Traffic Safety Trends
State Legislative Action 2019
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Traffic Safety Trends: State Legislative Action 2019

BY SAMANTHA BLOCH, DOUGLAS SHINKLE, SHELLY OREN 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 2019, state legislatures introduced over 2,400 traffic safety bills related to the 15 topic areas covered in this report.

Topic areas examined in this report include:

- Adult occupant protection.
- Child passenger safety.
- Alcohol-impaired driving.
- 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.
- 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

According to the National Highway Traffic Safety Administration (NHTSA), more than 36,000 lives were lost on U.S. roads in 2018 due to motor vehicle crashes. The Centers for Disease Control and Prevention’s (CDC) Leading Causes of Death Reports show that in 2018, motor vehicle crashes were the leading cause of death among those ages 5 to 24 and the second-leading cause among 25- to 44-year-olds.

NHTSA's data shows that, among passenger vehicle occupants killed in 2018 where it was known whether they were wearing a seat belt, 47%—9,778 people—were unrestrained. NHTSA also estimates that 87% of passenger vehicle occupants who survived fatal crashes in 2018 were restrained, while 13% were unrestrained. In 2017, seat belts in passenger vehicles saved an estimated 14,955 lives—of occupants age 5 and older—and prevented thousands of injuries. An additional 2,549 lives could have been saved in 2017 if all unrestrained passengers involved in fatal crashes had worn their seat belts, according to NHTSA.

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.

Seat belt use rates vary widely between states. In 2019, they ranged from 70.7% in New Hampshire to 97.1% in Hawaii. While nationally the rate of adults using seat belts in the front seat during the day increased from 81.7% to 90.7% from 2005 to 2019, making progress has been a challenge for lawmakers, enforcement officials and traffic safety advocates in the past few years. The last significant jump in daytime belt use occurred between 2015 and 2016, and the national adult seat belt use rate has been fluctuating since. AAA's 2018 Traffic Safety Culture Index shows that while drivers completely (74%) or somewhat (17.9%) disapproved of driving without wearing a seat belt, nearly 17% reported having driven without buckling up in the last month. Over 8% of drivers somewhat or completely approved of driving without wearing a seat belt, the highest proportion being drivers ages 19 to 24.

NHTSA's latest data shows that 39% of belted rear-seat occupants died in fatal crashes, in contrast to 50% of unbelted rear-seat occupants in 2017—restraint use for the remaining 10% of occupants killed is unknown. However, progress has been particularly lacking regarding rear-seat belt use. Rear-seat belt use among occupants 8 years and older increased from 69.7% in 2009 to 76.1% in 2018, the most recent year for which data is available. The number of occupants who buckle up in the back seat, however, continues to be significantly lower than front-seat belt users. Additionally, 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.

An area that has seen improvement is seat belt use among rural motor vehicle occupants. While there used to be a difference in seat belt use between urban and rural areas, 2019 data shows that urban vehicle occupants (90.8%) and rural occupants (90.4%) are wearing seat belts at the same rate. In 2015, only 86.8% of occupants in rural areas were buckling up, compared to 89.4% in urban areas.

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.
Each state determines its own seat belt laws. Research affirms that seat belt laws significantly increase seat belt use and that primary enforcement laws are more effective in inducing people to buckle up than secondary enforcement laws. In 2019, 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. The effect of seat belt laws on rear-seat occupants is also noteworthy. In 2018, 81% of occupants in back seats used belts in states with seat belt laws for all seating positions, while only 68.7% of occupants in rear seats used belts in states with front-seat-only belt laws.

State adult seat belt laws can be grouped into six categories:

- **Primary enforcement laws for all occupants:** 19 states—Alaska, California, Delaware, Hawaii, Illinois, Indiana, Kentucky, Louisiana, Maine, Minnesota, Mississippi, New Mexico, 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.
- **Secondary laws for all occupants:** Six states—Idaho, Massachusetts, Montana, Nevada, Vermont and Wyoming.
- **Primary front-seat-only belt laws:** 10 states—Arkansas, Connecticut, Florida, Georgia, Iowa, Michigan, New York, 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.**
STATE LEGISLATION

During the 2019 legislative session, 29 states considered bills related to seat belts. Four states enacted legislation concerning seat belt requirements.

Alabama (SB 254) amended its seat belt statute in 2019 to require that each occupant of a passenger car wear a seat belt, including previously excluded back-seat occupants. Alabama’s law already required front-seat occupants to wear a seat belt as a primary obligation. Now, failure to wear a seat belt in the rear seat is a secondary offense.

Louisiana (HB 181) amended its seat belt laws to include trucks that weigh 26,000 pounds or less. Previously the laws included only trucks with a gross weight of 10,000 pounds or less. Under the new laws, the driver and all passengers of such trucks must be properly buckled up. Drivers are not allowed to transport more persons than there are safety belts available in the vehicle. Maine (SB 389), on the contrary, enacted legislation to exempt passengers 18 and older from wearing a seat belt if the number of passengers exceeds the vehicle’s seating capacity and all the seat belts are in use.

Washington (HB 1901/SB 5827) exempted drivers or passengers of commercial motor vehicles from wearing a seat belt if they have a written certification from a licensed physician stating they are unable to wear a seat belt for physical or medical reasons.

Child Passenger Safety

Of the 23,551 passenger vehicle occupant fatalities in 2017, 794 were children (defined as age 14 and younger), according to the latest NHTSA data. Based on known restrain use, 267 (37%) were unrestrained. This means that on average, three children were killed every day in traffic crashes in the United States.

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 through at least age 12. NHTSA estimates that car seats and booster seats reduce fatal injury by 71% in passenger cars for infants under age 1 and by 54% for toddlers ages 1 to 4. Approximately 325 lives were saved in 2017 by restraint use among children younger than 5. NHTSA estimates that the lives of 11,274 children under age 5 were saved by child restraints (child safety seats or adult seat belts) in passenger vehicles from 1975 to 2016.
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 2019, 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. In the 2017 National Survey of the Use of Booster Seats (NSUBS), NHTSA found that proper restraint use for this age group was 68.5%, an increase from 62.4% in 2015. However, the remaining 31.4% were not being properly restrained, 20.8% were restrained by seat belts only, and 10.6% were unrestrained.

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.

According to the 2017 survey, premature transition to inappropriate restraint types continued in 2017. However, between 2015 and 2017, the percentage of children placed in an appropriate form of child restraint increased significantly in all categories. While 7.6% of children ages 1 to 3 were prematurely transitioned to booster seats in 2017, that number decreased from 13.6% in 2015. At the same time, rear-facing car seat use increased significantly among that age cohort, from 9.4% to 13.7%. Additionally, booster seat use among children 4 to 5 years old decreased significantly from 2015 to 2017. Forward-facing car seat use among those children increased over 15 percentage points during the same period.

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 use of adult safety belts to restrain children.

Louisiana (SB 76) and Washington (HB 1012) now require children to be restrained in a rear-facing car seat until they reach 2 years of age or the weight or height limit set by the manufacturer. Maine (SP 389) has the same requirement for children younger than 2 who do not exceed the weight limit in a convertible car seat, or children 2 years and older but weighing less than 55 pounds. Previously, Louisiana’s law only required children younger than 1 to be restrained in a rear-facing car seat. Maine and Washington’s laws did not previously have provisions regarding rear-facing car seats.

Louisiana (SB 76), Maine (SP 389) and Washington (HB 1012) now require children younger than 4 who have not reached the weight or height limits set by the manufacturer to be restrained in a forward-facing car seat with an internal harness. Previously, Louisiana required a forward-facing car seat for children 1 through 3 and had no internal harness requirement. Maine and Washington did not previously have laws regarding forward-facing car seats.

Louisiana (SB 76) now requires children older than 4 who have outgrown the forward-facing weight or height requirements to be restrained in a belt-positioning booster seat. A child who is at least 9 years old or has outgrown the height or weight limits of a booster seat must be restrained with an adult seat belt. Children younger than 13 must be transported in the rear seat when such a seat is available. Previously, booster seats were required in Louisiana for children ages 4 and 5 or whose weight was between 40 and 60 pounds. Children ages 6 and older or who weighed over 60 pounds were allowed to use adult seat belts and could sit in the front of a vehicle.

Maine’s (SP 389) new law requires a belt-positioning booster seat for children younger than 8 who weigh less than 80 pounds and measure less than 57 inches in height. Washington (HB 1012) now requires children under 4 feet, 9 inches tall to be restrained in a booster seat unless the seating position has only a lap belt available. Once the height limit is reached, children do not have to use a booster seat but must be properly secured with the vehicle’s seat belt. However, the new law points to the AAP recommendations and states that children over 4 feet, 9 inches tall may continue to be restrained in a booster seat until the lap and shoulder belts fit properly, which typically occurs when children are between 8 and 12 years old.

Additionally, Virginia (HB 1662/SB 1677) enacted legislation exempting emergency medical services, fire department and law enforcement vehicles from child restraint laws requirements.

**Alcohol and Drug-Impaired Driving**

In 2018, 10,511 people were killed in alcohol-impaired traffic crashes, a 3.6% decrease from 2017, according to NHTSA’s 2018 Alcohol-Impaired Driving Traffic Safety Facts. As in 2017, these alcohol-impaired driving fatalities comprised 29% of all traffic fatalities. The total number includes 6,364 drivers (61%) who had a blood alcohol concentration (BAC) of 0.08 or higher, while the remainder were 2,969 motor vehicle occupants (28%) and 1,178 nonoccupants (11%)—such as pedestrians and bicyclists.

NHTSA data shows that in the last 10 years, alcohol-impaired driving fatalities have declined by 2%. Additionally, the national rate of alcohol-impaired driving fatalities in motor vehicle crashes went from 0.36 per 100 million vehicle miles traveled (VMT) in 2009 to 0.33 in 2018, an 8% decline. However, no significant downward trend has emerged in the last decade and further sustained progress has been challenging to achieve.

Accounting for roughly one-third of all traffic fatalities, impaired driving remains a complex and persistent traffic safety and public health issue for states. An average of one alcohol-impaired driving fatality occurred every 50 minutes in 2018. Alcohol-impaired deaths included 1,038 children 14 and younger, representing 22% of traffic fatalities among children. The annual cost of alcohol-impaired crashes, including alcohol-impaired drivers, bicyclists and pedestrians, is estimated at more than $44 billion.
To better understand public opinions and behaviors regarding traffic safety, AAA publishes an annual Traffic Safety Culture Index. The 2018 index reveals that 95.1% of drivers perceive driving after drinking as very dangerous or extremely dangerous. Among surveyed participants, 10.9% reported driving after believing they had drunk enough to be over the legal limit. As in previous years, respondents ages 25 to 39 made up the highest proportion—16.7%—of those who drove after thinking their alcohol level may be above the legal limit. According to NHTSA data, individuals in the 21- to 24-year-old age group had the highest percentage (27%) of drivers with BACs of .08 or higher in fatal crashes, closely followed by the 25 to 34 age group (25%).

According to AAA’s report, about 67% of participants think it is somewhat or very likely that a driver who has a BAC over the legal limit will be caught by law enforcement. Drivers ages 19 to 24 have the highest proportion of perceived risk, and this proportion decreases as age increases. A report by the FBI states that in 2016, over 1 million drivers were arrested for DUI of alcohol or narcotics. The CDC notes that this is, on average, around 1% of the self-reported episodes of alcohol-impaired driving among U.S. adults each year.

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

The Federal Motor Carrier Safety Administration (FMCSA) released its Drug and Alcohol Clearinghouse on Jan. 6, 2020. This database, mandated by Congress in 2012, will give 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. According to NHTSA data, while the percentage of alcohol-impaired drivers in fatal crashes was the lowest for drivers of large trucks (3%) in 2018, this was the only category to experience an increase (1%) in fatal crashes compared to data from 2009. Additionally, there has been increased scrutiny of impaired driving among school bus drivers who require CDLs (see page 43 for further information).
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 will also have to report drug and alcohol program violations that occurred on or after Jan. 6, 2020. According to a recent **FMCSA rule**, 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. **FMCSA reported** that between Jan. 6 and Feb. 21, 2020, the clearinghouse had identified nearly 8,000 positive tests for substance abuse violations by commercial drivers.

In 2019, **Maryland** became the second state, 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 that would use small programmable sensors built inside vehicle panels to measure the BAC in a driver’s breath. Drivers whose BAC is above the set limit will be unable to move the vehicle. The **Insurance Institute for Highway Safety (IIHS)** notes that the technology has the potential to save approximately 7,000 lives if it can limit driver BACs to no more than 0.08—the legal limit in all 50 states except Utah, where it is 0.05. Introduced federal legislation (**SB 2604**) aims to provide additional funding for research and road testing of such passive detection systems and (**HR 4354**) would require all new motor vehicles to be equipped with this technology.

Driving under the influence of drugs (DUID) appears to be a factor in a steadily increasing number of impaired-driving crashes. NHTSA’s **2013-2014 National Roadside Survey** reveals a decreasing trend in alcohol use by drivers between 1973 and 2013-2014. On the contrary, the percentage of weekend nighttime drivers who tested positive for the presence of marijuana rose from 8.6% in 2007 to 12.6% in 2014. While in 2013-2014, 8.3% of weekend nighttime drivers tested positive for alcohol (a BAC of more than .005) and 1.5% had a BAC of .08 or higher, 22.5% had a positive drug oral fluid and/or drug blood test. The study points out that the presence of drugs does not necessarily imply impairment. However, according to NHTSA, 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.

AAA’s **2018 Traffic Safety Culture Index** reveals that most respondents consider driving shortly after using marijuana (70%) and driving after using potentially impairing prescription drugs (87.3%) to be very or extremely dangerous. Over 81% of surveyed participants support laws making it illegal to drive with a
certain amount of marijuana in the driver’s system. However, a CDC report notes that in 2018, 12 million U.S. residents reported driving under the influence of marijuana, and 2.3 million reported driving under the influence of illicit drugs other than marijuana during the past 12 months. As with alcohol, driving with drugs in one’s system, which does not necessarily constitute impairment, was more prevalent among males ages 21 to 25. Those ages 16 to 20 had the second-highest prevalence.

Increased prevalence of marijuana-impaired driving has been observed in states that legalized the drug. Currently, 11 states—Alaska, California, Colorado, Illinois, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont and Washington—and the District of Columbia have legalized marijuana for adult recreational use. New research from the AAA Foundation for Traffic Safety concluded that the number of drivers in Washington who test positive for marijuana after a fatal crash has doubled—from about 9% to about 18%—since the state legalized it in 2012. However, the authors pointed out that the study found only a correlation between legalization and an increased number of drivers involved in fatal crashes who tested positive, not a causative link. In Colorado, where recreational marijuana was also legalized in 2012, the number of fatalities in crashes in which drivers tested positive for THC—the component that gives cannabis its psychological effects and causes impairment—rose from 18 in 2013 to 77 in 2016. A study of the Highway Loss Data Institute (HLDI) found a 6% increase in collision claims in some states after they legalized recreational marijuana, compared with neighboring states where recreational use was illegal.

To combat drug-impaired driving, some states have chosen to enact “per se” laws, which make it illegal to drive with specific amounts of certain drugs. While alcohol-impaired per se laws are based on evidence that all drivers are impaired at a BAC of .08, currently, there is no scientific basis to reliably equate specific drug concentration levels with levels of impairment or effects on driver performance. The effectiveness of per se laws for drugs in reducing drug-related fatalities is unclear. According to a study, law enforcement officers and prosecutors generally agreed that per se laws did not facilitate enforcement but did have a positive effect on prosecutions. Six states—Illinois, Montana, Nevada, Ohio, Pennsylvania and Washington—have specific per se limits for THC (ranging between 1 nanogram and 5 nanograms). Colorado’s reasonable inference law assumes drivers are under the influence when THC is identified in their blood in quantities of 5 nanograms per milliliter or higher.

Other states decided to enact zero-tolerance laws, which make it illegal to drive with any measurable amount of specified drugs in the body. Eleven states—Arizona, Delaware, Georgia, Indiana, Iowa, Michigan, Oklahoma, Rhode Island, South Dakota, Utah and Wisconsin—have zero-tolerance laws for certain drugs, including THC. For more information, see NCSL’s resource on marijuana-impaired driving laws.

As previously mentioned, traffic safety practitioners have experienced challenges achieving sustained progress in reducing impaired driving. Research suggests that persistence in the high rate of impaired-driving fatalities can be linked to the failure to identify and appropriately treat high-risk impaired drivers. The Governors Highway Safety Association’s (GHSA) 2019 report, “High-Risk Impaired Drivers: Combating a Critical Threat,” defines high-risk impaired drivers as drivers meeting one or more of three criteria:

- They drive with a BAC of .15 or higher.
- They have consumed a combination of drugs or drugs and alcohol (polysubstance users).
- They are repeat offenders (i.e., have more than one DUI arrest).

NHTSA’s 2018 fact sheet shows that among all the 2018 alcohol-impaired driving fatalities, 67% (7,051) were in crashes involving at least one driver with a BAC of .15 or higher. NHTSA data also reveals that a significant percentage of drivers (37%) tested positive for polydrug use in 2017, slightly lower than the percentage of drivers who tested positive for cannabis only (38%). According to GHSA’s report, repeat offenders cause approximately a third of impaired driving deaths each year. The report notes that many high-risk offenders not only have a substance use disorder, but also a mental health problem, and calls for a holistic approach that focuses on the individual and the need to treat the underlying problem that prompts the behavior. It also provides examples of promising approaches, including, among others, DUI treatment courts, data-sharing and electronic-warrant systems.
Unlike for alcohol, no standardized drug-testing technology exists. Testing methods include oral fluid, blood, urine and hair. However, for marijuana, these tests do not determine whether the drug was ingested recently, and roadside tests have to be conducted by drug recognition experts to prove impairment. Currently, 23 states have statutes authorizing some form of oral fluid testing in DUI or DUID cases. They are Alabama, Arizona, Arkansas, Colorado, Delaware, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Mississippi, Missouri, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Utah and Wyoming. The majority of these states do not have active oral fluid testing programs established. Alabama initially conducted a pilot program and later transitioned to a permanent oral fluid toxicology program using oral fluid testing devices in both screening and evidentiary capacity. Michigan (Public Act 242 and 243 of 2016) gave authority to state police to develop an oral fluid pilot program. The initial pilot was conducted in five counties and used drug recognition experts to administer the oral fluid test. Unlike previous programs (like the three-year pilot program in Colorado that was started in March of 2015), this program was not voluntary as drivers were not given the option of opting out from providing a sample. Refusal to submit to an oral fluid test was considered a civil infraction. The program was extended for one year until Sept. 30, 2020, and is now conducted statewide.

Some companies are developing marijuana breathalyzers that are expected to hit the market in 2020. However, many questions persist. While studies show that marijuana impairs cognitive function, psychomotor skills and lane tracking, there is no established limit that can be reliably equated with a certain level of impairment. Additionally, data on drug-impaired driving is incomplete and inconsistent. NHTSA points out that drug testing and reporting across states and jurisdictions is not uniform, but that collecting this data is critical to understanding the scope of the problem and calculating better crash risk estimates.

