

# Reauthorization and NHTSA Regulations

## Impacts for States and Grantees

**GHSA 2022 Annual Meeting**  
**September 19, 2022**

[www.ghsa.org](http://www.ghsa.org) | @GNSAHQ



# Workshop Speakers



- Barbara Rooney
  - GHSA Chair
  - Federal Relations Committee Chair
  - Director, California Office of Traffic Safety



- Russ Martin
  - Senior Director, Policy and Government Relations, GHSA



- Betty Mercer
  - State and Federal Programs Consultant, GHSA
  - Principal, Mercer Consulting Group, LLC

# Laws vs. Regulation

The Infrastructure Investment and Jobs Act (IIJA), AKA the Bipartisan Infrastructure Bill (“BIL)

Legal changes, mostly effective FFY 2024

Law: 23 USC Chapter 4

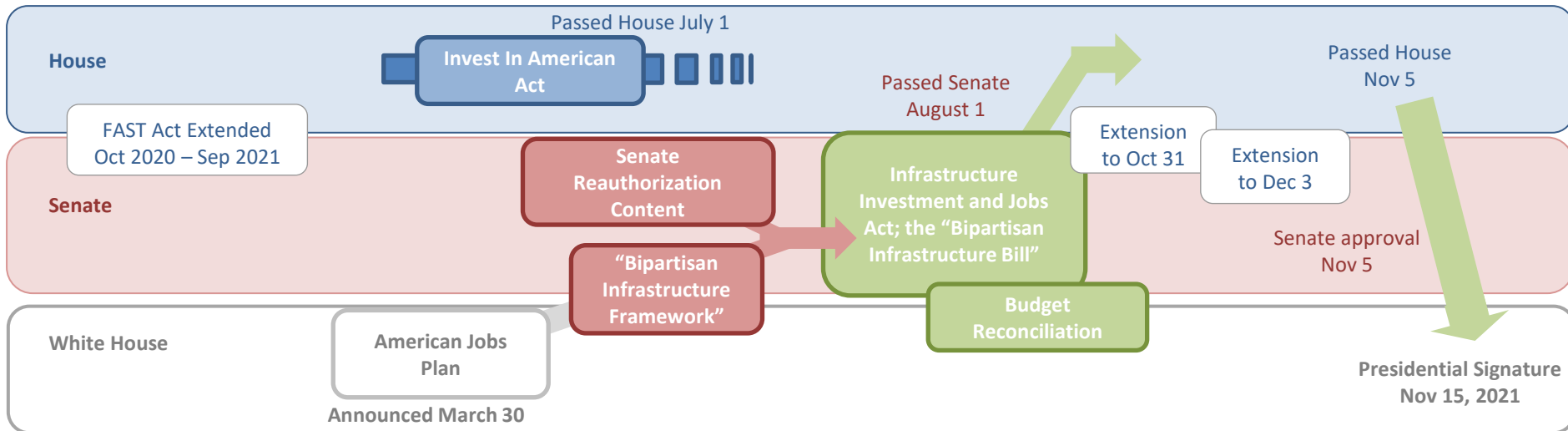
NHTSA, with public input

**TBD** Regulatory changes, effective FFY 2024

NHTSA Regulations: 23 CFR Part 1300 (The “Final Rule”)

