

106TH CONGRESS
1ST SESSION

S. 1496

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 1999

Mr. HOLLINGS (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Railroad Safe-
5 ty Enhancement Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds and declares the following:

8 (1) Consistent with the purposes of the Govern-
9 ment Performance and Results Act of 1993, the
10 Federal Railroad Administration has reshaped the

1 regulatory and compliance components of the Fed-
2 eral railroad safety program to ensure that the en-
3 tire program is squarely focused on achieving de-
4 monstrable results, i.e., reducing the number of
5 deaths and injuries associated with railroading in
6 the United States. The foundation of the program is
7 its emphasis on inclusion of all interested parties—
8 railroad employees and labor unions, railroad man-
9 agement, manufacturers, State government groups,
10 and public associations—in identifying safety prob-
11 lems and implementing solutions. This emphasis on
12 safety partnership has helped begin a transformation
13 of key aspects of the corporate culture of the Na-
14 tion’s railroads, a transformation that is producing
15 safety and business benefits.

16 (2) The Safety Assurance and Compliance Pro-
17 gram is an approach to safety that emphasizes the
18 active partnership of the Federal Railroad Adminis-
19 tration, rail labor representatives, and railroad man-
20 agement in identifying current safety problems and
21 jointly developing effective solutions to those prob-
22 lems. One fundamental principle of this approach is
23 tracing a safety problem to its root cause and at-
24 tacking that cause rather than only its symptoms.
25 Where a problem is determined to be system-wide,

1 this approach calls for a system-wide solution.
2 Under this approach, the Federal Railroad Adminis-
3 tration seeks to focus its inspection and enforcement
4 resources on the most serious safety problems. This
5 approach has demonstrated significant capacity for
6 identifying and eliminating the root cause of system-
7 wide safety problems by enlisting those most di-
8 rectly-affected by such problems—railroad employees
9 and managers—in a partnership effort. Used to-
10 gether with the Federal Railroad Administration’s
11 regular inspections and enforcement tools, this ap-
12 proach provides a firm basis for addressing the safe-
13 ty challenges facing the changing railroad industry
14 and advancing toward the safety program’s ultimate
15 goal of zero tolerance for any safety hazard in the
16 railroad industry.

17 (3) The Railroad Safety Advisory Committee,
18 which was established by the Federal Railroad Ad-
19 ministration under the Federal Advisory Committee
20 Act (5 U.S.C. App. 2), is proving to be an effective
21 means of involving interested members of the rail-
22 road community, including the staff of the National
23 Transportation Safety Board, in the development of
24 railroad safety rules issued by the Federal Railroad
25 Administration. The Congress strongly encourages

1 the continued use of this collaborative method of de-
2 veloping safety regulations, which is more likely to
3 produce rules that are based on an industry con-
4 sensus and, accordingly, more readily understood
5 and more consistently complied with, than rules pro-
6 duced under more traditional methods.

7 (4) A critical element for the sustained success
8 of any company's safety program is the establish-
9 ment and growth of a clearly defined, positive safety
10 culture. The safety culture of a company encom-
11 passes the beliefs, values, attitudes, and practices
12 shared by employees and company officials and in-
13 cludes such matters as how decisions are made, who
14 makes them, how rewards and discipline are distrib-
15 uted, who is promoted, and how people are treated.
16 Many of today's most successful organizations recog-
17 nize that people are their most important assets;
18 they have come to realize that it is important for
19 managers and employees to share a common vision
20 and work in concert to pursue common goals. By ex-
21 ploring innovative concepts involving employee em-
22 powerment, coaching, counseling, and enhanced
23 training often through joint partnerships involving
24 rail labor, railroad management, and the Federal
25 Railroad Administration—some railroads are seeking

1 new and better methods to promote compliance with
2 company and Federal safety rules and to promote
3 the free flow of safety-related information to better
4 identify safety hazards and prevent injuries and ac-
5 cidents. The improvements in the industry's safety
6 culture that have resulted from these initiatives hold
7 the promise of increasing railroad safety to historic
8 levels and moving toward the ultimate goal of zero
9 tolerance for safety hazards. The Congress strongly
10 endorses efforts by the Federal Railroad Administra-
11 tion, rail labor, and individual railroads to build
12 meaningful safety partnerships that foster positive
13 safety cultures on the Nation's railroads. The Fed-
14 eral Railroad Administration has committed to re-
15 port regularly to the Congress on the continuing evo-
16 lution of the railroad industry's safety culture.

17 (5) Although advances have been made in the
18 industry's safety culture and rail safety trends are
19 generally favorable, in terms of total fatalities, em-
20 ployee and other injuries, and grade crossing inci-
21 dents, nevertheless, too many of these accidents and
22 incidents still occur, as illustrated by recent fatalities
23 related to railroading. In 1998, eight railroad em-
24 ployees were killed in switching-related incidents,
25 and one was killed in a train collision. In the same

1 year, hundreds of motorists, their passengers, and
2 others lost their lives in grade crossing accidents and
3 incidents, the vast majority of which are attributable
4 to human factors involving the motorists. More re-
5 cently, in March 1999, 11 Amtrak passengers died
6 in a truck-train grade crossing collision at Bourbon-
7 nais, Illinois. Furthermore, each year approximately
8 a third of all train accidents are caused by human
9 factors. Clearly, there is a need for changes in the
10 law to prevent deaths and accidents such as these
11 by finding remedies to the kinds of conditions and
12 behaviors that permitted these tragedies to occur;
13 therefore, we enact the following statute, which deals
14 with the critical human factor issues of fatigue and
15 safety culture in the railroad industry, with grade
16 crossing safety, and with other important rail safety
17 issues.

18 **SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

19 Except as otherwise expressly provided, whenever in
20 this Act an amendment or repeal is expressed in terms
21 of an amendment to, or a repeal of, a section or other
22 provision, the reference shall be considered to be made to
23 a section or other provision of title 49, United States
24 Code.

1 SEC. 4. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Amendment of title 49, United States Code.
- Sec. 4. Table of contents.

TITLE I—HOURS OF SERVICE

- Sec. 101. Definitions.
- Sec. 102. Limitations on duty hours of train employees.
- Sec. 103. Limitations on duty hours of signal employees.
- Sec. 104. Limitations on duty hours of dispatching service employees.
- Sec. 105. Conforming amendments regarding hours of service violations.
- Sec. 106. Fatigue management plans.
- Sec. 107. Joint submission of waiver petitions.
- Sec. 108. Employee sleeping quarters.

TITLE II—MONITORING OF RAILROAD RADIO COMMUNICATIONS

- Sec. 201. Enhanced inspection and investigation authority under the Federal railroad safety laws.
- Sec. 202. Exception to chapter 119, title 18, United States Code.

TITLE III—RULEMAKING AUTHORITY

- Sec. 301. Railroad accident and incident reporting.
- Sec. 302. High-speed rail noise regulation.

TITLE IV—WHISTLEBLOWER PROTECTION

- Sec. 401. Expansion of employee protections.

TITLE V—GRADE CROSSING SAFETY

- Sec. 501. Emergency notification of grade crossing problems.
- Sec. 502. Grade crossing signal violations.
- Sec. 503. National highway-rail crossing inventory.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Technical amendments regarding adjustment of civil penalties for inflation.
- Sec. 602. Revision of special preemption provision.
- Sec. 603. Railroad safety inspection user fees.
- Sec. 604. Authorization of appropriations.

