evaluates the plan on a regular basis  
 16 to ensure the accuracy of the data and priority  
 17 of proposed improvements.

18 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-  
 19 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As  
 20 part of the State strategic highway safety plan, a  
 21 State shall—

22 “(A) have in place a crash data system  
 23 with the ability to perform safety problem iden-  
 24 tification and countermeasure analysis;

“(B) based on the analysis required by subparagraph (A), identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users;

“(C) adopt strategic and performance-based goals that—

“(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all roads and bridges on the Federal-aid system;

“(ii) focus resources on areas of greatest need; and

“(iii) are coordinated with other State highway safety programs;

“(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

1 “(ii) includes all roads and bridges on  
2 the Federal-aid system; and

3 “(iii) identifies hazardous locations,  
4 sections, and elements on public roads that  
5 constitute a danger to motorists, bicyclists,  
6 and pedestrians;

7 “(E)(i) determine priorities for the correc-  
8 tion of hazardous road locations, sections, and  
9 elements (including railway-highway crossing  
10 improvements), as identified through crash data  
11 analysis;

12 “(ii) identify opportunities for preventing  
13 the development of such hazardous conditions;  
14 and

15 “(iii) establish and implement a schedule  
16 of highway safety improvement projects for haz-  
17 ard correction and hazard prevention; and

18 “(F)(i) establish an evaluation process to  
19 analyze and assess results achieved by highway  
20 safety improvement projects carried out in ac-  
21 cordance with procedures and criteria estab-  
22 lished by this section; and

23 “(ii) use the information obtained under  
24 clause (i) in setting priorities for highway safety  
25 improvement projects.

1 “(d) ELIGIBLE PROJECTS.—

2 “(1) IN GENERAL.—A State may obligate funds  
3 apportioned to the State under this section to carry  
4 out—

5 “(A) any highway safety improvement  
6 project on any—

7 “(i) road or bridge on the Federal-aid  
8 system; or

9 “(ii) publicly owned bicycle or pedes-  
10 trian pathway or trail; or

11 “(B) as provided in subsection (e), for  
12 other safety projects.

13 “(2) USE OF OTHER FUNDING FOR SAFETY.—

14 “(A) EFFECT OF SECTION.—Nothing in  
15 this section prohibits the use of funds made  
16 available under other provisions of this title for  
17 highway safety improvement projects.

18 “(B) USE OF OTHER FUNDS.—States are  
19 encouraged to address the full scope of their  
20 safety needs and opportunities by using funds  
21 made available under other provisions of this  
22 title (except a provision that specifically pro-  
23 hibits that use).

24 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-  
25 TEGIC HIGHWAY SAFETY PLAN.—

1           “(1) IN GENERAL.—To further the implementa-  
 2           tion of a State strategic highway safety plan, a State  
 3           may use up to 25 percent of the amount of funds  
 4           made available under this section for a fiscal year to  
 5           carry out safety projects under any other section as  
 6           provided in the State strategic highway safety plan.

7           “(2) OTHER TRANSPORTATION AND HIGHWAY  
 8           SAFETY PLANS.—Nothing in this subsection requires  
 9           a State to revise any State process, plan, or program  
 10          in effect on the date of enactment of this section.

11          “(f) REPORTS.—

12           “(1) IN GENERAL.—A State shall submit to the  
 13          Secretary a report that—

14                   “(A) describes progress being made to im-  
 15                   plement highway safety improvement projects  
 16                   under this section;

17                   “(B) assesses the effectiveness of those im-  
 18                   provements; and

19                   “(C) describes the extent to which the im-  
 20                   provements funded under this section contribute  
 21                   to the goals of—

22                           “(i) reducing the number of fatalities  
 23                           on roadways;

24                           “(ii) reducing the number of roadway-  
 25                           related injuries;

1 “(iii) reducing the occurrences of  
2 roadway-related accidents;

3 “(iv) mitigating the consequences of  
4 roadway-related accidents; and

5 “(v) reducing the occurrences of road-  
6 way-railroad grade crossing accidents.

7 “(2) CONTENTS; SCHEDULE.—The Secretary  
8 shall establish the content and schedule for a report  
9 under paragraph (1).