# GHSA Federal Engagement

## IIJA Legislative Process 2021



## NHTSA Regulatory Process 2021

2022

2023

Dec.: GHSA Submits Initial Recommendation to NHTSA

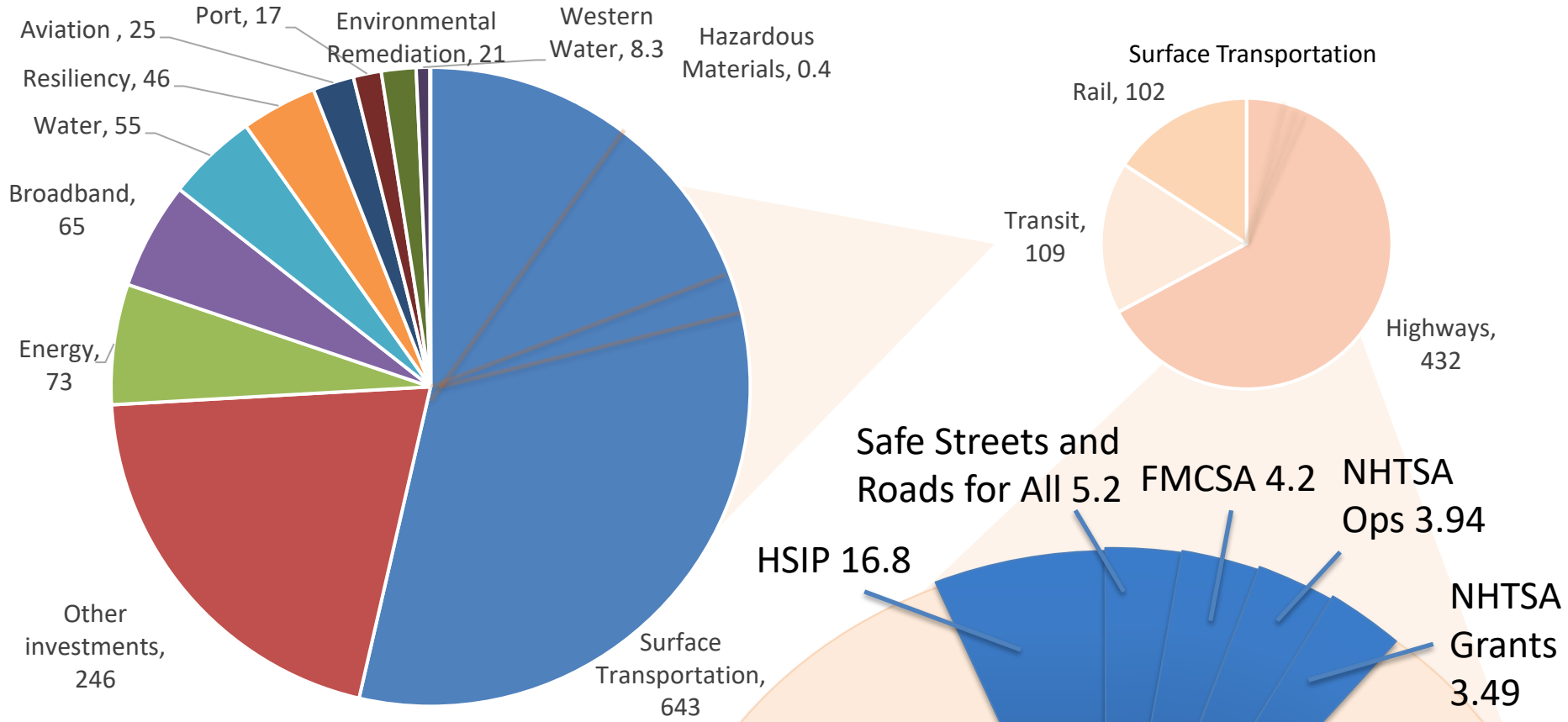
May: NHTSA RFC and Roundtables

Sept.: NPRM

Final Rule?

July 1: 1<sup>st</sup> Triennial HSPs Due

# IIJA Spending (5 years, in Billions)



Sources: Transportation 4 America, NHTSA, CVSA, GHSA, the IIJA

# NHTSA Grant Funding Provisions

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Sec. 402	\$363.4 M	\$370.9 M	\$378.4 M	\$385.9 M	\$393.4 M
	+ \$20 M	+ \$20 M	+ \$20 M	+ \$20 M	+ \$20 M
	<b>Total: \$383.4 M</b>	<b>Total: \$290.9 M</b>	<b>Total: \$398.4 M</b>	<b>Total: \$405.9 M</b>	<b>Total: \$413.4 M</b>
Sec. 403	\$186 M	\$190 M	\$194 M	\$198 M	\$202 M
Sec. 404	\$36.4 M	\$38.3 M	\$40.3 M	\$42.3 M	\$44.3 M
Sec. 405	\$336.5 M	\$346.5 M	\$353.5 M	\$360.5 M	\$367.5 M
	+ \$20 M	+ \$20 M	+ \$20 M	+ \$20 M	+ \$20 M
	<b>Total: \$356.5 M</b>	<b>Total: \$366.5 M</b>	<b>Total: \$373.5 M</b>	<b>Total: \$380.5 M</b>	<b>Total: \$387.5 M</b>

