

110TH CONGRESS
1ST SESSION

S. 1438

To improve railroad safety.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2007

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

A BILL

To improve railroad safety.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Railroad Crossing and Hazardous Materials Transport
6 Safety Act of 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RAIL CROSSING SAFETY

Sec. 101. Review of safety of highway-rail grade crossings.

Sec. 102. Study on alternative safety enforcement methods.

Sec. 103. Highway-rail grade crossing safety.

Sec. 104. Special Advisor for Highway-Rail Grade Crossing Safety.

- Sec. 105. Employment of safety investigation personnel.
 Sec. 106. Increased civil penalties for violations of requirements related to highway-rail grade crossing safety.
 Sec. 107. Definition of highway-rail grade crossing.
 Sec. 108. Safety enforcement grants.
 Sec. 109. Infrastructure safety improvement grants.
 Sec. 110. Rail station platform gap improvement and compliance grants.
 Sec. 111. Authorization of appropriations.

TITLE II—SAFE TRANSPORT OF HAZARDOUS MATERIALS

- Sec. 201. Increased civil penalties for violations of rules regarding transportation of hazardous materials.
 Sec. 202. Revocation of compliance orders.
 Sec. 203. Safety inspections of railroad cars carrying hazardous materials.
 Sec. 204. Requirement for railroad carriers to provide hazardous materials lists.
 Sec. 205. Miscellaneous amendments to chapter 51 of title 49.
 Sec. 206. Employment of hazardous materials inspectors.
 Sec. 207. Authorization of appropriations.

1 **TITLE I—RAIL CROSSING** 2 **SAFETY**

3 **SEC. 101. REVIEW OF SAFETY OF HIGHWAY-RAIL GRADE** 4 **CROSSINGS.**

5 (a) REVIEW.—The Secretary of Transportation shall
 6 conduct a comprehensive review of the safety of all high-
 7 way-rail grade crossings in the United States. The matters
 8 reviewed shall include security measures, safety condi-
 9 tions, past accidents, and possible safety improvements.
 10 In the conduct of the review, the Secretary shall determine
 11 whether it is advisable to close any of the highway-rail
 12 grade crossings.

13 (b) PRIORITY LIST.—Based on the information col-
 14 lected pursuant to subsection (a), the Secretary shall com-
 15 pile, maintain, and submit to Congress a list of the 5,000
 16 highway-rail grade crossings that have the greatest need

1 for safety improvements. The information considered shall
2 include the population density near the highway-rail grade
3 crossings and the number of accidents and incidents at
4 crossings that are reported to the Federal Railway Admin-
5 istration.

6 (c) INCLUSION IN HIGHWAY-RAIL GRADE CROSSING
7 DATABASE.—The Secretary shall include the information
8 collected under subsection (a) and the priority list sub-
9 mitted under subsection (b) in the national database on
10 the safety of highway-rail grade crossings required under
11 section 20154(a) of title 49, United States Code, as added
12 by section 103.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated \$100,000 to carry out
15 this section.

16 **SEC. 102. STUDY ON ALTERNATIVE SAFETY ENFORCEMENT**
17 **METHODS.**

18 (a) STUDY.—The Secretary of Transportation shall
19 conduct a study to determine the best methods for enforce-
20 ing and encouraging compliance with laws related to high-
21 way-rail grade safety for railroads, motor vehicles, and pe-
22 destrians.

23 (b) REPORT.—The Secretary shall submit a report to
24 Congress that contains the results of the study conducted
25 under subsection (a).

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$100,000 to carry out
3 this section.

4 **SEC. 103. HIGHWAY-RAIL GRADE CROSSING SAFETY.**

5 (a) HIGHWAY-RAIL GRADE CROSSING SAFETY.—
6 Subchapter II of chapter 201 of title 49, United States
7 Code, is amended by adding at the end the following:

8 **“§ 20154. Highway-rail grade crossing safety**

9 “(a) DATABASE OF HIGHWAY-RAIL GRADE CROSS-
10 ING SAFETY INFORMATION.—

11 “(1) REQUIREMENT FOR DATABASE.—The Sec-
12 retary of Transportation shall maintain a national
13 database of information on the safety of highway-
14 rail grade crossings in the United States.

15 “(2) ACCIDENT AND INCIDENT REPORTS TO BE
16 INCLUDED.—The Secretary shall include in the
17 database under paragraph (1), with other informa-
18 tion on the safety of highway-rail grade crossings,
19 information from incident reports filed with the Fed-
20 eral Railroad Administration regarding accidents
21 and other safety-related incidents that have occurred
22 at highway-rail grade crossings, including reports
23 submitted under paragraph (1) of subsection (c) and
24 the results of investigations under paragraph (2) of
25 such subsection.