3 TITLE I—HOURS OF SERVICE

4 SEC. 101. DEFINITIONS.

5 Section 21101 is amended—

1 (1) by striking “employed by a railroad carrier”
2 in paragraph (4); and

3 (2) by adding at the end the following:

4 “(6) ‘dually-employed’ means being at the same
5 time in the employ of 2 or more railroad carriers, of
6 2 or more railroad contractors, or of both 1 or more
7 railroad carriers and 1 or more railroad contractors.

8 “(7) ‘railroad contractor’ or, in context, ‘con-
9 tractor’ means an independent contractor to a rail-
10 road carrier or a subcontractor to an independent
11 contractor to a railroad carrier.”.

12 **SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EM-**
13 **PLOYEES.**

14 (a) Section 21103(a) is amended by—

15 (1) striking “officers” and inserting “managers,
16 supervisors, officers,”;

17 (2) inserting “(1)” before “Except”;

18 (3) redesignating paragraphs (1) and (2) as
19 subparagraphs (A) and (B), respectively; and

20 (4) adding at the end the following:

21 “(2) Except as provided in subsection (c) of
22 this section, a railroad carrier and its managers, su-
23 pervisors, officers, and agents and a railroad con-
24 tractor and the contractor’s managers, supervisors,
25 officers, and agents may not, if the railroad carrier

1 or railroad contractor has actual knowledge that a
2 train employee is dually-employed and actual knowl-
3 edge of the individual’s schedule for the time period
4 in question, require or allow the dually-employed
5 train employee to remain or go on duty, nor may a
6 dually-employed train employee remain or go on
7 duty—

8 “(A) unless that employee has had at least
9 8 consecutive hours off duty during the prior
10 24 hours; or

11 “(B) after that employee has been on duty
12 for 12 consecutive hours, until that employee
13 has had at least 10 consecutive hours off
14 duty.”.

15 (b) Section 21103 is amended by adding at the end
16 the following:

17 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND
18 SCHEDULE.—

19 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
20 RIERS AND RAILROAD CONTRACTORS.—Not later
21 than January 31st each year, a railroad carrier and
22 a railroad contractor shall inform each of its train
23 employees in writing—

24 “(A) that all time spent performing aggre-
25 gate duty on 1 or more railroad carriers or 1

1 or more railroad contractors or a combination
2 thereof counts towards the limitations on duty
3 hours of this section;

4 “(B) about the employee’s responsibilities
5 under paragraph (2) of this subsection; and

6 “(C) about the penalties under section
7 21303 of this title applicable to a failure to
8 comply with paragraph (2) of this subsection.

9 “(2) DUTIES OF EMPLOYEES.—A dually-em-
10 ployed train employee—

11 “(A) shall inform each of his or her rail-
12 road carrier employers and railroad contractor
13 employers in writing within 5 days of estab-
14 lishing an employee-employer relationship that
15 results in the employee’s becoming dually-em-
16 ployed; and

17 “(B) shall ensure that each of his or her
18 railroad carrier employers and railroad con-
19 tractor employers is kept informed about the
20 employee’s current work schedule with each of
21 his or her other employing railroad carriers and
22 railroad contractors and which portions of that
23 service are likely to be in covered service.

24 “(3) RECORD RETENTION DUTIES OF RAILROAD
25 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-

1 ceiving written notification of dual employment, a
2 railroad carrier or railroad contractor shall—

3 “(A) retain at the carrier’s system and di-
4 vision headquarters, or at the contractor’s head-
5 quarters, respectively, a copy of the notification
6 for a period of 2 years after termination of such
7 dual employment status; and

8 “(B) make the record available to rep-
9 resentatives of the Secretary for inspection and
10 copying during normal business hours.”.

11 **SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EM-**
12 **PLOYEES.**

13 (a) Section 21104(a)(2) is amended by—

14 (1) striking “officers” and inserting “managers,
15 supervisors, officers,”; and

16 (2) adding at the end the following:

17 “(3) Except as provided in subsection (c) of
18 this section, a railroad carrier and its managers, su-
19 pervisors, officers, and agents and a railroad con-
20 tractor and the contractor’s managers, supervisors,
21 officers, and agents may not, if the railroad carrier
22 or railroad contractor has actual knowledge that a
23 signal employee is dually-employed and actual
24 knowledge of the individual’s schedule for the time
25 period in question, require or allow the dually-em-

1 ployed signal employee to remain or go on duty, nor
2 may a dually-employed signal employee remain or go
3 on duty—

4 “(A) unless that employee has had at least
5 8 consecutive hours off duty during the prior
6 24 hours;

7 “(B) after that employee has been on duty
8 for 12 consecutive hours, until that employee
9 has had at least 10 consecutive hours off duty;
10 or

11 “(C) after that employee has been on duty
12 a total of 12 hours during a 24-hour period, or
13 after the end of that 24-hour period, whichever
14 occurs first, until that employee has had at
15 least 8 consecutive hours off duty.”.

16 (b) Section 21104(b)(3) is amended by striking
17 “duty, except that up to 1 hour of that time spent return-
18 ing from the final trouble call of a period of continuous
19 or broken service is time off duty” and inserting “duty.”.

20 (c) Section 21104 is amended by adding the following
21 at the end:

22 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND
23 SCHEDULE.—

24 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
25 RIERS AND RAILROAD CONTRACTORS.—Not later

1 than January 31st of each year, a railroad carrier
2 or a railroad contractor shall inform each of its sig-
3 nal employees in writing—

4 “(A) that all time spent performing aggre-
5 gate duty on 1 or more railroad carriers or 1
6 or more railroad contractors or a combination
7 thereof counts towards the limitations on duty
8 hours of this section;

9 “(B) about the employee’s responsibilities
10 under paragraph (2) of this subsection; and

11 “(C) about the penalties under section
12 21303 of this title applicable to a failure to
13 comply with paragraph (2) of this subsection.

14 “(2) DUTIES OF EMPLOYEES.—A dually-em-
15 ployed signal employee—

16 “(A) shall inform each of his or her rail-
17 road carrier employers and railroad contractor
18 employers in writing within 5 days of estab-
19 lishing an employee-employer relationship that
20 results in the employee’s becoming dually-em-
21 ployed; and

22 “(B) shall ensure that each of his or her
23 railroad carrier employers and railroad con-
24 tractor employers is kept informed about the
25 employee’s current work schedule with each of

1 the other employing railroad carriers and rail-
 2 road contractors and which portions of that
 3 service are likely to be in covered service.

4 “(3) RECORD RETENTION DUTIES OF RAILROAD
 5 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-
 6 ceiving written notification of dual employment, a
 7 railroad carrier or railroad contractor shall—

8 “(A) retain at the carrier’s system and di-
 9 vision headquarters, or at the contractor’s head-
 10 quarters, respectively a copy of the notification
 11 for a period of 2 years after termination of such
 12 dual employment status; and

13 “(B) make the record available to rep-
 14 resentatives of the Secretary for inspection and
 15 copying during normal business hours.”.

