

108TH CONGRESS  
1ST SESSION

# H. R. 288

To amend title 23, United States Code, to establish programs to enhance roadway safety and improve transportation efficiency in the United States, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. INSLÉE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

## A BILL

To amend title 23, United States Code, to establish programs to enhance roadway safety and improve transportation efficiency in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Roadway Safety and  
5 Congestion Mitigation Improvements Act”.

6 **SEC. 2. ESTABLISHMENT OF ROADWAY SAFETY PROGRAM.**

7 (a) IN GENERAL.—Chapter 1 of title 23, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

1 **“§ 165. Roadway safety program**

2 “(a) ESTABLISHMENT.—The Secretary shall estab-  
3 lish and implement a roadway safety program in accord-  
4 ance with this section.

5 “(b) ELIGIBLE PROJECTS.—A State may obligate  
6 funds apportioned under this section to carry out the fol-  
7 lowing roadway safety enhancement activities:

8 “(1) OLDER DRIVER ROADWAY SAFETY EN-  
9 HANCEMENTS.—

10 “(A) ROADWAY ENHANCEMENTS.—All  
11 roadway enhancements recommended in the  
12 Federal Highway Administration Publication:  
13 Guidelines and Recommendations to Accommo-  
14 date Older Drivers and Pedestrians (FHWA-  
15 RD-01-103).

16 “(B) CONSTRUCTION SAFETY ENHANCE-  
17 MENTS.—All construction safety enhancements  
18 to which section 120(c) applies. Acquisition and  
19 installation of guardrail, guardrail end treat-  
20 ments, median barriers, bridge railings, barrier  
21 terminals, concrete barrier end treatments,  
22 breakaway utility poles, crash cushions, impact  
23 attenuators, and permanent and temporary  
24 traffic control devices that meet the guidelines  
25 contained in the National Cooperative Highway  
26 Research Program Report 350 of the Transpor-

1           tation Research Board of the National Academy  
2           of Sciences. Acquisition and installation of  
3           guide sign lighting retrieval systems. Installa-  
4           tion of rumble strips. Such other safety projects  
5           as the Secretary may designate.

6           “(2) SAFETY MANAGEMENT SYSTEMS.—

7                   “(A) SIGN AND PAVEMENT MARKING MAN-  
8                   AGEMENT SYSTEM PROGRAMS.—Development of  
9                   sign and pavement marking management sys-  
10                  tem programs for States, cities, and other local  
11                  governments.

12                  “(B) RETRO REFLECTIVITY SYSTEM UP-  
13                  GRADES.—System upgrades to bring roadways  
14                  in compliance with congressionally mandated  
15                  minimum levels of retro reflectivity for pave-  
16                  ment markings and signs.

17           “(3) RUN-OFF-ROAD MITIGATION.—

18                   “(A) WET-NIGHT PAVEMENT MARKINGS.—  
19                  Improvement of wet-night pavement markings.

20                   “(B) RUMBLE STRIPS AND ROAD SIGN-  
21                  ING.—Installation of auditory and visual road-  
22                  way warning system rumble strips and road  
23                  signs.

1           “(4) SPEED MANAGEMENT.—Conduct of pilot  
2 programs to determine the benefits of variable speed  
3 limits.

4           “(5) PEDESTRIAN AND BICYCLE SAFETY.—Im-  
5 plementation of pedestrian and bicycle safety coun-  
6 termeasures, such as auditory crosswalks, round-  
7 abouts, bicycle lane designations, upgraded signals,  
8 signage, and pavement markings.

9           “(6) INTERSECTION SAFETY.—Installation of  
10 intersection safety countermeasures that enhance  
11 signing, markings, and retiming signalization and  
12 conduct of an analysis of the effectiveness of auto-  
13 mated enforcement technologies in reducing injuries  
14 and fatalities.

15           “(7) EMERGENCY MANAGEMENT.—Acquisition  
16 and storage of emergency management signs (includ-  
17 ing changeable message signs), development of an  
18 emergency management system to facilitate the  
19 movement of traffic, pedestrians, and emergency  
20 personnel in the event of a national emergency, and  
21 development of a crisis management response func-  
22 tion to provide the necessary traffic control, crisis  
23 communication, and inventory to respond in the  
24 event of a local, regional, or national crisis.

1           “(8) ALCOHOL AND SEATBELT AWARENESS.—  
2 Acquisition and installation of roadway advisory  
3 signage, including signs that promote seatbelt usage  
4 and signs that discourage motorists from operating  
5 a motor vehicle under the influence of alcohol.

