Calendar No. 590

110TH CONGRESS 2D SESSION

S. 1889

[Report No. 110-270]

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

IN THE SENATE OF THE UNITED STATES

July 26, 2007

Mr. Lautenberg (for himself, Mr. Smith, Mrs. Clinton, Mr. Kerry, Mr. Schumer, and Mr. Brown) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

March 3, 2008

Reported by Mr. INOUYE, with an amendment in the nature of a substitute [Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, 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,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-

- 2 **MENT OF TITLE 49.**
- 3 (a) SHORT TITLE.—This Act may be eited as the
- 4 "Railroad Safety Enhancement Act of 2007".
- 5 (b) Table of Contents for
- 6 this Act is as follows:
 - See. 1. Short title; table of contents; amendment of title 49.
 - Sec. 2. Definitions.
 - Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD RISK REDUCTION AND STRATEGY

- See. 101. Establishment of chief safety officer.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Railroad safety risk reduction pilot program.
- Sec. 104. Railroad safety risk reduction program.
- Sec. 105. Positive train control system implementation.
- Sec. 106. Hours of service reform.
- Sec. 107. Protection of railroad safety risk analyses information.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

- Sec. 201. Pedestrian crossing safety.
- Sec. 202. State action plans.
- Sec. 203. Improvements to sight distance at highway-rail grade crossings.
- Sec. 204. National crossing inventory.
- Sec. 205. Telephone number to report grade crossing problems.
- Sec. 206. Operation Lifesaver.
- Sec. 207. Trespasser prevention and highway-rail crossing safety.
- See. 208. Fostering introduction of new technology to improve safety at high-way-rail grade crossings.

TITLE HI—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.
- Sec. 302. Civil penalty increases.
- Sec. 303. Enforcement report.
- See. 304. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.
- Sec. 305. Railroad radio monitoring authority.
- Sec. 306. Emergency waivers.
- Sec. 307. Federal rail security officers' access to information.
- Sec. 308. Update of Federal Railroad Administration's website.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Employee training.
- Sec. 402. Certification of certain crafts or classes of employees.
- Sec. 403. Track inspection time study.

- Sec. 404. Study of methods to improve or correct station platform gaps.
- Sec. 405. Use of distracting devices in locomotive cabs.
- Sec. 406. Railroad safety technology grants.
- Sec. 407. Railroad safety infrastructure improvement grants.
- Sec. 408. Amendment to the movement-for-repair provision.
- Sec. 409. Development and use of rail safety technology.
- Sec. 410. Employee sleeping quarters.

TITLE V—RAIL PASSENCER DISASTER FAMILY ASSISTANCE

- See. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
- Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.
- Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Clarification of Federal jurisdiction over solid waste facilities.

- 1 (e) AMENDMENT OF TITLE 49.—Except as otherwise
- 2 expressly provided, whenever in this Act an amendment
- 3 or repeal is expressed in terms of an amendment to, or
- 4 a repeal of, a section or other provision, the reference shall
- 5 be considered to be made to a section or other provision
- 6 of title 49, United States Code.
- 7 SEC. 2. DEFINITIONS.
- 8 (a) IN GENERAL.—In this Act:
- 9 (1) Crossing.—The term "crossing" means a
- 10 location within a State, other than a location where
- one or more railroad tracks cross one or more rail-
- 12 road tracks either at grade or grade-separated,
- 13 where—
- 14 (A) a public highway, road, or street, or a
- 15 private roadway, including associated sidewalks

1	and pathways, crosses one or more railroad
2	tracks either at grade or grade-separated; or
3	(B) a pathway explicitly authorized by the
4	property owner that is dedicated for the use of
5	nonvehicular traffic, including pedestrians,
6	bicyclists, and others, that is not associated
7	with a public highway, road, or street, or a pri-
8	vate roadway, crosses one or more railroad
9	tracks either at grade or grade-separated.
10	(2) DEPARTMENT.—The term "Department"
11	means the Department of Transportation.
12	(3) RAILROAD.—The term "railroad" has the
13	meaning given that term by section 20102 of title
14	49, United States Code.
15	(4) RAILROAD CARRIER.—The term "railroad
16	earrier" has the meaning given that term by section
17	20102 of title 49, United States Code.
18	(5) Secretary.—The term "Secretary" means
19	the Secretary of Transportation.
20	(6) STATE.—The term "State" means a State
21	of the United States, the District of Columbia, or
22	the Commonwealth of Puerto Rico.
23	(b) In Title 49.—Section 20102 is amended—
24	(1) by redesignating paragraphs (1) and (2) as
25	paragraphs (2) and (3), respectively;

1	(2) by inserting before paragraph (2), as redes-
2	ignated, the following:
3	"(1) 'Class I railroad' means a railroad carrier
4	that has annual carrier operating revenues that meet
5	the threshold amount for Class I carriers, as deter-
6	mined by the Surface Transportation Board under
7	section 1201.1-1 of title 49, Code of Federal Regu-
8	lations."; and
9	(3) by adding at the end thereof the following:
10	"(4) 'safety-related railroad employee' means—
11	"(A) a railroad employee who is subject to
12	chapter 211;
13	"(B) another operating railroad employee
14	who is not subject to chapter 211;
15	"(C) an employee who maintains the right
16	of way of a railroad carrier;
17	"(D) an employee of a railroad carrier who
18	is a hazmat employees as defined in section
19	5102(3) of this title;
20	"(E) an employee who inspects, repairs, or
21	maintains locomotives, passenger ears or freight
22	ears; and
23	"(F) any other employee of a railroad who
24	directly affects railroad safety, as determined
25	by the Secretary.".

1 SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

2	Section 20117(a) is amended to read as follows:
3	"(a) In General.—(1) There are authorized to be
4	appropriated to the Secretary of Transportation to carry
5	out this part and to earry out responsibilities under chap-
6	ter 51 as delegated or authorized by the Secretary—
7	"(A) \$245,000,000 for fiscal year 2008;
8	"(B) \$260,000,000 for fiscal year 2009;
9	"(C) \$270,000,000 for fiscal year 2010;
10	"(D) \$280,000,000 for fiscal year 2011;
11	"(E) \$290,000,000 for fiscal year 2012; and
12	"(F) $$300,000,000$ for fiscal year 2013 .
13	"(2) With amounts appropriated pursuant to para-
14	graph (1), the Secretary shall purchase 6 Gage Restraint
15	Measurement System vehicles and 5 track geometry vehi-
16	eles or other comparable technology to enable the deploy-
17	ment of 1 Gage Restraint Measurement System vehicle
18	and 1 track geometry vehicle or other comparable tech-
19	nology in each region.
20	"(3) There are authorized to be appropriated to the
21	Secretary \$18,000,000 for the period encompassing fiscal
22	years 2008 through 2011 to design, develop, and construct
23	the Facility for Underground Rail Station and Tunnel
24	Testing and Training at the Transportation Technology
25	Center, Inc., in Pueblo, Colorado. The facility shall be
26	used to test and evaluate the safety and security

- 1 vulnerabilities of above-ground and underground rail tun-
- 2 nels to prevent accidents and incidents in such tunnels,
- 3 to mitigate and remediate the consequences of any such
- 4 accidents or incidents, and to provide a realistic scenario
- 5 for training emergency responders.
- 6 "(4) Such sums as may be necessary from the
- 7 amount appropriated pursuant to paragraph (1) for each
- 8 of the fiscal years 2008 through 2013 shall be made avail-
- 9 able to the Secretary for personnel in regional offices and
- 10 in Washington, DC, whose duties primarily involve rail se-
- 11 curity.".

12 TITLE I—RAILROAD SAFETY

13 RISK REDUCTION AND STRAT-

- 14 **EGY**
- 15 SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.
- 16 Section 103 is amended—
- 17 (1) by redesignating subsections (c), (d), and
- 18 (e) as subsections (e), (f), and (g); and
- 19 (2) by inserting after subsection (b) the fol-
- 20 lowing:
- 21 "(e) Safety as Highest Priority.—In carrying
- 22 out its duties, the Administration shall consider safety as
- 23 the highest priority, recognizing the clear intent, encour-
- 24 agement, and dedication of Congress to the furtherance
- 25 of the highest degree of safety in railroad transportation.

1	"(d) CHIEF SAFETY OFFICER.—The Administration
2	shall have an Associate Administrator for Railroad Safety
3	appointed in the career service by the Secretary. The Asso-
4	ciate Administrator shall be the Chief Safety Officer of
5	the Administration. The Associate Administrator shall
6	earry out the duties and powers prescribed by the Admin-
7	istrator.".
8	SEC. 102. RAILROAD SAFETY STRATEGY.
9	(a) Safety Goals.—In conjunction with existing
10	federally-required and voluntary strategic planning efforts
11	ongoing at the Department and the Federal Railroad Ad-
12	ministration on the date of enactment of this Act, the Sec-
13	retary shall develop a long-term strategy for improving
14	railroad safety to cover a period of not less than 5 years.
15	The strategy shall include an annual plan and schedule
16	for achieving, at a minimum, the following goals:
17	(1) Reducing the number and rates of acci-
18	dents, injuries, and fatalities involving railroads in-
19	cluding train collisions and derailments and human
20	factors.
21	(2) Improving the consistency and effectiveness
22	of enforcement and compliance programs.
23	(3) Improving the identification of high-risk
24	highway-rail grade crossings and strengthening en-

1	forcement and other methods to increase grade
2	erossing safety.
3	(4) Improving research efforts to enhance and
4	promote railroad safety and performance.
5	(5) Preventing railroad trespasser accidents, in
6	juries, and fatalities.
7	(b) RESOURCE NEEDS.—The strategy and annual
8	plan shall include estimates of the funds and staff re-
9	sources needed to accomplish the goals established by sub-
10	section (a). Such estimates shall also include the staff
11	skills and training required for timely and effective accom-
12	plishment of each such goal.
13	(c) Submission With the President's Budg
14	ET. The Secretary shall submit the strategy and annual
15	plan to the Senate Committee on Commerce, Science, and
16	Transportation and the House of Representatives Com-
17	mittee on Transportation and Infrastructure at the same
18	time as the President's budget submission.
19	(d) ACHIEVEMENT OF GOALS.—
20	(1) Progress assessment. No less fre-
21	quently than annually, the Secretary shall assess the
22	progress of the Department toward achieving the
23	strategic goals described in subsection (a). The Sec-

retary shall identify any deficiencies in achieving the

goals within the strategy and develop and institute
 measures to remediate such deficiencies.

(2) Report to congress. Not later than November 1st of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

13 SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PRO-

14 **GRAM.**

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15 (a) IN GENERAL. Subchapter II of chapter 201 is 16 amended by adding at the end thereof the following:

17 "§ 20156. Railroad safety risk reduction pilot pro-

18 gram

(a) PILOT PROGRAM.—

20 "(1) IN GENERAL.—The Secretary of Transpor21 tation shall develop a 2-year railroad safety risk re22 duction pilot program to systematically evaluate and
23 manage railroad safety risks with the goal of reduc24 ing the numbers and rates of railroad accidents, in25 juries, and fatalities. Not later than 9 months after

1	the date of enactment of the Railroad Safety En-
2	hancement Act of 2007, the Secretary shall, in co-
3	ordination with selected railroads, railroad facilities,
4	and the nonprofit employee labor organizations that
5	represent safety-related railroad employees employed
6	at such railroad or railroad facility, at a minimum—
7	"(A) identify the aspects of a selected rail-
8	road or railroad facility, including operating
9	practices, infrastructure, equipment, employee
10	levels and schedules, safety culture, manage-
11	ment structure, employee training, and other
12	matters, including those not covered by railroad
13	safety regulations or other Federal regulations,
14	that impact railroad safety;
15	"(B) evaluate how these aspects of a se-
16	leeted railroad or railroad facility increase or
17	decrease risks to railroad safety;
18	"(C) develop a safety risk reduction pro-
19	gram to improve the safety of a selected rail-
20	road or railroad facility by reducing the num-
21	bers and rates of accidents, injuries, and fatali-
22	ties through—
23	"(i) the mitigation of the aspects of a
24	selected railroad or railroad facility that
25	increase risks to railroad safety: and

1 "(ii) the enhancement of aspects of a 2 selected railroad or railroad facility that 3 decrease risks to railroad safety; and 4 "(D) incorporate into the program the con-5 sideration and use of existing, new, or novel 6 technology, operating practices, risk manage-7 ment practices or other behavior-based practices 8 that could improve railroad safety at the se-9 lected railroad or railroad facility. "(2) IMPLEMENTATION DEADLINE.—Not later 10 11 than 12 months after the date of enactment of the 12 Railroad Safety Enhancement Act of 2007, the se-13 lected railroad or railroad facility shall implement 14 the safety risk reduction program developed under 15 paragraph (1)(C) on the selected railroad or railroad 16 facility and ensure that all employees at the selected 17 railroad or railroad facility have received and are 18 complying with training related to the program. 19 "(b) SELECTION OF RAILROAD OR RAILROAD FACIL-HTY FOR PILOT PROGRAM.—Not later than 3 months after the date of enactment of the Railroad Safety Enhance-21 ment Act of 2007, the Secretary shall develop a voluntary application process to select 1 or more railroad or railroad facilities where the pilot project will be implemented. The application process shall include criteria for rating appli-

- 1 cants, such as safety performance, accident and incident
- 2 history, existence of risk management or behavior-based
- 3 practices at the railroad or railroad facility, number of em-
- 4 ployees employed at the railroad or railroad facility, and
- 5 other relevant criteria determined by the Secretary.
- 6 "(e) EVALUATION.—Not later than 6 months after
- 7 the completion of the safety risk reduction program pilot
- 8 program, the Secretary shall submit a report to Congress
- 9 evaluating the pilot program, which shall include—
- 10 "(1) a summary of the railroad safety risk re-
- 11 duction pilot program and description of the actions
- 12 taken by the Secretary and selected railroad or rail-
- 13 road facilities during the program;
- 14 "(2) an analysis of the difference in the number
- and rates of accidents, injuries, and fatalities at a
- 16 selected railroad or railroad facility before and after
- the implementation of the risk reduction pilot pro-
- 18 gram at a selected railroad or railroad facility; and
- 19 <u>"(3) guidelines on the preparation and imple-</u>
- 20 mentation of railroad safety risk reduction program
- 21 for the railroad carriers required to develop such
- 22 plans under section 20157 that reflect that best
- 23 practices developed during the pilot program.".

1	(b) Conforming Amendment.—The chapter anal-
2	ysis for chapter 201 is amended by inserting after the item
3	relating to section 20155 the following:
	"20156. Railroad safety risk reduction pilot program.".
4	SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.
5	(a) In General.—Subchapter H of chapter 201, as
6	amended by section 103, is amended by adding at end
7	thereof the following:
8	"§ 20157. Railroad safety risk reduction program
9	"(a) In General.—
10	"(1) Program requirement.—Not later than
11	2 years after the Secretary of Transportation sub-
12	mits the report required by section 20156, the Sec-
13	retary, by regulation, shall require each railroad ear-
14	rier that is a Class I railroad, a railroad carrier that
15	has inadequate safety performance (as determined
16	by the Secretary), or a railroad that provides inter-
17	city passenger or commuter rail passenger transpor-
18	tation—
19	"(A) to develop a railroad safety risk re-
20	duction program under subsection (d) that sys-
21	tematically evaluates railroad safety risks and
22	manages those risks in order to reduce the
23	numbers and rates of railroad accidents, inju-
24	ries, and fatalities;

1	"(B) to submit its program, including any
2	required plans, to the Federal Railroad Admin-
3	istration for its review and approval; and
4	"(C) to implement the program and plans
5	approved by the Federal Railroad Administra-
6	tion.

- "(2) Reliance on Pilot program.—The Secretary shall use the information and experience gathered through the pilot program under section 20156 in developing regulations under this section.
- "(3) WAIVERS.—The Secretary may grant a waiver under section 20103(d) to a railroad earrier from compliance with all or a part of the requirements of this section if the Secretary determines that the safety performance of the railroad earrier is sufficient to warrant the waiver.
- "(4) Voluntary compliance.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Federal Railroad Administration. The Federal Railroad Administration shall approve or disapprove any program submitted under this paragraph.

- 1 "(b) CERTIFICATION.—The chief official responsible
- 2 for safety of each railroad carrier required to submit a
- 3 railroad safety risk reduction program under subsection
- 4 (a) shall certify that the contents of the program are accu-
- 5 rate and that the railroad will implement the contents of
- 6 the program as approved by the Federal Railroad Admin-
- 7 istration.
- 8 "(e) Risk Analysis.—In developing its railroad safe-
- 9 ty risk reduction program each railroad required to submit
- 10 such a program under subsection (a) shall identify and
- 11 analyze the aspects of its railroad, including operating
- 12 practices, infrastructure, equipment, employee levels and
- 13 schedules, safety culture, management structure, employee
- 14 training, and other matters, including those not covered
- 15 by railroad safety regulations or other Federal regulations,
- 16 that impact railroad safety.
- 17 "(d) Program Elements.—
- 18 "(1) In General.—Each railroad required to
- 19 submit a railroad safety risk reduction program
- 20 under subsection (a) shall develop a comprehensive
- 21 safety risk reduction program to improve safety by
- 22 reducing the number and rates of accidents, injuries,
- 23 and fatalities that is based on the risk analysis re-
- 24 quired by subsection (e) through—

"(A) the mitigation of aspects that in-
crease risks to railroad safety; and
"(B) the enhancement of aspects that de-
crease risks to railroad safety.
"(2) Required components.—Each railroad's
safety risk reduction program shall include a tech-
nology implementation plan that meets the require-
ments of subsection (e) and a fatigue management
plan that meets the requirements of subsection (f).
"(e) Technology Implementation Plan.—
"(1) In General.—As part of its railroad safe-
ty risk reduction program, a railroad required to
submit a railroad safety risk reduction program
under subsection (a) shall develop a 10-year tech-
nology implementation plan that describes the rail-
road's plan for development, adoption, implementa-
tion, and use of current, new, or novel technologies
on its system over a 10-year period to reduce safety
risks identified under the railroad safety risk reduc-
tion program.
"(2) TECHNOLOGY ANALYSIS.—A railroad's
technology implementation plan shall include an
analysis of the safety impact, feasibility, and cost
and benefits of implementing technologies, including

processor-based technologies, positive train control

systems (as defined in section 20158(b)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, trespasser prevention technology, highway rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may mitigate risks to railroad safety identified in the risk analysis required by subsection (e).

"(3) IMPLEMENTATION SCHEDULE.—A rail-road's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

"(f) FATIGUE MANAGEMENT PLAN.—

"(1) IN GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) for which the analysis under subsection (c) has shown fatigue to be a significant source of risk shall develop a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to re-

1	duce the likelihood of accidents, injuries, and fatali
2	ties caused by fatigue.
3	"(2) TARGETED FATIGUE COUNTER
4	MEASURES.—A railroad's fatigue management plan
5	shall take into account the varying circumstances of
6	operations by the railroad on different parts of its
7	system, and shall prescribe appropriate fatigue coun-
8	termeasures to address those varying circumstances
9	"(3) Additional elements.—A railroad shal
10	consider the need to include in its fatigue manage
11	ment plan elements addressing each of the following
12	items, as applicable:
13	"(A) Employee education and training or
14	the physiological and human factors that affect
15	fatigue, as well as strategies to reduce or miti-
16	gate the effects of fatigue, based on the most
17	current scientific and medical research and lit
18	erature.
19	"(B) Opportunities for identification, diag-
20	nosis, and treatment of any medical condition
21	that may affect alertness or fatigue, including
22	sleep disorders.
23	"(C) Effects on employee fatigue of an em-
24	ployee's short-term or sustained response to
25	emergency situations, such as derailments and

1	natural disasters, or engagement in other inten-
2	sive working conditions.
3	"(D) Scheduling practices for employees,
4	including innovative scheduling practices for
5	employees, including scheduling procedures, on-
6	duty call practices, work and rest cycles, in-
7	creases in consecutive days off for employees,
8	changes in shift patterns, appropriate sched-
9	uling practices for varying types of work, and
10	other aspects of employee scheduling that would
11	reduce employee fatigue and cumulative sleep
12	loss.
13	"(E) Methods to minimize accidents and
14	incidences that occur as a result of working at
15	times when scientific and medical research have
16	shown increased fatigue disrupts employees' cir-
17	cadian rhythm.
18	"(F) Alertness strategies, such as policies
19	on napping, to address acute sleepiness and fa-
20	tigue while an employee is on duty.
21	"(G) Opportunities to obtain restful sleep
22	at lodging facilities, including employee sleeping
23	quarters provided by the railroad carrier.
24	"(H) The increase of the number of con-
25	secutive hours of off-duty rest, during which an

employee receives no communication from the
employing railroad carrier or its managers, supervisors, officers, or agents.

"(I) Avoidance of abrupt changes in rest eyeles for employees.

"(J) Additional elements that the Secretary considers appropriate.

"(g) Consensus.—

"(1) IN GENERAL.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees on the contents of the safety risk reduction program.

"(2) STATEMENT. If the railroad earrier and its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad earrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

- 1 "(h) ENFORCEMENT.—The Secretary shall have the
- 2 authority to assess eivil penalties pursuant to chapter 213
- 3 for a violation of this section, including the failure to sub-
- 4 mit, certify, or comply with a safety risk reduction pro-
- 5 gram, technology implementation plan, or fatigue manage-
- 6 ment plan.".
- 7 (b) Conforming Amendment.—The chapter anal-
- 8 ysis for chapter 201, as amended by section 103, is further
- 9 amended by inserting after the item relating to section
- 10 20156 the following:

"20157. Railroad safety risk reduction program.".