In 2018, NHTSA launched its Drug-Impaired Driving Initiative. Under this initiative, an expert working group contributed to a Drug-Impaired Driving Criminal Justice Evaluation Tool to help state, local, territorial and tribal governments self-assess gaps and strengthen their drug-impaired driving programs and track their progress over time. The tool’s comprehensive scope addresses various aspects involved in preventing drug-impaired driving and includes a section regarding legislation. Since it was launched, the Loveland, Colo., Police Department and the Maryland State Highway Administration have piloted the tool. Additionally, in February 2020, NHTSA published it in the Federal Register and requested comments from other practitioners about improvements and refinements that could add value to the tool. The most recent version of the tool will continue to be available at www.nhtsa.gov/DUIDtool.

STATE LEGISLATION

Lawmakers in all 50 states considered over 500 bills related to impaired driving in 2019. Approximately 140 bills were enacted by 49 states. Laws addressed ignition interlock installation requirements and compliance, ignition interlock indigent programs, restricted driving privileges, sealing and expungement of records, implied consent and testing laws, penalties, reporting and data collection, among other topics.

Ignition Interlock Installation Requirements

Ignition interlock devices (IIDs) are installed in motor vehicles to prevent the car from being operated if a set level of alcohol, usually a BAC of .02 or .025, 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. Colorado, Kentucky and Maine’s laws 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, offender’s recidivism rates increased. But a CDC study of a Florida policy mandating alcohol use disorder treatment for DUI offenders using interlocks found otherwise. Among offenders who accumulated three interlock violations—defined as two occasions within four hours in which the device prevented the driver from starting the vehicle—there was a 32% decrease in recidivism after the device was removed.

AAA’s 2018 Traffic Safety Culture Index shows that over 81% of drivers supported laws mandating the installation of IIDs for all DUI offenders, including first-time offenders. Recently, it was pointed out by the New York Times that IIDs, and more specifically rolling retesting requirements while the vehicle is moving, can potentially distract drivers and cause crashes.

At least eight states—Kentucky, Louisiana, Nevada, New Hampshire, New Jersey, Oklahoma, Texas and Utah—enacted legislation regarding ignition interlock installation requirements in 2019. Kentucky and New Jersey passed legislation to require or strongly encourage all DUI offenders, including first-time offenders, to install IIDs.

Kentucky (SB 85) amended its IID laws to strongly encourage all DUI offenders to install an IID device; previously, the law included only offenders committing a second or subsequent violation. The law mandates that the license plates of the offender’s vehicle be suspended unless he or she installs such a device. Similarly, New Jersey (SB 824) amended its law to require all DUI offenders to install an IID. Previously, only recidivists and offenders with a high BAC were required to do so. The new law eliminated the mandatory three-month license suspension for some offenders. Offenders with a BAC between .08 and .1 will have their driving privilege suspended until they install an IID. For drivers with a BAC over .1, the license suspension period and how long they must use IIDs varies depending on their BAC level and whether they refused to submit to a test.

Louisiana (HB 278) amended its impaired driving laws to allow individuals convicted of a DUI and whose driving privileges are suspended or restricted to install an IID and request an ignition interlock license. These individuals can receive credit toward suspension time if they don’t violate more than one of the IID compliance requirements, including tampering with the device or failing to pass a test, for one month. Oklahoma (SB 712) decreased suspension periods for first- and second-time impaired offenders and increased the period for third-time offenders. However, the new law established the Impaired Driver Accountability Program, under which offenders may request their driver’s license suspension period be modified if they install an IID for as long as the initial suspension would have lasted. Offenders must request to enroll in the program within 30 days of their initial notice of license revocation and pay a $200 administrative fee.

New Hampshire previously required an IID for one year following the restoration of full driving privileges but amended its laws (SB 212) to also require the device for the duration of the limited driving privilege period.

In Nevada (SB 408), courts can no longer excuse a convicted individual from installing an IID if it would cause an economic hardship or the driver needs a motor vehicle to travel to and from work, or to obtain basic needs. Texas (HB 3582) modified its provisions to require those charged with a DUI and granted community service under deferred adjudication—a form of probation that postpones determination of guilt—to install an IID. The judge may waive this requirement if he or she determines that “based on a controlled substance and alcohol evaluation of the defendant ... an ignition interlock is not necessary for the safety of the community.” Defendants with commercial driver’s licenses, a BAC of over 0.15, or who otherwise qualify for enhanced penalties, are not eligible to receive such a waiver.

Utah (SB 131) amended its IID law to exempt individuals whose offense did not involve alcohol but other impairing substances. Individuals already required to install an IID and whose conviction does not involve alcohol may petition the Driver’s License Division to remove the requirement.

**Ignition Interlock Compliance Laws**

Several states have ignition interlock laws that include compliance-based removal provisions. Three states—Kentucky, New Jersey and Oklahoma—amended their laws while Oregon added certain requirements regarding IID technicians.
Currently, 21 states require IIDs to be equipped with a camera. They are Arizona, Colorado, Florida, Hawaii, Illinois, Idaho, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Oregon, South Dakota, Tennessee, Texas, Vermont, Virginia and Washington. The camera helps ensure the person using the interlock is the driver. Missouri and Vermont have GPS and camera requirements for some offenders. Although Colorado has no requirement in statute, the Division of Motor Vehicle’s (DMV) contracts with ignition interlock vendors require all devices to have cameras.

Idaho (HB 78) amended its ignition interlock law in 2019 to require all interlocks to be camera-equipped. Kentucky (SB 85) and Maryland (SB 245/ HB 55) altered their statutory definition of ignition interlock device to require that it be equipped with a camera capable of recording the images of the person providing the breath samples. Kentucky’s new law also mandates that the camera record the date and time when the sample is provided. Maryland’s enacted legislation specifies that the camera should not be recording images except during the testing periods or when the device is being tampered with.
Ignition Interlock Indigent Programs

Indigent IID programs reduce the cost of the devices for participating offenders who qualify for financial assistance. As IID programs have expanded, states are faced with opposition over the financial burden they place on low-income offenders. IID installations are associated with administrative costs as well as the cost of purchasing the device. To alleviate this cost barrier and allow low-income offenders to continue using their vehicles, states have established indigent programs to aid in the widespread implementation of IID programs. Two states—Kentucky and Texas—amended their ignition interlock indigent programs in 2019.

Kentucky (SB 85) reenacted its IID indigent program provision. Individuals can now benefit from discounted fees of up to 75%, depending on how their income is assessed in relation to the federal poverty guidelines.

Texas’ (HB 3582) new deferred adjudication community provisions for DUI defendants allow the judge to waive the IID installation fee and reduce the monthly device monitoring fee by 50% when indigency is proven. However, fees assessed for failed tests may not be discounted.

Restricted Driving Privileges

Laws in some states provide for restricted driver’s licenses for DUI offenders as an 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. Three states—Oregon, Nebraska and Virginia—modified their laws regarding restricted driving privileges of DUI offenders.

Virginia (HB 1664) amended its laws to allow a DUI offender convicted in another state whose driving privileges have been revoked to submit a petition for restricted driving privileges. The court may accept the petition if it determines “there are compelling circumstances warranting an exception.”

Nebraska (LB 269) expanded the permissible destinations for restricted “school permits” to include not only school buildings but other property used by the school for courses, extracurricular or school-related activities, and other school events. Oregon (HB 3214) also modified the allowable uses of a motor vehicle for hardship driver permit holders to include the provision of “necessary services” to the permit holder or a member of his family. The new law instructs the Department of Transportation to determine by rule what constitutes “necessary services” and allows it to go beyond basic necessities.

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. In 2019, two states—North Dakota and Vermont—expanded the number of crimes that can be sealed and included some DUI offenses under certain conditions. It is also possible for people to have certain offenses removed from their criminal record entirely. This process is known as expungement. Four states—Delaware, Mississippi, Utah and West Virginia—reformed their expungement regime but explicitly excluded all or certain DUI offenses.

North Dakota (HB 1334) amended its laws related to sealing criminal records to include certain DUI offenses if the requestor has not committed a subsequent violation of the impaired driving laws or any other criminal offense within seven years of the first violation. This new section does not apply to offenders who hold a commercial driver’s license. Vermont (HB 460) also included certain DUI convictions among crimes that are eligible for a petition to seal. Offenders can submit a petition if at least 10 years have elapsed since they successfully completed the terms of the sentence and have not been convicted of any crime during that period. The new law excludes DUI violations while operating a school bus or commercial vehicle, violations that resulted in death or serious injury, and current commercial vehicle driver’s license holders.

Delaware (SB 37), Utah (HB 431) and West Virginia (SB 152 and SB 2002) passed legislation to add offenses that are eligible for expungement but explicitly excluded all DUI offenses. Mississippi (HB 1352) excluded only third, fourth or subsequent DUI offenses.
Implied Consent and 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.

Georgia (HB 471) amended its implied consent law to require an arresting officer to read a specific implied consent notice included in the statute to an individual when requesting that he or she submit to a test. The notice points out that the privilege to drive conditions an individual to submit to certain tests and refusal will result in a driver’s license suspension for a minimum of one year.

Illinois (HB 1438) allows law enforcement to use “validated roadside chemical tests” and includes such tests in its implied consent laws. The new law also states that the General Assembly finds such tests to be effective means to determine whether a person is under the influence of cannabis and declares the results of validated roadside chemical tests admissible in civil and criminal proceedings. Oklahoma (SB 712) modified its testing statute to allow a law enforcement agency to designate which test or tests—breath, blood, urine or saliva—should be used by arresting officers.

Vermont’s new administration of tests statute (HB 529) explicitly prohibits a trained law enforcement officer acting in his official capacity to withdraw blood. It also expands the list of those who may withdraw blood to include medical technicians and paramedics, and limits the fees a medical facility or other business may charge for blood withdrawal to $75. Kentucky (S 85) clarifies that those asked to take an alcohol test have the right to have the test performed by a medical provider of their choosing within a reasonable time after their arrest and at their expense.

Arkansas (HB 1411) amended its mandatory blood alcohol testing statute to include not only crashes when death resulted or may reasonably result, but also when there is serious physical injury. Kentucky (S 85) amended its law to provide that a BAC level of 0.04, previously 0.05, constitutes a presumption that the individual charged was not under the influence of alcohol.

Tennessee (SB 1342) broadened the scope of its implied consent law to make it applicable to blood tests, previously not included, for determining alcohol impairment, drug impairment or both. The bill also changed the penalty for refusing to take a blood or breath test. Instead of being charged with a misdemeanor, individuals are now subject to a driver’s license suspension and may have to install an IID, depending on their previous criminal history.

Three states—Kansas, North Dakota and South Dakota—amended their laws to include testing of saliva, oral fluids or other bodily substances. South Dakota (SB 12) amended its commercial driving implied consent law to include the refusal of blood or other bodily substance tests as an act that would lead to disqualification for at least one year. Similarly, North Dakota (HB 1534) modified its implied consent law to include the testing of saliva. Kansas (HB 2104) changed “saliva” to “oral fluid” in its testing and implied consent statutes. Kansas’ (HB 2104) amended breath, saliva, blood and urine testing statutes now include a one-year driver’s license suspension for individuals who refuse to complete such a test, instead of the previous fine of $105.

Penalties

Five states—Hawaii, Indiana, Maryland, Texas and Virginia—enhanced penalties for driving under the influence of alcohol and/or drugs. New Mexico passed legislation establishing a new crime for DUI with a minor in the vehicle and Maryland increased existing penalties for such instances. According to AAA’s Traffic Safety Culture Index, over 76% of responders support laws preventing the transport of a minor by a driver who has consumed any alcohol. New Jersey amended its law to allow for more lenient penalties for DUI-related offenses.
Hawaii (HB 703) increased the penalties that can be assessed against individuals driving under the influence. The bill expanded the period in which previous offenses have to be considered from five to 10 years and broadened the definition of habitual offender. It now includes individuals who had already been convicted two or more times instead of three or more times. Minimum fines were raised from $150 to $250 for first-time offenders and from $500 to $1,000 for second-time offenders. Second-time offenders are also subject to a maximum fine of $3,000, instead of the previous $1,500 maximum. A new minimum fine of $2,000 and maximum fine of $5,000 were established for habitual offenders. New mandatory driver’s license suspension periods are two to three years (previously 18 months to two years) for second-time offenders and three to five years (previously one to five years) for habitual offenders.

Indiana (SB 186) increased the felony level for driving under the influence or intoxicated and for causing death or catastrophic injury while driving under the influence or intoxicated. Virginia (HB 1941) created a class 6 felony for DUI offenders who unintentionally cause serious bodily injury. The law also increased, from a class 6 felony to a class 4 felony, the punishment for DUI offenders who unintentionally cause serious bodily injury resulting in permanent and significant physical impairment.

Maryland (HB 707) increased the maximum penalties for recidivists who are convicted of DUI and DUI per se offenses. Individuals with two or more prior convictions are subject to five years imprisonment, a $5,000 fine or both. Those with three or more prior convictions or who were previously convicted of committing homicide or life-threatening injury by motor vehicle are subject to 10 years imprisonment, a $10,000 fine or both. The law also increased the maximum prison term for committing homicide by motor vehicle while impaired by alcohol or drugs from three to five years for a first offense.

Texas (HB 2048) established additional fines for certain intoxicated driving offenses. The new law requires first offenders to pay $3,000. Drivers convicted of a second or subsequent offense within 36 months are required to pay $4,500. Offenders with a BAC of 0.15 or more are fined $6,000. The new law requires the court to waive these additional fines for defendants who are found to be indigent. However, Texas (HB 3582) modified its laws to allow judges to grant deferred adjudication for certain first-time DUI offenses that were previously excluded. Offenders who held a commercial driver’s license or commercial learner’s permit, had a BAC of 0.15 or are charged with an aggravated offense, continue to be ineligible.

New Mexico (HB 517) established the misdemeanor crime of driving while intoxicated with a child younger than 13 in the vehicle. A person violating this statute will be charged and punished separately from his or her DUI offense. Maryland (HB 707) increased prison terms for drivers convicted of transporting a minor while impaired by alcohol, drugs or a combination of both from six months to one year for a first offense, and from one year to two years for a second offense.

New Jersey (SB 824) eliminated enhanced penalties for offenses occurring on or near a school property or crossing.

**Reporting and Data Collection**

Reporting and data collection are critical to understanding the scope of the impaired driving problem. However, as NHTSA points out, reporting across states and jurisdictions is not uniform, especially regarding drug-impaired driving. Three states—California, Illinois and Maine—passed legislation aimed at improving data collection and reporting of DUID offenses. New Jersey enacted a bill related to collection and reporting of IID data.

California (AB 397) amended its law regarding reporting of DUI offenses by the superior courts to the Department of Justice to require the report to specifically state that a conviction was due to cannabis when it was the sole intoxicating drug. Similarly, Maine (HB 469) required the Department of Public Safety to maintain separate categories in its uniform crime reporting for offenses involving DUI of alcohol, DUI of intoxicating substances other than alcohol and DUI of a combination of both.

Illinois (HB 1438) required state police to annually produce a comprehensive report on the impact of cannabis on traffic safety. The new law also created a DUI Cannabis Task Force charged with examining best practices in enforcing DUI of cannabis laws, including emerging roadside testing technologies.
New Jersey (SB 824) required the Motor Vehicle Commission to semiannually produce a report on offenders required to install an IID. The report must include information on the total number of offenders, whether the offenders qualify for reduced fees, the average length of time offenders have an IID requirement, and the number of offenders who remove the IID because they are unable to afford it.

**24/7 Sobriety 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 that requires using treatment programs and sobriety monitoring 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. One of these programs is called a “24/7 sobriety monitoring program.”

24/7 sobriety monitoring programs 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. Nevada enacted a statewide 24/7 sobriety and drug monitoring program and Iowa, Montana, North Dakota and Wyoming amended their 24/7 sobriety monitoring programs in 2019.

Nevada (AB 316) enacted a statewide 24/7 sobriety and drug monitoring program in 2019 that is open to local governments. Once a local government elects to participate, it has to designate a law enforcement agency to enforce the program. The new law authorized a court to order a DUI or DUID offender who reoffends within seven years to participate in the program for a period determined by the court. Participants must abstain from alcohol and drugs and submit to minimum requirements that include testing twice a day and random testing twice a week. Additionally, participants are subject to sanctions for missed or failed tests. Participants whose driver’s license was suspended or revoked can obtain a restricted license that allows them to drive to and from a testing location, work, court appearances, counseling and other regularly scheduled medical care.

In Iowa, courts may require DUI offenders who committed eligible offenses to participate in the state’s 24/7 sobriety and drug monitoring program as a condition of parole or receiving a temporary restricted license. Eligible offenders include first-time offenders with a BAC level above .15, those who caused a crash or refused a test, and all second or subsequent offenders. Iowa’s transportation department must require eligible offenders to participate in the program as a condition of their temporary restricted license in a county that is participating in the program. Since 2018, Iowa law requires all offenders to install an IID as a condition for receiving a temporary restricted license. Newly enacted legislation (SF 364) clarifies that participation in such a program must be for a minimum of 90 days, and participants are not allowed to miss or fail a test during the final 30 days of the program to successfully complete it. The enacted bill also extended the deadline from December 2021 to December 2023 for the Department of Public Safety to submit a report detailing the effectiveness of the program and making recommendations concerning its continued implementation or elimination.
Montana (SB 362) revised certain requirements for its 24/7 sobriety and drug monitoring program. The new law outlines primary testing methods, which include twice-a-day, in-person breath testing at a central location, as well as other methods approved by the Department of Justice. It also allows for hardship testing methods when a court or agency determines that certain factors, such as distance from or lack of access to a testing site, make primary testing methods unreasonable. Hardship testing methods include transdermal alcohol monitoring devices and remote breath test devices. Additionally, Montana now requires that all court-ordered alcohol and drug testing use a data management technology system that can be accessed by other states or local agencies to provide a more complete record of alcohol and drug test results.

North Dakota (HB 1179) also amended its law to mandate that the Department of Transportation (DOT) issue restricted licenses to all compliant participants in a 24/7 sobriety program. Previously DOT had discretion in granting restricted licenses to program participants and was not allowed to grant such licenses to repeat offenders.

Wyoming (SB 7) revised its existing 24/7 sobriety monitoring program. Under the new law, a court can order any DUI or DUID offender to participate in the program. Previously, only repeat offenders had access to the program. The enacted bill expanded testing methods by including remote breath testing and remote electronic alcohol monitoring devices. Participation in the program can be ordered as an alternative or in addition to IID restrictions. The new law also created a 24/7 restricted driver’s license for people who must participate in the program as an alternative to IID restrictions. An individual whose 24/7 restricted license is revoked for any reason before successfully completing the program must apply for an IID restricted license. Penalties for driving with a revoked 24/7 license include a minimum of seven days and a maximum of six months imprisonment in addition to a minimum fine of $200 and a maximum fine of $750 for a first offense. The minimum imprisonment period is 30 days for a second and subsequent violation. The DOT is directed to prescribe regulations detailing permissible actions with a 24/7 restricted driver’s license and establish a fee chargeable to applicants that cannot exceed $125.

Additionally, Mississippi, Oklahoma and Vermont adopted legislation focused on alcohol and drug rehabilitation in 2019.