6           “(9) HIGHWAY-RAIL CROSSINGS.—Effectuation  
7 of grade separation, and installation of protective de-  
8 vices, signs, and markings, at highway-rail grade  
9 crossings.

10           “(10) COMPLIANCE WITH FEDERAL REQUIRE-  
11 MENTS.—Measures taken by the State department  
12 of transportation to comply with regulations issued  
13 by the Secretary under subsection (c).

14           “(c) STATE REQUIREMENTS.—

15           “(1) REGULATIONS.—Not later than September  
16 30, 2005, the Secretary shall issue regulations re-  
17 quiring each State to comply with the following re-  
18 quirements:

19           “(A) TRAINING OF INSTALLERS.—All in-  
20 stallers of guardrail and associated roadside  
21 safety systems working in the State on highway  
22 projects eligible for assistance under this chap-  
23 ter after September 30, 2006, shall be trained  
24 in the proper method of installation of such sys-  
25 tems.

1           “(B) PAVEMENT MARKINGS.—All pave-  
2           ment marking edge lines installed on such  
3           projects after September 30, 2006, shall be not  
4           less than 6 inches in width.

5           “(C) WORK ZONE SAFETY AND MOBILITY  
6           ENHANCEMENT.—

7           “(i) EQUIPPING AND TRAINING OF  
8           ROADWAY WORKERS.—All roadway workers  
9           on such projects who, after September 30,  
10          2005, are exposed to or working adjacent  
11          to moving motor vehicles shall be equipped  
12          with a high-visibility garment and shall be  
13          trained in basic roadway work zone safety  
14          to minimize their vulnerability and the risk  
15          to motorists.

16          “(ii) TRAINING OF SUPERVISORS.—All  
17          workers involved with the installation and  
18          removal of temporary traffic control de-  
19          vices on such projects shall be supervised,  
20          after September 30, 2005, by individuals  
21          who are able to demonstrate to the head of  
22          the State transportation department, or  
23          the designee of the head of such depart-  
24          ment, that they have passed a rigorous

1 technician level work zone installation  
2 training course.

3 “(iii) TRAINING OF TRAFFIC CONTROL  
4 FLAGGERS.—All individuals providing,  
5 after September 30, 2005, traffic control  
6 flagging duties on such projects shall be  
7 able to demonstrate to the head of such  
8 department, or the designee of the head of  
9 such department, that they have received  
10 rigorous training in proper traffic control  
11 techniques, device usage, and placement.

12 “(iv) MINIMUM WIDTH FOR PAVE-  
13 MENT MARKINGS.—All pavement markings  
14 used, after September 30, 2005, in work  
15 zones on such projects shall be not less  
16 than 6 inches in width.

17 “(D) HIGH-RISK WORK ZONE SPECIFICA-  
18 TIONS.—After September 30, 2006, before com-  
19 mencement of construction or maintenance  
20 work on a segment of highway with an average  
21 daily travel of 50,000 or greater or a bridge  
22 with an average daily travel of 25,000 or great-  
23 er, the State shall agree to and comply with the  
24 following conditions:

1           “(i) A traffic control supervisor  
2           trained under subparagraph (C)(ii) will be  
3           present during the installation or reconfig-  
4           uration of temporary traffic control devices  
5           to be used for the project.

6           “(ii) All individuals providing traffic  
7           control flagging duties for the work will  
8           demonstrate to the head of the State de-  
9           partment of transportation, or the designee  
10          of the head of such department, that they  
11          have received training in proper traffic  
12          control techniques, device usage, and place-  
13          ment.

14          “(iii) The lead contractor for the work  
15          will designate a person trained and cer-  
16          tified in temporary traffic control ‘best  
17          practices’ that have the responsibility and  
18          authority to ensure compliance with the  
19          traffic control plan for the work.

20          “(2) CERTIFICATION.—The Secretary shall cer-  
21          tify annually each State that is complying with the  
22          regulations issued under this subsection.

23          “(d) WORK ZONE SAFETY DATA.—The Secretary  
24          shall gather annual work zone safety and mobility data

1 and transmit to Congress a biennial report on the status  
2 of roadway work zone safety and mobility.

3 “(e) POSITIVE SEPARATION STANDARD.—Not later  
4 than October 1, 2004, the Secretary shall develop a na-  
5 tional standard on the use of positive separation for road-  
6 way work zones of highway projects eligible for assistance  
7 under this chapter.