- 11 SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTA-
- 12 **TION.**
- 13 (a) In General.—Subchapter II of chapter 201, as
- 14 amended by section 104, is further amended by adding
- 15 at end thereof the following:
- 16 **"§ 20158. Positive train control system implementa**-
- 17 **tion**
- 18 "(a) IN GENERAL.—The Secretary of Transportation
- 19 shall ensure that each railroad required to submit a rail-
- 20 road safety risk reduction program pursuant to section
- 21 20157 that includes in its technology implementation plan
- 22 a schedule for implementation of a positive train control
- 23 system complies with that schedule and implements its
- 24 positive train control system by December 31, 2018, un-

- 1 less the Secretary determines that a railroad shall imple-
- 2 ment its positive train control system by an earlier date.
- 3 "(b) Positive Train Control System De-
- 4 FINED.—The term 'positive train control system' means
- 5 a system designed to prevent train-to-train collisions, over-
- 6 speed derailments, and incursions into roadway worker
- 7 work limits.".
- 8 (b) Conforming Amendment.—The chapter anal-
- 9 ysis for chapter 201, as amended by section 104, is further
- 10 amended by inserting after the item relating to section
- 11 20157 the following:

"20158. Positive train control system implementation.".

- 12 SEC. 106. HOURS OF SERVICE REFORM.
- 13 (a) Change in Definition of Signal Em-
- 14 PLOYEE.—Section 21101(4) is amended—
- 15 (1) by striking "employed by a railroad car-
- 16 rier"; and
- 17 (2) by inserting "railroad" after "maintaining".
- 18 (b) Limitation on Duty Hours of Train Em-
- 19 PLOYEES.—Section 21103 is amended—
- 20 (1) by striking subsection (a) and inserting the
- 21 following:
- 22 "(a) In General.—Except as provided in subsection
- 23 (e) of this section, a railroad carrier and its officers and
- 24 agents may not require or allow a train employee to re-
- 25 main or go on duty—

1	"(1) for a period in excess of 12 consecutive
2	hours;
3	"(2) unless the employee has had at least 10
4	consecutive hours off duty during the prior 24
5	hours; or
6	"(3) unless the employee has had at least one
7	period of at least 24 consecutive hours off duty in
8	the past 7 consecutive days.
9	The Secretary may waive paragraph (3) if a collective bar-
10	gaining agreement provides a different arrangement and
11	such arrangement provides an equivalent level of safety
12	and protection against fatigue for affected employees.";
13	(2) by striking subsection (b)(4) and inserting
14	the following:
15	"(4)(A)(i) Time spent waiting for or in
16	deadhead transportation to a duty assignment and,
17	except as provided in clauses (ii) and (iii), time
18	spent waiting for or in deadhead transportation from
19	a duty assignment to the place of final release is
20	time on duty.
21	"(ii) Time spent waiting for or in deadhead
22	transportation from a duty assignment to a place of
23	final release is neither time on duty nor time off

1	of the railroad carrier, when delays were caused						
2	by						
3	"(I) a casualty;						
4	"(II) an accident;						
5	"(III) a track obstruction;						
6	"(IV) an act of God;						
7	"(V) a severe weather event;						
8	"(VI) a severe snowstorm;						
9	"(VII) a landslide;						
10	"(VIII) a track or bridge washout;						
11	"(IX) a derailment;						
12	"(X) a major equipment failure which pre-						
13	vents a train from advancing; or						
14	"(XI) any other delay from a cause un-						
15	known or unforeseeable to a railroad earrier						
16	and its officers and agents in charge of the em-						
17	ployee when the employee left a designated ter-						
18	minal.						
19	"(iii) In addition to any time qualifying as nei-						
20	ther on duty nor off duty under clause (ii), the rail-						
21	road carrier may elect to treat not more than 4						
22	hours a day and not more than 30 hours a month						
23	per employee of time spent waiting for or in						
24	deadhead transportation to the place of final release						
25	as neither time on duty nor time off duty for 3 years						

1 after the date of enactment of the Railroad Safety 2 Enhancement Act of 2007. 3 "(B) Each railroad shall report to the Sec-4 retary, in accordance with the procedures contained 5 in section 228.19 of title 49, Code of Federal Regu-6 lations, each instance in which an employee subject 7 to this section spends time waiting for of in 8 deadhead transportation from a duty assignment to 9 the place of final release that is not time on duty. "(C) If— 10 11 "(i) the time spent waiting for or in 12 deadhead transportation from a duty assign-13 ment to the place of final release, that is not 14 time on duty, plus 15 "(ii) the time on duty, 16 exceeds 12 consecutive hours, the railroad carrier 17 and its officers and agents shall provide, at the elec-18 tion of the employees subject to this section, employ-19 ees with additional time off duty equal to the num-20 ber of hours that such sum exceeds 12 hours."; and 21 (3) by adding at the end the following: 22 "(d) Communication During Time Off Duty.— During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), or

during an interim period of at least 4 consecutive hours

- 1 available for rest under subsection (b)(7), a railroad ear-
- 2 rier, and its managers, supervisors, officers, and agents,
- 3 shall not communicate with the train employee by tele-
- 4 phone, by pager, or in any other manner that could dis-
- 5 rupt the employee's rest. Nothing in this subsection shall
- 6 prohibit communication necessary to notify an employee
- 7 of an emergency situation (as defined by the Secretary).
- 8 The Secretary may waive the requirements of this para-
- 9 graph, subject to section 20103, for a railroad that pro-
- 10 vides commuter or intercity passenger transportation if
- 11 the Secretary determines that it is necessary to maintain
- 12 that railroad's efficient operations and on-time perform-
- 13 ance of its trains.".
- 14 (c) Limitation on Duty Hours of Signal Em-
- 15 PLOYEES.—Section 21104 is amended—
- 16 (1) by striking subsection (a) and inserting the
- 17 following:
- 18 "(a) In General.—Except as provided in subsection
- 19 (e) of this section, a railroad earrier, its officers and
- 20 agents, and a contractor or subcontractor to a railroad
- 21 may not require or allow a signal employee to remain or
- 22 go on duty—
- 23 "(1) for a period in excess of 12 consecutive
- 24 hours; or

- 1 "(2) unless the employee has had at least 10
 2 consecutive hours off duty during the prior 24
 3 hours.";
- 4 (2) by striking "duty, except that up to one
 5 hour of that time spent returning from the final
 6 trouble call of a period of continuous or broken serv7 ice is time off duty." in subsection (b)(3) and insert8 ing "duty.";
 - (3) by adding "A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, maintenance, or inspection of signal systems." at the end of subsection (c); and
- 14 (4) by adding at the end the following:
- 15 "(d) Communication During Time Off Duty.—
- 16 During a signal employee's minimum off-duty period of
- 17 10 consecutive hours, as provided under subsection (a),
- 18 a railroad carrier, and its managers, supervisors, officers,
- 19 and agents, shall not communicate with the signal em-
- 20 ployee by telephone, by pager, or in any other manner that
- 21 could disrupt the employee's rest. Nothing in this sub-
- 22 section shall prohibit communication necessary to notify
- 23 an employee of an emergency situation (as defined by the
- 24 Secretary).

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1	"(e) Exclusivity.—The hours of service, duty
2	hours, and rest periods of signal employees shall be gov-
3	erned exclusively by this chapter. Signal employees oper-
4	ating motor vehicles shall not be subject to any hours of
5	service rules, duty hours, or rest period rules promulgated
6	by any Federal authority, including the Federal Motor
7	Carrier Safety Administration, other than the Federal
8	Railroad Administration.".
9	(d) REGULATORY AUTHORITY.—
10	(1) In General.—Chapter 211 is amended by
11	adding at the end thereof the following:
12	"§21109. Regulatory authority
13	"(a) In General.—The Secretary of Transportation
14	may issue regulations—
15	"(1) to reduce the maximum hours an employee
16	or class of employees may be required or allowed to
17	go or remain on duty to a level less than the level
18	established under this chapter;
19	"(2) to increase the minimum hours an em-
20	ployee or class of employees may be required to rest
21	to a level greater than the level established under
22	this chapter; or
23	"(3) to make other changes to the maximum
24	hours or minimum hours an employee or class of
25	employees may be allowed to go or remain on duty,

- or may be required to rest, that will significantly in-
- 2 crease safety.
- 3 "(b) REDUCTION OF LIMBO TIME.—Not later than
- 4 2 years after the date of enactment of the Railroad Safety
- 5 Enhancement Act of 2007, the Secretary shall issue regu-
- 6 lations that limit the time an employee spends waiting for
- 7 or in deadhead transportation to the place of final release
- 8 to be considered neither on duty nor off duty under section
- 9 21103(b)(4)(A)(iii) to a number of hours per day and per
- 10 month per employee that is necessary to maintain an ade-
- 11 quate level of safety, not to exceed 20 hours per month.
- 12 "(e) Considerations.—In issuing regulations pur-
- 13 suant to subsection (a) and (b), the Secretary shall con-
- 14 sider the variations in freight and passenger railroad
- 15 scheduling practices, the variations in duties performed by
- 16 employees subject to this chapter, the railroad's required
- 17 or voluntary use of fatigue management plans covering
- 18 employees subject to this chapter, scientific or medical re-
- 19 search or knowledge related to fatigue, the railroad's use
- 20 of new or novel technology intended to eliminate human
- 21 error, and any other relevant factors.
- 22 "(d) TIME LIMITS.—If the Secretary requests that
- 23 the Railroad Safety Advisory Committee accept the task
- 24 of developing regulations under subsection (a) and (b) and
- 25 the Committee accepts the task, the Committee shall reach

consensus on the rulemaking within 24 months after ac-2 cepting the task. If the Committee does not reach con-3 sensus within 24 months after the Secretary makes the 4 request, the Secretary shall prescribe appropriate regulations within 1 year. If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsections (a) and (b), 8 the Secretary shall issue regulations within 3 years. 9 "(e) PILOT PROJECTS.— "(1) In GENERAL.—Not later than 2 years 10 11 after the date of enactment of the Railroad Safety 12 Enhancement Act of 2007, the Secretary shall con-13 duct 2 pilot projects to analyze specific practices 14 which may be used to reduce fatigue for railroad em-15 ployees as follows: 16 "(A) A pilot project at a railroad or rail-17 road facility to evaluate the efficacy of commu-18 nicating to employees notice of their assigned 19 shift time 10 hours prior to the beginning of 20 their assigned shift as a method for reducing 21 employee fatigue. 22 "(B) A pilot project at a railroad or rail-23 road facility to evaluate the efficacy of requiring 24 railroads who use employee scheduling practices

that subject employees to periods of unsched-

1	uled duty calls to assign employees to defined
2	or specific unscheduled call shifts that are fol-
3	lowed by shifts not subject to call, as a method
4	for reducing employee fatigue.
5	"(2) Waiver.—The Secretary may temporarily
6	waive the requirements of this section, if necessary,
7	to complete a pilot project under this subsection.
8	"(f) Duty Call Defined.—In this section the term
9	'duty call' means a telephone call that a railroad places
10	to an employee to notify the employee of his or her as-
11	signed shift time.".
12	(2) Conforming amendment.—The chapter
13	analysis for chapter 211 is amended by adding at
14	the end thereof the following:
	"21109. Regulatory authority.".
15	SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANAL-
16	YSES INFORMATION.
17	(a) Amendment.—Subchapter I of chapter 201 is
18	amended by adding at the end thereof the following:
19	"§ 20118. Prohibition on public disclosure of required
20	railroad safety analyses records
21	"(a) In General.—Notwithstanding section 552 of
22	title 5 or any other provision of law, except as necessary
23	for enforcement of any provision of Federal law by the
24	Secretary of Transportation or by another Federal agency,
25	the Secretary shall not disclose publicly any part of any

- 1 record (including, but not limited to, a railroad carrier's
- 2 analysis of its safety risks and its statement of the mitiga-
- 3 tion measures it has identified with which to address those
- 4 risks) that the Secretary has obtained pursuant to a provi-
- 5 sion of, or regulation or order under, this chapter related
- 6 to the establishment, implementation, or modification of
- 7 a railroad safety risk reduction program if the record is—
- 8 "(1) supplied to the Secretary pursuant to that
- 9 safety risk reduction program; or
- 10 "(2) made available for inspection and copying
- by an officer, employee, or agent of the Secretary
- 12 pursuant to that safety risk reduction program.
- 13 "(b) Exception.—Notwithstanding subsection (a),
- 14 the Secretary may disclose any part of any record com-
- 15 prised of facts otherwise available to the public if, in the
- 16 Secretary's sole discretion, the Secretary determines that
- 17 disclosure would be consistent with the confidentiality
- 18 needed for that safety risk reduction program.
- 19 "(e) Discretionary Prohibition of Disclo-
- 20 Sure.—The Secretary may prohibit the public disclosure
- 21 of risk or risk mitigation analyses that the Secretary has
- 22 obtained under other provisions of, or regulations or or-
- 23 ders under, this chapter if the Secretary determines that
- 24 the prohibition of public disclosure is necessary to promote
- 25 railroad safety.

1 "§ 20119. Discovery and admission into evidence of

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- 3 "Notwithstanding any other provision of law, no part of any report, survey, schedule, list, or data compiled or 5 collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program or other 6 risk or risk mitigation analysis designated by the Secretary of Transportation under section 20118(e) pursuant to a provision of, or regulation or order under, this chapter 10 (including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks) shall be subject to discovery or admitted into evidence in a Federal or State court proceeding, or considered for another purpose, in any action by a private party or parties for damages against the carrier, or its officers, employees, or contractors. The preceding sentence does not apply to any report, survey, list, 18 or data otherwise available to the public.".
- 19 (b) CONFORMING AMENDMENT.—The chapter anal20 ysis for chapter 201 is amended by inserting after the item
 21 relation to goation 20117 the following

21 relating to section 20117 the following:

"20118. Prohibition on public disclosure of required railroad safety risk analyses.

"20119. Discovery and admission into evidence of certain reports and surveys.".

35 TITLE II—HIGHWAY-RAIL GRADE **CROSSING AND** PEDESTRIAN 2 SAFETY AND TRESPASSER 3 **PREVENTION** 4 5 SEC. 201. PEDESTRIAN CROSSING SAFETY. 6 Not later than 1 year after the date of enactment of this Act, the Secretary shall provide guidance to rail-7 8 roads on strategies and methods to prevent pedestrian accidents, injuries, and fatalities at or near passenger sta-10 tions, including— 11 (1) providing audible warning of approaching 12 trains to the pedestrians at railroad passenger sta-13 tions; 14 (2) using signs, signals, or other visual devices 15 to warn pedestrians of approaching trains; 16 (3) installing infrastructure at pedestrian cross-17 ings to improve the safety of pedestrians crossing 18 railroad tracks; 19 (4) installing fences to prohibit access to rail-20 road tracks; and 21 (5) other strategies or methods as determined 22 by the Secretary. SEC. 202. STATE ACTION PLANS.

24 (a) In General.—Beginning not later than 6

months after the date of enactment of this Act, the Sec-

- 1 retary shall identify on an annual basis the 10 States that
- 2 receive Federal funds for highway-rail grade crossing safe-
- 3 ty projects that have had the most highway-rail grade
- 4 erossing collisions in the preceding fiscal year. The Sec-
- 5 retary shall require as a condition of receiving such funds
- 6 in the future (in addition to any requirements imposed
- 7 under any other provision of law) that each of these States
- 8 develop a State Grade Crossing Action Plan that identifies
- 9 specific solutions for improving safety at crossings, includ-
- 10 ing highway-rail grade crossing closures or grade separa-
- 11 tions, particularly at crossings that have experienced mul-
- 12 tiple accidents, and shall provide assistance to the States
- 13 in developing the plan.
- 14 (b) REVIEW AND APPROVAL.—Not later than 60 days
- 15 after the Secretary receives a plan under subsection (a),
- 16 the Secretary shall review and approve or disapprove it.
- 17 If the proposed plan is not approved, the Secretary shall
- 18 notify the affected State as to the specific points in which
- 19 the proposed plan is deficient, and the State shall correct
- 20 all deficiencies within 30 days following receipt of written
- 21 notice from the Secretary.

1	SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-
2	WAY-RAIL GRADE CROSSINGS.
3	(a) In General.—Subchapter H of chapter 201, as
4	amended by section 105 of this Act, is further amended
5	by inserting after section 20158 the following:
6	"§ 20159. Roadway user sight distance at highway-
7	rail grade crossings
8	"(a) In General.—Not later than 18 months after
9	the date of enactment of the Railroad Safety Enhance-
10	ment Act of 2007, the Secretary of Transportation shall
11	prescribe regulations that require each railroad earrier to
12	remove from its rights-of-way at all public highway-rail
13	grade crossings, and at all private highway-rail grade
14	erossings open to unrestricted public access (as declared
15	in writing by the holder of the crossing right), grass,
16	brush, shrubbery, trees, and other vegetation which may
17	obstruct the view of a pedestrian or a vehicle operator for
18	a reasonable distance in either direction of the train's ap-
19	proach, and to maintain its rights-of-way at all such cross-
20	ings free of such vegetation. In prescribing the regula-
21	tions, the Secretary shall take into consideration to the
22	extent practicable—
23	"(1) the type of warning device or warning de-
24	vices installed at such crossings;
25	"(2) factors affecting the timeliness and effec-
26	tiveness of roadway user decisionmaking, including

- the maximum allowable roadway speed, maximum authorized train speed, angle of intersection, and topography;
- 4 "(3) the presence or absence of other sight dis-5 tance obstructions off the railroad right-of-way; and
- 6 "(4) any other factors affecting safety at such
 7 crossings.
- 8 "(b) PROTECTED VEGETATION.—In promulgating regulations pursuant to this section, the Secretary may 10 make allowance for preservation of trees and other ornamental or protective growth where State or local law or policy would otherwise protect the vegetation from removal and where the roadway authority or private crossing holder is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes ap-15 propriate action to abate the hazard to roadway users 16 17 (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).
- 20 "(e) Model Legislation.—Not later than 18
 21 months after the date of enactment of the Railroad Safety
 22 Enhancement Act of 2007, the Secretary, after consulta23 tion with the Federal Railroad Administration, the Fed24 eral Highway Administration, and States, shall develop
 25 and make available to States model legislation providing

- 1 for improving safety by addressing sight obstructions, at
- 2 highway-rail grade crossings that are equipped solely with
- 3 passive warnings, as recommended by the Inspector Gen-
- 4 eral of the Department of Transportation in Report No.
- 5 MH-2007-044.".
- 6 (b) Conforming Amendment.—The chapter anal-
- 7 ysis for chapter 201, as amended by section 105 of this
- 8 Act, is amended by inserting after the item relating to sec-
- 9 tion 20158 the following new item:

"20159. Roadway user sight distance at highway-rail grade crossings.".

- 10 SEC. 204. NATIONAL CROSSING INVENTORY.
- 11 (a) In General.—Subchapter H of chapter 201, as
- 12 amended by section 203 of this Act, is further amended
- 13 by adding at the end the following new section:
- 14 "\$ 20160. National crossing inventory
- 15 "(a) Initial Reporting of Information About
- 16 Previously Unreported Crossings.—Not later than
- 17 1 year after the date of enactment of the Railroad Safety
- 18 Enhancement Act of 2007 or 6 months after a new cross-
- 19 ing becomes operational, whichever occurs later, each rail-
- 20 road carrier shall—
- 21 "(1) report to the Secretary of Transportation
- 22 current information, including information about
- 23 warning devices and signage, as specified by the Sec-
- 24 retary, concerning each previously unreported cross-
- 25 ing through which it operates; or

1 "(2) ensure that the information has been re-2 ported to the Secretary by another railroad carrier 3 that operates through the crossing. 4 "(b) Updating of Crossing Information.— "(1) On a periodic basis beginning not later 6 than 2 years after the date of enactment of the Rail-7 road Safety Enhancement Act of 2007 and on or be-8 fore September 30 of every year thereafter, or as 9 otherwise specified by the Secretary, each railroad 10 earrier shall— 11 "(A) report to the Secretary current infor-12 mation, including information about warning 13 devices and signage, as specified by the Secretary, concerning each crossing through which 14 15 it operates; or 16 "(B) ensure that the information has been 17 reported to the Secretary by another railroad 18 carrier that operates through the crossing. 19 "(2) A railroad carrier that sells a crossing or 20 any part of a crossing on or after the date of enact-21 ment of the Railroad Safety Enhancement Act of 22 2007 shall, not later than the date that is 18 23 months after the date of enactment of that Act or 24 3 months after the sale, whichever occurs later, or

as otherwise specified by the Secretary, report to the

1	Secretary current information, as specified by the
2	Secretary, concerning the change in ownership of the
3	crossing or part of the crossing.
4	"(c) Rulemaking Authority.—The Secretary shall
5	prescribe the regulations necessary to implement this sec-
6	tion. The Secretary may enforce each provision of the De-
7	partment of Transportation's statement of the national
8	highway-rail crossing inventory policy, procedures, and in-
9	struction for States and railroads that is in effect on the
10	date of enactment of the Railroad Safety Enhancement
11	Act of 2007, until such provision is superseded by a regu-
12	lation issued under this section.
13	"(d) Definitions.—In this section:
14	"(1) Crossing.—The term 'crossing' means a
15	location within a State, other than a location where
16	one or more railroad tracks cross one or more rail-
17	road tracks either at grade or grade-separated,
18	where—
19	"(A) a public highway, road, or street, or
20	a private roadway, including associated side-
21	walks and pathways, crosses one or more rail-
22	road tracks either at grade or grade-separated;
23	Ol'
24	"(B) a pathway explicitly authorized by the
25	property owner that is dedicated for the use of

1	nonvehicular traffic, including pedestrians,
2	bicyclists, and others, that is not associated
3	with a public highway, road, or street, or a pri-
4	vate roadway, crosses one or more railroad
5	tracks either at grade or grade-separated.
6	"(2) STATE.—The term 'State' means a State
7	of the United States, the District of Columbia, or
8	the Commonwealth of Puerto Rico.".
9	(b) Conforming Amendment.—The chapter anal-
10	ysis for chapter 201, as amended by section 203 of this
11	Act, is amended by inserting after the item relating to sec-
12	tion 20159 the following:
	"20160. 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 Railroad Safety Enhancement Act
20	of 2007 or within 6 months of a new crossing be-

coming operational, whichever occurs later, each

State shall report to the Secretary of Transportation

current information, including information about

warning devices and signage, as specified by the Sec-

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1 retary, concerning each previously unreported cross-2 ing located within its borders.

