Traffic Safety Trends
State Legislative Action 2020
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Traffic Safety Trends:
State Legislative Action 2020

BY SAMANTHA BLOCH, DOUGLAS SHINKLE AND JONATHON BATES

The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation’s 50 states, its commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues, and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

• Improve the quality and effectiveness of state legislatures.
• Promote policy innovation and communication among state legislatures.
• Ensure state legislatures a strong, cohesive voice in the federal system.

The conference operates from offices in Denver, Colorado and Washington, D.C.
Introduction

States and state legislatures have primary responsibility for establishing traffic safety laws and programs to help ensure the safety of roadway users. In 2020, state legislatures introduced over 1,400 traffic safety bills related to the 14 topic areas covered in this report.

Topic areas examined in this report include adult occupant protection, child passenger safety, alcohol and other drug-impaired driving, distracted driving, teen drivers, older drivers, driver’s licensing, speeding and speed limits, aggressive drivers, automated enforcement, motorcyclist safety, school bus safety, bicyclist and pedestrian safety and electric scooters.

This report focuses on notable, enacted legislation from these topic areas. All bills discussed in this report can be found in the NCSL-NHTSA Traffic Safety Legislative Tracking Database.

Adult Occupant Protection

NHTSA’s data shows that, among passenger vehicle occupants killed in 2019 where it was known whether they were wearing a seat belt, 47%—9,466 people—were unrestrained. The agency estimates that 86% of passenger vehicle occupants who survived fatal crashes in 2019 were restrained, while 14% were unrestrained.

According to NHTSA, seat belts in passenger vehicles saved an estimated 14,955 lives—of occupants age 5 and older—and prevented thousands of injuries in 2017. An additional 2,549 lives could have been saved if all unrestrained passengers involved in fatal crashes had worn their seat belts.

Wearing a seat belt reduces the risk of fatal injury by nearly half for occupants of passenger cars and by more than half for occupants of light trucks and vans. The national seat belt use rate by adult front-seat passengers was 90.7% in 2019. But seat belt use rates vary widely between states. In 2019, they ranged from 70.7% in New Hampshire—the only state without a seat belt law for adults—to 97.1% in Hawaii. According to CDC’s Tribal Road Safety Fact Sheets, low seat belt use is among the major risk factors for traffic fatalities in tribal communities. The average seat belt use rate across the 17 reservations studied was 77.7% and varied greatly, ranging from 49% to 92.6%.

Front seat belt use also varies between age and gender. Occupants ages 16 to 24 years continued to have the lowest rate among any age group at 87.6%, according to 2019 data. The seat belt use rate for male occupants was 89.1%, compared with 92.7% for female occupants. However, front seat belt use among male occupant increased significantly from 87.7% in 2018 to 89.1% in 2019. Additionally, Iowa found that 18% of the state’s maternal deaths were caused by crashes, and 71% of the pregnant or postpartum women who died were not buckled up. The state launched a statewide plan to encourage soon-to-be moms to wear seat belts.
Primary and Secondary Laws

Primary seat belt laws allow police to stop and ticket a motorist if the driver or passengers are not buckled up. Secondary belt laws allow police to issue a citation only if the driver is first stopped for another infraction.

Research affirms that seat belt laws significantly increase seat belt use and that primary enforcement laws are more effective than secondary enforcement laws. According to NHTSA, 92% of front seat occupants in states with primary enforcement laws buckled up, in contrast to 86.2% of front-seat occupants in states with secondary enforcement or no laws in 2019. The effect of seat belt laws on rear-seat occupants is also noteworthy. In 2019, 84% of occupants in back seats used belts in states with seat belt laws for all seating positions, while 68% of occupants in rear seats used belts in states with front-seat-only belt laws.

CDC recently released updated Restraint Use State Fact Sheets that provide an overview of state-specific data and proven strategies to increase the use of seat belts. Strategies include enacting primary seat belt laws, establishing increased penalties for violations and short term, high-visibility enforcement programs.

State adult seat belt laws can be grouped into the following categories:

- Primary enforcement laws for all occupants: 20 states—Alaska, California, Delaware, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Minnesota, Mississippi, New Mexico, New York, Oregon, Rhode Island, South Carolina, Texas, Utah, Washington and Wisconsin, plus the District of Columbia, Guam, the Northern Mariana Islands and Puerto Rico.
- Primary front seat belt law and secondary rear seat belt law: Five states—Alabama, Kansas, Maryland, New Jersey and North Carolina.
- Primary front-seat-only belt laws: Nine states—Arkansas, Connecticut, Florida, Georgia, Iowa, Michigan, Oklahoma, Tennessee and West Virginia—and the Virgin Islands.
- Secondary front-seat-only belt laws: Nine states—Arizona, Colorado, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota and Virginia.
- New Hampshire and American Samoa are the only state and territory without a seat belt law for adults.

While the number of occupants who buckle up in the back seat has increased in recent years, it continues to be significantly lower than front seat belt users. Rear seat belt use among occupants eight years and older was 77.5% in 2019. Finally, a study suggests that rear seat belt use is higher in private vehicles than in taxis, and results are mixed regarding ride-hailing services such as Uber and Lyft.

AAA’s 2019 Traffic Safety Culture Index shows that while drivers completely (73.8%) or somewhat (21.8%) disapproved of driving without wearing a seat belt, over 15% reported having driven at least once without buckling up in the last month. Over 53% of drivers said it was somewhat or very unlikely for a driver to be caught by police for not buckling up.

These studies provide a good picture of the state of seat belt use in the U.S. before the COVID-19 public health emergency. However, as mentioned by NHTSA, “there is evidence of an increase in ejection rates among people who were in crashes” during the first months of the pandemic, “suggesting a decrease in seat belt use rate of vehicle occupants.” Males, occupants 18 to 34 years old and people in rural areas saw the highest increases in ejection rates. Higher ejection rates continued into the late summer months, the most recent period for which data is available.
STATE LEGISLATION

During the 2020 legislative session, 17 states considered at least 55 bills related to seat belts. However, few were enacted. New York passed four bills in 2020 dealing with various aspects of seat belt law.

The New York legislature (AB 6163) amended its adult seat belt laws to require passengers 16 and older to wear a seat belt in the back seat. Previously the state had a primary enforcement seat belt law for front seats only. Back seat passengers under 16 were already required to wear a seat belt.

New York (AB 8990/ AB 9646) also amended its seat belt laws to require passengers older than 16 to buckle up in the back seat of for-hire vehicles. Previously, only passengers in the front seat were required to do so. The new law specifies that passengers who are eight years or older must also use seat belts while riding in taxis, ride-hailing vehicles and other livery vehicles. Law enforcement may issue a citation for violation of this law to the parent or guardian of a passenger who is over 8 years old but under 16 if the parent or guardian is 18 years or older and was present at the time of the violation. For-hire vehicle drivers must post a notice informing all clients they are required by law to buckle-up.

Lastly, New York also passed a bill (AB 9057) mandating all stretch limousines be equipped with at least two seat belts in the front seat and one seat belt in the rear for each passenger by Jan. 1, 2023.
Child Passenger Safety

According to the latest NHTSA data, of the 22,697 passenger vehicle occupant fatalities in 2018, 736 were children (defined as age 14 and younger). Of these child fatalities, 236 (35%) were unrestrained—based on crashes where it is known whether the occupant was using a seat belt or car seat. This means that, on average in 2018, three children were killed every day in traffic crashes in the United States.

NHTSA estimates car seats and booster seats reduce fatal injury by 71% in passenger cars for infants under age one and by 54% for toddlers ages one to four. Approximately 325 lives were saved in 2017 by restraint use among children younger than 5, including 312 lives saved by the use of child safety seats. NHTSA estimates that the lives of 11,606 children under age 5 were saved by child restraints (child safety seats or adult seat belts) in passenger vehicles from 1975 to 2017.

The national restraint use rates for children up to 7 years old was 91.3% in 2019, a non-significant increase from 90.4% in 2018. NHTSA also points out that restraint use for children driven by adults who buckle up (92.9%) continues to be significantly higher than for those driven by unbelted drivers (68%).

CDC recently released updated Restraint Use State Fact Sheets that provide an overview of state-specific data and proven strategies to increase the use of seat belts and booster seats. Strategies include child restraint laws, strengthening current laws with booster seat provisions—requiring booster seats for children who have outgrown car seats until at least age 9—and enhanced enforcement programs and education programs.

Car Seat Recommendations for Children

The most effective method to protect children in cars is to properly secure them in an appropriate car seat or booster seat in the back seat. Children should remain in the back seat until at least age 12. NHTSA recommends that state child passenger laws cover children up to age 16 in every seating position.

NHTSA notes that the primary reasons restrained children are injured in motor vehicle crashes are prematurely turning a child’s seat to face forward, moving a child too early from one restraint type to the next, inappropriate use of child restraints and seat belts and placing children in the front seat.

For the best possible protection, NHTSA and the American Academy of Pediatrics (AAP) recommend that children remain in rear-facing car seats as long as possible—until they reach the top height or weight limit recommended by the seat’s manufacturer. AAP’s previous recommendation, released in 2011, was that children should be in rear-facing car seats until at least age 2. As of December 2020, a total of 15 states—California, Connecticut, Illinois, Louisiana, Maine, Nebraska, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Oklahoma, Oregon, Virginia and Washington—and the District of Columbia have strengthened their child safety laws to require rear-facing car seats until age 2.

Once children outgrow the rear-facing car seat, they should travel in a forward-facing car seat with a harness and tether until they reach the height and weight limits for these seats (many forward-facing car seats can accommodate children up to 65 pounds). Children ages 4 to 7 should use either a forward-facing car seat or a booster seat, depending on the child’s height and weight.
STATE LEGISLATION

Every state and the District of Columbia have enacted child restraint laws that require children of certain ages and sizes to ride in appropriate, federally approved child restraints. Although each state has a law, some laws only cover children up to a certain size or age, while others allow the use of adult safety belts to restrain children.

Over 20 states considered child passenger protection legislation in 2020, and only Maine enacted a bill.

Maine (SB 652) amended its child restraint laws for children 2 years or older and weighing less than 55 pounds to exempt children who exceed the recommended height limits set by a child restraint system manufacturer. Additionally, it enacted a new provision to exempt children with medical conditions from the requirements of its child restraint laws when a physician, nurse or child passenger safety technician with special needs training determines that the child needs a different restraint system. The medical expert or safety technician must express their opinion in writing, recommend an alternative restraint system that would improve the child’s safety and explain the basis for their recommendation. Drivers transporting children with special needs are required to properly secure the child using the recommended restraint system.

Alcohol and Other Drug-Impaired Driving

According to NHTSA, 10,142 people were killed in alcohol-impaired traffic crashes in 2019, a 5.3% decrease from 2018. These alcohol-impaired driving fatalities comprised 28% of all traffic fatalities—the lowest percentage since 1982 when NHTSA first started reporting alcohol-impaired driving data. The decline in numbers of alcohol-impaired driving fatalities involve drivers in all vehicle types except motorcycle riders whose numbers increased by 15% between 2018 and 2019. Large-truck drivers had the largest decrease—28%.

NHTSA’s state-by-state analysis shows alcohol-impaired driving fatalities were lower in 30 states, D.C. and Puerto Rico in 2019 compared with 2018. California had the largest reductions in total numbers, with 167 fewer deaths. Of the 19 states that had more fatalities in 2019, Ohio had the largest increase with 54 more fatalities. The number of alcohol-impaired driving fatalities did not change in Wyoming in 2019.

State alcohol-impaired driving fatality rates per 100 million vehicle miles traveled (VMT) ranged from a low of 0.16 in New Jersey to a high of 0.62 in Montana in 2018—the latest year for which data is available. The national average is 0.32.
Alcohol-impaired driving is also one of the major risk factors for American Indians and Alaska Natives (AI/AN). According to CDC, AI/AN have the highest alcohol-related motor vehicle death rate among racial/ethnic populations. The agency found that 64% of motor vehicle fatalities across six tribes studied during 2009-2014 were alcohol-impaired.

Driving under the influence of drugs (DUID) appears to be a factor in a steadily increasing number of impaired-driving crashes. CDC reports that 12.6 million Americans reported driving under the influence of marijuana or other illicit drugs in 2018. Additionally, NHTSA found that drug use among fatally injured drivers who were tested rose from 25% in 2007 to 42% in 2016, and marijuana presence doubled in this time frame. While the presence of drugs does not necessarily imply impairment, the agency points out that “studies show that marijuana impairs psychomotor skills, lane tracking and cognitive function.”

These studies provide a good picture of impaired-driving in the U.S. before the COVID-19 public health emergency. However, two consecutive studies released by NHTSA recently suggest that the pandemic exacerbated risky driving behavior, including alcohol, other drug and polysubstance-impaired driving—driving after using a mix of drugs or a combination of drugs and alcohol.

NHTSA collected data in trauma centers to examine the prevalence of alcohol and other drugs in the blood of seriously or fatally injured drivers and other crash victims before and during the COVID-19 pandemic. While drug prevalence among seriously and fatally injured drivers was high before, the results indicate that it was higher from March to July 2020—the period during the pandemic for which data was available for the study.

Data shows an increase in drivers with blood alcohol content (BAC) of .15 or more. Drug and polysubstance prevalence increased as well. Roughly 65% of drivers tested positive for at least one drug (including alcohol) and 25.3% for two or more compared to 50.8% and 17.6%, respectively, before COVID-19. The study also found that 32.7% of drivers tested positive for marijuana in comparison with 28.3% who tested positive for alcohol. Opioid prevalence almost doubled, increasing from 13.9% to 7.5%.

The second NHTSA study included updated data from July to September 2020 and concluded that the higher rates of alcohol and other drug presence in drivers observed from March to July 2020 persisted during this period.

To better understand public opinions and behaviors regarding traffic safety, AAA publishes an annual Traffic Safety Culture Index. The 2019 index reveals that 94% of drivers perceive driving after drinking as very dangerous or extremely dangerous. Among surveyed participants, 10% reported driving after believing they had drunk enough to be over the legal limit.

AAA’s index reveals that while most respondents (68.6%) consider driving shortly after using marijuana to be very or extremely dangerous, a significant disparity still exists between perceptions of alcohol use and marijuana use before driving. Over 84% of surveyed participants support laws making it illegal to drive with a certain amount of marijuana in the driver’s system. The use of potentially impairing prescription drugs before driving was considered very or extremely dangerous by 88.3% of respondents.

An analysis of U.S. teen driving after using marijuana conducted by the Abigail Wexner Research Institute at the Nationwide Children’s Hospital found that almost half of teens who use marijuana reported driving after using the drug. The number of teens in the study who reported driving after using marijuana (DAUM) was more than twice that of teens who reported drinking and driving. The authors point out this might reflect “teens perception that DAUM is less dangerous and more acceptable than driving after using alcohol.”

