5.9.10

Sorry, the introduction is in all caps...and it is slightly embellished for clarity and understanding...

Note: For a better understanding and more insight, listen to both the Fri, 5.7.10 Call
http://recordings.talkshoe.com/TC-48361/TS-354575.mp3

and, the Sat, 5.8.10 Call
http://recordings.talkshoe.com/TC-17898/TS-354847.mp3

...Harvey

...HERE ARE THE FEDERAL STATUTES ON THE DRIVER LICENSE AND PLATES. THE STATE HAS TO COMPLY WITH THESE REGULATIONS. THE STATES CAN NOT MAKE UP THEIR OWN RULES UNLESS IT GIVES YOU MORE FREEDOM, NOT LESS. MOST PEOPLE HAVE THIS BACKWARDS. THEY THINK THE STATE HAS THE POWER TO OVERRIDE THESE RULES FROM THE FED AND PLACE STRICTER REGULATIONS ON YOU.

THIS IS NOT THE CASE, WHEN FEDERAL FUNDING IS GIVEN TO THE STATES AND THE D.O.T. IS FEDERALLY CONTROLLED. READ THIS DOCUMENT. YOU'LL SEE THAT YOU DO NOT HAVE TO GIVE UP YOUR FIRST BORN CHILD IN ORDER TO TRAVEL...PERIOD !

HERE ARE THE TRUE FACTS...NOT MYTHS !

READ THE SECTION ON "Blood Alcohol Concentration Level." IT ONLY APPLIES TO A "COMMERCIAL" DRIVER. THIS IS MAY UPSET M.A.D.D.

WE ARE FIGHTING THE WRONG ARGUMENT. HERE ARE THE REGULATIONS (GUIDELINES) FROM THE "10 MILE SQUARE" THAT THE STATES HAVE TO FOLLOW.

MOST PEOPLE TALK B.S. ON THIS SUBJECT AND TALK IN GENERAL TERMS TO SOUND GOOD. HERE ARE THE FACTS THAT BACK UP MY REASONING ON THIS SUBJECT. SOMEBODY PROVE THAT THESE FEDERAL REGULATIONS ARE WRONG.

THIS IS THE CHALLENGE: REBUT THESE FEDERAL REGULATION AS BEING WRONG, IF YOU CAN. ALL OF THE FOLLOWING IS BLACK INK ON WHITE PAPER AND IN THEIR BOOKS !

...ROD

DRIVERS LICENSE & PLATES
The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter, the term “State” means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) consult with the heads of other departments, agencies, and instrumentalities of the United States Government on the transportation requirements of the Government, including encouraging them to establish and observe policies consistent with maintaining a coordinated transportation system in procuring transportation or in operating their own transport services;

(8) consult and cooperate with State and local governments, carriers, labor, and other interested persons, including, when appropriate, holding informal public hearings; and

(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.

(a) In this section, “financial assistance” includes obligation guarantees.

(b) A person in the United States may not be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a project, program, or activity because of race, color, national origin, or sex when any part of the project, program, or activity is financed through financial assistance under section 332 or 333 or chapter 221section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.).

(c) When the Secretary of Transportation decides that a person receiving financial assistance under a law referred to in subsection (b) of this section has not complied with that subsection, a Federal civil rights law, or an order or regulation issued under a Federal civil rights law, the Secretary shall notify the person of the decision and require the person to take necessary action to ensure compliance with that subsection.

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving a notice under subsection (c) of this section, the Secretary shall take at least one of the following actions:

(1) direct that no more Federal financial assistance be provided the person.

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought against the person.

(3) carry out the duties and powers provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(4) take other action provided by law.
(e) When a matter is referred to the Attorney General under subsection (d)(2) of this section, or when the Attorney General has reason to believe that a person is engaged in a pattern or practice violating this section, the Attorney General may begin a civil action in a district court of the United States for appropriate relief.

**TITLE 49 > SUBTITLE I > CHAPTER 3 > SUBCHAPTER I > § 301**

§ 301. Leadership, consultation, and cooperation

The Secretary of Transportation shall—

(1) under the direction of the President, exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies.