Mississippi (HB 1352) amended its DUI laws to require a repeat offender to undergo an alcohol and/or drug dependence assessment. Upon considering the results of the assessment, a court may refer the individual to a rehabilitative program approved by the U.S. Food and Drug Administration (FDA). The new law also directs the courts to allow alcohol and drug intervention program participants to use court-approved medication-assisted treatment. Oklahoma (SB 712) also directs agencies assessing individuals for alcohol and opioid dependence to refer them to licensed physicians if they believe the offender would benefit from an FDA-approved medication-assisted treatment. Offenders maintain the right to refuse any prescribed medication.

Vermont (SB 146) created the Substance Misuse Prevention Oversight and Advisory Council. The council is directed to improve “the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse” and to provide advice to the governor and General Assembly for improving the state’s prevention policies and programming.

Miscellaneous Impaired Driving Bills

West Virginia (HB 2183) modified its DUI laws to clarify that DUI offenses do not include operating a vehicle exclusively on one’s own property unless the person causes death or a bodily injury to any person other than himself.

Alabama (SB 47) amended its implied consent laws to include remote drivers of autonomous vehicles. Such a driver is now deemed to have given his consent to take blood, breath and urine tests to determine his or her BAC or the presence of drugs. Vermont (SB 149) prohibits an autonomous vehicle operator that is conducting a test on a public highway from having a BAC of 0.02 or more.

California (AB 127) allows a person to drive under the influence of alcohol and drugs under the supervision and on the property of the Department of the California Highway Patrol for the purpose of conducting research.
Distracted Driving

NHTSA defines distracted driving as “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. NHTSA points out that 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. This is particularly relevant given that nearly one-third of American adults prefer sending texts to talking on the phone and the proportion is probably higher among 18- to 24-year-olds. While texting is particularly dangerous, NHTSA concluded in a 2013 study that hand-held mobile device use, in general, was associated with an increased crash or near-crash risk.

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.

While it is necessary to interpret distracted driving statistics with these limitations in mind, they are helpful in providing an approximate view of the problem. In 2018, 2,841 people died in distraction-related crashes, according to NHTSA. This number accounts for 7.8% of total fatalities and represents a 12.4% decrease compared with numbers from 2017. NHTSA’s Distracted Driving report points out that 599 nonoccupants were killed in distraction-related crashes in 2017. Additionally, 6% of all drivers in fatal crashes were reported as distracted, with mobile devices causing the distraction for 13% of these drivers. As in previous years, drivers younger than 30 are overrepresented in distraction-related fatal crashes and have the highest percentages of mobile device use as the cause of their distraction. Fifteen to 19-year-olds topped both categories—8% of drivers in this age range who were involved in fatal crashes were reported as distracted, and mobile devices were the cause of distraction for 23% of these drivers. According to the CDC, “42% of high school students who drove in the past 30 days reported sending a text or email while driving.”

NHTSA data regarding electronic device use by drivers paints a mixed picture. The percentage of drivers talking on their hand-held mobile device declined to 3.2% in 2018, compared to 6% in 2008, the first year for which NHTSA data is available. However, the percentage of drivers visibly manipulating hand-held devices increased from 1% in 2008 to 2.1% in 2018.
One possible explanation for this change could be the increased availability of technology that allows for hands-free talking in cars. However, technological advances could also help explain the rise in drivers who use electronic devices for non-talking functions. New research from AAA found that drivers who regularly use advanced driver assistance systems (ADAS), such as lane-keeping assistance and adaptive cruise control, were more likely to engage in distracted driving when using these systems. Drivers using ADAS showed an 80% increase in engaging in visual-manual secondary tasks, such as texting or dialing a number on a hand-held phone, reaching for an object or adjusting climate control. They also exhibited a 50% increase in performing any secondary tasks, such as interacting or talking with passengers or pets in the vehicle, dancing and singing.

AAA’s 2018 Traffic Safety Culture Index provides insight into American’s opinions regarding the use of personal electronic devices while driving. The study shows that approximately 96% of drivers view reading or typing on a hand-held mobile device while driving to be very or extremely dangerous. Nearly 80% of drivers consider talking on a hand-held mobile device as very or extremely dangerous. A majority of drivers support laws against distracted driving—nearly 75% support handheld bans and almost 88% support texting-bans. Even so, 52.1% reported talking on a hand-held mobile device, 41.3% reported reading on a hand-held device, and 32.1% reported typing a text or email while driving at least once in the past 30 days. Less than half of all drivers believe they are at risk of being caught by police for talking (47.3%), reading (43.3%) or typing (46.3%) on a hand-held device while driving.

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.

Experts have not reached a consensus on the efficacy of distracted driving laws such as hand-held and texting bans. While NHTSA concluded in a 2013 study that hand-held mobile device use was associated with an increased crash or near-crash risk, it has not adopted an official position on the effectiveness of distracted driving laws.

Studies seem to agree that hand-held bans have been somewhat effective in reducing hand-held phone use, but the evidence does not point to a reduction in crashes.

California’s Office of Traffic Safety released a report in 2018 that examined the state’s hand-held phone use since 2012. California enacted a hand-held ban in 2006 that became operative on July 1, 2008. The ban was toughened in 2016 by allowing use of an electronic device only if it is mounted on the windshield, dashboard or center console and is activated by a single swap or tap. The study found that California’s hand-held usage rate fluctuated between 2012 and 2018, reaching a high of 7.6% in 2016 before dropping to 3.6% in 2017, the year the toughened law became effective, and slightly increasing again to 4.5% in 2018.
In its 2014 report, “Driver cellphone and texting bans in the United States: evidence of effectiveness,” IIHS points out that hand-held bans that apply to all drivers have resulted in long-term reductions in hand-held phone use. However, regarding the effect of bans on crashes, IIHS concluded after reviewing 11 peer-reviewed papers on the issue that the results are unclear. Furthermore, bans on all phone use by teenage drivers have not resulted in decreased use and the effect of texting bans was unknown. In a document entitled “Handheld Bans on Cellphone Use—Effectiveness” (available from NCSL), AAA concurs with these previous findings. It states that bans have reduced hand-held phone use among drivers, but that at this time the weight of the evidence does not clearly show they have a lasting effect on reducing crashes.

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.

**Cell Phone Use While Driving Laws**

[Map showing the laws of various states regarding cellphone use while driving.]

This map does not include hand-held bans that are limited to certain zones or certain drivers or all cell-phone bans for school bus and novice drivers.

Source: NCSL, 2019

**STATE LEGISLATION**

Lawmakers in 48 states considered more than 230 bills related to driver distraction in 2019. Enacted legislation covered a range of topics that include, in particular, hand-held bans for all or certain drivers or in certain specified zones.

**Hand-Held Bans**

Twenty-one states and the District of Columbia now ban hand-held electronic personal device use by all drivers. Those states are Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maryland, Massachusetts, Maine, Minnesota, New Hampshire, New Jersey, New York, Nevada, Oregon, Rhode Island, Tennessee, Vermont, Washington and West Virginia.
Five states—Arizona, Maine, Massachusetts, Minnesota and Tennessee—enacted hand-held bans for all drivers in 2019. For a definition of hand-held ban, refer to the box on page 19.

Massachusetts’ (HB 4203) new hand-held ban defines hands-free mode as an operational mode that uses voice communication or involves only a single tap or swipe to activate or deactivate. Motorists received a warning through March 31, 2020, after which fines became $100 for a first offense, $250 for a second offense and $500 for a third and subsequent offense. Third and subsequent offenses also trigger auto insurance surcharges.

Minnesota (HB 50), Maine (SB 52) and Tennessee’s (HB 164) hand-held bans define hands-free mode similarly to Massachusetts’ law, but penalties vary. Minnesota’s law provides for a $275 fine for a second or subsequent violation. First violations are punished as a petty misdemeanor and carry a base fine of $50. Court surcharges can push the total higher. In Maine, the minimum penalty for violating this provision is $50 for a first infraction and $250 for subsequent infractions. In Tennessee, drivers violating the new law will be guilty of a class C misdemeanor that allows points to be added to their driver’s record. They will also receive a maximum fine of $100 plus additional court costs that must not exceed $50. If the violation resulted in a crash, the maximum fine is $200.

Arizona’s (HB 2318) definition of wireless device includes a portable telephone, a text-messaging device, a personal digital assistant and a stand-alone computer. In contrast to the new hand-held bans mentioned above, Arizona’s new law does not require activation or deactivation by a single tap or swipe. Peace officers may only issue a warning for violations through Dec. 31, 2020, and can start issuing citations beginning Jan. 1, 2021. Offenders are subject to a civil penalty between $75 and $149 for a first violation and between $150 and $250 for a second and subsequent violation. The new law also added such an offense to the list that temporarily disqualifies a person from receiving a CDL. However, DMVs are not allowed to consider a violation of the law to determine whether a person’s driver’s license should be suspended.

Arkansas (SB 534) and Tennessee (HB 164) enacted an all-mobile device use ban while driving for drivers younger than 18. In Arkansas, drivers 18 and older but younger than 21 may only use wireless devices in hands-free mode. The law provides for exceptions in cases of emergency and establishes new minimum penalties of $25 for a first violation and $50 for each subsequent violation. In Tennessee, penalties for violators are the same as for the above-mentioned hand-held ban.

Florida (HB 107) enacted an all-driver hand-held ban only for school and work zones. Driving while using a wireless communications device in a hand-held manner is no longer allowed in a designated school crossing, school zone or work zone area when construction personnel are present. Violators are subject to a fine and a three-point assessment against their driver’s record. First-time offenders can choose to participate in a wireless communications device driving safety program instead of the fine and the points assessment. The clerk of the court may also choose to dismiss a case if a first-time violator provides proof of purchase of equipment that enables a wireless communication device to be used in a hands-free manner. The offender must, however, pay for certain court costs. Virginia (SB 1768) also passed a hand-held ban for all drivers in highway work zones that are marked by appropriate warning signs with attached flashing lights or other traffic control devices. Offenders must be assessed a mandatory fine of $250. Arkansas (HB 1182) amended its hand-held ban in school zones to make violations a primary offense.

Illinois (HB 86) amended its hand-held ban law to explicitly prohibit watching or streaming video and to establish new penalties for violators (HB 2383). If the violation results in a crash causing great bodily harm, the offender is now subject to a minimum fine of $1,000 and a mandatory driver’s license suspension of one year. California (AB 47) amended its laws to subject individuals who commit a second or subsequent violation of the hand-held ban within 36 months to a point against their driver’s record.

**Texting While Driving**

Arizona (HB 2318) enacted a primary enforcement texting ban for all drivers. Previously, Arizona had only a secondary all-mobile device ban for drivers with an instruction permit. The new law provides that law enforcement may only issue a warning for violations through Dec. 31, 2020, and can start issuing citations
beginning Jan. 1, 2021. Offenders are subject to a civil penalty between $75 and $149 for a first violation and between $150 and $250 for a second and subsequent violation. The new law also added texting to the list that temporarily disqualifies a person from receiving a CDL. However, DMVs are not allowed to consider a violation of the law to determine whether a person’s driver’s license should be suspended.

Florida (HB 107) also changed its texting ban to make it a primary instead of a secondary offense. The new law took effect on July 1, 2019, and law enforcement officers could issue uniform traffic citations since the beginning of 2020. Under the new law, a first texting offense will be punishable by a $30 fine and court fees. A second offense carries a $60 fine, court costs and related fees, and three points on a driver’s license. A first offense involving texting in school or construction zones carries additional license points. First offenders can purchase hands-free Bluetooth devices and show proof of purchase or complete a driver safety education course to avoid fines and license penalties.

Arkansas (SB 534) amended its texting law to establish new minimum penalties of $25 for a first offense and $50 for each subsequent offense.

**Miscellaneous Distracted Driving Bills**

Florida (HB 107) enacted legislation requiring law enforcement officers to record the race and ethnicity of individuals receiving a citation for violating its texting or hand-held ban. The data collected shall be reported annually to the governor, the president of the Senate and the speaker of the House of Representatives.

Illinois (SB 1750) added to its aggravating factors that could lead to penalty enhancement a hit-and-run committed by a driver who was using an electronic communication device.

**Teen Drivers**

Young drivers ages 15 to 20 have higher crash rates than older, more experienced drivers. While driver fatalities in the 15- to 20-year-old age group declined by 33% in the 10-year period from 2008 to 2017, the National Center for Health Statistics cites motor vehicle crashes as a **leading cause of death** for 15- to 20- year-olds. According to NHTSA, **8% of all drivers involved in fatal crashes in 2017 were young drivers**, while making up only 5.4% of total drivers.

The **AAA Foundation for Traffic Safety** found in 2018 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. **NHTSA notes** that in 2017, 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. Further, in 2017, of the young drivers involved in fatal crashes where it was known whether or not restraints were used, 47% of those who died were not wearing seat belts. Of drivers ages 15 to 20 who were killed in crashes, 24% had BACs of .01 or higher, and 20% had BACs of .08 or higher.
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.

**STATE LEGISLATION**

At least 13 states and Puerto Rico enacted 23 bills in 2019 related to teen drivers, primarily focused on driver’s education courses, driver’s license applications, driver’s license examinations and graduated driver’s licensing.

**Driver’s Education**


Some states expanded the content that must be included in driver’s education courses. New York (SB 2960) expanded course material to include a section on school bus safety awareness to educate prospective drivers on the dangers of passing a school bus. Texas (HB 105) enacted a law that requires driver’s education courses to include curriculum on safely operating a motor vehicle near an oversized or overweight vehicle, including how to maintain safe following distances and safely pass these vehicles.

Other states passed legislation pertaining to when and how students can meet driver’s education course requirements. North Dakota (SB 2157) prohibited a student from enrolling in a driver training course if he or she would be younger than 14 upon completing the classroom portion of the course. Additionally, students were required to be at least 14 years old to participate in the “behind-the-wheel” component of the course. Nevada (AB 338) now allows prospective licensees younger than 18 to complete an approved hands-on defensive driving course in lieu of completing 50 hours of supervised driving to obtain a driver’s license.

New Hampshire (SB 40) enacted a law providing that no more than 15 hours of the classroom instruction component of driver’s education may be satisfied through an online course. Illinois (HB 2087) allowed a student to take a portion of a driver education course online. A school district must decide on a case-by-case basis whether a student is allowed to take a portion of a driver education course online. The school’s driver education teacher, as well as the student’s parent or guardian, must also approve.

**Minors’ Driver’s License Applications**

In 2019, Texas enacted two bills pertaining to minors’ driver’s license applications.

Texas (HB 87) required the state Department of Public Safety (DPS) to provide an applicant younger than 18 and the cosigner with information on distracted driving laws. Previously, the state DPS was only required to provide information on laws relating to driving while intoxicated.

Further, Texas (HB 2551) enacted legislation clarifying that applicants younger than 18 must have their application signed by a parent, guardian or an agent holding a power of attorney for the custodial parent.

**Driver’s License Examinations**

At least two states—Georgia and Nevada—enacted legislation in 2019 regarding driver’s license examinations.

Georgia’s new law (SB 212) specifies that an authorized driver training school can conduct an on-the-road driving skills test if an applicant has completed a classroom or online driver training course with a minimum of 30 class hours. The applicant must also have completed six hours of in-car instruction with an instructor who is employed by the driver training school and administering the road test.

Nevada (AB 363) enacted legislation waiving the driver’s license examination fee for homeless youth under the age of 25 who submit an affidavit that they are homeless.
Graduated Driver’s Licenses

Four states—Arkansas, Iowa, Louisiana and Michigan—passed notable legislation concerning graduated driver’s licenses (GDLs) in 2019.

Michigan (SB 192, SB 193) amended laws on nighttime driving hours. Michigan’s new law (SB 192) waived a requirement to complete at least 10 nighttime driving hours for a “Level 2” graduated license if the driver holds a graduated license that permits daylight driving only. A “Level 2” graduated license is issued to drivers between 16 and 17 years old. Moreover, the new law (SB 193) waived a requirement for a student’s admission into a “Segment 2” driver education course, which must be completed to be eligible for a “Level 2” graduated license. The student no longer must complete at least two nighttime driving hours if he or she holds a graduated license that permits daylight driving only. To enroll in a “Segment 2” driver education course, a driver must have held a “Level 1” supervised learner’s license for at least three continuous months. A “Level 1” supervised learner’s license is issued to drivers who are at least 14 years and 9 months of age.

Louisiana (HB 379) enacted legislation requiring a minor’s parent or legal guardian to provide documentation relating to the minor’s driving behavior. The information must include any moving violations, seat belt or curfew violations, or alcohol or drug violations before the minor’s learner’s license is converted to an intermediate license.

Arkansas (HB 1406) revised its intermediate driver’s license law to allow intermediate license holders to renew their license as a regular driver’s license within 30 days of turning 18, so long as they are free of serious accidents or traffic violations for at least 12 months before turning 18. An intermediate license is issued to drivers between 16 and 18 years old.

Iowa (Senate File 140) allowed students with a school driver’s license, which is issued to drivers between 14 1/2 and 17 years old who attend an accredited nonpublic school, to drive up to 50 miles each way. Previously, students were limited to 25 miles each way.

NHTSA has developed guidelines to create an effective GDL program. Although GDL laws vary from state to state, all GDL approaches consist of three stages identified by the type of license, provisions and restrictions. Before advancing to the next level, novice drivers 15 to 18 years old must demonstrate responsible driving behavior during each state of licensing.

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

According to NHTSA, around 52.4 million people—16% of the total U.S. resident population—were 65 and older in 2018. As pointed out by the American Geriatrics Society (AGS), the older population is increasing, the number of older drivers is growing rapidly and they are driving longer distances. Older drivers made up 20% of all licensed drivers in 2018. In the last 10 years, the number of older individuals who are licensed has increased by 35%. This upward trend will continue. AGS estimates that the population of adults 65 and older will double by 2060, making up at least 20% of the total U.S. population.

While in 2018 drivers 65 and older had the lowest involvement rate in fatal crashes—16.15 per 100,000 licensed drivers—fatalities in crashes involving older drivers have been steadily rising. NHTSA reports that between 2009 and 2018, the number of total fatalities in crashes involving drivers ages 65 and over increased by 32%, from 5,613 to 7,433.

Although older drivers are considered relatively safe drivers and many older adults self-regulate their driving behavior, AAA notes they have a higher risk of suffering from at least one medical condition that affects safety while driving. Older drivers’ risks are typically discussed in terms of the aging process—fragility increasing with age and declining functions needed for good driving skills, such as vision, hearing, reaction time, and cognitive and motor abilities. Conditions such as dementia, arthritis, diabetes, heart disease, sleep apnea and Parkinson’s disease can interfere with the ability to drive and some of them make recovering from injury more difficult. AAA and AGS recommend that older drivers consider getting a professional driving assessment and repeat it periodically.

Based on the latest statistics from NHTSA, in 2018, 6,907 people aged 65 years and older lost their lives in motor vehicle crashes, a 1% increase from 2017. Motor vehicles are the leading cause of injury-related deaths among 65- to 74-year-olds and the second leading cause among 75- to 84-year-olds.

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.

Thirteen states are considering or have considered legislation on a range of topics related to older drivers. These include extending or decreasing the number of years between license renewals, requiring more frequent vision and ability tests, placing optional medical alert or disability notations on driver’s licenses, and employing “yellow dot” programs.

