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To ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2009

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

A BILL

To ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

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 “Complete Streets Act
5 of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

19 (B) the consideration of the safety and
20 convenience of all users in all phases of project
21 planning and development.

22 (3) LOCAL JURISDICTION.—The term “local ju-
23 risdiction” means any unit of local government.

24 (4) METROPOLITAN PLANNING ORGANIZA-
25 TION.—The term “metropolitan planning organiza-

1 tion” has the meaning given the term in section
2 134(b) of title 23, United States Code.

3 (5) ROADWAY.—The term “roadway” means—

4 (A) the defined Federal functional classi-
5 fication roadway system;

6 (B) a roadway system for which funds are
7 provided under the equity bonus program under
8 section 105 of title 23, United States Code; and

9 (C) each bridge structure providing a con-
10 nection for such a roadway system.

11 (6) SECRETARY.—The term “Secretary” means
12 the Secretary of Transportation.

13 (7) SENIOR MANAGER.—The term “senior man-
14 ager” means—

15 (A) the director of a State department of
16 transportation (or a designee);

17 (B) the director of a metropolitan planning
18 organization (or a designee); and

19 (C) the director of a regional, county, or
20 city transportation agency that is primarily re-
21 sponsible for planning and approval of trans-
22 portation projects (or a designee).

23 (8) TRANSPORTATION IMPROVEMENT PRO-
24 GRAM.—The term “transportation improvement pro-

1 gram” has the meaning given the term “TIP” in
2 section 134(b) of title 23, United States Code.

3 **SEC. 3. COMPLETE STREETS POLICY REQUIREMENT.**

4 (a) LAW OR POLICY.—Not later than October 1 of
5 the fiscal year that begins 2 years after the date of enact-
6 ment of this Act each State and metropolitan planning
7 organization shall have in effect—

8 (1) in the case of a State—

9 (A) a law requiring that, beginning on the
10 effective date of the State law, all transpor-
11 tation projects in the State shall accommodate
12 the safety and convenience of all users in ac-
13 cordance with complete streets principles; or

14 (B) an explicit State department of trans-
15 portation policy that, beginning on the effective
16 date of the policy, all transportation projects in
17 the State shall accommodate the safety and
18 convenience of all users in accordance with com-
19 plete streets principles; and

20 (2) in the case of a metropolitan planning orga-
21 nization, an explicit statement of policy that, begin-
22 ning on the effective date of the policy, all transpor-
23 tation projects under the jurisdiction of the metro-
24 politan planning organization shall accommodate the

1 safety and convenience of all users in accordance
2 with complete streets principles.

3 (b) INCLUSIONS.—

4 (1) IN GENERAL.—A law or policy described in
5 subsection (a) shall—

6 (A) apply to each federally funded project
7 of each State department of transportation or
8 metropolitan planning organization transpor-
9 tation improvement program;

10 (B) include a statement that each project
11 under the transportation improvement program
12 makes streets or affected rights-of-way acces-
13 sible to users of all ages and abilities, including
14 pedestrians, bicyclists, transit vehicles and
15 users, and motorists;

16 (C) except as provided in paragraph (2),
17 apply to new road construction and road modi-
18 fication projects, including design, planning,
19 construction, reconstruction, rehabilitation,
20 maintenance, and operations, for the entire
21 right-of-way;

22 (D) indicate that improvements for the
23 safe and convenient travel by pedestrians or
24 bicyclists on or across streets shall be fully as-

1 sessed, considered, and documented as a rou-
2 tine element of pavement resurfacing projects;

3 (E) delineate a clear procedure by which
4 transportation improvement projects may be ex-
5 empted from complying with complete streets
6 principles, which shall require—

7 (i) approval by the appropriate senior
8 manager, in accordance with subsection
9 (d)(2); and

10 (ii) documentation, with supporting
11 data, that indicates the basis for such an
12 exemption;

13 (F) comply with up-to-date design stand-
14 ards, particularly standards relating to pro-
15 viding access for individuals with disabilities;

16 (G) require that complete streets principles
17 be applied in due consideration of the urban,
18 suburban, or rural context in which a project is
19 located; and

20 (H) include a list of performance stand-
21 ards with measurable outcomes to ensure that
22 the transportation improvement program ad-
23 heres to complete streets principles.

24 (2) EXCEPTION.—A law or policy described in
25 subsection (a) shall not apply to a new road con-

1 construction or modification project for which, as of the
2 effective date of the law or policy, at least 30 per-
3 cent of the design phase is completed.

4 (c) PROMOTION.—Each State department of trans-
5 portation and metropolitan planning organization shall
6 promote the development of complete streets policies in
7 applicable local jurisdictions.