**TITLE 49 > SUBTITLE I > CHAPTER 1 > § 101**

§ 101. Purpose

(a) The national objectives of general welfare, economic growth and stability, and security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

**TITLE 49 > SUBTITLE I > CHAPTER 1 > § 102**

§ 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

**TITLE 49 > SUBTITLE I > CHAPTER 1 > § 104**

§ 104. Federal Highway Administration

(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b) (1) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety; and

(2) additional duties and powers prescribed by the Secretary.

(d) Notwithstanding the provisions of sections 101 (d) and 144 of title 23, highway bridges determined
to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.

TITLE 49 > SUBTITLE VI > PART A > CHAPTER 303 > § 30302
§ 30302. National Driver Register
(a) Establishment and Contents.— The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

Transition From Prior Register.—
The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), to the Register maintained under this chapter.

TITLE 49 > SUBTITLE VI > PART A > CHAPTER 303 > § 30303
§ 30303. State participation
(a) Notification.— A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.
(b) Withdrawal.— A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

Form and Way of Notification.— Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

TITLE 49 > SUBTITLE VI > PART B > CHAPTER 313 > § 31301
§ 31301. Definitions
(2) “commerce” means trade, traffic, and transportation—
(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or
(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(A) has a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds, whichever is greater, or a lesser gross vehicle weight rating or gross vehicle weight the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(6) “driver’s license” means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.
“employee” means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

“employer” means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

§ 31302. Commercial driver’s license requirement
No individual shall operate a commercial motor vehicle without a valid commercial driver’s license issued in accordance with section 31308. An individual operating a commercial motor vehicle may have only one driver’s license at any time and may have only one learner’s permit at any time.

§ 31308. Commercial driver’s license
After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers’ licenses and learner’s permits by the States and for information to be contained on each of the licenses and permits. The standards shall require at a minimum that—
(1) an individual issued a commercial driver’s license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305 (a) of this title;
(2) before a commercial driver’s license learner’s permit may be issued to an individual, the individual must pass a written test, that complies with the minimum standards prescribed by the Secretary under section 31305 (a), on the operation of the commercial motor vehicle that the individual will be operating under the permit;
(3) the license or learner’s permit be tamperproof to the maximum extent practicable and each license or learner’s permit issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication; and
(4) the license or learner’s permit contain—
(A) the name and address of the individual issued the license or learner’s permit and a physical description of the individual;
(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;
(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license or learner’s permit;
(D) the name of the State that issued the license or learner’s permit; and
(E) the dates between which the license or learner’s permit is valid.

§ 31501. Definitions
In this chapter—
(1) “migrant worker” means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121 (g)) or section 3(f) of the
Fair Labor Standards Act of 1938 (29 U.S.C. 203 (f)).

(2) “motor carrier”, “motor common carrier”, “motor private carrier”, “motor vehicle”, and “United States” have the same meanings given those terms in section 13102 of this title.

(3) “motor carrier of migrant workers”—

(A) means a person (except a motor common carrier) providing transportation referred to in section 13501 of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

TITLE 49 > SUBTITLE VI > PART B > CHAPTER 315 > § 31504

§ 31504. Identification of motor vehicles
(a) General Authority.— The Secretary of Transportation may—
(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502 (c) of this title, except a motor contract carrier; and
(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) Limitation.— A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary

TITLE 49 > SUBTITLE VI > PART B > CHAPTER 313 > § 31310

§ 31310. Disqualifications
(2) After notice and hearing.— The Secretary shall disqualify an individual from operating a commercial motor vehicle for more than 30 days if the Secretary determines, after notice and an opportunity for a hearing, that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

(h) State Disqualification.— Notwithstanding subsections (b) through (g) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b) through (g). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

TITLE 49 > SUBTITLE VI > PART B > CHAPTER 311 > SUBCHAPTER III > § 31133

§ 31133. General powers of the Secretary of Transportation
(a) General.— In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—
(1) conduct and make contracts for inspections and investigations;
(2) compile statistics;
(3) make reports;
(4) issue subpenas;
require production of records and property;
(6) take depositions;
(7) hold hearings;
(8) prescribe recordkeeping and reporting requirements;
(9) conduct or make contracts for studies, development, testing, evaluation, and training; and
(10) perform other acts the Secretary considers appropriate.