16 **SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING**
 17 **SERVICE EMPLOYEES.**

18 (a) Section 21105(b) is amended by—

19 (1) striking “or allowed” and inserting “or al-
 20 lowed by a railroad carrier or its managers, super-
 21 visors, officers, and agents”;

22 (2) inserting “(1)” before “Except”;

23 (3) redesignating paragraphs (1) and (2) as
 24 subparagraphs (A) and (B), respectively; and

25 (4) adding at the end the following:

1 “(2) Except as provided in subsection (d) of
2 this section, a railroad carrier and its managers, su-
3 pervisors, officers, and agents and a railroad con-
4 tractor and the contractor’s managers, supervisors,
5 officers, and agents may not, if the railroad carrier
6 or railroad contractor has actual knowledge that a
7 dispatching service employee is dually-employed and
8 actual knowledge of the individual’s schedule for the
9 time period in question, require or allow the dually-
10 employed dispatching service employee to remain or
11 go on duty, nor may a dually-employed dispatching
12 service employee remain or go on duty, for more
13 than—

14 “(A) a total of 9 hours during a 24-hour
15 period in a tower, office, station, or place at
16 which at least 2 shifts are employed; or

17 “(B) a total of 12 hours during a 24-hour
18 period in a tower, office, station, or place at
19 which only 1 shift is employed.”.

20 (b) Section 21105(c) is amended to read as follows:

21 “(c) DETERMINING TIME ON DUTY.—In determining
22 under subsection (b) of this section the time a dispatching
23 service employee is on or off duty, the following rules
24 apply:

1 “(1) Time spent performing any other service
2 for 1 or more railroad carriers or 1 or more railroad
3 contractors or a combination thereof during a 24-
4 hour period in which the employee is on duty in a
5 tower, office, station, or other place is time on duty
6 in that tower, office, station, or place, and counts to-
7 ward the employee’s aggregate time on duty.

8 “(2) If during a 24-hour period an employee
9 performs the duties of a dispatching service em-
10 ployee for more than 1 railroad carrier or railroad
11 contractor or for a railroad carrier and a railroad
12 contractor, and at least 1 of those tours of duty is
13 in a tower, office, station, or other place at which at
14 least 2 shifts are employed, then the duty limits of
15 subsection (b)(1) of this section apply.

16 “(3) All time on duty by the employee for any
17 railroad carrier or railroad contractor shall be in-
18 cluded.”.

19 (c) Section 21105 is amended by adding at the end
20 the following:

21 “(e) NOTICE ABOUT DUAL EMPLOYMENT AND
22 SCHEDULE.—

23 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
24 RIERS AND RAILROAD CONTRACTORS.—Not later
25 than January 31st each year, a railroad carrier and

1 a railroad contractor shall inform each of its dis-
2 patching service employees in writing—

3 “(A) that all time spent performing aggre-
4 gate duty on 1 or more railroad carriers or rail-
5 road contractors or a combination thereof
6 counts towards the limitations on duty hours of
7 this section;

8 “(B) about the employee’s responsibilities
9 under paragraph (2) of this subsection;

10 “(C) about the penalties under section
11 21303 of this title applicable to a failure to
12 comply with paragraph (2) of this subsection.

13 “(2) DUTIES OF EMPLOYEES.—A dually-em-
14 ployed dispatching service employee—

15 “(A) shall inform each of his or her rail-
16 road carrier employers and railroad contractor
17 employers in writing within 5 days of estab-
18 lishing an employee-employer relationship that
19 results in the employee’s becoming dually-em-
20 ployed; and

21 “(B) shall ensure that each of his or her
22 railroad carrier employers and railroad con-
23 tractor employers is kept informed about the
24 employee’s current work schedule with each of
25 his or her other employing railroad carriers and

1 railroad contractors and which portions of that
2 service are likely to be in covered service.

3 “(3) RECORD RETENTION DUTIES OF RAILROAD
4 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-
5 ceiving written notification of dual employment, a
6 railroad carrier or a railroad contractor shall—

7 “(A) retain at the carrier’s system and di-
8 vision headquarters, or at the railroad contrac-
9 tor’s headquarters, a copy of the notification for
10 a period of 2 years after termination of such
11 dual employment status; and

12 “(B) make the record available to rep-
13 resentatives of the Secretary for inspection and
14 copying during normal business hours.”.

15 **SEC. 105. CONFORMING AMENDMENTS REGARDING HOURS**
16 **OF SERVICE VIOLATIONS.**

17 (a) Section 21106 is amended by striking “officers”
18 and inserting “managers, supervisors, officers,”.

19 (b) Section 21303(c) is amended by striking “offi-
20 cers” and inserting “managers, supervisors, officers,”.

21 **SEC. 106. FATIGUE MANAGEMENT PLANS.**

22 (a) IN GENERAL.—Chapter 211 is amended by add-
23 ing at the end the following:

24 **“§ 21109. Fatigue management plans**

25 “(a) SUBMISSION OF PLANS AND AMENDMENTS.—

1 “(1) Each Class I and Class II railroad carrier,
2 each railroad carrier providing intercity railroad pas-
3 senger service, and each railroad carrier providing
4 commuter or other short-haul railroad passenger
5 service in a metropolitan or suburban area, shall
6 submit to the Secretary of Transportation a fatigue
7 management plan that is designed to reduce the fa-
8 tigue experienced by railroad employees (as defined
9 by section 21101 of this chapter) covered by the
10 hours of service laws and railroad employees who
11 construct or maintain track, and to reduce the likeli-
12 hood of accidents and injuries caused by fatigue.
13 The plan shall discuss each of the elements set forth
14 in subsection (b) of this section and shall be sub-
15 mitted not more than 1 year after enactment of this
16 section, or not less than 45 days prior to com-
17 mencing railroad operations, whichever is later.
18 However, with respect to any group of directly-af-
19 fected employees, a carrier may submit its plan with-
20 in 2 years of enactment if, within 1 year of enact-
21 ment, it submits to the Secretary a letter signed by
22 the labor organization representing those employees
23 stating that the carrier is actively involved in negoti-
24 ating a fatigue management plan with that organiza-

1 tion. A carrier shall file any amendment to its plan
2 with the Secretary.

3 “(2) Each Class III railroad carrier that oper-
4 ates on the track of a carrier subject to paragraph
5 (1) of this subsection (or otherwise engages in joint
6 operations with a carrier subject to paragraph (1) of
7 this subsection), except as necessary for purposes of
8 interchange, shall submit to the Secretary a fatigue
9 management plan that is designed to reduce the fa-
10 tigue experienced by train employees (as defined by
11 section 21101 of this chapter) covered by the hours
12 of service laws and to reduce the likelihood of acci-
13 dents and injuries caused by fatigue. However, the
14 plan submitted by each affected Class III railroad
15 carrier need not discuss employees who are not en-
16 gaged in or connected with the movement of a train
17 over the track of a carrier subject to paragraph (1)
18 of this subsection (or otherwise engage in joint oper-
19 ations with a carrier subject to paragraph (1) of this
20 subsection) except as necessary for the purpose of
21 interchange. The plan shall discuss the elements set
22 forth in subsection (b) of this section and shall be
23 submitted not more than three years after enact-
24 ment of this section, or not less than 60 days prior

1 to commencing railroad operations, whichever is
2 later.

3 “(3) Each railroad carrier subject to paragraph
4 (1) or (2) of this subsection shall implement its plan
5 and any amendment to that plan no later than 90
6 days after the date of its submission to the Sec-
7 retary. If the plan fails to contain a discussion of
8 any required element, the Secretary shall notify the
9 carrier as to the specific element or elements that
10 were omitted. The carrier shall then submit an
11 amended plan within 90 days of such notification.

