

110TH CONGRESS  
1ST SESSION

# H. R. 2095

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IN THE SENATE OF THE UNITED STATES

OCTOBER 18, 2007

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Federal Railroad Safety Improvement Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—FEDERAL RAILROAD SAFETY ADMINISTRATION**

Sec. 101. Establishment of Federal Railroad Safety Administration.

Sec. 102. Railroad safety strategy.

Sec. 103. Reports.

Sec. 104. Rulemaking process.

Sec. 105. Authorization of appropriations.

**TITLE II—EMPLOYEE FATIGUE**

Sec. 201. Hours of service reform.

Sec. 202. Employee sleeping quarters.

Sec. 203. Fatigue management plans.

Sec. 204. Regulatory authority.

Sec. 205. Conforming amendment.

**TITLE III—BRIDGE SAFETY**

Sec. 301. Railroad bridge safety assurance.

**TITLE IV—GRADE CROSSINGS**

Sec. 401. Toll-free number to report grade crossing problems.

Sec. 402. Roadway user sight distance at highway-rail grade crossings.

Sec. 403. Grade crossing signal violations.

Sec. 404. National crossing inventory.

Sec. 405. Accident and incident reporting.

Sec. 406. Authority to buy promotional items to improve railroad crossing safety and prevent railroad trespass.

Sec. 407. Operation Lifesaver.

Sec. 408. State action plan.

Sec. 409. Fostering introduction of new technology to improve safety at highway-rail grade crossings.

**TITLE V—ENFORCEMENT**

Sec. 501. Enforcement.

Sec. 502. Civil penalties.

Sec. 503. Criminal penalties.

Sec. 504. Expansion of emergency order authority.

Sec. 505. Enforcement transparency.

Sec. 506. Interfering with or hampering safety investigations.

Sec. 507. Railroad radio monitoring authority.

Sec. 508. Inspector staffing.

## TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Positive train control systems.
- Sec. 602. Warning in nonsignaled territory.
- Sec. 603. Track safety.
- Sec. 604. Certification of conductors.
- Sec. 605. Minimum training standards.
- Sec. 606. Prompt medical attention.
- Sec. 607. Emergency escape breathing apparatus.
- Sec. 608. Locomotive cab environment.
- Sec. 609. Tunnel information.
- Sec. 610. Museum locomotive study.
- Sec. 611. Certification of Carmen.
- Sec. 612. Train control systems deployment grants.
- Sec. 613. Infrastructure safety investment reports.
- Sec. 614. Emergency grade crossing safety improvements.
- Sec. 615. Locomotive horn requirement waiver.
- Sec. 616. Safety inspections in Mexico.
- Sec. 617. Surface Transportation Board jurisdiction over solid waste facilities.

## TITLE VII—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

- Sec. 701. Short title.
- Sec. 702. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
- Sec. 703. Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents.
- Sec. 704. Establishment of task force.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the terms “railroad” and  
 3 “railroad carrier” have the meaning given those terms in  
 4 section 20102 of title 49, United States Code.

5 **TITLE I—FEDERAL RAILROAD**  
 6 **SAFETY ADMINISTRATION**

7 **SEC. 101. ESTABLISHMENT OF FEDERAL RAILROAD SAFETY**  
 8 **ADMINISTRATION.**

9 (a) AMENDMENT.—Section 103 of title 49, United  
 10 States Code, is amended to read as follows:

11 **“§ 103. Federal Railroad Safety Administration**

12 “(a) IN GENERAL.—The Federal Railroad Safety Ad-  
 13 ministration (in this section referred to as the ‘Adminis-

1 tration’) shall be an administration in the Department of  
2 Transportation. To carry out all railroad safety laws of  
3 the United States, the Administration shall be divided on  
4 a geographical basis into at least 8 safety offices. The Sec-  
5 retary of Transportation shall be responsible for enforcing  
6 those laws and for ensuring that those laws are uniformly  
7 administered and enforced among the safety offices.

8 “(b) SAFETY AS HIGHEST PRIORITY.—In carrying  
9 out its duties, the Administration shall consider the as-  
10 signment and maintenance of safety as the highest pri-  
11 ority, recognizing the clear intent, encouragement, and  
12 dedication of Congress to the furtherance of the highest  
13 degree of safety in railroad transportation.

14 “(c) ADMINISTRATOR.—The head of the Administra-  
15 tion shall be the Administrator who shall be appointed by  
16 the President, by and with the advice and consent of the  
17 Senate, and shall be an individual with professional experi-  
18 ence in railroad safety, hazardous materials safety, or  
19 other transportation safety. The Administrator shall re-  
20 port directly to the Secretary of Transportation.

21 “(d) DEPUTY ADMINISTRATOR.—The Administration  
22 shall have a Deputy Administrator who shall be appointed  
23 by the Secretary. The Deputy Administrator shall carry  
24 out duties and powers prescribed by the Administrator.

1       “(e) CHIEF SAFETY OFFICER.—The Administration  
2 shall have an Associate Administrator for Railroad Safety  
3 appointed in the competitive service by the Secretary. The  
4 Associate Administrator shall be the Chief Safety Officer  
5 of the Administration. The Associate Administrator shall  
6 carry out the duties and powers prescribed by the Admin-  
7 istrator.

8       “(f) DUTIES AND POWERS OF THE ADMINIS-  
9 TRATOR.—The Administrator shall carry out—

10           “(1) duties and powers related to railroad safe-  
11 ty vested in the Secretary by section 20134(c) and  
12 chapters 203 through 211 of this title, and by chap-  
13 ter 213 of this title for carrying out chapters 203  
14 through 211; and

15           “(2) other duties and powers prescribed by the  
16 Secretary.

17       “(g) LIMITATION.—A duty or power specified in sub-  
18 section (f)(1) may be transferred to another part of the  
19 Department of Transportation or another Federal Govern-  
20 ment entity only when specifically provided by law. A deci-  
21 sion of the Administrator in carrying out the duties or  
22 powers of the Administration and involving notice and  
23 hearing required by law is administratively final.

24       “(h) AUTHORITIES.—Subject to the provisions of  
25 subtitle I of title 40 and title III of the Federal Property

1 and Administrative Services Act of 1949 (41 U.S.C. 251  
 2 et seq.), the Secretary of Transportation may make, enter  
 3 into, and perform such contracts, grants, leases, coopera-  
 4 tive agreements, and other similar transactions with Fed-  
 5 eral or other public agencies (including State and local  
 6 governments) and private organizations and persons, and  
 7 make such payments, by way of advance or reimburse-  
 8 ment, as the Secretary may determine to be necessary or  
 9 appropriate to carry out functions at the Administration.  
 10 The authority of the Secretary granted by this subsection  
 11 shall be carried out by the Administrator. Notwith-  
 12 standing any other provision of this chapter, no authority  
 13 to enter into contracts or to make payments under this  
 14 subsection shall be effective, except as provided for in ap-  
 15 propriations Acts.”.

16 (b) REFERENCES AND CONFORMING AMEND-  
 17 MENTS.—(1) All references in Federal law to the Federal  
 18 Railroad Administration shall be deemed to be references  
 19 to the Federal Railroad Safety Administration.

20 (2) The item relating to section 103 in the table of  
 21 sections of chapter 1 of title 49, United States Code, is  
 22 amended to read as follows:

“103. Federal Railroad Safety Administration.”.

23 **SEC. 102. RAILROAD SAFETY STRATEGY.**

24 (a) SAFETY GOALS.—In conjunction with existing  
 25 federally required strategic planning efforts, the Secretary

1 of Transportation shall develop a long-term strategy for  
2 improving railroad safety. The strategy shall include an  
3 annual plan and schedule for achieving, at a minimum,  
4 the following goals:

5 (1) Reducing the number and rates of acci-  
6 dents, injuries, and fatalities involving railroads.

7 (2) Improving the consistency and effectiveness  
8 of enforcement and compliance programs.

9 (3) Identifying and targeting enforcement at,  
10 and safety improvements to, high-risk highway-rail  
11 grade crossings.

12 (4) Improving research efforts to enhance and  
13 promote railroad safety and performance.

14 (b) RESOURCE NEEDS.—The strategy and annual  
15 plans shall include estimates of the funds and staff re-  
16 sources needed to accomplish each activity. Such estimates  
17 shall also include the staff skills and training needed for  
18 timely and effective accomplishment of each goal.

19 (c) SUBMISSION WITH THE PRESIDENT’S BUDG-  
20 ET.—The Secretary of Transportation shall submit to the  
21 Committee on Transportation and Infrastructure of the  
22 House of Representatives and the Committee on Com-  
23 merce, Science, and Transportation of the Senate the  
24 strategy and annual plan at the same time as the Presi-  
25 dent’s budget submission.

1 (d) ACHIEVEMENT OF GOALS.—

2 (1) PROGRESS ASSESSMENT.—No less fre-  
3 quently than semiannually, the Secretary of Trans-  
4 portation and the Administrator of the Federal Rail-  
5 road Safety Administration shall assess the progress  
6 of the Administration toward achieving the strategic  
7 goals described in subsection (a). The Secretary and  
8 the Administrator shall convey their assessment to  
9 the employees of the Federal Railroad Safety Ad-  
10 ministration and shall identify any deficiencies that  
11 should be remediated before the next progress as-  
12 sessment.

13 (2) REPORT TO CONGRESS.—The Secretary  
14 shall transmit a report annually to the Committee  
15 on Transportation and Infrastructure of the House  
16 of Representatives and the Committee on Commerce,  
17 Science, and Transportation of the Senate on the  
18 performance of the Federal Railroad Safety Admin-  
19 istration relative to the goals of the railroad safety  
20 strategy and annual plans under subsection (a).

21 **SEC. 103. REPORTS.**

22 (a) REPORTS BY THE INSPECTOR GENERAL.—Not  
23 later than 30 days after the date of enactment of this Act,  
24 the Inspector General of the Department of Transpor-  
25 tation shall submit to the Secretary of Transportation and

1 the Administrator of the Federal Railroad Safety Admin-  
2 istration a report containing the following:

3 (1) A list of each statutory mandate regarding  
4 railroad safety that has not been implemented.

5 (2) A list of each open safety recommendation  
6 made by the National Transportation Safety Board  
7 or the Inspector General regarding railroad safety.

8 (b) REPORTS BY THE SECRETARY.—

9 (1) STATUTORY MANDATES.—Not later than 90  
10 days after the date of enactment of this Act, and  
11 every 180 days thereafter until each of the mandates  
12 referred to in subsection (a)(1) has been imple-  
13 mented, the Secretary of Transportation shall trans-  
14 mit to the Committee on Transportation and Infra-  
15 structure of the House of Representatives and the  
16 Committee on Commerce, Science, and Transpor-  
17 tation of the Senate a report on the specific actions  
18 taken to implement such mandates.

19 (2) NTSB AND INSPECTOR GENERAL REC-  
20 OMMENDATIONS.—Not later than January 1st of  
21 each year, the Secretary of Transportation shall  
22 transmit to the Committee on Transportation and  
23 Infrastructure of the House of Representatives and  
24 the Committee on Commerce, Science, and Trans-  
25 portation of the Senate a report containing each rec-

1       ommendation referred to in subsection (a)(2), a copy  
 2       of the Department of Transportation response to  
 3       each such recommendation, and a progress report on  
 4       implementing each such recommendation.

5   **SEC. 104. RULEMAKING PROCESS.**

6       (a) AMENDMENT.—Subchapter I of chapter 201 of  
 7       title 49, United States Code, is amended by inserting after  
 8       section 20115 the following new section:

9   **“§ 20116. Rulemaking process**

10       “No rule or order issued by the Secretary under this  
 11       part shall be effective if it incorporates by reference a  
 12       code, rule, standard, requirement, or practice issued by an  
 13       association or other entity that is not an agency of the  
 14       Federal Government, unless that reference is to a par-  
 15       ticular code, rule, standard, requirement, or practice  
 16       adopted before the date on which the rule is issued by  
 17       the Secretary, and unless the date on which the code, rule,  
 18       standard, requirement, or practice was adopted is specifi-  
 19       cally cited in the rule.”.

20       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 21       sections of subchapter I of chapter 201 of title 49, United  
 22       States Code, is amended by adding after the item relating  
 23       to section 20115 the following new item:

“20116. Rulemaking process.”.

1 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20117(a) of title 49, United States Code, is  
3 amended to read as follows:

4 “(a) IN GENERAL.—(1) There are authorized to be  
5 appropriated to the Secretary of Transportation to carry  
6 out this part and to carry out responsibilities under chap-  
7 ter 51 as delegated or authorized by the Secretary—

8 “(A) \$230,000,000 for fiscal year 2008;

9 “(B) \$260,000,000 for fiscal year 2009;

10 “(C) \$295,000,000 for fiscal year 2010; and

11 “(D) \$335,000,000 for fiscal year 2011.

12 “(2) With amounts appropriated pursuant to para-  
13 graph (1), the Secretary shall purchase 6 Gage Restraint  
14 Measurement System vehicles and 5 track geometry vehi-  
15 cles to enable the deployment of 1 Gage Restraint Meas-  
16 urement System vehicle and 1 track geometry vehicle in  
17 each region.