(b) Consultation.— In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) Delegation.— The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

49 USC 31136 - Sec. 31136. United States Government regulations

(a) Minimum Safety Standards. - Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety.

])." FEDERAL HIGHWAY ADMINISTRATION RULEMAKING Pub. L. 104-88, title IV, Sec. 408, Dec. 29, 1995, 109 Stat. 958, provided that: "(a) Advance Notice. - The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996. "(b) Rulemaking. - The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within 1 year after issuance of the advance notice under subsection (a) is published and shall issue a final rule dealing with those issues within 2 years after the last day of such 1-year period.

TITLE 49 > SUBTITLE VI > PART B > CHAPTER 311 > SUBCHAPTER I > § 31102

§ 31102. Grants to States

(a) General Authority.— Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for improving motor carrier safety and the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders.

(b) State Plan Procedures and Contents.—

(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to assume responsibility for improving motor carrier safety and to adopt and enforce regulations, standards, and orders of the Government on commercial motor vehicle safety, hazardous materials transportation safety, or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section
(c) Use of Grants To Enforce Other Laws.— A State may use amounts received under a grant under subsection (a)—

(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and

(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and

(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of motor carrier safety activities (including roadside safety inspections) conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2003, 2004, and 2005; except that the State may not use more than 5 percent of the basic amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety.
and used for motor carrier safety purposes may be included as part of the State’s share not provided by the United States. The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated for grants to support those programs, under criteria that may be established.

**TITLE 49 > SUBTITLE VI > PART B > CHAPTER 313 > § 31310**

§ 31310. Disqualifications

(a) **Blood Alcohol Concentration Level.**— In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(d) **Controlled Substance Violations.**— The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) **Serious Traffic Violations.**—

(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) **Emergency Disqualification.**—

(1) **Limited duration.**— The Secretary shall disqualify an individual from operating a commercial motor vehicle for not to exceed 30 days if the Secretary determines that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

**TITLE 49 > SUBTITLE IV > PART B > CHAPTER 145 > § 14504a**

§ 14504a. Unified Carrier Registration System plan and agreement

(a) **Definitions.**— In this section and section 14506 (except as provided in paragraph (5)), the following definitions apply:

(1) **Commercial motor vehicle.**—

(A) **In general.**— Except as provided in subparagraph (B), the term “commercial motor vehicle”—

(2) **Base-state.**—

(A) **In general.**— Subject to subparagraph (B), the term “base-State” means, with respect to a unified carrier registration agreement, a State—

(i) that is in compliance with the requirements of subsection (e); and

(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.

(10) **Vehicle registration.**— The term “vehicle registration” means the registration of any
commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.

(e) State Participation.—

(1) State plan.— No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—
(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and
(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.

(2) Determination of ownership or operation.— For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.

(1) Eligibility.— Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).

(i) Enforcement.—

(1) Civil actions.— Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.
(2) Venue.— An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.
(3) Relief.— Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.

(4) Enforcement by states.— Nothing in this section—

(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—
(i) submit information documents as required under subsection (d)(2); or
(ii) pay the fees required under subsection (f); or
(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 on or in a commercial motor vehicle.
§ 31701. Definitions

In this chapter—

(1) “commercial motor vehicle”, with respect to—
(A) the International Registration Plan, has the same meaning given the term “apportionable vehicle” under the Plan; and
(B) the International Fuel Tax Agreement, has the same meaning given the term “qualified motor vehicle” under the Agreement.

(2) “fuel use tax” means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) “International Fuel Tax Agreement” means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers, developed under the auspices of the National Governors’ Association.

(4) “International Registration Plan” means the interstate agreement on apportioning vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) “Regional Fuel Tax Agreement” means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) “State” means the 48 contiguous States and the District of Columbia.

Code of Federal Regulations

Title 23 -- Highways

CHAPTER

I FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

II NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

III NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

TITLE 23—Highways

CHAPTER II--NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AND FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C--GENERAL PROVISIONS

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

Title 23: Highways

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS
§ 1250.1 Scope.

This part establishes guidelines for the States to assure their meeting the requirements for 40 percent political subdivision participation in State highway safety programs under 23 U.S.C. 402 (b)(1)(C).