12 “(4)(A) Each railroad carrier subject to para-
13 graph (1) or (2) of this subsection shall employ good
14 faith and use its best efforts to reach agreement by
15 consensus with all of its directly-affected employee
16 groups (including each labor organization rep-
17 resenting a class or craft of directly-affected employ-
18 ees of the railroad carrier (as applicable)) on the
19 contents of the fatigue management plan and
20 amendments to the plan, and, wherever possible, the
21 carrier and those employee groups shall jointly sub-
22 mit the plan and each amendment to the Secretary.

23 “(B) If the carrier and its employees cannot
24 reach consensus on the contents of the plan or an
25 amendment to the plan, then—

1 “(i) the carrier shall file the plan or
2 amendment with the Secretary as required by
3 subsection (a) of this section; and

4 “(ii) each directly-affected employee group
5 (as applicable), may include in the plan or an
6 amendment to a plan a statement explaining its
7 views on the plan or amendment on which con-
8 sensus was not reached.

9 “(b) ELEMENTS OF THE FATIGUE MANAGEMENT
10 PLAN.—

11 “(1) GENERAL FACTORS.—The fatigue manage-
12 ment plan and each amendment shall—

13 “(A) be based upon scientific knowledge
14 and literature relating to fatigue;

15 “(B) describe the methods and measures
16 the carrier will utilize to determine the effec-
17 tiveness of each fatigue countermeasure;

18 “(C) take into account the varying cir-
19 cumstances of operations by the railroad carrier
20 on different parts of its system, and what vari-
21 ations in fatigue countermeasures are appro-
22 priate to address those varying circumstances;
23 and

24 “(D) to the extent that implementation of
25 the plan is connected in any way to a waiver re-

1 quest submitted under section 21108 of this
2 chapter, discuss that connection.

3 “(2) SUBJECTS THAT CONCERN ALL DIRECTLY-
4 AFFECTED EMPLOYEES.—With respect to directly-
5 affected employees, whether working in scheduled or
6 nonscheduled service, the plan shall discuss the fol-
7 lowing subjects:

8 “(A) Education and training on the phys-
9 iological and other human factors that affect fa-
10 tigue, as well as strategies to counter fatigue.

11 “(B) Joint labor-management initiatives
12 concerning the identification, diagnosis, and
13 treatment of sleep disorders that could con-
14 tribute to fatigue.

15 “(C) Methods of avoiding increased fatigue
16 due to the need to respond to emergency situa-
17 tions, such as derailments and natural disas-
18 ters.

19 “(D) Scheduling practices that improve
20 work/rest cycles and minimize cumulative sleep
21 loss and fatigue.

22 “(E) Methods used to determine that cur-
23 rent and future staffing levels are adequate to
24 ensure that current and anticipated workloads

1 can be handled without exacerbating fatigue on
2 the part of affected employees.

3 “(F) Alertness strategies to address acute
4 sleepiness and fatigue while an employee is on
5 duty.

6 “(G) Opportunities to obtain restful sleep
7 at lodging facilities.

8 “(H) How to minimize disturbances of the
9 employee’s rest within the carrier’s control dur-
10 ing rest periods.

11 “(3) SUBJECTS THAT CONCERN DIRECTLY-AF-
12 FECTED EMPLOYEES IN NONSCHEDULED SERVICE.—
13 With respect to directly-affected employees working
14 in nonscheduled service, the plan shall also discuss
15 the following subjects:

16 “(A) Methods of affording greater sched-
17 uling predictability to allow an employee to bet-
18 ter plan personal activities, sleep, and prepara-
19 tion for work during the off-duty period.

20 “(B) How to provide employees with op-
21 portunities to take days off from work on a
22 scheduled basis.

23 “(C) How to avoid abrupt changes in rest
24 cycles for employees returning to duty after an

1 extended absence due to circumstances includ-
2 ing illness, injury, or vacation.

3 “(D) Ways to minimize the amount of time
4 that employees spend awaiting the arrival of
5 deadhead transportation to their points of final
6 release, and to mitigate the fatigue con-
7 sequences of excessive waiting time.

8 “(E) How to maximize the amount of rest
9 time given at the employee’s home terminal.

10 “(c) REPORTS TO THE SECRETARY ON EFFECTIVE-
11 NESS OF COUNTERMEASURES.—

12 “(1) Each railroad carrier required by sub-
13 section (a)(1) to submit a fatigue management plan
14 shall also submit to the Secretary by June 30 of the
15 years 2000 through 2003, an annual report on the
16 effectiveness of each fatigue countermeasure that it
17 has employed, including a description of the methods
18 and measures employed by the carrier to determine
19 the effectiveness of these countermeasures and any
20 problems encountered in implementing them. In pre-
21 paring each report, a carrier shall consult with the
22 labor organizations that represent the classes or
23 crafts of directly-affected employees of the railroad
24 carrier; each report shall include any comments
25 these organizations have on the report.

1 “(2) Each railroad carrier required by sub-
2 section (a)(2) to submit a fatigue management plan
3 for its affected train employees shall also submit to
4 the Secretary by June 30, 2003, a report on the ef-
5 fectiveness of each fatigue countermeasure that it
6 has employed, including a description of the methods
7 and measures employed by the carrier to determine
8 the effectiveness of these countermeasures and any
9 problems encountered in implementing them. In pre-
10 paring the report, a carrier shall consult with the
11 labor organizations that represent the affected train
12 employees of the carrier. The report shall include
13 any comments these organizations have made on the
14 report.

15 “(d) SECRETARY’S ASSESSMENT OF FATIGUE COUN-
16 TERMEASURES.—The Secretary shall, at least once every
17 fiscal year for the fiscal years 2000 through 2003, provide
18 to the Committee on Commerce, Science, and Transpor-
19 tation of the Senate and the Committee on Transportation
20 and Infrastructure of the House of Representatives a cur-
21 rent assessment (which may be in letter form) of fatigue
22 mitigation efforts by railroad carriers and their directly-
23 affected employees, a summary of any regulatory or other
24 action the Secretary intends to take regarding fatigue
25 mitigation, and any recommendations for legislative action

1 concerning fatigue. In making such recommendations, the
2 Secretary shall consider whether, in the interest of rail-
3 road safety, additional categories or classes of railroad
4 carriers should be required to submit fatigue management
5 plans, including whether additional categories or classes
6 of carrier employees should be covered.

7 “(e) ENFORCEMENT.—

8 “(1) It is a violation of this section for a rail-
9 road carrier subject to this section to—

10 “(A) fail to submit to the Secretary a fa-
11 tigue management plan or, if any, an amend-
12 ment to a fatigue management plan, by the re-
13 quired date;

14 “(B) submit a fatigue management plan
15 that fails to contain a discussion of the ele-
16 ments required to be included under subsection
17 (b) of this section, unless the carrier submits a
18 properly amended plan within the time provided
19 under subsection (a)(3) of this section;

20 “(C) fail to implement substantially its fa-
21 tigue management plan by the required date;

22 “(D) fail to submit to the Secretary a re-
23 port under subsection (e) of this section by the
24 required date; or

1 “(E) submit a report under subsection (c)
2 of this section that does not contain a discus-
3 sion of the elements required to be included.

4 “(2) Every day that a violation continues con-
5 stitutes a separate violation.