The federal government, states and traffic safety organizations are continually examining interventions and new technologies to combat alcohol-impaired driving.

For example, the Federal Motor Carrier Safety Administration’s (FMCSA) Drug and Alcohol Clearinghouse gives employers, state driver’s licensing agencies and state law enforcement officers real-time information about commercial driver’s license (CDL) and learner’s permit holders’ drug and alcohol violations.
Under FMCSA regulations, employers are now required to query the clearinghouse before permitting current and prospective employees to operate a commercial motor vehicle on public roads. The query must be repeated at least annually. Employers had to begin reporting drug and alcohol program violations since Jan. 6, 2020. According to FMCSA, between the start of the reporting obligation and February 2021, the clearinghouse had identified 64,712 positive tests for substance abuse violations by commercial drivers. States currently have the option to voluntarily request clearinghouse information but will be required to query the database before issuing CDLs starting on Jan. 6, 2023.

CDC’s new State Fact Sheets on Alcohol-Impaired Driving provide a detailed overview of state alcohol-impaired driving data. The fact sheets also mention proven strategies to reduce or prevent this risky behavior, including ignition interlocks for all offenders, treatment programs, and publicized sobriety checkpoints. CDC’s Drug-Impaired Driving Fact Sheet also mentions short-term high visibility enforcement of impaired driving laws and certification, training and mobilization of drug recognition experts as promising strategies to help address drug and polysubstance-impaired driving.

Maryland became the second state in 2019, after Virginia in 2018, to pilot the Driver Alcohol Detection System for Safety (DADSS) Program. This program, a public-private partnership research project between the Automotive Coalition for Traffic Safety and NHTSA, aims to develop a non-invasive, seamless technology. The system would use small sensors built inside vehicle panels to measure a driver’s breath alcohol concentration (BrAC)—BrAC is used to estimate the driver’s BAC which is measured using blood or urine tests. Drivers whose BrAC is above a set limit will be unable to move the vehicle. The Insurance Institute for Highway Safety (IIHS) released a study in 2020 suggesting that the technology has the potential to save more than 9,000 lives when added to all new vehicles.

NCIL’s Drunken Driving and Drugged Driving/Marijuana-Impaired Driving webpages provide a detailed and up-to-date overview on state interventions to reduce and prevent all forms of impaired driving.

STATE LEGISLATION

Lawmakers in 46 states considered over 350 bills related to impaired driving in 2020. Over 60 bills were enacted by 33 states. Laws addressed ignition interlock devices and restricted driving privileges, implied consent and testing laws, penalties, diversion programs and sealing and expungement of records, 24/7 sobriety and drug monitoring programs and treatment programs, among other topics.

Ignition Interlock Devices and Restricted Driving Privileges

Ignition interlock devices (IIDs) are installed in motor vehicles to prevent the car from being operated if a set level of alcohol is detected on the driver’s breath. Most devices require random retesting while the car is running to ensure that the driver is not drinking once the car is started. Many courts require the use of IIDs for drivers convicted of DUI. During sentencing, an offender whose driver’s license has been suspended or revoked can be granted limited driving privileges if an IID is installed in the vehicle(s) they use.

All 50 states have passed legislation that allows or requires the use of ignition interlocks for certain drunken driving offenders. Twenty-nine states have mandatory ignition interlock provisions for all offenses, including for a first conviction. They include Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Tennessee, Texas, Utah, Vermont, Virginia, Washington and West Virginia, plus the District of Columbia. Laws in Colorado, Kentucky and Maine strongly encourage first-time offenders to install an IID. Pennsylvania’s law is unique because it requires interlocks for first-time offenders with a BAC of .10 or greater.

NHTSA data shows that IIDs reduce recidivism among first-time and repeat offenders, including high-risk offenders. However, for repeat and high-risk offenders, IIDs were found to be effective in reducing recidivism only while they were installed. Once the IIDs were removed, the offender’s recidivism rates increased. However, a CDC study of a Florida policy mandating alcohol treatment for DUI offenders using interlocks did find decreased recidivism. Offenders who accumulated three interlock violations—defined as two occasions
within four hours in which the device prevented the driver from starting the vehicle—were required to participate in alcohol use disorder treatment. Recidivism among such offenders was reduced by 32% after the device was removed, compared to the control group that did not receive treatment.

Laws in some states provide for restricted driver’s licenses for DUI offenders in addition or alternative to an IID, or as a substitute to having the license suspended. People with a restricted license are limited on where and when they can drive.

At least two states—Virginia and Delaware—enacted legislation regarding ignition interlock devices and restricted driving privileges in 2020. At least two additional states—Indiana and West Virginia—amended their driver’s license suspension laws for DUI offenders.

Virginia (SB 439) amended its impaired driving laws to provide that first DUI offenders with a BAC of less than 0.15 can obtain a restricted driver’s license, as long as they install an IID for one year. Repeat offenders or offenders with a BAC of 0.15 or more may request an IID restricted license if they refrain from alcohol consumption, accept to be monitored by a remote alcohol monitoring device and participate in an alcohol safety action program. Remote alcohol monitoring devices are defined as devices “with the ability to confirm the location and presence of alcohol in a person and that is capable of scheduled, random, and on-demand tests that provide immediate, or as-requested, results.”

Virginia (HB 34) also allowed first offenders convicted of violating its implied consent law to request a restricted driver’s license. The court may grant the petition if it finds good reasons to do so, but the offender must install an IID on each motor vehicle they own and successfully complete an alcohol safety action program. Additionally, Virginia (SB 282) allowed courts to require a person convicted of a first offense of driving under the influence of drugs (DUID) to install an IID to obtain a restricted driver’s license.

Delaware (HB 152) amended its ignition interlock laws to close a loophole. Previously, DUI offenders could avoid having to install an IID if they obtained a limited license that allowed them to drive to certain places, such as their workplace. The new law requires all offenders whose driving privileges have been revoked to install IID in their vehicles if they want to drive during the revocation period.

Indiana (HB 1157) amended its driver’s license suspension laws to require removal of any record of suspension from defendants charged but not convicted of a DUI if the suspension was linked to a refusal to submit to a chemical test or a positive preliminary test. Additionally, the new law requires courts to terminate suspensions that were punishments for refusing to submit to a test if the defendant accepted a plea agreement.

West Virginia (SB 130) revised procedures for driver’s license suspensions and revocations of persons charged with DUI and DUID. Previously, the DOT’s Office of Administrative Hearings would decide whether individuals charged but not convicted were subject to a driver’s license suspension. The new law now leaves that decision to the courts, who must decide on a case-by-case basis during the criminal trial.

Implied Consent and Impairment Testing Laws

All driver’s license applicants agree to comply with requests by law enforcement officers to take breath or blood samples to determine impairment when they sign their driver’s license application forms. A breath test can be administered roadside or at any location; blood and urine testing can only be performed at a medical or detention facility. These laws, called implied consent laws, are based on the premise that driving is a privilege and not a right. Every state has some sort of implied consent law, but the penalties vary for offenders who refuse to submit to a test.

Utah (HB 139) enacted legislation to criminalize refusal to submit to a blood test when a DUI is suspected, and a court has issued a warrant to draw and test the blood of the suspected person. First-time offenders are guilty of a class B misdemeanor. Repeat offenders or persons whose refusal is in connection to a conviction of automobile homicide or a DUI felony violation are guilty of a third-degree felony. All offenders are subject to the same sentencing as if they had committed a DUI violation, including some additional penalties such as 24 hours more in any jail sentence and $100 more in any fine. As a condition for probation, courts must
order offenders to install an IID, wear a transdermal alcohol monitoring device on their ankle and/or impose monitored home confinement. Additionally, first-time and repeat offenders 21 years or older are subject to a driver’s license revocation of 18 months and 36 months, respectively. First-time offenders younger than 21 years are subject to a driver’s license revocation until their 21st birthday or two years—three years for repeat offenders—whichever is longer.

Michigan (SB 718) passed legislation to authorize the department of state police to establish a one-year pilot program for roadside drug testing. Once completed, the department must submit a report to the legislature covering relevant statistical data, including the number of arrests and convictions made for drug-impaired driving because of the program.

Vermont (SB 54) amended the definition of “evidentiary test” in its drunken driving statutes to include the testing of a person’s saliva, becoming the 24th state to authorize some form of oral fluid testing for screening and/or evidentiary purposes. The testing of saliva was also added to the state’s implied consent and test administration laws. Law enforcement officers can require a person to submit to a saliva test when there is reason to believe they are under the influence of drugs or a combination of drugs and alcohol. Saliva samples can be collected by any “person authorized by the Vermont Criminal Justice Training Council.” Additionally, the Department of Public Safety was tasked with “identifying a threshold level of concentration of a psychoactive metabolite of cannabis in a person’s bloodstream to establish impairment and approving a chemical testing device for roadside use capable of demonstrating such a threshold,” and submit a proposal to the legislature to implement the use of such a device.

The bill also added “intermediate or advanced emergency medical technician or paramedic” to the persons that are authorized to withdraw blood for an impaired driving test. Blood and saliva samples cannot be withdrawn at roadside. A medical facility can charge $75 maximum to collect a blood sample.

Finally, the bill included a minimum of 16 hours of “Advanced Roadside Driving Enforcement” training to the minimum training standards for law enforcement officers. Results of standard field sobriety tests conducted by officers trained in such advanced enforcement or certified drug recognition experts are admissible at trial to demonstrate presumptive impairment. In addition, the Department of Public Safety must submit a report to the legislature by March 1, 2022, specifying how it aims to achieve geographic equity in drug recognition expert availability across Vermont. The report must also address whether it is necessary to allow certain non-law enforcement public safety officials to participate in the state’s drug recognition expert program.

New York (AB 712) enacted legislation to require all drivers of for-hire vehicles that have a capacity of transporting nine or more persons, including the driver, submit to pre-employment and random alcohol and drug testing. The new law prohibits such drivers from consuming drugs or alcohol within eight hours before going on duty and from consuming or possessing such substances while working. Employers are prohibited from requiring or permitting their employees to be on duty if it appears they do not satisfy the eight-hour requirement. First and second and subsequent violations within an 18-month period are subject to fines ranging between $500-$2,500 and $500-$5,000, respectively. Under federal regulations, pre-employment and random drug and alcohol testing are only required for drivers of buses and vehicles with a capacity to carry 15 or more persons, not including the driver. Additionally, the law requires the undertaking of a public education campaign to alert employers and drivers of the new testing requirements.
Penalties

Four states—Indiana, Washington, West Virginia and Wisconsin—created new penalties or enhanced penalties for DUI offenses.

Indiana (SB 335) established a maximum lookback period of 12 years to consider prior convictions for purposes of enhancing criminal penalties. However, repeat DUI offenders who caused death or serious bodily injury were excluded from the 12-year lookback period.

Washington (HB 1504) amended its law to specify that enhanced penalties for aggravating circumstances in DUI cases, such as causing death or driving with a child in the vehicle, are mandatory and cannot receive good time credits.

West Virginia (SB 765) added the offense of driving under the influence and causing death to its habitual offender law. First-time recidivists are now subject to a sentence enhancement of five years. Second-time recidivists must be sentenced to life imprisonment.

Wisconsin (SB 6) imposed a mandatory minimum sentence of 18 months incarceration for offenders who commit a fifth or sixth DUI offense. Previously, such offenses carried a minimum sentence of six months. The new law gives courts discretion to impose a reduced sentence if they find compelling reasons.

Diversion and Sealing and Expungement of Records

States allow individuals to have records of criminal cases sealed, meaning that such a record would be accessible only with a court order. It is also possible for people to have certain offenses removed from their criminal record entirely. This process is known as expungement. Three states—Louisiana, North Carolina and West Virginia—amended their expungement laws concerning DUI offenders. Michigan passed a bill related to expungement for DUI offenders, but the bill was vetoed by the governor.

Louisiana (HB 241) repealed provisions limiting expungement for DUI misdemeanor offenses to once every 10 years.

North Carolina (SB 562) revised its expungement laws for offenders under the age of 18 to allow the removal of certain offenses but explicitly excluded any offense involving impaired driving.

West Virginia (SB 562) amended its expungement laws to provide that a DUI conviction does not prevent expungement of unrelated offenses if it is at least five years old when the offender files their petition for expungement.

Michigan (SB 1254) also passed a bill allowing first DUI offenders to apply for expungement if their offense did not cause the death of or serious bodily injury to another person. However, this bill was vetoed by the governor. Michigan enacted additional criminal reform bills, including bills allowing for expungement of other traffic offenses.

Additionally, states introduced and enacted bills focusing on diversion programs for DUI offenders. Diversion programs are forms of pretrial sentencing in which a criminal offender joins a rehabilitation program to help remedy the behavior leading to the original offense. It allows the offender to avoid conviction, including a criminal record in some instances.

Expungement of DUIs and diversion programs for DUI offenders can make it difficult to identify repeat offenders. While bills offering such possibilities to DUI offenders are motivated by criminal justice and equity considerations, they have caused concern among the traffic safety community. These laws could lead to repeat offenders avoiding harsher penalties. In particular, they could make it more difficult to offer adequate treatment for repeat offenders, who cause a disproportionate number of DUI deaths.

Two states—California and Idaho—enacted legislation concerning diversion programs for DUI offenders in 2020.
California (AB 3234) gave judges the discretion to place DUI misdemeanor offenders in a diversion program and dismiss charges after completion of the program. Offenders would, as a consequence, avoid jail time and a criminal record.

Idaho (HB 405) amended its diversion program law for DUI offenders to exclude commercial driver’s license and commercial learner’s permit holders and drivers who were operating a commercial vehicle.

24/7 Sobriety and Drug Monitoring Programs and Treatment Programs

DUI recidivism is a significant concern for lawmakers and enforcement officials. To address this issue, states have debated and enacted legislation requiring offenders to participate in sobriety monitoring programs and treatment programs. Judges have always had the option to use court-mandated treatment, which requires impaired driving offenders to participate in evaluation and treatment for their substance abuse issues. However, recent interest includes combining behavioral treatment with more punitive sanctions.

Sobriety programs involving 24/7 monitoring emphasize sobriety and require certain DUI offenders to submit to a breath or urine test multiple times (usually twice) daily at a designated site. Many programs also allow the use of breathalyzers, transdermal alcohol monitoring devices (ankle bracelets) and drug monitoring patches to monitor an offender’s sobriety when certain factors such as distance from or lack of access to a testing site make primary testing methods unreasonable. If the offender fails or does not appear for a test, he or she will receive swift, certain and moderate sanctions, which can include bond revocation, parole or probation, and incarceration for 24 or 48 hours, in most cases. 24/7 sobriety monitoring programs do not require participants to enter treatment.