18 “(3) There are authorized to be appropriated to the  
19 Secretary \$18,000,000 for the period encompassing fiscal  
20 years 2008 through 2011 to design, develop, and construct  
21 the Facility for Underground Rail Station and Tunnel at  
22 the Transportation Technology Center in Pueblo, Colo-  
23 rado. The facility shall be used to test and evaluate the  
24 vulnerabilities of above-ground and underground rail tun-  
25 nels to prevent accidents and incidents in such tunnels,  
26 to mitigate and remediate the consequences of any such

1 accidents or incidents, and to provide a realistic scenario  
 2 for training emergency responders.

3 “(4) Such sums as may be necessary from the  
 4 amount appropriated pursuant to paragraph (1) for each  
 5 of the fiscal years 2008 through 2011 shall be made avail-  
 6 able to the Secretary for personnel in regional offices and  
 7 in Washington, D.C., whose duties primarily involve rail  
 8 security.

9 “(5) There are authorized to be appropriated to the  
 10 Secretary for each of the fiscal years 2008 through 2011  
 11 such sums as may be necessary to design and develop a  
 12 pilot electric cargo conveyor system for the transportation  
 13 of containers from ports to depots outside of urban  
 14 areas.”.

## 15 **TITLE II—EMPLOYEE FATIGUE**

### 16 **SEC. 201. HOURS OF SERVICE REFORM.**

17 (a) DEFINITIONS.—Section 21101(4) of title 49,  
 18 United States Code, is amended by striking “employed by  
 19 a railroad carrier”.

20 (b) LIMITATION ON DUTY HOURS OF SIGNAL EM-  
 21 PLOYEES.—Section 21104 of title 49, United States Code,  
 22 is amended—

23 (1) by amending subsection (a) to read as fol-  
 24 lows:

1       “(a) GENERAL.—Except as provided in subsection (c)  
2 of this section, a railroad carrier and its officers and  
3 agents may not require or allow a signal employee, and  
4 a railroad contractor and its officers and agents may not  
5 require or allow a signal employee, to remain or go on  
6 duty—

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

10              “(2) for a period in excess of 12 consecutive  
11 hours; or

12              “(3) unless that employee has had at least one  
13 period of at least 24 consecutive hours off duty in  
14 the past 7 consecutive days.

15 The Secretary may waive paragraph (3) if a collective bar-  
16 gaining agreement provides a different arrangement and  
17 such arrangement provides an equivalent level of safety.”;

18              (2) in subsection (b)(3) by striking “, except  
19 that up to one hour of that time spent returning  
20 from the final trouble call of a period of continuous  
21 or broken service is time off duty”;

22              (3) in subsection (c)—

23                      (A) by inserting “for not more than 3 days  
24 during a period of 7 consecutive days” after

25                      “24 consecutive hours”; and

1 (B) by adding at the end the following: “A  
2 signal employee may not be allowed to remain  
3 or go on duty under the emergency authority  
4 provided under this subsection to conduct rou-  
5 tine repairs, routine maintenance, or routine in-  
6 spection of signal systems.”;

7 (4) by adding at the end the following new sub-  
8 sections:

9 “(d) COMMUNICATION DURING TIME OFF DUTY.—  
10 During a signal employee’s minimum off-duty period of  
11 10 consecutive hours, as provided under subsection (a),  
12 a railroad carrier, and its managers, supervisors, officers,  
13 and agents, shall not communicate with the signal em-  
14 ployee by telephone, by pager, or in any other manner that  
15 could disrupt the employee’s rest. Nothing in this sub-  
16 section shall prohibit communication necessary to notify  
17 an employee of an emergency situation posing potential  
18 risks to the employee’s safety or health.

19 “(e) EXCLUSIVITY.—The hours of service, duty  
20 hours, and rest periods of signal employees shall be gov-  
21 erned exclusively by this chapter. Signal employees oper-  
22 ating motor vehicles shall not be subject to any hours of  
23 service rules, duty hours, or rest period rules promulgated  
24 by any Federal authority, including the Federal Motor

1 Carrier Safety Administration, other than the Federal  
2 Railroad Safety Administration.”.

3 (c) LIMITATION ON DUTY HOURS OF TRAIN EM-  
4 PLOYEES.—Section 21103 of title 49, United States Code,  
5 is amended—

6 (1) by amending subsection (a) to read as fol-  
7 lows:

8 “(a) GENERAL.—Except as provided in subsection (c)  
9 of this section, a railroad carrier and its officers and  
10 agents may not require or allow a train employee to re-  
11 main or go on duty—

12 “(1) unless that employee has had at least 10  
13 consecutive hours off duty during the prior 24  
14 hours;

15 “(2) for a period in excess of 12 consecutive  
16 hours; or

17 “(3) unless that employee has had at least one  
18 period of at least 24 consecutive hours off duty in  
19 the past 7 consecutive days.

20 The Secretary may waive paragraph (3) if a collective bar-  
21 gaining agreement provides a different arrangement and  
22 such arrangement provides an equivalent level of safety.”;

23 (2) by amending subsection (b)(4) to read as  
24 follows:

1           “(4)(A)(i) Except as provided in clauses (ii)  
2           and (iii), time spent in deadhead transportation to  
3           a duty assignment, time spent waiting for deadhead  
4           transportation, and time spent in deadhead trans-  
5           portation from a duty assignment to a place of final  
6           release is time on duty.

7           “(ii) Time spent waiting for deadhead transpor-  
8           tation and time spent in deadhead transportation  
9           from a duty assignment to a place of final release  
10          is neither time on duty nor time off duty in situa-  
11          tions involving delays in the operations of the rail-  
12          road carrier, when the delays were caused by any of  
13          the following:

14               “(I) A casualty.

15               “(II) An accident.

16               “(III) A track obstruction.

17               “(IV) An act of God.

18               “(V) A weather event causing a delay.

19               “(VI) A snowstorm.

20               “(VII) A landslide.

21               “(VIII) A track or bridge washout.

22               “(IX) A derailment.

23               “(X) A major equipment failure which pre-  
24          vents a train from advancing.

1           “(XI) Other delay from a cause unknown  
2           or unforeseeable to a railroad carrier and its of-  
3           ficers and agents in charge of the employee  
4           when the employee left a designated terminal.

5           “(iii) In addition to any time qualifying as nei-  
6           ther on duty nor off duty under clause (ii), at the  
7           election of the railroad carrier, time spent waiting  
8           for deadhead transportation and time spent in  
9           deadhead transportation to the place of final release  
10          may be treated as neither time on duty nor time off  
11          duty, subject to the following limitations:

12           “(I) Not more than 40 hours a month may  
13           be elected by the railroad carrier, for an em-  
14           ployee, during the period from the date of en-  
15           actment of the Federal Railroad Safety Im-  
16           provement Act of 2007 to one year after such  
17           date of enactment.

18           “(II) Not more than 30 hours a month  
19           may be elected by the railroad carrier, for an  
20           employee, during the period beginning one year  
21           after the date of enactment of the Federal Rail-  
22           road Safety Improvement Act of 2007 and end-  
23           ing two years after such date of enactment.

24           “(III) Not more than 10 hours a month  
25           may be elected by the railroad carrier, for an

1 employee, during the period beginning two  
2 years after the date of enactment of the Fed-  
3 eral Railroad Safety Improvement Act of 2007.

4 “(B) Each railroad carrier shall report to the  
5 Secretary of Transportation, in accordance with pro-  
6 cedures contained in 49 CFR 228.19, each instance  
7 within 30 days after the calendar month in which  
8 the instance occurs that a member of a train or en-  
9 gine crew or other employee engaged in or connected  
10 with the movement of any train, including a hostler,  
11 exceeds 12 consecutive hours, including—

12 “(i) time on duty; and

13 “(ii) time spent waiting for deadhead  
14 transportation and the time spent in deadhead  
15 transportation from a duty assignment to the  
16 place of final release, that is not time on duty.

17 “(C) If—

18 “(i) the time spent waiting for deadhead  
19 transportation, and the time spent in deadhead  
20 transportation from a duty assignment to the  
21 place of final release, that is not time on duty;  
22 plus

23 “(ii) the time on duty,  
24 exceeds 12 consecutive hours, the railroad carrier  
25 and its officers and agents shall provide the train

1 employee with additional time off duty equal to the  
2 number of hours that such sum exceeds 12 hours.”;  
3 and

4 (3) by adding at the end the following new sub-  
5 section:

6 “(d) COMMUNICATION DURING TIME OFF DUTY.—  
7 During a train employee’s minimum off-duty period of 10  
8 consecutive hours, as provided under subsection (a), or  
9 during an interim period of at least 4 consecutive hours  
10 available for rest under subsection (b)(7), a railroad car-  
11 rier, and its managers, supervisors, officers, and agents,  
12 shall not communicate with the train employee by tele-  
13 phone, by pager, or in any other manner that could dis-  
14 rupt the employee’s rest. Nothing in this subsection shall  
15 prohibit communication necessary to notify an employee  
16 of an emergency situation posing potential risks to the em-  
17 ployee’s safety or health.”.

18 **SEC. 202. EMPLOYEE SLEEPING QUARTERS.**

19 Section 21106 of title 49, United States Code, is  
20 amended—

21 (1) by inserting “(a) IN GENERAL.—” before  
22 “A railroad carrier”; and

23 (2) by adding at the end the following new sub-  
24 section:

1       “(b) CAMP CARS.—Effective 12 months after the  
 2 date of enactment of this subsection, a railroad carrier and  
 3 its officers and agents may not provide sleeping quarters  
 4 through the use of camp cars, as defined in Appendix C  
 5 to part 228 of title 49 of the Code of Federal Regulations,  
 6 for employees and any individuals employed to maintain  
 7 the right of way of a railroad carrier.”.

8 **SEC. 203. FATIGUE MANAGEMENT PLANS.**

9       (a) AMENDMENT.—Chapter 211 of title 49, United  
 10 States Code, is amended by adding at the end the fol-  
 11 lowing new section:

12 **“§ 21109. Fatigue management plans**

13       “(a) PLAN SUBMISSION.—

14               “(1) REQUIREMENT.—Each railroad carrier  
 15 shall submit to the Secretary of Transportation, and  
 16 update at least once every 2 years, a fatigue man-  
 17 agement plan that is designed to reduce the fatigue  
 18 experienced by railroad employees and to reduce the  
 19 likelihood of accidents and injuries caused by fa-  
 20 tigue. The plan shall address the safety effects of fa-  
 21 tigue on all employees performing safety sensitive  
 22 functions, including employees not covered by this  
 23 chapter. The plan shall be submitted not later than  
 24 1 year after the date of the enactment of this sec-

tion, or not later than 45 days prior to commencing operations, whichever is later.

“(2) CONTENTS OF PLAN.—The fatigue management plan shall—

“(A) identify and prioritize all situations that pose a risk for safety that may be affected by fatigue;

“(B) include the railroad carrier’s—

“(i) rationale for including and not including each element described in subsection (b)(2) in the plan;

“(ii) analysis supporting each element included in the plan; and

“(iii) explanations for how each element in the plan will reduce the risk associated with fatigue;

“(C) describe how every condition on the railroad carrier’s property, and every type of employee, that is likely to be affected by fatigue is addressed in the plan; and

“(D) include the name, title, address, and telephone number of the primary person to be contacted with regard to review of the plan.

“(3) APPROVAL.—(A) The Secretary shall review each proposed plan and approve or disapprove

1       such plan based on whether the requirements of this  
2       section are sufficiently and appropriately addressed  
3       and the proposals are adequately justified in the  
4       plan.

5               “(B) If the proposed plan is not approved, the  
6       Secretary shall notify the affected railroad carrier as  
7       to the specific points in which the proposed plan is  
8       deficient, and the railroad carrier shall correct all  
9       deficiencies within 30 days following receipt of writ-  
10      ten notice from the Secretary. If a railroad carrier  
11      does not submit a plan (or, when directed by the  
12      Secretary, an amended plan), or if a railroad car-  
13      rier’s amended plan is not approved by the Sec-  
14      retary, the Secretary shall prescribe a fatigue man-  
15      agement plan for the railroad carrier.

16              “(4) EMPLOYEE PARTICIPATION.—(A) Each af-  
17      fected railroad carrier shall consult with, and employ  
18      good faith and use its best efforts to reach agree-  
19      ment by consensus with, all of its directly affected  
20      employee groups on the contents of the fatigue man-  
21      agement plan, and, except as provided in subpara-  
22      graph (C), shall jointly with such groups submit the  
23      plan to the Secretary.

24              “(B) In the event that labor organizations rep-  
25      resent classes or crafts of directly affected employees

1 of the railroad carrier, the railroad carrier shall con-  
2 sult with these organizations in drafting the plan.  
3 The Secretary may provide technical assistance and  
4 guidance to such parties in the drafting of the plan.

5 “(C) If the railroad carrier and its directly af-  
6 fected employees (including any labor organization  
7 representing a class or craft of directly affected em-  
8 ployees of the railroad carrier) cannot reach con-  
9 sensus on the proposed contents of the plan, then—

10 “(i) the railroad carrier shall file the plan  
11 with the Secretary; and

12 “(ii) directly affected employees and labor  
13 organizations representing a class or craft of di-  
14 rectly affected employees may, at their option,  
15 file a statement with the Secretary explaining  
16 their views on the plan on which consensus was  
17 not reached.