## Section 402: State and Community Highway Safety Grant Program

- Est. 1966
- Distributed to all States by formula
- Significant State discretion

## Section 405: National Priority Safety Program

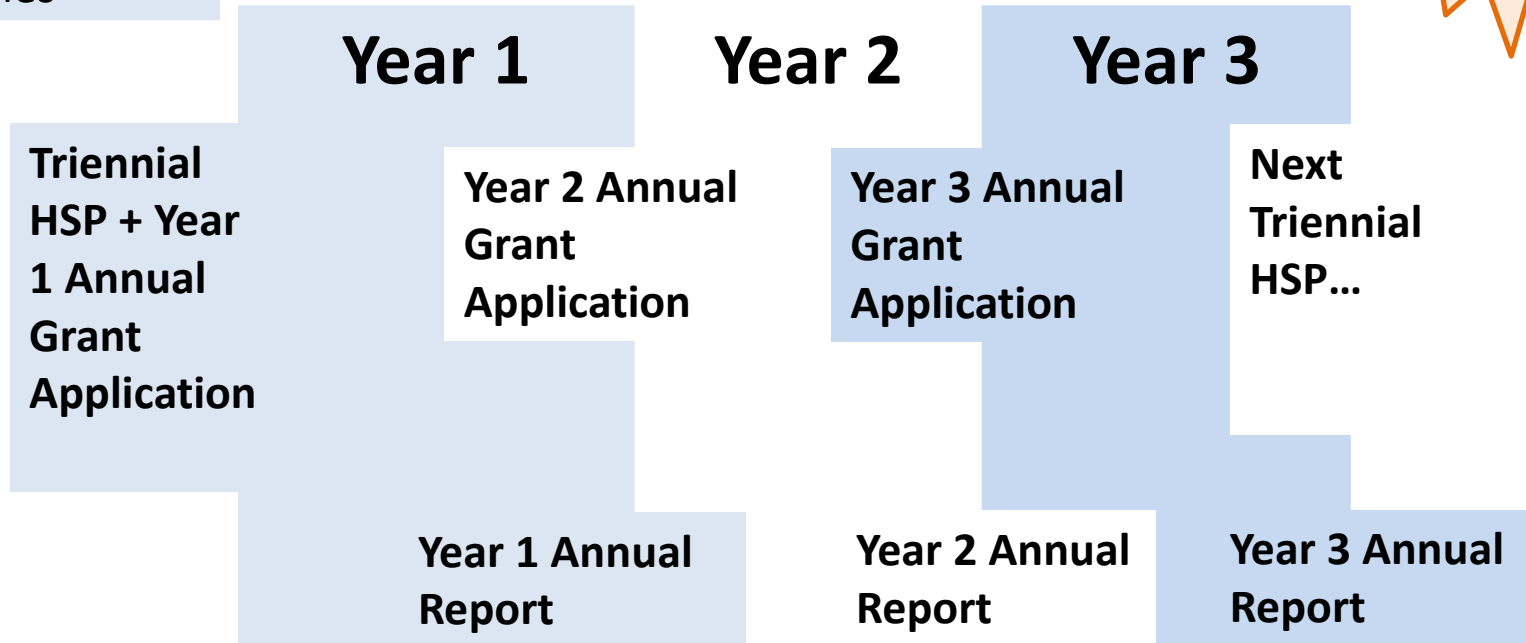
- Constituted in 2012
- Competitive eligibility requirements
- Limited to specific highway safety topics

# New Triennial HSP Cycle

2022	2023	2024	2025	2026
\$446.5 M	\$456.5 M	\$463.5 M	\$470.5 M	\$577.5 M

Fast Act Rules	FAST Act Rules
----------------	----------------

Triennial Plan Beginning with FY 2024



# Triennial HSP Contents

- For Three Years:
  - HSP Planning and Problem ID
  - Description of public participation and engagement
  - A performance plan
  - A data-driven countermeasure strategy that links to performance targets, NHTSA uniform guidelines, and new countermeasure justifications.
  - A description of federal funds (only) planned to be used
  - A performance report for the last HSP overall.
- Due July 1 every three years
  - 60 days for NHTSA review
  - 7-day deadline to respond to NHTSA questions



