



**Statement of Kendell Poole  
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**Before the Senate Commerce, Science, and Transportation  
Subcommittee on Consumer Protection, Product Safety, and  
Insurance**

**Oversight of and Policy Considerations for the National  
Highway Traffic Safety Administration**

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## **I. Introduction**

Good afternoon. My name is Kendell Poole and I am the Chairman of the Governors Highway Safety Association (GHSA) and the Director of the Tennessee Governor's Highway Safety Office. GHSA is a nonprofit association representing the highway safety offices of states, territories, the District of Columbia and Puerto Rico. Our State Highway Safety Office members administer federal behavioral highway safety grant programs. Areas of focus include: impaired driving; inadequate occupant protection; speeding and aggressive driving; distracted driving; younger and older drivers; bicycle, motorcycle and pedestrian safety; traffic records and highway safety workforce development.

Traffic-related fatalities and injuries continue to be a major public health problem in this country. Although we have made some significant progress, we experienced 33,561 fatalities and 2.36 million injuries in 2012, the most recent year for which complete statistics are available. Traffic crashes are not only devastating to family and communities, they are economically burdensome. A recent study from the National Highway Traffic Safety Administration (NHTSA) looked at crash data from 2010 and found that the economic loss and societal harm from motor vehicle crashes cost the United States \$871 billion.

To address this, the federal government must continue to be a leader and make the reduction of highway fatalities and injuries a national priority. Working together with state and local partners, the federal government plays a key role in influencing and supporting highway safety policies and programs.

States now have two years of experience with the recent transportation authorization known as MAP-21 (Moving Ahead for Progress in the 21st Century). This authorization provided critical resources to states to allow them to address dangerous driver behaviors.

## **II. MAP-21 IMPLEMENTATION**

When MAP-21 was passed, there was very little time for State Highway Safety Offices (SHSO) to fully prepare for new guidelines and regulations needed to implement highway safety programs. The same can be said for our federal partners at NHTSA. NHTSA worked cooperatively with GHSA to host webinars, answer questions and develop necessary materials to facilitate program approvals for the first year of MAP-21, FY 2013. This was all accomplished without any finalized regulations in place. The framework was acknowledged and SHSOs had an idea of the regulations to come, but it wasn't until well into FY 2013 that the Interim Final Rules (IFR) were issued. Given the deadlines associated with the compressed first year of MAP-21, states only had two months to address any potential legislative or administrative issues that, based on the IFR, would disqualify them from receiving certain incentive grants. That is very little time, and in many states an unreasonable expectation given the fact they may not have had a legislative session or would have missed key deadlines of their state's short session. To compound the issues the states were facing, the deadline for FY 2014 grants was only months after the FY 2013 grant deadline. That essentially left states with one chance to address concerns in order to qualify for grants. Under ideal circumstances, it is difficult to encourage legislative action, much less with such a short time frame.

As states began to create their FY 2015 Highway Safety Plans (HSP) and grant applications, there was not only uncertainty on the status of MAP-21, but they were still operating under the IFR because no final rules had been issued yet. After providing comments on the IFR and sharing concerns about the overly prescriptive nature of the rules, GHSA and its members expected to see final rules that would take those concerns into account. Given the relative speed at which the IFR were drafted, it has been surprising that no final rules have been issued. Why ask states for their feedback on an interim final rule if no final rule is going to be issued?

GHSA appreciates working with our federal partners and values our collaborative relationship. But as regulations, rule-makings, and agency interpretation become more prescriptive, it makes it hard for states with limited staff to implement incentive programs that have been established to address safety on their roadways. Many of the delays and unnecessary

administrative burdens of implementing MAP-21 were related to the short time frame, inconsistent communication, and differing interpretations of legislative language as they related to incentive grant applications.

For most states, they spend months preparing their HSP and grant applications, follow the strict guidelines for submitting the documents, and after NHTSA review they are notified they did not meet the qualifications for an incentive grant. This is often after working with their regional office and providing additional information that is not necessarily required by statute or rulemaking. In the hopes of addressing the disqualifying criteria, states would seek guidance from NHTSA on what legislative actions would be needed in order to qualify for the grant in future years. Unfortunately, once a disqualifying criteria was identified, analysis was stopped on the incentive grant application and no further review was provided.

