

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2399

To promote railroad safety and enhance interstate commerce.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 16 (legislative day, AUGUST 11), 1994

Mr. EXON introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

---

## A BILL

To promote railroad safety and enhance interstate commerce.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Railroad Grade Cross-  
5       ing Safety and Research Act of 1994”.

6       **SEC. 2. INSTITUTE FOR RAILROAD AND GRADE CROSSING**

7                       **SAFETY.**

8       The Secretary of Transportation (hereinafter Sec-  
9       retary), in conjunction with a university or college having  
10       expertise in highway driver and railroad safety, shall es-  
11       tablish within one year of enactment of this Act, an Insti-

1 tute for Railroad and Grade Crossing Safety (hereinafter  
2 Institute). The Institute shall research, develop, fund, or  
3 test measures for reducing the number of fatalities and  
4 injuries in rail operations. The Institute shall focus on im-  
5 provements in railroad grade crossing safety, railroad tres-  
6 pass prevention, prevention of railroad vandalism and the  
7 improved enforcement of laws in such areas. There is here-  
8 by authorized to be appropriated an additional \$1,000,000  
9 for each of the fiscal years 1996 through 2000 for the  
10 Institute, which will make periodic reports to the Sec-  
11 retary of Transportation and the Congress.

12 **SEC. 3. RAILROAD GRADE CROSSING, TRESPASSING AND**  
13 **VANDALISM PREVENTION STRATEGY.**

14 (a) Not later than one year after the date of enact-  
15 ment of this Act, and in consultation with affected parties,  
16 the Secretary shall evaluate and review current local, State  
17 and Federal codes regarding trespass on railroad property  
18 and vandalism affecting railroad safety and develop model  
19 prevention and enforcement codes and enforcement strate-  
20 gies for the consideration of State and local legislatures  
21 and governmental entities.

22 (b) Within one year of enactment of this Act, the Sec-  
23 retary shall develop and maintain a comprehensive out-  
24 reach program to improve communications among Federal  
25 railroad safety inspectors, Federal Rail Administration-

1 certified State inspectors, railroad police, and State and  
2 local law enforcement, for the purpose of addressing tres-  
3 pass and vandalism dangers on railroad property, and  
4 strengthening relevant law enforcement strategies. This  
5 program shall increase public and police awareness of the  
6 legality of, dangers inherent in, and the extent of, tres-  
7 passing on railroad rights-of-way, to develop strategies to  
8 improve the prevention of trespass and vandalism, and to  
9 improve the enforcement of laws relating to railroad tres-  
10 pass, vandalism and grade crossing safety.

11 (c) For purposes of this Act, a trespasser is defined  
12 as a person who is on that part of railroad property used  
13 in railroad operations and whose presence is prohibited,  
14 forbidden or unlawful.

15 **SEC. 4. CIVIL PENALTY FOR VANDALISM.**

16 Not later than six months after the date of enactment  
17 of this Act, the Secretary shall amend the Secretary's reg-  
18 ulations under section 202 of the Federal Railroad Safety  
19 Act of 1970 (45 U.S.C. 431) to make subject to a civil  
20 penalty of up to \$5,000.00 under such Act any person who  
21 defaces, disables, damages, vandalizes or commits any act  
22 that adversely affects the function of any railroad grade  
23 crossing related signal system, sign, gate, device, sensor,  
24 or equipment.

1 **SEC. 5. CIVIL PENALTY FOR TRESPASS ON RAILROAD**  
2 **PROPERTY.**

3 Not later than six months after the date of enactment  
4 of this Act, the Secretary of Transportation shall amend  
5 the Secretary's regulations under section 202 of the Fed-  
6 eral Railroad Safety Act of 1970 (45 U.S.C. 431) to make  
7 subject to a civil penalty of up to \$2,500.00 under such  
8 an Act any person who trespasses on a railroad owned  
9 or railroad leased right-of-way, road or bridge.

10 **SEC. 6. WARNING OF CIVIL LIABILITY.**

11 The Secretary shall permit and encourage railroads  
12 to warn the public about potential Federal civil liability  
13 for violations of Federal regulations related to vandalism  
14 of railroad crossing related devices, signs and equipment  
15 and trespass on railroad property.

16 **SEC. 7. WHISTLE BAN PROHIBITION.**

17 Upon the date of enactment, no state or political sub-  
18 division thereof shall impose a whistle ban with respect  
19 to any railroad grade crossing or series of railroad grade  
20 crossings unless one of the following actions has been  
21 taken:

22 (1) The affected crossing is closed during the  
23 pendency of the ban.