Hawaii (HB 30), for example, has a pending bill requiring persons who are 72 and older to renew their driver’s license every four years instead of every two years. Illinois (HB 1657, HB 1658) is considering abolishing the requirements for applicants who are 75 and older to give an actual demonstration of their ability to exercise reasonable control and safely operate a motor vehicle. HB 1657 is also considering putting an end to the requirement that driver’s licenses of people between 81 and 86 years old expire after only two years.

Tennessee (HB 360) considered but withdrew legislation requiring an applicant who is 75 or older to successfully pass a vision examination, including testing a person’s night vision performance. If diagnosed with impaired night vision, that person would have been restricted to daytime driving unless he or she used night vision equipment while operating a motor vehicle after dark.

In addition, New York (SB 3275) has pending legislation that aims to establish a “yellow dot” program for drivers and passengers who are 55 and older. Under the program, seniors can request and receive by mail and at every motor vehicle office in the state a yellow dot decal and a durable yellow envelope. The envelope
is meant to contain medical and emergency contact information of the occupants of a vehicle. The decal, which would be placed on the lower left corner of the rear window, indicates to emergency responders that this information may be located in the vehicle’s glove compartment. This was the seventh consecutive year such legislation has been discussed in New York. Florida (SPB 7090) also debated but did not pass legislation that would authorize counties to create a yellow dot program.

A failed bill in New Jersey (A 1607) considered requiring municipal courts to dismiss any charges for motor vehicle violations brought against a licensed driver in certain crashes if a physician certifies the crash would not have occurred except for the onset or existence of a medical condition.

Driver’s Licensing

The states and the District of Columbia license nearly 222 million drivers who represent roughly 85% of the Americans eligible to drive, according to the Federal Highway Administration (FHWA). FHWA’s records show that states have administered their driver’s licensing systems since 1903, when Massachusetts and Missouri enacted the first state driver’s licensing laws. FHWA also notes that by 1954, all states required drivers to be licensed, and since 1959, all states have required an examination to test driving skills and traffic safety knowledge before a license is issued.

STATE LEGISLATION

The role of state licensing agencies has evolved, however, 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 2019, state legislatures debated more than 700 bills and enacted over 100 laws related to various aspects of driver’s licenses. They include CDLs, driver’s license and instruction permits, digital driver’s licenses, medical designations on driver’s licenses and validity of medical certificates, and driver’s license suspensions, revocations and restorations. The bills summarized in this section largely focus on notable changes related to road safety.

Commercial Driver Licenses

In 2019, six states—Alaska, Missouri, Montana, North Dakota, Virginia and West Virginia—enacted six bills addressing CDLs. The provisions of such laws ranged from issuance and revocation to knowledge and skills testing and mandatory driver training courses.

Three states—Alaska, Missouri and West Virginia—amended laws governing the issuance of CDLs. Alaska (SB 75) lowered the minimum age to operate a commercial vehicle on an intrastate basis from 19 to 18 years of age. The state also lowered the minimum age to operate on an interstate basis from 21 to 18 if allowed under federal law. Missouri (SB 89) extended the period for which an instruction permit is valid from six months to 12 months and specified that such permits cannot be renewed. West Virginia (HB 2850) reduced the minimum length of time a person must possess a driver’s license prior to the issuance of a CDL instruction permit from two years to at least one year.

Two states—Montana and Virginia—outlined additional circumstances in which CDL holders may have their licenses revoked. Montana (HB 515) required the state DMV to permanently revoke a person’s CDL upon conviction of human trafficking offenses committed using a commercial vehicle. Virginia (SB 1481) imposed a lifetime disqualification for CDL holders upon conviction of felony drug offenses committed using a commercial vehicle.

Three states—Missouri, Montana and Virginia—amended knowledge and skills testing provisions for military applicants. Missouri (SB 89) allowed the written test to be waived for military applicants. Previously, the law only allowed the skills test to be waived. Montana (HB 515) allowed the knowledge test, in addition to the skills test, to be waived for military applicants who already passed a knowledge test given by the military. Virginia (SB 1481) allowed the knowledge test and skills test to be waived for military applicants.
Additionally, North Dakota (SB 2121) allowed the state DOT to accept a knowledge test from another state as evidence of completion for issuance of CDL. Previously, only the skills test was accepted.

Missouri (SB 89) and Virginia (SB 1481) required entry-level driver training for first-time CDL applicants.

**Driver Licenses and Instruction Permits**

In 2019, seven states—Arkansas, Illinois, Montana, New Mexico, New York, Oregon and Virginia—enacted seven bills addressing non-commercial driver’s licenses and instruction permits.

Three states—Montana, New Mexico and Oregon—amended laws governing driver license and instruction permit issuance, validity and replacement.

Montana (HB 515) required a residential address within the state to be used for a REAL ID-compliant credential, required driver licenses to contain a brief description of the licensee, and allowed replacement driver licenses to be ordered online or by mail if the state DMV has a photo of the applicant and the term of the license stays the same. Additionally, the law allowed renewal notices to be sent electronically.

New Mexico (SB 278) established two types of driver licenses, a REAL ID-compliant and a standard license, each distinguished by their use or non-use for official federal purposes. Additionally, the law specified that driver’s licenses are valid for four or eight years from their issuance date. Previously, the expiration date was linked to the licensee’s birthday. Oregon (HB 2015) removed language requiring an applicant to provide proof of U.S. citizenship or lawful presence before the state DOT may issue, renew or replace a non-commercial driver’s license, permit or identification card if the credential is not REAL ID-compliant.

Five states—Arkansas, Illinois, Montana, New York and Virginia—amended laws addressing mandatory driver training, driver test questions and academic requirements.

Arkansas (HB 1867) eliminated language requiring individuals younger than 18 to submit a high school diploma, its equivalent or proof of a C average in school before a driver’s license may be issued without restrictions. Illinois (SB 2038) required the driver’s license knowledge test to include questions addressing driver responsibilities when approaching a stationary emergency vehicle.

Montana (HB 515) allowed driver rehabilitation and improvement programs to offer electronic instruction. New York (SB 3965) directed the state DMV to establish a pilot program for online motor vehicle prelicensing courses. Virginia (HB 2717) allowed the course on the “Virginia Driver’s Manual,” which is required upon failing the driver knowledge exam three times, to be offered online. Previously, only classroom instruction was permitted.

**Digital Driver’s Licenses**

Louisiana in 2016 became the first state to enact legislation allowing a digital driver’s license. It expanded the law in 2018, requiring digital licenses to be uploaded through a specific mobile device application considered to be a valid digitized identification. At least 14 other states have developed or are developing a digital driver’s license program or running a pilot program.

In 2019, two states—Indiana and Utah—enacted legislation authorizing or requiring digital driver’s licenses and one additional state, Illinois, modified certain aspects of its digital driver’s license program.

Indiana (HB 1506) authorized the state Bureau of Motor Vehicles to implement a digital credentialing system for driver’s licenses, learner’s permits and identification cards. The law also stated that a “mobile credential” does not include a commercial driver’s license or instruction permit. Utah (SB 100) required the state Driver License Division to establish a process and system for applicants to start obtaining a digital license on or before Jan. 1, 2021.

Illinois (HB 3534) allowed applicants to choose “male,” “female” or “nonbinary” when designating a gender to be displayed on a digital driver’s license or identification card.
Medical Designation on Driver’s Licenses and Validity of Medical Certificates

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. States such as Georgia and Louisiana allow driver’s license applicants to request their blood type be listed on the back of their license. In Texas, driver’s license applicants can request a “communication impediment” notation on their license to alert a peace officer of a cognitive disability or hearing impairment. Bills summarized in this section relate to medical designations and validity of medical certificates for the general population. Bills specifically regarding older drivers are summarized in the Older Drivers section.

Wyoming’s enacted legislation (HB 191) authorized a medical alert designation on a person’s driver’s license. Medical alert designations provide information on a medical condition that may need immediate attention during an emergency. Puerto Rico (SB 1102) authorized persons with autism spectrum disorder or Down syndrome to request that information be included on their driver’s license.

Puerto Rico (HJR 493) extended the validity of medical certificates, including vision tests, for purposes of driver’s license issuance or renewal from six to 12 months. Maryland (SB 60) extended the validity of a vision test for individuals between the ages of 21 to 39 from six to nine years.

Driver’s License Suspension, Revocation and Restoration

In recent years, state legislatures have considered repealing laws that suspend driver’s licenses, in particular for non-driving offenses. 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.

While it is not always easy to clearly define what constitutes a non-driving offense, this category generally includes 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.

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.

As of the end of 2019, 43 states and Washington, D.C., had opted out of the federal requirement. Seven states—Alabama, Arkansas, Florida, Michigan, New Jersey, Texas and Virginia—still suspend driver’s licenses for drug offenses unrelated to driving. Of these states, Arkansas, Florida and New Jersey amended their laws this year, as explained in more detail below.

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

Four states—Arizona, Illinois, Kansas and Missouri—enacted legislation mandating driver’s license suspension for certain driving offenses or establishing minimum suspension periods for such offenses. Alaska enacted legislation imposing stricter penalties for repeat offenders who drive with a suspended license. Two states—Maine and West Virginia—enacted legislation reducing the suspension period for certain driving offenses. In West Virginia’s case, offenders will need to comply with certain requirements. Finally, Florida and Louisiana softened penalties for driving with a revoked or suspended license. Florida excluded certain driving offenses from its new law, including all DUI offenses.

Arizona (HB 2366) amended its driver’s license suspension laws to include a mandatory suspension or restriction of a person’s driving privilege. The suspension lasts for at least 90 to 180 days when a first moving violation results in serious physical injury and 180 days to one year when the violation results in death. Previously, the law did not include minimum time periods and authorized such a suspension or revocation but did not mandate it.

Illinois (HB 1438) added “validated roadside chemical tests” to its implied consent laws and mandated a 12-month driver’s license suspension for drivers who refuse to submit to such tests. The amendments also mandate a six-month suspension for drivers whose test determines they were impaired by cannabis. Previously, the law only mentioned field sobriety tests regarding driver’s license suspensions. Illinois (SB 2382) also mandated a 12-month driver’s license suspension for drivers who violate the right of way at crosswalks and in school zones and cause an injury that requires “the injured party to be carried from the scene.”

Kansas’ (HB 2104) amended its breath, saliva, blood and urine testing statutes to include a one-year driver’s license suspension for individuals who refuse to complete such a test instead of the previous fine of $105.

Missouri (SB 89/HB 499) required revoking an individual’s driver’s license if, by negligence, the driver caused a “physical accident” and contributed to his or her vehicle striking a highway worker working within a designated construction zone or an emergency responder within an active emergency zone. To reinstate their license, drivers must retake and pass the written and driving portions of the driver’s license examination.

Alaska (HB 49) makes driving with a suspended or revoked license, independently of the cause of the suspension or revocation, a class A misdemeanor for recidivists. Previously, driving with a suspended or revoked license was a criminal offense only for drivers whose license was suspended or revoked for certain major offenses, including causing death in a motor vehicle crash and refusing to submit to a chemical test.

Maine (HB 815) decreased the driver’s license suspension period from three years to one for offenders who negligently operated a motor vehicle and caused the death of another person.

West Virginia (SB 90) allowed the DMV to reduce the driver’s license revocation period required of a person with a second or subsequent offense for driving under the influence of drugs. The DMV may now reduce the revocation period of such an offender to a minimum of one year. It may issue a restricted license following that period if the driver participates in the state’s treatment and job program, successfully completes the treatment and agrees to monthly drug testing for two years. If the person fails a test or fails to submit to a test, the full revocation period, minus revocation time served, will be reinstated.

Florida (HB 7125) reduced penalties associated with driving with a suspended or revoked license for a third or subsequent offense from a third-degree felony to a first-degree misdemeanor and requires an offender to serve a minimum of 10 days in jail. However, penalties for a third or subsequent offense were not modified for suspensions or revocations resulting from DUl, refusal to submit to a test, a traffic offense resulting in death or serious bodily injury, or fleeing or eluding.

Louisiana (HB 224) authorized law enforcement to use their discretion to issue a written summons instead of arresting an individual who drove with a suspended or revoked license.
License Suspension for Non-Driving Offenses

Four states—California, Delaware and Florida and New Jersey—no longer authorize or require driver’s license suspension for certain non-driving offenses, including illegal use or possession of controlled substances. Additionally, Arkansas, Florida and New Jersey softened their laws in this regard, with Florida and New Jersey reducing suspension periods for non-driving offenses that still require a suspension. Maryland reduced penalties for individuals convicted of possessing a canceled, revoked or suspended license.

California (SB 485) repealed a court’s authority to suspend or delay the driving privilege of an individual convicted of offenses related to vandalism, controlled substances or alcohol use or possession, firearm use and certain prostitution offenses.

Delaware (SB 44) law no longer mandates a driver’s license suspension for individuals younger than 21 who possess or consume alcohol. Previously, the law included a mandatory suspension of 30 days for a first violation and between 90 and 180 days for each subsequent violation.

New Jersey (SB 1080) repealed mandatory driver’s license suspension for simple possession of illegal drugs and limited suspension required for other possession offenses or sale of illegal drugs to six months. It also eliminated mandatory driver’s license suspension for other non-driving offenses, including automatic suspension for non-payment of child support. However, in these cases, courts retain discretion to suspend the person’s driver’s license if it finds that suspension is warranted.

Florida (HB 7125) reformed its driver’s license suspension and revocation laws for adults and minors—defined as younger than 18. The new bill shortened the suspension period from one year to six months for individuals who have a driver’s license and are convicted of drug offenses, such as possession, sale or traffic of drugs, but not DUID. The revocation period is extended for six months instead of one year for individuals who commit a second drug offense during the revocation period. Individuals who do not possess a driver’s license are barred from obtaining one for six months (previously one year) from the date of conviction or eligibility, whichever is later.

Additionally, the new law limited the level of discretion a court could exercise to justify issuing a hardship license and now requires finding compelling circumstances. The new law also repealed several bases for suspensions for minors, such as possession or purchase of alcohol, tobacco and nicotine, and converted mandatory suspensions for possessing a firearm or placing graffiti on any public or private property into discretionary suspensions. Suspensions for adults convicted of providing alcohol to a minor were also repealed. Individuals owing child support who enter into an agreement with the Department of Revenue to accommodate their good-faith job-seeking efforts will see their driver’s license suspension deferred or have their license reinstated if it is already under suspension.

Arkansas (SB 513) revised its provisions related to the suspension of driver’s license for possessing a controlled substance to authorize judges to make an exception when there are “compelling circumstances” that would warrant one. Previously, courts did not have any discretion in such cases and were mandated to order the suspension of driving privileges for six months.

Maryland (HB 76) altered the penalties for individuals convicted of possessing a canceled, revoked or suspended license. The new law provides for a fine of up to $500 and an assessment of three points against the person’s license. Previously, 12 points were assessed, and individuals were subject to up to two months imprisonment in addition or alternatively to the fine. The amendment also repealed the requirement for offenders to appear in court if they prepay the fine. Defendants still have the option of requesting a trial or waiver hearing instead of paying the fine.

License Suspension for Failure to Pay Fines and Fees

In an important trend in 2019, 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. A moving violation is any violation of the law committed by the driver of a vehicle while it is in motion.
At least 10 states—Arkansas, Indiana, Kansas, Louisiana, Montana, Nevada, New Jersey, North Carolina, Tennessee and West Virginia—repealed provisions authorizing driver’s license suspension for non-payment of fines and fees or amended their laws to allow for extended pay periods, reductions, waivers or alternative penalties. One state—Alabama—added failure to pay certain parking fines to the list of permissible reasons for a court to suspend a driver’s license.

Arkansas law requires drivers whose license is suspended because of an administrative order or a conviction for any violation or offense to pay a reinstatement fee of $100 multiplied by the number of administrative or court suspension orders they have. SB 493 renewed a 2017 act that expired in January 2019 that allowed for a one-time waiver of multiple reinstatement fees for individuals whose driving privileges are suspended or revoked exclusively because of outstanding reinstatement fees. Before obtaining the waiver, individuals must graduate from a specialty court program. The waiver does not apply to holders of CDL, suspension for DUI, underage DUI or refusal to submit to a test. The enacted bill requires the Department of Finance and Administration to prepare an annual report including the number of eligible participants, the number of participants reinstated under the renewed law, and the amount paid and written off.

Indiana (HB 1141) established a temporary traffic amnesty program to allow drivers to obtain a 50% reduction in the amount they owe or have to pay. The reduced fine is for those owing unpaid traffic fines for certain offenses committed before January 2019, along with associated court and administrative fees, or who are required to pay a reinstatement fee. The program is not applicable for persons who owe child support, have an outstanding arrest warrant, are sentenced to pay restitution to victims of a crime, and are not current with the required payments.

Kansas (HB 2211) allows a court to reassess or waive a reinstatement fee, or modify the method of payment, if it believes payment will “impose manifest hardship” on the individual whose license was suspended or the individual’s immediate family.

Louisiana (HB 397) amended its driver’s license suspension law to mandate that a court grant an extension of up to 180 days to pay the fine or offer the alternative of performing community service. The extension is for individuals who show they are financially unable to pay a fine for any criminal offense at the expiration of an already extended period granted by the court under previous law. At the expiration of the renewed extension, if the individual has willfully not paid the fine or has not performed the required community service, the judge is authorized to suspend the driver’s license for any remaining unpaid fine related to offenses that involve the operation of a motor vehicle, aircraft or watercraft. Alternatively, a judge may grant a renewed extension to either pay the fine or perform the community service. However, in any case, a court must determine that a defendant is financially able but is willfully refusing to pay a fine or perform community service when ordering an individual to surrender his or her driver’s license for failure to pay a fine.

Montana (HB 217) amended its sentencing statutes and repealed provisions authorizing suspension of a driver’s license as a sentencing option for non-payment of fines, fees or restitution. A judge may still impose a suspension if a convicted individual fails to comply with any other penalty, restriction or condition of the sentence. The new law also repeals a provision requiring individuals to pay the fines, fees or restitutions owed before being able to have their license reinstated and waives the reinstatement fee for such individuals.

Nevada (AB 416/AB 434) law allows courts to suspend a driver’s license or delay the driving privilege for individuals who owe fines, fees or restitution. The newly enacted law specifies that the court may only order the suspension or delay of the driving privilege if it determines that the defendant can pay the amount due but is willfully avoiding payment or refused to perform community service.

New Jersey (SB 1080) eliminated mandatory driver’s license suspension for non-driving offenses, including for non-payment of fines and fees. However, in these cases, courts retain discretion to suspend the person’s driver’s license if it finds the offender has defaulted without good cause. When deciding the duration of any suspension, it will be necessary to consider whether the loss of driving privileges will result in extreme hardship because alternative means of transportation are not available.
North Carolina (HB 206) allows a restoration fee for revoked licenses to be waived if the fee remains unpaid for 10 years from the date of assessment and the person owing the fee has been issued a driver’s license since the effective date of the revocation.