Title 23: Highways
PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

§ 1250.2 Purpose.

The purpose of this part is to provide guidelines to determine whether a State is in compliance with the requirement that at least 40 percent of all Federal funds apportioned under 23 U.S.C. 402 will be expended by political subdivisions of such State.

Title 23: Highways
PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

§ 1250.3 Policy.

To assure that the provisions of 23 U.S.C. 402(b)(1)(C) are complied with, the NHTSA and FHWA field offices will:

(a) Prior to approving the State's Annual Work Program (AWP), review the AWP and each of the subelement plans which make up the AWP. The NHTSA Regional Administrator will review the 141/2safety standard areas for which NHTSA is responsible and the FHWA Division Administrator will review the 31/2safety standard areas for which FHWA is responsible. The narrative description for each subelement plan should contain sufficient information to identify the funds to be expended by, or for the benefit of the political subdivisions.

(b) Withhold approval of a State's AWP, as provided in Highway Safety Program Manual volume 103, chapter III, paragraph 3c, where the program does not provide at least 40 percent of Federal funds for planned local program expenditures.

(c) During the management review of the State's operations, determine if the political subdivisions had an active voice in the initiation, development and implementation of the programs for which such sums were expended.

Title 23: Highways

PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

§ 1250.4 Determining local share.

(a) In determining whether a State meets the requirement that at least 40 percent of Federal 402 funds be expended by political subdivisions, FHWA and NHTSA will apply the 40 percent requirement sequentially to each fiscal year's apportionments, treating all apportionments made from a single fiscal year's authorizations as a single entity for this purpose. Therefore, at least 40 percent of each State's apportionments from each year's authorizations must be used in the highway safety programs of its
political subdivisions prior to the period when funds would normally lapse. The 40 percent requirement is applicable to the State's total federally funded safety program irrespective of Standard designation or Agency responsibility.

(b) When Federal funds apportioned under 23 U.S.C. 402 are expended by a political subdivision, such expenditures are clearly part of the local share. Local safety project related expenditures and associated indirect costs, which are reimbursable to the grantee local governments, are classifiable as the local share of Federal funds. Illustrations of such expenditures are the cost incurred by a local government in planning and administration of project related safety activities, driver education activities, traffic court programs, traffic records system improvements, upgrading emergency medical services, pedestrian safety activities, improved traffic enforcement, alcohol countermeasures, highway debris removal programs, pupil transportation programs, accident investigation, surveillance of high accident locations, and traffic engineering services.

(c) When Federal funds apportioned under 23 U.S.C. 402 are expended by the State or a State agency for the benefit of a political subdivision, such funds may be considered as part of the local share, provided that the political subdivision benefitted has had an active voice in the initiation, development, and implementation of the programs for which such funds are expended. In no case may the State arbitrarily ascribe State agency expenditures as “benefitting local government.” Where political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, and a political subdivision which has not had such active voice agrees in advance of implementation to accept the benefits of the program, the Federal share of the cost of such benefits may be credited toward meeting the 40 percent local participation requirement. Where no political subdivisions have had an active voice in the initiation, development, and implementation of a particular program, but a political subdivision requests the benefits of the program as part of the local government's highway safety program, the Federal share of the cost of such benefits may be credited toward meeting the 40 percent local participation requirement. Evidence of consent and acceptance of the work, goods or services on behalf of the local government must be established and maintained on file by the State, until all funds authorized for a specific year are expended and audits completed.

(d) State agency expenditures which are generally not classified as local are within such standard areas as vehicle inspection, vehicle registration and driver licensing. However, where these Standards provide funding for services such as: driver improvement tasks administered by traffic courts, or where they furnish computer support for local government requests for traffic record searches, these expenditures are classifiable as benefitting local programs.

Title 23: Highways
PART 1250—POLITICAL SUBDIVISION PARTICIPATION IN STATE HIGHWAY SAFETY PROGRAMS

§ 1250.5  Waivers.

While the 40 percent requirement may be waived in whole or in part by the Secretary or his delegate, it is expected that each State program will generate political subdivision participation to the extent required by the Act so that requests for waivers will be minimized. Where a waiver is requested, however, it will be documented at least by a conclusive showing of the absence of legal authority over highway safety activities at the political subdivision levels of the State and will recommend the appropriate percentage participation to be applied in lieu of the 40 percent.