8 (d) EXEMPTION REQUIREMENTS AND PROCE-
9 DURES.—A law or policy described in subsection (a) shall
10 allow for a project-specific exemption from an applicable
11 complete streets policy only if—

12 (1)(A) an affected roadway prohibits, by law,
13 use of the roadway by specified users, in which case
14 a greater effort shall be made to accommodate those
15 specified users elsewhere, including on roadways that
16 cross or otherwise intersect with the affected road-
17 way;

18 (B) the cost to the exempted project in achiev-
19 ing compliance with the applicable complete streets
20 policy would be excessively disproportionate (as de-
21 fined in the 2001 Department of Transportation
22 Guidance on Accommodating Bicycle and Pedestrian
23 Travel), as compared to the need or probable use of
24 a particular complete street; or

9 (A) a senior manager of the metropolitan
10 planning organization that approved the trans-
11 portation improvement program containing the
12 exempted project;

13 (B) a senior manager of the relevant State
14 department of transportation; or

15 (C) in the case of a project for which nei-
16 ther the metropolitan planning organization nor
17 the State department of transportation is the
18 agency with primary transportation planning
19 authority, a senior manager of the regional,
20 county, or city agency responsible for planning
21 and approval of the project.

22 (e) INTEGRATION.—Each State department of trans-
23 portation and metropolitan planning organization imple-
24 menting a complete streets policy shall incorporate com-
25 plete streets principles into all aspects of the transpor-

1 tation project development, programming, and delivery
2 process, including project planning and identification,
3 scoping procedures, design approvals, design manuals, and
4 performance measures.

5 (f) REPORTS.—

6 (1) IN GENERAL.—Each State department of
7 transportation shall submit to the Secretary a report
8 describing the implementation by the State of meas-
9 ures to achieve compliance with the requirements of
10 this section, at such time, in such manner, and con-
11 taining such information as the Secretary may re-
12 quire.

13 (2) DETERMINATION BY SECRETARY.—On re-
14 ceipt of a report under paragraph (1), the Secretary
15 shall determine whether the applicable State has
16 achieved compliance with the requirements of this
17 section.

18 **SEC. 4. USER ACCESS AND CONSIDERATION.**

19 Section 217 of title 23, United States Code, is
20 amended by striking subsection (g) and inserting the fol-
21 lowing:

22 “(g) PLANNING AND DESIGN.—

23 (1) IN GENERAL.—Subject to paragraph (4),
24 all users shall be given due consideration in each
25 comprehensive transportation plan developed by a

1 metropolitan planning organization or a State in ac-
2 cordance with section 134 or 135, respectively.

3 “(2) ACCESS FOR ALL USERS.—Subject to
4 paragraph (4), each project for new construction or
5 reconstruction of a transportation facility shall in-
6 clude consideration of appropriate bicycle transpor-
7 tation facilities, pedestrian walkways, and safe ac-
8 cess to existing and planned public transportation,
9 except in any case in which bicycle or pedestrian use
10 is not permitted.

11 “(3) SAFETY CONSIDERATIONS.—Subject to
12 paragraph (4), each transportation plan and project
13 shall provide due consideration for safety and contig-
14 uous routes for all users, including—

15 “(A) safe access to transit stops and facili-
16 ties; and

17 “(B) the installation, where appropriate,
18 and maintenance of audible traffic signals and
19 signs at street crossings.

20 “(4) EXEMPTIONS.—A transportation plan or
21 project may receive an exemption from an applicable
22 requirement under paragraph (1), (2), or (3) only
23 if—

24 “(A)(i) a roadway affected by the transpor-
25 tation plan or project prohibits, by law, use of

1 the roadway by specified users, in which case a
2 greater effort shall be made to accommodate
3 those specified users elsewhere, including on
4 roadways that cross or otherwise intersect with
5 the affected roadway;

6 “(ii) the cost to the exempted transpor-
7 tation plan or project in achieving compliance
8 with the requirement would be excessively dis-
9 proportionate (as defined in the 2001 Depart-
10 ment of Transportation Guidance on Accommo-
11 dating Bicycle and Pedestrian Travel), as com-
12 pared to the need or probable use of a roadway
13 affected by the transportation plan or project;
14 or

15 “(iii) the existing and planned population
16 and employment densities or level of transit
17 service around a particular roadway affected by
18 the transportation plan or project is so low, as
19 determined by the Secretary, that there is a
20 documented absence of a need to implement the
21 applicable requirement; and

22 “(B) the exemption is approved by—

23 “(i) a senior manager of the metro-
24 politan planning organization that ap-
25 proved the transportation plan or project;

1 “(ii) a senior manager of the relevant
2 State department of transportation; or
3 “(iii) in the case of a transportation
4 plan or project for which neither the met-
5 ropolitan planning organization nor the
6 State department of transportation is the
7 agency with primary transportation plan-
8 ning authority, a senior manager of the re-
9 gional, county, or city agency responsible
10 for planning and approval of the transpor-
11 tation plan or project.”.

12 **SEC. 5. CERTIFICATION AND COMPLIANCE.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of enactment of this Act, the Secretary shall establish
15 a method of ensuring compliance by State departments of
16 transportation and metropolitan planning organizations
17 with the requirements of this Act, including a requirement
18 that each State department of transportation and metro-
19 politan planning organization shall submit to the Sec-
20 retary a report describing—

21 (1) each complete streets policy adopted by the
22 State department of transportation or metropolitan
23 planning organization;

9 (b) REPORT.—Not later than 3 years after the date
10 of enactment of this Act, the Secretary shall submit to
11 Congress a report describing—

12 (1) the method established under subsection
13 (a);

22 (4) other measures carried out by the Secretary
23 to encourage the adoption of complete streets poli-
24 cies by local jurisdictions.