"(2) Periodic updating of crossing information.—On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2007 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2007, until such provision is superseded by a regulation issued under this subsection.

"(4) DEFINITIONS.—In this subsection, the terms 'crossing' and 'State' have the meaning given

1	those terms by section $20160(d)(1)$ and (2) , respec-
2	tively, of title 49.".
3	(d) Civil Penalties.—(1) Section 21301(a)(1) is
4	amended—
5	(A) by inserting "with section 20160 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) is amended by inserting
10	"The Secretary shall impose a civil penalty for a violation
11	of section 20160 of this title." after the first sentence.
12	SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-
13	ING PROBLEMS.
13 14	ing problems. (a) In General.—Section 20152 is amended to read
14	(a) In General.—Section 20152 is amended to read
14 15	(a) In General.—Section 20152 is amended to read as follows:
141516	(a) IN GENERAL.—Section 20152 is amended to read as follows: "§ 20152. Notification of grade crossing problems
14151617	(a) IN GENERAL.—Section 20152 is amended to read as follows: "§ 20152. Notification of grade crossing problems "Not later than 18 months after the date of enact-
14 15 16 17 18	(a) IN GENERAL.—Section 20152 is amended to read as follows: "\$ 20152. Notification of grade crossing problems "Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2007,
14 15 16 17 18 19	(a) In General.—Section 20152 is amended to read as follows: "§ 20152. Notification of grade crossing problems "Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall require each railroad.
14 15 16 17 18 19 20	(a) IN GENERAL.—Section 20152 is amended to read as follows: "\$ 20152. Notification of grade crossing problems "Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall require each railroad carrier to—
14 15 16 17 18 19 20 21	(a) In General.—Section 20152 is amended to read as follows: "\$20152. Notification of grade crossing problems "Not later than 18 months after the date of enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall require each railroad carrier to— "(1) establish and maintain a telephone service,

1	which it dispatches trains, to directly receive calls
2	reporting—
3	"(A) malfunctions of signals, crossing
4	gates, and other devices to promote safety at
5	the grade crossing of railroad tracks on those
6	rights-of-way and public or private roads;
7	"(B) disabled vehicles blocking railroad
8	tracks at such grade crossings;
9	"(C) obstructions to the view of a pedes-
10	trian or a vehicle operator for a reasonable dis-
11	tance in either direction of a train's approach;
12	Ol'
13	"(D) other safety information involving
14	such grade crossings;
15	"(2) upon receiving a report pursuant to para-
16	graph (1)(A) or (B), immediately contact trains op-
17	erating near the grade crossing to warn them of the
18	malfunction or disabled vehicle;
19	"(3) upon receiving a report pursuant to para-
20	graph (1)(A) or (B), and after contacting trains
21	pursuant to paragraph (2), contact, as necessary,
22	appropriate public safety officials having jurisdiction
23	over the grade crossing to provide them with the in-
24	formation necessary for them to direct traffic, assist

1	in the removal of the disabled vehicle, or carry out
2	other activities as appropriate;
3	"(4) upon receiving a report pursuant to para-
4	graph (1)(C) or (D), timely investigate the report,
5	remove the obstruction if possible, or correct the un-
6	safe circumstance; and
7	"(5) ensure the placement at each grade cross-
8	ing on rights-of-way that it owns of appropriately lo-
9	eated signs, on which shall appear, at a minimum—
10	"(A) a telephone number to be used for
11	placing calls described in paragraph (1) to the
12	railroad carrier dispatching trains on that
13	right-of-way;
14	"(B) an explanation of the purpose of that
15	telephone number; and
16	"(C) the grade crossing number assigned
17	for that crossing by the National Highway-Rail
18	Crossing Inventory established by the Depart-
19	ment of Transportation.".
20	(b) Conforming Amendment.—The chapter anal-
21	ysis for chapter 201 is amended by striking the item relat-
22	ing to section 20152 and inserting the following:
	"20152. Notification of grade crossing problems.".
23	SEC. 206. OPERATION LIFESAVER.
24	(a) Grant.—The Federal Railroad Administration

25 shall make a grant or grants to Operation Lifesaver to

- 1 carry out a public information and education program to
- 2 help prevent and reduce pedestrian, motor vehicle, and
- 3 other incidents, injuries, and fatalities, and to improve
- 4 awareness along railroad rights-of-way and at highway-rail
- 5 grade crossings. This includes development, placement,
- 6 and dissemination of Public Service Announcements in
- 7 newspaper, radio, television, and other media. It will also
- 8 include school presentations, brochures and materials,
- 9 support for public awareness campaigns, and related sup-
- 10 port for the activities of Operation Lifesaver's member or-
- 11 ganizations. As part of an educational program funded by
- 12 grants awarded under this section, Operation Lifesaver
- 13 shall provide information to the public on how to identify
- 14 and report to the appropriate authorities unsafe or mal-
- 15 functioning highway-rail grade crossings.
- 16 (b) PILOT PROGRAM.—The Secretary may allow
- 17 funds provided under subsection (a) also to be used by
- 18 Operation Lifesaver to implement a pilot program, to be
- 19 known as the Railroad Safety Public Awareness Program,
- 20 that addresses the need for targeted and sustained com-
- 21 munity outreach on the subjects described in subsection
- 22 (a). Such a pilot program shall be established in 1 or more
- 23 States identified under section 202 of this Act. In carrying
- 24 out such a pilot program Operation Lifesaver shall work
- 25 with the State, community leaders, school districts, and

1	public and private partners to identify the communities
2	at greatest risk, to develop appropriate measures to reduce
3	such risks, and shall coordinate the pilot program with
4	the State grade crossing action plan.
5	(e) AUTHORIZATION OF APPROPRIATIONS.—There
6	are authorized to be appropriated to the Federal Railroad
7	Administration for earrying out this section—
8	(1) \$2,000,000 for each of fiscal years 2008,
9	2009, and 2010; and
10	(2) \$1,500,000 for each of fiscal years 20011,
11	2012, and 2013.
12	SEC. 207. TRESPASSER PREVENTION AND HIGHWAY-RAIL
13	CROSSING SAFETY.
14	(a) Trespasser Prevention and Highway-Rail
15	GRADE CROSSING WARNING SIGN VIOLATIONS.—Section
	GRADE CROSSING WARNING SIGN VIOLATIONS.—Section 20151 is amended—
16	20151 is amended—
16 17	20151 is amended— (1) by striking the section heading and insert-
16 17 18	20151 is amended— (1) by striking the section heading and inserting the following:
16 17 18	20151 is amended— (1) by striking the section heading and inserting the following: "§ 20151. Railroad trespassing, vandalism, and high-
16 17 18 19 20	20151 is amended— (1) by striking the section heading and inserting the following: "§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign vio-
16 17 18 19 20 21	20151 is amended— (1) by striking the section heading and inserting the following: "§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy";
16 17 18 19 20 21	20151 is amended— (1) by striking the section heading and inserting the following: "§ 20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy"; (2) by striking subsection (a) and inserting the

1	shall evaluate and review current local, State, and Federal
2	laws regarding trespassing on railroad property, van-
3	dalism affecting railroad safety, and violations of highway
4	rail grade crossing warning signs and develop model pre-
5	vention strategies and enforcement laws to be used for the
6	consideration of State and local legislatures and govern-
7	mental entities. The first such evaluation and review con-
8	cerning violations of grade crossing signals shall be com-
9	pleted within 1 year after the date of enactment of the
10	Railroad Safety Enhancement Act of 2007. The Secretary
11	shall revise the model prevention strategies and enforce-
12	ment codes periodically.";
13	(3) by inserting "FOR TRESPASSING AND VAN-
14	DALISM PREVENTION" in the subsection heading of
15	subsection (b) after "Outreach Program";
16	(4) in subsection (c)—
17	(A) by redesignating paragraphs (1) and
18	(2) as subparagraphs (A) and (B), respectively
19	(B) by inserting "(1)" after "Model Leg-
20	ISLATION.—"; and
21	(C) by adding at the end the following new
22	paragraph:
23	"(2) Within 18 months after the date of enactment
24	of the Railroad Safety Enhancement Act of 2007, the Sec-
25	retary, after consultation with State and local govern-

1	ments and railroad earriers, shall develop and make avail-
2	able to State and local governments model State legisla-
3	tion providing for civil or criminal penaltics, or both, for
4	violations of highway-rail grade crossing warning signs.";
5	and
6	(5) by adding at the end the following new sub-
7	section:
8	"(d) Definition.—In this section, the term 'viola-
9	tion of highway-rail grade crossing warning signs' includes
10	any action by a motorist, unless directed by an authorized
11	safety officer—
12	"(1) to drive around a grade crossing gate in
13	a position intended to block passage over railroad
14	tracks;
15	"(2) to drive through a flashing grade crossing
16	signal;
17	"(3) to drive through a grade crossing with pas-
18	sive warning signs without ensuring that the grade
19	crossing could be safely crossed before any train ar-
20	rived; and
21	"(4) in the vicinity of a grade crossing, who
22	creates a hazard of an accident involving injury or
23	property damage at the grade crossing.".
24	(b) Conforming Amendment.—The chapter anal-

25 ysis for chapter 201 of title 49, United States Code, is

1	amended by striking the item relating to section 20151
2	and inserting the following:
	"20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy.".
3	(c) Educational or Awareness Program Items
4	FOR DISTRIBUTION.—Section 20134(a) is amended by
5	adding at the end of the subsection the following: "The
6	Secretary may purchase items of nominal value and dis-
7	tribute them to the public without charge as part of ar
8	educational or awareness program to accomplish the pur-
9	poses of this section and of any other sections of this title
10	related to improving the safety of highway-rail crossings
11	and to preventing trespass on railroad rights of way, and
12	the Secretary shall prescribe guidelines for the administra-
13	tion of this authority.".
14	SEC. 208. FOSTERING INTRODUCTION OF NEW TECH
15	NOLOGY TO IMPROVE SAFETY AT HIGHWAY
16	RAIL GRADE CROSSINGS.
17	(a) AMENDMENT.—Subchapter II of chapter 201, as
18	amended by section 204 of this Act, is further amended
19	by adding at the end the following:
20	"§ 20161. Fostering introduction of new technology to
21	improve safety at highway-rail grade
22	erossings
	=

"(a) FINDINGS.—The Congress finds the following:

"(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause loss of life and serious personal injury and also threaten the safety of rail transportation.

"(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

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

"(4) Since enactment of the Highway Safety
Act of 1973, over \$4,200,000,000 of Federal funding has been invested in safety improvements at
highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped
with active warning systems.

"(5) The emergence of new technologies supporting Intelligent Transportation Systems presents opportunities for more effective and affordable warnings and safer passage of highway users and trains
 at remaining highway-rail grade crossings.

"(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

"(7) Federal Railroad Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for qualification of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration's Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

"(b) Policy.—It is the policy of the Department of
Transportation to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation
shall carry out this policy in consultation with States and
necessary public and private entities.

21 "(e) EFFECT OF SECRETARIAL APPROVAL.—If the 22 Secretary approves new technology to provide warning to 23 highway users at a highway-rail grade crossing and such 24 technology is installed at a highway-rail grade crossing in 25 accordance with the conditions of the approval, this deter-

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- 1 mination preempts any State law concerning the adequacy
- 2 of the technology in providing warning at the crossing.
- 3 Under no circumstances may a person (including a State,
- 4 other public authority, railroad earrier, system designer,
- 5 or supplier of the technology) be held liable for damages
- 6 for any harm to persons or property because of an acci-
- 7 dent or incident at the crossing protected by such tech-
- 8 nology based upon the earrier's failure to properly inspect
- 9 and maintain such technology, if the earrier has inspected
- 10 and maintained the technology in accordance with the
- 11 terms of the Secretary's approval.".
- 12 (b) Conforming Amendment.—The chapter anal-
- 13 ysis for chapter 201, as amended by section 204 of this
- 14 Act, is further amended by inserting after the item relat-
- 15 ing to section 20160, the following:

"20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings.".

16 **TITLE III—FEDERAL RAILROAD**17 **ADMINISTRATION**

- 18 SEC. 301. HUMAN CAPITAL INCREASES.
- 19 (a) In General.—The Secretary shall increase the
- 20 number of Federal Railroad Administration employees
- 21 by—
- 22 (1) 25 employees in fiscal year 2008;
- (2) 50 employees in fiscal year 2009;
- 24 (3) 50 employees in fiscal year 2010;

1	(4) 25 employees in fiscal year 2011;
2	(5) 25 employees in fiscal year 2012; and
3	(6) 25 employees in fiscal year 2013.
4	(b) Functions.—In increasing the number of em-
5	ployees pursuant to subsection (a), the Secretary shall
6	focus on hiring employees—
7	(1) specifically trained to conduct on-site rail-
8	road and highway-rail grade crossing accident inves-
9	tigations;
10	(2) to implement the Railroad Safety Strategy;
11	(3) to administer and implement the Railroad
12	Safety Risk Reduction Pilot Program and the Rail-
13	road Safety Risk Reduction Program;
14	(4) to implement section 20166 of title 49,
15	United States Code, and to focus on encouragement
16	and oversight of the use of new or novel rail safety
17	technology;
18	(5) to conduct routine inspections and audits of
19	railroad and hazardous materials facilities and
20	records for compliance with railroad safety laws and
21	regulations; and
22	(6) to support the Federal Railroad Administra-
23	tion's safety mission.

1 SEC. 302. CIVIL PENALTY INCREASES.

- 2 (a) General Violations of Chapter 201.—Sec-
- 3 tion 21301(a)(2) is amended—
- 4 (1) by striking "\$10,000" and inserting
- 5 "\$25,000"; and
- 6 (2) by striking "\$20,000" and inserting
- 7 <u>"\$100,000".</u>
- 8 (b) Accident and Incident Violations of Chap-
- 9 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
- 10 209.—Section 21302(a)(2) is amended—
- 11 (1) by striking "\$10,000" and inserting
- 12 "\$25,000"; and
- 13 (2) by striking "\$20,000" and inserting
- 14 <u>"\$100,000".</u>
- 15 (c) VIOLATIONS OF CHAPTER 211.—Section
- 16 21303(a)(2) is amended—
- 17 (1) by striking "\$10,000" and inserting
- 18 "\$25,000"; and
- 19 (2) by striking "\$20,000" and inserting
- 20 "\$100,000".
- 21 SEC. 303. ENFORCEMENT REPORT.
- 22 (a) IN GENERAL.—Subchapter I of chapter 201, as
- 23 amended by section 107 of this Act, is amended by adding
- 24 at the end the following:

1 "§ 20120. Enforcement Report.

2	"(a) In General.—Not later than December 31,
3	2008, the Secretary of Transportation shall make avail-
4	able to the public and publish on its public website an an-
5	nual report that—
6	"(1) provides a summary of railroad safety and
7	hazardous materials compliance inspections and au-
8	dits that Federal or state inspectors conducted in
9	the prior fiscal year organized by type of alleged vio-
10	lation, including track, motive power and equipment,
11	signal, grade crossing, operating practices, accident
12	and incidence reporting, and hazardous materials;
13	"(2) provides a summary of all enforcement ac-
14	tions taken by the Secretary or the Federal Railroad
15	Administration during the prior fiscal year, includ-
16	ing
17	"(A) the number of civil penalties assessed
18	against railroad carriers, hazardous material
19	shippers, and individuals;
20	"(B) the initial amount of civil penalties
21	assessed against railroad carriers, hazardous
22	materials shippers, and individuals;
23	"(C) the number of civil penalty eases set-
24	tled against railroad carriers, hazardous mate-
25	rial shippers, and individuals;

1	"(D) the final amount of civil penalties as-
2	sessed against railroad carriers, hazardous ma-
3	terials shippers, and individuals;
4	"(E) the difference between the initial and
5	final amounts of civil penalties assessed against
6	railroad carriers, hazardous materials shippers,
7	and individuals;
8	"(F) the number of administrative hear-
9	ings requested and completed related to haz-
10	ardous materials transportation law violations
11	or enforcement actions against individuals;
12	"(G) the number of cases referred to the
13	Attorney General for civil or criminal prosecu-
14	tion;
15	"(H) the number and subject matter of all
16	compliance orders, emergency orders or pre-
17	cursor agreements;
18	"(3) analyzes the effect of the number of in-
19	spections conducted and enforcement actions taken
20	on the number and rate of reported accidents and
21	incidents and railroad safety;
22	"(4) identifies the number of locomotive engi-
23	neer certification denial or revocation cases appealed
24	to and the average length of time it took to be de-
25	cided by—

1	"(A) the Locomotive Engineer Review
2	Board;
3	"(B) an Administrative Hearing Officer or
4	Administrative Law Judge; or
5	"(C) the Administrator of the Federal
6	Railroad Administration;
7	"(5) provides any explanation regarding
8	changes in the Secretary's or the Federal Railroad
9	Administration's enforcement programs or policies
10	that may substantially affect the information re-
11	ported; and
12	"(6) includes any additional information that
13	the Secretary determines is useful to improve the
14	transparency of its enforcement program.".
15	(b) Conforming Amendment.—The chapter anal-
16	ysis for chapter 201, as amended by section 107 of this
17	Act, is amended by inserting after the item relating to see-
18	tion 20119 the following:
	"20120. Enforcement report.".
19	SEC. 304. PROHIBITION OF INDIVIDUALS FROM PER-
20	FORMING SAFETY-SENSITIVE FUNCTIONS
21	FOR A VIOLATION OF HAZARDOUS MATE-
22	RIALS TRANSPORTATION LAW.
23	Section 20111(e) is amended to read as follows:
24	"(c) Orders Prohibiting Individuals From Per-
25	FORMING SAFETY-SENSITIVE FUNCTIONS.

1 "(1) If an individual's violation of this part, 2 chapter 51 of this title, or a regulation prescribed, 3 or an order issued, by the Secretary under this part 4 or chapter 51 of this title is shown to make that in-5 dividual unfit for the performance of safety-sensitive functions, the Secretary, after providing notice and 6 7 an opportunity for a hearing, may issue an order 8 prohibiting the individual from performing safety-9 sensitive functions in the railroad industry for a 10 specified period of time or until specified conditions 11 are met.

12 <u>"(2) This subsection does not affect the Sec-</u> 13 <u>retary's authority under section 20104 of this title</u> 14 <u>to act on an emergency basis.".</u>

15 SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.

- Section 20107 is amended by inserting at the end the following:
- 18 "(e) Railroad Radio Communications.—
- "(1) In GENERAL.—To earry out the Sec20 retary's responsibilities under this part and under
 21 chapter 51, the Secretary may authorize officers,
 22 employees, or agents of the Secretary to conduct the
 23 following activities in circumstances the Secretary
 24 finds to be reasonable:

1	"(A) Intercepting a radio communication,
2	with or without the consent of the sender or
3	other receivers of the communication, but only
4	where such communication is broadcast or
5	transmitted over a radio frequency which is—
6	"(i) authorized for use by one or more
7	railroad carriers by the Federal Commu-
8	nications Commission; and
9	"(ii) primarily used by such railroad
10	carriers for communications in connection
11	with railroad operations.
12	"(B) Communicating the existence, con-
13	tents, substance, purport, effect, or meaning of
14	the communication, subject to the restrictions
15	in paragraph (3).
16	"(C) Receiving or assisting in receiving the
17	communication (or any information therein con-
18	tained).
19	"(D) Disclosing the contents, substance,
20	purport, effect, or meaning of the communica-
21	tion (or any part thereof of such communica-
22	tion) or using the communication (or any infor-
23	mation contained therein), subject to the re-
24	strictions in paragraph (3), after having re-
25	coixed the communication or acquired knowl-

1	edge of the contents, substance, purport, effect,
2	or meaning of the communication (or any part
3	thereof).
4	"(E) Recording the communication by any
5	means, including writing and tape recording.
6	"(2) ACCIDENT PREVENTION AND ACCIDENT
7	INVESTIGATION.—The Secretary, and officers, em-
8	ployees, and agents of the Department of Transpor-
9	tation authorized by the Secretary, may engage in
10	the activities authorized by paragraph (1) for the
11	purpose of accident prevention and accident inves-
12	tigation.
13	"(3) USE OF INFORMATION.—(A) Information
14	obtained through activities authorized by paragraphs
15	(1) and (2) shall not be admitted into evidence in
16	any administrative or judicial proceeding except—
17	"(i) in a prosecution of a felony under
18	Federal or State criminal law; or
19	"(ii) to impeach evidence offered by a
20	party other than the Federal Government re-
21	garding the existence, electronic characteristics,
22	content, substance, purport, effect, meaning, or
23	timing of, or identity of parties to, a commu-
24	nication intercepted pursuant to paragraphs (1)
25	and (2) in proceedings pursuant to section

1 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

"(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

"(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

"(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

"(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the in-

1	formation obtained thereby, under a provision of law
2	other than this subsection.
3	"(4) Application with other law.—Section
4	705 of the Communications Act of 1934 (47 U.S.C.
5	605) and chapter 119 of title 18 shall not apply to
6	conduct authorized by and pursuant to this sub-
7	section.".
8	SEC. 306. EMERGENCY WAIVERS.
9	Section 20103 is amended—
10	(1) by striking subsection (e) and inserting the
11	following:
12	"(e) Hearings.—Except as provided in subsection
13	(g) of this section, the Secretary shall conduct a hearing
14	as provided by section 553 of title 5 when prescribing a
15	regulation or issuing an order under this chapter, includ-
16	ing a regulation or order establishing, amending, or
17	waiving compliance with a railroad safety regulation pre-
18	scribed or order issued under this chapter. An opportunity
19	for an oral presentation shall be provided."; and
20	(2) by adding at the end thereof the following:
21	"(g) Emergency Waivers.—
22	"(1) IN GENERAL.—The Secretary shall pre-
23	scribe procedures concerning the handling of re-
24	quests for waivers of regulations prescribed or or-
25	ders issued under this chapter in emergency situa-

er procedures without first providing an opportunity for public comment. The Secretary may grant a waiver request if the waiver is directly related to the emergency event or necessary to aid in any recovery efforts and is in the public interest and consistent with railroad safety. The relief shall not extend for a period of more than 9 months, including the period of the relief granted under any renewal of the waiver pursuant to the emergency waiver procedures. For matters that may impact the missions of the Department of Homeland Security, the Secretary of Transportation shall consult and coordinate with the Secretary of Homeland Security as soon as practicable.