Title 23: Highways
PART 1313—INCENTIVE GRANT CRITERIA FOR ALCOHOL-IMPAIRED DRIVING PREVENTION PROGRAMS

§ 1313.3 Definitions.

(a) *Alcoholic beverage* means wine containing one-half of one percent or more of alcohol by volume, beer and distilled spirits. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part, or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(g) *State* means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE 23--Highways

CHAPTER III--NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D--TRANSFER AND SANCTION PROGRAMS

PART 1327--PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

Title 23: Highways

PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM

§ 1327.1 Scope.

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97–364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (*i.e.*, requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation. The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

§ 1327.2 Purpose.

The purpose of this part is to implement the NDR Act of 1982, as amended.

Title 23: Highways
§ 1327.3 Definitions.

(a) Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) Driver history record means a detailed description of an individual's driver record, used in the American Association of Motor Vehicle Administrators' Commercial Driver's License Information System (CDLIS).

(c) Driver improvement purposes means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) Driver license abstract means the complete driver history of a driver's convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) Driver licensing purposes means information requests made by chief driver licensing officials to determine if individuals applying for original, renewal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) Driver status response means a response which indicates whether a driver currently holds a valid license.

(g) Employers or prospective employers of motor vehicle operators means persons that hire one or more individuals to operate motor vehicles on a regular basis during their normal course of employment.

(r) Problem Driver Pointer System (PDPS) means a system whereby the NDR causes information regarding the motor vehicle driving records of individuals to be exchanged between the State which took adverse action against a driver (State of Record) and the State requesting the information (State of Inquiry).

(v) State of inquiry means the State submitting an inquiry to the NDR to determine if it contains information regarding a driver license applicant.

(w) State of record means the State which took an adverse action against a driver and transmitted identification data regarding the driver to the NDR, in accordance with §1327.5(a) of this part.

(x) Substantive adverse action data, substantive adverse driver licensing data and substantive data mean data which give the details regarding a State's revocation, suspension, denial or cancellation of a driver's license, or the conviction of a driver, such as date, reason, eligible/restoration date, etc.

(y) Transportation safety purposes means information requests submitted on behalf of other parties authorized by the NDR Act of 1982, as amended, to receive NDR information.
CHAPTER III—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D--TRANSFER AND SANCTION PROGRAMS

PART 1340—UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

Title 23: Highways

PART 1340—UNIFORM CRITERIA FOR STATE OBSERVATIONAL SURVEYS OF SEAT BELT USE

§ 1340.1 Purpose.
This part establishes uniform criteria for surveys of seat belt use conducted by States under 23 U.S.C. 157

Title 23: Highways

PART 1345—INCENTIVE GRANT CRITERIA FOR OCCUPANT PROTECTION PROGRAMS

This part establishes criteria, in accordance with 23 U.S.C. 405, for awarding incentive grants to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

[70 FR 69080, Nov. 14, 2005]

§ 1345.2 Purpose.

The purpose of this part is to implement the provisions of 23 U.S.C. 405 and to encourage States to adopt effective occupant protection programs.

[70 FR 69080, Nov. 14, 2005]

§ 1345.3 Definitions.

Child restraint system means child safety seat.
Child safety seat means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.
First fiscal year means the first fiscal year beginning after September 30, 2003.
Minimum fine means a total monetary penalty which may include fines, fees, court costs, or any other additional monetary assessments collected.
Passenger motor vehicle means a passenger car, pickup truck, van, minivan, or sport utility vehicle.
§ 1345.4 General requirements.

(a) Qualification requirements. To qualify for a grant under 23 U.S.C. 405, a State must, for each year it seeks to qualify:

(1) Submit an application to the appropriate NHTSA Regional Administrator demonstrating that it meets the requirements of §1345.5 and include certifications that:

(i) It has an occupant protection program that meets the requirements of 23 U.S.C. 405;

(ii) It will use the funds awarded under 23 U.S.C. 405 only for the implementation and enforcement of occupant protection programs;

(iii) It will administer the funds in accordance with 49 CFR part 18 and OMB Circulars A–102 and A–87 and

(iv) It will maintain its aggregate expenditures from all other sources, except those authorized under Chapter 1 of Title 23 of the United States Code, for its occupant protection programs at or above the average level of such expenditures in fiscal years 2003 and 2004 (either State or federal fiscal year 2003 and 2004 can be used);

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obligating the section 405 funds to occupant protection programs.