All of the incentive grants are extremely important to highway safety and it is understandable that there are states that may not qualify for a specific incentive grant, particularly since the criteria are designed to encourage legislative action in states so they can reach the next level in highway safety. But not knowing what legislative action is needed to qualify makes it difficult for a state to recommend changes to their Governor or legislature. While states could do their best and guess what is needed, it is up to the interpretation and decision of NHTSA that ultimately determines if a state qualifies.

### **III. NHTSA Oversight**

Recently, the Department of Transportation Office of Inspector General (DOT OIG) released a report examining the oversight of the highway safety grants, *Enhanced Monitoring Tools Are Needed To Improve NHTSA's Oversight of Highway Safety Grants*. GHSA was pleased to see that the DOT OIG report confirms that NHTSA and the SHSOs have an effective relationship by finding that grantees fulfilled their grant requirements, there were no lapses in oversight, and grantee transactions met all funding parameters. Developing and implementing research-based programs in the most efficient manner possible is a key responsibility of a SHSO.

The DOT OIG report did note that states sometimes do not expend grant funds immediately, but it did not fully note the reasons. The delay is often

due to the unpredictable amount and unknown timing of federal funding and the requirements of the state budgeting processes. Fortunately, this has been taken into account within federal statutes which allow expenditures to cover multiple fiscal years. Federal grant funds have been allocated to the states as late as 10 months into a fiscal year. That leaves no time for a state to properly plan how to effectively and efficiently liquidate the funds. And given that many of the funds are often earmarked for specific issues, it takes even longer to develop appropriate programs. GHSA understands and supports an appropriate level of NHTSA oversight, but the recommendations suggested by the DOT OIG would go beyond appropriate and create an additional burden to states which already must operate under a heavy administrative load.

#### **IV. Recommendations for Reauthorization**

As Congress discusses the future of highway safety programs, **GHSA supports a long-term reauthorization that has a similar format to what is currently found in MAP-21, with minor changes.** MAP-21 was only authorized for two years and it is difficult for states to adequately plan and forecast future needs as well as attain performance targets when funding and program authority are uncertain.

##### Adjust Behavioral Safety Program Funding Percentages

MAP-21 consolidated the behavioral highway safety programs into two programs: the long-standing Section 402 State and Community Highway Safety grant program and the new Section 405 National Priority Safety Program. With the consolidations of the two behavioral safety programs, Congress also adjusted funding levels for the programs. Section 402 is the pillar grant program and known as the “building block” of highway safety. However, Section 405 programs receive the bulk of behavioral safety funding. While Section 405 programs are important, their scope is limited to specifics of the individual incentives. The limited funds available in Section 402 have significant responsibility to address a wide spectrum of highway safety issues. The Section 402 funds allows states the needed flexibility to address unique and new challenges, such as drug impaired driving, with research based solutions. **GHSA recommends that Section 402 should receive a greater percentage of the funding available.**

## Allow States to Spend More Time on Programing, Less Time on Non-critical Administration

The consolidation of the behavioral safety programs also authorized a single grant application. GHSA appreciates the consolidation and urges Congress to maintain that approach. However, even with consolidation, states are continuing to spend too much time preparing the grant application and administering the program. GHSA surveyed states on the process for FY 2013 Highway Safety Plans and found that state applications averaged 127 pages, with some that were more than 200 pages. And this does not include the many pages of attachments that were also required.

This process can be improved by:

- \* Allowing the states to submit required attachments through electronic links;
- \* Clarifying that the required problem identification and data analysis information should be written completely, but in a brief format; and
- \* Permitting the required project list to be submitted up to 60 days after the September 1 plan approval deadline.

Administrative burden needs to be reduced in both the Section 402 and Section 405 programs. As an example, even though funding for the motorcycle safety incentive tier in Section 405 was significantly reduced in MAP-21, the amount of paperwork and background material required to qualify was significantly increased. At least a few states determined that it was not a good use of their time to expend so much effort for such a small grant program, so they decided to not even apply for these funds. **GHSA urges Congress to continue efforts to simplify grant processes so states can spend as much time as possible on programming.**

For most states, the Maintenance of Effort (MOE) requirement is increasingly burdensome. The Association understands and fully supports the need for a federal MOE requirement to show proof that there is no supplanting with federal funds. However, it is also necessary to acknowledge that many states continue to struggle economically. Furthermore, it is impossible for the states to identify and track local sources of expenditures. To remedy this, one approach could be to establish a waiver period with specific criteria that states would have to meet, and eliminate the

requirement to maintain local expenditure sources. **GHSA recommends that Congress alter the current MOE requirements in order to provide relief to economically distressed states.**