"(2) Waiver before Hearing.—If, under the emergency waiver procedures established under paragraph (1) of this subsection, the Secretary determines the public interest would be better served by addressing a request for waiver prior to providing an opportunity for a hearing under section 553 of title 5 and an oral presentation, the Secretary may act on the waiver request and, if the request is granted, the Secretary shall subsequently provide notice and an opportunity for a hearing and oral presentation and oral presentation.

entation pursuant to procedures prescribed under paragraph (1) of this subsection. Should the Secretary receive comment or a request for oral presentation on a waiver request after granting the waiver, the Secretary may take any necessary action with regard to that waiver (including rescission or modification) based on the newly acquired information.

EVENT.—In this subsection, the terms 'emergency situation' and 'emergency event' mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.".

19 SEC. 307. FEDERAL RAIL SECURITY OFFICERS' ACCESS TO

- **INFORMATION.**
- 21 (a) AMENDMENT.—Chapter 281 is amended by add-
- 22 ing at the end thereof the following:

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1	"§ 28104. Federal rail security officers' access to in-
2	formation
3	"(a) Access to Records or Database Systems
4	BY THE ADMINISTRATOR OF THE FEDERAL RAILROAD
5	Administration.—
6	"(1) In General.—The Administrator of the
7	Federal Railroad Administration is authorized to
8	have access to a system of documented criminal jus-
9	tice information maintained by the Department of
10	Justice or by a State for the purpose of carrying out
11	the civil and administrative responsibilities of the
12	Administrator to protect the safety, including secu-
13	rity, of railroad operations and for other purposes
14	authorized by law, including the National Crime
15	Prevention and Privacy Compact (42 U.S.C. 14611-
16	14616). The Administrator shall be subject to the
17	same conditions or procedures established by the De-
18	partment of Justice or State for access to such an
19	information system by other governmental agencies
20	with access to the system.
21	"(2) Limitation.—The Administrator may not
22	use the access authorized under paragraph (1) to
23	conduct criminal investigations.
24	"(b) DESIGNATED EMPLOYEES OF THE FEDERAL
25	RAILROAD ADMINISTRATION.—The Administrator shall

26 by order, designate each employee of the Administration

- whose primary responsibility is rail security who shall
- earry out the authority described in subsection (a). The
- Administrator shall strictly limit access to a system of doc-
- 4 umented criminal justice information to persons with secu-
- rity responsibilities and with appropriate security clear-
- ances. Such a designated employee may, insofar as author-
- ized or permitted by the National Crime Prevention and
- 8 Privacy Compact or other law or agreement governing an
- affected State with respect to such a State—

10 "(1) have access to and receive criminal history, driver, vehicle, and other law enforcement informa-12 tion contained in the law enforcement databases of 13 the Department of Justice, or of any jurisdiction in 14 a State in the same manner as a police officer em-15 ployed by a State or local authority of that State 16 who is certified or commissioned under the laws of 17 that State;

> "(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commis-

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- sioned under the laws of that State has access and
 in the same manner as such police officer; or
- "(3) receive Federal, State, or local government
 communications with a police officer employed by a

 State or local authority in that State in the same
 manner as a police officer employed by a State or
 local authority in that State who is commissioned
 under the laws of that State.
- 9 "(e) System of Documented Criminal Justice
- 10 Information Defined.—In this section, the term 'sys-
- 11 tem of documented criminal justice information' means
- 12 any law enforcement database, systems, or communica-
- 13 tions containing information concerning identification,
- 14 eriminal history, arrests, convictions, arrest warrants, or
- 15 wanted or missing persons, including the National Crime
- 16 Information Center and its incorporated criminal history
- 17 databases and the National Law Enforcement Tele-
- 18 communications System.".
- 19 (b) Conforming Amendment.—The chapter anal-
- 20 ysis for chapter 281 is amended by adding at the end the
- 21 following:

"28104. Federal rail security officers' access to criminal history and other law enforcement records, systems, and communications.".

1	SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRA-
2	TION'S WEBSITE.
3	(a) In General.—The Secretary shall update the
4	Federal Railroad Administration's public website to better
5	facilitate the ability of the public, including those individ-
6	uals who are not regular users of the public website, to
7	find current information regarding the Federal Railroad
8	Administration's activities.
9	(b) Public Reporting of Violations.—On the
10	Federal Railroad Administration's public website's home
11	page, the Secretary shall provide a mechanism for the pub-
12	lie to submit written reports of potential violations of Fed-
13	eral railroad safety and hazardous materials transpor-
14	tation laws, regulations and orders to the Federal Railroad
15	Administration.
16	TITLE IV—RAILROAD SAFETY
17	ENHANCEMENTS
18	SEC. 401. EMPLOYEE TRAINING.
19	(a) In General.—Subchapter H of chapter 201, as
20	amended by section 208 of this Act, is further amended
21	by adding at the end the following:
22	<u>"§ 20162. Employee training</u>
23	"(a) In General.—Not later than 1 year after the
24	date of enactment of the Railroad Safety Enhancement
25	Act of 2007, the Secretary of Transportation shall issue
26	regulations requiring railroad earriers and railroad earrier

- 1 contractors and subcontractors to develop training plans
- 2 for crafts and classes of employees, as the Secretary deter-
- 3 mines appropriate.
- 4 "(b) CONTENTS.—The Secretary shall require that
- 5 each training plan—
- 6 "(1) elearly identify the class of eraft of em-
- 7 ployees to which the plan applies;
- 8 "(2) require that employees be trained on the
- 9 requirements of relevant Federal railroad safety
- 10 laws, regulations, and orders;
- 11 "(3) require employees to be tested or otherwise
- 12 demonstrate their proficiency in the subject matter
- of the training; and
- 14 "(4) contain any other relevant information
- 15 that the Secretary deems appropriate.
- 16 "(e) Submission for Approval.—The Secretary
- 17 shall require each railroad carrier, railroad carrier con-
- 18 tractor, and railroad earrier subcontractor to submit its
- 19 training plan to the Federal Railroad Administration for
- 20 review and approval.
- 21 "(d) EXEMPTION.—The Secretary may exempt rail-
- 22 road earriers and railroad earrier contractors and sub-
- 23 contractors from submitting training plans covering em-
- 24 ployees for which the Secretary has issued training regula-

1	tions before the date of enactment of the Railroad Safety
2	Enhancement Act of 2007.".
3	(b) Conforming Amendment.—The chapter anal-
4	ysis for chapter 201, as amended by section 208 of this
5	Act, is further amended by adding at the end thereof the
6	following:
	"20162. Employee training.".
7	SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASS-
8	ES OF EMPLOYEES.
9	(a) REPORT.—Not later than 1 year after the date
10	of enactment of this Act, the Secretary shall issue a report
11	to the Senate Committee on Commerce, Science, and
12	Transportation and the House of Representatives Com-
13	mittee on Transportation and Infrastructure about wheth-
14	er the certification of certain crafts or classes of railroad
15	earrier or railroad earrier contractor or subcontractor em-
16	ployees is necessary to reduce the number and rate of acci-
17	dents and incidents or to improve railroad safety.
18	(b) Crafts and Classes To Be Considered.—As
19	part of the report, the Secretary shall consider—
20	(1) conductors;
21	(2) carmen;
22	(3) onboard service workers;
23	(4) rail welders; and
24	(5) any other eraft or class of employees that

the Secretary determines appropriate.

1	(e) REGULATIONS.—The Secretary may issue regula-
2	tions requiring the certification of certain crafts or classes
3	of employees that the Secretary determines pursuant to
4	the report required by subsection (a) are necessary to re-
5	duce the number and rate of accidents and incidents or
6	to improve railroad safety
7	SEC. 403. TRACK INSPECTION TIME STUDY.
8	(a) FINDINGS.—The Congress finds the following:
9	(1) Rail revenue ton miles have increased by
10	approximately 25 percent in the past 10 years.
11	(2) Federal track safety regulations require
12	track inspectors to complete inspections by walking
13	or in a hi-rail vehicle and are often time intensive.
14	(3) Track inspectors are required to receive per-
15	mission to occupy track to complete inspections,
16	which often delays trains from operating through the
17	segment of track being inspected, especially on high-
18	density lines.
19	(4) Obtaining track time to complete required
20	track repairs of defects identified during track in-
21	spections can further delay train operations.
22	(5) The competition for track time between
23	track inspectors and trains potentially can leave seri-
24	ous rail defects undetected and unrepaired, increas-
25	ing the risk of derailments, accidents and injuries.

1	(6) Results of rail and track defect detection
2	technology studies have shown promise that such
3	technologies can better identify or predict the most
4	serious track problems, which could reduce inspec-
5	tion time or decrease the need for as frequent track
6	inspections.
7	(7) Being able to better detect track defects or
8	predict when track defects will occur by using new
9	or novel inspection technology could assist railroads
10	in maximizing track inspection time and more effi-
11	ciently using track repair time.
12	(b) STUDY.—Not later that 2 years after the date
13	of enactment of this Act, the Secretary shall—
14	(1) complete a study to determine whether—
15	(A) the required intervals of track inspec-
16	tions for each class of track should be amended;
17	(B) track remedial action requirements
18	should be amended;
19	(C) different track inspection and repair
20	priorities or methods should be required; and
21	(2) issue recommendations for changes to the
22	Federal track safety standards in part 213 of title
23	49, Code of Federal Regulations, based on the re-
24	sults of the study.

1	(e) Considerations.—In conducting the study the
2	Secretary shall consider—
3	(1) the most current rail flaw, rail defect
4	growth, rail fatigue, and other relevant track- or
5	rail-related research and studies;
6	(2) the availability and feasibility of developing
7	and implementing new or novel rail inspection tech-
8	nology for routine track inspections;
9	(3) information from National Transportation
10	Safety Board or Federal Railroad Administration
11	accident investigations where track defects were the
12	cause or a contributing cause; and
13	(4) other relevant information, as determined
14	by the Secretary.
15	(d) UPDATE OF REGULATIONS.—Not later than 2
16	years after the completion of the study required by sub-
17	section (b), the Secretary shall issue regulations imple-
18	menting the recommendations of the study.
19	SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT
20	STATION PLATFORM GAPS.
21	Not later than 2 years after the enactment of this
22	Act, the Secretary shall complete a study to determine the
23	most safe, efficient, and cost-effective way to improve the
24	safety of rail passenger station platforms gaps in order
25	to increase compliance with the requirements under the

- 1 Americans with Disabilities Act (42 U.S.C. 12101 et seq.),
- 2 including regulations issued pursuant to section 504 of
- 3 such Act (42 U.S.C. 12204) and to minimize the safety
- 4 risks associated with such gaps for railroad passengers
- 5 and employees.
- 6 SEC. 405. USE OF DISTRACTING DEVICES IN LOCOMOTIVE
- 7 CABS.
- 8 (a) In General.—Not later than 3 years after the
- 9 date of enactment of this Act, the Secretary shall complete
- 10 a study on the prevalence of the use of personal electronic
- 11 devices, including cell phones, video games, and other dis-
- 12 tracting devices, by safety-related railroad employees (as
- 13 defined in section 20102(4) of title 49, United States
- 14 Code, during the performance of such employees' duties.
- 15 The study shall consider the safety impact of the use of
- 16 such devices.
- 17 (b) REPORT.—Not later than 6 months after the
- 18 completion of the study, the Secretary shall issue a report
- 19 on the study to the Senate Committee on Commerce,
- 20 Science, and Transportation and the House of Represent-
- 21 atives Committee on Transportation and Infrastructure.
- 22 (e) Prohibitory Authority.—Based on the con-
- 23 clusions of the study required under (a), the Secretary of
- 24 Transportation may prohibit the use of personal electronic
- 25 devices, such as cell phones, video games, or other elec-

- 1 tronic devices that may distract employees from safely per-
- 2 forming their duties, unless those devices are being used
- 3 according to railroad operating rules or for other work
- 4 purposes.

5 SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.

- 6 (a) IN GENERAL.—Subchapter II of chapter 201, as
- 7 amended by section 401 of this Act, is further amended
- 8 by adding at the end thereof the following:

9 "\\$ 20163. Railroad safety technology grants

- 10 "(a) Grant Program.—The Secretary of Transpor-
- 11 tation shall establish a grant program for the deployment
- 12 of train control technologies, train control component tech-
- 13 nologies, processor-based technologies, electronically con-
- 14 trolled pneumatic brakes, rail integrity inspection systems,
- 15 rail integrity warning systems, switch position indicators,
- 16 remote control power switch technologies, track integrity
- 17 circuit technologies, and other new or novel railroad safety
- 18 technology.

19 "(b) Grant Criteria.

- 20 "(1) ELIGIBILITY.—Grants shall be made under
- 21 this section to eligible passenger and freight railroad
- 22 carriers, railroad suppliers, and State and local gov-
- 23 ernments for projects described in subsection (a)
- 24 that have a public benefit of improved safety and
- 25 network efficiency.

1	"(2) Considerations.—Priority shall be given
2	to projects that—
3	"(A) focus on making technologies inter-
4	operable between railroad systems, such as
5	train control technologies;
6	"(B) provide incentives for train control
7	technology deployment on high-risk corridors,
8	such as those that have high volumes of haz-
9	ardous materials shipments or over which com-
10	muter or passenger trains operate; or
11	"(C) benefit both passenger and freight
12	safety and efficiency.
13	"(3) Technology implementation plan.—
14	Grants may not be awarded under this section to en-
15	tities that fail to develop and submit to the Sec-
16	retary a technology implementation plan as required
17	by section $20157(d)(2)$.
18	"(e) Authorization of Appropriations.—There
19	are authorized to be appropriated to the Secretary of
20	Transportation \$20,000,000 for each of fiscal years 2008
21	through 2013 to carry out this section. Amounts appro-
22	priated pursuant to this section shall remain available
23	until expended.".
24	(b) Conforming Amendment.—The chapter anal-
25	ysis for chapter 201, as amended by section 401 of this

1	Act, is further amended by inserting after the item relat-
2	ing to section 20163 the following:
	"20163. Railroad safety technology grants.".
3	SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-
4	MENT GRANTS.
5	(a) In General.—Subchapter H of chapter 201, as
6	amended by section 406 of this Act, is further amended
7	by adding at the end thereof the following:
8	"§ 20164. Railroad safety infrastructure improvement
9	grants
10	"(a) Grant Program.—The Secretary of Transpor-
11	tation shall establish a grant program for safety improve-
12	ments to railroad infrastructure, including the acquisition,
13	improvement, or rehabilitation of intermodal or rail equip-
14	ment or facilities, including track, bridges, tunnels, yards,
15	buildings, passenger stations, facilities, and maintenance
16	and repair shops.
17	"(b) Eligibility.—Grants shall be made under this
18	section to eligible passenger and freight railroad earriers,
19	and State and local governments for projects described in
20	subsection (a).
21	"(e) Considerations.—In awarding grants the Sec-
22	retary shall consider, at a minimum—
23	"(1) the age and condition of the rail infra-
24	structure of the applicant;

1	"(2) the railroad's safety record, including acci-
2	dent and incident numbers and rates;
3	"(3) the volume of hazardous materials trans-
4	ported by the railroad;
5	"(4) the operation of passenger trains over the
6	railroad; and
7	"(5) whether the railroad has submitted a rail-
8	road safety risk reduction program, as required by
9	section 20157.
10	"(d) AUTHORIZATION OF APPROPRIATIONS.—There
11	are authorized to be appropriated to the Secretary of
12	Transportation \$15,000,000 for each of fiscal years 2008
13	through 2013 to carry out this section. Amounts appro-
14	priated pursuant to this subsection shall remain available
15	until expended.".
16	(b) Conforming Amendment.—The chapter anal-
17	ysis for chapter 201, as amended by section 406 of this
18	Act, is amended by inserting after the item relating to see-
19	tion 20163 the following:
	"20164. Railroad safety infrastructure improvement grants.".
20	SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR
21	PROVISION.
22	Section 20303 is amended by adding at the end the
23	following:

1	"(d) Additional Conditions for Movement To
2	MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHI-
3	CLES.—
4	"(1) IN GENERAL.—The Secretary of Transpor-
5	tation may impose conditions for the movement of a
6	defective or insecure vehicle to make repairs in addi-
7	tion to those conditions set forth in subsection (a)
8	by prescribing regulations or issuing orders as nec-
9	essary.
10	"(2) Necessity of movement.—The move-
11	ment of a defective or insecure vehicle from a loca-
12	tion may be necessary to make repairs of the vehicle
13	even though a mobile repair truck capable of making
14	the repairs has gone to the location on an irregular
15	basis (as specified in regulations prescribed by the
16	Secretary).
17	"(e) Definitions.—In this section:
18	"(1) Nearest.—the term 'nearest' means the
19	closest in the forward direction of travel for the de-
20	fective or insecure vehicle.
21	"(2) PLACE AT WHICH THE REPAIRS CAN BE
22	MADE.—The term 'place at which the repairs can be
23	made' means—
24	"(A) a location with a fixed facility for
25	conducting the repairs that are necessary to

1	bring the defective or insecure vehicle into com-
2	pliance with this chapter; or
3	"(B) a location where a mobile repair
4	truck capable of making the repairs that are
5	necessary to bring the defective or insecure ve-
6	hiele into compliance with this chapter makes
7	the same kind of repair at the location regularly
8	(as specified in regulations prescribed by the
9	Secretary).".
10	SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECH-
11	NOLOGY.
12	(a) In General.—Subchapter II of chapter 201, as
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13	amended by section 407 of this Act, is further amended
13	,
13 14	,
13 14 15	by adding at the end the following new section:
13 14 15 16	by adding at the end the following new section: "\\$ 20165. Development and use of rail safety tech-
13 14 15 16	by adding at the end the following new section: "§ 20165. Development and use of rail safety technology
13 14 15 16 17	by adding at the end the following new section: "§ 20165. Development and use of rail safety technology "(a) IN GENERAL.—Not later than 1 year after en-
13 14 15 16 17 18	by adding at the end the following new section: "\$20165. Development and use of rail safety technology "(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007,
13 14 15 16 17 18 19 20	by adding at the end the following new section: "\$ 20165. Development and use of rail safety technology "(a) In General.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall issue standards,
13 14 15 16 17 18 19 20 21	by adding at the end the following new section: "\$20165. Development and use of rail safety technology "(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall issue standards, guidance, regulations, or orders to encourage the develop-
13 14 15 16 17 18 19 20 21	by adding at the end the following new section: "\$20165. Development and use of rail safety technology "(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall issue standards, guidance, regulations, or orders to encourage the development, use, and implementation of rail safety technology
13 14 15 16 17 18 19 20 21 22	by adding at the end the following new section: "\$20165. Development and use of rail safety technology "(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall issue standards, guidance, regulations, or orders to encourage the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section

1	"(1) switch position monitoring devices;
2	"(2) radio, remote control or other power-as-
3	sisted switches;
4	"(3) hot box, high water or earthquake detec-
5	tors;
6	"(4) remote control locomotive zone limiting de-
7	vices;
8	"(5) slide fences;
9	"(6) grade crossing video monitors;
10	"(7) track integrity warning systems; or
11	"(8) other similar rail safety technologies, as
12	determined by the Secretary.
13	"(b) DARK TERRITORY DEFINED.—In this section,
14	the term 'dark territory' means any territory in a railroad
15	system that does not have a signal or train control system
16	installed or operational.".
17	(b) Conforming Amendment.—The chapter anal-
18	ysis for chapter 201, as amended by section 407 of this
19	Act, is amended by inserting after the item relating to sec-
20	tion 20164 the following:
	"20165. Development and use of rail safety technology.".
21	SEC. 410. EMPLOYEE SLEEPING QUARTERS.
22	Section 21106 is amended—
23	(1) by inserting "(a) IN GENERAL.—" before
24	"A railroad carrier" and

1	(2) by adding at the end the following new sub-
2	section:
3	"(b) CAMP CARS.—Effective 12 months after the
4	date of enactment of the Railroad Safety Enhancement
5	Act of 2007, a railroad carrier and its officers and agents
6	may not provide sleeping quarters through the use of camp
7	ears, as defined in Appendix C to part 228 of title 49,
8	Code of Federal Regulations, for employees and any indi-
9	viduals employed to maintain the right of way of a railroad
10	earrier.".
11	TITLE V—RAIL PASSENGER
12	DISASTER FAMILY ASSISTANCE
13	SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION
14	SAFETY BOARD TO FAMILIES OF PAS-
15	SENGERS INVOLVED IN RAIL PASSENGER AC-
16	CIDENTS.
17	(a) In General.—Chapter 11 is amended by adding
18	at the end of subchapter III the following:
19	"§ 1139. Assistance to families of passengers involved
20	in rail passenger accidents
21	"(a) In General.—As soon as practicable after
22	being notified of a rail passenger accident within the
23	United States involving a rail passenger carrier and result-
24	ing in a major loss of life, the Chairman of the National
25	Transportation Safety Board shall—

1	"(1) designate and publicize the name and
2	phone number of a director of family support serv-
3	ices who shall be an employee of the Board and shall
4	be responsible for acting as a point of contact within
5	the Federal Government for the families of pas-
6	sengers involved in the accident and a liaison be-
7	tween the rail passenger carrier and the families;
8	and
9	"(2) designate an independent nonprofit organi-
10	zation, with experience in disasters and posttrauma
11	communication with families, which shall have pri-
12	mary responsibility for coordinating the emotional
13	eare and support of the families of passengers in-
14	volved in the accident.
15	"(b) RESPONSIBILITIES OF THE BOARD.—The Board
16	shall have primary Federal responsibility for—
17	"(1) facilitating the recovery and identification
18	of fatally injured passengers involved in an accident
19	described in subsection (a); and
20	"(2) communicating with the families of pas-
21	sengers involved in the accident as to the roles of—
22	"(A) the organization designated for an ac-
23	eident under subsection $(a)(2)$;
24	"(B) Government agencies; and
25	"(C) the rail passenger carrier involved,

1	with respect to the accident and the post-accident
2	activities.
3	"(c) Responsibilities of Designated Organiza-
4	TION.—The organization designated for an accident under
5	subsection (a)(2) shall have the following responsibilities
6	with respect to the families of passengers involved in the
7	aceident:
8	"(1) To provide mental health and counseling
9	services, in coordination with the disaster response
10	team of the rail passenger carrier involved.
11	"(2) To take such actions as may be necessary
12	to provide an environment in which the families may
13	grieve in private.
14	"(3) To meet with the families who have trav-
15	eled to the location of the accident, to contact the
16	families unable to travel to such location, and to
17	contact all affected families periodically thereafter
18	until such time as the organization, in consultation
19	with the director of family support services des-
20	ignated for the accident under subsection (a)(1), de-
21	termines that further assistance is no longer needed
22	"(4) To arrange a suitable memorial service, in
23	consultation with the families.
24	"(d) Passenger Lists.—
25	"(1) REQUESTS FOR PASSENGER LISTS—

1 "(A) REQUESTS BY DIRECTOR OF FAMILY 2 SUPPORT SERVICES.—It shall be the responsi-3 bility of the director of family support services 4 designated for an accident under subsection 5 (a)(1) to request, as soon as practicable, from 6 the rail passenger carrier involved in the acci-7 dent a list, which is based on the best available 8 information at the time of the request, of the 9 names of the passengers that were aboard the 10 rail passenger carrier's train involved in the accident. A rail passenger carrier shall use rea-12 sonable efforts, with respect to its unreserved 13 trains, and passengers not holding reservations 14 on its other trains, to ascertain the names of 15 passengers aboard a train involved in an acci-16 dent.