18 “(b) ELEMENTS OF THE FATIGUE MANAGEMENT  
19 PLAN.—

20 “(1) CONSIDERATION OF VARYING CIR-  
21 CUMSTANCES.—Each plan filed with the Secretary  
22 under the procedures of subsection (a) shall take  
23 into account the varying circumstances of operations  
24 by the railroad carrier on different parts of its sys-

1       tem, and shall prescribe appropriate fatigue counter-  
2       measures to address those varying circumstances.

3               “(2) ISSUES AFFECTING ALL EMPLOYEES PER-  
4       FORMING SAFETY SENSITIVE FUNCTIONS.—The rail-  
5       road carrier shall consider the need to include in its  
6       fatigue management plan elements addressing each  
7       of the following issues:

8               “(A) Education and training on the phys-  
9       iological and human factors that affect fatigue,  
10      as well as strategies to counter fatigue, based  
11      on current and evolving scientific and medical  
12      research and literature.

13              “(B) Opportunities for identification, diag-  
14      nosis, and treatment of any medical condition  
15      that may affect alertness or fatigue, including  
16      sleep disorders.

17              “(C) Effects on employee fatigue of emer-  
18      gency response involving both short-term emer-  
19      gency situations, including derailments, and  
20      long-term emergency situations, including nat-  
21      ural disasters.

22              “(D) Scheduling practices involving train  
23      lineups and calling times, including work/rest  
24      cycles for shift workers and on-call employees  
25      that permit employees to compensate for cumu-

1           lative sleep loss by guaranteeing a minimum  
2           number of consecutive days off (exclusive of  
3           time off due to illness or injury).

4           “(E) Minimizing the incidence of fatigue  
5           that occurs as a result of working at times  
6           when the natural circadian rhythm increases fa-  
7           tigue.

8           “(F) Alertness strategies, such as policies  
9           on napping, to address acute sleepiness and fa-  
10          tigue while an employee is on duty.

11          “(G) Opportunities to obtain restful sleep  
12          at lodging facilities, including sleeping quarters  
13          provided by the railroad carrier.

14          “(H) In connection with the scheduling of  
15          a duty call, increasing the number of consecu-  
16          tive hours of rest off duty, during which an em-  
17          ployee receives no communication from the em-  
18          ploying railroad carrier or its managers, super-  
19          visors, officers, or agents.

20          “(I) Avoiding abrupt changes in rest cycles  
21          for employees returning to duty after an ex-  
22          tended absence due to circumstances such as ill-  
23          ness or injury.

24          “(J) Additional elements as the Secretary  
25          considers appropriate.

1 “(c) COMPLIANCE AND ENFORCEMENT.—

2 “(1) COMPLIANCE REQUIREMENT.—Effective  
3 upon approval or prescription of a fatigue manage-  
4 ment plan, compliance with that fatigue manage-  
5 ment plan becomes mandatory and enforceable by  
6 the Secretary.

7 “(2) EFFECTIVE DATE.—A fatigue manage-  
8 ment plan may include effective dates later than the  
9 date of approval of the plan, and may include dif-  
10 ferent effective dates for different parts of the plan.

11 “(3) AUDITS.—To enforce this section, the Sec-  
12 retary may conduct inspections and periodic audits  
13 of a railroad carrier’s compliance with its fatigue  
14 management plan.

15 “(d) DEFINITION.—For purposes of this section the  
16 term ‘directly affected employees’ means employees, in-  
17 cluding employees of an independent contractor or subcon-  
18 tractor, to whose hours of service the terms of a fatigue  
19 management plan specifically apply.”.

20 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
21 sections for chapter 211 of title 49, United States Code,  
22 is amended by adding at the end the following new item:

“21109. Fatigue management plans.”.

1 **SEC. 204. REGULATORY AUTHORITY.**

2 (a) AMENDMENT.—Chapter 211 of title 49, United  
3 States Code, as amended by this Act, is further amended  
4 by adding at the end the following new section:

5 **“§ 21110. Regulatory authority**

6 “The Secretary of Transportation may by regula-  
7 tion—

8 “(1) reduce the maximum hours an employee  
9 may be required or allowed to go or remain on duty  
10 to a level less than the level established under this  
11 chapter, based on scientific and medical research; or

12 “(2) increase the minimum hours an employee  
13 may be required or allowed to rest to a level greater  
14 than the level established under this chapter, based  
15 on scientific and medical research.”.

16 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
17 sections for chapter 211 of title 49, United States Code,  
18 is amended by adding at the end the following new item:

“21110. Regulatory authority.”.

19 **SEC. 205. CONFORMING AMENDMENT.**

20 Section 21303(c) of title 49, United States Code, is  
21 amended by striking “officers and agents” and inserting  
22 “managers, supervisors, officers, and agents”.

# **TITLE III—BRIDGE SAFETY**

## **SEC. 301. RAILROAD BRIDGE SAFETY ASSURANCE.**

Not later than 12 months after the date of enactment of this Act, the Federal Railroad Safety Administration shall implement regulations requiring owners of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The regulations shall, at a minimum—

(1) require each track owner to—

(A) develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(B) ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

1           (C) maintain, and update as appropriate, a  
2           record of the safe capacity of each bridge which  
3           carries its track and, if available, maintain the  
4           original design documents of each bridge and a  
5           documentation of all repairs, modifications, and  
6           inspections of the bridge;

7           (D) develop, maintain, and enforce a writ-  
8           ten procedure that will ensure that its bridges  
9           are not loaded beyond their capacities;

10          (E) conduct regular comprehensive inspec-  
11          tions of each bridge, at least once per year, and  
12          maintain records of those inspections that in-  
13          clude the date on which the inspection was per-  
14          formed, the precise identification of the bridge  
15          inspected, the items inspected, an accurate de-  
16          scription of the condition of those items, and a  
17          narrative of any inspection item that is found  
18          by the inspector to be a potential problem;

19          (F) ensure that the level of detail and the  
20          inspection procedures are appropriate to the  
21          configuration of the bridge, conditions found  
22          during previous inspections, and the nature of  
23          the railroad traffic moved over the bridge, in-  
24          cluding car weights, train frequency and length,  
25          levels of passenger and hazardous materials

1 traffic, and vulnerability of the bridge to dam-  
2 age;

3 (G) ensure that an engineer who is com-  
4 petent in the field of railroad bridge engineer-  
5 ing—

6 (i) is responsible for the development  
7 of all inspection procedures;

8 (ii) reviews all inspection reports; and

9 (iii) determines whether bridges are  
10 being inspected according to the applicable  
11 procedures and frequency, and reviews any  
12 items noted by an inspector as exceptions;  
13 and

14 (H) designate qualified bridge inspectors  
15 or maintenance personnel to authorize the oper-  
16 ation of trains on bridges following repairs,  
17 damage, or indications of potential structural  
18 problems;

19 (2) instruct Administration bridge inspectors to  
20 obtain copies of the most recent bridge management  
21 programs and procedures of each railroad within the  
22 inspector's areas of responsibility, and require that  
23 inspectors use those programs when conducting  
24 bridge inspections; and

1           (3) establish a program to review bridge inspec-  
 2           tion and maintenance data from railroads and Ad-  
 3           ministration bridge inspectors periodically.

## 4       **TITLE IV—GRADE CROSSINGS**

### 5       **SEC. 401. TOLL-FREE NUMBER TO REPORT GRADE CROSS-** 6           **ING PROBLEMS.**

7           Section 20152 of title 49, United States Code, is  
 8       amended to read as follows:

#### 9       **“§ 20152. Emergency notification of grade crossing** 10           **problems**

11           “Not later than 18 months after the date of enact-  
 12       ment of the Federal Railroad Safety Improvement Act of  
 13       2007, the Secretary of Transportation shall require each  
 14       railroad carrier to—

15           “(1) establish and maintain a toll-free telephone  
 16       service, for rights-of-way over which it dispatches  
 17       trains, to directly receive calls reporting—

18           “(A) malfunctions of signals, crossing  
 19       gates, and other devices to promote safety at  
 20       the grade crossing of railroad tracks on those  
 21       rights-of-way and public or private roads; and

22           “(B) disabled vehicles blocking railroad  
 23       tracks at such grade crossings;

24           “(2) upon receiving a report of a malfunction or  
 25       disabled vehicle pursuant to paragraph (1), imme-

1 diately contact trains operating near the grade  
2 crossing to warn them of the malfunction or disabled  
3 vehicle;

4 “(3) upon receiving a report of a malfunction or  
5 disabled vehicle pursuant to paragraph (1), and  
6 after contacting trains pursuant to paragraph (2),  
7 contact, as necessary, appropriate public safety offi-  
8 cials having jurisdiction over the grade crossing to  
9 provide them with the information necessary for  
10 them to direct traffic, assist in the removal of the  
11 disabled vehicle, or carry out other activities appro-  
12 priate to responding to the hazardous circumstance;  
13 and

14 “(4) ensure the placement at each grade cross-  
15 ing on rights-of-way that it owns of appropriately lo-  
16 cated signs, on which shall appear, at a minimum—

17 “(A) a toll-free telephone number to be  
18 used for placing calls described in paragraph  
19 (1) to the railroad carrier dispatching trains on  
20 that right-of-way;

21 “(B) an explanation of the purpose of that  
22 toll-free number as described in paragraph (1);  
23 and

24 “(C) the grade crossing number assigned  
25 for that crossing by the National Highway-Rail

1 Crossing Inventory established by the Depart-  
2 ment of Transportation.

3 The Secretary of Transportation shall implement this sec-  
4 tion through appropriate regulations.”.

5 **SEC. 402. ROADWAY USER SIGHT DISTANCE AT HIGHWAY-**  
6 **RAIL GRADE CROSSINGS.**

7 (a) IN GENERAL.—Subchapter II of chapter 201 of  
8 title 49, United States Code, is amended by adding at the  
9 end the following new section:

10 **“§ 20156. Roadway user sight distance at highway-**  
11 **rail grade crossings**

12 “(a) IN GENERAL.—Not later than 18 months after  
13 the date of enactment of the Federal Railroad Safety Im-  
14 provement Act of 2007, the Secretary of Transportation  
15 shall prescribe regulations that require each railroad car-  
16 rier to remove from its rights-of-way at all public highway-  
17 rail grade crossings, and at all private highway-rail grade  
18 crossings open to unrestricted public access (as declared  
19 in writing by the holder of the crossing right), grass,  
20 brush, shrubbery, trees, and other vegetation which may  
21 obstruct the view of a pedestrian or a vehicle operator for  
22 a reasonable distance in either direction of the train’s ap-  
23 proach, and to maintain its rights-of-way at all such cross-  
24 ings free of such vegetation. In prescribing the regula-

1 tions, the Secretary shall take into consideration to the  
2 extent practicable—

3 “(1) the type of warning device or warning de-  
4 vices installed at the crossing;

5 “(2) factors affecting the timeliness and effec-  
6 tiveness of roadway user decisionmaking, including  
7 the maximum allowable roadway speed, maximum  
8 authorized train speed, angle of intersection, and to-  
9 pography;

10 “(3) the presence or absence of other sight dis-  
11 tance obstructions off the railroad right-of-way; and

12 “(4) any other factors affecting safety at such  
13 crossings.

14 “(b) PROTECTED VEGETATION.—In promulgating  
15 regulations pursuant to this section, the Secretary may  
16 make allowance for preservation of trees and other orna-  
17 mental or protective growth where State or local law or  
18 policy would otherwise protect the vegetation from removal  
19 and where the roadway authority or private crossing hold-  
20 er is notified of the sight distance obstruction and, within  
21 a reasonable period specified by the regulation, takes ap-  
22 propriate temporary and permanent action to abate the  
23 hazard to roadway users (such as by closing the crossing,  
24 posting supplementary signage, installing active warning

1 devices, lowering roadway speed, or installing traffic  
2 calming devices).

3 “(c) NO PREEMPTION.—Notwithstanding section  
4 20106, subsections (a) and (b) of this section do not pro-  
5 hibit a State from continuing in force, or from enacting,  
6 a law, regulation, or order requiring the removal of ob-  
7 structive vegetation from a railroad right-of-way for safety  
8 reasons that is more stringent than the requirements of  
9 the regulations prescribed pursuant to this section.

10 “(d) MODEL LEGISLATION.—Not later than 18  
11 months after the date of enactment of the Federal Rail-  
12 road Safety Improvement Act of 2007, the Secretary, after  
13 consultation with the Federal Railroad Safety Administra-  
14 tion, the Federal Highway Administration, and States,  
15 shall develop and make available to States model legisla-  
16 tion providing for improving safety by addressing sight ob-  
17 structions at highway-rail grade crossings that are  
18 equipped solely with passive warnings, such as permanent  
19 structures, temporary structures, and standing railroad  
20 equipment, as recommended by the Inspector General of  
21 the Department of Transportation in Report No. MH-  
22 2007–044.”.

23 (b) CONFORMING AMENDMENT.—The table of sec-  
24 tions for such subchapter II of chapter 201 is amended

1 by inserting after the item relating to section 20155 the  
 2 following new item:

“20156. Roadway user sight distance at highway-rail grade crossings.”.