The RAND Corporation published a paper in 2020 analyzing South Dakota’s 24/7 sobriety monitoring program’s causal effect on the probability of rearrest or probation revocation for repeat DUI offenders — offenders who have been charged with a second or third DUI violation. South Dakota was the first state to establish a statewide 24/7 sobriety monitoring program in 2007. The authors concluded that the probability of rearrest or probation revocation was 49% lower for program participants than for non-participants 12 months after their DUI arrest. The authors also found a “substantive decrease at 24 and 36 months.”

Currently, 14 states—Alaska, Florida, Hawaii, Idaho, Iowa, Montana, Nebraska, Nevada, North Dakota, South Dakota, Utah, Washington, Wisconsin and Wyoming—have 24/7 sobriety monitoring programs or pilot programs at the state or county level.

Iowa amended its 24/7 sobriety and drug monitoring program laws and two states—Louisiana and West Virginia—enacted legislation related to treatment programs for DUI offenders in 2020.

Iowa (HB 2411) deleted provisions that authorized courts or government entities to require individuals to participate in the state’s Sobriety and Drug Monitoring Program as a condition for a temporary restricted license. The new law also deleted provisions requiring participation in the program for individuals who must install IID. Individuals can still be placed in the program as a condition of bond, pretrial release, sentence, probation or parole. Participants in the program who own a vehicle and are eligible for a restricted license must install IID in their vehicles and submit proof that they did so to complete the program.

Louisiana (SB 352) authorizes courts to order repeat DUI offenders to take a standardized, evidence-based substance use disorder assessment. After considering the results, the court may refer the offender to a rehabilitative program. The law does not apply to offenders who show they cannot pay for the assessment or the program.

West Virginia (SB 678) requires the Division of Motor Vehicles to accept completion of the Getting Over Addicted Lifestyle (GOALS) program in place of completion of the DUI Safety and Treatment Program in driver’s license reinstatement petitions.
Miscellaneous Impaired Driving Bills

New Hampshire (SB 34) enacted legislation to clarify that “drive”, “attempt to drive” or “actual physical control” in its DUI statutes does not include “sleeping, resting, or sheltering in place” in a vehicle that is lawfully parked “provided that the person is not seated at the controls of the vehicle.” Similarly, Utah (HB 139) also defined “actual physical control” in its DUI statutes as a term that does not include occasions when a person is asleep in any seat other than the driver seat inside a lawfully parked vehicle if “under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence” of alcohol and/or drugs.

New Jersey (AB 4312) clarified requirements around the use of body cameras worn by law enforcement officers, including during DUI stops or arrests. Officers wearing camera models that produce radio-frequency must deactivate or remove the device while operating an electronic breath-testing device. The officer must explain the reasons for deactivation and re-activate the camera once the breath test is completed.

Tennessee (SB 1643) passed legislation to rejoin 45 other states in the Interstate Driver License Compact—it dropped out of the compact in 1997. This compact is used by states to exchange non-resident driver’s license suspension and traffic violation information, such as speeding and DUI offenses, with the state in which the offender resides. Home states can then impose any penalties or restrictions required by their laws for the offense and use offenses committed in other states as prior offenses for recidivists. However, under the compact, home states must honor DUI license suspension requirements of the state in which the DUI took place. The compact’s motto is “One Driver, One License, One Record.”

Virginia (HB 923) repealed provisions allowing courts to prohibit the sale of alcoholic beverages to persons who had shown themselves to be a “habitual drunkard.” Virginia (SB 5029/ HB 5058) also prohibited law enforcement officers from stopping or searching vehicles solely based on the odor of marijuana. Evidence discovered or obtained during such an unlawful search will not be admissible in any proceeding.

In addition, Virginia (SB 2) decriminalized simple marijuana possession and converted it to a civil offense. A person’s criminal record shall not include charges or judgments for such violations except when a violation occurs while the person is driving a commercial motor vehicle. In such cases, the violation must be reported to the DMV and included in the person’s driving record.

Washington (HB 2483) clarified vehicle impoundment requirements after a driver is arrested for a DUI. Under the new law, rather than requiring impoundment of the vehicle in every case, the arresting officer can make a discretionary case-by-case determination. Additionally, when a commercial or farm vehicle is involved, the officer must attempt to contact and release it to any owner—who was not driving the vehicle—before determining that no reasonable alternatives to impoundment exist. Previously, to allow release to the owner, the law required they were not in the vehicle as passengers at the time of the arrest. This requirement was removed, and any owner who was a passenger can request the release of the vehicle if they are not under the influence of alcohol or drugs.
Distracted Driving

According to NHTSA, 3,142 people died in distraction-related crashes—defined as crashes involving at least one driver who was distracted—in 2019. This number accounts for 8.7% of total fatalities and represents a 9.9% increase compared with fatalities from 2018. Additionally, NHTSA’s 2018 Distracted Driving report estimates 400,000 people were injured in motor vehicle crashes involving distracted drivers in 2018. Of all drivers in fatal crashes, 5% were reported as distracted, with mobile devices causing the distraction for 13% of these drivers.

Drivers younger than 30 continue to be overrepresented in distraction-related fatal crashes. Fifteen to 19-year-old drivers have the largest proportion of distracted drivers involved in fatal crashes. Drivers in their 20s have the highest percentage of cellphone use as the cause of their distraction, closely followed by teen drivers.

These numbers must be taken with a grain of salt. NHTSA recognizes that there are some limitations to the collection and reporting of data concerning driver distraction. Challenges include the difficulty in identifying distraction as a crash factor and the lack of uniformity among police crash reports. Many crashes involving distraction also involve other factors, including fatigue, alcohol impairment, or running a red light or stop sign. In such cases, distraction is not always included in the crash report. Additionally, differences in crash reporting forms make it difficult to collect and compare data nationwide. Harmonization of reporting protocols and more data are needed to better understand the prevalence of driver distraction in vehicle crashes.

Novel approaches to distracted driving data collection, such as the use of telematics, suggest that, while mobile device use by drivers was already a concerning issue prior to 2020, phone distraction per mile driven became more frequent during the COVID-19 public health emergency. According to Cambridge Mobile Telematics, measures of cellphone motion—an indicator of smartphone distraction—increased roughly 15% between March and April 2020. Data gathered with technology that works in the background of a wide range of cellphone apps, including e-taxi software and navigation services used by civilians, is providing new insights. It appears that, since the beginning of 2020, drivers are using their cellphones for shorter durations while driving, but more frequently than before. The findings revealed that almost 17% of all crashes involve phone use five seconds before impact.

Distraction while driving is caused by “any activity that diverts attention from driving,” including talking or texting on the phone, eating or drinking, or manipulating the stereo, entertainment or navigation system. Texting is especially concerning since it is a combination of visual, manual and cognitive distractions. Sending or receiving a text takes a driver’s eyes from the road for an average of 4.6 seconds, the equivalent—at 55 mph—of driving the length of an entire football field. However, hand-held mobile device use, in general, is associated with an increased crash or near-crash risk.
A 2011 AAA study identified three types of distraction: visual (driver takes the eyes off the road), manual (driver takes the hands off the wheel) and cognitive (distractions that cause a driver to take their mind off the primary task of driving safely). According to the study, any form of cognitive distraction, including hands-free driving, represents a risk.

AAA’s 2019 Traffic Safety Culture Index provides insight into Americans’ opinions about the use of personal electronic devices while driving. The study shows that approximately 95% of respondents view reading or typing on a hand-held mobile device while driving to be very or extremely dangerous. Nearly 80% consider talking on a hand-held mobile device as very or extremely dangerous. In contrast, 22.5% of respondents consider using their phone while driving with the help of hands-free technology to be very or extremely dangerous.

A recent survey found that drivers feel more comfortable engaging in secondary tasks, including tuning the radio or dialing on a cellphone, when using Automated Driving Systems (ADS). The report points out that “the more positive participants were about ADS features, the more they felt comfortable engaging in secondary tasks while the features were activated.” ADS are systems that extend active safety driving systems, such as forward collision warning, automatic emergency braking, lane departure warning and blind-spots detections, by continually assisting drivers with the driving task. However, these systems may not always work as expected in typical driving situations, and an overreliance on ADS features can increase crash risk.

Currently, 24 states prohibit all drivers from using hand-held cellphones while driving. An additional 24 states ban text messaging for all drivers. While no state bans all cellphone use for all drivers, 36 states and D.C. ban all cellphone use for novice and teen drivers. Except for emergencies, 18 states and D.C. also ban use of cellphones for school bus drivers. NCSL’s interactive charts provide a detailed overview of current cellphone use while driving laws in all 50 states and D.C.

**Definition of Hand-Held and Texting Bans**

States primarily use hand-held and texting bans to combat distracted driving. Hand-held bans are laws that allow the use of mobile devices while driving only in hands-free mode—usually through voice communication or by activating with a single tap or swipe. A growing number of states also include a prohibition to access, view or read non-navigation related content. Texting bans prohibit drivers from typing or sending text messages while driving but allow talking on a hand-held mobile device. Many of these bans provide for various exemptions, including use for emergencies and by law enforcement and first responders. Several states have laws banning all mobile device use for novice drivers or drivers under a certain age—generally 18, but some states set the maximum age at 19 or 21.

Research on the effectiveness of cellphone and texting laws is mixed, and NHTSA has not adopted an official position in this regard. Most studies seem to agree that hand-held bans have been somewhat effective in reducing hand-held phone use, but the evidence does not necessarily point to a reduction in crashes. However, recent studies analyzing the impact of distracted driving laws on insurance metrics suggest they may have previously undocumented safety and economic impacts. NCSL’s Distracted Driving Traffic Safety Review includes detailed summaries of these findings.

The Behavioral Traffic Safety Cooperative Research Program released its first report on “Using Electronic Devices While Driving: Legislation and Enforcement Implications.” Researchers found that strong laws that are supported by enforcement and public education programs do affect overall traffic fatality rates. After reviewing distracted driving laws and enforcement and public education practices in all 50 U.S. states, D.C.
and 10 Canadian provinces, they developed model legislation and best practices for policymakers and enforcement authorities. Best practices for distracted driving laws include clearly defining when and how a wireless device can and cannot be used and establishing penalties and fines in line with other traffic citations.

Enforceability of distracted driving laws has also been an important topic of discussion, but research lacks in this area. A 2017 study conducted by NHTSA on the enforceability of texting laws in Connecticut and Massachusetts concludes that texting laws can be enforced whether the state has a hand-held ban or not. Additionally, a 2014 study conducted by NHTSA in California and Delaware points out that high-visibility enforcement over statewide or large multi-jurisdiction areas is feasible and may be effective in modifying behavior. CDC’s new fact sheet on distracted driving presents promising actions that states can use to address the issue—strategies include high-visibility enforcement and requiring passenger limits for young drivers.

A recent report from the Texas A&M Transportation Institute studied the effects of incentive-based smartphone applications on teen driving habits and found they helped reduce distracted driving. Teen drivers using the app earned points for miles driven without any phone distraction. Points earned were used as a basis for competitions and obtaining higher safe driving levels. They could also be redeemed for rewards. The data that included over 12,200 trips and more than 100,000 miles logged showed that use of the apps by teens resulted in “statistically significant improvements in driving behavior—particularly a reduction in distracted driving.”

### Laws Addressing Cellphone Use While Driving

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<th>Primary enforcement texting ban for all drivers</th>
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* South Dakota prohibits hand-held use in most situations, but drivers can still hold the phone to their ear while on a call.

Source: NCSL, 2020
STATE LEGISLATION

Legislatures in 41 states considered more than 115 bills related to driver distraction in 2020. Enacted legislation mainly centered around hand-held bans for all drivers. Three states—Idaho, Indiana and Virginia—enacted hand-held bans for all drivers in 2020. South Dakota strengthened its distracted driving law to prohibit hand-held use in most situations, but drivers can still hold the phone to their ear while on a call. Two states—Maine and Vermont—modified penalties for violations of their hand-held bans. West Virginia amended its distracted driving laws related to younger drivers.

Idaho’s ban (HB 614) prohibits all drivers from using a hand-held mobile electronic device or watching motion on the screen of such a device unless that motion is related to the functioning or navigation of the vehicle. Making or receiving calls is allowed if it can be done through one-touch access or by voice command. The law has the typical exceptions for emergency purposes but also includes an exception for farming or ranching operations when related to the movement of tractors, equipment, crops and animals. Fines are $75, $150 and $300 for a first, second or third and subsequent violation within a three-year period, respectively. Persons with three or more convictions are also subject to a 90-day driver’s license suspension.

Indiana (HB 1070) converted its texting ban into a hand-held ban by prohibiting persons to “hold or use” telecommunication devices while driving. The new law specifies that mobile device use with hands-free or voice-operated technology is permitted but does not define hands-free use. Violators are subject to a point assessment on their driver’s license for violations occurring after July 1, 2021. Under the texting ban, four points were given to violators. A multi-agency committee will determine how many points will be assessed for violating the new hand-held ban.

Virginia’s law (HB 874/SB 160) prohibits all drivers from “holding a handheld personal communication device” while driving but does not define permissible hands-free use. Fines for violations are $125 and $250 for a first and second or subsequent violation, respectively. Any violation in a work zone carries a fine of $250.

South Dakota (HB 1169) strengthened its distracted driving law to prohibit hand-held use in most situations, but drivers can still hold the phone to their ear while on a call. The new law also allows reading, selecting or entering a telephone number when making or receiving a call without requiring a limited number of touches or that it be made using voice command. It explicitly allows the use of a GPS or navigation system but prohibits manually entering information into those systems while driving. Additionally, the law defines “social media networking site” and specifically bans drivers from accessing, reading or posting on social media. The state also upgraded its texting ban from a secondary enforcement law to a primary enforcement law.

Maine (SB 653) fixed the penalty for violating its hand-held ban at $50 for a first offense and $250 for a second and subsequent offense. Previously those penalties were minimums.

Vermont (SB 339) significantly enhanced penalties for violating its hand-held and texting ban in school and work zones. The state established a civil penalty of $200 to $400 for a first violation and $500 to $1,000 for subsequent violations in any two-year period. Violators of the texting ban are now also subject to points being assessed on their driver’s license—four and five points for a first and a second or subsequent violation in a school and work zone, respectively, and two points outside specifically designated areas. The hand-held ban already provided for an identical point assessment against violators.

West Virginia (HB 4464) prohibited holders of a level three driver’s license who are younger than 18 years old from using cellphones while driving. Holders of an instruction permit—level one—and an intermediate driver’s license—level two—were already prohibited from doing so. Violators are guilty of a misdemeanor and must pay a fine of $25, $50 and $75 for a first, second and third or subsequent offense, respectively.

Virginia (SB 437) created the offense—a Class 1 misdemeanor—of driving in a “careless or distracted manner” and causing serious bodily injury to a compliant vulnerable road user. The offense carries a fine of up to $2,500 and jail time of up to 12 months. It also required (HB 874/SB 160) distracted driving to be included as part of the driver’s license knowledge examination.
Teen Drivers

With over 12 million licensed young drivers on the road, state legislatures have consistently considered legislation intended to increase young drivers’ safety, improve driving behaviors and enhance their driving skills.