> "(B) Requests by Designated Organi-ZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

"(2) Use of information.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide infor-

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- 88 mation on the list about a passenger to the family 1 2 of the passenger to the extent that the director of 3 family support services or the organization considers 4 appropriate. 5 "(e) Continuing RESPONSIBILITIES THE Board.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the max-8 imum extent practicable, ensure that the families of passengers involved in the accident— 10 "(1) are briefed, prior to any public briefing, 11 about the accident and any other findings from the 12 investigation; and 13 "(2) are individually informed of and allowed to 14 attend any public hearings and meetings of the 15 Board about the accident.
- 16 "(f) Use of Rail Passenger Carrier Re17 Sources.—To the extent practicable, the organization
 18 designated for an accident under subsection (a)(2) shall
 19 coordinate its activities with the rail passenger carrier in20 volved in the accident to facilitate the reasonable use of
 21 the resources of the earrier.
- 22 "(g) Prohibited Actions.—
- 23 "(1) ACTIONS TO IMPEDE THE BOARD.—No
 24 person (including a State or political subdivision)
 25 may impede the ability of the Board (including the

director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

"(2) Unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

"(3) PROHIBITION ON ACTIONS TO PREVENT
MENTAL HEALTH AND COUNSELING SERVICES.—No
State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident

1	under subsection (a)(1) may extend such period for
2	not to exceed an additional 30 days if the director
3	determines that the extension is necessary to meet
4	the needs of the families and if State and local au-
5	thorities are notified of the determination.
6	"(h) DEFINITIONS.—In this section:
7	"(1) RAIL PASSENGER ACCIDENT.—The term
8	'rail passenger accident' means any rail passenger
9	disaster occurring in the provision of—
10	"(A) interstate intercity rail passenger
11	transportation (as such term is defined in sec-
12	tion 24102); or
13	"(B) interstate or intrastate high-speed
14	rail (as such term is defined in section 26105)
15	transportation,
16	regardless of its cause or suspected cause.
17	"(2) RAIL PASSENGER CARRIER.—The term
18	'rail passenger carrier' means a rail carrier pro-
19	viding—
20	"(A) interstate intercity rail passenger
21	transportation (as such term is defined in sec-
22	tion 24102); or
23	"(B) interstate or intrastate high-speed
24	rail (as such term is defined in section 26105)
25	transportation.

1	except that such term does not include a tourist, his-
2	toric, seenic, or excursion rail earrier.
3	"(3) Passenger.—The term 'passenger' in-
4	eludes—
5	"(A) an employee of a rail passenger car-
6	rier aboard a train;
7	"(B) any other person aboard the train
8	without regard to whether the person paid for
9	the transportation, occupied a seat, or held a
10	reservation for the rail transportation; and
11	"(C) any other person injured or killed in
12	the accident.
13	"(i) Limitation on Statutory Construction.—
14	Nothing in this section may be construed as limiting the
15	actions that a rail passenger carrier may take, or the obli-
16	gations that a rail passenger carrier may have, in pro-
17	viding assistance to the families of passengers involved in
18	a rail passenger accident.
19	"(j) Relinquishment of Investigative Pri-
20	ORITY.—
21	"(1) General Rule.—This section (other than
22	subsection (g)) shall not apply to a railroad accident
23	if the Board has relinquished investigative priority
24	under section 1131(a)(2)(B) and the Federal agency
25	to which the Board relinquished investigative pri-

1	ority is willing and able to provide assistance to the
2	victims and families of the passengers involved in
3	the accident.
4	"(2) Board assistance.—If this section does
5	not apply to a railroad accident because the Board
6	has relinquished investigative priority with respect to
7	the accident, the Board shall assist, to the maximum
8	extent possible, the agency to which the Board has
9	relinquished investigative priority in assisting fami-
10	lies with respect to the accident.".
11	(b) Conforming Amendment.—The table of sec-
12	tions for such chapter is amended by inserting after the
13	item relating to section 1138 the following:
	"1139. Assistance to families of passengers involved in rail passenger accidents.":
14	SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAM-
15	ILIES OF PASSENGERS INVOLVED IN RAIL
16	PASSENGER ACCIDENTS.
17	(a) In General.—Chapter 243 is amended by add-
18	ing at the end the following:
19	"§24316. Plans to address needs of families of pas-
20	sengers involved in rail passenger acci-
21	dents
22	"(a) Submission of Plan.—Not later than 6
23	months after the date of the enactment of the Railroad
24	Safety Enhancement Act of 2007, a rail passenger earrier

- 1 shall submit to the Chairman of the National Transpor-
- 2 tation Safety Board, the Secretary of Transportation, and
- 3 the Secretary of Homeland Security a plan for addressing
- 4 the needs of the families of passengers involved in any rail
- 5 passenger accident involving a rail passenger carrier inter-
- 6 eity train and resulting in a loss of life.
- 7 "(b) Contents of Plans.—The plan to be sub-
- 8 mitted by a rail passenger carrier under subsection (a)
- 9 shall include, at a minimum, the following:

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- "(1) A process by which a rail passenger earrier will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for a rail passenger carrier to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.
 - "(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after

such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as a rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within a rail passenger carrier's control; that any possession of the passenger within a rail passenger carrier's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within a rail passenger carrier's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same

- 1 as the treatment of the families of revenue pas-
- 2 sengers.
- 3 "(7) An assurance that a rail passenger earrier
- 4 will provide adequate training to its employees and
- 5 agents to meet the needs of survivors and family
- 6 members following an accident.
- 7 "(e) Use of Information.—Neither the National
- 8 Transportation Safety Board, the Secretary of Transpor-
- 9 tation, the Secretary of Homeland Security, nor a rail pas-
- 10 senger carrier may release any personal information on
- 11 a list obtained under subsection (b)(1) but may provide
- 12 information on the list about a passenger to the family
- 13 of the passenger to the extent that the Board or a rail
- 14 passenger carrier considers appropriate.
- 15 "(d) Limitation on Liability.—A rail passenger
- 16 earrier shall not be liable for damages in any action
- 17 brought in a Federal or State court arising out of the per-
- 18 formance of a rail passenger carrier under this section in
- 19 preparing or providing a passenger list, or in providing
- 20 information concerning a train reservation, pursuant to a
- 21 plan submitted by a rail passenger carrier under sub-
- 22 section (b), unless such liability was caused by a rail pas-
- 23 senger carrier's conduct.
- 24 "(e) Limitation on Statutory Construction.—
- 25 Nothing in this section may be construed as limiting the

- 1 actions that a rail passenger carrier may take, or the obli-
- 2 gations that a rail passenger carrier may have, in pro-
- 3 viding assistance to the families of passengers involved in
- 4 a rail passenger accident.
- 5 "(f) Funding.—Out of funds appropriated pursuant
- 6 to section 20117(a)(1)(A), there shall be made available
- 7 to the Secretary of Transportation \$500,000 for fiscal
- 8 year 2008 to earry out this section. Amounts made avail-
- 9 able pursuant to this subsection shall remain available
- 10 until expended.".
- 11 (b) Conforming Amendment.—The chapter anal-
- 12 ysis for chapter 243 is amended by adding at the end the
- 13 following:

"24316. Plan to assist families of passengers involved in rail passenger accidents."

14 SEC. 503. ESTABLISHMENT OF TASK FORCE.

- 15 (a) ESTABLISHMENT.—The Secretary, in cooperation
- 16 with the National Transportation Safety Board, organiza-
- 17 tions potentially designated under section 1139(a)(2) of
- 18 title 49, United States Code, rail passenger carriers, and
- 19 families which have been involved in rail accidents, shall
- 20 establish a task force consisting of representatives of such
- 21 entities and families, representatives of passenger rail car-
- 22 rier employees, and representatives of such other entities
- 23 as the Secretary considers appropriate.

1	(b) Model Plan and Recommendations.—The
2	task force established pursuant to subsection (a) shall de-
3	velop
4	(1) a model plan to assist passenger rail car-
5	riers in responding to passenger rail accidents;
6	(2) recommendations on methods to improve
7	the timeliness of the notification provided by pas-
8	senger rail carriers to the families of passengers in-
9	volved in a passenger rail accident;
10	(3) recommendations on methods to ensure that
11	the families of passengers involved in a passenger
12	rail accident who are not citizens of the United
13	States receive appropriate assistance; and
14	(4) recommendations on methods to ensure that
15	emergency services personnel have as immediate and
16	accurate a count of the number of passengers on
17	board the train as possible.
18	(e) REPORT.—Not later than 1 year after the date
19	of the enactment of this Act, the Secretary shall transmit
20	to Congress a report containing the model plan and rec-
21	ommendations developed by the task force under sub-
22	section (b).

1	TITLE VI—CLARIFICATION OF
2	FEDERAL JURISDICTION
3	OVER SOLID WASTE FACILI-
4	TIES
5	SEC. 601. CLARIFICATION OF FEDERAL JURISDICTION
6	OVER SOLID WASTE FACILITIES.
7	Section 10501 is amended—
8	(1) by striking "facilities," in subsection $(b)(2)$
9	and inserting "facilities (except solid waste manage-
10	ment facilities (as defined in section 1004 of the
11	Solid Waste Disposal Act (42 U.S.C. 6903)),"; and
12	(2) by striking "over mass transportation pro-
13	vided by a local governmental authority." in sub-
14	section (e)(2) and inserting "over—
15	"(A) mass transportation provided by a local
16	governmental authority; or
17	"(B) the processing or sorting of solid waste.".
18	SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-
19	MENT OF TITLE 49.
20	(a) Short Title.—This Act may be cited as the
21	"Railroad Safety Enhancement Act of 2007".
22	(b) Table of Contents.—The table of contents for
23	this Act is as follows:
	Sec. 1. Short title; table of contents; amendment of title 49.

Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD RISK REDUCTION AND STRATEGY

- Sec. 101. Establishment of chief safety officer.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Railroad safety risk reduction pilot program.
- Sec. 104. Railroad safety risk reduction program.
- Sec. 105. Positive train control system implementation.
- Sec. 106. Hours-of-service reform.
- Sec. 107. Protection of railroad safety risk analyses information.

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

- Sec. 201. Pedestrian crossing safety.
- Sec. 202. State action plans.
- Sec. 203. Improvements to sight distance at highway-rail grade crossings.
- Sec. 204. National crossing inventory.
- Sec. 205. Telephone number to report grade crossing problems.
- Sec. 206. Operation Lifesaver.
- Sec. 207. Trespasser prevention and highway-rail crossing safety.
- Sec. 208. Fostering introduction of new technology to improve safety at highwayrail grade crossings.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.
- Sec. 302. Civil penalty increases.
- Sec. 303. Enforcement report.
- Sec. 304. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.
- Sec. 305. Railroad radio monitoring authority.
- Sec. 306. Emergency waivers.
- Sec. 307. Federal rail security officers' access to information.
- Sec. 308. Update of Federal Railroad Administration's website.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Employee training.
- Sec. 402. Certification of certain crafts or classes of employees.
- Sec. 403. Track inspection time study.
- Sec. 404. Study of methods to improve or correct station platform gaps.
- Sec. 405. Locomotive cab studies.
- Sec. 406. Railroad safety technology grants.
- Sec. 407. Railroad safety infrastructure improvement grants.
- Sec. 408. Amendment to the movement-for-repair provision.
- Sec. 409. Development and use of rail safety technology.
- Sec. 410. Employee sleeping quarters.
- Sec. 411. Employee protections.
- Sec. 412. Unified treatment of families of railroad carriers.
- Sec. 413. Study of repeal of Conrail provision.
- Sec. 414. Limitations on non-federal alcohol and drug testing by railroad carriers.
- Sec. 415. Critical incident stress plan.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

Sec.	501.	Assistance	by	National	Transp	ortation	Safety	Board	to	families	of	pas-
		sen	ger:	s involved	$in \ rail$	passenge	er acciá	lents.				

Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.

Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Short title.

Sec. 602. Regulation of solid waste transfer facilities.

road tracks at grade where—

Sec. 603. Conforming amendment to title 49. 1 (c) Amendment of Title 49.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, 6 United States Code. SEC. 2. DEFINITIONS. 8 (a) In General.—In this Act: 9 (1) Crossing.—The term "crossing" means a lo-10 cation within a State, other than a location where

(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

one or more railroad tracks cross one or more rail-

17 (B) a pathway explicitly authorized by a 18 public authority or a railroad that is dedicated 19 for the use of nonvehicular traffic, including pe-

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1	destrians, bicyclists, and others, that is not asso-
2	ciated with a public highway, road, or street, or
3	a private roadway, crosses one or more railroad
4	tracks either at grade or grade-separated.
5	(2) Department.—The term "Department"
6	means the Department of Transportation.
7	(3) RAILROAD.—The term "railroad" has the
8	meaning given that term by section 20102 of title 49,
9	United States Code.
10	(4) RAILROAD CARRIER.—The term "railroad
11	carrier" has the meaning given that term by section
12	20102 of title 49, United States Code.
13	(5) Secretary.—The term "Secretary" means
14	the Secretary of Transportation.
15	(6) State.—The term "State" means a State of
16	the United States, the District of Columbia, or the
17	Commonwealth of Puerto Rico.
18	(b) In Title 49.—Section 20102 is amended—
19	(1) by redesignating paragraphs (1) and (2) as
20	paragraphs (2) and (3), respectively;
21	(2) by inserting before paragraph (2), as redesig-
22	nated, the following:
23	"(1) 'Class I railroad' means a railroad carrier
24	that has annual carrier operating revenues that meet
25	the threshold amount for Class I carriers, as deter-

1	mined by the Surface Transportation Board under
2	section 1201.1-1 of title 49, Code of Federal Regula-
3	tions."; and
4	(3) by adding at the end thereof the following:
5	"(4) 'safety-related railroad employee' means—
6	"(A) a railroad employee who is subject to
7	$chapter\ 211;$
8	"(B) another operating railroad employee
9	who is not subject to chapter 211;
10	"(C) an employee who maintains the right
11	of way of a railroad carrier;
12	"(D) an employee of a railroad carrier who
13	is a hazmat employee as defined in section
14	5102(3) of this title;
15	"(E) an employee who inspects, repairs, or
16	maintains locomotives, passenger cars or freight
17	cars; and
18	"(F) any other employee of a railroad who
19	directly affects railroad safety, as determined by
20	the Secretary.".
21	SEC. 3. AUTHORIZATION OF APPROPRIATIONS.
22	Section 20117(a) is amended to read as follows:
23	"(a) In General.—
24	"(1) There are authorized to be appropriated to
25	the Secretary of Transportation to carry out this part

1	and to carry out responsibilities under chapter 51 as
2	delegated or authorized by the Secretary—
3	"(A) \$245,000,000 for fiscal year 2008;
4	"(B) \$260,000,000 for fiscal year 2009;
5	"(C) \$270,000,000 for fiscal year 2010;
6	"(D) \$280,000,000 for fiscal year 2011;
7	"(E) \$290,000,000 for fiscal year 2012; and
8	"(F) $$300,000,000$ for fiscal year 2013.
9	"(2) With amounts appropriated pursuant to
10	paragraph (1), the Secretary may designate the fol-
11	lowing amounts for research and development:
12	"(A) \$40,000,000.
13	"(B) \$42,000,000.
14	"(C) \$44,000,000.
15	"(D) \$46,000,000.
16	"(E) \$48,000,000.
17	"(F) \$51,000,000.
18	"(3) With amounts appropriated pursuant to
19	paragraph (1), the Secretary shall purchase Gage Re-
20	straint Measurement System vehicles and track geom-
21	etry vehicles or other comparable technology as needed
22	to assess track safety, consistent with the results of the
23	track inspection study required by section 403 of the
24	Railroad Safety Enhancement Act of 2007.