8 “(f) RURAL LOCAL ROADS SAFETY PROGRAM.—

9 “(1) FUNDING LIMITATION.—Not to exceed 10  
10 percent of the funds apportioned to a State under  
11 section 104(b)(5) for the roadway safety program  
12 for a fiscal year may be obligated by the State—

13 “(A) for eligible activities under subsection  
14 (b) on public roads that are functionally classi-  
15 fied as rural minor collectors or rural local  
16 roads; and

17 “(B) for any measure necessary to facili-  
18 tate the safe travel of schoolchildren by bicycle  
19 or walking between their homes and school on  
20 any public road within a 3 mile radius.

21 “(2) FEDERAL SHARE.—The Federal share  
22 payable on account of an activity carried out under  
23 this subsection shall be 100 percent of the cost  
24 thereof.

1           “(3) REPORT.—Not later than January 1,  
2           2009, after providing States, local governments, and  
3           other interested parties an opportunity for comment,  
4           the Secretary shall transmit to the Committee on  
5           Transportation and Infrastructure of the House of  
6           Representatives and the Committee on Environment  
7           and Public Works of the Senate a report that—

8                   “(A) describes progress made in carrying  
9                   out the program under this subsection; and

10                   “(B) includes recommendations as to  
11                   whether the program should be continued or  
12                   modified.

13           “(g) HIGHWAY-RAIL CROSSINGS.—

14                   “(1) FUNDING LIMITATION.—Not to exceed 5  
15                   percent of the funds apportioned to a State under  
16                   section 104(b)(5) for the roadway safety program  
17                   for a fiscal year may be obligated for carrying out  
18                   eligible activities described in subsection (b)(9).

19                   “(2) FEDERAL SHARE.—The Federal share  
20                   payable on account of an activity carried out under  
21                   subsection (b)(9) shall be 80 percent of the cost  
22                   thereof.

23           “(h) NONTRANSFERABILITY OF FUNDS.—Notwith-  
24           standing any other provision of law, funds apportioned to  
25           the States under section 104(b)(5) for the roadway safety

1 program may not be transferred to any other apportion-  
2 ment of the State under section 104 or 144 for such fiscal  
3 year.

4 “(i) SET-ASIDE.—Before making an apportionment  
5 under section 104(b)(5) for a fiscal year, the Secretary  
6 shall set aside the following amounts:

7 “(1) EDUCATIONAL MATERIALS FOR OLDER  
8 AND INEXPERIENCED DRIVERS.—An amount not  
9 less than \$3,000,000 and not to exceed \$5,000,000  
10 to be awarded by the Secretary in a public-private  
11 partnership for development and distribution of edu-  
12 cational materials and programs to assist older and  
13 inexperienced drivers in how to safely navigate the  
14 roadway.

15 “(2) RESEARCH AND DATA EVALUATION AND  
16 ANNUAL REPORT.—\$25,000,000 for roadway safety  
17 research and data evaluation and the development  
18 and issuance of an annual report evaluating the im-  
19 pact of all safety construction programs and activi-  
20 ties.

21 “(3) NATIONAL WORK ZONE SAFETY INFORMA-  
22 TION CLEARINGHOUSE.—Such amount as the Sec-  
23 retary determines, but not to exceed \$500,000, to  
24 support the program activities of the National Work  
25 Zone Safety Information Clearinghouse.

1           “(4) NATIONAL WORK ZONE AWARENESS WEEK  
2           ACTIVITIES.—\$500,000 to support Federal and  
3           State sponsored national work zone awareness week  
4           activities.

5           “(5) LOCAL TECHNICAL ASSISTANCE PRO-  
6           GRAM.—\$500,000 only for fiscal year 2004 to pro-  
7           vide for the training and certification as roadway  
8           flagger trainers of such local technical assistance  
9           program staff as the Secretary determines appro-  
10          prium.

11          “(j) FEDERAL SHARE.—Except as provided in sub-  
12          sections (f) and (g), the Federal share payable on account  
13          of an activity carried out under this section shall be 90  
14          percent of the cost thereof.

15          “(k) LOCATION OF PROJECTS.—Except as provided  
16          in subsection (f), roadway safety program projects may  
17          not be undertaken on roads functionally classified as local  
18          or rural minor collectors, unless such roads are on a Fed-  
19          eral-aid highway system on January 1, 1991, and except  
20          as approved by the Secretary.

21          “(l) STATE DEFINED.—In this section, the term  
22          “State” has the meaning such term has in section 401.”.