Young drivers ages 15 to 20 have higher crash rates than older, more experienced drivers. The Federal Highway Administration notes young people aged 15-20 represented about 9% of the total driving population in 2019. According to NHTSA, fatalities amongst drivers ages 15 to 20 declined 7% between 2017 and 2018.

NHTSA notes the percentage of young drivers ages 15 to 20 who were speeding at the time of fatal crashes was higher than that of any other age group in 2017. Further, of the young drivers involved in fatal crashes where it was known whether or not restraints were used, 49% of those who died were not wearing seat belts. Of drivers ages 15 to 20 who were killed in 2018 crashes, 24% had BACs of .01 or higher, and 19% had BACs of .08 or higher.

While NHTSA data indicates driver fatalities in the 15- to 20-year-old age group declined by 27% in the 10-year period from 2009 to 2018, the National Center for Health Statistics cites motor vehicle crashes as a leading cause of death for 15- to 20-year-olds. Almost 2,500 teenagers lost their lives in 2018 and 285,000 were treated in emergency rooms for injuries that occurred from motor vehicle crashes.

Research by the AAA Foundation for Traffic Safety (2018) found that when a teen driver was accompanied by only teen passengers in a vehicle, the fatality rate for all people involved in a crash increased by 51%. In contrast, when teen drivers were accompanied by older passengers, the overall fatality rate in crashes decreased by 8%. The fatality rate for teen drivers is higher because teens are more likely to engage in behaviors such as speeding, not wearing a seat belt and driving under the influence.

STATE LEGISLATION

At least six states—Delaware, Louisiana, Minnesota, New York, North Carolina and South Dakota—enacted legislation in 2020 regarding teen drivers, primarily focused on driver education, license examinations and graduated driver licensing.

Driver Education

Louisiana (SB 252) added questions regarding accessible parking and access aisles to driver education courses. New York approved two new laws (SB 3860 and 3998) enabling driver education courses to be held at elementary or middle school locations or specified community centers in Nassau County and Staten Island, respectively.

South Dakota (SB 113) allowed permit holders who are at least 14 years old but less than 18 years old to apply for an operator’s license after 180 days if such permit was issued before July 1, 2020, or 275 days after if such permit was issued after July 1, 2020. Any minor holding an instruction permit issued after July 1, 2020, must also drive a minimum of 50 hours under the supervision of a parent, legal guardian or licensed driver over age 17. A parent or legal guardian must attest in writing that the minor has met the instruction permit requirements. Previously, the law only required an applicant to have held a valid instruction permit
for 180 days before such person could be issued an operator’s license. The new law also specified that permit holders must hold a permit for at least 275 days if it was issued after July 1, 2020.

License Examinations

Minnesota (SF 4) granted the commissioner of the Department of Public Safety authority to implement an online driver’s license knowledge test. The new law also required a report to the legislature concerning driver’s road skills test backlogs during 2020 and a summary of implemented plans to address such backlogs, including benchmarks or goals that were achieved on time.

Graduated Driver’s Licensing

Delaware (SB 177) removed a requirement for the secretary of the Department of Motor Vehicles (DMV) to revoke a student’s driving privileges upon notice from the superintendent of public schools that the student had been expelled. South Dakota (SB 113) specified that no holder of a restricted minor’s permit may operate a motor vehicle carrying any passenger other than an immediate family or household member during the first six months. Further, after six months, the permittee is limited to no more than one passenger under age 18. Louisiana (HB 607) allowed parents or legal guardians to provide documentation of school attendance for a minor seeking to obtain a driver’s permit or license to operate a motor vehicle. Previously, this requirement was solely on the minor.

South Dakota (SB 113) allowed licenses to be issued to applicants who are at least 16 but less than 18 years old. Such applicants must have held a permit for at least six months and have not received any traffic violations during that time. Further, the law required permit holders whose credential has been expired for more than 31 days to take both a knowledge and skills test in order to obtain an operator’s license. If the permit has not expired or is within 30 days of expiring, the applicant is only required to take a skills test.

States such as Georgia, Mississippi, North Carolina and Wisconsin also approved programs to allow individuals under age 18 to obtain a driver’s license under certain modified circumstances in response to the COVID-19 pandemic.

Georgia, North Carolina and Wisconsin temporarily waived road testing requirements for young drivers. Georgia’s governor issued Executive Order 5.12.20.01 on May 12, 2020, which waived the road skills requirement for individuals seeking to obtain a driver’s license. However, drivers were required to complete a road test by Sept. 30, 2020.

North Carolina (HB 158) allowed the state DMV to temporarily waive the requirement that young drivers must undergo a driving test. Such road tests have been suspended since March, according to the state’s DMV. Individuals who qualify for the waiver must be 16 or 17 years old, have held a learner’s permit for at least 12 months, have completed at least 60 hours of supervised driving, including at night, and cannot have received a moving violation or a seat belt or cell phone violation within the last six months. Once state DMV can resume road tests, a provision of the new law will end the waiver option. Moreover, drivers who qualify for the waiver will still be required to pass a road test before obtaining a full provisional license, which allows unsupervised driving at any time.

Wisconsin’s DMV launched a Road Test Waiver Pilot Program on May 11, 2020. The waiver allows individuals under age 18 who successfully complete a driver education course, behind-the-wheel training, 30 hours of supervised driving and have the endorsement of a parent or guardian to obtain their probationary driver’s license without completing a road test. The DMV notes the pilot will not become permanent unless a law is enacted changing road-testing requirements.

In Mississippi, a permanent waiver from road testing was allowed for certain young drivers beginning in June 2020. To qualify for the waiver, individuals must have both held a learner’s permit for at least one year and have operated a motor vehicle for at least 50 hours. A statement must also be affirmed by the parent or guardian at the time of application.
Graduated Driver Licensing

Every state has enacted some type of law intended to develop young drivers’ skills and expertise. Commonly referred to as graduated driver licensing (GDL), the laws provide more time for teen drivers to learn the complex skills required to operate a vehicle. Although GDL laws vary from state to state, all GDL approaches consist of three stages identified by the type of license, provisions and restrictions. In each stage, the young driver gains experience and knowledge about safe driving, which allows them to advance to the next stage when they reach the appropriate age. The stages include:

Stage 1: Learner’s Permit
- Minimum age.
- Minimum duration.
- Required supervised driving hours.

Stage 2: Intermediate (Provisional) License
- Minimum age.
- Nighttime driving restriction.
- Passenger restriction (except for family, unless noted).

Stage 3: Full Licensure
- Minimum age.

Source: NHTSA Teen Driving Page
Older Drivers

Motor vehicles are one of the leading causes of injury-related deaths for individuals ages 65 and older. The population of Americans over age 65 was 52.4 million people—16% of the total U.S. population—in 2018. Older drivers made up 20% of all licensed drivers, but only 14% of drivers involved in fatal traffic crashes in 2018.

NHTSA data from 2019 reports a 33.5% increase in the population of Americans over age 65 between 2010 and 2019 and a 37.4% increase in licensed drivers between 2009 and 2018. According to the American Geriatrics Society (AGS), the predicted number of Americans over age 65 will double by 2060, and the distances they travel are expected to continue increasing.

In 2018, according to NHTSA, 6,907 people 65 and older were killed and an estimated 276,000 injured in motor vehicle traffic crashes. Older people made up 19% of all traffic fatalities and 10% of all people injured during the year. NHTSA data also indicates older driver fatalities increased by 23% (from 3,307 to 4,298) between 2009 and 2018.

AAA reports older drivers are more likely to have underlying medical conditions potentially affect their safe driving skills. This is partially explained by fragility increasing in tandem with age, along with declining functions potentially interfering with an older driver’s safe driving skills. NHTSA notes this increased fragility generally begins to show up in crash data around 75 years old, increasing for drivers over 85 years old.

Periodic Professional Driving Assessments

Medical conditions potentially affecting a driver’s ability to safely operate a motor vehicle include vision, hearing, reaction time, and cognitive and motor abilities. Other conditions such as dementia, arthritis, diabetes, heart disease, sleep apnea and Parkinson’s disease may also potentially interfere with a person’s ability to drive safely. To help mitigate potential concerns, AAA and AGS recommend that older drivers undergo a periodic professional driving assessment. This is designed to not only help older drivers correct possible shortcomings via specialized driver training plans, but to also help such drivers continue driving safely as an option.

STATE LEGISLATION

Existing state legislation regarding older drivers mostly focuses on decreasing periods between license renewals and requiring more frequent vision tests for drivers over a certain age. Many states also bar older drivers from renewing their driver’s license by mail or online.

When addressing older driver traffic safety legislation, states have to balance safety with individual rights and freedoms. Setting aside vision requirements, determining when an older person is no longer able to drive safely depends on a variety of factors. In this regard, state legislation is purposefully broad and generally provides discretion to medical providers when making such a decision.

In 2020, at least two states—Idaho and New York—enacted legislation regarding older drivers.

Idaho (HB 497) established the Yellow Dot Motor Vehicle Medical Information Act. The new law provides “yellow dots” on motor vehicles, as well as a form with medical information that can be used by first responders on the scene of an accident or other emergency situation. Participants will receive a “yellow dot” decal and folder, as well as a medical information sheet to place in their glove compartment. The decal will be placed in the back window of a participant’s vehicle. Specific information will include the name, photo, relevant medical conditions, hospital preference, two physicians and the date the form was completed. The new law also provided a limitation of liability for first responders and health care workers relying in good faith on information the form contains.
New York (AB 8983) clarified driver’s license qualification procedures following evidence of “loss of consciousness,” including the suspension or denial of a driver’s license from persons who experienced a loss of consciousness. Evidence of “loss of consciousness” may be obtained from a law enforcement agency, police accident report or physicians, physician assistants or nurse practitioners. Drivers are required to be medically cleared before returning to the road.

Additionally, at least 10 states—Hawaii, Illinois, Missouri, New Hampshire, New Jersey, New York, Oklahoma, Virginia, Washington and West Virginia—considered legislation that was not enacted regarding older drivers. The range of topics included “yellow dot” programs, medical designations on driver’s licenses and older driver reexaminations.

Driver’s Licensing

All 50 states and the District of Columbia licensed nearly 229 million drivers, representing roughly 70% of the U.S. population in 2019, according to the Federal Highway Administration (FHWA). States have administered driver’s licensing systems since 1903 when Massachusetts and Missouri enacted the first laws governing driver’s licenses. Every state required drivers to be licensed by 1954 and mandated examinations testing both driving skills and traffic safety knowledge by 1959.

STATE LEGISLATION

The role of state licensing agencies has evolved from solely testing drivers and issuing licenses. The driver’s license now serves a purpose beyond traffic safety, as both government and private entities rely on it for personal identification. Thus, state legislatures and driver’s license agencies are concerned about the safety and security of using the license as an identifier.

In 2020, state legislatures debated nearly 700 bills regarding driver’s licenses, with at least 28 states enacting 45 new laws. The most common subjects included commercial driver’s licenses (CDLs), driver’s licenses and instruction permits, digital driver’s licenses, medical designations on driver’s licenses and driver’s license suspensions, revocations and restorations. The bills summarized in this section largely focus on notable changes concerning traffic safety.

Commercial Driver’s Licenses

At least 10 states—California, Delaware, Hawaii, Michigan, Mississippi, Virginia, Washington, West Virginia, Wisconsin and Wyoming—enacted legislation addressing CDLs in 2020. The provisions of such laws ranged from issuance and revocation to knowledge and skills testing.
Two states—California and Washington—approved laws authorizing waivers from knowledge or skills testing for current and former members of the U.S. Armed Forces. California (AB 2141) authorized knowledge and skills tests, as well as hazardous materials, tank vehicle or passenger endorsements, to be waived for current or former military service members who have related experience operating. According to the Federal Motor Carrier Safety Administration (FMCSA), a passenger endorsement is required for commercial vehicle operators transporting 16 or more passengers. Washington (HB 2188) authorized the knowledge test to be waived for current or former military service members. Previously, the law only waived the skills test.

Delaware (SB 227) and Wyoming (HB 7) allowed a commercial learner’s permit to be issued for a period of one-year. Previously, the laws in both states limited issuance to six months. Michigan’s law (SB 876) extended the expiration date for CDLs from July 1, 2020 to Sept. 30, 2020.

Mississippi (HB 1371) required the state’s Department of Motor Vehicles (DMV) to provide online CDL renewals if such renewal meets standards set forth under federal law. The new law further directed state DMV to upload medical information within five days of receipt. Hawaii (SB 2993) repealed its law which allowed CDL medical waivers for diabetes. Virginia (SB 290) allowed its DMV to administer skills performance evaluations under its agreement with FMCSA. The law also allowed medical information to be released by Virginia’s DMV as part of that agreement when issuing a CDL or learner’s permit.

West Virginia (HB 4478) enacted a lifetime disqualification for CDL holders who use a commercial vehicle to commit a felony involving human trafficking or controlled substances.

Wisconsin (SB 523) allowed commercial vehicle operators to transport hazardous materials within 150 miles of their farm. Operators are required to be farmers, family members or employees of the farm.

**Driver’s Licenses and Instruction Permits**

Legislatures were busy addressing legislation regarding non-commercial driver’s licenses and instruction permits in 2020. At least 11 states—Idaho, Kentucky, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, Oklahoma, Tennessee and Virginia—enacted such laws.

Four states—Kentucky, Mississippi, Missouri and Nebraska—passed laws addressing online or mobile issuance of driver’s licenses and identification cards. Kentucky (HB 453) allowed online and mobile services to facilitate the issuance of driver’s licenses and identification cards. Mississippi (HB 1371) required the state’s Motor Vehicle Commission to implement an online driver’s license and driver permitting system. Missouri (HB 1963) provided for a remote driver’s license renewal system. Nebraska (LB 944) allowed driver’s licenses and identification cards to be delivered electronically upon request of an applicant.

In response to the COVID-19 pandemic, two states—Michigan and New Jersey—temporarily extended the expiration date for driver’s licenses. Michigan approved six laws (SB 876; SB 877; SB 878; HB 5756; HB 5757; HB 6192) that extended the expiration date in which driver’s licenses, identification cards and enhanced driver’s licenses were considered valid during the COVID-19 state of emergency from March 1, 2020, to Sept. 30, 2020. The new laws also prohibited the secretary of state from assessing late renewal fees for driver or identification credentials that expired on or after March 1, 2020 and were renewed before Dec. 11, 2020. New Jersey (AB 4520) temporarily extended driver’s license deadlines for new state residents. Additionally, the state (AB 4486) authorized its Motor Vehicle Commission to use stored driver’s license or identification card photos beyond eight years. Both laws expire at the end of the public health emergency caused by COVID-19.