1	"(4) There are authorized to be appropriated to
2	the Secretary \$18,000,000 for the period encom-
3	passing fiscal years 2008 through 2011 to design, de-
4	velop, and construct the Facility for Underground
5	Rail Station and Tunnel Testing and Training at the
6	Transportation Technology Center, Inc., in Pueblo,
7	Colorado. The facility shall be used to test and evalu-
8	ate the safety and security vulnerabilities of above-
9	ground and underground rail tunnels to prevent acci-
10	dents and incidents in such tunnels, to mitigate and
11	remediate the consequences of any such accidents or
12	incidents, and to provide a realistic scenario for
13	training emergency responders.
14	"(5) Such sums as may be necessary from the
15	amount appropriated pursuant to paragraph (1) for
16	each of the fiscal years 2008 through 2013 shall be
17	made available to the Secretary for personnel in re-
18	gional offices and in Washington, DC, whose duties
19	primarily involve rail security.".
20	TITLE I—RAILROAD SAFETY RISK
21	REDUCTION AND STRATEGY
22	SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.
23	Section 103 is amended—
24	(1) by redesignating subsections (c), (d), and (e)
25	as subsections (e), (f), and (g);

1	(2) by inserting after subsection (b) the fol-
2	lowing:
3	"(c) Safety as Highest Priority.—In carrying out
4	its duties, the Administration shall consider safety as the
5	highest priority, recognizing the clear intent, encourage-
6	ment, and dedication of Congress to the furtherance of the
7	highest degree of safety in railroad transportation.
8	"(d) Chief Safety Officer.—The Administration
9	shall have an Associate Administrator for Railroad Safety
10	appointed in the career service by the Secretary. The Asso-
11	ciate Administrator shall be the Chief Safety Officer of the
12	Administration. The Associate Administrator shall carry
13	out the duties and powers prescribed by the Adminis-
14	trator."; and
15	(3) by striking " $(c)(1)$ " in subsection (f), as re-
16	designated, and inserting "(e)(1)".
17	SEC. 102. RAILROAD SAFETY STRATEGY.
18	(a) Safety Goals.—In conjunction with existing fed-
19	erally-required and voluntary strategic planning efforts on-
20	going at the Department and the Federal Railroad Admin-
21	istration on the date of enactment of this Act, the Secretary
22	shall develop a long-term strategy for improving railroad
23	safety to cover a period of not less than 5 years. The strat-
24	eau shall include an annual plan and schedule for achiev-

 $25 \ \ \textit{ing, at a minimum, the following goals:}$

1	(1) Reducing the number and rates of accidents,
2	injuries, and fatalities involving railroads including
3	train collisions and derailments and human factors.
4	(2) Improving the consistency and effectiveness of
5	enforcement and compliance programs.
6	(3) Improving the identification of high-risk
7	highway-rail grade crossings and strengthening en-
8	forcement and other methods to increase grade cross-
9	ing safety.
10	(4) Improving research efforts to enhance and
11	promote railroad safety and performance.
12	(5) Preventing railroad trespasser accidents, in-
13	juries, and fatalities.
14	(6) Improving the safety of railroad bridges, tun-
15	nels, and related infrastructure to prevent accidents,
16	injuries, and fatalities caused by catastrophic failures
17	and other bridge and tunnel failures.
18	(b) Resource Needs.—The strategy and annual
19	plan shall include estimates of the funds and staff resources
20	needed to accomplish the goals established by subsection (a).
21	Such estimates shall also include the staff skills and train-
22	ing required for timely and effective accomplishment of each
23	such goal.
24	(c) Submission With the President's Budget.—
25	The Secretary shall submit the strategy and annual plan

- 1 to the Senate Committee on Commerce, Science, and Trans-
- 2 portation and the House of Representatives Committee on
- 3 Transportation and Infrastructure at the same time as the
- 4 President's budget submission.
- 5 (d) Achievement of Goals.—
- 6 (1) PROGRESS ASSESSMENT.—No less frequently
 7 than annually, the Secretary shall assess the progress
 8 of the Department toward achieving the strategic
 9 goals described in subsection (a). The Secretary shall
 10 identify any deficiencies in achieving the goals within
 11 the strategy and develop and institute measures to re12 mediate such deficiencies.
 - (2) REPORT TO CONGRESS.—Not later than November 1st of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

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1	SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PRO-
2	GRAM.
3	(a) In General.—Subchapter II of chapter 201 is
4	amended by adding at the end thereof the following:
5	"§20156. Railroad safety risk reduction pilot program
6	"(a) Pilot Program.—
7	"(1) In general.—In conjunction with ongoing
8	behavior-based safety research at the Department of
9	Transportation, the Secretary shall develop a 4-year
10	railroad safety risk reduction pilot program to sys-
11	tematically evaluate and manage railroad safety risks
12	with the goal of reducing the numbers and rates of
13	railroad accidents, injuries, and fatalities. Not later
14	than 1 year after the date of enactment of the Rail-
15	road Safety Enhancement Act of 2007, the Secretary
16	shall, in coordination with selected railroads, railroad
17	facilities, nonprofit employee labor organizations that
18	represent safety-related railroad employees employed
19	at such railroad or railroad facility, and any other
20	entities that the Secretary determines to be relevant,
21	at a minimum—
22	"(A) identify the aspects of a selected rail-
23	road or railroad facility, including operating
24	practices, infrastructure, equipment, employee
25	levels and schedules, safety culture, management

structure, employee training, and other matters,

1	including those not covered by railroad safety
2	regulations or other Federal regulations, that im-
3	pact railroad safety;
4	"(B) evaluate how these aspects of a selected
5	railroad or railroad facility increase or decrease
6	risks to railroad safety;
7	"(C) develop a safety risk reduction pro-
8	gram to improve the safety of a selected railroad
9	or railroad facility by reducing the numbers and
10	rates of accidents, injuries, and fatalities
11	through—
12	"(i) the mitigation of the aspects of a
13	selected railroad or railroad facility that in-
14	crease risks to railroad safety; and
15	"(ii) the enhancement of aspects of a
16	selected railroad or railroad facility that de-
17	crease risks to railroad safety; and
18	"(D) incorporate into the program the con-
19	sideration and use of existing, new, or novel
20	technology, operating practices, risk management
21	practices or other behavior-based practices that
22	could improve railroad safety at the selected rail-
23	road or railroad facility.
24	"(2) Implementation deadline.—Not later
25	than 2 years after the date of enactment of the Rail-

- 1 road Safety Enhancement Act of 2007, the selected
- 2 railroad or railroad facility shall implement the safe-
- 3 ty risk reduction program developed under paragraph
- 4 (1)(C) on the selected railroad or railroad facility and
- 5 ensure that all employees at the selected railroad or
- 6 railroad facility have received training related to the
- 7 program.
- 8 "(b) Selection of Railroad or Railroad Facility
- 9 FOR PILOT PROGRAM.—Not later than 6 months after the
- 10 date of enactment of the Railroad Safety Enhancement Act
- 11 of 2007, the Secretary shall develop a voluntary application
- 12 process to select 1 or more railroad or railroad facilities
- 13 where the pilot project will be implemented. The application
- 14 process shall include criteria for rating applicants, such as
- 15 safety performance, accident and incident history, existence
- 16 of risk management or behavior-based practices at the rail-
- 17 road or railroad facility, number of employees employed at
- 18 the railroad or railroad facility, and other relevant criteria
- 19 determined by the Secretary. If more than 1 railroad or
- 20 railroad facility is selected, the Secretary shall select rail-
- 21 roads and railroad facilities that are representative of the
- 22 railroad industry as a whole, if possible.
- "(c) Evaluation.—Not later than 6 months after the
- 24 completion of the safety risk reduction program pilot pro-

1	gram, the Secretary shall submit a report to Congress evalu-
2	ating the pilot program, which shall include—
3	"(1) a summary of the railroad safety risk re-
4	duction pilot program and description of the actions
5	taken by the Secretary and selected railroad or rail-
6	road facilities during the program;
7	"(2) an analysis of the difference in the number
8	and rates of accidents, injuries, and fatalities at a se-
9	lected railroad or railroad facility before and after the
10	implementation of the risk reduction pilot program at
11	a selected railroad or railroad facility; and
12	"(3) guidelines on the preparation and imple-
13	mentation of railroad safety risk reduction program
14	for the railroad carriers required to develop such
15	plans under section 20157 that reflect that best prac-
16	tices developed during the pilot program.
17	"(d) Grants.—The Secretary shall establish a grant
18	program for implementation of the railroad safety risk re-
19	duction pilot program. Railroads and railroad facilities se-
20	lected by the Secretary shall be eligible for grants.
21	"(e) Authorization of Appropriations.—There are
22	authorized to be appropriated to the Secretary of Transpor-
23	tation \$1,000,000 for fiscal years 2009 and 2010 to carry
24	out this section.".

1	(b) Conforming Amendment.—The chapter analysis
2	for chapter 201 is amended by inserting after the item relat-
3	ing to section 20155 the following:
	"20156. Railroad safety risk reduction pilot program.".
4	SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.
5	(a) In General.—Subchapter II of chapter 201, as
6	amended by section 103, is amended by adding at end there-
7	of the following:
8	"§ 20157. Railroad safety risk reduction program
9	"(a) In General.—
10	"(1) Program requirement.—Not later than 5
11	years after the date of enactment, the Secretary, by
12	regulation, shall require each railroad carrier that is
13	a Class I railroad, a railroad carrier that has inad-
14	equate safety performance (as determined by the Sec-
15	retary), or a railroad that provides intercity pas-
16	senger or commuter rail passenger transportation—
17	"(A) to develop a railroad safety risk reduc-
18	tion program under subsection (d) that system-
19	atically evaluates system-wide railroad safety
20	risks and manages those risks in order to reduce
21	the numbers and rates of railroad accidents, in-
22	juries, and fatalities;
23	"(B) to submit its program, including any
24	required plans, to the Federal Railroad Adminis-
25	tration for its review and approval; and

- 1 "(C) to implement the program and plans 2 approved by the Federal Railroad Administra-3 tion.
 - "(2) Reliance on Pilot program.—The Secretary shall use the information and experience gathered through the pilot program under section 20156 in developing regulations under this section.
 - "(3) WAIVERS.—The Secretary may grant a waiver under section 20103(d) to a railroad carrier from compliance with all or a part of the requirements of this section if the Secretary determines that the safety performance of the railroad carrier is sufficient to warrant the waiver.
 - "(4) Voluntary compliance.—A railroad carrier that is not required to submit a railroad safety risk reduction program under this section may voluntarily submit a program that meets the requirements of this section to the Federal Railroad Administration. The Federal Railroad Administration. The Federal Railroad Administration shall approve or disapprove any program submitted under this paragraph.
- "(b) CERTIFICATION.—The chief official responsible for 23 safety of each railroad carrier required to submit a railroad 24 safety risk reduction program under subsection (a) shall 25 certify that the contents of the program are accurate and

1	that the railroad will implement the contents of the pro-
2	gram as approved by the Federal Railroad Administration.
3	"(c) Risk Analysis.—In developing its railroad safe-
4	ty risk reduction program each railroad required to submit
5	such a program under subsection (a) shall identify and
6	analyze the aspects of its railroad, including operating
7	practices, infrastructure, equipment, employee levels and
8	schedules, safety culture, management structure, employee
9	training, and other matters, including those not covered by
10	railroad safety regulations or other Federal regulations,
11	that impact railroad safety.
12	"(d) Program Elements.—
13	"(1) In General.—Each railroad required to
14	submit a railroad safety risk reduction program
15	under subsection (a) shall develop a comprehensive
16	safety risk reduction program to improve safety by re-
17	ducing the number and rates of accidents, injuries,
18	and fatalities that is based on the risk analysis re-
19	quired by subsection (c) through—
20	"(A) the mitigation of aspects that increase
21	risks to railroad safety; and
22	"(B) the enhancement of aspects that de-
23	crease risks to railroad safety.
24	"(2) Required components.—Each railroad's
25	safety risk reduction program shall include a tech-

nology implementation plan that meets the requirements of subsection (e) and a fatigue management plan that meets the requirements of subsection (f).

"(e) Technology Implementation Plan.—

- "(1) In General.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a 10-year technology implementation plan that describes the railroad's plan for development, adoption, implementation, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program.
- "(2) Technology analysis.—A railroad's technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing technologies, including processor-based technologies, positive train control systems (as defined in section 20158(b)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, trespasser prevention technology, highway rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may

mitigate risks to railroad safety identified in the risk
 analysis required by subsection (c).

"(3) Implementation schedule.—A railroad's technology implementation plan shall contain a prioritized implementation schedule for the development, adoption, implementation, and use of current, new, or novel technologies on its system to reduce safety risks identified under the railroad safety risk reduction program.

"(f) Fatigue Management Plan.—

"(1) In GENERAL.—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) for which the analysis under subsection (c) has shown fatigue to be a significant source of risk shall develop a fatigue management plan that is designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, injuries, and fatalities caused by fatigue.

"(2) Targeted fatigue countermeasures.—
A railroad's fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

1	"(3) Additional elements.—A railroad shall
2	consider the need to include in its fatigue manage-
3	ment plan elements addressing each of the following
4	items, as applicable:
5	"(A) Employee education and training on
6	the physiological and human factors that affect
7	fatigue, as well as strategies to reduce or miti-
8	gate the effects of fatigue, based on the most cur-
9	rent scientific and medical research and lit-
10	erature.
11	"(B) Opportunities for identification, diag-
12	nosis, and treatment of any medical condition
13	that may affect alertness or fatigue, including
14	sleep disorders.
15	"(C) Effects on employee fatigue of an em-
16	ployee's short-term or sustained response to
17	emergency situations, such as derailments and
18	natural disasters, or engagement in other inten-
19	sive working conditions.
20	"(D) Scheduling practices for employees, in-
21	cluding innovative scheduling practices for em-
22	ployees, including scheduling procedures, on-duty
23	call practices, work and rest cycles, increases in
24	consecutive days off for employees, changes in

 $shift\ patterns,\ appropriate\ scheduling\ practices$

1	for varying types of work, and other aspects of
2	employee scheduling that would reduce employee
3	fatigue and cumulative sleep loss.
4	"(E) Methods to minimize accidents and
5	incidences that occur as a result of working at
6	times when scientific and medical research have
7	shown increased fatigue disrupts employees' cir-
8	cadian rhythm.
9	"(F) Alertness strategies, such as policies on
10	napping, to address acute sleepiness and fatigue
11	while an employee is on duty.
12	"(G) Opportunities to obtain restful sleep at
13	lodging facilities, including employee sleeping
14	quarters provided by the railroad carrier.
15	"(H) The increase of the number of consecu-
16	tive hours of off-duty rest, 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) Avoidance of abrupt changes in rest cy-
21	cles for employees.
22	"(J) Additional elements that the Secretary
23	considers appropriate.
24	"(g) Consensus.—

"(1) In general.—Each railroad required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith and use its best efforts to reach agreement with, all of its directly affected employees, including any non-profit labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

"(2) STATEMENT.—If the railroad carrier and its directly affected employees, including any non-profit employee labor organization representing a class or craft of directly affected employees of the railroad carrier, cannot reach consensus on the proposed contents of the plan, then directly affected employees and such organization may file a statement with the Secretary explaining their views on the plan on which consensus was not reached. The Secretary shall consider such views during review and approval of the program.

21 "(h) Enforcement.—The Secretary shall have the 22 authority to assess civil penalties pursuant to chapter 213 23 for a violation of this section, including the failure to sub-24 mit, certify, or comply with a safety risk reduction pro-

- 1 gram, technology implementation plan, or fatigue manage-
- 2 ment plan.".
- 3 (b) Conforming Amendment.—The chapter analysis
- 4 for chapter 201, as amended by section 103, is further
- 5 amended by inserting after the item relating to section
- 6 20156 the following:

"20157. Railroad safety risk reduction program.".

7 SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTA-

- 8 *TION*.
- 9 (a) In General.—Subchapter II of chapter 201, as
- 10 amended by section 104, is further amended by adding at
- 11 end thereof the following:
- 12 "§ 20158. Positive train control system implementation
- 13 "(a) In General.—The Secretary of Transportation
- 14 shall ensure that each railroad required to submit a rail-
- 15 road safety risk reduction program pursuant to section
- 16 20157 that includes in its technology implementation plan
- 17 a schedule for implementation of a positive train control
- 18 system complies with that schedule and implements its posi-
- 19 tive train control system by December 31, 2018, unless the
- 20 Secretary determines that a railroad shall implement its
- 21 positive train control system by an earlier date.
- 22 "(b) Positive Train Control System Defined.—
- 23 The term 'positive train control system' means a system de-
- 24 signed to prevent train-to-train collisions, overspeed

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1 derailments, and incursions into roadway worker work lim-
 2
   its.".
 3
        (b) Conforming Amendment.—The chapter analysis
   for chapter 201, as amended by section 104, is further
    amended by inserting after the item relating to section
   20157 the following:
    "20158. Positive train control system implementation.".
    SEC. 106. HOURS-OF-SERVICE REFORM.
 8
        (a) Change in Definition of Signal Employee.—
    Section 21101(4) is amended—
 9
10
             (1) by striking "employed by a railroad carrier";
11
        and
12
             (2) by inserting "railroad" after "maintaining".
13
        (b) Limitation on Duty Hours of Train Employ-
    EES.—Section 21103 is amended—
15
             (1) by striking subsection (a) and inserting the
16
        following:
17
        "(a) In General.—Except as provided in subsection
18
    (d) of this section, a railroad carrier and its officers and
    agents may not require or allow a train employee to—
20
             "(1) remain or go on duty in any calendar
21
        month where the employee had spent a total of 276
22
        hours—
23
                  "(A) on duty; or
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1	"(B) waiting for transportation, or in
2	deadhead transportation, to a place of final re-
3	lease;
4	"(2) remain or go on duty for a period in excess
5	of 12 consecutive hours;
6	"(3) remain or go on duty unless that employee
7	has had at least 10 consecutive hours off duty during
8	the prior 24 hours; and
9	"(4) remain or go on duty after that employee
10	has initiated an on-duty period each day for—
11	"(A) 6 consecutive days, unless that em-
12	ployee has had at least 48 consecutive hours off
13	duty at the employee's home terminal during
14	which time the employee is unavailable for any
15	service for any railroad carrier; or
16	"(B) 7 consecutive days, if permitted by a
17	collective bargaining agreement, unless that em-
18	ployee has had at least 72 consecutive hours off
19	duty at the employee's home terminal during
20	which time the employee is unavailable for any
21	service for any railroad carrier.
22	The Secretary may waive paragraph (4), consistent with
23	the procedural requirements of section 20103, if a collective
24	bargaining agreement provides a different arrangement and

1	such an arrangement is in the public interest and consistent
2	with railroad safety.";
3	(2) by redesignating subsection (c) as subsection
4	(d) and inserting after subsection (b) the following:
5	"(c) Limbo Time Limitation and Additional Rest
6	Requirement.—
7	"(1) A railroad carrier may not require or allow
8	an employee to remain or go on duty in excess of 13
9	hours of time on duty and time waiting for deadhead
10	transportation on a train, not including interim resu
11	periods unless the train carrying the employee is di-
12	rectly delayed by—
13	"(A) a casualty;
14	"(B) an accident;
15	"(C) an act of God;
16	$"(D) \ a \ derailment;$
17	"(E) a major equipment failure that pre-
18	vents the train from advancing; or
19	"(F) a delay resulting from a cause un-
20	known and unforeseeable to a railroad carrier or
21	its officer or agent in charge of the employee
22	when the employee left a terminal.
23	"(2) Each railroad shall report to the Secretary,
24	in accordance with procedures established by the Sec-
25	retary, each instance where an employee subject to

1	this section spends time waiting for deadhead trans-
2	portation on a train in excess of the requirements of
3	paragraph (1).
4	"(3) A railroad carrier and its officers and
5	agents shall provide, at the election of employees sub-
6	ject to this section at the beginning of the employee's
7	off-duty period additional time off duty equal to the
8	number of hours that such sum exceeds 12 hours if—
9	"(A) the time spent waiting for transpor-
10	tation, or in deadhead transportation, from a
11	duty assignment to the place of final release that
12	is not time on duty, plus
13	"(B) the time on duty,
14	exceeds 12 consecutive hours."; and
15	(3) by adding at the end thereof the following:
16	"(e) Communication During Time Off Duty.—
17	During a train employee's minimum off-duty period of 10
18	consecutive hours, as provided under subsection (a), during
19	an interim period of at least 4 consecutive hours available
20	for rest under subsection (b)(7), or during additional off
21	duty hours elected to be taken by an employee under para-
22	graph (b)(3), a railroad carrier, and its managers, super-
23	visors, officers, and agents, shall not communicate with the
24	train employee by telephone, by pager, or in any other man-
25	ner that could reasonably be expected to disrupt the employ-

1	ee's rest. Nothing in this subsection shall prohibit commu-
2	nication necessary to notify an employee of an emergency
3	situation, as defined by the Secretary. The Secretary may
4	waive the requirements of this paragraph for commuter or
5	intercity passenger railroads if the Secretary determines
6	that such a waiver will not reduce safety and is necessary
7	to maintain such railroads' efficient operations and on-
8	time performance of its trains.".
9	(c) Limitation on Duty Hours of Signal Employ-
10	EES.—Section 21104 is amended—
11	(1) by striking subsection (a) and inserting the
12	following:
13	"(a) In General.—Except as provided in subsection
14	(c) of this section, a railroad carrier and its officers and
15	agents may not require or allow its signal employee to re-
16	main or go on duty and a contractor or subcontractor to
17	a railroad may not require or allow one of its signal em-
18	ployees to remain or go on duty —
19	"(1) for a period in excess of 12 consecutive
20	hours; or
21	"(2) unless that employee has had at least 10
22	consecutive hours off duty during the prior 24
23	hours.";
24	(2) by striking "duty, except that up to one hour
25	of that time spent returning from the final trouble

- call of a period of continuous or broken service is time off duty." in subsection (b)(3) and inserting "duty.";
- 4 (3) by inserting "A signal employee may not be 5 allowed to remain or go on duty under the emergency 6 authority provided under this subsection to conduct 7 routine repairs, routine maintenance, or routine in-8 spection of signal systems." after "service." in sub-9 section (c):
- 10 (4) by adding at the end the following:
- 11 "(d) Communication During Time Off Duty.—
- 12 During a signal employee's minimum off-duty period of 10
- 13 consecutive hours, as provided under subsection (a), a rail-
- 14 road carrier, and its managers, supervisors, officers, and
- 15 agents, shall not communicate with the signal employee by
- 16 telephone, by pager, or in any other manner that could rea-
- 17 sonably be expected to disrupt the employee's rest. Nothing
- 18 in this subsection shall prohibit communication necessary
- 19 to notify an employee of an emergency situation, as defined
- 20 by the Secretary.
- 21 "(e) Exclusivity.—The hours of service, duty hours,
- 22 and rest periods of signal employees shall be governed exclu-
- 23 sively by this chapter. Signal employees operating motor
- 24 vehicles shall not be subject to any hours of service rules,
- 25 duty hours or rest period rules promulgated by any Federal

1	authority, including the Federal Motor Carrier Safety Ad-
2	ministration, other than the Federal Railroad Administra-
3	tion.".
4	(d) Alternate Hours of Service Regime.—
5	(1) In general.—Section 21102 is amended—
6	(A) by striking the section caption and in-
7	serting the following:
8	"§ 21102. Nonapplication, exemption, and alternate
9	hours of service regime";
10	and
11	(B) by adding at the end thereof the fol-
12	lowing:
13	"(c) Alternate Hours of Service Regime.—A
14	railroad carrier and its directly affected employees or a
15	non-profit employee labor organization that represents such
16	employees may jointly develop and submit for approval to
17	the Secretary an alternate hours of service regime to that
18	provided in this chapter that would increase the maximum
19	hours an employee may be required or allowed to go or re-
20	main on duty or decrease the minimum hours an employee
21	may be required to rest and would become effective no ear-
22	lier than 1 year after the date of enactment of the Railroad
23	Safety Enhancement Act of 2007. The Secretary may con-
24	sider such a request anytime after the date of enactment
25	of the Railroad Safety Enhancement Act of 2007 and may

1	approve such a request only after providing an opportunity
2	for public notice and comment and determining that the
3	proposed hours of service regime is in the public interest
4	and will not adversely affect railroad safety. The exemption
5	shall be for a specific period of time and shall be subject
6	to review upon a schedule determined appropriate by the
7	Secretary.".
8	(2) Conforming amendment.—The chapter
9	analysis for chapter 211 is amended by striking the
10	item relating to section 21102 and inserting the fol-
11	lowing:
	"21102. Nonapplication, exemption, and alternate hours of service regime.".
12	(e) Regulatory Authority.—
13	(1) In general.—Chapter 211 is amended by
14	adding at the end thereof the following:
15	"§ 21109. Regulatory authority
16	"(a) In General.—In order to improve safety and re-
17	duce employee fatigue, the Secretary may issue regula-
18	tions—
19	"(1) to reduce the maximum hours an employee
20	may be required or allowed to go or remain on duty
21	to a level less than the level established under this
22	chapter;
23	"(2) to increase the minimum hours an employee
24	may be required or allowed to rest to a level greater
25	than the level established under this chapter;

1	"(3) to limit or eliminate the amount of time an
2	employee spends waiting for or in deadhead transpor-
3	tation to the place of final release that is considered
4	neither on duty nor off duty under this chapter;
5	"(4) to make changes to the number of hours an
6	employee may spend waiting on a train for deadhead
7	transportation to the place of final release that is con-
8	sidered neither on duty nor off duty that provide for
9	an equivalent level of safety as the level established
10	under this chapter;
11	"(5) to make changes to the requirements of off-
12	duty communications with employees that provide for
13	an equivalent level of safety as the level established
14	under this chapter;
15	"(6) for signal employees—
16	"A) to limit or eliminate the amount of
17	time that is considered to be neither on duty nor
18	off duty under this chapter that an employee
19	spends returning from an outlying worksite after
20	scheduled duty hours or returning from a trouble
21	call to the employee's headquarters or directly to
22	the employee's residence; and
23	"(B) to increase the amount of time that

constitutes a release period, that does not break

1	the continuity of service and is considered time
2	off duty; and
3	"(7) to require other changes to railroad oper-
4	ating and scheduling practices that could affect em-
5	ployee fatigue and railroad safety.
6	"(b) Considerations.—In issuing regulations under
7	subsection (a) the Secretary shall consider scientific and
8	medical research related to fatigue and fatigue abatement,
9	railroad scheduling and operating practices that improve
10	safety or reduce employee fatigue, a railroad's use of new
11	or novel technology intended to reduce or eliminate human
12	error, the variations in freight and passenger railroad
13	scheduling practices and operating conditions, the vari-
14	ations in duties and operating conditions for employees
15	subject to this chapter, a railroad's required or voluntary
16	use of fatigue management plans covering employees subject
17	to this chapter, and any other relevant factors.
18	"(c) Time Limits.—If the Secretary requests that the
19	Railroad Safety Advisory Committee accept the task of de-
20	veloping regulations under paragraph (a) and the Com-
21	mittee accepts the task, the Committee shall reach consensus
22	on the rulemaking within 18 months after accepting the
23	task. If the Committee does not reach consensus within 18
24	months after the Secretary makes the request, the Secretary
25	shall prescribe appropriate regulations within 18 months.