1 “(b) INVESTIGATIONS OF FATAL ACCIDENTS.—The
2 Secretary of Transportation shall conduct an investigation
3 regarding the cause of each fatal accident that occurs at
4 a highway-rail grade crossing.

5 “(c) ACCIDENT REPORTS.—The Secretary of Trans-
6 portation shall prescribe regulations—

7 “(1) requiring that, not later than 7 days after
8 being involved in an accident at a highway-rail grade
9 crossing, a railroad carrier submit to the Adminis-
10 trator an accident report on that accident as pre-
11 scribed by the Federal Railroad Administration
12 Guide for Preparing Accident/Incident Reports; and

13 “(2) subjecting the railroad carrier to a civil
14 penalty of \$10,000 for each day that the railroad
15 carrier fails to submit such report after the due
16 date.

17 “(d) CROSSING MALFUNCTION REPORTS.—The Sec-
18 retary of Transportation shall prescribe regulations—

19 “(1) requiring that a railroad carrier submit to
20 the Administrator a Highway Rail-Grade Crossing
21 Warning System Report regarding an activation fail-
22 ure of a highway-rail grade crossing warning system
23 not later than 5 days after the railroad carrier is on
24 notice of such failure; and

1 “(2) subjecting the railroad carrier to a civil
2 penalty of \$5,000 for each day that the railroad car-
3 rier fails to submit such report after the due date.

4 “(e) SAFETY IMPROVEMENTS.—The Secretary of
5 Transportation shall prescribe regulations for improving
6 the safety, maintenance, and surveillance of highway-rail
7 grade crossings, including regulations providing for—

8 “(1) the installation of surveillance cameras at
9 crossings at which 1 or more fatal accidents have oc-
10 curred; and

11 “(2) a system of annual inspection of every
12 crossing by a State or Federal inspector to ensure
13 that automated safety systems are in working order,
14 that there is no vegetation or other obstruction
15 blocking the view of crossing warning signs at crit-
16 ical locations in approaches to crossings, and that
17 appropriate crossing warning signs and other safety
18 measures are in place.

19 “(f) COOPERATION WITH FEDERAL RAILROAD AD-
20 MINISTRATION.—

21 “(1) IDENTIFICATION OF OBSTRUCTIVE ENTI-
22 TIES.—The Secretary of Transportation shall—

23 “(A) identify any public or private entity
24 that prevents the Administrator from making
25 necessary safety improvements at a highway-

1 rail grade crossing included on the priority list
2 of dangerous crossings submitted to Congress
3 by the Secretary of Transportation under sec-
4 tion 101(b) of the Railroad Crossing and Haz-
5 arduous Materials Transport Safety Act of 2007;

6 “(B) submit to the Secretary of Transpor-
7 tation—

8 “(i) a list of the public and private en-
9 tities identified pursuant to subparagraph
10 (A); and

11 “(ii) recommendations for withholding
12 from such public entities funds in the
13 amounts specified under paragraph (3)
14 that are otherwise to be disbursed from the
15 Highway Trust Fund during the fiscal
16 year in which such determination is made;
17 and

18 “(iii) submit to the committees of
19 Congress named in paragraph (2)—

20 “(I) a list of the public and pri-
21 vate entities identified pursuant to
22 subparagraph (A); and

23 “(II) a report on the rec-
24 ommendations made pursuant to sub-
25 paragraph (B)(ii).

1 “(2) CONGRESSIONAL COMMITTEES.—The com-
2 mittees of Congress referred to in paragraph (1)(B)
3 are—

4 “(A) the Committee on Commerce,
5 Science, and Transportation of the Senate;

6 “(B) the Committee on Transportation
7 and Infrastructure of the House of Representa-
8 tives;

9 “(C) the Committee on Banking, Housing,
10 and Urban Affairs of the Senate;

11 “(D) the Committee on Financial Services
12 of the House of Representatives; and

13 “(E) the Committee on Environment and
14 Public Works of the Senate.

15 “(3) AMOUNTS TO BE WITHHELD.—The
16 amounts referred to in paragraph (1)(B)(ii) are the
17 percentages of the funds apportioned to the State of
18 the relevant public entity for fiscal year 2006 under
19 paragraphs (1), (3), and (4) of section 104(b) of
20 title 23, United States Code, as follows:

21 “(A) For fiscal year 2007, 2 percent.