Tennessee (HB 0839/ SB 1143) amended its driver’s license suspension laws to require courts to determine whether a licensee can pay the fines and fees they owe for driving offenses or whether they are willing to enter into a reasonable payment plan based on their income and ability to pay. Such a plan can be modified when there is a change in the licensee’s financial circumstances. A restricted license allowing travel necessary for employment, school or religious worship must be issued to licensees that are indigent, and the court must temporarily suspend the indigent’s fines and fees imposed for any criminal offense. The court may subsequently waive the fines and fees or order the indigent person to reappear before the court for a reevaluation of their financial circumstances. A restricted license must also be issued for licensees who enter into a payment plan until the full amount is paid.

West Virginia (SB 90) requires the DMV to stay any driver’s license suspension for failure to pay fines or penalties imposed for criminal convictions or failure to appear in court. It also waives the reinstatement fee for individuals who are successfully participating in the treatment and job program and are believed to be safe to drive. The stay will be removed for individuals who subsequently fail to comply with any of the program’s requirements.

Alabama (HB 190) enacted legislation allowing a court to suspend the driver’s license of a person who fails to pay a fine for violating parking rules on Department of Conservation and Natural Resources property.

Reinstatement of Driving Privileges

Two states—Alaska and Florida—enacted legislation regarding reinstatement of driving privileges.

Alaska (HB 49) included additional limitations to its driver’s license restoration laws for repeat DUI and DUID offenders and for repeat offenders who refuse to submit to a chemical test. The new law specifies that for such offenders, a driver’s license revocation can only be reviewed if the offender was not convicted of a major crime, such as first-degree murder, and has not been convicted of other driving-related criminal offenses or a felony in the 10 years prior to requesting restoration. The law maintained the requirement that the license be revoked for at least 10 years before a petition to restore can be submitted.

Florida (HB 7125) required each clerk of court to establish a Driver License Reinstatement Days program for reinstating suspended driver’s licenses due to certain offenses, including driving with an invalid or suspended license, failure to pay fines and fees, and failure to appear in court for a traffic violation. Programs must run for one or more days annually and the bill encourages clerks to schedule at least one event on a weekend or for weekdays after 5 p.m. The clerk of court may include any interested community organization as a participant, including the DMV. Habitual offenders and other offenses are excluded from the program, including DUI, traffic-related felonies, and failure to fulfill a court-ordered child support obligation, or required driving training, driver improvement course, or alcohol or substance abuse education or evaluation program. Participants must pay the full reinstatement fees but may have other fees and costs not ordered by the court waived. Program administrators are required to report the cost and success of the program to the Florida Clerks of the Court Operations Corporation.
Speeding and Speed Limits

In 2018, 9,378 deaths, or 26%, of all motor vehicle fatalities occurred in speed-related crashes. According to NHTSA, speeding was a factor in 26% of motor vehicle fatalities in 2017 and total speeding related fatalities decreased by 5.6% (9,717 compared to 10,291 in 2016). Speeding has been implicated in more than 25% of crash deaths every year since 2008, according to NHTSA.

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 for conditions or exceeding the posted speed limit was a contributing factor in the crash. AAA’s 2018 Traffic Safety Culture Index found a striking acceptance of speeding in practice. Of surveyed drivers, 54% indicated that speeding on a freeway is dangerous, and 64% indicated they think speeding on a residential street is dangerous. However, almost half of the drivers who were surveyed said they had exceeded the speed limit on a freeway by 15 mph in the past month, and 40% reported exceeding the speed limit by 10 mph on a residential street.

Young drivers are more likely to be involved in speeding-related crashes than drivers in other age groups. NHTSA speeding statistics show that in 2017, the age groups with the highest percentage of speeders involved in fatal crashes were all 15- to 20-year-olds and 21- to 24-year-old male drivers, with a rate of 31% for both groups.

An IIHS study on the impact of increased speed limits found that between 1993 and 2017, an increase of 5 mph in the maximum state speed limit led to an 8% increase in fatalities on interstates and freeways and a 2.8% increase on other roads. This resulted in about 37,000 more traffic fatalities than there would have been had maximum speed limits remained the same. In 2017, there were more than 1,900 additional traffic fatalities due to increased speed limits, according to IIHS.

Michigan enacted a law in 2017 that raised speed limits from 65 to 75 mph on 614 miles of rural freeways and from 55 to 65 mph on at least 900 miles of other highways in the state. When selecting the stretches of roads on which to raise speed limits, traffic safety experts identified freeways that were already able to accommodate speeds of 5 mph over the posted speed limit, and where many drivers were already driving at 75 mph, regardless of the posted speed limit. In 2018, the first full year after the speed limits were raised, injuries and fatalities from crashes increased at a higher rate on the freeways with raised speed limits than on other roads. However, the state will not evaluate the impact of the increased speed limits on traffic safety until at least three years’ worth of data has been gathered.
States have gained more power to set maximum speed limits since Congress’ 1995 repeal of the 55-mph maximum speed limit. Currently, 22 states have maximum speed limits of 70 mph, and 11 states have maximum speed limits of 75 mph on some portion of their roadways. In eight states, speed limits are set at 80 mph on certain sections of interstates. Texas State Highway 130 has a speed limit of 85 mph along a 41-mile stretch.

STATE LEGISLATION

In 2019, at least 12 states enacted legislation related to raising speed limits, lowering speed limits and speeding in general.

Raising Speed Limits

Arkansas enacted legislation (HB 1631) that amended the maximum speed limit for a motor vehicle operated on a controlled-access highway. It set the speed limit at 75 mph if the highway is located outside an urban area and has at least four lanes that are divided by a median strip. The maximum speed limit for a commercial motor vehicle on a controlled-access highway outside an urban area with at least four lanes divided by a median is set at 70 mph. The state also requires the Arkansas Department of Transportation to install signs giving notice of the maximum speed limit along the highways. Further, the State Highway Commission can decrease the maximum speed limit from 75 mph on a controlled-access highway after conducting a traffic study. The Arkansas Department of Transportation was evaluating traffic studies to identify the safest roads on which to raise the speed limit before the legislation went into effect in July 2020.

Kentucky passed a bill (HB 266) adding two highways—Interstate 165 and the Bert T. Combs Mountain Parkway Extension—to the list of highways on which the secretary of transportation can increase the speed limit from 65 to 70 mph.

Montana enacted legislation (HB 393) raising the speed limit for trucks on federal-aid interstate highways from 65 to 70 mph and raising the speed limit for trucks on any other public highway from 60 to 65 mph.

Oklahoma passed a bill (HB 1071) that allows the speed limit to be raised from 70 to 75 mph on rural segments of highways, as long as a traffic study determines that the increased speed is safe and reasonable. The bill also permits the Oklahoma Turnpike Authority to raise the speed limit from 75 to 80 mph on turnpikes.

Lowering Speed Limits

In the past decade, at least seven states—Colorado, Indiana, Massachusetts, New Hampshire, New York, Oregon and Washington—had given localities some level of increased flexibility to reduce minimum speeds on roadways within their jurisdictions.

A few miles per hour can make a world of a difference for a vulnerable user such as a pedestrian or bicyclist who is struck by a vehicle. AAA research from 2011 found that “the average risk of death for a pedestrian reaches 10% at an impact speed of 23 mph, 25% at 32 mph, 50% at 42 mph, 75% at 50 mph, and 90% at 58 mph.”

Early in 2019, the National Committee on Uniform Traffic Control Devices made a significant change regarding the ability of communities and engineers to design roads with vulnerable users in mind. The committee voted to change the Manual on Uniform Traffic Control Devices (MUTCD), which serves as the chief manual for traffic and transportation engineers when designing and constructing roadways, to require consideration of pedestrian and bicycle activity when setting the speed limits for urban and suburban streets. This is a significant departure from the current model, which leans largely on using the 85th percentile rule, which typically sets the speed limit at the speed 85 percent of motorists are not exceeding in a corridor. This change comes on the heels of a 2017 National Transportation Safety Board report that recommended moving away from relying on the 85th percentile to set speed limits.

IIHS undertook a study in 2017 to compare average speeds in Boston, where a state law allowed the city to reduce the default speed limit to 25 mph from 30 mph, with Providence, R.I., where the speed limit remained 30 mph. Similar roads, including a mix of arterial, collector and local roads, were examined. According to the IIHS study, there “was a 29.3% decline in the odds of speeding for vehicles traveling faster than 35 mph.
The odds of speeding fell by 8.5% for vehicles going faster than 30 mph and 2.9% for vehicles exceeding 25 mph.” IIHS hopes to next study the impact of lower speed limits on crashes in Boston.

In 2019, eight states—Hawaii, Michigan, Minnesota, Montana, New Jersey, New York, North Carolina and Oregon—revised their structures for setting speed limits to focus more attention on vulnerable roadway users or give local governments more leeway to set speed limits in certain circumstances.

Hawaii passed legislation (HB 756) directing the state department of transportation or a county to consider certain factors when setting maximum speed limits on a road. These should include an engineering study, along with consideration of roadway characteristics, such as shoulder condition grade, alignment, sight distance and lane widths. Roadside development and environmental factors should also be considered, including number and types of side road access, including signalized or unsignalized intersections; pedestrian activity and facilities; parking practices and activity; type of bicycle accommodations and facilities; motor vehicle crashes resulting in deaths or injuries; and prevailing speeds as determined by traffic engineering measurements.

In Michigan, a new law (HB 4118) amended its statutes to allow, until Jan. 1, 2024, a speed limit of 25 mph on a highway segment that is part of the local street system and within land zoned for residential use if approved by the State Transportation Commission. Additionally, the Department of State Police is required to perform a speed study on a random sample of local streets described by this provision and submit a report to the House speaker, the Senate majority leader and the governor by Jan. 1, 2023.

Minnesota (House File 6) allowed cities to set speed limits on streets under their jurisdiction without undergoing an engineering and traffic study. A city must establish “procedures to set speed limits based on the city’s safety, engineering, and traffic analysis.” The law does not apply to town roads, county highways or trunk highways in a city.

The Oregon legislature (SB 558) expanded on a bill passed in 2011 allowing Portland to reduce its speed limit by 5 mph on highways within its jurisdiction. It extended this provision to other cities, provided they are not arterial highways, are located in a residential district and proper signage is posted.

Montana legislation (HB 440) expanded the state’s ability to establish special speed zones. Previously, such zones had to be less than 50 miles in length, but the new law allows special speed zones on highway corridors with increased crash frequency or fatal crashes. The bill also authorizes Montana to employ variable speed limits and lower the speed limit in the event of a vehicle emergency, adverse weather conditions or another highway safety factor. The temporary special reduced speed limit takes effect once fixed or variable signs are posted and remains in effect until such signs are removed.

Additionally, Montana amended (HB 190) its process to allow greater flexibility for county commissioners to set school zone speed limits, provided the limit is no lower than 15 mph. Texas (HB 3871) also revised its process for setting speed limits in school zones in 2019. The bill authorized a county to declare a lower speed limit of not less than 20 mph on a county road that is located within 500 feet of a school or institution of higher education, if approved by the governing body of the municipality where the road is located. Further, the Texas Transportation Commission, on request of the governing body of a school or institution of higher education, shall hold a public hearing at least once each calendar year to consider speed limits on highways in the state highway system that are near schools or institutions of higher education. At the request of a governing body, after the public hearing, the applicable agency must conduct an engineering and traffic investigation for the road that is the subject of the request.

Some states empowered certain prescribed communities to reduce speed limits or lowered speed limits on specific corridors. For example, New Jersey passed a law (SB 1484) reducing the speed limit from 40 mph to 25 mph on the portions of Route 130 that are directly adjacent to two schools, and 35 mph on the portions approaching the newly reduced speed limit zone. The fine for speeding in this corridor was raised to triple the typical fine for speeding. New York (AB 5806) added the town of Riverhead to the list of local governments to which the state department of transportation must defer when it comes to requests for speed limit changes on town highways. North Carolina (HB 368) provided that a vehicle may not be operated in excess of 25 mph in the Town of Bermuda Run.
Vision Zero State Policies

“Vision Zero,” which is essentially the goal to reduce traffic deaths to zero, was first implemented in Sweden in the 1990s. The phrase and philosophy has been adopted by many American cities and governments but given the large amount of traffic deaths in the U.S., reaching zero deaths is a much more difficult proposition.

According to the Vision Zero Network, Vision Zero “recognizes that people will sometimes make mistakes, so the road system and related policies should be designed to ensure those inevitable mistakes do not result in severe injuries or fatalities. This means that system designers and policymakers are expected to improve the roadway environment, policies (such as speed management), and other related systems to lessen the severity of crashes.” Vision Zero also calls for more robust collaboration among stakeholders, such as traffic planners and engineers, policymakers and public health professionals. Essentially, Vision Zero calls for a systemic shift in how communities address traffic safety and a stronger focus on infrastructure to create safer environments for all roadway users.

Thus far, Vision Zero has been more of a factor at the municipal level in the U.S. However, Washington state did adopt a “Target Zero” initiative in 2000, with a goal of eliminating traffic deaths by 2030. Minnesota has a Toward Zero Deaths initiative. Hawaii and Maryland enacted laws in 2019 that referenced Vision Zero.

Maryland (HB 885) created a Vision Zero program within the Maryland Department of Transportation with a goal of zero vehicle-related deaths or serious injuries on roadways by 2030. This adds statutory authority and further direction to a previously established Toward Zero Deaths program within the Maryland Motor Vehicle Administration’s Highway Safety Office, which is a subagency of the Maryland DOT. MDOT must designate a coordinator to oversee the Vision Zero program and collaborate with relevant state and local agencies. The legislation requires a number of actions, including:

• Identifying laws, policies and regulations that hinder the implementation of vision zero.
• Proposing changes to laws to allow for innovative engineering and traffic calming.
• Creating a vision zero website.
• Collecting and publishing motor vehicle collision data.
• Working with research organizations to develop best practices.
• Investing more resources into construction needs for high-accident intersections and roadway sections.
• Connecting with other states and communities that have implemented vision zero programs.
• Reviewing existing traffic safety programs to determine their effectiveness.
• Prioritizing resources to communities most affected by motor vehicle collisions.
• Proactively engaging community members to address traffic safety concerns.
• Developing a long-term plan for the development of vision zero.

MDOT must submit an annual report on the status of Vision Zero to the governor and Maryland General Assembly.
Aggressive Drivers

Running red lights, speeding, weaving through traffic or illegally driving on the shoulder 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 a large number and diversity of possible causes for aggressive driving that include increased traffic congestion, increased commuting distances, drivers who have too much to do and are “running late,” and disregard for others and the law.

AAA’s 2018 Traffic Safety Culture Index demonstrates that many drivers condone risky driving behaviors. For example, nearly 23% of drivers of all ages, and 33% of drivers ages 25 to 39, somewhat or completely approved of driving 15 mph over the speed limit on a freeway, and almost 50% of all respondents admitted having done so at least once in the last 30 days. About 40% reported exceeding speed limits by 10 mph on a residential street at last once in the last 30 days, and 10.9% somewhat or completely approved of such behavior. Only 54.2% of respondents considered driving 15 mph over the speed limit on a freeway as very or extremely dangerous. Driving 10 mph over the speed limit on a residential street was perceived as very or extremely dangerous by 64% of drivers of all ages, and about 55% of drivers ages 25 to 39.

STATE LEGISLATION

Aggressive driving continues to be a topic of legislation around the country. Most states have some sort of reckless, negligent, careless or aggressive driving law.


The Hawaii Legislature (HB 757) directed the state DOT and county transportation departments to “adopt a Vision Zero policy that seeks to prevent and ultimately eliminate all traffic fatalities through a combination of engineering, enforcement, education and emergency response strategies that focus on equity.”

Simultaneously, the state highway safety council must collaborate with county traffic or highway safety councils and develop an action plan to reduce traffic fatalities to zero. The action plan must include:

- Policies on how to reduce speeds on state and county roads.
- Engineering recommendations on how to increase vehicular, pedestrian and bicycle safety.
- Data-driven enforcement recommendations on how to reduce speeding and operating a vehicle while under the influence of an intoxicant.
- Additional steps that can be taken to eliminate vehicular, pedestrian and bicycle fatalities.
- An implementation plan and establishment of measures to track success.

The state DOT must submit a report of findings based on the state highway safety council’s efforts to the legislature by the beginning of the 2020 legislative session. Additionally, the state highway safety council must submit an interim progress report to the legislature no later than two days prior to the convening of the regular session of 2020. The council must then submit a final report with an action plan and proposed legislation before the end of the 2021 legislative session.
Maine (HB 815) amended its minimum suspension for negligent operation law and decreased the driver’s license suspension period from three years to one for offenders who negligently operated a motor vehicle and caused the death of another person.

Nevada (AB 403) amended its provisions governing reckless driving to clarify that such provisions apply not only to motor vehicles being operated on a highway but also to vehicles operated on “premises to which the public has access.” These include, among others, parking lots, parking garages and access roads. Nevada (AB 201) also outlawed using a vehicle to perform tricks, stunts or other maneuvers on a public highway. The new law provides that driving a vehicle in an unauthorized trick driving display constitutes a gross misdemeanor.

Utah (HB 431) passed legislation to add offenses that are eligible for expungement but explicitly excluded all reckless driving offenses.

Washington, D.C. (Bill 544), introduced the Reckless Driver Accountability Act of 2019, authorizing the impoundment of motor vehicles for motorists with three tickets for speeding by more than 25 mph over the limit, or five tickets for speeding or running a red light, unless the owner takes a remedial course. The course would feature small group sessions emphasizing harmful driving behavior. The new law would apply to all vehicles that are physically located in the district, independently of where they are registered. This initiative was modeled after a similar program adopted in New York City in February 2020. The course is based on a current restorative justice model, which was shown to reduce rearrest rates for dangerous driving by approximately 40%. New York is currently the only jurisdiction in the country with such a program. It is expected that about 5,000 vehicles (1% of registered vehicles in New York City) will accumulate the number of infractions needed to trigger the safety course requirement.

New York (AB 3087) has pending legislation that would expand the definition of reckless driving to include offenses involving the use of a portable electronic device while driving. South Carolina (HB 4793) is debating an initiative that would create the offense of reckless driving resulting in great bodily injury and establishing a penalty for such an offense.

Automated Enforcement

Automated enforcement technology, such as red-light and speed cameras, allows local law enforcement agencies to enforce traffic laws remotely by detecting motorists who violate traffic regulations. Red-light cameras are linked to traffic signals and monitor the green, yellow and red phases of traffic lights. When a driver enters an intersection after the signal has turned red, sensors trigger the cameras to take two photographs—one of the vehicle entering the intersection while the light is red and one showing the vehicle traveling through the intersection on a red light. Speed cameras use radar, laser or detectors embedded in the road surface to measure a vehicle’s speed at a particular spot. If a vehicle is traveling faster than the permitted speed, the speed camera will record the date, time, location and speed of the vehicle, in addition to taking a photo of the vehicle. The photos of the license plates are used to identify vehicle owners, who will receive a ticket if they exceeded the speed limit, typically by more than 10 or 11 miles per hour, according to the 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. In 2017, 939 people were killed in crashes involving red-light running, a 28% increase since 2012. Further, data shows that 28% of crash deaths that occur at signaled intersections are a result of drivers running red lights. Like red-light running, speeding has a large impact on the number and severity of crashes that occur. NHTSA data shows that in 2017, more than 9,000 deaths occurred in speed-related crashes. High speeds make a crash more likely due to the longer distance it takes for the driver to stop or slow down, and the increased risk that the driver will lose control of the vehicle while attempting an evasive steering maneuver.
While studies on the effectiveness of automated enforcement have shown some varied results, they generally show that automated enforcement technology has a positive impact on traffic safety. An IIHS study found that red-light cameras reduced the fatal red-light running crash rate of large cities by 21% and the rate of all types of fatal crashes at signalized intersections by 14%. Further, a 2016 IIHS report showed 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 at all signaled intersections increased by 30%. The study estimated that if these cities had not ended their red-light camera programs, 63 deaths would have been prevented.