Maryland passed a law (HB 28) which required law enforcement officers who confiscate a driver’s license for failure to submit documents related to the issuance of a driver’s license to provide the license holder with a recall notice using a form developed by the state’s Motor Vehicle Administration. The written notice shall include the reason the license was confiscated, a statement that the individual’s driving privileges have not been revoked, instructions on how the individual may submit the required documents and the date such recall notice was issued. The law also allowed drivers to satisfy the requirements to possess and display a driver’s license while operating a vehicle by instead carrying and displaying a recall notice issued within the previous 60 days. Previously, the law allowed 90 days.
Driver’s License Compact

The purpose of this compact is for states to exchange driver’s license suspension and traffic violation information, such as speeding, reckless driving, vehicle manslaughter and DUI offenses, from non-residents with their home state. The compact is used by states to impose penalties or restrictions required by their laws for offenses committed in other states, as well as prior offenses for recidivists. AAMVA notes it was created to “provide uniformity among member jurisdictions on convictions, records, licenses, withdrawals and other data pertinent to the licensing process.” By doing so, the compact is intended to ease administrative costs consistent with its motto, “One Driver, One License, One Record.”

Idaho (HB 332) authorized agents of the state DMV to issue driver’s licenses and learner’s permits. Specific services include application and identification card information such as residence, height and weight, eye color and social security number.

Oklahoma (HB 4161) directed the state’s Department of Public Safety to implement REAL ID by June 30, 2021. Oklahoma’s other new law (SB 408) established a misdemeanor offense for operating a motor vehicle without the proper endorsement. Specific endorsements include motorcycle, tank vehicle, passenger, school bus, double or triple trailers and hazmat transport.

Virginia (HB 1211/SB 34) authorized driver privilege cards and permits to be issued to applicants who do not meet the requirements for a regular driver’s license or permit. According to Virginia’s DMV, driver privilege credentials may be issued to individuals who are non-U.S. citizens. Applicants must be non-U.S. citizens and residents of Virginia, reported income from Virginia or be claimed as a dependent on a tax return within the past 12 months and their driving privileges cannot be currently suspended or revoked in Virginia or any other state. Applicants must pay a $50 fee and are not required to present proof of legal presence in the United States. The driver privilege card expires on an applicant’s second birthday following the date of issuance. The commonwealth’s DMV is prohibited from releasing information about minor applicants unless it is requested by a parent or guardian, an authorized representative or pursuant to a court order.

Digital Driver’s Licenses

Louisiana became the first state to enact legislation allowing a digital driver’s license in 2016. It expanded the law in 2018 by requiring digital licenses to be uploaded through a specific mobile device application to be a valid digitized identification. At least 16 other states have developed or are developing a digital driver’s license program or running a pilot program.

In 2020, at least one state—Wyoming—approved legislation authorizing digital driver’s licenses and identification cards. Wyoming’s new law (HB 5) required an applicant for a digital license to already hold a physical license unless one is issued simultaneously. The law also allows the state’s DMV to digitally cancel, suspend, return or reinstate a license, as well as electronically notify a licensee 120 days prior to a license’s expiration. Further, licensees may electronically return an extension application 30 days before a license expires.
Medical Designation on Driver’s Licenses

In the last few years, a handful of states have considered or passed legislation that would allow for medical or emergency information to be displayed on a driver’s license. For example, states such as Georgia and Louisiana allow driver’s license applicants to indicate blood type on the back of their license. Moreover, in Texas, driver’s license applicants can request a “communication impediment” designation on their license to alert law enforcement or emergency responders of a cognitive disability or hearing impairment. Bills summarized in this section relate to medical designations. Bills specifically regarding older drivers are summarized in the Older Drivers section.


Florida (HB 787) allowed applicants who have a developmental disability to request the capital letter “D” to be shown on their driver’s license if they submit medical proof. Louisiana (HB 317) allowed a driver’s license applicant to request an autism spectrum disorder designation on their driver’s license. The applicant is required to submit a statement from a qualified medical or mental health professional. Further, the state’s Department of Public Safety and Corrections was required to implement a law enforcement training course on officer interaction with persons who have autism spectrum disorder.

Michigan approved three new laws (SB 278; SB 279; HB 5541) allowing an individual applying for or renewing a vehicle registration, driver’s license, identification card or an enhanced credential to elect to have a communication impediment designation associated with their records. The laws also required implementation of a process that would allow law enforcement agencies to access and view a communication impediment designation.

Enhanced Driver’s Licenses

At least five states—Michigan, Minnesota, New York, Vermont and Washington—issue enhanced licenses. These licenses serve to verify a person’s identity and U.S. citizenship status by using a radio frequency identity chip embedded in the card. They also offer a convenient alternative to passports when entering the United States at land or sea border crossings from Canada, Mexico and the Caribbean.

Washington (SB 6429) allowed applicants to obtain a medical alert, developmental disability or deafness designation on a driver’s license or identification card. To do so, an applicant must voluntarily self-attest or provide other information verifying the condition. Any information is confidential and can only be accessed by the state’s DMV, law enforcement agencies and emergency medical service providers.

Driver’s License Suspension, Revocation and Restoration

In recent years, state legislatures have considered repealing laws that suspend driver’s licenses, particularly for non-payment of fines and fees and other offenses that are not related to driving behavior. The American Association of Motor Vehicle Administrators notes that suspending driving privileges for non-highway safety-related reasons is not effective, can strain DMV budgets and detract from public safety priorities.

Non-driving offenses are violations that are not directly related to an individual’s driving behavior. These include parking violations, possessing or selling drugs, and non-payment of child support or fines and fees when the underlying offense is not a moving violation. The lack of a driver’s license can make it harder for individuals to meet their financial obligations when they are unable to drive to work. As a result, some states are reevaluating suspending driver’s licenses for unpaid fines and fees unrelated to driving to reduce disparities, increase transparency and enhance procedural justice while also improving community safety.
License Suspension and Revocation

License revocation is a termination of the privilege to drive. License suspension is a temporary withdrawal of the privilege to drive. Revocations and suspensions can be indefinite or for a defined period of time, and revocations can, in certain circumstances, be permanent. Restoration or reinstatement of the driving privilege generally refers to the process drivers must go through to have their driving privilege restored. Such a process can only be initiated after certain conditions have been satisfied.

▪ LICENSE SUSPENSION FOR DRIVING OFFENSES

Two states—Iowa and West Virginia—enacted legislation to establish alternatives or provide for more control when it comes to driver’s license suspension for driving offenses.

West Virginia (SB 130) revised procedures for driver’s license suspensions and revocations of persons charged with DUI and DUID. Previously, the DOT’s Office of Administrative Hearings would decide whether individuals charged but not convicted were subject to a driver’s license suspension. The new law now leaves that decision to the courts who must decide on a case-by-case basis during the criminal trial.

Iowa (SB 457) amended its law to require persons who violated traffic rules related to driving behavior when meeting a school bus, such as not reducing the vehicle’s speed when approaching a school bus with flashing warning lights or completely stopping when the school bus stop signal arm is extended, to complete a driver improvement program instead of having their driver’s license suspended.

▪ LICENSE SUSPENSION FOR NON-DRIVING OFFENSES

Four states—Illinois, Indiana, Oklahoma and Virginia—no longer authorize or require driver’s license suspension for certain non-driving offenses, including illegal use or possession of drugs. Georgia, on the contrary, passed legislation to authorize or require suspension or revocation of driving privileges for certain non-driving offenses. Ohio authorized persons convicted of driving without appropriate insurance to file a petition for restricted driving privileges.

Illinois’ License to Work Act (SB 1786) repealed provisions permitting driver’s license suspensions for some truant minors. In addition, the new law prohibits the suspension or revocation of driving privileges without a preliminary hearing for certain persons, including persons with mental disabilities or diseases. Driver’s license suspensions for certain non-driving-related criminal activities are still possible, but stricter conditions must be met, such as exercising “actual physical control” over a vehicle while committing the offense. Persons who had their driver’s license suspended under circumstances that are no longer cause for suspension under the new law can have their driving privilege reinstated.

Indiana (HB 1157) repealed a provision authorizing courts to suspend the driver’s license of persons convicted of dealing with drugs when a motor vehicle was used when committing the offense.

Federal law (23 CFR 192) requires states to suspend or revoke the driver’s license of anyone convicted of a violation of the Controlled Substance Act or any drug offense. States can lose federal highway money if they are not in compliance. However, states can opt out by submitting a certified statement from the governor or a resolution passed by the state legislature.

Virginia became the latest state to do so, amending its law to delete provisions that allowed driver’s license suspensions for persons convicted of drug offenses in 2020. Currently, 44 states and Washington, D.C., have opted out of the federal requirement. Six states—Alabama, Arkansas, Florida, Michigan, New Jersey and Texas—still suspend driver’s licenses for drug offenses unrelated to driving.
Oklahoma (HB 1276) deleted language allowing the courts to revoke or suspend the driver’s license of a person who fails to pay child support or to submit to genetic testing to determine paternity.

Virginia (SB 513/ HB 909) deleted provisions that allowed driver’s license suspensions for persons convicted of drug offenses and for shoplifting gas.

Georgia (HB 823) enacted legislation requiring the revocation of the CDL of persons convicted of sexual or labor trafficking. Additionally, the offender will also be disqualified from receiving a CDL for life. Additionally, the Department of Driver Services is now authorized (SB 375) to withhold issuance or suspend the driver’s license for 45 days of a person younger than 21 who violated tobacco and vapor products laws and failed to comply with imposed community service.

Ohio (HB 158) authorized courts to grant limited driving privileges to first offenders whose driver’s license was suspended because of failure to maintain appropriate motor vehicle insurance. Petitioners for restricted driving privileges must provide proof of insurance and enroll in a driver’s license reinstatement fee payment plan. The filing fee can be waived for persons who qualify as indigent.

### LICENSE SUSPENSION FOR FAILURE TO PAY FINES AND FEES

In a continued trend, several states enacted legislation regarding driver’s license suspension for failure to pay fines and fees, independently of whether the underlying violation was a moving or non-moving violation, with some exceptions. A moving violation is any violation of the law committed by the driver of a vehicle while it is in motion.

At least nine states—Hawaii, Illinois, Maine, Maryland, New York, North Carolina, Oregon, Virginia and West Virginia—repealed provisions authorizing driver’s license suspension for non-payment of fines and fees or amended their laws to allow for more lenient sanctions and additional payment options.

Hawaii (HB 2750) deleted all provisions that authorized restrictions on a person’s ability to obtain or renew a driver’s license because of unpaid civil fines. The new law will apply to citations issued on or after Nov. 1, 2020. Individuals who obtained citations before this date may petition the court to be able to obtain or renew their driver’s license. The prohibition does not apply to suspensions caused by excessive speeding, lack of motor vehicle insurance or non-compliance with a child support order.

Illinois’ License to Work Act (SB 1786) repealed provisions allowing license suspensions for failure to pay fees or civil penalties for most non-driving violations. Driver’s licenses are no longer suspended for failure to pay certain fines, such as parking or tollway tickets. Persons who had their driver’s license suspended under circumstances that are no longer cause for suspension under the new law can have their driving privilege reinstated.

Maine enacted a bill in 2018 that ended automatic suspension of driver’s licenses for failure to pay fines for nondriving-related offenses. Legislation enacted this year (HB 1397) made the change permanent. Previous law required restricted licenses for persons who failed to pay fines for nondriving-related fines. The new law removed this portion and now allows debtors to keep their full driving privileges.

Maryland (SB 234) restricted the ability of the Motor Vehicle Administration (MVA) to suspend driver’s licenses for non-payment of traffic fines and fees, including failure to make a payment for an installment plan made with a court. Instead of suspending the license, a court may refer the unpaid amount to the Central Collection Unit. The law also reduced the fine threshold to enter into an installment plan from $300 to $150 and allowed judges to determine the payment period at their discretion. The new provisions apply retroactively to any eligible active suspension. The Department of Legislative Services must study the feasibility of eliminating the minimum amount to enter into an installment plan and what additional changes can further minimize driver’s license suspension because of criminal justice-related debt.

New York (AB 7463) limited the grounds for driver’s license suspension. An individual’s driver’s license can no longer be suspended for a first failure to appear related to violations of certain traffic laws or for failure to pay fines imposed for such violations. Suspensions made under the previous law must be terminated, and all penalties and fees associated with the terminated suspensions will be waived.
Additionally, the law required the establishment of income-based payment plans at no charge for individuals who violated traffic laws and owe fines, fees and mandatory surcharges. Required monthly payments under the plans may not exceed 2% of the person’s monthly net income or $10, whichever is greater. Persons who were assessed a fine or fee must be provided with several forms of notice of the availability of a payment plan.

North Carolina (SB 488) authorized persons whose driver’s license was suspended because of failure to pay traffic-related fines and fees to petition the courts for a limited driving privilege. The limited privilege would be valid for up to one year and can be requested only once within three years.

Oregon (HB 4210) removed the authority of courts to impose regular and commercial driver’s license suspensions for failure to pay traffic-related fines or comply with alternative requirements ordered instead of fines starting on Oct. 1, 2020.

Virginia (SB 1/HB 1196) repealed driver’s license suspensions for persons who fail or refuse to pay fines and fees related to any violation. The DMV must reinstate driver’s license suspended for non-payment of fines and fees before July 1, 2019, without charging any reinstatement fees. Enacted legislation (SB 513/HB 909) also deleted provisions that allowed driver’s license suspensions for persons who failed to pay fees owed to correctional facilities.

West Virginia (HB 4958) eliminated driver’s license suspension for failure to pay court fines and fees. The new law also requires court clerks to set up payment plans for individuals who sign an affidavit stating that they are unable to pay. Courts are authorized to review the reasonableness of the payment plan and waive or convert outstanding costs to community service. Persons whose driver’s license was suspended before July 1, 2020, for non-payment of fines and fees can have their license reinstated if they establish a payment plan.

**REINSTATEMENT OF DRIVING PRIVILEGES**

Three states—Georgia, Indiana and Ohio—enacted legislation that permits or facilitates reinstatement of driving privileges under certain circumstances.

Georgia (HB 799) repealed a provision prohibiting persons convicted of driving under the influence of drugs from obtaining early reinstatement or a limited driving permit.

Indiana (SB 39) authorized judges to determine the period for which they will grant restricted driving privileges to persons whose driver’s license was suspended and set periodic review hearings to assess the situation. Previously courts were bound by statutory time limitations.

Ohio (HB 285) established a permanent Driver’s License Reinstatement Fee Debt Reduction and Amnesty Program, expanding the 2019 pilot program. Eligible persons can benefit once from a reduced reinstatement fee or receive a complete waiver based on their participation in specified government aid programs. Eligible offenses include traffic and non-traffic-related violations but do not include offenses that involve alcohol, drugs or weapons. Included traffic-related offenses are, for example, failure to pay specific traffic-related fines, operating a vehicle without proof of insurance, repeat traffic offender, reckless operation of a motor vehicle, use of a cellphone by a minor and failure to stop for a school bus. Rather than requiring the person to apply for the program, the director of public safety must identify eligible participants and send an automatic notification informing them of their enrollment in the program. Persons not automatically identified may apply. Additionally, the director must establish a toll-free number providing information about the program.