3 **SEC. 403. GRADE CROSSING SIGNAL VIOLATIONS.**

4 (a) AMENDMENTS.—Section 20151 of title 49,  
 5 United States Code, is amended—

6 (1) by amending the section heading to read as  
 7 follows:

8 **“§ 20151. Railroad trespassing, vandalism, and signal**  
 9 **violation prevention strategy”;**

10 (2) in subsection (a)—

11 (A) by striking “and vandalism affecting  
 12 railroad safety” and inserting in lieu thereof “,  
 13 vandalism affecting railroad safety, and viola-  
 14 tions of grade crossing signals”;

15 (B) by inserting “, concerning trespassing  
 16 and vandalism,” after “such evaluation and re-  
 17 view”; and

18 (C) by inserting “The second such evalua-  
 19 tion and review, concerning violations of grade  
 20 crossing signals, shall be completed before April  
 21 1, 2008.” after “November 2, 1994.”;

22 (3) in the subsection heading of subsection (b),  
 23 by inserting “FOR TRESPASSING AND VANDALISM  
 24 PREVENTION” after “OUTREACH PROGRAM”;

25 (4) in subsection (c)—

1 (A) by redesignating paragraphs (1) and  
2 (2) as subparagraphs (A) and (B), respectively;  
3 (B) by inserting “(1)” after “MODEL LEG-  
4 ISLATION.—”; and  
5 (C) by adding at the end the following new  
6 paragraph:

7 “(2) Within 18 months after the date of enactment  
8 of the Federal Railroad Safety Improvement Act of 2007,  
9 the Secretary, after consultation with State and local gov-  
10 ernments, railroad carriers, and rail labor organizations,  
11 shall develop and make available to State and local govern-  
12 ments model State legislation providing for civil or crimi-  
13 nal penalties, or both, for violations of grade crossing sig-  
14 nals.”; and

15 (5) by adding at the end the following new sub-  
16 section:

17 “(d) DEFINITION.—For purposes of this section, the  
18 term ‘violation of grade crossing signals’ includes any ac-  
19 tion by a motorist, unless directed by an authorized safety  
20 officer—

21 “(1) to drive around a grade crossing gate in  
22 a position intended to block passage over railroad  
23 tracks;

24 “(2) to drive through a flashing grade crossing  
25 signal;

1 “(3) to drive through a grade crossing with pas-  
 2 sive warning signs without ensuring that the grade  
 3 crossing could be safely crossed before any train ar-  
 4 rived; and

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

8 (b) CONFORMING AMENDMENT.—The item relating  
 9 to section 20151 in the table of sections for subchapter  
 10 II of chapter 201 of title 49, United States Code, is  
 11 amended to read as follows:

“20151. Railroad trespassing, vandalism, and signal violation prevention strat-  
 egy.”.

12 **SEC. 404. NATIONAL CROSSING INVENTORY.**

13 (a) IN GENERAL.—Subchapter II of chapter 201 of  
 14 title 49, United States Code, as amended by this Act, is  
 15 further amended by adding at the end the following new  
 16 section:

17 **“§ 20157. National crossing inventory**

18 “(a) INITIAL REPORTING OF INFORMATION ABOUT  
 19 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than  
 20 1 year after the date of enactment of the Federal Railroad  
 21 Safety Improvement Act of 2007 or 6 months after a new  
 22 crossing becomes operational, whichever occurs later, each  
 23 railroad carrier shall—

1           “(1) report to the Secretary of Transportation  
2           current information, including information about  
3           warning devices and signage, as specified by the Sec-  
4           retary, concerning each previously unreported cross-  
5           ing through which it operates; or

6           “(2) ensure that the information has been re-  
7           ported to the Secretary by another railroad carrier  
8           that operates through the crossing.

9           “(b) UPDATING OF CROSSING INFORMATION.—(1)  
10          On a periodic basis beginning not later than 3 years after  
11          the date of enactment of the Federal Railroad Safety Im-  
12          provement Act of 2007 and on or before September 30  
13          of every third year thereafter, or as otherwise specified  
14          by the Secretary, each railroad carrier shall—

15               “(A) report to the Secretary current informa-  
16               tion, including information about warning devices  
17               and signage, as specified by the Secretary, con-  
18               cerning each crossing through which it operates; or

19               “(B) ensure that the information has been re-  
20               ported to the Secretary by another railroad carrier  
21               that operates through the crossing.

22           “(2) A railroad carrier that sells a crossing or any  
23          part of a crossing on or after the date of enactment of  
24          the Federal Railroad Safety Improvement Act of 2007  
25          shall, not later than the date that is 18 months after the

1 date of enactment of that Act or 3 months after the sale,  
2 whichever occurs later, or as otherwise specified by the  
3 Secretary, report to the Secretary current information, as  
4 specified by the Secretary, concerning the change in own-  
5 ership of the crossing or part of the crossing.

6 “(c) RULEMAKING AUTHORITY.—The Secretary shall  
7 prescribe the regulations necessary to implement this sec-  
8 tion. The Secretary may enforce each provision of the De-  
9 partment of Transportation’s statement of the national  
10 highway-rail crossing inventory policy, procedures, and in-  
11 struction for States and railroads that is in effect on the  
12 date of enactment of the Federal Railroad Safety Improve-  
13 ment Act of 2007, until such provision is superseded by  
14 a regulation issued under this section.

15 “(d) DEFINITIONS.—In this section:

16 “(1) CROSSING.—The term ‘crossing’ means a  
17 location within a State, other than a location where  
18 one or more railroad tracks cross one or more rail-  
19 road tracks either at grade or grade-separated,  
20 where—

21 “(A) a public highway, road, or street, or  
22 a private roadway, including associated side-  
23 walks and pathways, crosses one or more rail-  
24 road tracks either at grade or grade-separated;  
25 or

1           “(B) a pathway dedicated for the use of  
 2           nonvehicular traffic, including pedestrians,  
 3           bicyclists, and others, that is not associated  
 4           with a public highway, road, or street, or a pri-  
 5           vate roadway, crosses one or more railroad  
 6           tracks either at grade or grade-separated.

7           “(2) STATE.—The term ‘State’ means a State  
 8           of the United States, the District of Columbia, or  
 9           the Commonwealth of Puerto Rico.”.

10          (b) CONFORMING AMENDMENT.—The table of sec-  
 11          tions for such subchapter II of chapter 201 is amended  
 12          by adding at the end the following new item:

          “20157. National crossing inventory.”.

13          (c) REPORTING AND UPDATING.—Section 130 of title  
 14          23, United States Code, is amended by adding at the end  
 15          the following:

16          “(l) NATIONAL CROSSING INVENTORY.—

17               “(1) INITIAL REPORTING OF CROSSING INFOR-  
 18               MATION.—Not later than 1 year after the date of  
 19               enactment of the Federal Railroad Safety Improve-  
 20               ment Act of 2007 or within 6 months of a new  
 21               crossing becoming operational, whichever occurs  
 22               later, each State shall report to the Secretary of  
 23               Transportation current information, including infor-  
 24               mation about warning devices and signage, as speci-

1       fied by the Secretary, concerning each previously un-  
2       reported crossing located within its borders.

3           “(2) PERIODIC UPDATING OF CROSSING INFOR-  
4       MATION.—On a periodic basis beginning not later  
5       than 3 years after the date of enactment of the Fed-  
6       eral Railroad Safety Improvement Act of 2007 and  
7       on or before September 30 of every third year there-  
8       after, or as otherwise specified by the Secretary,  
9       each State shall report to the Secretary current in-  
10      formation, including information about warning de-  
11      vices and signage, as specified by the Secretary, con-  
12      cerning each crossing located within its borders.

13          “(3) RULEMAKING AUTHORITY.—The Secretary  
14      shall prescribe the regulations necessary to imple-  
15      ment this subsection. The Secretary may enforce  
16      each provision of the Department of Transpor-  
17      tation’s statement of the national highway-rail cross-  
18      ing inventory policy, procedures, and instructions for  
19      States and railroads that is in effect on the date of  
20      enactment of the Federal Railroad Safety Improve-  
21      ment Act of 2007, until such provision is superseded  
22      by a regulation issued under this subsection.

23          “(4) DEFINITIONS.—In this subsection, the  
24      terms ‘crossing’ and ‘State’ have the meaning given

1       those terms by section 20157(d)(1) and (2), respec-  
2       tively, of title 49.”.

3       (d) CIVIL PENALTIES.—(1) Section 21301(a)(1) of  
4 title 49, United States Code, is amended—

5           (A) by inserting “with section 20157 or” after  
6       “comply” in the first sentence; and

7           (B) by inserting “section 20157 of this title or”  
8       after “violating” in the second sentence.

9       (2) Section 21301(a)(2) of title 49, United States  
10 Code, is amended by inserting “The Secretary shall im-  
11 pose a civil penalty for a violation of section 20157 of this  
12 title.” after the first sentence.

13 **SEC. 405. ACCIDENT AND INCIDENT REPORTING.**

14       The Federal Railroad Safety Administration shall  
15 conduct an audit of each Class I railroad at least once  
16 every 2 years and conduct an audit of each non-Class I  
17 railroad at least once every 5 years to ensure that all grade  
18 crossing collisions and fatalities are reported to the na-  
19 tional accident database.

20 **SEC. 406. AUTHORITY TO BUY PROMOTIONAL ITEMS TO IM-**  
21 **PROVE RAILROAD CROSSING SAFETY AND**  
22 **PREVENT RAILROAD TRESPASS.**

23       Section 20134(a) of title 49, United States Code, is  
24 amended by adding at the end the following: “The Sec-  
25 retary may purchase promotional items of nominal value

1 and distribute them to the public without charge as part  
2 of an educational or awareness program to accomplish the  
3 purposes of this section and of any other sections of this  
4 title related to improving the safety of highway-rail cross-  
5 ings and to prevent trespass on railroad rights of way,  
6 and the Secretary shall prescribe guidelines for the admin-  
7 istration of this authority.”.

8 **SEC. 407. OPERATION LIFESAVER.**

9 (a) GRANT.—The Federal Railroad Safety Adminis-  
10 tration shall make a grant or grants to Operation Life-  
11 saver to carry out a public information and education pro-  
12 gram to help prevent and reduce pedestrian, bicycle, motor  
13 vehicle, and other incidents, injuries, and fatalities, and  
14 to improve awareness along railroad rights-of-way and at  
15 highway-rail grade crossings. This includes development,  
16 placement, and dissemination of Public Service Announce-  
17 ments in newspaper, radio, television, and other media. It  
18 will also include school presentations, brochures and mate-  
19 rials, support for public awareness campaigns, and related  
20 support for the activities of Operation Lifesaver’s member  
21 organizations.

22 (b) PILOT PROGRAM.—Funds provided under sub-  
23 section (a) may also be used by Operation Lifesaver to  
24 implement a pilot program, to be known as the Railroad  
25 Safety Public Awareness Program, that addresses the

1 need for targeted, sustained community outreach on the  
2 subjects described in subsection (a). Such pilot program  
3 shall be established in States and communities where risk  
4 is greatest, in terms of the number of crashes and popu-  
5 lation density near the railroad, including residences, busi-  
6 nesses, and schools. Such pilot program shall be carried  
7 out through grants to Operation Lifesaver for work with  
8 community leaders, school districts, and public and private  
9 partners to identify the communities at greatest risk, and  
10 through development of an implementation plan. An eval-  
11 uation component requirement shall be included in the  
12 grant to measure results.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
14 are authorized to be appropriated to the Federal Railroad  
15 Safety Administration for carrying out this section  
16 \$1,500,000 for each of the fiscal years 2008 through  
17 2011.

18 **SEC. 408. STATE ACTION PLAN.**

19 (a) IN GENERAL.—The Secretary shall identify on an  
20 annual basis the top 10 States that have had the most  
21 highway-rail grade crossing collisions over the past year.  
22 The Secretary shall work with each of these States to de-  
23 velop a State Grade Crossing Action Plan that identifies  
24 specific solutions for improving safety at crossings, par-

1 ticularly at crossings that have experienced multiple acci-  
2 dents.

3 (b) REVIEW AND APPROVAL.—Not later than 60 days  
4 after the Secretary receives a plan under subsection (a),  
5 the Secretary shall review and approve or disapprove it.  
6 If the proposed plan is not approved, the Secretary shall  
7 notify the affected State as to the specific points in which  
8 the proposed plan is deficient, and the State shall correct  
9 all deficiencies within 30 days following receipt of written  
10 notice from the Secretary.

11 **SEC. 409. FOSTERING INTRODUCTION OF NEW TECH-**  
12 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**  
13 **RAIL GRADE CROSSINGS.**

14 (a) AMENDMENT.—Chapter 201 of title 49, United  
15 States Code, as amended by this Act, is further amended  
16 by adding at the end the following:

17 **“§ 20165. Fostering introduction of new technology to**  
18 **improve safety at highway-rail grade**  
19 **crossings**

20 “(a) FINDINGS.—(1) Collisions between highway  
21 users and trains at highway-rail grade crossings continue  
22 to cause an unacceptable loss of life and serious personal  
23 injury and also threaten the safety of rail transportation.

24 “(2) While elimination of at-grade crossings through  
25 consolidation of crossings and grade separations offers the

1 greatest long-term promise for optimizing the safety and  
2 efficiency of the two modes of transportation, over  
3 140,000 public grade crossings remain on the general rail  
4 system—approximately one for each route mile on the  
5 general rail system.

6 “(3) Conventional highway traffic control devices  
7 such as flashing lights and gates are effective in warning  
8 motorists of a train’s approach to an equipped crossing.