Studies also show positive safety impacts from speed cameras. IIHS conducted a study of Montgomery County, Maryland, where speed cameras were implemented in 2007. The cameras were placed in school zones and on residential streets with speed limits of 35 mph or less. The study found that during the program’s first year, the proportion of drivers traveling at least 10 mph over the speed limit had declined on the streets that had speed cameras. Further, IIHS found that in 2014, the likelihood of a driver exceeding the speed limit by more than 10 mph on roads with cameras decreased by 62%.

Despite studies that generally show a positive impact on traffic safety, red-light and speed cameras remain controversial. Contrasting results from studies can enhance skepticism of automated enforcement, particularly with regard to how red-light camera programs are administered and which intersections are chosen.

While some municipalities continue to add automated enforcement programs, the recent trend has been toward fewer governments using red-light and speed camera programs. According to IIHS, 342 communities had red-light cameras as of January 2020, compared to 430 communities in 2016. Speed cameras are less prevalent than red-light cameras, although there has been a slight uptick in their use during the past few years, with 151 communities using them as of January 2020. One commonly cited reason for turning off cameras is community opposition to perceived revenue-generating tools. To this end, traffic safety groups have developed strategies for red-light camera programs that emphasize transparency and implementation based on safety concerns.

Currently, city and local governments in 22 states use red light cameras. They are Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Illinois, Iowa, Louisiana, Maryland, Missouri, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington and the District of Columbia. Notably, while Texas enacted a bill banning the use of red-light cameras in 2019, some communities with existing contracts will be permitted to continue using cameras for the time being.

Communities in 16 states—Alabama, Arizona, Colorado, Georgia, Illinois, Iowa, Louisiana, Maryland, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee and Washington—and the District of Columbia currently have speed camera programs in place. Georgia authorized speed cameras in school zones beginning in 2018. Pennsylvania enacted legislation in 2018 (SB 172) establishing a five-year pilot program for automated speed enforcement cameras in work zones on the Pennsylvania Turnpike, interstates and federal-aid highways in the state. The program began in March 2020, following a 60-day pre-enforcement period. Drivers going 11 mph over the posted speed limit in work zone enforcement areas when highway workers are present will be given a warning after their first offense, fined $75 after their second offense and fined $150 following their third offense.

There are some states that explicitly allow red-light cameras and/or speed cameras by law, but currently do not have communities using automated enforcement technologies. For example, Arkansas state law allows speed cameras in school zones and at railroad crossings, but no speed cameras are 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, despite the fact that the state allows them in school zones and areas with speed limits of 30 mph or less. In Iowa and Missouri, red light and speed cameras are allowed by city ordinance but not by state law. In Missouri, several municipalities had automated
enforcement programs in place until August 2015, when the Missouri Supreme Court issued two opinions finding that red-light and speed cameras were unconstitutional. Currently, only the city of Hannibal, Mo., employs red-light cameras and there are no longer any speed cameras in the state.

Some states, on the other hand, have laws explicitly prohibiting automated enforcement. Maine, Mississippi, New Hampshire, South Carolina, Texas and West Virginia prohibit both red-light cameras and speed cameras. Montana and South Dakota prohibit red-light cameras, and New Jersey and Wisconsin do not allow speed cameras.

STATE LEGISLATION

At least four states—Hawaii, Maryland, New York and Texas—enacted notable bills in 2019 related to automated enforcement.

Two states enacted legislation concerning automated enforcement pilot and demonstration programs.

Hawaii enacted legislation (SB 663) establishing a red-light running committee to develop policy recommendations for red-light camera pilot programs in the counties of Honolulu, Maui, Kauai and Hawaii. The bill states that the number of drivers violating traffic safety laws, particularly by running red lights, has become intolerable and is a danger to the lives of motorists and pedestrians. The bill then specifically cites red-light cameras as a reliable and effective way to identify and deter drivers from running red lights.

New York passed a bill (A 951) establishing a speed camera demonstration program in school zones in the city of Buffalo. Drivers traveling at a speed of more than 10 mph above the posted speed limit in a school zone will be fined, with fines capped at $50 for each violation.

Two states enacted legislation expanding automated enforcement in specific counties or cities.

Maryland enacted a bill (HB 187) that increases the number of speed monitoring systems that can be implemented on State Route 210 in Prince George’s County, expanding on a 2018 law (HB 175) that allowed Prince George’s County to place one speed camera at a specific intersection.

Further, New York enacted legislation expanding speed cameras in school zones in New York City.

In 2018, 140 school zone speed cameras in New York City were shut down due to the expiration of a 2013 law authorizing their use. Data from the New York City Department of Transportation shows that between 2014 and 2017, the cameras reduced speeding during school hours by 63% and injuries by 17%. In August 2018, Governor Andrew Cuomo signed legislation extending the 2013 law, allowing the speed cameras to continue to be used.

In 2019, the New York Legislature passed a bill (AB 6449) to expand the speed camera program and implement cameras around every public elementary, middle and high school in New York City. The law also allows the cameras to operate for longer hours each day. The authorization to use cameras in 750 school zones will make New York City’s speed camera program the most robust in the U.S. The program’s expansion will be implemented over the next three years.

Given the controversial nature of red-light and speed camera programs, the automated enforcement landscape is likely to continue shifting through the next year and beyond.
Texas Bans Red-Light Cameras

Rather than expanding automated enforcement, Texas banned the use of red-light cameras in the state.

Since 2007, Texas lawmakers have considered banning red-light cameras. Governor Greg Abbott signed HB 1631 into law in August 2019, citing concerns that the cameras pose constitutional issues because individuals are not able to confront their accuser in court.

Though the law went into effect on June 2, not all cities in the state have discontinued their red-light camera programs. While cities like Arlington and Richardson have stopped using red-light cameras, some communities with camera programs in place will continue operating the cameras until their current contracts come to an end. The city of Dallas, for example, signed a 10-year contract in 2017 with an option to opt out of the contract after seven years. While opponents of red-light cameras in Texas question their constitutionality and effectiveness, cities with programs in operation continue to champion red-light cameras as a tool to improve public safety.

Motorcyclist Safety

According to NHTSA, there were 4,985 motorcyclists killed in crashes in 2018, compared to 5,172 fatalities in 2017. During the period between 2008 to 2017, motorcyclist fatalities peaked in 2008 at 5,312, then generally decreased, and peaked again in 2016 with 5,337 motorcyclists killed. During that same period, fatalities among motorcycle riders ages 40 and older increased by 2%, and the average age of motorcycle riders killed in crashes rose from 40 to 42. According to NHTSA, motorcycles made up 3% of all registered vehicles in the United States in 2017 and accounted for only 0.6% of all vehicle miles traveled.

In 2017, motorcyclist fatalities made up 14% of all traffic fatalities. Of motorcycles involved in fatal crashes, 23% collided with fixed objects, while 16% were involved in fatal crashes with passenger cars, 13% with light trucks and 4% with large trucks. Of two-vehicle fatal crashes involving a motorcycle and another moving vehicle, 42% involved the other vehicles turning left while the motorcycle was going straight, passing or overtaking other vehicles.

STATE LEGISLATION

In 2019, at least 11 states enacted legislation concerning motorcyclists, generally focused on licensing and education, motorcycle operation and autocycles.

Motorcyclist Licensing and Education

At least four states enacted bills in 2019 related to motorcyclist licensing and education.

Kansas passed legislation (SB 17) that now requires individuals to have a motorcycle license when operating a motorcycle that is registered under a temporary permit. North Dakota passed two bills related to motorcycle licensing and registration. They require motorcycle registrations to be renewed every year (HB 1093) and revise motorcycle operator’s license requirements (SB 2194) to prohibit anyone younger than 16 with a permit or license from operating a motorcycle with an engine in excess of 510 cubic centimeters displacement rather than 250 centimeters.
Delaware adopted a resolution (SCR 3) to continue the Motorcycle Rider Education Advisory Committee, which monitors the Motorcycle Rider Education Program. Washington enacted legislation (HB 1116) that updates the state’s motorcycle safety program by creating a more comprehensive motorcyclist endorsement test.

Motorcycle Operation
In 2019, Utah passed a bill (HB 149) to allow motorcyclists to engage in lane filtering, making Utah the second state after California to enact lane splitting or lane filtering legislation. The difference between lane filtering and lane splitting is generally understood as the speed of the traffic that the motorcycle moves between. According to the American Motorcyclist Association, lane splitting as it is done in California is typically practiced at no more than 15 mph faster than congested traffic, as long as traffic is going 50 mph or less, as suggested by a University of California, Berkeley study on lane splitting. Lane filtering refers to the situation where a motorcycle passes other vehicles that are stopped in the same direction of travel in the same lane. Utah’s legislation allows motorcycles to engage in lane filtering on roads with speed limits of 45 mph or less, only when traffic is stopped, when the motorcycle is traveling less than 15 mph and when the movement can be made safely. The bill has a sunset provision, so the sections permitting lane filtering will be repealed on July 1, 2022 unless further legislative action is taken.

Oregon also passed a bill regarding motorcycle operation (SB 810), adding motorcycle operators to the definition of a vulnerable user of a public way. Under Oregon’s Careless and Reckless Driving law (O.R.S. § 811.135), a person who commits a careless driving offense that contributes to the serious injury or death of a vulnerable user of a public way is subject to enhanced penalties.

Autocycles
In 2019, at least five states enacted legislation to define or amend existing regulations on autocycles.

Arizona enacted a bill (SB 1258) clarifying that a class M license is not necessary for operating an autocycle or motorcycle that has at least three wheels, three-point safety belt, bucket or bench seats, and is fully enclosed or uses a roll cage frame. Montana passed a bill (SB 158) that defines an autocycle as a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it. The state also clarified that a motorcycle endorsement is not necessary for the operation of an autocycle. New Jersey now requires (SB 2720) autocycles to be insured by personal injury protection (PIP) coverage that covers only pedestrians, rather than the more expansive PIP coverage. North Carolina passed a bill (HB 211) that updates the state’s autocycle definition as part of the helmet exemption, specifying that the motorcycle helmet requirement doesn’t apply to an operator of an autocycle that has completely enclosed seating or is equipped with a roll bar or roll cage. Wisconsin enacted legislation (SB 86) related to the registration and operation of autocycles.

School Bus Safety
Every school day, more than 25 million children climb into 485,000 buses around the country to take them to and from school and related activities, according to the National Association for Pupil Transportation. While school buses are statistically the safest way to transport school children, 61 children who were riding a school bus died in crashes between 2008 and 2017, according to NHTSA. Another 264 school-age children (18 and younger) died in school-transportation-related crashes during that period, either as occupants of other vehicles or on foot or bike. A total of 1,241 people of all ages died in school-transportation-related crashes between 2008 and 2017.

Several recent tragic, high-profile school bus crashes have sparked debate at statehouses regarding school bus safety. A fatal crash in May 2018 in New Jersey led to changes in school bus seat belt and school bus driver requirements (see page 44), while a crash that took the lives of three schoolchildren in Indiana spurred a number of substantive changes regarding school bus passing and the placement of school bus stops (see page 49).
The National Transportation Safety Board (NTSB) released a report in 2019 analyzing a fatal school bus crash in Iowa. The crash resulted from the driver backing into the ditch and the bus starting on fire. NTSB determined the probable cause was the driver’s failure to control the bus and the school district’s failure to provide adequate oversight by allowing a driver with a known physical impairment that limited his ability to perform emergency duties to operate a school bus. NTSB issued one recommendation specifically to states: “Revise your school bus driver requirements so that all drivers must pass a physical performance test on hiring and at least annually, and also whenever a driver’s physical condition changes in a manner that could affect his or her ability to physically perform school bus driver duties, including helping passengers evacuate a bus in an emergency.” According to NTSB and research by NCSL, only six states clearly require such physical performance tests for school bus drivers.

In important news that could have significant impacts on school bus driver safety and oversight in the near future, the Federal Motor Carrier Safety Administration (FMCSA) Drug & Alcohol Clearinghouse is now operational. The clearinghouse is a centralized database that 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 that would disqualify them from driving. State driver licensing agencies will be required to use the clearinghouse beginning in 2023.

STATE LEGISLATION

School bus safety was very much on the mind of lawmakers in 2019, following a number of fatal school bus crashes in the past few years. States enacted several substantive changes to their laws concerning school bus safety, particularly in Indiana, Maine and New Jersey. Over 20 states enacted more than 40 bills related to school bus safety during the 2019 legislative sessions. They addressed school bus drivers, seat belts on school buses, illegally passing school buses, and the use of stop-arm cameras and school bus equipment.

School Bus Drivers

The legislatures in Connecticut, Georgia and New Hampshire took steps in 2019 to help ensure school bus drivers or applicants are screened for disqualifying violations.

Connecticut (SB 924) revised its process for ensuring compliance for school bus drivers with driving violations. The Connecticut DMV periodically provides school districts and school bus carriers with a report listing the names and driver’s license numbers of each driver whose license or endorsement has been suspended or revoked. Connecticut now requires any carrier of school children in the state to register with the commissioner of motor vehicles, and the carrier’s assigned employee must review the DMV report at
least twice a month. If any school bus driver’s license or endorsement to operate a student transportation vehicle has been withdrawn, suspended or revoked, the carrier must immediately prohibit that employee from operating such a vehicle. The bill also aligns minimum physical requirements for school bus drivers with the federal physical qualification standards for commercial drivers.

The Georgia legislature (HB 459) also refined its process for identifying and suspending school bus drivers with driving violations by creating a registry of all persons in the state driving or applying to drive a school bus. Each local board of education must submit the full name and driver’s license number of every school bus driver to the Department of Public Safety before authorizing him or her to operate a school bus. The local boards of education must provide an updated list to the department twice within a calendar year, and the department must maintain a database with driver names and license information. The department must verify the status of each person’s driver’s license and notify the appropriate local board of education of any driver whose license has expired or been canceled, suspended or revoked. If the board learns a school bus operator’s license has expired or been suspended or revoked, the board must suspend or revoke the operator’s authorization to drive a school bus. A school bus driver must notify the local board of education if his or her driver’s license has expired or been suspended or revoked. Drivers may request a new authorization to drive a school bus upon the reinstatement of their driver’s license or driving privileges.

New Hampshire (SB 62) established a committee to study “criminal background checks for school bus drivers and the establishment of a statewide certification program for school bus drivers.”

North Dakota and Virginia added training requirements for school bus drivers in 2019. Virginia (SB 1713) now requires drivers to complete a training program developed by the Board of Education, including safety protocols for responding to adverse weather conditions and unsafe conditions during loading and unloading of students. The training requirements were previously not mandatory.

North Dakota school bus drivers must now (HB 1385) complete the National Safety Council’s defensive driving course within the first year of employment and then at least once every five years. Another new North Dakota law (HB 1369) clarifies that the school board must pay for an initial examination and subsequent recertification examinations to determine if a school bus driver meets physical and medical requirements. Further examinations that are needed may have to be paid for by the drivers or their insurance.

Illinois enacted legislation (HB 2121) stipulating that an applicant for a school bus driver permit must not have been convicted of a Class A misdemeanor under the Cannabis Control Act in the past 20 years.

Garden State Tightens Oversight of School Bus Drivers

The Garden State took significant steps to increase school bus safety following a school bus crash in May of 2018 that took the life of one student and one teacher in Paramus, N.J. The New Jersey Legislature enacted numerous school bus bills late in 2018 and early in 2019, with a particular focus on increasing oversight of and requirements for school bus drivers.

The legislature (AB 4224) directed the commissioner of education to partner with a number of other state agencies, including offices within the Department of Law and Public Safety and the Motor Vehicle Commission, as well as the Office of Homeland Security and Preparedness, to study school bus safety. The study must investigate:

- The safety of school bus passengers involved in emergency situations, such as head-on, rear-end and side-impact collisions and situations where the school bus may roll over.
- School bus safety technologies such as speed restrictors, automatic braking, electronic stability control and event data recorders.
- Age, physical fitness requirements and experience qualifications for school bus drivers.
The study must then evaluate statutory and regulatory requirements relating to oversight of school bus operations, including maintenance of vehicles, school bus driver qualifications, and audits of school districts and contractors. The study must be submitted to the legislature and the governor.

New Jersey (AB 4031/SB 1773) also enacted a requirement that any entity operating a school bus display a telephone number, website address or other identifying information across the rear of the school bus to enable the public to report a bus driver’s misconduct. The commissioner of education must create regulations for the appropriate designee to address and respond to a complaint of school bus driver misconduct, the appropriate actions that may be taken to respond to a school bus driver’s misconduct complaint and the time period during which they may respond.

New Jersey (AB 4346/SB 2848) also addressed medical and physical fitness requirements for school bus drivers. The medical exam must include hearing and visual acuity tests, but the previous requirement for a cognitive test was excised. Furthermore, a driver older than 70 must annually furnish satisfactory evidence of continuing physical fitness in the form of a medical examination to the employer and then for review by the commission. Drivers older than 75 must do the same, but every six months.

New Jersey (AB 4345/SB 2853) also provided flexibility for school bus drivers to participate in a safety education program twice per year, rather than at the beginning and end of the school year.

The legislature in New Jersey also sought to ensure school bus drivers with suspended licenses or who have lost their school bus endorsement no longer operate a school bus. The state must suspend a driver’s school bus endorsement for 90 days if the person is convicted of three or more motor vehicle moving violations in three years or accumulates six or more motor vehicle penalty points while operating a commercial motor vehicle or noncommercial motor vehicle. New legislation (AB 4447/SB 2914) requires the New Jersey Motor Vehicle Commission to notify the commissioner of education if a school bus driver’s school bus endorsement has been suspended within one business day of the suspension. Along similar lines, another bill (AB 4344/SB 2850) now requires a pupil transportation provider to verify to the department of education that a school bus driver with a suspended or revoked license no longer operates a school bus within one business day of being notified.

**Seat Belts on School Buses**

Eight states—Arkansas, California, Florida, Louisiana, Nevada, New Jersey, New York and Texas—have laws requiring the installation of seat belts on school buses. Arkansas, California, Nevada, New Jersey and Texas specifically require lap/shoulder belts. Arkansas, Louisiana and Texas’ laws, however, are subject to appropriations or approval or denial by local jurisdictions.

Additionally, Iowa’s Board of Education approved an education department rule in 2019 requiring three-point lap-shoulder belts to be installed in all new buses, effective October 2019.

No other states created new school bus seat belts requirements in 2019, although the legislatures in at least 13 states—Connecticut, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Mississippi, New Mexico, New York, Rhode Island, South Carolina, Utah and Virginia—considered seat belt requirements during their 2019 sessions.
Illegally Passing School Buses and Stop-Arm Cameras

Instances of motorists illegally passing a stopped school bus are more common than one might imagine. The National Association of State Directors of Pupil Transportation Services conducts an annual survey to gauge how often this dangerous driving action takes place. For the 2019 survey, school bus drivers from 39 states participated and recorded over 95,000 drivers illegally passing a school bus in a single day.