6 “(3) In addition to other enforcement actions
7 available with regard to violations of this section, the
8 Secretary may, with regard to violations described in
9 paragraph (1) (A) or (C) of this subsection, issue an
10 order under section 20111 of this part, directing the
11 carrier to implement whatever fatigue mitigation
12 measures the Secretary finds to be appropriate to
13 deal with the lack of a plan or lack of substantial
14 implementation of 1 or more elements of a plan,
15 which may include restrictions on maximum on-duty
16 hours or minimum off-duty periods, or both, that are
17 more stringent than the restrictions of this chapter,
18 such as minimum periods of advance notice of re-
19 porting times, minimum periods of undisturbed rest,
20 a specified number of days off in a week or month,
21 longer periods off duty, and shorter periods on duty.

22 “(f) DEFINITIONS.—In this section:

23 “(1) DIRECTLY-AFFECTED EMPLOYEE.—The
24 term ‘directly-affected employee’ means—

1 “(A) with respect to a Class I or II rail-
2 road carrier or a railroad carrier providing
3 intercity railroad passenger service or commuter
4 or other short-haul railroad passenger service in
5 a metropolitan or suburban area, an employee
6 of that carrier covered by the hours of service
7 laws and an employee of that carrier who con-
8 structs or maintains track and is therefore cov-
9 ered by the terms of the plan; and

10 “(B) with respect to a Class III railroad
11 carrier, a train employee (as defined by section
12 21101 of this chapter) covered by the hours of
13 service laws who is engaged in or connected
14 with the movement of a train over the track of
15 a carrier subject to subsection (a)(1) of this
16 section (or otherwise engaged in joint oper-
17 ations with a carrier subject to subsection
18 (a)(1) of this section) except as necessary for
19 purposes of interchange.

20 “(2) EMPLOYEE IN NONSCHEDULED SERV-
21 ICE.—The term ‘employee in nonscheduled service’
22 means a directly-affected employee who is assigned
23 to work a tour of duty without regular and predict-
24 able starting and stopping times.

1 “(g) CONSULTATION WITH KNOWLEDGEABLE
 2 GROUPS.—In carrying out duties under this section, the
 3 Secretary may consult with and receive advice and rec-
 4 ommendations from any group comprised of labor and
 5 management representatives with relevant expertise, in-
 6 cluding the North American Rail Alertness Partnership,
 7 or technical experts. Such consultation is not subject to
 8 the Federal Advisory Committee Act (5 U.S.C. App.).”.

9 (b) CONFORMING AMENDMENT.—The chapter anal-
 10 ysis for chapter 211 is amended by adding at the end the
 11 following new item:

“21109. Fatigue management plans.”.

12 **SEC. 107. JOINT SUBMISSION OF WAIVER PETITIONS.**

13 (a) AMENDMENT.—Section 21108 is amended to
 14 read as follows:

15 **“§ 21108. Joint submission of waiver petitions**

16 “(a) WAIVER.—

17 “(1) PETITION.—A railroad carrier (including a
 18 Class III railroad carrier) and all labor organizations
 19 representing any class or craft of directly-affected
 20 employees of the railroad carrier may jointly petition
 21 the Secretary of Transportation for approval of a
 22 waiver, in whole or in part, of compliance with this
 23 chapter, in order to implement alternatives to the
 24 strict application of the requirements of this chapter
 25 to such class or crafts of employees, including re-

1 requirements concerning maximum on-duty and min-
2 imum off-duty periods. If the petition has any con-
3 nection to a fatigue management plan that has been
4 or will be submitted under section 21109 of this
5 chapter, the petition shall explain the relationship
6 between the waiver being sought and any specific
7 provisions of that plan.

8 “(2) AUTHORITY TO WAIVE.—Based on such a
9 joint petition under paragraph (1) or paragraph (3)
10 of this subsection, the Secretary may, after notice
11 and opportunity for comment, waive in whole or in
12 part compliance with this chapter for any specified
13 time period, if the Secretary determines that such a
14 waiver of compliance is in the public interest and
15 consistent with railroad safety. A waiver is con-
16 sistent with railroad safety if it is demonstrated that
17 the employees involved will perform their job func-
18 tions at a level of safety at least functionally equiva-
19 lent to that afforded by the provision or provisions
20 of this chapter sought to be waived. A notice of any
21 petition under this section and an explanation of any
22 waiver granted under this section shall be published
23 in the Federal Register.

24 “(3) WHEN EMPLOYEES ARE NOT REP-
25 RESENTED BY LABOR ORGANIZATIONS.—If labor or-

1 organizations do not represent classes or crafts of di-
 2 rectly-affected employees of a railroad carrier, the
 3 carrier may, after consulting with all of its directly-
 4 affected employee groups in drafting the waiver re-
 5 quest, request the waiver of any provisions of this
 6 chapter, subject to the same conditions and proce-
 7 dures as a request made under paragraph (1) of this
 8 subsection.

9 “(b) DEFINITION.—In this section, ‘directly-affected
 10 employee’ means an employee covered by the hours of
 11 service laws to whose hours of service the terms of the
 12 waiver petitioned for specifically apply.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-
 14 ysis for chapter 211 is amended by striking the item relat-
 15 ing to section 21108 and inserting the following:

“21108. Joint submission of waiver petitions.”.

16 **SEC. 108. EMPLOYEE SLEEPING QUARTERS.**

17 Section 21106 is amended—

18 (1) by inserting “(a) SLEEPING QUARTERS.—”

19 before “A railroad carrier and its”;

20 (2) by striking “and” at the end of paragraph

21 (1);

22 (3) by striking “performed.” in paragraph (2)

23 and inserting “performed; and”;

24 (4) by adding at the end the following:

1 “(3) may not, after January 1, 2002, provide
 2 sleeping quarters (including crew quarters, camp or
 3 bunk cars, and trailers) for employees, and any indi-
 4 viduals employed to maintain the right of way of a
 5 railroad carrier in an area or in the immediate vicin-
 6 ity of an area in which railroad switching or hump-
 7 ing operations are performed.

8 “(b) IMMEDIATE VICINITY DEFINED.—In subsection
 9 (a)(3), the term ‘immediate vicinity’ means the area within
 10 one-half mile of switching or humping operations as meas-
 11 ured from the nearest rail of the nearest trackage where
 12 switching or humping operations are performed to the ex-
 13 terior wall of the structure housing the sleeping quarters
 14 that is closest to such operations.”.

15 **TITLE II—MONITORING OF RAIL-**
 16 **ROAD RADIO COMMUNICA-**
 17 **TIONS**

18 **SEC. 201. ENHANCED INSPECTION AND INVESTIGATION AU-**
 19 **THORITY UNDER THE FEDERAL RAILROAD**
 20 **SAFETY LAWS.**

21 Section 20107 is amended by adding at the end
 22 thereof following:

23 “(c) RAILROAD RADIO COMMUNICATIONS.—

24 “(1) To carry out the Secretary’s responsibil-
 25 ities under this part, officers, employees, or agents

1 of the Secretary are authorized to conduct the fol-
2 lowing kinds of inspection and investigative activities
3 at reasonable times:

4 “(A) To listen to a radio communication
5 that is broadcast or transmitted over a fre-
6 quency authorized by the Federal Communica-
7 tions Commission to a railroad carrier, with or
8 without making their presence known to the
9 sender or other receivers of the communication
10 and with or without obtaining the consent of
11 the sender or other receivers of the communica-
12 tion.

