

June 7, 2005

The following letter was sent to the Senate and House conferees considering the NHTSA safety provisions of the Transportation Reauthorization.

Senate Conferees

Senators Inhofe, Warner, Bond, Voinovich, Chafee, Murkowski, Thune, DeMint, Isakson, Vitter, Grassley, Hatch, Shelby, Allard, Stevens, Lott, Jeffords, Baucus, Lieberman, Boxer, Carper, Clinton, Lautenberg, Obama, Conrad, Inouye, Rockefeller, Reed and Johnson.

House Conferees

Majority Leader Delay

From the Committee on Transportation and Infrastructure:

Messrs. Young of Alaska, Petri, Boehlert, Coble, Duncan, Mica, Hoekstra, LaTourette, Bachus, Baker, Gary G. Miller of California, Hayes, Simmons, Brown of South Carolina, Graves, Shusters, Boozman, Obestar, Rahall, Defazio, Costello, Ms. Norton, Messrs. Nadler, Menendez, Ms. Corrine Brown of Florida, Mr. Filner, Ms. Eddie Bernice Johnson of Texas, Mr. Taylor of Mississippi, Ms. Millender-McDonald, Mr. Cummings, Mr. Blumenauer, and Ms. Tauscher.

Dear Conferee:

The Governors Highway Safety Association (GHSA) urges your support on two key highway safety reauthorization issues. GHSA is a non-profit association that represents state highway safety offices. Its members are appointed by their Governors and are responsible for administering federal behavioral highway safety grant programs.

Section 402 Program

The Section 402 State and Community Highway Safety grant program was authorized under the Highway Safety Act of 1966 and provides funding for behavioral highway safety programs for every state on a formula basis. It fuels all behavioral highway safety activity at the state level and is the foundation upon which every state's highway safety program is built. The program is a state-administered program in which states collect state and local crash data, use the data to identify state highway safety problems, set goals that address state problems, implement countermeasures that help reach the state goals and measure the success of the implementation efforts. Since its inception, the program has been structured to fit the needs of individual states.

The Senate version of H.R. 3, however, makes a radical change in this most important highway safety program. As a condition of receiving Section 402 grant funds, states must provide satisfactory assurances that the state will "implement activities in support of national highway safety priorities and performance goals, including:

- Mobilizations, including high visibility enforcement and paid media, in support of efforts to improve occupant protection and reduce impaired driving;
- Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;

- An annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of state safety belt use rates to ensure that the measurements are accurate and representative;
- Development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
- Effective efforts to adopt Model Minimum Uniform Crash Criteria and National Emergency Medical System Information data elements; and
- Safety priorities identified by the Secretary based on national data trends unless a state can demonstrate with data that any such safety priority program is not a matter of significant concern in its jurisdiction.” (Emphasis added.)

It would be difficult for states to make these assurances, particularly for those activities that involve a significant outlay of state money such as development of statewide data systems. The Senate language, therefore, would either cause states to lose Section 402 funding because they can't make the assurances or set them up for potential failure if they can. Further, the Senate proposal contradicts the state data-driven, performance-based approach that has characterized the 402 program since its inception. The oversight language in the Senate bill already gives the National Highway Traffic Safety Administration (NHTSA) the ability to ensure that states spend their funds wisely. This additional language is prescriptive, unnecessary and would do irreparable harm to a program that has benefited every state. If this language is accepted, it would fundamentally change the 402 program in a manner completely inconsistent with the 1966 Highway Safety Act. **GHSA strongly urges your opposition to this language.**

Section 405 Occupant Protection Incentive Program

The Section 405 Occupant Protection Incentive grant program was authorized under the Transportation Equity Act of the 21st Century (TEA-21) and provides incentive funding for states that enact primary belt or child restraint laws, provide minimum fines or penalties for these laws, conduct occupant protection enforcement programs, provide a child passenger safety education program, and have safety belt laws that cover all occupants. The House version of H.R. 3 would continue the current 405 program but add a performance-based eligibility criteria for states that achieve an 85% or greater safety belt usage rate.

The Senate version would completely alter the program by favoring those states that enact primary belt laws or achieve very high safety belt usage rates. Under the Senate version, states that enact a primary belt law after Dec. 31, 2002 or that achieve a 90% belt usage over a two-year period would receive a one-time apportionment equal to five times their FY 2003 Section 402 apportionment. States with primary belt laws enacted prior to Dec. 31, 2002 would receive half that amount. To date, only three states would receive the larger apportionment.

While GHSA strongly supports primary belt laws and believes that they are the single most effective means of saving lives on the highway, we do not support the Senate's occupant protection proposal for several reasons.

First, the incentive program is too narrowly focused. The objective of the incentive program should be to encourage states to increase their safety belt use rates, not simply to enact a primary belt law. This can be achieved through a variety of means -- primary belt laws, stronger enforcement combined with paid media, higher fines and penalty points or even local primary belt laws that cover a majority of a state's population.

Second, the proposal unfairly penalizes those states that took the right step but enacted a primary belt law prior to the arbitrary Dec. 31, 2002 deadline. Eighteen states plus the District of Columbia fall into this category. These states would receive significantly less money than they receive now for occupant protection purposes and half of what newer primary belt law states receive. Their high visibility enforcement programs will have to be reduced as a result.

Third, the proposal would allow all but \$1 million of a state's apportionment to be flexed into highway construction programs. Eligible states would be required to use the \$1 million earmark

for behavioral highway safety programs. The flexibility provision pits the needs of state highway safety offices against those of state departments of transportation. In such situations, the smaller, less influential highway safety offices rarely win. The \$1 million earmark is woefully inadequate, particularly for larger states. Michigan, for example, has spent \$2 million a year on paid media alone for occupant protection mobilizations and will have to significantly scale back its efforts to increase safety belt use rates.

Fourth, the majority of states would receive no funding at all. Twenty-eight states currently do not have a primary belt law. As a result, these states will also have to significantly reduce their high visibility enforcement and paid media efforts.

While the goals of the Senate proposal are laudable, the proposal itself is poorly crafted and could have a negative effect on state occupant protection efforts and national safety belt use rates. **GHSA supports the House Section 405 proposal** and urges that the conferees accept it.

Both the Senate's Section 402 language and Section 405 proposal reflect a desire to guarantee that federal highway safety dollars are spent first and foremost on national priorities. While national safety priorities are important, they must be fairly balanced with the needs, resources and capabilities of individual states. Federal programs should be flexible enough to ensure that states administer highway safety grant programs within broad federal parameters but in a manner that meets the needs of differing states. GHSA believes that the House Section 402 and Section 405 proposals reflect this philosophy and should be supported.

Sincerely,

A handwritten signature in black ink that reads "James E. Champagne". The signature is written in a cursive, flowing style.

Col. Jim Champagne
Executive Director, Louisiana Highway Safety Commission
Chair, Governors Highway Safety Association