24 (2) Crossing gates and median barriers have  
25 been installed and are operational at the affected  
26 crossing.

1           (3) Four quadrant gates have been installed  
2           and are in operation at the affected crossing.

3           (4) An automated horn system crossing device  
4           has been installed.

5           (5) The Federal rail administrator has granted  
6           specific, time-limited permission for such ban.

7 **SEC. 8. RAIL CAR VISIBILITY.**

8           (a) The Secretary shall conduct a review of the De-  
9           partment of Transportation's rules with respect to rail car  
10          visibility. As part of this review, the Secretary shall collect  
11          relevant data from operational experience of railroads hav-  
12          ing enhanced visibility measures in service.

13          (b) Not later than June 30, 1996, the Secretary shall  
14          initiate a rulemaking proceeding to issue regulations re-  
15          quiring substantially enhanced visibility standards for  
16          newly manufactured and remanufactured rail cars. In  
17          such rulemaking proceedings the Secretary shall consider  
18          at a minimum—

19                 (1) visibility from the perspective of automobile  
20                 drivers;

21                 (2) whether certain rail car paint colors should  
22                 be prohibited or required;

23                 (3) the use of reflective materials;

24                 (4) the visibility of lettering on rail cars;

1           (5) the effect of any enhanced visibility meas-  
2           ures on the health and safety of train crew members;  
3           and

4           (6) the ratio of cost to benefit of any new regu-  
5           lations.

6           (c) In issuing regulations under paragraph (b), the  
7           Secretary may exclude from any specific visibility require-  
8           ment any category of trains or rail operations if the Sec-  
9           retary determines that such an exclusion is in the public  
10          interest and is consistent with rail safety including rail-  
11          road grade crossing safety.

12          (d) As used in this subsection, the term “railcar visi-  
13          bility” means the enhancement of driver, pedestrian and  
14          railroad worker ability to observe trains consistent with  
15          public safety with particular consideration of enhancing  
16          safety at railroad grade crossings.

17          **SEC. 9. STATEWIDE RAILROAD GRADE CROSSING FREEZE.**

18          Not later than two years after the date of enactment  
19          of this Act, the Secretary shall initiate a rulemaking pro-  
20          ceeding to issue regulations which—

21                 (1) impose a freeze on the total number of rail-  
22                 road grade crossings in each State of the United  
23                 States of America;

24                 (2) after the effective date of the regulation re-  
25                 quire any new railroad grade crossing opening to re-

1       ceive the specific approval of the Federal Rail Ad-  
2       ministrator;

3           (3) require that unless otherwise in the public  
4       interest, or necessary to facilitate interstate com-  
5       merce, three existing railroad grade crossings be  
6       closed in the requesting State for each new railroad  
7       grade crossing opened after the effective date of this  
8       regulation; and

9           (4) permit the Federal Rail Administrator to  
10      waive the application of this regulation once a State  
11      has achieved significant and sufficient reductions in  
12      the total number railroad grade crossings or has an  
13      optimal number of railroad grade crossings for the  
14      entire State.

15   **SEC. 10. RESEARCH PRIORITIES.**

16      The Secretary of Transportation shall incorporate the  
17      enhancement of railroad grade crossing safety, the preven-  
18      tion of trespassing on railroad property and the prevention  
19      of vandalism to railroad grade crossing safety devices,  
20      signs and equipment into the research, technology develop-  
21      ment and testing priorities of the Department of Trans-  
22      portation. In carrying out activities authorized by this Act,  
23      the Secretary shall consult with such other governmental  
24      agencies concerning the availability and affordability of  
25      appropriate technologies, especially defense related tech-

1 nologies for application to railroad crossing safety, tres-  
2 pass and vandalism prevention and other rail safety initia-  
3 tives.

4 **SEC. 11. EMERGENCY NOTIFICATION OF GRADE CROSSING**  
5 **PROBLEMS.**

6 TOLL FREE TELEPHONE NUMBER.—The Secretary  
7 of Transportation shall designate not later than one year  
8 after the date of enactment of this Act, and thereafter  
9 maintain an emergency notification system utilizing a toll  
10 free “800” telephone number that can be used by the pub-  
11 lic to convey to railroads, either directly or through public  
12 safety personnel, information about malfunctions or other  
13 safety problems at railroad-highway grade crossings.

○