10 “(g) FEDERAL SHARE OF HIGHWAY SAFETY IM-  
11 PROVEMENT PROJECTS.—The Federal share of the cost  
12 of a highway safety improvement project carried out with  
13 funds made available under this section shall be 90 per-  
14 cent.

15 “(h) USE OF FUNDS.—

16 “(1) PROJECTS UNDER SECTION 402.—For fis-  
17 cal year 2005 and each fiscal year thereafter, 10  
18 percent of the funds made available to a State under  
19 this section shall be obligated for projects under sec-  
20 tion 402, unless by October 1 of the fiscal year, the  
21 State—

22 “(A) has in effect a primary safety belt  
23 law; or

24 “(B) demonstrates that the safety belt use  
25 rate in the State is at least 90 percent.

1 “(2) WITHHOLDING.—

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

9 “(i) have in effect a primary safety  
10 belt law; or

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

13 “(B) RESTORATION.—If, within 3 years  
14 after the date on which funds are withheld from  
15 a State under subparagraph (A), the State has  
16 in effect a primary safety belt law or has dem-  
17 onstrated that the safety belt use rate in the  
18 State is at least 90 percent, the apportionment  
19 of the State shall be increased by the amount  
20 withheld.

21 “(C) LAPSE.—If, within 3 years after the  
22 date on which funds are withheld from a State  
23 under subparagraph (A), the State does not  
24 have in effect a primary safety belt law or has  
25 not demonstrated that the safety belt use rate

1           in the State is at least 90 percent, the amount  
2           withheld shall lapse.”.

3           (2) ALLOCATIONS OF APPORTIONED FUNDS.—  
4           Section 133(d) of title 23, United States Code, is  
5           amended—

6                   (A) by striking paragraph (1);

7                   (B) by redesignating paragraphs (2)  
8                   through (5) as paragraphs (1) through (4), re-  
9                   spectively;

10                  (C) in paragraph (2) (as redesignated by  
11                  subparagraph (B))—

12                          (i) in the first sentence of subpara-  
13                          graph (A)—

14                                  (I) by striking “subparagraphs  
15                                  (C) and (D)” and inserting “subpara-  
16                                  graph (C)”;

17                                  (II) by striking “80 percent” and  
18                                  inserting “90 percent”;

19                          (ii) by striking subparagraph (C);

20                          (iii) by redesignating subparagraphs  
21                          (D) and (E) as subparagraphs (C) and  
22                          (D), respectively; and

23                          (iv) in subparagraph (C) (as redesi-  
24                          gnated by clause (iii)), by adding a period  
25                          at the end; and

1 (D) in paragraph (4)(A) (as redesignated  
 2 by subparagraph (B)), by striking “paragraph  
 3 (2)” and inserting “paragraph (1)”.

4 (3) CONFORMING AMENDMENTS.—

5 (A) Chapter 1 of title 23, United States  
 6 Code, is amended by striking the item relating  
 7 to section 148 and inserting the following:

“148. Highway safety improvement program.”.

8 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-  
 9 PROVEMENT PROGRAM FUNDS.—Section 104(b) of title  
 10 23, United States Code, is amended—

11 (1) in the matter preceding paragraph (1), by  
 12 inserting after “Improvement program,” the fol-  
 13 lowing: “the highway safety improvement program,”;  
 14 and

15 (2) by adding at the end the following:

16 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-  
 17 GRAM.—

18 “(A) IN GENERAL.—For the highway safe-  
 19 ty improvement program, in accordance with  
 20 the following formula:

21 “(i) 25 percent of the apportionments  
 22 in the ratio that—

23 “(I) the total lane miles of Fed-  
 24 eral-aid highways in each State; bears  
 25 to

1 “(II) the total lane miles of Fed-  
2 eral-aid highways in all States.

3 “(ii) 40 percent of the apportionments  
4 in the ratio that—

5 “(I) the total vehicle miles trav-  
6 eled on lanes on Federal-aid highways  
7 in each State; bears to

8 “(II) the total vehicle miles trav-  
9 eled on lanes on Federal-aid highways  
10 in all States.

11 “(iii) 35 percent of the apportion-  
12 ments in the ratio that—

13 “(I) the estimated tax payments  
14 attributable to highway users in each  
15 State paid into the Highway Trust  
16 Fund (other than the Mass Transit  
17 Account) in the latest fiscal year for  
18 which data are available; bears to

19 “(II) the estimated tax payments  
20 attributable to highway users in all  
21 States paid into the Highway Trust  
22 Fund (other than the Mass Transit  
23 Account) in the latest fiscal year for  
24 which data are available.