# Annual Application Contents

- Must be consistent with Triennial HSP
- Any updates of analysis in the Triennial HSP (program plans or performance plan)
- Identification of projects and subrecipients to be funded (with specific list of project elements), though amendments may be submitted after
- Annual Section 405 and 1906 application
- Annual certs and assurances

- Due August 1 annually
- NHTSA has 60 days to review

# Section 402 Changes

- Funds can be used for almost every program type:
  - Speeding, Occupant Protection, Impaired Driving, Motorcycle Safety, School Bus Crashes, Aggressive and Distracted Driving, Bike/Ped Safety
  - Law Enforcement Services
  - Safe Driving Around CMVs
  - Driver Education, Training, and Testing
  - Traffic Records, Crash Investigations
  - Emergency Medical Services
  - Research Projects, and more.
- *Cannot* be used for:
  - Automated enforcement (AE) efforts
  - Motorcycle checkpoints (helmet usage observational surveys too!)

## Adds:

- Child passenger safety in underserved populations
- Understanding new vehicle tech
- Recall awareness
- Unattended passengers/vehicular heatstroke
- Slow down/move over crashes
- Unsecured vehicle loads

- Eliminates biennial AE survey
- Allows speed/red light cameras in school and work zones
- NHTSA guidance forthcoming

# Section 402 Equity/Engagement Provisions

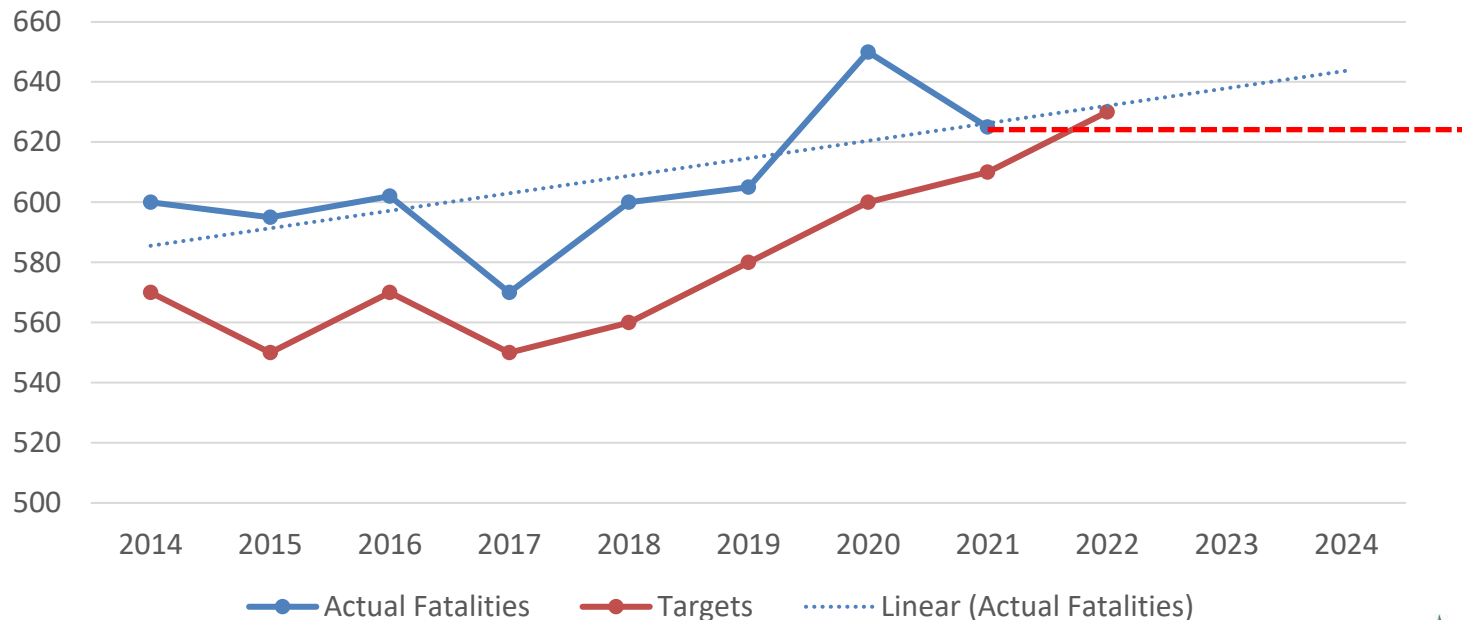
- Requires HSPs to indicate “meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities.”
  - Requires TSEP to “foster effective community collaboration”
  - Requires support for “data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities.”