**MISCELLANEOUS DRIVER’S LICENSE SUSPENSION BILLS**

Virginia (SB 711) eliminated the mandatory minimum term of confinement in jail of 10 days for a third or subsequent conviction of driving on a suspended license.

Wyoming (HB 12) eliminated the imprisonment penalty for persons who willfully failed to return their driver’s license or registration after suspension but maintained the maximum monetary penalty of $750.
Speeding and Speed Limits

In 2019, 9,478 deaths, or 26%, of all motor vehicle fatalities occurred in speed-related crashes according to NHTSA and total speeding-related fatalities decreased by 6% (9,378 in 2018 compared to 9,947 in 2018). NHTSA considers a crash to be speeding-related if the driver was charged with a speeding-related offense or if a police officer indicated that racing, driving too fast or exceeding the posted speed limit contributed to the crash. Speeding has continued to be implicated in more than 26% of annual crash deaths every year since 2009, according to NHTSA.

According to the Insurance Institute for Highway Safety (IIHS), younger drivers are more likely to be involved in speeding-related crashes compared to older age groups. According to NHTSA, in 2019 nearly one-third (31%) of male drivers in the 15- to 20-year-old age group involved in fatal crashes were speeding at the time of the crashes, compared to 17% for the female drivers in the same age group.

AAA’s 2019 Traffic Safety Culture Index reported that 55.1% of drivers considered speeding on freeways over 15 mph to be dangerous and 63.6% considered speeding over 10 mph on residential streets to be dangerous. While 80.7% disapproved of freeway speeding over 15 mph and 87.3% disapproved of residential speeding over 10 mph, almost half of drivers reported exceeding freeway speed limits by 15 mph and 41.5% reported exceeding residential speed limits by 10 mph within the past month.

A 2019 IIHS study explored the effects higher speed limits had on traffic fatalities between 1993 and 2017. The study found that raising maximum speed limits by 5 mph increased fatality rates by 8.5% on interstate highways and 2.8% on other roads. IIHS concluded that almost 37,000 traffic fatalities could have been avoided had speed limits not increased over the 25-year study period.

Since Congress repealed the 55 mph national maximum speed limit in 1995, every state has responded by setting its own speed limits. Twenty-two states set maximum speed limits at 70 mph, 11 states at 75 mph on certain highway segments and eight states at 65 mph, according to IIHS; Hawaii’s maximum speed limit is 60 mph and the District of Columbia’s maximum speed limit is 55 mph. Further, eight states set maximum speed limits at or above 80 mph. Texas has the fastest speed limit in the country at 85 mph along a 41-mile section of State Highway 130 between San Antonio and Austin.
STATE LEGISLATION

In 2020, at least nine states—Colorado, Indiana, Iowa, Maryland, Mississippi, South Dakota, Tennessee, Vermont and Virginia—enacted legislation related to lowering speed limits, move over laws, raising speed limits and miscellaneous speeding laws.

Lowering Speed Limits

A few miles per hour can be the difference between life and death, especially for vulnerable users such as pedestrians or bicyclists. A study published by AAA in 2011 examined vehicle speeds when they crashed into pedestrians and found that 10% of pedestrians died when hit by vehicles traveling at 23 mph. But that figure increased to 25% if the car was going 32 mph, 50% at 42 mph, 75% at 50 mph. And, at 58 mph, 90% of pedestrians died.

The National Association of City Transportation Officials published a report in 2020 that aims to help local officials strategically set maximum speed limits on urban streets by applying a three-method approach. Specifically, setting default speed limits on multiple streets at once, designating slow zones and setting context-appropriate speed limits using conflict density and activity levels.

The National Committee on Uniform Traffic Control Devices (NCUTCD) and NTSB have both recently recommended changes to the factors that are considered as part of an engineering study when setting a speed limit in accordance with the Manual on Uniform Traffic Control Device (MUTCD) provisions. MUTCD is the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to public travel. The NCUTCD recommended traffic and transportation engineers add consideration of pedestrian and bicycle activity as a factor to be considered in the MUTCD when setting the speed limits for urban and suburban streets.

This recommendation came on the heels of a 2017 National Transportation Safety Board report that recommended the MUTCD be revised to “remove the guidance that speed limits in speed zones should be within 5 mph of the 85th percentile speed.” The 85th percentile rule typically sets the speed limit at the speed 85% of motorists are not exceeding in a corridor. Further, a 2020 report by the University of California Institute of Transportation Studies concluded there was a “lack of empirical justification for continuing to use the 85th percentile rule.” After two decades, an upward trend known as “speed creep” amounted to 10 to 15 mph even when the speed laws and road remained the same. The 11th edition of the MUTCD is open for public comment until May 14, 2021.

The Twin Cities of St. Paul and Minneapolis, Minn., took advantage of a law passed in 2019 to lower its speed limits on certain roads by 10 mph to 20 mph on most city-owned residential streets. However, the new 20 mph speed limit will not apply to all roads. For example, in St. Paul, speed limits on arterial and collector streets were lowered by 5 mph to 25 mph and speed limits throughout downtowns in the Twin Cities will also have speed limits lowered by 5 mph to 25 mph.

In 2020, two states, Maryland and Tennessee, revised their structures to give localities more leeway to set lower speed limits.

Maryland (HB 1060) permitted Calvert County to lower maximum speed limits to 15 mph on certain highways in the Solomons Island area without performing an engineering and traffic investigation. Maryland also (HB 1493) allowed localities within Worcester County to temporarily reduce speed limits in special event zones that are permitted by a locality or will have 1,000 people in attendance. Tennessee (SB 1561) allowed localities within Sumner County to set special speed limits in school zones.

“Move Over” Laws

Colorado (HB 1145) required the State Patrol and state DOT to create a campaign raising public awareness of the requirement to move over or slow down when approaching stationary emergency vehicles. Indiana (HB 1225) and South Dakota (SB 164) enhanced criminal penalties for violating their “Move Over” laws.
Vermont (SB 339) also amended its law by stating that drivers approaching emergency, towing or repair vehicles on multilane highways must change lanes or slow down to a reasonable, safe and prudent speed. Additionally, the state’s “Move Over” provisions were extended to work zones and civil penalties for speeding in school zones were doubled.

**Work Zone Fatalities Increase Amidst COVID-19**

Fewer miles driven is generally linked to a reduction in crashes and fatalities. According to the Federal Highway Administration, total miles traveled decreased 18.6% in March, nearly 40% in April and 25.5% in May. However, some states recorded an uptick in the number of work zone crashes and fatalities even as traffic volumes remain below pre-pandemic levels. Other states have recorded an increase in the number of citations issued to drivers for “excessive speeding” or going at least 20 mph above the posted speed limit. At least five states amended their “Move Over” laws in 2020 and two states enhanced penalties for speeding violations.

**Raising Speed Limits**

Colorado (HB 1178) allowed higher speed limits on rural highways and directed state DOT to prioritize raising speeds on roads connecting rural towns to cities, schools and other heavily traversed corridors if such increases will not endanger public safety. Mississippi (HB 1176) increased the maximum speed limit for school buses transporting students on interstate highways from 50 to 65 mph.

**Miscellaneous Speeding Laws**

South Dakota (SB 21) allowed variable speed limits in highway work areas and any segment of interstate highway based on traffic, weather or other road surface conditions.

Iowa (SB 457) enhanced penalties for speeding violations, including violations related to approaching stationary nonemergency vehicles. Virginia (HB 885) created an additional $100 fine for speeding in excess of 80 mph but below 86 mph on any highway with a 65 mph speed limit.
Aggressive Drivers

Running red lights, speeding, weaving through traffic or tailgating are all dangerous behaviors that exhibit aggressive driving. NHTSA defines aggressive driving as operating a motor vehicle “in a manner that endangers or is likely to endanger persons or property.” It notes that there are diverse reasons for aggressive driving, including increased traffic congestion and commuting distances, stressed drivers and disregard for others and the law. Data collected during the Covid-19 pandemic suggests that empty roads prompted some drivers to drive at excessive speeds. This, in turn, increased the risk of death and injury because of traffic crashes.

Many drivers seem to condone aggressive driving behaviors, in particular speeding. According to AAA’s 2019 Traffic Safety Culture Index, over 15% of respondents consider speeding 15 mph over the speed limit on freeways to be slightly dangerous or not dangerous at all. Nearly 20% reported that “people who were important to them would completely or somewhat approve of driving 15 mph over the speed limit on a freeway.” About a quarter of respondents admitted to having driven a few times 15 mph over the speed limit on a freeway and 10 mph over the speed limit in a residential street. In contrast, only about 13% said they had driven aggressively by switching lanes quickly and/or driven very close behind another car.

STATE LEGISLATION

Most states have some sort of reckless, negligent, careless or aggressive driving law. Over 20 states considered at least 52 bills related to aggressive driving in 2020. Two states—Maryland and Virginia—enacted legislation.

Maryland (SB 878/HB 1493) prohibited persons from engaging in “exhibition driving” within a special event zone in Worcester County. The new law defined “exhibition driving” as driving with a passenger on or in an area of a motor vehicle not designed for passenger transport. Driving in a manner that results in the vehicle’s wheels losing contact with the ground, excessive or abrupt acceleration and skidding, burning or smoking the vehicle’s tires are also included in the definition. A special event zone is an area along a highway marked by warning signs or traffic control devices indicating that a special event is in process. Violators are subject to a prison sentence of up to 60 days, a fine of up to $1,000 or both.

Virginia (SB 63) amended its reckless driving law to raise the speed above which a person is guilty of the offense from 80 mph to 85 mph regardless of the applicable maximum speed. The commonwealth (SB 437) also created the offense—a Class 1 misdemeanor—of driving in a “careless or distracted manner” and causing serious bodily injury to a vulnerable road user. The offense carries a fine of up to $2,500 and 12 months of jail time.

New York City’s Dangerous Vehicle Abatement Law

New York City (Intro 971) enacted the Dangerous Vehicle Abatement Law, requiring drivers who get five camera-issued red-light tickets or 15 camera-issued speeding tickets within any 12-month period to take a traffic safety course. If an owner fails to complete the course, their vehicle may be seized and impounded by NYC’s Sheriff. The new law took effect on Feb. 26, 2021 and applies to automated enforcement violations incurred after Oct. 26, 2020. The program will run for three years.
Automated Enforcement

Automated enforcement with red-light cameras and speed cameras allows state and local governments and law enforcement agencies to remotely capture images of drivers violating traffic laws. Red-light cameras link to traffic signals and monitor the green, yellow and red phases of traffic lights. After the light turns red, the camera takes a picture of a moving vehicle before the vehicle enters the intersection and again when the vehicle is in the intersection. Both photos must show the signal in the red phase before issuing a citation. Speed cameras use radar or lidar presence detectors embedded in the road to measure a vehicle’s speed. If a vehicle is traveling faster than the posted speed limit, the camera will record its speed and license plate, along with the date, time and location. A citation will be issued to the registered owner if the driver exceeded the speed limit, typically by more than 10 or 11 mph, according to IIHS.

According to the AAA Foundation for Traffic Safety, more than two people in the U.S. are killed each day by drivers running red lights, with 28% of crash deaths occurring at signalized intersections as a result of drivers running red lights. IIHS notes 846 fatalities were caused by red-light running crashes in 2018. NHTSA reported nearly 9,400 fatalities from speed-related crashes in 2018.

Studies evaluating the effectiveness of automated enforcement generally show a positive effect on traffic safety. A 2016 IIHS report concluded that removing red-light cameras from intersections costs lives. To reach this conclusion, researchers compared trends in annual fatal crashes in 14 cities that had ended their camera programs with those in 29 cities in the same regions that continued their programs. They found that in the 14 cities where cameras were removed, fatal red-light-running crashes had increased by 30% and by 16% at all signalized intersections. The study estimated 63 deaths could have been prevented if the cities had not ended their red-light camera programs.

Studies have also shown positive safety effects from speed cameras. IIHS conducted a study in 2007 of Montgomery County, Maryland, where speed cameras were implemented. The cameras were placed in school zones and on residential streets with speed limits of 35 mph or less. In the program’s first year, the study found the proportion of drivers traveling at least 10 mph over the speed limit had declined on streets with speed cameras. This reduced the likelihood of being involved in a fatal crash by 19%. IIHS concluded the likelihood of a driver exceeding the speed limit by more than 10 mph on roads with cameras decreased by 62% compared to similar roads without cameras.
While some municipalities continue to enhance automated enforcement programs, the recent trend has been toward fewer governments using red-light and speed camera programs. According to IIHS, 340 communities operate red-light cameras as of March 2021, compared to 430 communities in 2016. However, speed cameras, which are less prevalent than red-light cameras, saw a slight uptick in their use in recent years. As of March 2021, 157 communities operate speed cameras. The administration of automated enforcement programs can be controversial. One commonly cited reason for community opposition is that such programs are sometimes perceived as revenue-generating tools. To this end, the USDOT has created operational guidelines for both speed cameras and red-light cameras. Furthermore, a coalition of traffic safety groups developed a checklist for red-light camera programs that emphasizes transparency and implementation based on safety concerns.


There are some states which explicitly allow red-light cameras and/or speed cameras under state law, but currently do not have any communities using automated enforcement technologies. For example, Arkansas allows speed cameras in school zones and at railroad crossings, but speed cameras are not currently in use. In Nevada, both red-light cameras and speed cameras are permitted statewide, but state law requires that automated enforcement equipment be held by law enforcement officials or installed in law enforcement vehicles. In Utah, communities are not using speed cameras, even though the state allows them in school zones and areas with speed limits of 30 mph or less. Finally, Iowa allows red-light and speed cameras if such uses are approved via local ordinance.

Maine, Mississippi, New Hampshire, South Carolina, Texas and West Virginia prohibit both red-light and speed cameras. Montana and South Dakota prohibit red-light cameras, and New Jersey and Wisconsin do not allow speed cameras. In other instances, jurisdictions have challenged the constitutionality of automated enforcement laws. For example, Missouri’s Supreme Court issued two rulings in 2015 which found that red-light and speed cameras were unconstitutional. Currently, only the city of Hannibal, Mo., is able to employ red-light cameras; speed cameras are no longer used anywhere in the state.

STATE LEGISLATION

At least five states—Hawaii, Maryland, Ohio, Virginia and Washington—enacted notable laws in 2020 related to automated enforcement.