In response to this traffic safety danger, 22 states explicitly allow local governments or school districts to use cameras mounted on school bus stop arms to capture images of and issue tickets for drivers who illegally pass stopped school buses. They are Alabama, Arkansas, Connecticut, 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. Some, but not all, states require a law enforcement officer to review the video evidence before issuing a citation. Oklahoma and Tennessee instituted this requirement in 2019.

Notably, NTSB, as part of an investigation into a school bus crash that took the lives of three Indiana schoolchildren in 2018, recommended the 28 states without school bus stop-arm camera laws adopt such laws (see page 49 for more on Indiana’s 2019 school bus safety actions).

Seven states—Idaho, Indiana, Maine, New York, Oklahoma, Tennessee and West Virginia—enacted laws in 2019 allowing stop-arm cameras to be used.

New York’s law went into significant detail regarding the parameters of operating a stop-arm camera program, preserving privacy and the process for citing violators, while the other six states went into less detail or simply authorized the use of such cameras.

The New York Legislature (AB 4950) authorized school districts to enter into agreements with municipalities to install and use stationary or mobile school bus photo violation monitoring systems.
The bill goes into considerable detail regarding privacy protections, fine amounts and dissemination of fine revenue, reporting to the state and local governments and other considerations.

Municipalities are responsible for all costs to administer the program. The violations are only monetary violations and may not count against a driver’s operating record nor for insurance purposes. The fine amounts are $250 for a first violation and $275 or $300 for a second or third violation, respectively, within 18 months. The local government may add an additional penalty of no more than $25 per violation. Fine revenue must be remitted to the state comptroller. The comptroller will then pay 90% of the fine amount to the county in which the violation occurred, and 10% to the city, town or village where the violation occurred. School districts must report the costs to administer the school bus photo violation monitoring systems annually, and will then be reimbursed that amount by the local government with which they have an agreement.

With regard to privacy protections, localities must adopt and enforce measures to protect an individual’s identity and identifying information. This includes, to the extent practical, producing photographs that do not identify the driver, passengers, other individuals or contents of the vehicle. Photographs and other recorded images and data produced by school bus photo violation monitoring systems must be destroyed 90 days after the violation date or upon final disposition. Vehicle license plate information and other information and images must not be used or disseminated for reasons other than determining if a motorist illegally passed a school bus, except if required by court order or as otherwise required by law. The determination whether a violation occurred must be made by a technician employed by the local government where the violation took place.

New York was the only state in 2019 to require warning signs for school bus cameras. Signage must be posted on roads entering a locality with a school bus photo violation monitoring system, alerting drivers that cameras are being used to enforce restrictions on vehicles illegally passing a school bus. Lastly, any local government with a school bus camera program must report to the governor and legislature annually.

Idaho’s new law (SB 1131) raised fines for illegally passing school buses, and in the process, declared fines of more than $100 must go to a newly created school bus camera fund. Such funds can only be used for installing cameras on school buses to enforce illegally overtaking and passing school buses.

Indiana (SB 2) authorized school districts to purchase, install and operate stop-arm cameras to record vehicles that unlawfully pass a stopped school bus. The new law references Indiana’s administrative code, which details specifications for such cameras. School districts may, with the approval of the governing body, petition the county council or a township board to receive reimbursement for the cameras.

For each violation where a motorist passes a school bus stopped on a roadway, the court may assess a “safe schools” fee of at least $200 and no more than $1,000, with 75% of the fee deposited in the state user fee fund. The other 25% will be remitted to municipal governments or counties, depending on where the fee was collected.

In terms of driving privileges, a driver’s license may be suspended for 90 days, and for a second offense within one year, for one year. The bill also increases the penalty from a Class B misdemeanor to a Class A misdemeanor. If a motorist passes a school bus and it leads to an injury, the penalty is now a Level 6 felony rather than a Class A misdemeanor. For a situation that leads to death, it is now a Level 5 felony.

In Maine, the legislature (SP 53) authorized the state and municipalities to install school bus cameras to record vehicles that unlawfully pass them while they are stopped. Image and audio recordings are confidential and can only be released to law enforcement, defendants and the prosecution. The state or a municipality may not retain a recorded image or audio from a school bus camera for more than 30 days.

Oklahoma’s new law (HB 1926) authorized school districts to install and operate a video monitoring system in or on the district’s school buses or bus stop-arms, or contract with a private vendor to do so. To determine if a violation occurred, the school district must forward the recorded image or video for review to the law enforcement agency with jurisdiction. If the law enforcement agency finds there is sufficient evidence to identify the vehicle and the driver, that evidence must be submitted to the district attorney’s office for prosecution. Violators were previously subject to a fine of at least $100. The bill added an additional special
assessment of $100, with 75% deposited in the Cameras for School Bus Stops Revolving Fund. The State Board of Education will then award one or more grants annually from that fund, if money is available, to public school districts for the installation of camera equipment on buses. The other 25% from the assessment goes to the law enforcement agency where the violation occurred.

Tennessee (HB 268/SB 205) authorized local education agencies (LEAs) to install cameras on school buses to record vehicles that unlawfully pass a stopped school bus, or contract with a private vendor to do so. An LEA that installs school bus cameras must enter into a memorandum of understanding with local law enforcement for the preservation of evidence from a camera. Only law enforcement officers are authorized to review evidence from a camera to determine whether a violation occurred. The fine is $50 for a camera-based violation, and fine revenue is remitted to the LEA.

West Virginia (SB 238) directed county boards of education to install school bus cameras to detect illegal passing of school buses on all school buses purchased after July 1, 2019.

A few states—Arkansas, Idaho, Illinois, West Virginia and Wyoming—revised their penalties for illegally passing a stopped school bus. Some state laws prescribe different fines and penalties for a violation captured by a school bus camera as opposed to a law enforcement officer. One common component is to not assess points against a driver’s license for a violation captured by a camera.

Arkansas (HB 1006) increased penalties for passing a stopped school bus. Violators now must pay a minimum of $500, rather than $250, and a maximum of no more than $2,500, up from $1,000.

Idaho increased its fines for illegally passing a school bus, with the minimum fine for a first offense now $100 rather than $200, and the ceiling of $500 for a first offense removed. For a second offense, the minimum fine was set at $400 within five years of a prior offense and no less than $600 for a third offense within five years of two prior offenses. Also, fines over $100 go into a new school bus camera fund.

Illinois (HB 1873) increased the minimum fine for a first offense from $150 to $300 and from $500 to $1,000 for a second offense.

The West Virginia Legislature increased (SB 238) the minimum monetary penalties for illegally passing a school bus from $250 to $500 for a first violation, $500 to $1,000 for a second violation and $2,000 for a third violation. The bill also created minimum driver’s license suspension periods for such a violation. A first offense triggers a suspension period of 60 days, while a second offense will lead to a 180-day suspension, and a third or subsequent offense would carry a license suspension of one year. Additionally, the bill created fines for a driver who illegally passes a school bus and causes serious physical injury or death. A driver that causes serious bodily injury is guilty of a felony, and upon conviction, shall be confined in a state correctional facility for at least one year and no more than three years and fined no less than $2,000 nor more than $5,000. Any driver who causes death is guilty of a felony and must serve at least one year and no more than 10 years in a state correctional facility and be fined at least $5,000 and no more than $10,000.

Wyoming (SB 80) created a fine of $195 for a camera-detected violation of the requirement to stop for a stopped school bus and also clarified that a camera-detected violation is not considered a moving violation for the purpose of suspending a driver’s license, nor considered a conviction.

Five states—Georgia, Maryland, Mississippi, Virginia and Wyoming—refined aspects of their school bus passing laws in 2019.

Georgia (SB 25) clarified that motorists do not need to stop for a stopped school bus on roadways separated by a grass median, unpaved area or physical barrier. Maryland (SB 464) kept the increased civil penalty of $500 for failing to stop for a stopped school bus. The penalty was scheduled to revert to $250.

Mississippi (HB 677) clarified that any person, rather than just a school bus driver or law enforcement official, may witness the illegal passing of a stopped school bus, and it shall be a rebuttable inference that the person in whose name the vehicle is registered committed the violation. The bill also allows a school
bus driver to stop on a street blocking the two outermost right lanes, regardless of the number of lanes, when preventing being overtaken while receiving or discharging schoolchildren. For a two-lane street or highway, this allows a school bus driver to block both lanes.

Virginia (HB 2344) now requires the state’s DMV to release certain vehicle owner data to a private vendor operating a school bus video-monitoring system. That data can only include the vehicle owner’s name and address and the vehicle information, which includes all descriptive vehicle data and title and registration data. The bill limits how such data can be used and stored and provides that any person who unlawfully discloses such data be subject to a civil penalty of $1,000. The bill also amended the school bus passing law to clarify motorists must remain stopped until the bus is put in motion.

Wyoming, which enacted a law in 2014 mandating all school buses in the state be equipped with school bus cameras, has encountered issues with prosecuting camera-based violations. Its 2019 legislation (SB 80) added language regarding privacy and the process to determine if an individual was driving the vehicle in question. The bill clarifies recordings or images from a school bus camera are not public records. Recordings or images may be entered into evidence for an “illegally passing a school bus” prosecution and may be discoverable for other criminal actions. Such recordings or images must be destroyed within one year of the date the recording was made. It shall be a defense to enforcement of the fine that the registered owner of the vehicle either did not provide consent to the person who was operating the vehicle at the time of the violation or transferred ownership of the vehicle to a new owner prior to the observed violation.

Lastly, the New York Legislature enacted a bill (SB 2960) to require school bus safety awareness education as a prerequisite for obtaining a driver’s license. A curriculum must be developed that includes, among others, an overview of traffic laws governing overtaking and passing school buses.

Indiana Focuses on Safety at School Bus Stops

A fatal crash on an autumn morning in 2018 took the lives of three northern Indiana children and severely injured another child while they were crossing a rural highway to board their school bus. The school bus stop was across from a mobile home park, and students had to cross a two-lane road with a 55 mph speed limit to reach the stop. The school bus was stopped with its red warning lights and stop arm activated when the driver of a pickup truck illegally passed the school bus and collided with the four children crossing the road. This tragic crash prompted the Indiana legislature to enact a law (SB 2) with several components regarding safe school bus passing, and safe practices and locations for school bus stops.

The bill authorized school districts to install school bus stop-arm cameras (see page 46). Additionally, the bill made a number of changes and new requirements to increase the safety of school bus routes and stops, including:

• The school bus driver may not load or unload a student on a U.S. route or state route at a location that requires the student to cross a roadway unless no other safe alternatives are available. If no safe alternative exists, the superintendent must present the school bus route to the governing body for approval.

• When a school bus is operated on a street or highway other than a U.S. route or state route, the driver shall load and unload a student as close to the right-hand curb or edge of the roadway as practical.

• Each school corporation, charter school and accredited nonpublic school that provides transportation for students must review the school’s bus routes and school bus safety policies to improve the safety for students and adults.

• The state school bus committee, in consultation with the department of education, must develop and post on the department’s website school bus safety guidelines or
best practices. These must include procedures to ensure that students do not enter a roadway until approaching traffic has come to a complete stop.

- The department of education, in consultation with the department of transportation, must include information on how an individual or school may petition to reduce maximum speed limits to ensure that students are safely loaded onto or off of a school bus on the department’s website.

The bill also requires the exam for a learner’s permit or driver’s license to include a question regarding driver’s passing a school bus.

In April 2020, NTSB issued a summary of the crash and number of recommendations, including that states authorize school bus stop-arm cameras, which Indiana had already done with SB 2. NTSB also made recommendations that built on some of the provisions in SB 2, including recommending that the Indiana Department of Education supplement its training program for school transportation directors with a module on how to assess the safety and risks of school bus routes and stops.

School Bus Equipment

Louisiana (HB 156) clarified that charter schools are subject to regulations concerning school bus specification and inspection requirements, operational procedures, and school bus operator and bus attendant pre-employment screening and training requirements.

Maine enacted legislation (HB 20) requiring school buses with a model year of 2021 or newer to be equipped with a school bus crossing arm installed at the front bumper. A crossing arm is a device mounted on the front bumper of a school bus that, when activated, extends in front of the bus, enabling students who cross the roadway in front of the bus to maintain a safe distance from it.

Such arms are meant to ensure schoolchildren don’t walk directly in front of the school bus when crossing the street to or from the bus stop and to provide better sightlines for approaching motorists and schoolchildren as well as the school bus driver. Based on NCSL research, at least 26 states appear to require school buses to have crossing control arms either through statute or administrative code. The National Congress on School Transportation recommends, but does not require, the use of crossing control arms.

Maryland (SB 215/HB 276) defined operational age limits for school buses, adding Allegany and Garrett to the list of counties that are allowed to operate school vehicles for up to 15, rather than 12, years.
Bicyclist and Pedestrian Safety

According to NHTSA, there were 6,283 pedestrians killed in traffic crashes in 2018. This was 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 2017.

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. The number of bicyclist traffic deaths was the highest since 1990. Notably, 26% of bicyclists who died were found to have BAC levels above .01, and 20% had a BAC above .08. Drivers involved in fatal crashes involving a bicyclist had a BAC of .08 or higher in 15% of crashes. The average age of bicyclists killed is now 47 years, up from 41 in 2009. The overwhelming majority of bicyclist fatalities (86%) in 2018 were males.

Overall, pedestrians and bicyclists made up nearly 20% of traffic fatalities, a significant jump from 14% of fatalities in 2009.

STATE LEGISLATION

2019 was an active year for legislation concerning bicyclist and pedestrian safety, in particular bicycling bills. Legislatures enacted bills concerning bicycle operation, safe bicycle passing, vulnerable road user laws, pedestrian safety, electric bicycles, and miscellaneous bicyclist and pedestrian safety provisions.

Bicycle Operation

Four states—California, Oklahoma, Rhode Island and Washington—revised their laws regarding differing aspects of legally operating a bicycle in 2019. Two states, Arkansas and Oregon, joined the small group of states that allow bicyclists to treat stop signs as yield signs in 2019.

California (AB 1266) clarified that a bicyclist may travel straight through a right- or left-turn-only lane when an official traffic control device indicates that the movement is permitted.

Oklahoma (HB 2454) became the latest state to allow bicyclists and motorists to proceed through a red traffic control light, but only if that is due to the signal failing to detect the motorcycle or bicycle because of its size or weight. The Oregon legislature (HB 2682) clarified that “a bicycle lane exists in an intersection if the bicycle lane is marked on opposite sides of the intersection in the same direction of travel.”

Rhode Island (SB 782/HB5507) added language allowing a bicyclist facing a green bicycle signal to proceed straight through or turn right or left unless a sign prohibits either turn while yielding the right of way as needed.

Washington (SB 5723) revised its law regarding bicycle operation, specifically regarding instances in which a bicyclist must “ride as near to the right side of the right through lane.” Exceptions to this requirement include when a bicyclist is making a left turn when there is a right turn lane present, but the bicyclist does not intend to turn right. It also makes an exception “when reasonably necessary to avoid unsafe conditions
including, but not limited to, fixed or moving objects, parked or moving vehicles, bicyclists, pedestrians, animals, and surface hazards.” Additionally, when a bicyclist is on a roadway with only one lane and it is wide enough for a bicyclist and a vehicle to travel safely side by side, the bicyclist must ride far enough to the right to facilitate the movement of an overtaking vehicle. Exceptions include when other conditions make it unsafe to do so or the bicyclist is making or preparing to make a turn.

Arkansas and Oregon both passed “stop as yield” laws in 2019, which allow bicyclists to treat stop signs as yield signs in specified instances. These laws are sometimes known as the “Idaho Stop” due to Idaho’s enactment of the first such state law in 1982. Such laws also exist in a more limited form in Colorado and Delaware.

Arkansas’ new law (SB 388) allows bicyclists to proceed through a stop sign after yielding, only stopping if required to avoid an immediate hazard. For a red traffic control light, bicyclists may proceed through a red light with caution, after first stopping and yielding the right-of-way to all oncoming traffic that constitutes an immediate hazard.

After a number of past attempts at passing a stop as yield law, the Oregon legislature enacted such a law (SB 998) in 2019. The new law stipulates that a bicyclist approaching an intersection with a stop sign or flashing red signal may make any of the following movements without stopping if the person slows the bicycle to a safe speed: proceed through the intersection, make a right or left turn onto a two-way street, or make a right or left turn onto a one-way street in the direction of traffic on the one-way street. Bicyclists must yield the right of way to traffic lawfully within the intersection or approaching so close as to constitute an immediate hazard and yield to pedestrians in the crosswalk. Oregon’s bill does not include language allowing bicyclists to proceed through a red traffic light.

**Safe Bicycle Passing**

A bicycle safety policy that has gained significant interest and activity in state legislatures is 3-feet or safe 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.

Two states, Oklahoma and Washington, enacted bills in 2019 regarding safely passing bicyclists. Both included 3-feet passing requirements, bringing the total number of states with such provisions to 33 states.

Oklahoma enacted a bill (HB 2453) requiring a motor vehicle passing a bicyclist to maintain a safe distance of not less than 3 feet until the motor vehicle is safely past the bicycle. If there is only one traffic lane proceeding in the same direction, a motorist must not overtake or pass a bicycle at a distance of less than 3 feet between any part of the motor vehicle and any part of the bicycle or its operator, and shall not move again to the right side of the highway until the vehicle is safely clear of the bicycle. A motorist may drive to the left of the center of the roadway, including in a no-passing zone, to pass a bicycle only if the roadway is unobstructed enough to permit the driver to pass the bicycle safely and avoid oncoming traffic.

If there is more than one lane for traffic in the same direction, a motorist passing a cyclist must move the vehicle to the lane to the immediate left if the lane is available and moving into the lane is reasonably safe. The motorist may not move back into the travel lane until the vehicle is safely clear of the bicycle.

A violation of the passing provision is a misdemeanor punishable by a fine of not more than $100. A second or subsequent conviction is punishable by imprisonment in a county jail for no more than 30 days, or a fine of between $150 and $500, or both a fine and imprisonment. A motorist who passes too closely and causes a crash that injures another person is subject to a misdemeanor conviction punishable by imprisonment in county jail for no more than three months, a fine of not more than $1,000, or both. For a violation that leads to great bodily injury to another person, the driver can be found guilty of a misdemeanor punishable by county jail imprisonment for up to six months, a fine of no more than $3,000 or both.

Washington’s new law (SB 5723) requires motorists passing a bicyclist, pedestrian or others traveling on a roadway with only one traffic lane in the direction of travel to reduce their speed. The speed must be reduced to safely pass at a distance of at least 3 feet where practical to clearly avoid contact. When there is insufficient room to the left of the individual, the driver must, before passing and until safely clear of the individual, move...
A number of states have created laws to define “vulnerable roadway users.” These definitions typically include pedestrians, bicyclists, motorcyclists, first responders, people in wheelchairs and others using roads without the protection of a vehicle. These laws often include enhanced penalties for motorists who injure or kill a vulnerable user in a crash.