- Existing State efforts
- Options: in-person/online meetings, surveys, meetings with community leaders
- GHSA urged NHTSA: set high-level goals, leave details to States

- Many existing traffic stop data collection programs
- Many practical barriers to universal adoption
- GHSA urged NHTSA: start with the possible

# Performance Management

- Performance measures “must demonstrate constant or improved performance”
- NHTSA shall update 2008 performance measures report



# Annual Report Contents

- An assessment of State performance progress (using most recent FARS data)
- A description of how the State will adjust its upcoming HSP based on performance progress
- A description of the projects and activities funded and implemented in the prior year
- ~~▪ A description of enforcement activities~~
- Mobilization information
- An explanation of reasons for planned activities that were not implemented
- A description of community outreach activities.

- Due 120 days after end of fiscal year (end of January)

# Section 405 Changes

	Current	New
405 (b) occupation protection	13%	13%
405 (c) traffic records	14.5%	14.5%
405 (d) impaired driving	52.5%	53%
405 (e) distracted driving	8.5%	8.5%
405 (f) motorcyclist safety	1.5%	1.5%
<del>405 (g) graduated driver licensing</del>	<del>5%</del>	<del>n/a</del>
405 (h) nonmotorized safety	5%	7%
405 (h) preventing roadside deaths (NEW)	n/a	1%
405 (i) driver and officer safety education (NEW)	n/a	1.5%

- MOE Requirements – **Eliminated** for FFY24
- NHTSA now required to list **ALL deficiencies** in Grant Determination Charts

# Section 405 (b) Occupant Protection

- OP Assessment increased to every 5 years
- Removes cap on child seat purchases
- Authorizes Child Passenger Safety (CPS) programs aimed at low-income/underserved populations
- Requires High-Rate States to use 10% of funds on low-income/underserved CPS programs



# Section 405 (c) Traffic Records

- TRCC Meetings, Coordinator, Strategic Plan - **changed to certification only**
- Traffic Records Assessment – **not mandatory**
- Allowable Uses **Expanded:**
  - Software, applications and equipment to report data
  - Data sharing, interoperability
  - Data analysis and research
  - Traffic Records training
  - FARS analysts
  - MMUCC adoption





# Section 405 (d) Impaired Driving

## General

- New allowable uses to address polysubstance impaired driving:
  - Criminal justice training
  - Screening and testing technology
  - E-warrants
  - Impaired driving traffic records and research

## 24/7

- States can be eligible if they authorize local 24/7 programs

## Ignition Interlocks

- A mandatory all-offender interlock law; **OR**
- A law that prohibits a convicted offender from driving unless they install an interlock on all vehicles owned by the offender for at least 180 days; **OR**
- A law that requires any convicted offender, license revokee, and test refusals to have an interlock for at least 180 days, with the last 40 percent of the time violation-free.

# Section 405 (e) Distracted Driving

- 50% to all States with distracted driving questions on license exams, used for 405 (e) purposes
- 50% to States with qualifying laws
  - Primary enforcement: 100%
  - Secondary enforcement: 50%
  - Prohibit a driver from viewing a wireless device: extra 25%
- ~~Primary~~ Texting ban for all drivers, OR
- Cell phone ban for young drivers, OR
- Handheld ban for all drivers

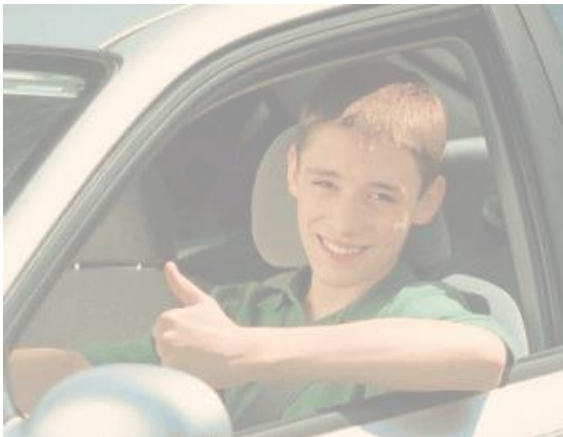


- Other details
  - ~~Minimum~~ Fines
  - No exemption to use a wireless device while stopped in traffic
  - Allows navigation exemption
  - Updated definitions