13 “(B) To communicate the existence, con-
14 tents, substance, purport, effect, or meaning of
15 the communication, subject to the restrictions
16 in paragraph (3) of this subsection.

17 “(C) To receive or assist in receiving the
18 communication (or any information therein con-
19 tained).

20 “(D) Having received the communication
21 or having become acquainted with the contents,
22 substance, purport, effect, or meaning of the
23 communication (or any part thereof), to disclose
24 the contents, substance, purport, effect, or
25 meaning of the communication (or any part

1 thereof of such communication) or use the com-
2 munication (or any information contained
3 therein), subject to the restrictions in para-
4 graph (3) of this subsection.

5 “(E) To record the communication by any
6 means, including writing and tape recording.

7 “(2) The purposes for which officers, employ-
8 ees, or agents of the Secretary are permitted to en-
9 gage in the activities set forth in paragraph (1) of
10 this subsection include rulemaking, accident inves-
11 tigating, and acquiring general information as to
12 railroad operations.

13 “(3) Information obtained in compliance with
14 paragraphs (1) and (2) of this subsection may not
15 be used as evidence for the assessment or collection
16 of civil penalties or for the implementation of other
17 enforcement mechanisms provided in sections
18 20702(b), 20111, 20112, 20113, or 20114 of this
19 title and may not be conveyed to a railroad carrier,
20 but may be used as background for further inves-
21 tigation which might lead to the discovery of other
22 useful evidence.

23 “(4) The authority granted by this subsection
24 shall be an exception to the general prohibitions of
25 section 705 of the Communications Act of 1934 (47

1 U.S.C. 605), and chapter 119 of title 18, United
2 States Code.

3 “(d) AT REASONABLE TIMES DEFINED.—In this sec-
4 tion, the term ‘at reasonable times’ means at any time
5 that the railroad carrier being inspected or investigated
6 is performing its rail transportation business.”.

7 **SEC. 202. EXCEPTION TO CHAPTER 119, TITLE 18, UNITED**
8 **STATES CODE.**

9 Section 2511(2) of title 18, United States Code, is
10 amended by adding at the end the following:

11 “(i) Notwithstanding any other provision of this
12 chapter or section 705 of the Communications Act
13 of 1934 (47 U.S.C. 605), officers, employees, or
14 agents of the Secretary of Transportation in the
15 normal course of employment and in furtherance of
16 the Federal railroad safety laws under subtitle V of
17 part A of title 49, United States Code, may inter-
18 cept radio communications broadcast or transmitted
19 over a frequency authorized by the Federal Commu-
20 nications Commission to a railroad carrier and may
21 disclose or use the information thereby obtained, for
22 the purposes and to the extent permitted by section
23 20107(c) of title 49.”.

1 **TITLE III—RULEMAKING**
2 **AUTHORITY**

3 **SEC. 301. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

4 Section 20901(a) is amended to read as follows:

5 “(a) **GENERAL REQUIREMENTS.**—On a periodic basis
6 not less often than monthly or, if no qualifying accident
7 or incident occurs, on a periodic basis not less often than
8 quarterly, as specified by the Secretary of Transportation,
9 a railroad carrier shall file a report with the Secretary on
10 all accidents and incidents resulting in injury or death to
11 an individual or damage to equipment or a roadbed arising
12 from the carrier’s operations during that month or other
13 applicable period. The report shall state the nature, cause,
14 and circumstances of each reported accident or incident.
15 If a railroad carrier assigns human error as a cause, the
16 report shall include, at the option of each employee whose
17 error is alleged, a statement by the employee explaining
18 any factors the employee alleges contributed to the acci-
19 dent or incident.”.

20 **SEC. 302. HIGH-SPEED RAIL NOISE REGULATION.**

21 (a) **AMENDMENT.**—Chapter 201 is amended by add-
22 ing at the end the following:

23 **“§ 20154. High-speed rail noise regulation**

24 “The Secretary of Transportation, with the concur-
25 rence of the Administrator of the Environmental Protec-

1 tion Agency, shall prescribe regulations governing noise
 2 emissions from high-speed rail systems, including mag-
 3 netic levitation systems, when operating at speeds greater
 4 than 150 miles per hour. Railroad-related noise regula-
 5 tions issued pursuant to the Noise Control Act of 1972
 6 (42 U.S.C. 4916(a)) shall govern noise emissions from lo-
 7 comotives, cars, and consists of locomotives and cars,
 8 when operating at speeds equal to or less than 150 miles
 9 per hour.”.

10 (b) CONFORMING AMENDMENT.—The chapter anal-
 11 ysis of chapter 201 is amended by inserting after the item
 12 relating to section 20153 the following:

“20154. High-speed rail noise regulation.”.

13 **TITLE IV—WHISTLEBLOWER**
 14 **PROTECTION**

15 **SEC. 401. EXPANSION OF EMPLOYEE PROTECTIONS.**

16 (a) Section 20109(a) is amended—

17 (1) by striking “COMPLAINTS AND TESTI-
 18 FYING” in the subsection heading and inserting
 19 “COMPLAINTS, TESTIFYING, REPORTING INJURIES
 20 AND ILLNESSES, AND COOPERATING WITH SAFETY
 21 INVESTIGATIONS”;

22 (2) by striking “or” following the semicolon in
 23 paragraph (1); and

24 (3) by striking “proceeding.” in paragraph (2)
 25 and inserting “proceeding;”; and

1 (4) by adding at the end the following:

2 “(3) notified, or attempted to notify, the rail-
3 road carrier of a work-related personal injury or
4 work-related illness of an employee; or

5 “(4) cooperated with a safety investigation by
6 the Secretary of Transportation or the National
7 Transportation Safety Board.”.

8 (b) Section 20109(b) is amended—

9 (1) by striking the subsection heading and in-
10 sserting “HAZARDOUS CONDITIONS.—”;

11 (2) by inserting “or against an employee re-
12 sponsible for the inspection or repair of safety-re-
13 lated equipment, track, or structures for refusing to
14 authorize the use of such equipment, track, or struc-
15 tures when the employee believes that the equip-
16 ment, track, or structures are in a hazardous condi-
17 tion and that the use of the equipment, track, or
18 structures would endanger human life,” in para-
19 graph (1) after “performance of the employee’s du-
20 ties,”; and

21 (3) by striking subparagraph (C) and inserting
22 the following:

23 “(C) the employee, where possible, has no-
24 tified the carrier of the existence of the haz-
25 ardous condition and the intention not to per-

1 form further work or not to authorize the use
2 of the hazardous equipment, track, or struc-
3 tures, unless the condition is corrected imme-
4 diately or the equipment, track, or structures
5 are repaired properly or replaced.”.

6 (c) Section 20109(c) is amended to read as follows:

7 “(c) DISPUTE RESOLUTION.—

8 “(1) IN GENERAL.—A dispute, grievance, or
9 claim arising under this section is subject to
10 resolution—

11 “(A) under section 3 of the Railway Labor
12 Act (45 U.S.C. 553); or

13 “(B) through a tort action brought by the
14 employee in a district court of the United
15 States.

16 “(2) EXPEDITED RESOLUTION UNDER RAILWAY
17 LABOR ACT.—In a proceeding by the National Rail-
18 road Adjustment Board, a division of delegate of the
19 Board, or another board of adjustment established
20 under section 3 (45 U.S.C. 553) to resolve the dis-
21 pute, grievance, or claim, the proceeding shall be ex-
22 pedited and the dispute, grievance, or claim shall be
23 resolved not later than 180 days after it is filed.