If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (a), the Secretary shall issue regula-3 4 tions within 3 years after the date of enactment of the Rail-5 road Safety Enhancement Act of 2007. 6 "(d) Pilot Projects.— 7 "(1) In general.—Not later than 2 years after 8 the date of enactment of the Railroad Safety En-9 hancement Act of 2007, the Secretary shall conduct at 10 least 2 pilot projects of sufficient size and scope to 11 analyze specific practices which may be used to re-12 duce fatigue for train and engine and other railroad 13 *employees as follows:* 14 "(A) A pilot project at a railroad or rail-15 road facility to evaluate the efficacy of commu-16 nicating to employees notice of their assigned 17 shift time 10 hours prior to the beginning of 18 their assigned shift as a method for reducing em-19 ployee fatigue. 20 "(B) A pilot project at a railroad or rail-21 road facility to evaluate the efficacy of requiring 22 railroads who use employee scheduling practices 23 that subject employees to periods of unscheduled

duty calls to assign employees to defined or spe-

cific unscheduled call shifts that are followed by

24

1	shifts not subject to call, as a method for reduc-
2	ing employee fatigue.
3	"(2) Waiver.—The Secretary may temporarily
4	waive the requirements of this section, if necessary, to
5	complete a pilot project under this subsection.
6	"(e) Duty Call Defined.—In this section the term
7	'duty call' means a telephone call that a railroad places
8	to an employee to notify the employee of his or her assigned
9	shift time.".
10	(2) Conforming amendment.—The chapter
11	analysis for chapter 211 is amended by adding at the
12	end thereof the following:
	"21109. Regulatory authority.".
13	(f) Record Keeping and Reporting.—
14	(1) Regulations.—Not later than 180 days
15	after the date of enactment of this Act, the Secretary
16	shall issue a regulation revising the requirements for
17	recordkeeping and reporting for Hours of Service of
18	Railroad Employees contained in part 228 of title 49,
19	Code of Federal Regulations—
20	(A) to adjust record keeping and reporting
21	requirements to support fully compliance with
22	chapter 211 of title 49, United States Code, as
23	amended by this Act;
24	(B) to authorize electronic record keeping,
25	and reporting of excess service, consistent with

1	appropriate considerations for user interface;
2	and
3	(C) to require training of affected employees
4	and supervisors, including training of employees
5	in the entry of hours of service data.
6	(2) Procedure.—In lieu of issuing a notice of
7	proposed rulemaking as contemplated by section 553
8	of title 5, United States Code, the Secretary may uti-
9	lize the Railroad Safety Advisory Committee to assist
10	in development of the regulation. The Secretary may
11	propose and adopt amendments to the revised regula-
12	tions thereafter as may be necessary in light of expe-
13	rience under the revised requirements.
14	(g) 1-year Delay in Implementation of Duty
15	Hours Limitation Changes.—The amendments made by
16	subsections (a), (b), and (c) shall take effect 1 year after
17	the date of enactment of this Act.
18	SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANAL-
19	YSES INFORMATION.
20	(a) Amendment.—Subchapter I of chapter 201 is
21	amended by adding at the end thereof the following:
22	"§20118. Prohibition on public disclosure of required
23	railroad safety analyses records
24	"(a) In General.—Notwithstanding section 552 of
25	title 5 or any other provision of law, except as necessary

- 1 for the Secretary of Transportation or another Federal
- 2 agency to enforce or carry out any provision of Federal law,
- 3 the Secretary shall not disclose publicly any part of any
- 4 record (including, but not limited to, a railroad carrier's
- 5 analysis of its safety risks and its statement of the mitiga-
- 6 tion measures it has identified with which to address those
- 7 risks) that the Secretary has obtained pursuant to a provi-
- 8 sion of, or regulation or order under, this chapter related
- 9 to the establishment, implementation, or modification of a
- 10 railroad safety risk reduction program or pilot program if
- 11 the record is—
- "(1) supplied to the Secretary pursuant to that
- 13 safety risk reduction program or pilot program; or
- "(2) made available for inspection and copying
- by an officer, employee, or agent of the Secretary pur-
- suant to that safety risk reduction program or pilot
- 17 program.
- 18 "(b) Exception.—Notwithstanding subsection (a), the
- 19 Secretary may disclose any part of any record comprised
- 20 of facts otherwise available to the public if, in the Sec-
- 21 retary's sole discretion, the Secretary determines that dis-
- 22 closure would be consistent with the confidentiality needed
- 23 for that safety risk reduction program.
- 24 "(c) Discretionary Prohibition of Disclosure.—
- 25 The Secretary may prohibit the public disclosure of risk

- 1 analyses or risk mitigation analyses that the Secretary has
- 2 obtained under other provisions of, or regulations or orders
- 3 under, this chapter if the Secretary determines that the pro-
- 4 hibition of public disclosure is necessary to promote rail-
- 5 road safety.

6 "§ 20119. Discovery and admission into evidence of

7 certain reports and surveys

- 8 "Notwithstanding any other provision of law, no part
- 9 of any report, survey, schedule, list, or data compiled or
- 10 collected for the purpose of evaluating, planning, or imple-
- 11 menting a railroad safety risk reduction program or other
- 12 risk or risk mitigation analysis designated by the Secretary
- 13 of Transportation under section 20118(c) pursuant to a
- 14 provision of, or regulation or order under, this chapter (in-
- 15 cluding a railroad carrier's analysis of its safety risks and
- 16 its statement of the mitigation measures with which it will
- 17 address those risks) shall be subject to discovery or admitted
- 18 into evidence in a Federal or State court proceeding, or con-
- 19 sidered for another purpose, in any action by a private
- 20 party or parties for damages against the carrier, or its offi-
- 21 cers, employees, or contractors. The preceding sentence does
- 22 not apply to any report, survey, list, or data otherwise
- 23 available to the public.".

1	(b) Conforming Amendment.—The chapter analysis
2	for chapter 201 is amended by inserting after the item relat-
3	ing to section 20117 the following:
	"20118. Prohibition on public disclosure of required railroad safety risk analyses." 20119. Discovery and admission into evidence of certain reports and surveys."
4	TITLE II—HIGHWAY-RAIL GRADE
5	CROSSING AND PEDESTRIAN
6	SAFETY AND TRESPASSER
7	PREVENTION
8	SEC. 201. PEDESTRIAN CROSSING SAFETY.
9	Not later than 1 year after the date of enactment of
10	this Act, the Secretary shall provide guidance to railroads
11	on strategies and methods to prevent pedestrian accidents,
12	injuries, and fatalities at or near passenger stations, in-
13	cluding—
14	(1) providing audible warning of approaching
15	trains to the pedestrians at railroad passenger sta-
16	tions;
17	(2) using signs, signals, or other visual devices
18	to warn pedestrians of approaching trains;
19	(3) installing infrastructure at pedestrian cross-
20	ings to improve the safety of pedestrians crossing rail-
21	road tracks;
22	(4) installing fences to prohibit access to railroad
23	tracks; and

1	(5) other strategies or methods as determined by
2	the Secretary.
3	SEC. 202. STATE ACTION PLANS.
4	(a) In General.—Beginning not later than 6 months
5	after the date of enactment of this Act, the Secretary shall
6	identify on an annual basis the 10 States that receive Fed-
7	eral funds for highway-rail grade crossing safety projects
8	that have had the most highway-rail grade crossing colli-
9	sions in the preceding fiscal year. The Secretary shall re-
10	quire as a condition of receiving such funds in the future
11	(in addition to any requirements imposed under any other
12	provision of law) that each of these States develop a State
13	Grade Crossing Action Plan that identifies specific solu-
14	tions for improving safety at crossings, including highway-
15	rail grade crossing closures or grade separations, particu-
16	larly at crossings that have experienced multiple accidents,
17	and shall provide assistance to the States in developing the
18	plan.
19	(b) Review and Approval.—Not later than 60 days
20	after the Secretary receives a plan under subsection (a), the
21	Secretary shall review and approve or disapprove it. If the
22	proposed plan is not approved, the Secretary shall notify
23	the affected State as to the specific points in which the pro-

24 posed plan is deficient, and the State shall correct all defi-

- 1 ciencies within 30 days following receipt of written notice
- 2 from the Secretary.
- SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-
- 4 WAY-RAIL GRADE CROSSINGS.
- 5 (a) In General.—Subchapter II of chapter 201, as
- 6 amended by section 105 of this Act, is further amended by
- 7 inserting after section 20158 the following:
- 8 "§ 20159. Roadway user sight distance at highway-rail
- 9 grade crossings
- 10 "(a) IN GENERAL.—Not later than 18 months after the
- 11 date of enactment of the Railroad Safety Enhancement Act
- 12 of 2007, the Secretary of Transportation shall prescribe reg-
- 13 ulations that require each railroad carrier to remove from
- 14 its active rights-of-way at all public highway-rail grade
- 15 crossings, and at all private highway-rail grade crossings
- 16 open to unrestricted public access (as declared in writing
- 17 by the holder of the crossing right), grass, brush, shrubbery,
- 18 trees, and other vegetation which may materially obstruct
- 19 the view of a pedestrian or a vehicle operator for a reason-
- 20 able distance, as specified by the Secretary, in either direc-
- 21 tion of the train's approach, and to maintain its rights-
- 22 of-way at all such crossings free of such vegetation. In pre-
- 23 scribing the regulations, the Secretary shall take into con-
- 24 sideration to the extent practicable—

1	"(1) the type of warning device or warning de-
2	vices installed at such crossings;
3	"(2) factors affecting the timeliness and effective-
4	ness of roadway user decisionmaking, including the
5	maximum allowable roadway speed, maximum au-
6	thorized train speed, angle of intersection, and topog-
7	raphy;
8	"(3) the presence or absence of other sight dis-
9	tance obstructions off the railroad right-of-way; and
10	"(4) any other factors affecting safety at such
11	crossings.
12	"(b) Protected Vegetation.—In promulgating reg-
13	ulations pursuant to this section, the Secretary may make
14	allowance for preservation of trees and other ornamental
15	or protective growth where State or local law or policy
16	would otherwise protect the vegetation from removal and
17	where the roadway authority or private crossing holder is
18	notified of the sight distance obstruction and, within a rea-
19	sonable period specified by the regulation, takes appropriate
20	action to abate the hazard to roadway users (such as by
21	closing the crossing, posting supplementary signage, install-
22	ing active warning devices, lowering roadway speed, or in-
23	stalling traffic calming devices).
24	"(c) Model Legislation.—Not later than 18 months
25	after the date of enactment of the Railroad Safety Enhance-

- 1 ment Act of 2007, the Secretary, after consultation with the
- 2 Federal Railroad Administration, the Federal Highway
- 3 Administration, and States, shall develop and make avail-
- 4 able to States model legislation providing for improving
- 5 safety by addressing sight obstructions, at highway-rail
- 6 grade crossings that are equipped solely with passive warn-
- 7 ings, as recommended by the Inspector General of the De-
- 8 partment of Transportation in Report No. MH-2007-
- 9 044.".
- 10 (b) Conforming Amendment.—The chapter analysis
- 11 for chapter 201, as amended by section 105 of this Act, is
- 12 amended by inserting after the item relating to section
- 13 20158 the following new item:

"20159. Roadway user sight distance at highway-rail grade crossings.".

- 14 SEC. 204. NATIONAL CROSSING INVENTORY.
- 15 (a) In General.—Subchapter II of chapter 201, as
- 16 amended by section 203 of this Act, is further amended by
- 17 adding at the end the following new section:
- 18 "§ 20160. National crossing inventory
- 19 "(a) Initial Reporting of Information About
- 20 Previously Unreported Crossings.—Not later than 1
- 21 year after the date of enactment of the Railroad Safety En-
- 22 hancement Act of 2007 or 6 months after a new crossing
- 23 becomes operational, whichever occurs later, each railroad
- 24 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.—
10	"(1) On a periodic basis beginning not later
11	than 2 years after the date of enactment of the Rail-
12	road Safety Enhancement Act of 2007 and on or be-
13	fore September 30 of every year thereafter, or as oth-
14	erwise specified by the Secretary, each railroad car-
15	rier shall—
16	"(A) report to the Secretary current information,
17	including information about warning devices and
18	signage, as specified by the Secretary, concerning each
19	crossing through which it operates; or
20	"(B) ensure that the information has been re-
21	ported to the Secretary by another railroad carrier
22	that operates through the crossing.
23	"(2) A railroad carrier that sells a crossing or any
24	part of a crossing on or after the date of enactment of the
25	Railroad Safety Enhancement Act of 2007 shall, not later

1	than the date that is 18 months after the date of enactment
2	of that Act or 3 months after the sale, whichever occurs
3	later, or as otherwise specified by the Secretary, report to
4	the Secretary current information, as specified by the Sec-
5	retary, concerning the change in ownership of the crossing
6	or part of the crossing.
7	"(c) Rulemaking Authority.—The Secretary shall
8	prescribe the regulations necessary to implement this sec-
9	tion. The Secretary may enforce each provision of the De-
10	partment of Transportation's statement of the national
11	highway-rail crossing inventory policy, procedures, and in-
12	struction for States and railroads that is in effect on the
13	date of enactment of the Railroad Safety Enhancement Act
14	of 2007, until such provision is superseded by a regulation
15	issued under this section.
16	"(d) Definitions.—In this section:
17	"(1) Crossing.—The term 'crossing' means a lo-
18	cation within a State, other than a location where
19	one or more railroad tracks cross one or more rail-
20	road tracks either at grade or grade-separated,
21	where—
22	"(A) a public highway, road, or street, or a
23	private roadway, including associated sidewalks
24	and pathways, crosses one or more railroad
25	tracks either at arade or arade-separated: or

1	"(B) a pathway explicitly authorized by a
2	public authority or a railroad that is dedicated
3	for the use of nonvehicular traffic, including pe-
4	destrians, bicyclists, and others, that is not asso-
5	ciated with a public highway, road, or street, or
6	a private roadway, crosses one or more railroad
7	tracks either at grade or grade-separated.
8	"(2) State.—The term 'State' means a State of
9	the United States, the District of Columbia, or the
10	Commonwealth of Puerto Rico.".
11	(b) Conforming Amendment.—The chapter analysis
12	for chapter 201, as amended by section 203 of this Act, is
13	amended by inserting after the item relating to section
14	20159 the following:
	"20160. National crossing inventory.".
15	(c) Reporting and Updating.—Section 130 of title
16	23, United States Code, is amended by adding at the end
17	the following:
18	"(l) National Crossing Inventory.—
19	"(1) Initial reporting of crossing informa-
20	TION.—Not later than 1 year after the date of enact-
21	ment of the Railroad Safety Enhancement Act of
22	2007 or within 6 months of a new crossing becoming
23	operational, whichever occurs later, each State shall
24	report to the Secretary of Transportation current in-

formation, including information about warning de-

- vices and signage, as specified by the Secretary, con cerning each previously unreported crossing located
 within its borders.
 - "(2) Periodic updating of crossing information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.
 - "(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and rail-roads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2007, until such provision is superseded by a regulation issued under this subsection.
 - "(4) DEFINITIONS.—In this subsection, the terms 'crossing' and 'State' have the meaning given those

1	terms by section $20160(d)(1)$ and (2) , respectively, of
2	title 49.".
3	(d) Civil Penalties.—
4	(1) Section 21301(a)(1) is amended—
5	(A) by inserting "with section 20160 or"
6	after "comply" in the first sentence; and
7	(B) by inserting "section 20157 of this title
8	or" after "violating" in the second sentence.
9	(2) Section $21301(a)(2)$ is amended by inserting
10	"The Secretary shall impose a civil penalty for a vio-
11	lation of section 20160 of this title." after the first
12	sentence.
13	SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-
14	ING PROBLEMS.
15	(a) In General.—Section 20152 is amended to read
16	as follows:
17	"§ 20152. Notification of grade crossing problems
18	"Not later than 18 months after the date of enactment
19	of the Railroad Safety Enhancement Act of 2007, the Sec-
20	retary of Transportation shall require each railroad carrier
21	to—
22	"(1) establish and maintain a telephone service,
23	which may be required to be a toll-free telephone for
24	specific railroad carriers as determined by the Sec-
25	retary to be appropriate, for rights-of-way over which

1	it dispatches trains, to directly receive calls report-
2	ing—
3	"(A) malfunctions of signals, crossing gates,
4	and other devices to promote safety at the grade
5	crossing of railroad tracks on those rights-of-way
6	and public or private roads;
7	"(B) disabled vehicles blocking railroad
8	tracks at such grade crossings;
9	"(C) obstructions to the view of a pedestrian
10	or a vehicle operator for a reasonable distance in
11	either direction of a train's approach; or
12	"(D) other safety information involving
13	such grade crossings;
14	"(2) upon receiving a report pursuant to para-
15	graph (1)(A) or (B), immediately contact trains oper-
16	ating near the grade crossing to warn them of the
17	malfunction or disabled vehicle;
18	"(3) upon receiving a report pursuant to para-
19	graph (1)(A) or (B), and after contacting trains pur-
20	suant to paragraph (2), contact, as necessary, appro-
21	priate public safety officials having jurisdiction over
22	the grade crossing to provide them with the informa-
23	tion necessary for them to direct traffic, assist in the
24	removal of the disabled vehicle, or carry out other ac-
25	tivities as appropriate;

1	"(4) upon receiving a report pursuant to para-
2	graph (1)(C) or (D), timely investigate the report, re-
3	move the obstruction if possible, or correct the unsafe
4	circumstance; and
5	"(5) ensure the placement at each grade crossing
6	on rights-of-way that it owns of appropriately located
7	signs, on which shall appear, at a minimum—
8	"(A) a telephone number to be used for plac-
9	ing calls described in paragraph (1) to the rail-
10	road carrier dispatching trains on that right-of-
11	way;
12	"(B) an explanation of the purpose of that
13	telephone number; and
14	"(C) the grade crossing number assigned for
15	that crossing by the National Highway-Rail
16	Crossing Inventory established by the Depart-
17	ment of Transportation.".
18	(b) Conforming Amendment.—The chapter analysis
19	for chapter 201 is amended by striking the item relating
20	to section 20152 and inserting the following:
	"20152. Notification of grade crossing problems.".
21	SEC. 206. OPERATION LIFESAVER.
22	(a) Grant.—The Federal Railroad Administration
23	shall make a grant or grants to Operation Lifesaver to
24	carry out a public information and education program to
25	help prevent and reduce pedestrian, motor vehicle, and other