22 “(B) For fiscal year 2008, 4 percent.

23 “(C) For fiscal year 2009, 6 percent.

24 “(D) For fiscal year 2010, and each fiscal
25 year thereafter, 8 percent.

1 “(A) develop and evaluate policies related
2 to improving nationally the safety of highway-
3 rail grade crossings;

4 “(B) advise the Secretary of Transpor-
5 tation, the Administrator of the Federal High-
6 way Administration, and Congress regarding
7 the status of—

8 “(i) efforts to improve the safety of
9 highway-rail grade crossings;

10 “(ii) pending investigations of acci-
11 dents and other safety-related incidents
12 that have occurred at highway-rail grade
13 crossings; and

14 “(iii) pending civil and criminal ac-
15 tions related to highway-rail grade crossing
16 safety;

17 “(C) evaluate the efforts of railroad car-
18 riers to improve safety measures related to
19 highway-rail grade crossings;

20 “(D) monitor actions taken by railroad
21 carriers in response to failures of highway-rail
22 grade crossing warning systems;

23 “(E) monitor the progress of, and ensure
24 the expeditious completion of, Federal Railroad
25 Administration investigations of accidents and

1 other safety-related incidents that have oc-
2 curred at highway-rail grade crossings;

3 “(F) ensure that fair and adequate pen-
4 alties are imposed for safety violations related
5 to highway-rail grade crossings by—

6 “(i) advising the Chief Counsel of the
7 Federal Railroad Administration regarding
8 penalty decisions;

9 “(ii) submitting an annual report to
10 Congress on penalties assessed for such
11 violations, including information on the
12 minimum and maximum possible fines, the
13 initial fine recommendations, and the fines
14 actually imposed; and

15 “(iii) consulting with the Secretary of
16 Transportation and the Attorney General
17 to ensure that railroad carriers responsible
18 for such violations are consistently fined
19 fairly and in accordance with the law; and

20 “(G) establish priorities and prescribe reg-
21 ulations related to improving highway-rail grade
22 crossing safety.”.

1 **SEC. 105. EMPLOYMENT OF SAFETY INVESTIGATION PER-**
 2 **SONNEL.**

3 (a) IN GENERAL.—Not later than 1 year after the
 4 date of the enactment of this Act, the Secretary of Trans-
 5 portation shall employ 50 grade crossing inspectors to con-
 6 duct annual safety reviews, including reviews in connection
 7 with the comprehensive review required under section 101.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 9 are authorized to be appropriated such sums as may be
 10 necessary to carry out this section.

11 **SEC. 106. INCREASED CIVIL PENALTIES FOR VIOLATIONS**
 12 **OF REQUIREMENTS RELATED TO HIGHWAY-**
 13 **RAIL GRADE CROSSING SAFETY.**

14 (a) IN GENERAL.—Subchapter II of chapter 201 of
 15 title 49, United States Code, as amended by section
 16 103(a), is further amended by adding at the end the fol-
 17 lowing:

18 **“§ 20155. Civil penalties for violations of require-**
 19 **ments related to highway-rail grade**
 20 **crossing safety**

21 “The Secretary of Transportation shall prescribe reg-
 22 ulations that subject a railroad carrier that knowingly vio-
 23 lates, or knowingly causes a violation of, a requirement
 24 related to highway-rail grade crossing safety that is appli-
 25 cable to such carrier under this subchapter—

1 “(1) to a civil penalty of not less than
2 \$1,000,000 and not more than \$20,000,000 if the
3 violation involves gross negligence and results in a
4 fatal accident;

5 “(2) to a civil penalty of not less than \$25,000
6 and not more than \$10,000,000 if the violation in-
7 volves gross negligence and does not result in a fatal
8 accident; or

9 “(3) to a civil penalty of not less than \$10,000
10 and not more than \$1,000,000 if the violation does
11 not involve gross negligence.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 at the beginning of chapter 201 of title 49, United States
14 Code, as amended by section 103(b), is further amended
15 by adding at the end the following:

“20155. Civil penalties for violations of requirements related to highway-rail
grade crossing safety.”.

16 **SEC. 107. DEFINITION OF HIGHWAY-RAIL GRADE CROSSING.**

17 (a) IN GENERAL.—In this Act, the term “highway-
18 rail grade crossing” means any street or highway crossing
19 over a line of railroad at grade.