25 (c) PROJECT CERTIFICATION.—

7 (A) review the project at the final design
8 stage to ensure incorporation in the project of
9 each applicable complete streets policy described
10 in section 3; and

11 (B) not later than 1 year after the date on
12 which the project is opened for public use, sub-
13 mit to the State a certification that the project
14 achieves compliance with each applicable com-
15 plete streets policy.

1 Secretary, each agency described in paragraph (1)
2 shall submit to the State a recertification that the
3 project is in compliance with each applicable com-
4 plete streets policy.

5 **SEC. 6. SAFETY FUNDING IN NONCOMPLIANT STATES.**

6 (a) **DEFINITION OF NONCOMPLIANT STATE.**—In this
7 section, the term “noncompliant State” means a State
8 that fails to achieve compliance with the requirements of
9 section 3 by the date described in that section.

10 (b) **REQUIREMENT.**—Of the funds apportioned to a
11 noncompliant State under section 104(b)(3) of title 23,
12 United States Code, for the applicable fiscal year, the non-
13 compliant State shall use to carry out a highway safety
14 program under section 402 of title 23, United States
15 Code—

16 (1) 1 percent for the first fiscal year of non-
17 compliance;

18 (2) 2 percent for the second fiscal year of non-
19 compliance; and

20 (3) 3 percent for the third fiscal year of non-
21 compliance and each fiscal year thereafter until the
22 noncompliant State achieves compliance with the re-
23 quirements of section 3.

1 **SEC. 7. ACCESSIBILITY STANDARDS.**

2 (a) FINAL STANDARDS.—Not later than 1 year after
3 the date of enactment of this Act, the Architectural and
4 Transportation Barriers Compliance Board established by
5 section 502(a)(1) of the Rehabilitation Act of 1973 (29
6 U.S.C. 792(a)(1)) shall promulgate final standards for ac-
7 cessibility of new construction and alteration of pedestrian
8 facilities for public rights-of-way.

9 (b) TEMPORARY STANDARDS.—During the period be-
10 ginning on the date of enactment of this Act and ending
11 on the date on which the Architectural and Transportation
12 Barriers Compliance Board promulgates final standards
13 under subsection (a), a State or metropolitan planning or-
14 ganization shall apply to public rights-of-way—

15 (1) the standards for accessible transportation
16 facilities contained in section 37.9 of title 49, Code
17 of Federal Regulations (as in effect on the date of
18 enactment of this Act); or

19 (2) if the standards referred to in paragraph
20 (1) do not address, or are inapplicable to, an af-
21 fected public right-of-way, the revised draft guide-
22 lines for accessible public rights-of-way of the Archi-
23 tectural and Transportation Barriers Compliance
24 Board dated November 23, 2005.

1 SEC. 8. RESEARCH, TECHNICAL GUIDANCE, AND IMPLI- 2 MENTATION ASSISTANCE.

3 (a) RESEARCH.—

14 (A) the American Association of State
15 Highway and Transportation Officials;

16 (B) the Institute of Transportation Engi-
17 neers:

18 (C) the American Public Transportation
19 Association;

20 (D) the American Planning Association;

21 (E) the National Association of Regional
22 Councils.

23 (F) the Association of Metropolitan Plan-
24 ning Organizations;

(G) representatives of disability, motoring, bicycling, walking, transit user, aging, and air quality organizations; and

4 (H) other affected communities.

11 (B) seek to develop new areas of inquiry,
12 in addition to that statement.

17 (b) BENCHMARKS AND GUIDANCE.—

(2) FOCUS.—The benchmarks and guidance under paragraph (1) shall—

(B) indicate the expected operational and safety performance of alternative approaches to facility design.

11 (c) TECHNICAL GUIDANCE.—

12 (1) REPORT.—Not later than 15 months after
13 the date of enactment of this Act, the Secretary
14 shall prepare and make available to all States, met-
15 ropolitan planning organizations, and local jurisdic-
16 tions a report that describes the best practices by
17 which transportation agencies throughout the United
18 States have implemented complete streets principles
19 in accordance with, or in anticipation of, the require-
20 ments of this Act.

21 (2) TOPICS FOR EMPHASIS.—In preparing the
22 report under paragraph (1), the Secretary shall
23 place particular emphasis on the following topics:

1 laborate with the Bureau of Transportation Statistics, the
2 Federal Transit Administration, and appropriate commit-
3 tees of the Transportation Research Board—

4 (1) to collect data regarding a baseline non-
5 motorized and transit use survey to be integrated
6 into the National Household Transportation Survey;

7 and

8 (2) to develop a survey tool for use by State de-
9 partments of transportation in identifying the
10 multimodal capacity of State and local roadways.

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