24 “(3) VENUE.—A tort action under paragraph
25 (1)(B) of this subsection may be brought in the judi-

1 cial district in which the dispute, grievance, or claim
 2 arose or the defendant has its principal executive of-
 3 fice.

4 “(4) RELIEF.—If the employee has been found
 5 by the Board, division, delegate, or other board of
 6 adjustment or by the court, as applicable, to have
 7 been discharged, suspended, or otherwise discrimi-
 8 nated against in violation of subsection (a) or (b) of
 9 this section, the Board division, delegate, or other
 10 board of adjustment or the court, as applicable—

11 “(A) may award reasonable damages, in-
 12 cluding punitive damages sufficient to deter the
 13 railroad carrier from such conduct in the future
 14 up to \$100,000; and

15 “(B) shall make the employee whole, in-
 16 cluding reinstatement, with an award of back
 17 pay, and with all benefits and accumulated se-
 18 niority.”.

19 **TITLE V—GRADE CROSSING** 20 **SAFETY**

21 **SEC. 501. EMERGENCY NOTIFICATION OF GRADE CROSSING** 22 **PROBLEMS.**

23 Section 20152 is amended to read as follows:

1 **“§ 20152. Emergency notification of grade crossing**
2 **problems**

3 “(a) PROGRAM.—

4 “(1) The Secretary of Transportation shall pro-
5 mote the establishment of emergency notification
6 systems utilizing toll-free telephone numbers that
7 the public can use to convey to railroad carriers, ei-
8 ther directly or through public safety personnel, in-
9 formation about malfunctions of automated warning
10 devices or other safety problems at highway-rail
11 grade crossings.

12 “(2) To assist in encouraging widespread use of
13 such systems, the Secretary may provide technical
14 assistance and enter into cooperative agreements.
15 Such assistance shall include appropriate emphasis
16 on the public safety needs associated with operation
17 of small railroads.

18 “(b) REPORT.—Not later than 24 months following
19 enactment of the Federal Railroad Safety Enhancement
20 Act of 1999, the Secretary shall report to Congress the
21 status of such emergency notification systems, together
22 with any recommendations for further legislation that the
23 Secretary considers appropriate.

24 “(c) CLARIFICATION OF TERM.—In this section, the
25 use of the term ‘emergency’ does not alter the cir-
26 cumstances under which a signal employee subject to the

1 hours of service law limitations in chapter 211 of this title
2 may be permitted to work up to 4 additional hours in a
3 24-hour period when an actual emergency under section
4 21104(c) of this title exists and the work of that employee
5 is related to the emergency.”.

6 **SEC. 502. VIOLATION OF GRADE CROSSING SIGNALS.**

7 (a) IN GENERAL.—Section 20151 is amended—

8 (1) by striking the section heading and insert-
9 ing the following:

10 **“§ 20151. Strategy to prevent railroad trespassing
11 and vandalism and violation of grade
12 crossing signals”;**

13 (2) by striking “and vandalism affecting rail-
14 road safety” in subsection (a) and inserting “, van-
15 dalism affecting railroad safety, and violations of
16 highway-rail grade crossing signals”;

17 (3) by inserting “, concerning trespassing and
18 vandalism,” in subsection (a) after “such evaluation
19 and review”; and

20 (4) by inserting “The second such evaluation
21 and review, concerning violations of highway-rail
22 grade crossing signals, shall be completed not later
23 than 1 year after the date of enactment of the Fed-
24 eral Railroad Safety Enhancement Act of 1999” in
25 subsection (a) after “1994.”;

1 (5) by inserting “FOR TRESPASSING AND VAN-
2 DALISM PREVENTION” in the subsection heading of
3 subsection (b) after “OUTREACH PROGRAM”;

4 (6) by inserting “(1)” in subsection (c) before
5 “Within”;

6 (7) by redesignating paragraphs (1) and (2) as
7 subparagraphs (A) and (B), respectively;

8 (8) by adding at the end of subsection (c) the
9 following:

10 “(2) Not later than 2 years after the date of
11 the enactment of the Federal Railroad Safety En-
12 hancement Act of 1999, the Secretary, after con-
13 sultation with State and local governments and rail-
14 road carriers, shall develop and make available to
15 State and local governments model State legislation
16 providing for civil or criminal penalties, or both, for
17 violations of highway-rail grade crossing signals.”;
18 and

19 (9) by adding at the end the following:

20 “(d) VIOLATION OF HIGHWAY-RAIL GRADE CROSS-
21 ING SIGNALS DEFINED.—In this section, the term ‘viola-
22 tion of highway-rail grade crossing signals’ includes any
23 action by a motorist, unless directed by an authorized
24 safety officer—

1 “(1) to drive around or through a grade cross-
2 ing gate in a position intended to block passage over
3 railroad tracks;

4 “(2) to drive through a flashing grade crossing
5 signal;

6 “(3) to drive through a grade crossing with pas-
7 sive warning signs without determining that the
8 grade crossing could be safely crossed before any
9 train arrived; or

10 “(4) in the vicinity of a grade crossing, that
11 creates a hazard of an accident involving injury or
12 property damage at the grade crossing.”.

13 (b) CONFORMING AMENDMENT.—The chapter anal-
14 ysis for chapter 201 is amended by striking the item relat-
15 ing to section 20151 and inserting the following:

 “20151. Strategy to prevent railroad trespassing and vandalism and violation of
 grade crossing signals.”.

16 **SEC. 503. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.**

17 (a) AMENDMENT.—Subchapter II of chapter 201, as
18 amended by this Act, is further amended by adding at the
19 end the following new section:

20 **“§ 20155. National highway-rail crossing inventory**

21 “(a) MANDATORY INITIAL REPORTING OF CROSSING
22 INFORMATION.—No later than September 30, 2001, each
23 railroad carrier shall—

1 “(1) report to the Secretary of Transportation
2 certain information, as specified by the Secretary by
3 rule or order issued after notice and opportunity for
4 public comment or by guidelines, concerning each
5 highway-rail crossing through which the carrier op-
6 erates; or

7 “(2) otherwise ensure that the information has
8 been reported to the Secretary by that date.

9 “(b) MANDATORY PERIODIC UPDATING OF CROSSING
10 INFORMATION.—On a periodic basis beginning no later
11 than September 30, 2003, and not less often than Sep-
12 tember 30 of every third year thereafter, or as otherwise
13 specified by the Secretary of Transportation by rule or
14 order issued after notice and opportunity for public com-
15 ment or by guidelines, each railroad carrier shall—

16 “(1) report to the Secretary certain current in-
17 formation, as specified by the Secretary by rule or
18 order issued after notice and opportunity for public
19 comment or by guidelines, concerning each highway-
20 rail grade crossing through which it operates; or

21 “(2) otherwise ensure that the information has
22 been reported to the Secretary by that date.

23 “(c) DEFINITIONS.—In this section:

24 “(1) HIGHWAY-RAIL CROSSING.—The term
25 ‘highway-rail crossing’ means a location within a

1 State where a public highway, road, street, or pri-
 2 vate roadway, including associated sidewalks and
 3 pathways, crosses 1 or more railroad tracks either at
 4 grade or grade separated.

5 “(2) STATE.—The term ‘State’ means a State
 6 of the United States, the District of Columbia, Puer-
 7 to Rico, the Northern Mariana Islands, Guam,
 8 American Samoa, and the Virgin Islands.”.