1                   “(B) MINIMUM APPORTIONMENT.—Not-  
 2                   withstanding subparagraph (A), each State  
 3                   shall receive a minimum of  $\frac{1}{2}$  of 1 percent of  
 4                   the funds apportioned under this paragraph.”.

5           (c) ELIMINATION OF HAZARDS RELATING TO HIGH-  
 6   WAY FACILITIES.—

7                   (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-  
 8                   tion 130(e) of title 23, United States Code, is  
 9                   amended—

10                   (A) in the heading, by striking “PROTEC-  
 11                   TIVE DEVICES” and inserting “RAILWAY-HIGH-  
 12                   WAY CROSSINGS”;

13                   (B) by striking the first sentence and in-  
 14                   serting the following:

15                   “(1) IN GENERAL.—For each fiscal year, at  
 16                   least \$200,000,000 of the funds authorized and ex-  
 17                   pended under section 148 shall be available for the  
 18                   elimination of hazards and the installation of protec-  
 19                   tive devices at railway-highway crossings.”; and

20                   (C) by striking “Sums authorized” and in-  
 21                   serting the following:

22                   “(2) OBLIGATION.—Sums authorized”.

23                   (2) BIENNIAL REPORTS TO CONGRESS.—Sec-  
 24                   tion 130(g) of title 23, United States Code, is  
 25                   amended in the third sentence—

1 (A) by inserting “and the Committee on  
 2 Commerce, Science, and Transportation,” after  
 3 “Public Works”; and

4 (B) by striking “not later than April 1 of  
 5 each year” and inserting “every other year”.

6 (3) EXPENDITURE OF FUNDS; APPORTION-  
 7 MENT.—Section 130 of title 23, United States Code,  
 8 is amended by adding at the end the following:

9 “(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—  
 10 Funds made available to carry out this section shall be—

11 “(1) available for expenditure on compilation  
 12 and analysis of data in support of activities carried  
 13 out under subsection (g); and

14 “(2) apportioned in accordance with section  
 15 104(b)(5).”.

16 (d) TRANSITION.—

17 (1) IMPLEMENTATION.—Except as provided in  
 18 paragraph (2), to qualify for funding under section  
 19 148 of title 23, United States Code (as amended by  
 20 subsection (a)), a State shall develop and implement  
 21 a State strategic highway safety plan as required by  
 22 subsection (c) of that section not later than October  
 23 1 of the second fiscal year after the date of enact-  
 24 ment of this Act.

25 (2) INTERIM PERIOD.—

1 (A) IN GENERAL.—Before October 1 of the  
2 second fiscal year after the date of enactment  
3 of this Act and until the date on which a State  
4 develops and implements a State strategic high-  
5 way safety plan, the Secretary shall apportion  
6 funds to a State for the highway safety im-  
7 provement program and the State may obligate  
8 funds apportioned to the State for the highway  
9 safety improvement program under section 148  
10 for projects that were eligible for funding under  
11 sections 130 and 152 of that title, as in effect  
12 on the day before the date of enactment of this  
13 Act.

14 (B) NO STRATEGIC HIGHWAY SAFETY  
15 PLAN.—If a State has not developed a strategic  
16 highway safety plan by October 1 of the second  
17 fiscal year after the date of enactment of this  
18 Act, but demonstrates to the satisfaction of the  
19 Secretary that progress is being made toward  
20 developing and implementing such a plan, the  
21 Secretary shall continue to apportion funds for  
22 1 additional fiscal year for the highway safety  
23 improvement program under section 148 of title  
24 23, United States Code, to the State, and the  
25 State may continue to obligate funds appor-

tioned to the State under this section for  
projects that were eligible for funding under  
sections 130 and 152 of that title, as in effect  
on the day before the date of enactment of this  
Act.

(C) PENALTY.—If a State has not adopted  
a strategic highway safety plan by the date that  
is 2 years after the date of enactment of this  
Act, funds made available to the State under  
section 1101(6) shall be redistributed to other  
States in accordance with section 104(b) of title  
23, United States Code.

○