9 “(4) Since enactment of the Highway Safety Act of  
10 1973, over \$4,200,000,000 of Federal funding has been  
11 invested in safety improvements at highway-rail grade  
12 crossings, yet a majority of public highway-rail grade  
13 crossings are not yet equipped with active warning sys-  
14 tems.

15 “(5) The emergence of new technologies supporting  
16 Intelligent Transportation Systems presents opportunities  
17 for more effective and affordable warnings and safer pas-  
18 sage of highway users and trains at remaining highway-  
19 rail grade crossings.

20 “(6) Implementation of new crossing safety tech-  
21 nology will require extensive cooperation between highway  
22 authorities and railroad carriers.

23 “(7) Federal Railroad Safety Administration regula-  
24 tions establishing performance standards for processor-  
25 based signal and train control systems provide a suitable

1 framework for qualification of new or novel technology at  
 2 highway-rail grade crossings, and the Federal Highway  
 3 Administration’s Manual on Uniform Traffic Control De-  
 4 vices provides an appropriate means of determining high-  
 5 way user interface with such new technology.

6 “(b) POLICY.—It is the policy of the United States  
 7 to encourage the development of new technology that can  
 8 prevent loss of life and injuries at highway-rail grade  
 9 crossings. The Secretary of Transportation is designated  
 10 to carry out this policy in consultation with States and  
 11 necessary public and private entities.”.

12 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 13 sections for chapter 201 of title 49, United States Code,  
 14 as amended by this Act, is further amended by adding  
 15 at the end the following new item:

“20165. Fostering introduction of new technology to improve safety at highway-  
 rail grade crossings.”.

## 16 **TITLE V—ENFORCEMENT**

### 17 **SEC. 501. ENFORCEMENT.**

18 Section 20112(a) of title 49, United States Code, is  
 19 amended—

20 (1) by inserting “this part or” in paragraph (1)  
 21 after “enforce,”;

22 (2) by striking “21301” in paragraph (2) and  
 23 inserting “21301, 21302, or 21303”;

1           (3) by striking “subpena” in paragraph (3) and  
2           inserting “subpoena, request for admissions, request  
3           for production of documents or other tangible  
4           things, or request for testimony by deposition”; and  
5           (4) by striking “chapter.” in paragraph (3) and  
6           inserting “part.”.

7   **SEC. 502. CIVIL PENALTIES.**

8           (a) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-  
9           tion 21301(a)(2) of title 49, United States Code, is  
10          amended—

11           (1) by striking “\$10,000” and inserting  
12           “\$25,000”; and

13           (2) by striking “\$20,000” and inserting  
14           “\$100,000”.

15          (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-  
16          TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH  
17          209.—Section 21302(a)(2) of title 49, United States  
18          Code, is amended—

19           (1) by striking “\$10,000” and inserting  
20           “\$25,000”; and

21           (2) by striking “\$20,000” and inserting  
22           “\$100,000”.

23          (c) VIOLATIONS OF CHAPTER 211.—Section  
24          21303(a)(2) of title 49, United States Code, is amended—

1           (1) by striking “\$10,000” and inserting  
2           “\$25,000”; and

3           (2) by striking “\$20,000” and inserting  
4           “\$100,000”.

5 **SEC. 503. CRIMINAL PENALTIES.**

6           Section 21311(b) of title 49, United States Code, is  
7 amended by striking “\$500” both places it appears and  
8 inserting “\$2,500”.

9 **SEC. 504. EXPANSION OF EMERGENCY ORDER AUTHORITY.**

10          Section 20104(a)(1) of title 49, United States Code,  
11 is amended by striking “death or personal injury” and in-  
12 serting “death, personal injury, or significant harm to the  
13 environment”.

14 **SEC. 505. ENFORCEMENT TRANSPARENCY.**

15          (a) AMENDMENT.—Subchapter I of chapter 201 of  
16 title 49, United States Code, is amended by adding at the  
17 end the following:

18 **“§ 20118. Enforcement transparency**

19          “(a) IN GENERAL.—Not later than December 31,  
20 2007, the Secretary of Transportation shall—

21               “(1) provide a monthly updated summary to  
22               the public of all railroad enforcement actions taken  
23               by the Secretary or the Federal Railroad Safety Ad-  
24               ministration, from the time a notice commencing an

1 enforcement action is issued until the enforcement  
2 action is final;

3 “(2) include in each such summary identifica-  
4 tion of the railroad carrier or person involved in the  
5 enforcement activity, the type of alleged violation,  
6 the penalty or penalties proposed, any changes in  
7 case status since the previous summary, the final as-  
8 sessment amount of each penalty, and the reasons  
9 for a reduction in the proposed penalty, if appro-  
10 priate; and

11 “(3) provide a mechanism by which a railroad  
12 carrier or person named in an enforcement action  
13 may make information, explanations, or documents  
14 it believes are responsive to the enforcement action  
15 available to the public.

16 “(b) ELECTRONIC AVAILABILITY.—Each summary  
17 under this section shall be made available to the public  
18 by electronic means.

19 “(c) RELATIONSHIP TO FOIA.—Nothing in this sec-  
20 tion shall be construed to require disclosure of information  
21 or records that are exempt from disclosure under section  
22 552 of title 5.”.

23 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
24 sections of subchapter I of chapter 201 of title 49, United

1 States Code, is amended by adding at the end the fol-  
 2 lowing new item:

“20118. Enforcement transparency.”.

3 **SEC. 506. INTERFERING WITH OR HAMPERING SAFETY IN-**  
 4 **VESTIGATIONS.**

5 (a) AMENDMENT.—Subchapter II of chapter 213 of  
 6 title 49, United States Code, is amended by adding at the  
 7 end the following new section:

8 **“§ 21312. Interfering with or hampering safety inves-**  
 9 **tigations**

10 “(a) IN GENERAL.—It shall be unlawful for any per-  
 11 son knowingly to interfere with, obstruct, or hamper an  
 12 investigation by the Secretary of Transportation con-  
 13 ducted under section 20703 or 20902 of this title, or a  
 14 railroad investigation by the National Transportation  
 15 Safety Board under chapter 11 of this title.

16 “(b) INTIMIDATION AND HARASSMENT.—It shall be  
 17 unlawful for any person, with regard to an investigation  
 18 conducted by the Secretary under section 20703 or 20902  
 19 of this title, or a railroad investigation by the National  
 20 Transportation Safety Board under chapter 11 of this  
 21 title, knowingly or intentionally to use intimidation, har-  
 22 assment, threats, or physical force toward another person,  
 23 or corruptly persuade another person, or attempt to do  
 24 so, or engage in misleading conduct toward another per-  
 25 son, with the intent or effect of—

1           “(1) influencing the testimony or statement of  
2           any person;

3           “(2) hindering, delaying, preventing, or dis-  
4           suading any person from—

5                   “(A) attending a proceeding or interview  
6                   with, testifying before, or providing a written  
7                   statement to, a National Transportation Safety  
8                   Board railroad investigator, a Federal railroad  
9                   safety inspector or State railroad safety inspec-  
10                  tor, or their superiors;

11                  “(B) communicating or reporting to a Na-  
12                  tional Transportation Safety Board railroad in-  
13                  vestigator, a Federal railroad safety inspector,  
14                  or a State railroad safety inspector, or their su-  
15                  periors, information relating to the commission  
16                  or possible commission of one or more violations  
17                  of this part or of chapter 51 of this title; or

18                  “(C) recommending or using any legal  
19                  remedy available to the Secretary under this  
20                  title; or

21           “(3) causing or inducing any person to—

22                   “(A) withhold testimony, or a statement,  
23                   record, document, or other object, from the in-  
24                   vestigation;

1           “(B) alter, destroy, mutilate, or conceal a  
2           statement, record, document, or other object  
3           with intent to impair the integrity or avail-  
4           ability of the statement, record, document, or  
5           other object for use in the investigation;

6           “(C) evade legal process summoning that  
7           person to appear as a witness, or to produce a  
8           statement, record, document, or other object, in  
9           the investigation; or

10           “(D) be absent from an investigation to  
11           which such person has been summoned by legal  
12           process.

13           “(c) ELEMENTS OF VIOLATION.—(1) For the pur-  
14           poses of this section, the testimony or statement, or the  
15           record, document, or other object, need not be admissible  
16           in evidence or free from a claim of privilege.

17           “(2) In a prosecution for an offense under this sec-  
18           tion, no state of mind need be proved with respect to the  
19           circumstance that the investigation is being conducted by  
20           the Secretary under section 20703 or 20902 of this title  
21           or by the National Transportation Safety Board under  
22           chapter 11 of this title.

23           “(d) CRIMINAL PENALTIES.—A person violating this  
24           section shall be fined under title 18, imprisoned for not  
25           more than 1 year, or both.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 2 sections of subchapter II of chapter 213 of title 49, United  
 3 States Code, is amended by adding at the end the fol-  
 4 lowing new item:

“21312. Interfering with or hampering safety investigations.”.

5 **SEC. 507. RAILROAD RADIO MONITORING AUTHORITY.**

6 Section 20107 of title 49, United States Code, is  
 7 amended by inserting at the end the following:

8 “(c) RAILROAD RADIO COMMUNICATIONS.—

9 “(1) IN GENERAL.—To carry out the Sec-  
 10 retary’s responsibilities under this part and under  
 11 chapter 51, the Secretary may authorize officers,  
 12 employees, or agents of the Secretary to conduct the  
 13 following activities in circumstances the Secretary  
 14 finds to be reasonable:

15 “(A) Intercepting a radio communication,  
 16 with or without the consent of the sender or  
 17 other receivers of the communication, but only  
 18 where such communication is broadcast or  
 19 transmitted over a radio frequency which is—

20 “(i) authorized for use by one or more  
 21 railroad carriers by the Federal Commu-  
 22 nications Commission; and

23 “(ii) primarily used by such railroad  
 24 carriers for communications in connection  
 25 with railroad operations.

1           “(B) Communicating the existence, con-  
2           tents, substance, purport, effect, or meaning of  
3           the communication, subject to the restrictions  
4           in paragraph (3).

5           “(C) Receiving or assisting in receiving the  
6           communication (or any information therein con-  
7           tained).

8           “(D) Disclosing the contents, substance,  
9           purport, effect, or meaning of the communica-  
10          tion (or any part thereof of such communica-  
11          tion) or using the communication (or any infor-  
12          mation contained therein), subject to the re-  
13          strictions in paragraph (3), after having re-  
14          ceived the communication or acquired knowl-  
15          edge of the contents, substance, purport, effect,  
16          or meaning of the communication (or any part  
17          thereof).

18          “(E) Recording the communication by any  
19          means, including writing and tape recording.

20          “(2) ACCIDENT PREVENTION AND ACCIDENT  
21          INVESTIGATION.—The Secretary, and officers, em-  
22          ployees, and agents of the Department of Transpor-  
23          tation authorized by the Secretary, may engage in  
24          the activities authorized by paragraph (1) for the

1 purpose of accident prevention and accident inves-  
2 tigation.

3 “(3) USE OF INFORMATION.—(A) Information  
4 obtained through activities authorized by paragraphs  
5 (1) and (2) shall not be admitted into evidence in  
6 any administrative or judicial proceeding except—

7 “(i) in a prosecution of a felony under  
8 Federal or State criminal law; or

9 “(ii) to impeach evidence offered by a  
10 party other than the Federal Government re-  
11 garding the existence, electronic characteristics,  
12 content, substance, purport, effect, meaning, or  
13 timing of, or identity of parties to, a commu-  
14 nication intercepted pursuant to paragraphs (1)  
15 and (2) in proceedings pursuant to section  
16 5122, 5123, 20702(b), 20111, 20112, 20113,  
17 or 20114 of this title.

18 “(B) If information obtained through activities  
19 set forth in paragraphs (1) and (2) is admitted into  
20 evidence for impeachment purposes in accordance  
21 with subparagraph (A), the court, administrative law  
22 judge, or other officer before whom the proceeding  
23 is conducted may make such protective orders re-  
24 garding the confidentiality or use of the information

1 as may be appropriate in the circumstances to pro-  
2 tect privacy and administer justice.

3 “(C) No evidence shall be excluded in an ad-  
4 ministrative or judicial proceeding solely because the  
5 government would not have learned of the existence  
6 of or obtained such evidence but for the interception  
7 of information that is not admissible in such pro-  
8 ceeding under subparagraph (A).

9 “(D) Information obtained through activities  
10 set forth in paragraphs (1) and (2) shall not be sub-  
11 ject to publication or disclosure, or search or review  
12 in connection therewith, under section 552 of title 5.

13 “(E) Nothing in this subsection shall be con-  
14 strued to impair or otherwise affect the authority of  
15 the United States to intercept a communication, and  
16 collect, retain, analyze, use, and disseminate the in-  
17 formation obtained thereby, under a provision of law  
18 other than this subsection.

19 “(4) APPLICATION WITH OTHER LAW.—Section  
20 705 of the Communications Act of 1934 (47 U.S.C.  
21 605) and chapter 119 of title 18 shall not apply to  
22 conduct authorized by and pursuant to this sub-  
23 section.”.

1   **SEC. 508. INSPECTOR STAFFING.**

2           The Secretary shall increase the total number of posi-  
3   tions for railroad safety inspection and enforcement per-  
4   sonnel at the Federal Railroad Safety Administration so  
5   that by December 31, 2008, the total number of such posi-  
6   tions is at least 500, by December 31, 2009, the total  
7   number of such positions is at least 600, by December  
8   31, 2010, the total number of such positions is at least  
9   700, and by December 31, 2011, the total number of posi-  
10   tions is at least 800.