(3) The State's Highway Safety Plan, which is required to be submitted by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR 1200, should document how it intends to use the Section 405 grant funds.

(4) To qualify for grant funds in any fiscal year, the application must be received by the agency not later than February 15 of the fiscal year in which the State is applying for funds.

(b) Limitations on grants. A state may receive a grant in a fiscal year subject to the following limitations:

(1) Beginning in fiscal year 2006, the amount of a grant under §1345.5 shall equal up to 100 percent of the State's 23 U.S.C. 402 apportionment for fiscal year 2003, subject to availability of funds.

(2) In the first and second fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(3) In the third and fourth fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.
In the fifth and sixth fiscal years beginning after September 30, 2003 that a State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.


§ 1345.5 Requirements for a grant.

To qualify for an incentive grant, a State must adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. A State must adopt and implement at least four of the following criteria:

(a) Safety belt use law. (1) In fiscal years 1999 and 2000, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle does not have a safety belt properly secured about the individual's body.

(2) Beginning in fiscal year 2001, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in any seating position in the vehicle does not have a safety belt properly secured about the individual's body.

(3) To demonstrate compliance with this criterion, a State shall submit a copy of the State's safety belt use law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraphs (a)(1) or (a)(2), as appropriate, of this section. The State is also required to identify any exemptions to its safety belt use law.

(b) Primary safety belt use law. (1) A State must provide for primary enforcement of its safety belt use law.

(2) To demonstrate compliance with this criterion, the State shall submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (b)(1) of this section.

(c) Minimum fine or penalty points. (1) A State must provide for the imposition of a minimum fine of not less than $25.00 or one or more penalty points on the driver's license of an individual:

(i) For a violation of the State's safety belt use law; and

(ii) for a violation of the State's child passenger protection law.

(2)(i) To demonstrate compliance with this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (c)(1) of this section.

(ii) For purposes of this paragraph, a “Law State” means a State that has a law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the minimum fines or penalty points criterion including the imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(3)(i) To demonstrate compliance with this criterion, a Data State shall submit data covering a period of at least three months during the past twelve months showing the total number of persons who were convicted of a safety belt use or child passenger protection law violation and that 80 percent or more of
all such persons were required to pay at least $25 in fines, fees or court costs or had one or more penalty points assessed against their driver's license. The State can provide the necessary data based on a representative sample.

(ii) For purposes of this paragraph, a “Data State” means a State that does not require the mandatory imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(4) If a State has in effect a law that provides for the imposition of a fine of not less than $25.00 or one or more penalty points for a violation of the State's child passenger protection law, but provides that imposition of the fine or penalty points may be waived if the offender presents proof of the purchase of a child safety seat, the State shall be deemed to have in effect a law that provides for the imposition of a minimum fine or penalty points, as provided in paragraph (c)(1) of this section.

(d) Special traffic enforcement program. (1) A State must establish a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program. The program must provide for periodic enforcement efforts. Each enforcement effort must include the following five elements, in chronological order:

(i) A seat belt observed use survey conducted before any enforcement wave;

(ii) A media campaign to inform the public about the risks and costs of traffic crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs.

(iii) Local media events announcing a pending enforcement wave;

(iv) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics.

(v) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

(2) The State's program must provide for at least two enforcement efforts each year and must require the participation of State and local law enforcement officials in each effort.

(3) The State's program must cover at least 70% of the State's population.

(4) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a program that covers each element identified in paragraphs (d)(1) through (d)(3) of this section. Specifically, the plan shall:

(i) Provide the approximate dates, durations and locations of the efforts planned in the upcoming year;

(ii) Specify the types of enforcement methods that will be used during each enforcement effort and provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program; and

(iii) Document the activities the State plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy that the State intends to use to deliver each message to its target audience.

(5) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant
based on this criterion, the State shall submit an updated plan for conducting a special traffic enforcement program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which law enforcement agencies were involved; and the dates, duration and location of each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population.