9 (b) CONFORMING AMENDMENT.—The table of sec-
 10 tions for chapter 201 is amended by adding after new item
 11 20155 the following new item:

“20155. National highway-rail crossing inventory.”.

12 (c) AMENDMENT.—Section 130 of title 23, United
 13 States Code, is amended—

14 (1) by striking the section heading and insert-
 15 ing the following:

16 “§ 130. Highway-rail crossings”;

17 (2) by adding at the end the following:

18 “(k) NATIONAL HIGHWAY-RAIL CROSSING INVEN-
 19 TORY.—

20 “(1) MANDATORY INITIAL REPORTING OF
 21 CROSSING INFORMATION.—No later than September
 22 30, 2001, each State shall—

23 “(A) report to the Secretary of Transpor-
 24 tation certain information, as specified by the
 25 Secretary by rule or order issued after notice

1 and opportunity for public comment or by
2 guidelines, concerning each highway-rail cross-
3 ing located within its borders; or

4 “(B) otherwise ensure that the information
5 has been reported to the Secretary by that date.

6 “(2) MANDATORY PERIODIC UPDATING OF
7 CROSSING INFORMATION.—On a periodic basis be-
8 ginning no later than September 30, 2003, and not
9 less often than September 30 of every third year
10 thereafter, or as otherwise specified by the Secretary
11 of Transportation by rule or order issued after no-
12 tice and opportunity for public comment or by guide-
13 lines, each State shall—

14 “(A) report to the Secretary certain cur-
15 rent information, as determined by the Sec-
16 retary by rule or order issued after notice and
17 opportunity for public comment or by guide-
18 lines, concerning each highway-rail crossing lo-
19 cated within its borders; or

20 “(B) otherwise ensure that the information
21 has been reported to the Secretary by that date.

22 “(3) DEFINITIONS.—In this subsection—

23 “(A) HIGHWAY-RAIL CROSSING.—The term
24 ‘highway-rail crossing’ means a location where
25 a public highway, road, street, or private road-

1 way, including associated sidewalks and path-
2 ways, crosses 1 or more railroad tracks either
3 at grade or grade separated.

4 “(B) STATE.—The term ‘State’ means a
5 State of the United States, the District of Co-
6 lumbia, Puerto Rico, the Northern Mariana Is-
7 lands, Guam, American Samoa, and the Virgin
8 Islands.”.

9 (d) CONFORMING AMENDMENT.—The chapter anal-
10 ysis for chapter 1 of title 23, United States Code, is
11 amended by striking the item relating to section 130 and
12 inserting the following:

“130. Highway-rail crossings.”.

13 (e) CIVIL PENALTIES.—

14 (1) Section 21301(a)(1) is amended—

15 (A) by striking “title.” and inserting “title
16 or with section 20155.”; and

17 (B) by inserting “or violating section
18 20155” after “chapter 201” in the second sen-
19 tence.

20 (2) Section 21301(a)(2) is amended by insert-
21 ing after the first sentence the following: “The Sec-
22 retary shall impose a civil penalty for a violation of
23 section 20155 of this title”.

1 **TITLE VI—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 601. TECHNICAL AMENDMENTS REGARDING ADJUST-**
4 **MENT OF CIVIL PENALTIES FOR INFLATION.**

5 (a) CHAPTER 201 GENERAL VIOLATIONS.—Section
6 21301(a)(2) is amended by—

7 (1) striking “\$10,000.” and inserting “\$10,000
8 or such other amount to which the stated maximum
9 penalty is adjusted if required by the Federal Civil
10 Penalties Inflation Adjustment Act of 1990 (28
11 U.S.C. 2461 note).”; and

12 (2) striking “\$20,000.” and inserting “\$20,000
13 or such other amount to which the stated maximum
14 penalty is adjusted if required by the Federal Civil
15 Penalties Inflation Adjustment Act of 1990 (28
16 U.S.C. 2461 note).”.

17 (b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLA-
18 TIONS AND CHAPTER 203–209 VIOLATIONS.—Section
19 21302(a)(2) is amended by

20 (1) striking “\$10,000.” and inserting “\$10,000
21 or such other amount to which the stated maximum
22 penalty is adjusted if required by the Federal Civil
23 Penalties Inflation Adjustment Act of 1990 (28
24 U.S.C. 2461 note).”; and

1 (2) striking “\$20,000.” and inserting “\$20,000
2 or such other amount to which the stated maximum
3 penalty is adjusted if required by the Federal Civil
4 Penalties Inflation Adjustment Act of 1990 (28
5 U.S.C. 2461 note).”.

6 (c) CHAPTER 211 VIOLATIONS.—Section
7 21303(a)(2) is amended by—

8 (1) striking “\$10,000.” and inserting “\$10,000
9 or such other amount to which the stated maximum
10 penalty is adjusted if required by the Federal Civil
11 Penalties Inflation Adjustment Act of 1990 (28
12 U.S.C. 2461 note).”; and

13 (2) striking “\$20,000.” and inserting “\$20,000
14 or such other amount to which the stated maximum
15 penalty is adjusted if required by the Federal Civil
16 Penalties Inflation Adjustment Act of 1990 (28
17 U.S.C. 2461 note).”.

18 **SEC. 602. REVISION OF SPECIAL PREEMPTION PROVISION.**

19 Section 711 of the Regional Rail Reorganization Act
20 of 1973 (45 U.S.C. 797j), is amended to read as follows:

21 “SEC. 711. No State may continue in force any law,
22 rule, regulation, order, or standard adopted before the
23 date of enactment of the Federal Railroad Safety En-
24 hancement Act of 1999 requiring any railroad in the Re-
25 gion to employ any specified number of persons to perform

1 any particular task, function, or operation, or requiring
2 the railroad to pay protective benefits to employees.”.

3 **SEC. 603. RAILROAD SAFETY INSPECTION USER FEES.**

4 Section 20115 is amended—

5 (1) striking “chapter.” in subsection (a) and in-
6 serting “part.”; and

7 (2) striking subsection (a)(1) and inserting the
8 following:

9 “(1) shall cover the costs incurred by the Fed-
10 eral Railroad Administration in carrying out this
11 part and chapter 51 of this title;”;

12 (3) by striking subsection (c) and inserting the
13 following:

14 “(c) COLLECTION, DEPOSIT, AND USE.—

15 “(1) The Secretary is authorized to impose and
16 collect fees under this section for each fiscal year
17 (beginning with fiscal year 2000) before the end of
18 the fiscal year to cover the costs of carrying out this
19 part and Federal Railroad Administration activities
20 in connection with chapter 51 of this title.

21 “(2) Fees authorized under this section shall be
22 collected and available for obligation only to the ex-
23 tent and in the amount provided in advance in ap-
24 propriations acts. Such fees are authorized to be ap-
25 propriated to remain available until expended.”; and

1 (4) by striking subsections (d) and (e).

2 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

3 Section 20117(a) is amended to read as follows:

4 “(a) IN GENERAL.—There are authorized to be ap-
5 propriated to the Secretary of Transportation to carry out
6 this part and to carry out chapter 51 of this title with
7 respect to the railroad mode of transportation—

8 “(1) for the fiscal year ending September 30,
9 2000, not more than \$117,262,000; and

10 “(2) for fiscal years 2001 through 2003, such
11 sums as may be necessary.”.

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