11           **TITLE VI—MISCELLANEOUS**  
12                   **PROVISIONS**

13   **SEC. 601. POSITIVE TRAIN CONTROL SYSTEMS.**

14           (a) IN GENERAL.—Not later than 12 months after  
15   the date of enactment of this Act, each Class I railroad  
16   carrier shall develop and submit to the Secretary a plan  
17   for implementing a positive train control system by De-  
18   cember 31, 2014, that will minimize the risk of train colli-  
19   sions and over-speed derailments, provide protection to  
20   maintenance-of-way workers within established work zone  
21   limits, and minimize the risk of the movement of a train  
22   through a switch left in the wrong position.

23           (b) SAFETY REDUNDANCY.—The positive train con-  
24   trol system required under subsection (a) shall provide a  
25   safety redundancy to minimize the risk of accidents by

1 overriding human performance failures involving train  
2 movements on main line tracks.

3 (c) CONTENTS OF PLAN.—The Secretary may pro-  
4 vide technical assistance and guidance to railroad carriers  
5 in developing the plans required under subsection (a), and  
6 shall require that each railroad carrier include in the plan,  
7 at a minimum—

8 (1) measurable goals, including a strategy and  
9 timeline for implementation of such systems;

10 (2) a prioritization of how the systems will be  
11 implemented, with particular emphasis on high-risk  
12 corridors such as those that have significant move-  
13 ments of hazardous materials or where commuter  
14 and intercity passenger railroads operate;

15 (3) identification of detailed steps the carriers  
16 will take to implement the systems; and

17 (4) any other element the Secretary considers  
18 appropriate.

19 (d) REVIEW AND APPROVAL.—Not later than 90 days  
20 after the Secretary receives a plan, the Secretary shall re-  
21 view and approve it. If the proposed plan is not approved,  
22 the Secretary shall notify the affected railroad carrier as  
23 to the specific points in which the proposed plan is defi-  
24 cient, and the railroad carrier shall correct all deficiencies  
25 within 30 days following receipt of written notice from the

1 Secretary. The Secretary shall annually conduct a review  
2 to ensure that the railroads are complying with their  
3 plans.

4 (e) REPORT.—Not later than December 31, 2011, the  
5 Secretary shall transmit a report to the Committee on  
6 Transportation and Infrastructure of the House of Rep-  
7 resentatives and the Committee on Commerce, Science,  
8 and Transportation of the Senate on the progress of the  
9 railroad carriers in implementing such positive train con-  
10 trol systems.

11 (f) AUTHORITY TO EXTEND DEADLINE.—The Sec-  
12 retary may extend the date for implementation required  
13 under subsection (a) for any Class I railroad carrier for  
14 a period of not more than 24 months if the Secretary de-  
15 termines such an extension is necessary—

16 (1) to implement a more effective positive train  
17 control system than would be possible under the date  
18 established in subsection (a);

19 (2) to obtain interoperability between positive  
20 train control systems implemented by railroad car-  
21 riers;

22 (3) for the Secretary to determine that a posi-  
23 tive train control system meets the requirements of  
24 this section and regulations issued by the Secretary;  
25 or

1 (4) to otherwise enhance safety.

2 (g) CERTIFICATION.—The Secretary shall not permit  
3 the installation of any positive train control system or  
4 component unless the Secretary has certified that such  
5 system or component has not experienced a safety-critical  
6 failure during prior testing and evaluation. If such a fail-  
7 ure has occurred, the system or component may be re-  
8 paired and evaluated in accordance with part 236 of title  
9 49 of the Code of Federal Regulations and may be in-  
10 stalled when the Secretary certifies that the factors caus-  
11 ing the failure have been corrected and approves the sys-  
12 tem for installation in accordance with such part 236.

13 (h) NOTICE.—Not later than 30 days after the Sec-  
14 retary grants an extension under subsection (f), the Sec-  
15 retary shall publish a notice in the Federal Register that  
16 identifies the Class I railroad carrier that is being granted  
17 the extension, the reasons for granting the extension, and  
18 the length of the extension.

19 **SEC. 602. WARNING IN NONSIGNALLED TERRITORY.**

20 (a) AMENDMENT.—Subchapter II of chapter 201 of  
21 title 49, United States Code, as amended by this Act, is  
22 further amended by adding at the end the following new  
23 section:

1 **“§ 20158. Warning in nonsignaled territory**

2 “Not later than 12 months after the date of enact-  
 3 ment of the Federal Railroad Safety Improvement Act of  
 4 2007, the Secretary of Transportation shall prescribe reg-  
 5 ulations that require railroads, with respect to main lines  
 6 in nonsignaled territory without a train speed enforcement  
 7 system that would stop a train in advance of a misaligned  
 8 switch, to either—

9 “(1) install an automatically activated device, in  
 10 addition to the switch banner, that will, visually or  
 11 electronically, compellingly capture the attention of  
 12 the employees involved with switch operations and  
 13 clearly convey the status of the switch both in day-  
 14 light and darkness; or

15 “(2) operate trains at speeds that will allow  
 16 them to be safely stopped in advance of misaligned  
 17 switches.”.

18 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 19 sections of subchapter II of chapter 201 of title 49, United  
 20 States Code, is amended by adding at the end the fol-  
 21 lowing new item:

“20158. Warning in nonsignaled territory.”.

22 **SEC. 603. TRACK SAFETY.**

23 (a) AMENDMENT.—Subchapter II of chapter 201 of  
 24 title 49, United States Code, as amended by this Act, is

1 further amended by adding at the end the following new  
2 section:

3 **“§ 20159. Track safety**

4       “(a) RAIL INTEGRITY.—Not later than 12 months  
5 after the date of enactment of the Federal Railroad Safety  
6 Improvement Act of 2007, the Secretary of Transpor-  
7 tation shall prescribe regulations to require railroad car-  
8 riers to manage the rail in their tracks so as to minimize  
9 accidents due to internal rail flaws. The regulations shall,  
10 at a minimum—

11               “(1) require railroad carriers to conduct ultra-  
12 sonic or other appropriate inspections to ensure that  
13 rail used to replace defective segments of existing  
14 rail is free from internal defects;

15               “(2) require railroad carriers to perform rail in-  
16 tegrity inspections to manage an annual service fail-  
17 ure rate of less than .1 per track mile on high-risk  
18 corridors such as those that have significant move-  
19 ments of hazardous materials or where commuter  
20 and intercity passenger railroads operate; and

21               “(3) encourage railroad carrier use of advanced  
22 rail defect inspection equipment and similar tech-  
23 nologies as part of a comprehensive rail inspection  
24 program.

1       “(b) CONCRETE CROSSTIES.—Not later than 18  
 2 months after the date of enactment of the Federal Rail-  
 3 road Safety Improvement Act of 2007, the Secretary shall  
 4 develop and implement regulations for all classes of track  
 5 for concrete crossties that address, at a minimum—

6               “(1) limits for rail seat abrasion;

7               “(2) concrete crosstie pad wear limits;

8               “(3) missing or broken rail fasteners;

9               “(4) loss of appropriate toeload pressure;

10              “(5) improper fastener configurations; and

11              “(6) excessive lateral rail movement.”.

12       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 13 sections of subchapter II of chapter 201 of title 49, United  
 14 States Code, is amended by adding at the end the fol-  
 15 lowing new item:

“20159. Track safety.”.

16 **SEC. 604. CERTIFICATION OF CONDUCTORS.**

17       (a) AMENDMENT.—Subchapter II of chapter 201 of  
 18 title 49, United States Code, as amended by this Act, is  
 19 further amended by adding at the end the following new  
 20 section:

21 **“§ 20160. Certification of conductors**

22       “(a) REGULATIONS.—Not later than 18 months after  
 23 the date of enactment of the Federal Railroad Safety Im-  
 24 provement Act of 2007, the Secretary of Transportation  
 25 shall prescribe regulations and issue orders to establish

1 a program requiring the certification of train conductors.  
 2 In prescribing such regulations, the Secretary shall require  
 3 that conductors on passenger trains be trained in security,  
 4 first aid, and emergency preparedness.

5 “(b) PROGRAM DESIGN.—The program established  
 6 under this section shall be designed based on the require-  
 7 ments of section 20135(b) through (e).”.

8 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 9 sections of subchapter II of chapter 201 of title 49, United  
 10 States Code, is amended by adding at the end the fol-  
 11 lowing new item:

“20160. Certification of conductors.”.

12 **SEC. 605. MINIMUM TRAINING STANDARDS.**

13 (a) AMENDMENT.—Subchapter II of chapter 201 of  
 14 title 49, United States Code, as amended by this Act, is  
 15 further amended by adding at the end the following new  
 16 section:

17 **“§ 20161. Minimum training standards**

18 “The Secretary of Transportation shall, not later  
 19 than 180 days after the date of enactment of the Federal  
 20 Railroad Safety Improvement Act of 2007, establish—

21 “(1) minimum training standards for each class  
 22 and craft of railroad employees, which shall require  
 23 railroad carriers to qualify or otherwise document  
 24 the proficiency of their employees in each class and  
 25 craft regarding their knowledge of, and ability to

1       comply with, Federal railroad safety laws and regu-  
2       lations and railroad carrier rules and procedures  
3       promulgated to implement those Federal railroad  
4       safety laws and regulations;

5               “(2) a requirement for railroad carriers to sub-  
6       mit their training and qualification programs to the  
7       Federal Railroad Safety Administration for ap-  
8       proval; and

9               “(3) a minimum training curriculum, and ongo-  
10      ing training criteria, testing, and skills evaluation  
11      measures to ensure that railroad employees charged  
12      with the inspection of track or railroad equipment  
13      are qualified to assess railroad compliance with Fed-  
14      eral standards to identify defective conditions and  
15      initiate immediate remedial action to correct critical  
16      safety defects that are known to contribute to  
17      derailments, accidents, or injury. In implementing  
18      the requirements of this paragraph, the Secretary  
19      shall take into consideration existing training pro-  
20      grams of railroad carriers.”.

21       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
22      sections of subchapter II of chapter 201 of title 49, United  
23      States Code, is amended by adding at the end the fol-  
24      lowing new item:

“20161. Minimum training standards.”.

1 **SEC. 606. PROMPT MEDICAL ATTENTION.**

2 (a) AMENDMENT.—Subchapter II of chapter 201 of  
3 title 49, United States Code, as amended by this Act, is  
4 further amended by adding at the end the following new  
5 section:

6 **“§ 20162. Prompt medical attention**

7 “(a) PROHIBITION.—A railroad or person covered  
8 under this title shall not deny, delay, or interfere with the  
9 medical or first aid treatment of an employee who is in-  
10 jured during the course of employment. If transportation  
11 to a hospital is requested by an employee who is injured  
12 during the course of employment, the railroad shall  
13 promptly arrange to have the injured employee trans-  
14 ported to the nearest medically appropriate hospital.

15 “(b) DISCIPLINE.—A railroad or person covered  
16 under this title shall not discipline, or threaten discipline  
17 to, an employee for requesting medical or first aid treat-  
18 ment, or for following orders or a treatment plan of a  
19 treating physician. For purposes of this subsection, dis-  
20 cipline means to bring charges against a person in a dis-  
21 ciplinary proceeding, suspend, terminate, place on proba-  
22 tion, or make note of reprimand on an employee’s  
23 record.”.

24 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
25 sections of subchapter II of chapter 201 of title 49, United

1 States Code, is amended by adding at the end the fol-  
2 lowing new item:

“20162. Prompt medical attention.”.

3 **SEC. 607. EMERGENCY ESCAPE BREATHING APPARATUS.**

4 (a) AMENDMENT.—Subchapter II of chapter 201 of  
5 title 49, United States Code, as amended by this Act, is  
6 further amended by adding at the end the following new  
7 section:

8 **“§ 20163. Emergency escape breathing apparatus**

9 “Not later than 18 months after the date of enact-  
10 ment of the Federal Railroad Safety Improvement Act of  
11 2007, the Secretary of Transportation shall prescribe reg-  
12 ulations that require railroads to—

13 “(1) provide emergency escape breathing appa-  
14 ratus for all crewmembers on freight trains carrying  
15 hazardous materials that would pose an inhalation  
16 hazard in the event of release; and

17 “(2) provide their crewmembers with appro-  
18 priate training for using the breathing apparatus.”.

19 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
20 sections of subchapter II of chapter 201 of title 49, United  
21 States Code, is amended by adding at the end the fol-  
22 lowing new item:

“20163. Emergency escape breathing apparatus.”.

1 **SEC. 608. LOCOMOTIVE CAB ENVIRONMENT.**

2 Not later than 12 months after the date of enactment  
3 of this Act, the Secretary of Transportation shall transmit  
4 to the Committee on Transportation and Infrastructure  
5 of the House of Representatives and the Committee on  
6 Commerce, Science, and Transportation of the Senate a  
7 report on the effects of the locomotive cab environment  
8 on the safety, health, and performance of train crews.