Three states established or expanded automated enforcement programs. Hawaii (HB 1676) authorized a red-light camera demonstration program for at least two years in the city and county of Honolulu. Beginning Jan. 1, 2021, red-light running violations may be issued via cameras. Third-party contractors may be used to install, operate and maintain photo red-light imaging systems. However, prior to mailing the citation, the county police department must review and verify the validity of the image of the license plate. The maximum fine is $200 for a first violation, $300 for a second violation and $500 for a third or subsequent violation within one year of the first violation. Any violations issued from a red-light camera shall not be used for insurance purposes or a driver’s official record. Additionally, fines collected from red-light camera violations are deposited into a special fund used to establish and operate red-light cameras.

Personal information made available to government employees, including third-party contractors, must be kept confidential. The fine for disclosing personal information without authorization is up to $500. The law also stated that a registered vehicle owner is liable for red-light camera violations. Further, signs must
be posted on major routes where red-light cameras are in use. Hawaii’s Department of Transportation, in consultation with Honolulu county, must annually submit a report to the legislature, including information on any statistically significant reduction in motor vehicle collisions, traffic infractions and other traffic-related incidents. The report must also include recommendations on how to improve the demonstration program and if it should be made permanent.

Virginia (HB 1442) authorized state and local law enforcement agencies to operate speed cameras in highway work zones and school crossing zones. A violation occurs when a motorist is captured by a speed camera driving at least 10 mph over the posted school crossing zone or highway work zone speed limit. A law-enforcement officer must review and affirm the violation. The maximum penalty may not exceed $100. Localities will receive revenues from violations they issue, and revenues from violations issued by the State Police will be deposited into the Literary Fund for low-interest loans for public schools. Speed camera violations will not be considered a conviction against the driver’s record nor used for insurance purposes unless a law enforcement officer uses a photo speed monitoring device and issues a summons at the time of the violation. Private vendors may provide speed cameras, along with support services including operations and administration. Signage indicating the use of speed cameras is required to be placed within 1,000 feet of any school crossing or highway work zones. Finally, state and local law enforcement agencies using speed cameras must annually report the number of successful prosecutions and the total amount of fines collected to the State Police. An annual report is also due to Virginia’s General Assembly by Feb. 15.

Washington (HB 1793) allowed a city with over 500,000 people (Seattle) to use traffic safety cameras to record violations for failure to stop at intersections, crosswalks and railroad grade crossings, driving in public transportation only lanes and traveling or stopping in restricted lanes. For intersection and crosswalk violations, the cameras may only be used at 20 intersections where the city is most likely to address safety concerns. Warnings were issued until Dec. 31, 2020, and infractions were issued beginning on Jan. 1, 2021. The maximum penalty for a violation is $75. Seattle is required to remit 50% of fine revenues in excess of the cost to install, operate and maintain automated traffic safety cameras to the Cooper Jones Active Transportation Safety Account for bicycle, pedestrian and non-motorist safety improvements. A preliminary report on the pilot program is due to the transportation committees of the legislature by June 30, 2022, followed by a final report by Jan. 1, 2023.

Maryland (HB 46/SB 177) granted the state’s Motor Vehicle Administration (MVA) new authority to suspend a vehicle’s registration for an unpaid penalty resulting from a speed camera violation. The maximum penalty may not exceed $40. Previously, MVA’s authority to suspend a vehicle’s registration only applied to unpaid red-light camera violations. Maryland’s other new law (SB 41) authorized vehicle height monitoring systems on highways in Baltimore County. However, a local ordinance must be passed, along with the formation of a workgroup and sign-off by the chief law enforcement officer.

Ohio (SB 163) required localities using traffic safety cameras to report the total amount of fines collected during the previous fiscal year. Further, the new law subtracts that amount from a community’s local government fund payments.
Motorcyclist Safety

According to NHTSA, in 2018 there were 4,985 motorcyclists killed in traffic crashes—a decrease of 5% from the 5,229 motorcyclists killed in 2017 and down from an all-time peak of 5,337 in 2016. In 2009, the average age of motorcycle riders killed in motor vehicle traffic crashes was 41, compared to 2018 when the average age was 43. Over the period from 2009 to 2018, fatalities among the 40-and-older age group increased by 11%, from 2,428 to 2,683.

Motorcycles made up 3% of all registered vehicles in the United States in 2018 and accounted for only 0.6% of all vehicle miles traveled. Per registered vehicle, the fatality rate for motorcyclists in 2018 was six times the fatality rate for passenger car occupants. Motorcyclist fatalities occurred nearly 27 times more frequently than passenger car occupant fatalities in traffic crashes, and motorcyclists were nearly four times more likely to be injured.

In 2018, motorcyclists accounted for 14% of all traffic fatalities and 17% of all occupant (driver and passenger) fatalities, according to NHTSA. Further, NHTSA data showed 22% of motorcycles involved in fatal crashes collided with fixed objects, compared to 16% for passenger cars, 13% for light trucks and 5% for large trucks. Of two-vehicle fatal crashes involving a motorcycle and another moving vehicle, 43% involved the other vehicle turning left while the motorcycle was heading straight, passing or overtaking other vehicles. Both vehicles were going straight in 546 crashes (21%).

When it comes to alcohol-impaired (BAC equal or greater than .08) driving fatalities, motorcyclists “were found to have the highest percentage of alcohol-impaired drivers than any other vehicle types: 25% for motorcyclists, 21% for passenger car drivers, 19% for light-truck drivers, and 3% for drivers of large trucks” according to NHTSA.

Additionally, 39% of the 1,793 motorcyclists who died in single-vehicle crashes in 2018 were alcohol-impaired, compared to 42% of the 1,912 motorcyclists who died in single-vehicle crashes in 2009. Nighttime and daytime motorcyclist deaths also vary significantly; motorcyclists killed in traffic crashes at night were almost three times more frequently found to be alcohol-impaired than those killed during the day (39% and 14%, respectively).

STATE LEGISLATION

In 2020, at least six states—Colorado, Michigan, Ohio, Virginia, Washington and Wisconsin—enacted legislation on motorcycle licensing and education, motorcycle operation and autocycles.

Motorcycle Licensing and Education

Colorado (HB 1285) extended its motorcycle operator safety training program by five years until Sept. 1, 2025. The new law also modified the Motorcycle Safety Advisory Board by requiring two members to be appointed who represent instructor training specialists. Michigan (HB 6192) extended the expiration period for motorcycle temporary instruction permits that expired on or after March 1, 2020, until Dec. 11, 2020. Previously, the law provided that such permits were valid until Sept. 30, 2020.
Motorcycle Operation

Ohio (HB 129) permitted motorcyclists to wear earphones or earplugs to protect their hearing while operating a motorcycle. Virginia (HB 445) prohibited the lighting on a motorcycle or autocycle from projecting a beam of light at an intensity greater than 314.25 lumens from a single lamp. The law previously only applied such restrictions to candlepower.

Washington (SB 6565) outlined permissible methods for motorcycle parking. Under the new law, motorcycles can park parallel or at an angle toward the edge of a highway with at least one wheel within 12 inches of the curb or shoulder nearest to the parked motorcycle. Localities may adopt ordinances that would prohibit angle stopping or motorcycle parking if signage is posted providing notice of the prohibition. However, on federal-aid or state highways, the state Department of Transportation must determine the facility is wide enough to permit angle parking in a manner which does not interfere with free flowing traffic.

Autocycles

Wisconsin (SB 768) exempted autocycles from emissions testing requirements. A law (SB 86) approved in 2019 removed autocycles from the definition of “motorcycles,” which are statutorily exempted from emissions testing. The new law restored that exemption for autocycles.

Motorcycle Helmet Laws

NHTSA estimates helmets saved the lives of 1,872 motorcyclists in 2017. If all motorcyclists had worn helmets, 749 more lives could have been saved according to NHTSA projections.

No states enacted helmet legislation in 2020. In 1975, helmets were mandatory for all riders in 47 states and in Washington, D.C., partly because federal highway funding was tied to having such laws. But Congress removed that requirement in 1976 and repealed financial incentives offered to states by 1995. In response, since 1995, Arkansas, Florida, Kentucky, Louisiana, Michigan, Missouri, Pennsylvania and Texas have relaxed or repealed mandatory helmet laws.

Currently, 18 states, the District of Columbia, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands require all riders to wear helmets. The “known” helmet use percentages in fatal crashes for those 18 states ranged from 62% in West Virginia to 97% in Louisiana. Another 29 states require helmet use for certain groups, typically those under age 21 or age 18.

The laws in Florida, Michigan and Texas exempt riders over age 21 who carry a certain amount of insurance, pass a safety course, or both. In Missouri, motorcyclists over age 26 are exempt from helmet requirements if they are covered by a health insurance policy that provides medical benefits for injuries resulting from operating or riding on a motorcycle.

Three states—Illinois, Iowa and New Hampshire—do not have helmet requirements. Louisiana weakened its motorcycle helmet use law in 1999 but reenacted it in 2004. It is the only state to do so.

The “known” helmet use in fatal crashes ranged from 19% in Indiana to 58% in Michigan for the 32 states without a universal motorcycle helmet requirement, according to NHTSA.
School Bus Safety

On a typical school day, around 480,000 school buses in the country transport 26 million children to school, according to the American School Bus Council (council). The council also notes, “Students are about 70 times more likely to get to school safely if they take the school bus instead of traveling by car.”

While school buses are statistically the safest way to transport school children, 66 passengers and 55 drivers died while riding in school buses between 2009 and 2018, according to NHTSA. A total of 249 school-age children (18 and younger) died in school-transportation-related crashes during that period, either as occupants of school buses or other vehicles, or on foot or bike. A total of 1,207 people of all ages died in school-transportation-related crashes between 2009 and 2018.

In important news which could significantly impact school bus driver safety and oversight in the near future, the Federal Motor Carrier Safety Administration’s (FMCSA) Drug & Alcohol Clearinghouse (clearinghouse) is now operational. The clearinghouse is a centralized database employers and entities such as school districts and student transportation providers will use to report drug and alcohol program violations. School transportation providers will also be able to query whether school bus driver applicants have violations disqualifying them from driving. State driver licensing agencies will be required to use the clearinghouse beginning in 2023.

STATE LEGISLATION


School Bus Safety Laws

- Allows Stop-Arm Cameras
- Requires Seat Belts on Large School Buses
- Both laws in place
- None

Source: NCSL, 2020
Illegally Passing School Buses and Stop-Arm Cameras

Instances of motorists illegally passing a stopped school bus are more commonplace than one might imagine. The National Association of State Directors of Pupil Transportation Services annual stop-arm violation survey was cancelled due to the COVID-19 pandemic. However, school bus drivers from 39 states participated in the 2019 survey, and recorded over 95,000 drivers illegally passing a school bus in a single day.

In response to this traffic safety danger, 23 states—Alabama, Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Maine, Maryland, Mississippi, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, Washington, West Virginia and Wyoming—explicitly allow local governments or school districts to use cameras to capture images and issue tickets for drivers who illegally pass stopped school buses. Some, but not all states, require a law enforcement officer to review the video evidence before issuing a citation.

Delaware became the 23rd state to authorize their use, allowing (HB 202) the Red Clay School District to create a pilot program utilizing external camera systems on their school buses to catch motorists illegally passing school buses. The stated purpose of the bill will help determine if deploying a school bus safety camera system statewide would be worthwhile. The district may contract with a private vendor to provide the cameras, as well as install, operate and maintain the camera systems.

School buses with such cameras must include messages on the front and back of the school bus stating “Violation for Passing When Red Lights Flashing.” The district must make at least one public service announcement annually warning the public the school bus safety camera system is being used and that there is a minimum $100 fine for illegally overtaking and passing a school bus with such a system. The fine increases to $500 for each subsequent offense within 10 years of the prior offense. Fine revenue may be used to reimburse any private vendors operating the system and cover additional costs related to the administration of the program, as well as other transportation safety related costs.

An authorized employee of the Red Clay district must review the photographs and other evidence and affirm the violation occurred. A violation of this provision is a civil penalty, not a criminal offense, and will not be made a part of the driver’s operating record nor used for motor vehicle insurance purposes.

The Pennsylvania General Assembly enacted a bill (HB 364) making several changes to the operation of stop-arm cameras. The bill clarifies a violation captured by a stop-arm camera is not a criminal conviction; nor part of the operating record of the driver; nor the subject of merit rating for insurance purposes or to authorize imposition of surcharge points for motor vehicle insurance coverage. The bill also added language to ensure photographs or recorded video images produced by the system will not identify the driver, passengers or the contents of the vehicle. A school district may enter into an intergovernmental agreement with the primary police department to issue violations using an automated side stop signal arm enforcement system. The police department must review submitted evidence from the vendor’s camera system to determine if there is sufficient evidence a violation occurred. If the district does not have a primary police department within its jurisdiction, the district may petition the State Police for review of the evidence package from the automated side stop signal arm enforcement system.

The bill also authorized school vehicles to be equipped with a yellow flashing or revolving light, which must only be activated when the vehicle is preparing to stop or is stopped to load and unload students.

Lastly, Pennsylvania increased its fine for illegally passing a school bus from $285 to $300 and changed the distribution of the fine revenue: $250 goes to the “school district where the violation occurred, which shall be utilized for the installation or maintenance of side stop signal arm enforcement systems on school buses;” $25 is now directed to the police department that reviewed the evidence; and $25 is allocated to the School Bus Safety Grant Program Account, down from the $35 previously in law.

Florida and Utah also increased their fines for failing to stop for a school bus in 2020. In Florida, the bill (HB 37) raised fines from $100 to $200, and if a school bus is passed on the side children enter and exit, the
fine was increased from $200 to $400. Additionally, the bill increased the minimum and maximum license suspension period for a second or subsequent offense within a period of five years to not less than 360 days, rather than 180 days, and no more than two years, rather than one year.

Utah (HB 84) raised fines for a first offense from $100 to $250 along with 10 hours of compensatory service; $500, rather than $200, for a second offense, along with 20 hours of compensatory service for a second offense within three years of a previous conviction or bail forfeiture; and $1,000, rather than $500, for a third offense, along with 40 hours of compensatory service for a third or subsequent offense within three years.

Virginia previously allowed the use of stop-arm cameras and passed legislation in 2020 (HB 1427) adding further detail to their law. The new law stipulated such systems shall produce a recorded image of the license plate and denote the time, date and location of the vehicle when the image is recorded. The bill also allows a private vendor contracting with a school division to collect an additional administrative fee to recover the expenses of a penalty that remains due more than 30 days after the date of the mailing of the summons and notice. The administrative fee may not exceed $100 per violation. If paid no later than 60 days after the date of the mailing of the summons and notice, the administrative fee cannot exceed $25.

School Bus Equipment

Utah enacted legislation (HB 143) adding further requirements for annual school bus inspections. In addition to the required annual safety inspection, the Highway Patrol must also perform random safety inspections annually on a minimum of 20% of the school buses operated by an education entity. When an inspection leads to a certain out-of-service failure rate, to be determined by the state, the Highway Patrol must inspect 100% of the school buses operated by that education entity. The process must verify that defects discovered during an inspection were corrected and make publicly available the results of inspections performed.