(e) **Child passenger protection education program.** (1) A State must provide an effective system for educating the public about the proper use of child safety seats. The program must, at a minimum:

(i) Provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems;

(ii) Provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety Technician Curriculum;

(iii) Provide periodic child safety seat clinics conducted by State and local agencies (health, medical, hospital, enforcement, etc.); and

(iv) The State's public information program must reach at least 70% of the State's total population. The State's clinic program must reach at least 70% of a targeted population determined by the State and States must provide a rationale for choosing a specific group, supported by data, where possible.

(2) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a child passenger protection education program that covers each element identified in paragraph (e) (1) of this section. The information shall include:

(i) A sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the State's population;

(ii) A description of the activities that will be used to train and retrain child passenger safety technicians, law enforcement officials, fire and emergency personnel and other educators and provide the durations and locations of such training activities;

(iii) An estimate of the approximate number of people who will participate in the training and retraining activities; and

(iv) A plan to conduct clinics that will serve at least 70% of the targeted population.

(3) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a child passenger protection education program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that a public information program, training and child safety seat clinics were conducted; which agencies were involved; and the dates, durations and locations of these programs.

(f) **Child passenger protection law.** (1) The State must make unlawful the operation of a passenger motor vehicle whenever an individual who is less than 16 years of age is not properly secured in a child safety seat or other appropriate restraint system.
(2) To demonstrate compliance with this criterion, a State shall submit a copy of the law(s), regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (f)(1) of this section. In addition, the State must identify any exemptions to its child passenger protection law(s).

(g) Certifications in subsequent fiscal years: (1) To demonstrate compliance in subsequent fiscal years the State receives a grant based on criteria in paragraphs (a), (b), (c) or (f) of this section, if the State's law, regulation or binding policy directive has not changed, the State, in lieu of resubmitting its law, regulation or binding policy directive as provided in paragraphs (a)(3), (b)(2), (c)(2)(i) or (f)(2) of this section, may submit a statement certifying that there have been no substantive changes in the State's laws, regulations, or binding policy directives.

(2) The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of ____, do hereby certify that the (State or Commonwealth) of ____ has not changed and is enforcing a law, that conforms to 23 U.S.C. 405 and 23 CFR 1345.5 (insert reference to section and paragraph), (citations to State law).


§ 1345.6 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by §1345.4(a) and subject to the limitation in §1345.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts, up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 408 and 23 U.S.C. 410, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 408 and 23 U.S.C. 410 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in §1345.4.

CHAPTER 4—HIGHWAY SAFETY (§§ 401—412)

§ 401. Authority of the Secretary

§ 402. Highway safety programs

§ 403. Highway safety research and development

§ 404. National Highway Safety Advisory Committee

§ 405. Occupant protection incentive grants

§ 406. Safety belt performance grants

§ 407. Innovative project grants

§ 408. State traffic safety information system improvements

§ 409. Discovery and admission as evidence of certain reports and surveys

§ 410. Alcohol-impaired driving countermeasures

§ 411. State highway safety data improvements

§ 412. Agency accountability

§ 402. Highway safety programs

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be
(b) Administration of State Programs.—

(1) Administrative requirements.— The Secretary may not approve a State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

(C) except as provided in paragraph (3), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B);

(i) Application in Indian Country.—

(1) Use of terms.— For the purpose of application of this section in Indian country, the terms “State” and “Governor of a State” include the Secretary of the Interior and the term “political subdivision of a State” includes an Indian tribe.

(1) Law Enforcement Vehicular Pursuit Training.— A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

23 USC - US Code - Title 23: Highways

23 USC 408 - Sec. 408. Alcohol traffic safety programs

(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance.

Such grants may only be used by recipient States to implement and enforce such programs. (b) No
grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section. (c) No State may receive grants under this section in more than 5 fiscal years.

The Federal share payable for any grant under this section shall not exceed - (1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol and controlled substance traffic safety program adopted by the State pursuant to subsection (a); (2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and (3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program. (d)(1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. (2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

Such grant shall be in addition to any basic or supplemental grant received by such State. (e)(1) For purposes of this section, a State is eligible for a basic grant if such State provides - (A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;