9 **SEC. 609. TUNNEL INFORMATION.**

10 Not later than 120 days after the date of enactment  
11 of this Act, each railroad carrier (as defined in section  
12 20102 of title 49, United States Code) shall, with respect  
13 to each of its tunnels which—

14 (1) are longer than 1000 feet and located under  
15 a city with a population of 400,000 or greater; or

16 (2) carry 5 or more scheduled passenger trains  
17 per day, or 500 or more carloads of Toxic Inhalation  
18 Hazardous materials per year,

19 maintain for at least two years historical documentation  
20 of structural inspection and maintenance activities for  
21 such tunnels, including information on the methods of in-  
22 gress and egress into and out of the tunnel, the types of  
23 cargos typically transported through the tunnel, and sche-  
24 matics or blueprints for the tunnel, when available. Upon  
25 request, a railroad carrier shall also provide periodic brief-

1 ings to the government of the local jurisdiction in which  
2 the tunnel is located, including updates whenever a repair  
3 or rehabilitation project substantially alters the methods  
4 of ingress and egress. Such governments shall use appro-  
5 priate means to protect and restrict the distribution of any  
6 security sensitive information provided by the railroad car-  
7 rier under this section, consistent with national security  
8 interests.

9 **SEC. 610. MUSEUM LOCOMOTIVE STUDY.**

10 (a) STUDY.—The Secretary of Transportation shall  
11 conduct a study of its regulations relating to safety inspec-  
12 tions of diesel-electric locomotives and equipment and the  
13 safety consequences of requiring less frequent inspections  
14 of such locomotives which are operated by museums, in-  
15 cluding annual inspections or inspections based on accu-  
16 mulated operating hours. The study shall include an anal-  
17 ysis of the safety consequences of requiring less frequent  
18 air brake inspections of such locomotives.

19 (b) REPORT.—Not later than 12 months after the  
20 date of enactment of this Act, the Secretary of Transpor-  
21 tation shall transmit a report on the results of the study  
22 conducted under subsection (a) to the Committee on  
23 Transportation and Infrastructure of the House of Rep-  
24 resentatives and the Committee on Commerce, Science,  
25 and Transportation of the Senate.

1 **SEC. 611. CERTIFICATION OF CARMEN.**

2 (a) AMENDMENT.—Subchapter II of chapter 201 of  
3 title 49, United States Code, as amended by this Act, is  
4 further amended by adding at the end the following new  
5 section:

6 **“§ 20164. Certification of carmen**

7 “(a) REGULATIONS.—Not later than 18 months after  
8 the date of enactment of the Federal Railroad Safety Im-  
9 provement Act of 2007, the Secretary of Transportation  
10 shall prescribe regulations and issue orders to establish  
11 a program requiring the certification of carmen, including  
12 all employees performing mechanical inspections, brake  
13 system inspections, or maintenance on freight and pas-  
14 senger rail cars.

15 “(b) PROGRAM DESIGN.—The program established  
16 under this section shall be designed by the Secretary of  
17 Transportation based on the requirements of parts 215,  
18 221, 231, 232, and 238 of title 49 of the Code of Federal  
19 Regulations.”.

20 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
21 sections of subchapter II of chapter 201 of title 49, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing new item:

“20164. Certification of carmen.”.

1 **SEC. 612. TRAIN CONTROL SYSTEMS DEPLOYMENT GRANTS.**

2 (a) GRANT PROGRAM.—The Secretary of Transpor-  
3 tation shall establish a grant program for the deployment  
4 of train control and component technologies, including—

5 (1) communications-based train control systems  
6 designed to prevent train movement authority viola-  
7 tions, over-speed violations, and train collision acci-  
8 dents caused by noncompliance with authorities as  
9 well as to provide additional protections to roadway  
10 workers and protect against open switches in non-  
11 signal territories;

12 (2) remote control power switch technology;

13 (3) switch point monitoring technology; and

14 (4) track integrity circuit technology.

15 (b) GRANT CRITERIA.—

16 (1) ELIGIBILITY.—Grants shall be made under  
17 this section to eligible passenger and freight railroad  
18 carriers and State and local governments for  
19 projects described in subsection (a) that have a pub-  
20 lic benefit of improved safety or network efficiency.

21 (2) IMPLEMENTATION PLAN.—An applicant for  
22 a grant made pursuant to this section shall file with  
23 the Secretary a train control implementation plan  
24 that shall describe the overall safety and efficiency  
25 benefits of installing systems described in subsection  
26 (a) and the stages for implementing such systems.

1           (3) CONSIDERATION.—The Secretary shall give  
2       priority consideration to applications that benefit  
3       both passenger and freight safety and efficiency, or  
4       incentivize train control technology deployment on  
5       high-risk corridors such as those that have signifi-  
6       cant movements of hazardous materials or where  
7       commuter and intercity passenger railroads operate.

8       (c) AUTHORIZATION OF APPROPRIATIONS.—(1)  
9       There are authorized to be appropriated to the Secretary  
10      such sums as may be necessary for each of fiscal years  
11      2008 through 2011 to carry out this section.

12      (2) Amounts made available pursuant to this sub-  
13      section shall remain available until expended.

14      **SEC. 613. INFRASTRUCTURE SAFETY INVESTMENT RE-**  
15                                   **PORTS.**

16      Not later than February 15th of each year, each  
17      Class I railroad shall file a report with both the Federal  
18      Railroad Safety Administration and the Surface Transpor-  
19      tation Board detailing, by State, the infrastructure invest-  
20      ments and maintenance they have performed on their sys-  
21      tem, including but not limited to track, locomotives, rail-  
22      cars, and grade crossings, in the previous calendar year  
23      to ensure the safe movement of freight, and their plans  
24      for such investments and maintenance in the current cal-  
25      endar year. Such reports shall be publicly available, and

1 any interested party may file comments about the reports,  
2 which also shall be made public.

3 **SEC. 614. EMERGENCY GRADE CROSSING SAFETY IMPROVE-**  
4 **MENTS.**

5 (a) ESTABLISHMENT OF PROGRAM.—The Secretary  
6 of Transportation shall establish a grant program to pro-  
7 vide for emergency grade crossing safety improvements,  
8 including the installation, repair, or improvement of—

9 (1) railroad crossing signals, gates, and related  
10 technologies, including median barriers and four  
11 quadrant gates;

12 (2) highway traffic signalization, including  
13 highway signals tied to railroad signal systems;

14 (3) highway lighting and crossing approach  
15 signage;

16 (4) roadway improvements, including railroad  
17 crossing panels and surfaces; and

18 (5) related work to mitigate dangerous condi-  
19 tions.

20 (b) GRANT CRITERIA.—

21 (1) ELIGIBILITY.—The Secretary may make  
22 grants to State and local governments under this  
23 section to provide emergency grade crossing safety  
24 improvements at a location where there has been a  
25 railroad grade crossing collision with a school bus, or

1 collision involving three or more serious bodily inju-  
2 ries or fatalities.

3 (2) MAXIMUM AMOUNT.—Grants awarded  
4 under paragraph (1) shall not exceed \$250,000 per  
5 crossing.

6 (3) NO STATE OR LOCAL SHARE.—The Sec-  
7 retary shall not require the contribution of a State  
8 or local share as a condition of the grant.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
10 are authorized to be appropriated to the Secretary such  
11 sums as may be necessary for each of fiscal years 2008  
12 through 2011 to carry out this section. Amounts made  
13 available under this subsection shall remain available until  
14 expended.

15 **SEC. 615. LOCOMOTIVE HORN REQUIREMENT WAIVER.**

16 Section 20153(c) of title 49, United States Code, is  
17 amended by adding at the end the following new para-  
18 graph:

19 “(3) The Secretary, in reviewing applications for  
20 waivers or exemptions, shall consider horn noise and the  
21 impact of such noise on the local community and the  
22 unique characteristics of the community.”.

23 **SEC. 616. SAFETY INSPECTIONS IN MEXICO.**

24 (a) IN GENERAL.—Mechanical and brake inspections  
25 of rail cars performed in Mexico shall not be treated as

1 satisfying United States rail safety laws or regulations un-  
2 less the Secretary of Transportation certifies that—

3 (1) such inspections are being performed under  
4 regulations and standards equivalent to those appli-  
5 cable in the United States, including comparable en-  
6 forcement procedures;

7 (2) the Mexican counterparts to the Federal  
8 Railroad Safety Administration are effectively en-  
9 forcing such standards;

10 (3) the inspections are being performed by em-  
11 ployees receiving comparable classroom and on the  
12 job training as is the norm in the United States;

13 (4) inspection records are maintained in both  
14 English and Spanish, and such records are available  
15 to the Federal Railroad Safety Administration for  
16 review; and

17 (5) the Federal Railroad Safety Administration  
18 is permitted to perform onsite inspections for the  
19 purpose of ensuring compliance with the require-  
20 ments of this subsection.

21 (b) HAZARDOUS MATERIAL INSPECTIONS.—Notwith-  
22 standing subsection (a), no hazardous material inspections  
23 performed in Mexico shall be treated as having satisfied  
24 the applicable United States rail safety laws and regula-  
25 tions.

1 **SEC. 617. SURFACE TRANSPORTATION BOARD JURISDIC-**  
2 **TION OVER SOLID WASTE FACILITIES.**

3 Section 10501 of title 49, United States Code, is  
4 amended—

5 (1) by striking “facilities,” in subsection (b)(2)  
6 and inserting “facilities (except solid waste rail  
7 transfer facilities as defined in subsection  
8 (c)(3)(C)),”; and

9 (2) by adding at the end of subsection (c)(3)  
10 the following new subparagraph:

11 “(C) Nothing in this section preempts a State or local  
12 governmental authority from regulating solid waste rail  
13 transfer facilities. For purposes of this subparagraph, the  
14 term ‘solid waste rail transfer facility’ means the portion  
15 of any facility owned or operated by or on behalf of a rail  
16 carrier, at which occurs the—

17 “(i) collection, storage, or transfer, outside of  
18 original shipping containers;

19 “(ii) separation; or

20 “(iii) processing (including baling, crushing,  
21 compacting, and shredding),

22 of solid waste, as defined in section 1004 of the Solid  
23 Waste Disposal Act (42 U.S.C. 6903).”.

1       **TITLE VII—RAIL PASSENGER**  
2       **DISASTER FAMILY ASSISTANCE**

3       **SEC. 701. SHORT TITLE.**

4           This title may be cited as the “Rail Passenger Dis-  
5   aster Family Assistance Act of 2007”.

6       **SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION**  
7                       **SAFETY BOARD TO FAMILIES OF PAS-**  
8                       **SENGERS INVOLVED IN RAIL PASSENGER AC-**  
9                       **CIDENTS.**

10          (a) IN GENERAL.—Subchapter III of chapter 11 of  
11   title 49, United States Code, is amended by adding at the  
12   end the following:

13       **“§ 1139. Assistance to families of passengers involved**  
14                       **in rail passenger accidents**

15          “(a) IN GENERAL.—As soon as practicable after  
16   being notified of a rail passenger accident within the  
17   United States involving a rail passenger carrier and result-  
18   ing in a major loss of life, the Chairman of the National  
19   Transportation Safety Board shall—

20               “(1) designate and publicize the name and  
21       phone number of a director of family support serv-  
22       ices who shall be an employee of the Board and shall  
23       be responsible for acting as a point of contact within  
24       the Federal Government for the families of pas-  
25       sengers involved in the accident and a liaison be-

1       tween the rail passenger carrier and the families;  
2       and

3               “(2) designate an independent nonprofit organi-  
4       zation, with experience in disasters and posttrauma  
5       communication with families, which shall have pri-  
6       mary responsibility for coordinating the emotional  
7       care and support of the families of passengers in-  
8       volved in the accident.

9       “(b) RESPONSIBILITIES OF THE BOARD.—The Board  
10   shall have primary Federal responsibility for—

11               “(1) facilitating the recovery and identification  
12       of fatally injured passengers involved in an accident  
13       described in subsection (a); and

14               “(2) communicating with the families of pas-  
15       sengers involved in the accident as to the roles of—

16                       “(A) the organization designated for an ac-  
17       cident under subsection (a)(2);

18                       “(B) Government agencies; and

19                       “(C) the rail passenger carrier involved,  
20       with respect to the accident and the post-accident  
21       activities.

22       “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-  
23   TION.—The organization designated for an accident under  
24   subsection (a)(2) shall have the following responsibilities

1 with respect to the families of passengers involved in the  
2 accident:

3 “(1) To provide mental health and counseling  
4 services, in coordination with the disaster response  
5 team of the rail passenger carrier involved.

6 “(2) To take such actions as may be necessary  
7 to provide an environment in which the families may  
8 grieve in private.

9 “(3) To meet with the families who have trav-  
10 eled to the location of the accident, to contact the  
11 families unable to travel to such location, and to  
12 contact all affected families periodically thereafter  
13 until such time as the organization, in consultation  
14 with the director of family support services des-  
15 ignated for the accident under subsection (a)(1), de-  
16 termines that further assistance is no longer needed.

17 “(4) To arrange a suitable memorial service, in  
18 consultation with the families.

19 “(d) PASSENGER LISTS.—

20 “(1) REQUESTS FOR PASSENGER LISTS.—

21 “(A) REQUESTS BY DIRECTOR OF FAMILY  
22 SUPPORT SERVICES.—It shall be the responsi-  
23 bility of the director of family support services  
24 designated for an accident under subsection  
25 (a)(1) to request, as soon as practicable, from

1           the rail passenger carrier involved in the acci-  
2           dent a list, which is based on the best available  
3           information at the time of the request, of the  
4           names of the passengers that were aboard the  
5           rail passenger carrier's train involved in the ac-  
6           cident. A rail passenger carrier shall use rea-  
7           sonable efforts, with respect to its unreserved  
8           trains, and passengers not holding reservations  
9           on its other trains, to ascertain the names of  
10          passengers aboard a train involved in an acci-  
11          dent.