# Section 405 (f) and (g) Changes

## Section 405 (f) Motorcyclist Safety

- Motorcycle helmet law for under 18 added as a potential eligibility criterion



## ~~Section 405 (g) Graduated Driving License (GDL)~~

- Eliminated by statute

# Section 405 (h)(g) Nonmotorized Safety

- New definition of “nonmotorized road user” includes peds, bikes, micromobility
- Allowable uses expanded and dissociated with State laws:
  - General law enforcement training
  - Enforcement mobilizations
  - General public education and awareness
  - Data analysis and research



# New Section 405 (h) Preventing Roadside Deaths

- States are eligible if they submit a description of how they will program funds under allowable uses, which include:
  - To purchase digital alert technology
  - Move Over public information campaigns
  - Law enforcement Move Over efforts
  - Move Over data collection



# New Section 405 (i) Driver and Officer Safety Education

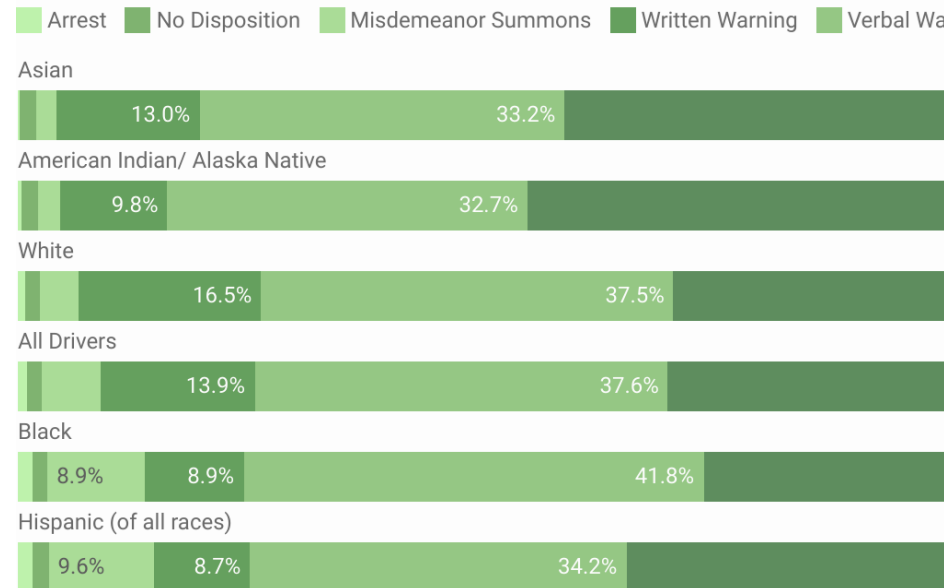
- States are eligible if they have a driver education program and a peace officer training program on proper conduct during traffic stops
- Grants can be used to develop and implement these training programs
- States will be eligible for 50% of funds if they are *developing* such programs



# Section 1906

- Increased from \$7.5 to **\$11.5 M** per year
- Each State can access up to **\$1.5 M**
- Adds **programs, public outreach and training costs**
- States can apply for more than 2 years in a row
- 10% reserved for NHTSA technical assistance

## Stop Outcomes by Race/ Ethnicity in Connecticut



Source: CT Data Collaborative • Created with Datawrapper

# New Direct Grant Opportunities

- New Crash Data Program
  - \$300 M per year
  - Internal NHTSA data efforts
  - Upcoming competitive State grants for traffic records modernization, electronic data transfer
- New grant program for States for Vehicle Recall Awareness programs
  - Competitive: \$1.5 M per year
- New Safe Streets and Roads for All Program
  - \$1.2 B per year Awarded by Office of the Secretary (OST), administered by FHWA
  - Grants *directly* to **local** governments to implement vision zero programs