23          (b) CONFORMING AMENDMENT.—The analysis for  
24          such chapter is amended by inserting after the item relat-  
25          ing to section 164 the following:

“165. Roadway safety program.”.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—Subject to subsections (b) and (c),  
3 there is to be authorized to be appropriated, out of the  
4 Highway Trust Fund (other than the Mass Transit Ac-  
5 count), to carry out the roadway safety program under  
6 section 165 of title 23, United States Code, for each of  
7 fiscal years 2004 through 2008 \$3,000,000,000.

8 (b) LIMITATION.—For any fiscal year, funds to be  
9 made available to carry out section 165 of title 23, United  
10 States Code, by this section shall be available only if the  
11 total amount made available from the Highway Trust  
12 Fund (other than the Mass Transit Account) for such fis-  
13 cal year, other than by this section, exceeds  
14 \$27,700,000,000.

15 (c) SPECIAL RULE.—For any fiscal year, if the total  
16 amount made available from the Highway Trust Fund  
17 (other than the Mass Transit Account), other than by this  
18 section, exceeds \$27,700,000,000 and is less than  
19 \$30,700,000,000, the amount made available by this sec-  
20 tion shall be equal to the difference between the total  
21 amount so made available from such Trust Fund and  
22 \$27,700,000,000.

23 **SEC. 4. APPORTIONMENT.**

24 Section 104 of title 23, United States Code, is  
25 amended—

1           (1) in subsection (a)(1) by inserting “roadway  
2 safety program under section 165,” after “section  
3 133,”;

4           (2) in the matter preceding paragraph (1) of  
5 subsection (b)—

6                 (A) by striking “set-aside authorized by  
7 subsection (f)” and inserting “set-asides au-  
8 thorized by subsections (d) and (f) of this sec-  
9 tion and subsection (i) of section 165”; and

10                (B) by striking “and the Surface Trans-  
11 portation program” and inserting “the Surface  
12 Transportation program, and the Roadway  
13 Safety program”; and

14           (3) by adding at the end of subsection (b) the  
15 following new paragraph:

16                 “(5) ROADWAY SAFETY PROGRAM.—

17                         “(A) IN GENERAL.—For the roadway safe-  
18 ty program, in accordance with the following  
19 formula:

20                                 “(i) 25 percent of the apportionments  
21 in the ratio that—

22   “(I) the total lane miles of Fed-  
23 eral-aid highways in each State; bears  
24 to

1                   “(II) the total lane miles of Fed-  
2                   eral-aid highways in all States.

3                   “(ii) 40 percent of the apportionments  
4                   in the ratio that—

5                   “(I) the total vehicle miles trav-  
6                   eled on lanes on Federal-aid highways  
7                   in each State; bears to

8                   “(II) the total vehicle miles trav-  
9                   eled on lanes on Federal-aid highways  
10                  in all States.

11                  “(iii) 35 percent of the apportion-  
12                  ments in the ratio that—

13                  “(I) the estimated tax payments  
14                  attributable to highway users in each  
15                  State paid into the Highway Trust  
16                  Fund (other than the Mass Transit  
17                  Account) in the latest fiscal year for  
18                  which data are available; bears to

19                  “(II) the estimated tax payments  
20                  attributable to highway users in all  
21                  States paid into the Highway Trust  
22                  Fund (other than the Mass Transit  
23                  Account) in the latest fiscal year for  
24                  which data are available.

1           “(B) MINIMUM APPORTIONMENT.—Not-  
2           withstanding subparagraph (A), each State  
3           shall receive a minimum of ½ of 1 percent of  
4           the funds apportioned under this paragraph.”.

5 **SEC. 5. INCREASED FEDERAL SHARE FOR CERTAIN POLICE**  
6           **ASSISTANCE.**

7           Section 120(c) of title 23, United States Code, is  
8           amended by inserting after “crossing closure,” the fol-  
9           lowing: “police assistance during ‘high-risk’ work zone ac-  
10          tivities (such as installation, removal, or maintenance of  
11          traffic control devices and mobile work zone operations),  
12          enforcement of speed limits during ‘high-risk’ work zone  
13          environments as determined by the head of the State de-  
14          partment of transportation,”.

15 **SEC. 6. INCREASED FEDERAL SHARE FOR CERTAIN POSI-**  
16          **TIVE SEPARATION MEASURES.**

17          Section 120(c) of title 23, United States Code, is fur-  
18          ther amended by inserting before “or installation of traffic  
19          lights” the following: “provision of positive separation to  
20          protect motorists and personnel working in a work zone  
21          on a highway project eligible for assistance under this  
22          chapter and for which traffic must be maintained through-  
23          out construction of the project at operational speeds equal  
24          to or greater than 45 miles per hour,”.

○