12                 “(B) REQUESTS BY DESIGNATED ORGANI-  
13                 ZATION.—The organization designated for an  
14                 accident under subsection (a)(2) may request  
15                 from the rail passenger carrier involved in the  
16                 accident a list described in subparagraph (A).

17                 “(2) USE OF INFORMATION.—The director of  
18                 family support services and the organization may  
19                 not release to any person information on a list ob-  
20                 tained under paragraph (1) but may provide infor-  
21                 mation on the list about a passenger to the family  
22                 of the passenger to the extent that the director of  
23                 family support services or the organization considers  
24                 appropriate.

1       “(e) CONTINUING RESPONSIBILITIES OF THE  
2 BOARD.—In the course of its investigation of an accident  
3 described in subsection (a), the Board shall, to the max-  
4 imum extent practicable, ensure that the families of pas-  
5 sengers involved in the accident—

6               “(1) are briefed, prior to any public briefing,  
7       about the accident and any other findings from the  
8       investigation; and

9               “(2) are individually informed of and allowed to  
10      attend any public hearings and meetings of the  
11      Board about the accident.

12      “(f) USE OF RAIL PASSENGER CARRIER RE-  
13 SOURCES.—To the extent practicable, the organization  
14 designated for an accident under subsection (a)(2) shall  
15 coordinate its activities with the rail passenger carrier in-  
16 volved in the accident to facilitate the reasonable use of  
17 the resources of the carrier.

18      “(g) PROHIBITED ACTIONS.—

19               “(1) ACTIONS TO IMPEDE THE BOARD.—No  
20      person (including a State or political subdivision)  
21      may impede the ability of the Board (including the  
22      director of family support services designated for an  
23      accident under subsection (a)(1)), or an organization  
24      designated for an accident under subsection (a)(2),  
25      to carry out its responsibilities under this section or

1 the ability of the families of passengers involved in  
2 the accident to have contact with one another.

3 “(2) UNSOLICITED COMMUNICATIONS.—No un-  
4 solicited communication concerning a potential ac-  
5 tion for personal injury or wrongful death may be  
6 made by an attorney (including any associate, agent,  
7 employee, or other representative of an attorney) or  
8 any potential party to the litigation to an individual  
9 (other than an employee of the rail passenger car-  
10 rier) injured in the accident, or to a relative of an  
11 individual involved in the accident, before the 45th  
12 day following the date of the accident.

13 “(3) PROHIBITION ON ACTIONS TO PREVENT  
14 MENTAL HEALTH AND COUNSELING SERVICES.—No  
15 State or political subdivision may prevent the em-  
16 ployees, agents, or volunteers of an organization des-  
17 ignated for an accident under subsection (a)(2) from  
18 providing mental health and counseling services  
19 under subsection (c)(1) in the 30-day period begin-  
20 ning on the date of the accident. The director of  
21 family support services designated for the accident  
22 under subsection (a)(1) may extend such period for  
23 not to exceed an additional 30 days if the director  
24 determines that the extension is necessary to meet

1 the needs of the families and if State and local au-  
2 thorities are notified of the determination.

3 “(h) DEFINITIONS.—In this section, the following  
4 definitions apply:

5 “(1) RAIL PASSENGER ACCIDENT.—The term  
6 ‘rail passenger accident’ means any rail passenger  
7 disaster occurring in the provision of—

8 “(A) interstate intercity rail passenger  
9 transportation (as such term is defined in sec-  
10 tion 24102); or

11 “(B) interstate or intrastate high-speed  
12 rail (as such term is defined in section 26105)  
13 transportation,  
14 regardless of its cause or suspected cause.

15 “(2) RAIL PASSENGER CARRIER.—The term  
16 ‘rail passenger carrier’ means a rail carrier pro-  
17 viding—

18 “(A) interstate intercity rail passenger  
19 transportation (as such term is defined in sec-  
20 tion 24102); or

21 “(B) interstate or intrastate high-speed  
22 rail (as such term is defined in section 26105)  
23 transportation,

24 except that such term shall not include a tourist,  
25 historic, scenic, or excursion rail carrier.

1           “(3) PASSENGER.—The term ‘passenger’ in-  
2       cludes—

3           “(A) an employee of a rail passenger car-  
4       rier aboard a train;

5           “(B) any other person aboard the train  
6       without regard to whether the person paid for  
7       the transportation, occupied a seat, or held a  
8       reservation for the rail transportation; and

9           “(C) any other person injured or killed in  
10      the accident.

11      “(i) LIMITATION ON STATUTORY CONSTRUCTION.—  
12   Nothing in this section may be construed as limiting the  
13   actions that a rail passenger carrier may take, or the obli-  
14   gations that a rail passenger carrier may have, in pro-  
15   viding assistance to the families of passengers involved in  
16   a rail passenger accident.

17      “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-  
18   ORITY.—

19           “(1) GENERAL RULE.—This section (other than  
20      subsection (g)) shall not apply to a railroad accident  
21      if the Board has relinquished investigative priority  
22      under section 1131(a)(2)(B) and the Federal agency  
23      to which the Board relinquished investigative pri-  
24      ority is willing and able to provide assistance to the

1 victims and families of the passengers involved in  
2 the accident.

3 “(2) BOARD ASSISTANCE.—If this section does  
4 not apply to a railroad accident because the Board  
5 has relinquished investigative priority with respect to  
6 the accident, the Board shall assist, to the maximum  
7 extent possible, the agency to which the Board has  
8 relinquished investigative priority in assisting fami-  
9 lies with respect to the accident.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-  
11 tions for such chapter is amended by inserting after the  
12 item relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger acci-  
dents.”.

13 **SEC. 703. RAIL PASSENGER CARRIER PLANS TO ADDRESS**  
14 **NEEDS OF FAMILIES OF PASSENGERS IN-**  
15 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

16 (a) IN GENERAL.—Part C of subtitle V of title 49,  
17 United States Code, is amended by adding at the end the  
18 following new chapter:

19 **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail pas-  
senger accidents.

1 **“§ 25101. Plans to address needs of families of pas-**  
2 **sengers involved in rail passenger acci-**  
3 **dents**

4 “(a) SUBMISSION OF PLANS.—Not later than 6  
5 months after the date of the enactment of this section,  
6 each rail passenger carrier shall submit to the Secretary  
7 of Transportation and the Chairman of the National  
8 Transportation Safety Board a plan for addressing the  
9 needs of the families of passengers involved in any rail  
10 passenger accident involving a train of the rail passenger  
11 carrier and resulting in a major loss of life.

12 “(b) CONTENTS OF PLANS.—A plan to be submitted  
13 by a rail passenger carrier under subsection (a) shall in-  
14 clude, at a minimum, the following:

15 “(1) A plan for publicizing a reliable, toll-free  
16 telephone number, and for providing staff, to handle  
17 calls from the families of the passengers.

18 “(2) A process for notifying the families of the  
19 passengers, before providing any public notice of the  
20 names of the passengers, either by utilizing the serv-  
21 ices of the organization designated for the accident  
22 under section 1139(a)(2) of this title or the services  
23 of other suitably trained individuals.

24 “(3) An assurance that the notice described in  
25 paragraph (2) will be provided to the family of a  
26 passenger as soon as the rail passenger carrier has

1       verified that the passenger was aboard the train  
2       (whether or not the names of all of the passengers  
3       have been verified) and, to the extent practicable, in  
4       person.

5           “(4) An assurance that the rail passenger car-  
6       rier will provide to the director of family support  
7       services designated for the accident under section  
8       1139(a)(1) of this title, and to the organization des-  
9       ignated for the accident under section 1139(a)(2) of  
10      this title, immediately upon request, a list (which is  
11      based on the best available information at the time  
12      of the request) of the names of the passengers  
13      aboard the train (whether or not such names have  
14      been verified), and will periodically update the list.  
15      The plan shall include a procedure, with respect to  
16      unreserved trains and passengers not holding res-  
17      ervations on other trains, for the rail passenger car-  
18      rier to use reasonable efforts to ascertain the names  
19      of passengers aboard a train involved in an accident.

20           “(5) An assurance that the family of each pas-  
21      senger will be consulted about the disposition of all  
22      remains and personal effects of the passenger within  
23      the control of the rail passenger carrier.

24           “(6) An assurance that if requested by the fam-  
25      ily of a passenger, any possession of the passenger

1 within the control of the rail passenger carrier (re-  
2 gardless of its condition) will be returned to the fam-  
3 ily unless the possession is needed for the accident  
4 investigation or any criminal investigation.

5 “(7) An assurance that any unclaimed posses-  
6 sion of a passenger within the control of the rail  
7 passenger carrier will be retained by the rail pas-  
8 senger carrier for at least 18 months.

9 “(8) An assurance that the family of each pas-  
10 senger or other person killed in the accident will be  
11 consulted about construction by the rail passenger  
12 carrier of any monument to the passengers, includ-  
13 ing any inscription on the monument.

14 “(9) An assurance that the treatment of the  
15 families of nonrevenue passengers will be the same  
16 as the treatment of the families of revenue pas-  
17 sengers.

18 “(10) An assurance that the rail passenger car-  
19 rier will work with any organization designated  
20 under section 1139(a)(2) of this title on an ongoing  
21 basis to ensure that families of passengers receive an  
22 appropriate level of services and assistance following  
23 each accident.

24 “(11) An assurance that the rail passenger car-  
25 rier will provide reasonable compensation to any or-

1 organization designated under section 1139(a)(2) of  
2 this title for services provided by the organization.

3 “(12) An assurance that the rail passenger car-  
4 rier will assist the family of a passenger in traveling  
5 to the location of the accident and provide for the  
6 physical care of the family while the family is stay-  
7 ing at such location.

8 “(13) An assurance that the rail passenger car-  
9 rier will commit sufficient resources to carry out the  
10 plan.

11 “(14) An assurance that the rail passenger car-  
12 rier will provide adequate training to the employees  
13 and agents of the carrier to meet the needs of sur-  
14 vivors and family members following an accident.

15 “(15) An assurance that, upon request of the  
16 family of a passenger, the rail passenger carrier will  
17 inform the family of whether the passenger’s name  
18 appeared on any preliminary passenger manifest for  
19 the train involved in the accident.

20 “(c) LIMITATION ON LIABILITY.—A rail passenger  
21 carrier shall not be liable for damages in any action  
22 brought in a Federal or State court arising out of the per-  
23 formance of the rail passenger carrier in preparing or pro-  
24 viding a passenger list, or in providing information con-  
25 cerning a train reservation, pursuant to a plan submitted

1 by the rail passenger carrier under subsection (b), unless  
 2 such liability was caused by conduct of the rail passenger  
 3 carrier which was grossly negligent or which constituted  
 4 intentional misconduct.

5 “(d) DEFINITIONS.—In this section—

6 “(1) the terms ‘rail passenger accident’ and  
 7 ‘rail passenger carrier’ have the meanings such  
 8 terms have in section 1139 of this title; and

9 “(2) the term ‘passenger’ means a person  
 10 aboard a rail passenger carrier’s train that is in-  
 11 volved in a rail passenger accident.

12 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
 13 Nothing in this section may be construed as limiting the  
 14 actions that a rail passenger carrier may take, or the obli-  
 15 gations that a rail passenger carrier may have, in pro-  
 16 viding assistance to the families of passengers involved in  
 17 a rail passenger accident.”.

18 (b) CONFORMING AMENDMENT.—The table of chap-  
 19 ters for subtitle V of title 49, United States Code, is  
 20 amended by adding after the item relating to chapter 249  
 21 the following new item:

“251. FAMILY ASSISTANCE ..... 25101”.

22 **SEC. 704. ESTABLISHMENT OF TASK FORCE.**

23 (a) ESTABLISHMENT.—The Secretary of Transpor-  
 24 tation, in cooperation with the National Transportation  
 25 Safety Board, organizations potentially designated under

1 section 1139(a)(2) of title 49, United States Code, rail  
2 passenger carriers, and families which have been involved  
3 in rail accidents, shall establish a task force consisting of  
4 representatives of such entities and families, representa-  
5 tives of passenger rail carrier employees, and representa-  
6 tives of such other entities as the Secretary considers ap-  
7 propriate.

8 (b) MODEL PLAN AND RECOMMENDATIONS.—The  
9 task force established pursuant to subsection (a) shall de-  
10 velop—

11 (1) a model plan to assist passenger rail car-  
12 riers in responding to passenger rail accidents;

13 (2) recommendations on methods to improve  
14 the timeliness of the notification provided by pas-  
15 senger rail carriers to the families of passengers in-  
16 volved in a passenger rail accident;

17 (3) recommendations on methods to ensure that  
18 the families of passengers involved in a passenger  
19 rail accident who are not citizens of the United  
20 States receive appropriate assistance; and

21 (4) recommendations on methods to ensure that  
22 emergency services personnel have as immediate and  
23 accurate a count of the number of passengers on-  
24 board the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

Passed the House of Representatives October 17,  
2007.

Attest: LORRAINE C. MILLER,  
*Clerk.*