20 (b) DEFINITION FOR CHAPTER 201 OF TITLE 49.—
21 Section 20102 of title 49, United States Code, is amend-
22 ed—

23 (1) in paragraph (1), by striking the period at
24 the end and inserting a semicolon;

1 (2) in paragraph (2), by striking the period at
2 the end and inserting “; and”; and

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

4 “(3) ‘highway-rail grade crossing’ means any
5 street or highway crossing over a line of railroad at
6 grade.”.

7 (c) REPEAL OF SUPERSEDED PROVISION.—Section
8 20153(a) of such title is amended—

9 (1) by striking paragraph (1); and

10 (2) by redesignating paragraphs (2) and (3) as
11 paragraphs (1) and (2), respectively.

12 **SEC. 108. SAFETY ENFORCEMENT GRANTS.**

13 (a) GRANTS AUTHORIZED.—

14 (1) IN GENERAL.—The Secretary of Transpor-
15 tation may award grants to State and local law en-
16 forcement agencies to support the enforcement of
17 traffic safety laws at highway-rail grade crossings.

18 (2) MAXIMUM AMOUNT.—The Administrator
19 may not award a grant under this section in an
20 amount in excess of \$250,000.

21 (b) APPLICATION.—

22 (1) IN GENERAL.—Each law enforcement agen-
23 cy desiring a grant under this section shall submit
24 an application to the Administrator at such time, in

1 such manner, and containing such information as
2 the Administrator may reasonably require.

3 (2) SELECTION CRITERIA.—In selecting grant
4 recipients under this section, the Administrator shall
5 give priority to law enforcement agencies within ju-
6 risdictions in which accidents have occurred at high-
7 way-rail grade crossings.

8 **SEC. 109. INFRASTRUCTURE SAFETY IMPROVEMENT**
9 **GRANTS.**

10 (a) GRANTS AUTHORIZED.—

11 (1) IN GENERAL.—The Secretary of Transpor-
12 tation may award grants to States and local govern-
13 ments for safety improvements to rail infrastructure.

14 (2) MAXIMUM AMOUNT.—The Administrator
15 may not award a grant under this section in an
16 amount in excess of \$250,000.

17 (b) APPLICATION.—

18 (1) IN GENERAL.—Each State or local govern-
19 ment desiring a grant under this section shall sub-
20 mit an application to the Administrator at such
21 time, in such manner, and containing such informa-
22 tion as the Administrator may reasonably require.

23 (2) SELECTION CRITERIA.—In selecting grant
24 recipients under this section, the Administrator shall
25 give priority to States and local governments within

1 jurisdictions in which the age and poor condition of
2 the rail infrastructure causes hazardous conditions.

3 **SEC. 110. RAIL STATION PLATFORM GAP IMPROVEMENT**
4 **AND COMPLIANCE GRANTS.**

5 (a) GRANTS AUTHORIZED.—The Secretary of Trans-
6 portation is authorized to award grants to States and local
7 transportation authorities to assist in complying with the
8 requirements under the American with Disabilities Act (42
9 U.S.C. 12101 et seq.), including regulations issued pursu-
10 ant to section 504 of such Act (42 U.S.C. 12204).

11 (b) MAXIMUM AMOUNT.—The Secretary may not
12 award a grant under this section in an amount in excess
13 of \$5,000,000 per year.

14 (c) SELECTION CRITERIA.—Grants under this section
15 may be awarded to any public transportation authority
16 whose rail selection platforms are not in compliance with
17 the requirements under the American with Disabilities Act
18 (42 U.S.C. 12101 et seq.).

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated \$50,000,000 for each
21 of the fiscal years 2008 through 2012 for grants under
22 this section.

23 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) SAFETY IMPROVEMENTS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated \$400,000,000 for each of the fiscal
3 years 2007 through 2012, for safety improvements,
4 including the purchasing, installation, and mainte-
5 nance by the Secretary of Transportation of safety
6 equipment and devices, at highway-rail grade cross-
7 ings.

8 (2) PRIORITY LIST.—Not less than
9 \$100,000,000 of the amount appropriate pursuant
10 to paragraph (1) shall be made available for such
11 safety improvements at highway-rail grade crossings
12 that are included on the priority list of dangerous
13 crossings submitted to Congress under section
14 101(b).

15 (b) SAFETY ENFORCEMENT GRANTS.—There are au-
16 thorized to be appropriated \$50,000,000 in each of the
17 fiscal years 2007 through 2012 to carry out section 108.