Colorado (SB 175) defined a vulnerable user to include pedestrians, bicyclists, motorcyclists, first responders, a person riding an animal, farm vehicles, people on a skateboard or roller skates or other such devices, a person in a wheelchair, and other prescribed road users.

The bill also created standard penalties for a motorist responsible for a crash leading to serious bodily injury to a vulnerable user. A motorist found guilty of this Class 1 traffic
Pedestrian Safety

The Hawaii Legislature (SB 98) made an important addition and clarification to its statute regarding yielding to pedestrians in crosswalks. It states that a “pedestrian is lawfully within an intersection or adjacent crosswalk when any part or extension of the pedestrian, including any part of the pedestrian's body, wheelchair, cane, crutch, or bicycle, is beyond the curb or the edges of the traversable roadway or moves onto the roadway within an intersection or crosswalk.”

Hawaii (SB 693) also added language regarding when a pedestrian should enter a crosswalk with a countdown timer. If the pedestrian control signal is equipped with a countdown timer, a pedestrian may not “start to cross the roadway in the direction of such signal once the countdown begins, but any pedestrian who has partially completed the pedestrian's crossing when the countdown begins shall complete the crossing to a sidewalk or safety island before the countdown timer ends.”

The Maryland legislature (SB 460) increased the maximum fine—from $500 to $1,000—for instances when a driver contributes to a crash by failing to come to a stop when a pedestrian is in a crosswalk. The fine also increases for overtaking and passing a stopped vehicle that is allowing a pedestrian to cross the roadway at a marked or unmarked crosswalk at an intersection. The bill also established the Pedestrian Safety Fund and dedicates all fine revenue from such violations to the fund. Funds may only be used to enhance the safety and quality of pedestrian and bicycle transportation. Eligible efforts include providing educational programming that raises awareness of the responsibility to follow the rules of the road; making physical design changes that calm traffic, minimize conflict among street users, and protect bicyclists, motorists and pedestrians; and increasing enforcement of rules of the road, such as using radar speed display signs.

The New Hampshire General Court (HB 428) removed the prohibition on right turns by vehicles while a steady or flashing walk signal is displayed.

The Texas Legislature added language (HB 2775) prohibiting a pedestrian from moving in front of, under, between or through the cars of a moving or stationary train occupying any part of a railroad grade crossing.

Virginia (HB 1648) added the Town of Ashland to the list of municipalities that may pass an ordinance allowing the installation of highway signs at marked crosswalks. The signs require operators of motor vehicles to yield the right of way to pedestrians crossing or attempting to cross the highway.
Electric Bicycles

Legislatures continued to debate and enact laws defining electric bicycles—also known as e-bikes—and the rules for their operation in 2019. Thirteen states—Georgia (HB 454), Hawaii (HB 812), Idaho (HB 76), Indiana (HB 1236), Maine (HB 882), Maryland (SB 935), New Hampshire (HB 148), New Jersey (SB 731), Oklahoma (HB 1265), South Dakota (SB 187), Texas (HB 2188), Wisconsin (AB 132) and Wyoming (SF 81)—enacted bills related to e-bikes. The bills primarily focused on defining and establishing “three-tiered” e-bike classification systems, helmet requirements, age restrictions and restrictions on where e-bikes may operate.

Electric Bike Definitions and Three-Tiered Classification

In 2019, 11 states—Georgia, Idaho, Indiana, Maine, Maryland, New Hampshire, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming—enacted legislation establishing a “three-tiered” e-bike classification system.

The tiered classification system is designed to differentiate between e-bike models with varying top assisted speed and power activation capabilities (i.e., the e-bike must be pedaled to activate the motor). For example, Oklahoma’s language defines the following:

- Class 1: E-bikes equipped with an electric motor that assists only when the rider is pedaling and ceases to assist once reaching a speed of 20 mph.
- Class 2: E-bikes equipped with an electric motor that may be used exclusively to propel bikes and ceases to assist once reaching a speed of 20 mph.
- Class 3: E-bikes equipped with an electric motor that assists only when the rider is pedaling and ceases to assist once reaching a speed of 28 mph.

One state—New Jersey—enacted legislation establishing a “two-tiered” e-bike classification system and modified its “motorized bicycle” definition by adding language for a pedal bicycle having an electric motor that propels the bicycle in excess of 20 mph with a maximum motor-powered speed of 28 mph. This would generally meet the criteria for a “class 3” e-bike, but the law also specified that this does not include a “low-speed e-bike.” In other words, “class 3” e-bikes meeting the criteria of a “motorized bicycle” must still register with the state Motor Vehicle Commission. Operators must also be at least 15 years old, have a valid license and insurance card, and wear a helmet while operating the device. E-bike supporters note it does not appear possible to register a “class 3” e-bike because the bikes lack vehicle identification numbers.

Hawaii’s legislation adopted the federal definition of an “e-bike” under title 15 of the U.S. Code, section 2085. This federal definition is part of the Consumer Safety Act and “low-speed electric bicycles” are defined as, “a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts, whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.”

Helmet Requirements

Six states—Georgia, Indiana, Maine, New Hampshire, New Jersey and South Dakota—enacted legislation requiring e-bike operators and passengers to wear bicycle helmets if they do not meet minimum age requirements.

Indiana required any e-bike operator or passenger younger than 18 on a “class 3” e-bike to wear a helmet. Maine required any e-bike operator or passenger younger than 16 to wear a helmet. New Hampshire required any “class 3” e-bike operator or passenger younger than 18 to wear a helmet. South Dakota required any “class 3” e-bike operator younger than
18—as well as any passenger, regardless of age—to wear a helmet. New Jersey requires all e-bike riders younger than 17 to wear a helmet when riding. Georgia required helmet use for all riders of “class 3” e-bikes.

**Age Restrictions**
Ten states’ laws—Georgia, Hawaii, Indiana, Maine, Maryland, New Hampshire, Oklahoma, South Dakota, Texas and Wisconsin—included e-bike age restrictions for certain riders. Minimum age provisions only apply to the e-bike operator, and all states allowed individuals that do not meet the minimum operator age to ride as a passenger if it is designed to accommodate passengers.

Hawaii (HB 812) prohibited e-bike operators younger than 15. Georgia, Indiana and Texas prohibited “class 3” e-bike operators younger than 15. Maine prohibited “class 2” and “class 3” e-bike operators younger than 16. Maryland, New Hampshire, Oklahoma, South Dakota and Wisconsin prohibited “class 3” e-bike operators younger than 16.

**Registration and Licensure**
One of the primary rationales for states to enact e-bike legislation is to differentiate e-bikes from other motorized devices, such as mopeds and motorcycles, and exempt e-bike operators from licensure and registration requirements. The new laws in Georgia, Idaho, Indiana, Maine, Maryland, New Hampshire, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming all include such language. For example, Idaho’s bill specifically states mopeds and motorcycles are not e-bikes and explicitly exempts e-bike operators from licensure, registration and titling requirements.

Hawaii and Wyoming addressed e-bike registration in their new laws. Hawaii required e-bikes to be registered and pay a one-time fee of $30. Owners of non-electric bicycles in Hawaii must register their bikes as well, but the fee is $15. Wyoming’s legislation empowered localities to enact a registration fee as part of any local ordinances governing the operation, registration and licensure of non-electric bicycles and e-bikes.
Restrictions on Where E-Bikes May Operate

Twelve states—Georgia, Idaho, Indiana, Maine, Maryland, New Hampshire, New Jersey, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming—enacted legislation establishing restrictions on where e-bikes may operate. The states approving legislation in 2019 generally empowered localities or state agencies with jurisdiction to regulate where e-bikes are permitted to travel, including on multiuse and multipurpose paths or trails, under certain circumstances. Hawaii was the only state to not include language regarding restrictions on where e-bikes can be operated.

Idaho and Wisconsin allowed e-bikes on sidewalks, multiuse paths and side paths if their operators are not otherwise prohibited by local ordinance or signage posted by a public agency. Maryland allowed e-bikes to operate where non-electric bicycles are permitted to travel, including bike lanes. New Jersey empowered localities and state agencies with jurisdiction over bike paths to restrict where e-bikes may operate. Texas empowered state agencies and localities with jurisdiction to set speed limits for e-bikes on paths set aside for the exclusive operation of bikes and other paths on which bikes may be operated, as well as prohibit e-bikes operating on sidewalks. Texas’ bill, however, does not allow prohibitions on operating an electric bicycle in an area where operation of a non-electric bicycle is permitted. Wyoming allowed any locality or state agency to regulate the use of any class of e-bike on trails under its jurisdiction.

Georgia, Indiana, Maine, Maryland, New Hampshire, Oklahoma and South Dakota allowed “class 1” and “class 2” e-bikes to operate where non-electric bicycles are permitted, including bike and multiuse paths, unless otherwise prohibited by a locality or state agency with jurisdiction. Furthermore, those same seven states prohibited “class 3” e-bikes on bike and multipurpose paths unless it is within or adjacent to a roadway or is authorized by the locality or state agency with jurisdiction.

Georgia, Indiana, Maine, Maryland, New Hampshire, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming empowered state agencies and localities with jurisdiction over natural trails to regulate, permit or prohibit e-bikes on “non-motorized trails.” These are generally defined as trails with a natural surface made by clearing and grading the native soil with no added surfacing materials. New Jersey’s new law, moreover, prohibited e-bikes on trails designated for non-motorized vehicles unless permitted by a local government or state agency with jurisdiction.

Miscellaneous Bicyclist and Pedestrian Safety

Delaware (HB 112) allowed the Division of Motor Vehicles to issue bicycle-friendly license plates, directing the proceeds from a $25 surcharge for each license plate purchase to support Bike Delaware and its mission to promote safe non-motorized transportation.

The District of Columbia, as part of its Vision Zero initiative, began using a photo ticketing system and parking enforcement officers to fine motorists $150 for parking or driving in a bike lane.

In Maryland, the legislature (HB 82) added access to retail stores that provide healthy food, especially in food deserts, as a design feature and goal of the state’s complete streets program and associated policies.

The New Hampshire legislature (SB 185) appropriated $200,000 and directed the state department of transportation to update the 2005 state trails plan and document the best means to maintain and develop state-owned rail trail corridors, to be completed by June 30, 2021.

Utah enacted legislation (HB 208) requiring the state Department of Transportation to establish a Safe Routes to School Program. Priority may be given to projects located in areas with low-income schools.
Electric Scooters

Electric scooters (e-scooters) went from oddity to reality in numerous cities across the U.S. in 2019. According to an April 2019 report from the National Association of City Transportation Officials (NACTO), there were 38.5 million e-scooter rides in the U.S. in 2018, the year with the most recent data available. That compares to nearly zero rides in 2017, before scooter-share companies unveiled their services in U.S. cities, sometimes to the chagrin of local officials. Lime, one of the main “dockless” e-scooter providers in the country, offers e-scooter services in approximately 90 American communities.

NACTO’s report found that scooters typically are ridden between a half-mile and a mile. Combine this with findings from INRIX, a traffic data company, that estimates “48% of all car trips in the most congested U.S. metro areas are less than three miles,” and it is clear there is significant potential for e-scooters to potentially improve mobility and congestion. However, research regarding electric scooter safety is still developing. A CDC-supported study in Austin, Texas, examined close to 200 e-scooter riders injured in a three-month time period during the fall of 2018. The study found 45% of injured riders had suffered head injuries and only one rider in the study cohort was wearing a helmet. Interestingly, there were only two conflicts with bicyclists and pedestrians, and a relatively small 10% collided with a vehicle. Excessive speed (37%) and nighttime riding (39%) appeared to be two more prevalent contributing factors. More than a third—35%—of the injured riders were injured on their first scooter ride.

In 2019, at least 19 states enacted legislation addressing e-scooters. They were Alabama (SB 312), Arizona (SB 1398), Arkansas (HB 1619), Colorado (HB 1221), Connecticut (HB 7141), Florida (SB 542), Indiana (HB 1649), Kansas (SB 63), Kentucky (HB 258), Louisiana (SB 91), Maryland (HB 748), Nevada (AB 485), New Jersey (SB 731), New York (SB 5294), Tennessee (SB 1107), Utah (SB 139), Virginia (HB 2752), Washington (HB 1772) and Wisconsin (SB 152).

Additionally, New York’s proposed law (SB 5294) was vetoed by Governor Andrew Cuomo over safety concerns. Specifically, the governor called for a mandatory helmet law for riders, a lower speed limit than the 20 mph prescribed in the bill, restrictions on where e-scooters could be ridden, a prohibition against operating while impaired by drugs or alcohol, and mandatory front and rear lights, which 12 other states now require.
Electric Scooter Definitions

All 19 states enacted various definitions of an “e-scooter.” Common elements found in state definitions include weighing less than 100 pounds; having two or three wheels, a handlebar and a floorboard that a person may stand on; is powered by an electric motor or human power, or both; and has a maximum operating speed of 20 mph. For example, Kansas defined an “electric-assisted scooter” as a self-propelled vehicle with at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

Five states—Colorado, Nevada, New York, Tennessee and Wisconsin—defined such devices as “electric scooters.” For example, Colorado’s law reads:

- “Electric scooter” means a device weighing less than 100 pounds, with handlebars and an electric motor, that is powered by an electric motor and has a maximum speed of 20 mph on a paved level surface when powered solely by the electric motor.

Three states—Kentucky, Louisiana and Maryland—defined such devices as “electric low-speed scooters.” Two states—Connecticut and Indiana—defined such devices as “electric foot scooters.” Two states—Florida and Virginia—defined such devices as “motorized scooters.”

Alabama defined “shared micromobility device” as a transportation device that includes a scooter or similar device. Arizona defined “electric standup scooter” as a device weighing less than 75 pounds with two or three wheels, a handlebar, a floorboard on which a person may stand while riding, and powered by an electric motor or human power, or both. Arizona’s law also specified that an “electric standup scooter” does not include an electric miniature scooter. Arkansas defined “electric motorized scooter” as a device weighing less than 100 pounds, with two or three wheels, a handlebar, equipped with a floorboard that can be used to stand on, and powered by an electric motor or human power.
New Jersey defined “low-speed electric scooter” as a device with a floorboard that can be stood upon by the rider, with handlebars, and an electric motor capable of propelling such device with or without human power. Utah defined “motor assisted scooter” as a self-propelled device with at least two wheels in contact with the ground, a braking system and an electric motor not exceeding 2,000 watts. Moreover, a motor-assisted scooter may have handlebars and a deck designed for a person to stand or handlebars and a seat designed for a person to sit. Washington defined “motorized foot scooter” as a device with two or three wheels that has handlebars, a floorboard that can be stood upon while riding, and is powered by an internal combustion engine or electric motor.

Maximum Operating Speeds

Eighteen states established maximum operating speeds for e-scooters under varying circumstances, with only Kansas not doing so. The maximum operating speeds range from 15 mph in Arkansas, Utah, Washington and Wisconsin, to 19 mph in New Jersey and 20 mph in every other state.

Age Restrictions

Six states—Arkansas, Kentucky, Nevada, Utah, Virginia and Washington—approved minimum age restrictions to ride an e-scooter. Arkansas, Kentucky, Nevada and Washington established a minimum age of 16 years old. Virginia established a minimum age of 14 years old. Utah established the lowest minimum age at 8 years old.

Helmet Requirements

Three states—Connecticut, Louisiana and New Jersey—approved helmet requirements for certain e-scooter riders. Connecticut required riders younger than 15 to wear a helmet. Louisiana and New Jersey required riders younger than 17 to wear a helmet.

E-Scooter Weight

Thirteen states—Alabama, Arizona, Arkansas, Colorado, Connecticut, Indiana, Kentucky, Louisiana, Maryland, Nevada, Tennessee, Virginia and Wisconsin—set maximum weight limits for an e-scooter. The limits ranged from 65 pounds in Connecticut to 75 pounds in Arizona and up to 100 pounds in Indiana. The other 10 states with weight limits—Alabama, Arkansas, Colorado, Kentucky, Louisiana, Maryland, Nevada, Tennessee, Virginia and Washington—set the maximum e-scooter weight at “less than 100 pounds.”

Light Requirements

Nine states—Colorado, Connecticut, Indiana, Kentucky, Louisiana, Nevada, New York, Virginia and Wisconsin—included lighting provisions for e-scooters. Every state except Louisiana enacted laws requiring both front and rear lights. Lights are generally required from 30 minutes after sunset to 30 minutes before sunrise and must be visible from a distance of 500 feet ahead and up to 600 feet to the rear.

New York’s vetoed law would have required rear lights to be visible from 300 feet. Indiana required rear lights to be visible from 500 feet. Colorado, Connecticut and Virginia required rear lights to be visible from 600 feet. Nevada required rear lights to be visible from 50 feet to 300 feet. Wisconsin’s law required rear lights to be visible from 50 feet to 500 feet. Colorado, Connecticut and Nevada also required reflective material on the sides of an e-scooter. Colorado and Nevada required such material to be visible from 600 feet or a lamp that is visible from 500 feet on both sides. Connecticut required reflective material to be visible from 600 feet when illuminated by the head lamps of a vehicle.

Kentucky required e-scooters to have at least one headlamp and one rear red light when operated from 30 minutes after sunset to 30 minutes before sunrise or at such other times when atmospheric conditions render visibility lower than ordinary. Louisiana required e-scooters to be equipped with appropriate lights, reflectors or reflective markings when operated any time between sunset and sunrise, when persons and vehicles are not clearly visible 500 feet ahead, when atmospheric conditions necessitate the continuous use of windshield wipers and when riding in a tunnel.
Local Control

Eighteen states enacted local control provisions. They are Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Indiana, Kansas, Kentucky, Louisiana, Nevada, New Jersey, New York, Tennessee, Utah, Virginia, Washington and Wisconsin. Local control generally empowers a locality to further regulate e-scooters, including where such devices may be operated. It also establishes minimum commercial liability coverage for e-scooter companies and requires e-scooters to be staged in a manner that complies with the Americans with Disabilities Act regarding clear passage on sidewalks.

Furthermore, Wisconsin’s law allows a municipality or county to restrict or prohibit the operation of electric scooters on any roadway under its jurisdiction having a speed limit of more than 25 mph. It also restricts or prohibits the operation of electric scooters on any sidewalk or bicycle way under its jurisdiction; establishes requirements for and limitations on the parking of electric scooters on roadways, sidewalks, bicycle lanes, etc.; and restricts or prohibits the short-term commercial rental of electric scooters to the general public. California and Oregon have some similar language and restrictions on roads on which scooters can be operated.

Utah put in place some common standards for municipalities to use when regulating scooter-share programs. A local authority may regulate the operation of a motor-assisted scooter within its jurisdiction, including authorizing their operation and designating a maximum speed on sidewalks. Regulation must be consistent with the regulation of bicycles and penalties for a moving or parking violation involving a motor-assisted scooter or a shared scooter must be assessed to the person responsible for the violation and may not exceed penalties assessed to a rider of a bicycle.

Localities in Utah may require fees from the scooter-share operator. They also may designate locations where scooter-share operators may not stage shared scooters, provided that at least one location shall be permitted on each side of each city block in commercial zones and business districts. They also may require scooter-share operators to provide anonymized fleet and ride activity data for completed trips starting or ending within the jurisdiction, with some privacy safeguards built in.