Bicyclist and Pedestrian Safety

According to NHTSA, 6,283 pedestrians were killed in traffic crashes in 2018. This represents a 3.4% increase from 6,075 pedestrian fatalities in 2017, the highest number of pedestrian traffic deaths since 1990. Almost one-fifth of pedestrian fatalities involved hit-and-run drivers. Pedestrian deaths accounted for 17% of all traffic deaths in 2018.

The latest statistics from NHTSA show there were 857 bicyclist deaths in 2018, an increase of 6.3% from 2017. Bicyclists made up 2.3% of all traffic fatalities in 2018. As with pedestrian fatalities, the number of bicyclist traffic deaths was the highest since 1990. Notably, 20% of bicyclists that died were found to have BAC levels above .08, while drivers involved in fatal crashes involving a bicyclist had a BAC of .08 or higher in 15% of crashes.
Overall, according to NHTSA, pedestrians and bicyclists comprised around 20% of all traffic fatalities in 2019, a significant jump from 15% of fatalities in 2010.

At the federal level, the U.S. Department of Transportation (USDOT) announced a new Pedestrian Safety Action Plan to promote the expanded use of countermeasures, technology and data-driven practices to address pedestrian fatalities and injuries.

The AAA Foundation for Traffic Safety released a report in January 2021 analyzing what factors may have played a role in the 53% increase in pedestrian traffic deaths between 2009 and 2018. The report points to several dynamics that appear to negatively influence pedestrian safety, including:

- Analysis of data from 1977 to 2016 found a long-term increase in pedestrian fatalities on roads with speed limits above 35 mph. Furthermore, over two-thirds of the increase in pedestrian fatalities in years 2009 to 2018 occurred on roads with speed limits of 40 mph or higher.
- “Over half of the entire increase in pedestrian fatalities occurred at non-intersection locations on urban non-freeway arterials, the majority of which involved pedestrians crossing at these locations. More research is needed to understand the factors associated with the apparent increase in the number of pedestrians killed while crossing urban arterials at non-intersection locations without crosswalks, and to identify appropriate countermeasures to reduce the incidence of crashes and deaths in this prominent scenario.” AAA highlights countermeasures that may improve pedestrian safety on urban arterials, including road diets (lane reductions), median crossing islands, pedestrian hybrid beacons, and automated speed enforcement.

STATE LEGISLATION

Legislatures enacted a small number of bills concerning bicyclist and pedestrian safety in 2020. The volume of bills pales in comparison to recent legislative sessions, likely due to the COVID-19 pandemic shortening legislative sessions.

Bicyclist Safety

Washington enacted legislation (SB 6208) allowing a bicyclist approaching a stop sign to treat it as a yield sign unless approaching a school bus stop sign or a railroad crossing. Arkansas, Colorado, Delaware, Idaho and Oregon all have similar laws that allow bicyclists to treat a stop sign as a yield sign in certain specified situations.

Colorado (SB 61) added language defining a bicycle lane and clarifying a motorist must yield the right-of-way to a bicyclist or other authorized user of a bicycle lane.

Puerto Rico (SB 991) authorized individuals or corporations to sponsor bicycle lane projects. Proposals need to include information regarding the route of the lane, general design and construction, cost-benefit analysis and an estimate of the necessary financial investment. Sponsorship agreements can last up to 10 years and can be renewed for an additional 10 years. Sponsors will need to come up with alternative means to finance the project and are prohibited from charging any fees for the use of the lanes. However, sponsors can claim the investment made as a donation for tax purposes and are authorized to place sponsorship posters on the bike lane.

A bicycle safety policy with significant state legislative activity over the last decade is “3 feet for safety” bicycle passing laws. These laws seek to ensure that, when passing bicycles, motor vehicles allow adequate space to avoid sideswiping bicyclists or causing a bicyclist to overcorrect to avoid a vehicle. As of February 2021, 33 states and the District of Columbia have enacted passing laws that require the motorist to leave at least 3 feet or more when passing a bicyclist. While no states created a new 3-foot requirement in 2020, Maryland (HB 230/SB 199) did authorize motorists to pass in a no-passing zone and safely overtake a bicyclist while leaving 3 feet of space.
Electric Bicycles

Legislatures continued to debate and enact laws in 2020 defining electric bicycles, commonly known as e-bikes, and the rules for their operation. Six states—Florida (SB 971), Louisiana (HB 514), New York (SB 7508) South Carolina (HB 3174), Virginia (HB 543) and West Virginia (SB 660)—enacted e-bike bills in 2020.

Florida, Louisiana, New York, Virginia and West Virginia were the latest states to establish or use aspects of the “three-tiered” e-bike classification system. The tiered classification system is designed to differentiate between e-bike models with varying top assisted speeds and power activation capabilities (i.e., the e-bike must be pedaled to activate the motor). For example, Florida’s new three-tiered definition (SB 971) largely mirrors the language adopted by other three-tier states:

- **Class 1:** An electric bicycle equipped with a motor that assists only when the rider is pedaling and that ceases to assist when the electric bicycle reaches the speed of 20 mph.
- **Class 2:** An electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to assist when the electric bicycle reaches the speed of 20 mph.
- **Class 3:** An electric bicycle equipped with a motor that assists only when the rider is pedaling and that ceases to provide assist when the electric bicycle reaches the speed of 28 mph.

New York used the traditional definition for “class 1” and “class 2” e-bikes but handled “class 3” e-bikes differently. First off, “class 3” e-bikes can only be operated in New York City and may be powered solely by the throttle and motor up to 25 mph. This differs from most state’s definitions of “class 3” e-bikes, which typically require the bike’s motor to be activated by pedaling, with a top assisted speed of 28 mph. The goal of this legislation was to legalize the higher speed throttle bicycle relied on by delivery drivers in New York City.

West Virginia enacted a two-tiered classification with only “class 1” and “class 3” e-bikes defined.

South Carolina was the only state to enact e-bike legislation in 2020 that did not use aspects of the “three-tiered” e-bike classification system. The state’s new law defined “electric-assist bicycles” and “bicycles with helper motors” to mean low-speed electrically assisted bicycles with two or three wheels, with fully operable pedals and an electric motor of no more than 750 watts, or one horsepower. The bike’s top motor-powered speed must be less than 20 mph when operated by a rider weighing 170 pounds on a paved level surface. The electric bicycle’s motor must cease to function when the brakes are applied or when the rider stops pedaling.
E-bikes are afforded the same rights and responsibilities as other bicycles in the Florida, Louisiana, New York, South Carolina, Virginia and West Virginia laws.

The laws in Florida, Virginia and West Virginia explicitly state that e-bike owners are not required to hold a driver’s license, vehicle registration or other responsibilities associated with drivers of registered vehicles. Louisiana’s law appears to waive these requirements as well by excluding electric bicycles from the definition of “motor vehicles” that are subject to these requirements.

Similarly, Florida, Louisiana, South Carolina, Virginia and West Virginia’s new laws clarify an e-bike is not a moped, motorcycle or motorized scooter.

Florida, Louisiana, New York and Virginia’s laws include language requiring a label to be affixed to every e-bike with the classification number, top assisted speed and motor wattage of the electric bicycle. In Florida, Louisiana and Virginia, a person may not tamper with an e-bike to change its motor-powered speed capability or engagement, unless the label is replaced after such modification. South Carolina’s law also requires e-bike manufacturers and distributors to apply a label on each e-bike indicating its wattage and maximum electrically assisted speed and must update the label if a user modifies an e-bike to change the speed capability.

Louisiana, Virginia and West Virginia require a “class 3” e-bike to be equipped with a speedometer.

**Restrictions on How and Where E-Bikes May Operate**

Florida’s law allows local governments to further regulate e-bikes within their jurisdictions, including the ability to restrict or prohibit e-bike operation on a bicycle path, multiuse path or trail network.

Louisiana and Virginia allow a locality or state agency, following notice and a public hearing, to prohibit the operation of “class 1” or “class 2” e-bikes on a shared-use path, and may prohibit the operation of “class 3” e-bikes on such path without a public hearing. Local governments and state agencies may regulate e-bike operation on natural surface trails.
New York allows local governments to further regulate the time, place and manner in which e-bikes are operated. This includes potentially restricting maximum speeds and requiring the use of protective headgear, as well as prohibiting their operation entirely in a community or in specified areas, provided adequate signage is posted outside the boundaries of such prohibited areas. State agencies and local governments may designate any public lands under its jurisdiction, other than highways when there is a greenway running adjacent to the highway, as open for travel by e-bikes upon written request for such designation by any person and may impose restrictions for such operation. Furthermore, e-bikes may only be operated on highways with a posted speed limit of 30 mph or less. New York’s law also includes maximum operating speeds; a “class 1” or “class 2” e-bike may not be operated in excess of 20 mph, while a “class 3” e-bike may not operate in excess of 25 mph.

In West Virginia, the bill allows “class 1” e-bikes to be operated anywhere traditional bicycles are allowed. “Class 3” e-bikes may not be operated on a bicycle path and multiuse and single-use trails unless it is within a highway or roadway or the local government or state agency with jurisdiction of the trail authorizes the operation of “class 3” e-bikes on such paths and trails.

West Virginia’s law includes language stating a person may not operate a “class 1” or “class 3” electric bicycle under the influence of alcohol or controlled substances. New York’s law states no person shall operate an e-bike while the person’s ability is impaired by the consumption of drugs and/or alcohol. New York also requires every e-bike operator involved in a crash to, at the request of a police officer, submit a breath test.

### HELMET REQUIREMENTS

Louisiana, New York and Virginia’s new laws require all “class 3” e-bike operators and passengers to wear a helmet. In Louisiana, the $50 fine will be waived if the e-bike operator provides proof of purchasing an approved helmet. New York also allows the fine to be waived if the person was unable to purchase a helmet due to economic hardship.

Furthermore, previously existing bike helmet laws in Florida, New York, Louisiana and West Virginia required young riders of differing ages to wear helmets while operating any bike, whether an e-bike or traditional bike. In Florida, bike operators under age 16 must wear a helmet, age 15 for riders in West Virginia, age 14 for riders in New York and age 12 in Louisiana.

### AGE RESTRICTIONS

Louisiana disallowed a person under the age of 12 from operating a “class 3” e-bike, but a person under age 12 may ride as a passenger if the e-bike is designed to accommodate passengers. New York prohibits anyone under age 16 from operating an e-bike. West Virginia requires a “class 3” e-bike operator to be at least 16 years old. Furthermore, passengers on a “class 3” e-bike must be at least 15, provided the bike has an attachment designed to transport an additional passenger and the operator of the electric bicycle is 18 years old or older.

**Pedestrian Safety**

The amount of pedestrian-related legislation was also light in 2020, with only Maryland and Virginia enacting notable bills.

Maryland (HB 194/SB 285) required a person that obtains a highway work permit from the State Highway Administration for a project within one mile of certain prescribed rail and bus transit stations to maintain a safe alternative pedestrian path at the worksite. The bill also requires the state to adopt related regulations and compile an inventory of best practices for the maintenance of pedestrian access in areas where construction work is performed in state highway rights-of-way. In addition, access to bike lanes or prescribed alternatives must be made available.

Virginia (HB 5058) decriminalized the practice known informally as “jaywalking” in the 2020 session. The new law dictates that law-enforcement officers may not stop a pedestrian for a violation of the pedestrian crossing laws.
Electric Scooters

According to the National Association of City Transportation Officials (NACTO), around 86 million trips were taken by shared electric scooters in 2019, the year with the most recent data available. For comparison, 38.5 million e-scooter rides were taken using shared-scooter systems in the U.S. in 2018. The average trip length for a shared scooter ride was one mile in 2019, providing an important transportation option as the National Household Travel Survey notes 35% of all U.S. car trips are under two miles.

In response to the increasing number of electric scooters across the United States, lawmakers in 19 states enacted legislation defining electric scooters (e-scooters) and establishing operating requirements in 2019. However, only New York and Mississippi adopted new substantial e-scooter legislation in 2020.

New York’s new e-scooter law (AB 9508) was enacted in 2020 after a 2019 bill (SB 5294) was vetoed by Governor Andrew Cuomo over safety concerns. The bill addressed several elements that were asked for in the governor’s veto message. For example, the governor suggested a lower maximum operating speed limit than the 20 mph prescribed in the 2019 bill; the signed bill prohibits operating an e-scooter in excess of 15 mph. Furthermore, e-scooters may not operate on highways with a posted speed limit of 30 mph or higher or sidewalks without the approval of the local government. The veto message also asked for mandatory front and rear lights on e-scooters, which are now required, as well as a bell.

The bill defines an electric scooter as, “Every device weighing less than 100 pounds that (a) has handlebars, a floorboard or a seat that can be stood or sat upon by the operator, and an electric motor, (b) can be powered by the electric motor and/or human power, and (c) has a maximum speed of no more than 20 mph on a paved level surface when powered solely by the electric motor.”

The bill also clarifies an e-scooter is not a motor vehicle, and that an e-scooter operator shares the same duties and rights as a bicyclist. E-scooter operators must be 16 years or older, and passengers are not allowed on e-scooters. Helmets are required for e-scooter operators ages 16 and 17. The new law also prohibits a person from operating an e-scooter while impaired by the consumption of drugs or alcohol.

Local governments may further regulate the operation of electric scooters, including requiring the use of helmets, and restricting or prohibiting their use in specified areas or an entire community, provided adequate signage is visibly posted outside the boundaries of such prohibited areas. The law also allows the operation of a shared electric scooter system if approved by a locality.

Mississippi enacted two bills allowing the cities of Jackson (SB 3036) and Vicksburg (SB 2921) to authorize and establish rules for the operation of electric scooters in their communities. Both of the new laws define a “motor-assisted scooter” to mean a “self-propelled device, other than a pocket bike or mini-motorbike, weighing less than 100 pounds, which has handlebars, at least two wheels in contact with the ground during operation, a braking system capable of stopping the device under typical operating conditions, and a floorboard that can be stood upon while riding, and which is solely powered by a gas or electric motor not exceeding 40 cubic centimeters but may also be propelled by human power alone, and whose maximum speed on a paved level surface is no greater than 20 mph.”

Jackson and Vicksburg may both pass ordinances authorizing the operation of motor-assisted scooters within their city limits. Scooter operators are afforded all the rights and duties of a bicyclist, unless otherwise specified. The cities may authorize operation on a marked bicycle path or lane, any street where bicycles may be permitted and a sidewalk, if the person operating the device yields the right-of-way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.

A person must be at least 16 1/2 years old to operate a motor-assisted scooter, but a driver’s license is not required. No person shall operate a motor-assisted scooter at a speed greater than 15 mph. The laws are both repealed after July 1, 2024.