S | S  
— | —  
4 | A



# NHTSA Programs and Vehicle Safety

## NHTSA Programs/Research

- Behavioral Traffic Safety Cooperative Research Program (BTSCRCP): \$2.5M to **\$3.5 M** per year
- Driver Alcohol Detection System for Safety (DADSS): \$21.2 M to **\$45 M** per year
- **Directs NHTSA to evaluate countermeasures other than enforcement to further enrich Countermeasures That Work**

## NHTSA Vehicle Safety

- **Reduce Impaired Driving for Everyone (RIDE) ACT**
- **Updates to New Car Assessment Program (NCAP)**
- **Many Federal Motor Vehicle Safety Standards (FMVSS) Changes**
- **Several Vehicle Safety Studies**

# Miscellaneous Changes to Other Modal Agency Programs

## Federal Highway Administration (FHWA)

- Highway Safety Improvement Program (HSIP)
  - 10% flexibility to use funds for non-infrastructure projects – SHSO
  - New requirements related to vulnerable road users
- Section 154 and 164 eligible for Driving Under the Influence of Drugs (DUID) efforts
- Safe Routes to School (SRTS) new grants with non-infrastructure purposes

## Federal Motor Carrier Safety Administration (FMCSA)

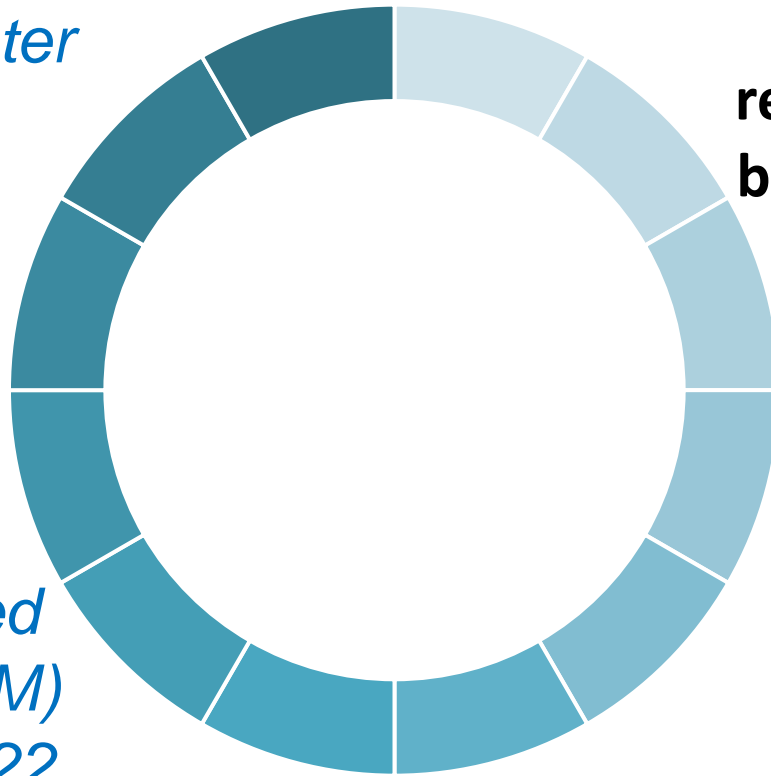
- New Commercial Motor Vehicle (CMV) grant programs
- Underride guards for heavy trucks
- Pilot program for CMV drivers under 21



# NHTSA Regulatory Development Process

*Final Rule Winter  
2022/2023*

**GHSA submitted  
preliminary  
recommendations on  
behalf of all SHSOs in  
Dec., May 2021**



**Stakeholder  
Listening Sessions;  
Request for Public  
Comments in May  
2022**

*Notice of Proposed  
Rulemaking (NPRM)  
September 14, 2022*

# QUESTIONS?

- Comments?
- Discussion?



# Thank You

Barbara Rooney  
GHSA Chair  
Director, California Office of  
Traffic Safety  
[barbara.rooney@ots.ca.gov](mailto:barbara.rooney@ots.ca.gov)

Russ Martin  
Senior Director of Policy and  
Government Relations  
GHSA  
[rmartin@ghsa.org](mailto:rmartin@ghsa.org)

Betty Mercer  
State and Federal Programs  
Consultant, GHSA  
Principal, Mercer Consulting  
Group, LLC  
Betty Mercer  
[mercerconsulting@comcast.net](mailto:mercerconsulting@comcast.net)