#### Improve Effectiveness of Safety Outcomes by Allowing Use of More Timely Data

MAP-21 requires states to use the most recent final Fatality Analysis Reporting System (FARS) data to set performance targets in highway safety plans. However, FARS data continues to be finalized very slowly. As states develop their highway safety plans, they are forced to use federal fatality data that may be outdated by as much as two years. For instance, when states were working on their FY2015 plans, the most recent final federal fatality data available was from calendar year 2012 – despite the fact that 2013 state data is now available in many states. **To improve effectiveness of safety programs, states should be given the option of using the most recent state or federal data in their highway safety plans. GHSA also urges NHTSA to continue its work in improving the timeliness of FARS.**

#### Restructure Section 405 National Priority Safety Program

MAP-21 created a consolidated incentive program in Section 405 that covers six different areas: occupant protection, traffic records, impaired driving, motorcyclist safety, distracted driving and state GDL laws. It created tiers by designating a portion of the consolidated program for each area. States receive funding for each tier by satisfying rigorous eligibility criteria which require a significant investment of time to provide the necessary information. GHSA supports continuing the occupant protection and traffic records tiers. **However, Congress should make significant changes to tiers addressing impaired driving, motorcyclist safety, distracted driving and graduated drivers licensing. And the states should be given adequate time to react to any changes made. This will allow them to work with their legislatures, and others, to address incentive requirements.**

### Impaired Driving

Fifteen percent of the impaired driving incentive tier is earmarked for states that adopt and enforce an ignition interlock law for all persons convicted of driving under the influence of alcohol. While eighteen states have these laws for all offenders, only a handful of states (four in FY 2014) qualified for these funds, as NHTSA has disqualified states that grant rare exemptions for medical and work issues. **To address this, Congress should allow for state laws that grant reasonable, rare exemptions and successfully require interlocks for nearly all offenders.**

### Distracted Driving Grants

Eight-and-a-half percent of Section 405 funds are earmarked to reward states with strong distracted driving laws. However, to qualify, states must meet rigorous definitions and criteria, including laws with minimum fines for first offense, increased fines for subsequent offenses as well as a state statute requiring distracted driving issues to be tested as part of the drivers license exam. The criteria are so strict that even though 37 states are enforcing primary texting bans, only one state qualified for this funding in FY 2014. **To remedy this, Congress should modify the definitions, simplify this program and reward states that are enforcing primary texting bans for all drivers and complete cell phone bans for novice drivers.**

### Motorcyclist Safety

One-and-a-half percent of the tier is earmarked for states that adopt and implement effective programs to reduce the number of motorcycle crashes. While the large majority of states qualify for this funding, the funds can only be spent on motorcycle training and awareness programs. NHTSA's National Agenda for Motorcycle Safety and a recent General Accountability Office review of this issue both called for a broader approach to motorcycle safety. This approach includes licensing, education and training, protective gear, roadway safety, public information programs on speeding and impairment, vehicle improvements and share the road programs. **Congress should change this tier to allow for a more comprehensive approach to motorcycle safety.**

## Graduated Drivers Licensing (GDL)

**The GDL tier should be completely reexamined, as no state qualified in either FY 2013 or FY 2014.** Every state has some form of a three-stage GDL System. These laws have been widely credited for the dramatic reduction in teen driving deaths over the last 15 years. States should be rewarded for enacting and enforcing strong, research-based laws. That's not the case with the current incentive.

## **V. Conclusion**

GHSA members are committed every day to save lives and reduce injuries on our nation's highways and have contributed to the substantial reduction in fatalities the country has experienced. This reduction in fatalities did not happen on its own. It came about because SHSOs analyzed their data and trends and responded to their state's identified safety needs with appropriate and proven programs. It's important to recognize that each state has different needs and concerns. There is a danger in treating every state the same and this is what is happening as more initiatives and programs are mandated by Congress and agency regulations. To successfully continue to lower fatalities and prevent injuries in our nation, states must have greater flexibility in tackling the issues of greatest concern to them. As more funds are being tied to specific issues, states could be mandated to create a program for an issue that is minimal or doesn't exist in their state. This diverts limited funding away from the real problems facing a state and their communities.

Thank you for holding this hearing and for the opportunity to share the Association's views before the Committee. GHSA looks forward to working with the Committee on the next surface transportation reauthorization.