18 (c) INFRASTRUCTURE SAFETY IMPROVEMENT
19 GRANTS.—There are authorized to be appropriated
20 \$50,000,000 in each of the fiscal years 2007 through 2012
21 to carry out section 109.

1 **TITLE II—SAFE TRANSPORT OF**
 2 **HAZARDOUS MATERIALS**

3 **SEC. 201. INCREASED CIVIL PENALTIES FOR VIOLATIONS**
 4 **OF RULES REGARDING TRANSPORTATION OF**
 5 **HAZARDOUS MATERIALS.**

6 Section 5123(a) of title 49, United States Code, is
 7 amended—

8 (1) in paragraph (1), by redesignating subpara-
 9 graphs (A) and (B) as clauses (i) and (ii), respec-
 10 tively;

11 (2) by striking “(1) A person” and inserting
 12 “(1)(A) Except as provided in paragraph (2), a per-
 13 son”;

14 (3) by redesignating paragraph (2) as subpara-
 15 graph (B); and

16 (4) by inserting after subparagraph (B), as re-
 17 designated by paragraph (3), the following:

18 “(2) A railroad carrier that knowingly violates a reg-
 19 ulation prescribed or order issued under this chapter shall
 20 be subject to a civil penalty—

21 “(A) of not less than \$50,000 and not more
 22 than \$10,000,000 if the violation involved gross neg-
 23 ligence and resulted in a fatal accident;

1 not be used to carry hazardous materials unless such car
2 has passed a Federal safety inspection during the pre-
3 ceding 15 years.

4 “(b) OLDER TANK CARS.—A railroad car manufac-
5 tured before the date of the enactment of this section may
6 not be used to carry hazardous materials unless such
7 car—

8 “(1) passes a Federal safety inspection not
9 later than 1 year after such date; and

10 “(2) has passed a Federal safety inspection
11 during the preceding 15 years.

12 “(c) DATE OF MANUFACTURE.—For purposes of this
13 section, the date of manufacture of a railroad car is the
14 date on which such car is first placed into service.”.

15 **SEC. 204. REQUIREMENT FOR RAILROAD CARRIERS TO**
16 **PROVIDE HAZARDOUS MATERIALS LISTS.**

17 Chapter 51 of title 49, United States Code, as
18 amended by sections 202 and 203, is further amended by
19 adding at the end the following:

20 **“§ 5130. Requirement for railroad carriers to provide**
21 **hazardous materials lists**

22 “(a) AUTHORITY TO REQUEST LIST.—A State home-
23 land security coordinator may submit up to 12 requests
24 per year to any rail carrier for a comprehensive list of
25 all hazardous materials scheduled to be transported

1 through such State by such rail carrier during any 6-
2 month period.

3 “(b) REQUIREMENT TO PROVIDE LIST.—Not later
4 than 30 days after receiving a request from a State home-
5 land security coordinator under subsection (a), a railroad
6 carrier shall submit the requested list to such coordinator.

7 “(c) SCOPE OF INFORMATION.—A railroad carrier
8 submitting a list under this section shall not be required
9 to include on such list information relating to the specific
10 times, locations, or amounts of shipments of hazardous
11 materials.”.

12 **SEC. 205. MISCELLANEOUS AMENDMENTS TO CHAPTER 51**
13 **OF TITLE 49.**

14 (a) DEFINITION OF RAILROAD CARRIER.—Section
15 5102 of title 49, United States Code, is amended—

16 (1) by redesignating paragraphs (11), (12), and
17 (13), as paragraphs (12), (13), and (14), respec-
18 tively; and

19 (2) by inserting after paragraph (10) the fol-
20 lowing:

21 “(11) ‘railroad carrier’ has the meaning given
22 that term in section 20102 of this title.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 51 of title 49 is amended by

1 striking the item relating to section 5128 and inserting
2 the following:

“5128. Revocation of compliance orders for certain railroad carriers.

“5129. Age limits for railroad cars carrying hazardous materials.

“5130. Requirement for railroad carriers to provide hazardous materials lists.

“5131. Authorization of appropriations.”.

3 **SEC. 206. EMPLOYMENT OF HAZARDOUS MATERIALS IN-**
4 **SPECTORS.**

5 Not later than 5 years after the date of the enact-
6 ment of this Act, the Secretary of Transportation shall
7 increase the number of hazardous materials inspectors em-
8 ployed by the Federal Railroad Administration by 100 per-
9 cent compared to the number of such inspectors employed
10 on the date of the enactment of this Act.

11 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

12 There are authorized to be appropriated such sums
13 as may be necessary to carry out this title.

○