- 1 incidents, injuries, and fatalities, and to improve awareness
- 2 along railroad rights-of-way and at highway-rail grade
- 3 crossings. This includes development, placement, and dis-
- 4 semination of Public Service Announcements in newspaper,
- 5 radio, television, and other media. It will also include
- 6 school presentations, brochures and materials, support for
- 7 public awareness campaigns, and related support for the
- 8 activities of Operation Lifesaver's member organizations.
- 9 As part of an educational program funded by grants
- 10 awarded under this section, Operation Lifesaver shall pro-
- 11 vide information to the public on how to identify and report
- 12 to the appropriate authorities unsafe or malfunctioning
- 13 highway-rail grade crossings.
- 14 (b) PILOT PROGRAM.—The Secretary may allow funds
- 15 provided under subsection (a) also to be used by Operation
- 16 Lifesaver to implement a pilot program, to be known as
- 17 the Railroad Safety Public Awareness Program, that ad-
- 18 dresses the need for targeted and sustained community out-
- 19 reach on the subjects described in subsection (a). Such a
- 20 pilot program shall be established in 1 or more States iden-
- 21 tified under section 202 of this Act. In carrying out such
- 22 a pilot program Operation Lifesaver shall work with the
- 23 State, community leaders, school districts, and public and
- 24 private partners to identify the communities at greatest
- 25 risk, to develop appropriate measures to reduce such risks,

and shall coordinate the pilot program with the State grade
crossing action plan.
(c) Authorization of Appropriations.—There are
authorized to be appropriated to the Federal Railroad Ad-
ministration for carrying out this section—
(1) \$2,000,000 for each of fiscal years 2008,
2009, and 2010; and
(2) \$1,500,000 for each of fiscal years 20011,
2012, and 2013.
SEC. 207. TRESPASSER PREVENTION AND HIGHWAY-RAIL
CROSSING SAFETY.
(a) Trespasser Prevention and Highway-Rail
Grade Crossing Warning Sign Violations.—Section
20151 is amended—
(1) by striking the section heading and inserting
$the\ following:$
"§20151. Railroad trespassing, vandalism, and high-
way-rail grade crossing warning sign vio-
$lation\ prevention\ strategy";$
lation prevention strategy"; (2) by striking subsection (a) and inserting the
(2) by striking subsection (a) and inserting the
(2) by striking subsection (a) and inserting the following:
(2) by striking subsection (a) and inserting the following: "(a) EVALUATION OF EXISTING LAWS.—In consulta-

1	affecting railroad safety, and violations of highway-rail
2	grade crossing warning signs and develop model prevention
3	strategies and enforcement laws to be used for the consider-
4	ation of State and local legislatures and governmental enti-
5	ties. The first such evaluation and review concerning viola-
6	tions of grade crossing signals shall be completed within
7	1 year after the date of enactment of the Railroad Safety
8	Enhancement Act of 2007. The Secretary shall revise the
9	model prevention strategies and enforcement codes periodi-
10	cally.";
11	(3) by inserting "FOR TRESPASSING AND VAN-
12	DALISM PREVENTION" in the subsection heading of
13	subsection (b) after "Outreach Program";
14	(4) in subsection (c)—
15	(A) by redesignating paragraphs (1) and
16	(2) as subparagraphs (A) and (B), respectively;
17	(B) by inserting "(1)" after "Model Leg-
18	ISLATION.—"; and
19	(C) by adding at the end the following new
20	paragraph:
21	"(2) Within 18 months after the date of enactment of
22	the Railroad Safety Enhancement Act of 2007, the Sec-
23	retary, after consultation with State and local governments
24	and railroad carriers, shall develop and make available to
25	State and local governments model State legislation pro-

1	viding for civil or criminal penalties, or both, for violations
2	of highway-rail grade crossing warning signs."; and
3	(5) by adding at the end the following new sub-
4	section:
5	"(d) Definition.—In this section, the term 'violation
6	of highway-rail grade crossing warning signs' includes any
7	action by a motorist, unless directed by an authorized safety
8	officer—
9	"(1) to drive around a grade crossing gate in a
10	position intended to block passage over railroad
11	tracks;
12	"(2) to drive through a flashing grade crossing
13	signal;
14	"(3) to drive through a grade crossing with pas-
15	sive warning signs without ensuring that the grade
16	crossing could be safely crossed before any train ar-
17	rived; and
18	"(4) in the vicinity of a grade crossing, who cre-
19	ates a hazard of an accident involving injury or
20	property damage at the grade crossing.".
21	(b) Conforming Amendment.—The chapter analysis
22	for chapter 201 of title 49, United States Code, is amended
23	by striking the item relating to section 20151 and inserting
24	the following:

"20151. Railroad trespassing, vandalism, and highway-rail grade crossing warning sign violation prevention strategy.".

1	(c) Educational or Awareness Program Items
2	FOR DISTRIBUTION.—Section 20134(a) is amended by add-
3	ing at the end of the subsection the following: "The Sec-
4	retary may purchase items of nominal value and distribute
5	them to the public without charge as part of an educational
6	or awareness program to accomplish the purposes of this
7	section and of any other sections of this title related to im-
8	proving the safety of highway-rail crossings and to pre-
9	venting trespass on railroad rights of way, and the Sec-
10	retary shall prescribe guidelines for the administration of
11	this authority.".
12	SEC. 208. FOSTERING INTRODUCTION OF NEW TECH-
13	NOLOGY TO IMPROVE SAFETY AT HIGHWAY-
14	RAIL GRADE CROSSINGS.
14 15	RAIL GRADE CROSSINGS. (a) Amendment.—Subchapter II of chapter 201, as
15	(a) Amendment.—Subchapter II of chapter 201, as
15 16 17	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by
15 16 17	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following:
15 16 17 18	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following: "\$20161. Fostering introduction of new technology to
15 16 17 18 19	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following: "\$20161. Fostering introduction of new technology to improve safety at highway-rail grade
15 16 17 18 19 20 21	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following: "\$20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings
15 16 17 18 19 20 21	(a) AMENDMENT.—Subchapter II of chapter 201, as amended by section 204 of this Act, is further amended by adding at the end the following: "\$20161. Fostering introduction of new technology to improve safety at highway-rail grade crossings "(a) POLICY.—It is the policy of the Department of

- 1 carry out this policy in consultation with States and nec-
- 2 essary public and private entities.
- 3 "(b) Submission of New Technology Pro-
- 4 POSALS.—Railroad carriers and railroad suppliers may
- 5 submit for review and approval to the Secretary such new
- 6 technology designed to improve safety at highway-rail grade
- 7 crossings. The Secretary shall approve the new technology
- 8 designed to improve safety at highway-rail grade crossings
- 9 in accordance with Federal Railroad Administration stand-
- 10 ards for the development and use of processor-based signal
- 11 and train control systems and shall consider the effects on
- 12 safety of highway-user interface with the new technology.
- 13 "(c) Effect of Secretarial Approval.—If the Sec-
- 14 retary approves new technology to provide warning to high-
- 15 way users at a highway-rail grade crossing and such tech-
- 16 nology is installed at a highway-rail grade crossing in ac-
- 17 cordance with the conditions of the approval, this deter-
- 18 mination preempts any State law concerning the adequacy
- 19 of the technology in providing warning at the crossing.
- 20 Under no circumstances may a person (including a State,
- 21 other public authority, railroad carrier, system designer, or
- 22 supplier of the technology) be held liable for damages for
- 23 any harm to persons or property because of an accident
- 24 or incident at the crossing protected by such technology
- 25 based upon the carrier's failure to properly inspect and

- 1 maintain such technology, if the carrier has inspected and
- 2 maintained the technology in accordance with the terms of
- 3 the Secretary's approval.".
- 4 (b) Conforming Amendment.—The chapter analysis
- 5 for chapter 201, as amended by section 204 of this Act, is
- 6 further amended by inserting after the item relating to sec-
- 7 tion 20160, the following:

"20161. Fostering introduction of new technology to improve safety at highwayrail grade crossings.".

8 TITLE III—FEDERAL RAILROAD 9 ADMINISTRATION

10 SEC. 301. HUMAN CAPITAL INCREASES.

- 11 (a) In General.—The Secretary shall increase the
- 12 number of Federal Railroad Administration employees
- 13 *by*—
- 14 (1) 25 employees in fiscal year 2008;
- 15 (2) 50 employees in fiscal year 2009:
- 16 (3) 50 employees in fiscal year 2010;
- 17 (4) 25 employees in fiscal year 2011;
- 18 (5) 25 employees in fiscal year 2012; and
- 19 (6) 25 employees in fiscal year 2013.
- 20 (b) Functions.—In increasing the number of employ-
- 21 ees pursuant to subsection (a), the Secretary shall focus on
- 22 hiring employees—

1	(1) specifically trained to conduct on-site rail-
2	road and highway-rail grade crossing accident inves-
3	tigations;
4	(2) to implement the Railroad Safety Strategy;
5	(3) to administer and implement the Railroad
6	Safety Risk Reduction Pilot Program and the Rail-
7	road Safety Risk Reduction Program;
8	(4) to implement section 20166 of title 49,
9	United States Code, and to focus on encouragement
10	and oversight of the use of new or novel rail safety
11	technology;
12	(5) to conduct routine inspections and audits of
13	railroad and hazardous materials facilities and
14	records for compliance with railroad safety laws and
15	regulations;
16	(6) to inspect railroad bridges, tunnels, and re-
17	lated infrastructure, and to review or analyze rail-
18	road bridge, tunnel, and related infrastructure inspec-
19	tion reports; and
20	(7) to support the Federal Railroad Administra-
21	tion's safety mission.
22	SEC. 302. CIVIL PENALTY INCREASES.
23	(a) General Violations of Chapter 201.—Section
24	21301(a)(2) is amended—

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striking
                                "$10,000." and inserting
 1
            (1) by
 2
        "$25,000."; and
            (2) by
                      striking "$20,000." and inserting
 3
        "$100,000.".
 4
 5
        (b) Accident and Incident Violations of Chapter
   201; Violations of Chapters 203 Through 209.—Sec-
   tion 21302(a)(2) is amended—
 8
            (1) by striking "$10,000." and inserting
        "$25,000."; and
 9
            (2) by striking
                               "$20,000." and inserting
10
        "$100,000.".
11
12
        (c)
             VIOLATIONS
                                            211.—Section
                           OF
                                 CHAPTER
   21303(a)(2) is amended—
14
                               "$10,000."
            (1) by striking
                                           and
                                                 inserting
        "$25,000."; and
15
16
            (2)
                by
                     striking "$20,000." and
                                                inserting
        "$100,000.".
17
18
   SEC. 303. ENFORCEMENT REPORT.
19
        (a) In General.—Subchapter I of chapter 201, as
   amended by section 107 of this Act, is amended by adding
21
   at the end the following:
22
   "§ 20120. Enforcement Report.
23
        "(a) In General.—Not later than December 31, 2008,
   the Secretary of Transportation shall make available to the
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1	public and publish on its public website an annual report
2	that—
3	"(1) provides a summary of railroad safety and
4	hazardous materials compliance inspections and au-
5	dits that Federal or state inspectors conducted in the
6	prior fiscal year organized by type of alleged viola-
7	tion, including track, motive power and equipment,
8	signal, grade crossing, operating practices, accident
9	and incidence reporting, and hazardous materials;
10	"(2) provides a summary of all enforcement ac-
11	tions taken by the Secretary or the Federal Railroad
12	Administration during the prior fiscal year, includ-
13	ing—
14	"(A) the number of civil penalties assessed
15	against railroad carriers, hazardous material
16	shippers, and individuals;
17	"(B) the initial amount of civil penalties
18	assessed against railroad carriers, hazardous ma-
19	terials shippers, and individuals;
20	"(C) the number of civil penalty cases set-
21	tled against railroad carriers, hazardous mate-
22	rial shippers, and individuals;
23	"(D) the final amount of civil penalties as-
24	sessed against railroad carriers, hazardous mate-
25	rials shippers, and individuals;

1	"(E) the difference between the initial and
2	final amounts of civil penalties assessed against
3	railroad carriers, hazardous materials shippers,
4	and individuals;
5	"(F) the number of administrative hearings
6	requested and completed related to hazardous
7	materials transportation law violations or en-
8	forcement actions against individuals;
9	"(G) the number of cases referred to the At-
10	torney General for civil or criminal prosecution;
11	"(H) the number and subject matter of all
12	compliance orders, emergency orders or precursor
13	agreements;
14	"(3) analyzes the effect of the number of inspec-
15	tions conducted and enforcement actions taken on the
16	number and rate of reported accidents and incidents
17	and railroad safety;
18	"(4) identifies the number of locomotive engineer
19	certification denial or revocation cases appealed to
20	and the average length of time it took to be decided
21	by—
22	"(A) the Locomotive Engineer Review
23	Board;
24	"(B) an Administrative Hearing Officer or
25	Administrative Law Judge: or

1	"(C) the Administrator of the Federal Rail-
2	$road\ Administration;$
3	"(5) provides any explanation regarding changes
4	in the Secretary's or the Federal Railroad Adminis-
5	tration's enforcement programs or policies that may
6	substantially affect the information reported; and
7	"(6) includes any additional information that
8	the Secretary determines is useful to improve the
9	transparency of its enforcement program.".
10	(b) Conforming Amendment.—The chapter analysis
11	for chapter 201, as amended by section 107 of this Act, is
12	amended by inserting after the item relating to section
13	20119 the following:
	"20120. Enforcement report.".
14	SEC. 304. PROHIBITION OF INDIVIDUALS FROM PER-
15	FORMING SAFETY-SENSITIVE FUNCTIONS
16	FOR A VIOLATION OF HAZARDOUS MATE-
17	RIALS TRANSPORTATION LAW.
18	Section 20111(c) is amended to read as follows:
19	"(c) Orders Prohibiting Individuals From Per-
20	FORMING SAFETY-SENSITIVE FUNCTIONS.—
21	"(1) If an individual's violation of this part,
22	chapter 51 of this title, or a regulation prescribed, or
23	an order issued, by the Secretary under this part or
24	
24	chapter 51 of this title is shown to make that indi-

1	functions, the Secretary, after providing notice and
2	an opportunity for a hearing, may issue an order
3	prohibiting the individual from performing safety-
4	sensitive functions in the railroad industry for a spec-
5	ified period of time or until specified conditions are
6	met.
7	"(2) This subsection does not affect the Sec-
8	retary's authority under section 20104 of this title to
9	act on an emergency basis.".
10	SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.
11	Section 20107 is amended by inserting at the end the
12	following:
13	"(c) Railroad Radio Communications.—
14	"(1) In general.—To carry out the Secretary's
15	responsibilities under this part and under chapter 51,
16	the Secretary may authorize officers, employees, or
17	agents of the Secretary to conduct the following ac-
18	tivities in circumstances the Secretary finds to be rea-
19	sonable:
20	"(A) Intercepting a radio communication,
21	with or without the consent of the sender or other
22	receivers of the communication, but only where
23	such communication is broadcast or transmitted
24	over a radio frequency which is—

1	"(i) authorized for use by one or more
2	railroad carriers by the Federal Commu-
3	nications Commission; and
4	"(ii) primarily used by such railroad
5	carriers for communications in connection
6	with railroad operations.
7	"(B) Communicating the existence, contents,
8	substance, purport, effect, or meaning of the com-
9	munication, subject to the restrictions in para-
10	graph (3).
11	"(C) Receiving or assisting in receiving the
12	communication (or any information therein con-
13	tained).
14	"(D) Disclosing the contents, substance,
15	purport, effect, or meaning of the communication
16	(or any part thereof of such communication) or
17	using the communication (or any information
18	contained therein), subject to the restrictions in
19	paragraph (3), after having received the commu-
20	nication or acquired knowledge of the contents,
21	substance, purport, effect, or meaning of the com-
22	munication (or any part thereof).
23	"(E) Recording the communication by any
24	means, including writing and tape recording.

1	"(2) Accident prevention and accident in-
2	VESTIGATION.—The Secretary, and officers, employ-
3	ees, and agents of the Department of Transportation
4	authorized by the Secretary, may engage in the ac-
5	tivities authorized by paragraph (1) for the purpose
6	of accident prevention and accident investigation.
7	"(3) Use of information.—(A) Information
8	obtained through activities authorized by paragraphs
9	(1) and (2) shall not be admitted into evidence in any
10	administrative or judicial proceeding except—
11	"(i) in a prosecution of a felony under Fed-
12	eral or State criminal law; or
13	"(ii) to impeach evidence offered by a party
14	other than the Federal Government regarding the
15	existence, electronic characteristics, content, sub-
16	stance, purport, effect, meaning, or timing of, or
17	identity of parties to, a communication inter-
18	cepted pursuant to paragraphs (1) and (2) in
19	proceedings pursuant to section 5122, 5123,
20	20702(b), 20111, 20112, 20113, or 20114 of this
21	title.
22	"(B) If information obtained through activities
23	set forth in paragraphs (1) and (2) is admitted into
24	evidence for impeachment purposes in accordance
25	with subparagraph (A), the court, administrative law

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- judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.
 - "(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).
 - "(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.
 - "(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.
 - "(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to

1	conduct authorized by and pursuant to this sub-
2	section.".
3	SEC. 306. EMERGENCY WAIVERS.
4	Section 20103 is amended—
5	(1) by striking subsection (e) and inserting the
6	following:
7	"(e) Hearings.—Except as provided in subsection (g)
8	of this section, the Secretary shall conduct a hearing as pro-
9	vided by section 553 of title 5 when prescribing a regulation
10	or issuing an order under this chapter, including a regula-
11	tion or order establishing, amending, or waiving compli-
12	ance with a railroad safety regulation prescribed or order
13	issued under this chapter. An opportunity for an oral pres-
14	entation shall be provided."; and
15	(2) by adding at the end thereof the following:
16	"(g) Emergency Waivers.—
17	"(1) In general.—The Secretary shall prescribe
18	procedures concerning the handling of requests for
19	waivers of regulations prescribed or orders issued
20	under this chapter in emergency situations and may
21	prescribe temporary emergency waiver procedures
22	without first providing an opportunity for public
23	comment. The Secretary may grant a waiver request
24	if the waiver is directly related to the emergency event
25	or necessary to aid in any recovery efforts and is in

- 1 the public interest and consistent with railroad safety.
- 2 The relief shall not extend for a period of more than
- 3 9 months, including the period of the relief granted
- 4 under any renewal of the waiver pursuant to the
- 5 emergency waiver procedures. For matters that may
- 6 impact the missions of the Department of Homeland
- 7 Security, the Secretary of Transportation shall con-
- 8 sult and coordinate with the Secretary of Homeland
- 9 Security as soon as practicable.
- 10 "(2) Waiver before hearing.—If, under the emer-
- 11 gency waiver procedures established under paragraph (1)
- 12 of this subsection, the Secretary determines the public inter-
- 13 est would be better served by addressing a request for waiver
- 14 prior to providing an opportunity for a hearing under sec-
- 15 tion 553 of title 5 and an oral presentation, the Secretary
- 16 may act on the waiver request and, if the request is granted,
- 17 the Secretary shall subsequently provide notice and an op-
- 18 portunity for a hearing and oral presentation pursuant to
- 19 procedures prescribed under paragraph (1) of this sub-
- 20 section. Should the Secretary receive comment or a request
- 21 for oral presentation on a waiver request after granting the
- 22 waiver, the Secretary may take any necessary action with
- 23 regard to that waiver (including rescission or modification)
- 24 based on the newly acquired information.

1	"(3) Emergency situation; emergency event.—In
2	this subsection, the terms 'emergency situation' and 'emer-
3	gency event' mean a natural or manmade disaster, such as
4	a hurricane, flood, earthquake, mudslide, forest fire, snow-
5	storm, terrorist act, biological outbreak, release of a dan-
6	gerous radiological, chemical, explosive, or biological mate-
7	rial, or a war-related activity, that poses a risk of death,
8	serious illness, severe injury, or substantial property dam-
9	age. The disaster may be local, regional, or national in
10	scope.".
11	SEC. 307. FEDERAL RAIL SECURITY OFFICERS' ACCESS TO
12	INFORMATION.
13	(a) Amendment.—Chapter 281 is amended by adding
14	at the end thereof the following:
15	"§ 28104. Federal rail security officers' access to infor-
16	mation
17	"(a) Access to Records or Database Systems by
18	THE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMIN-
19	ISTRATION.—
20	"(1) In General.—The Administrator of the
21	Federal Railroad Administration is authorized to
22	have access to a system of documented criminal jus-
23	tice information maintained by the Department of
24	Justice or by a State for the purpose of carrying out
25	the civil and administrative responsibilities of the

- 1 Administrator to protect the safety, including secu-2 rity, of railroad operations and for other purposes authorized by law, including the National Crime Pre-3 4 vention and Privacy Compact (42 U.S.C. 14611-14616). The Administrator shall be subject to the 5 6 same conditions or procedures established by the De-7 partment of Justice or State for access to such an in-8 formation system by other governmental agencies with 9 access to the system.
- 10 "(2) LIMITATION.—The Administrator may not 11 use the access authorized under paragraph (1) to con-12 duct criminal investigations.
- 13 "(b) Designated Employees of the Federal Railroad Administration.—The Administrator shall, by 14 15 order, designate each employee of the Administration whose primary responsibility is rail security who shall carry out the authority described in subsection (a). The Administrator shall strictly limit access to a system of documented 18 19 criminal justice information to persons with security responsibilities and with appropriate security clearances. 20 21 Such a designated employee may, insofar as authorized or permitted by the National Crime Prevention and Privacy 23 Compact or other law or agreement governing an affected

1 "(1) have access to and receive criminal history, 2 driver, vehicle, and other law enforcement informa-3 tion contained in the law enforcement databases of the 4 Department of Justice, or of any jurisdiction in a 5 State in the same manner as a police officer employed 6 by a State or local authority of that State who is cer-7 tified or commissioned under the laws of that State: 8 "(2) use any radio, data link, or warning system 9 of the Federal Government and of any jurisdiction in 10 a State that provides information about wanted per-11 sons, be-on-the-lookout notices, or warrant status or 12 other officer safety information to which a police offi-13 cer employed by a State or local authority in that 14 State who is certified or commissioned under the laws 15 of that State has access and in the same manner as 16 such police officer; or 17 "(3) receive Federal, State, or local government 18 communications with a police officer employed by a 19 State or local authority in that State in the same 20 manner as a police officer employed by a State or 21 local authority in that State who is commissioned 22 under the laws of that State. 23 "(c) System of Documented Criminal Justice In-

FORMATION DEFINED.—In this section, the term 'system of

documented criminal justice information' means any law

- 1 enforcement database, systems, or communications con-
- 2 taining information concerning identification, criminal
- 3 history, arrests, convictions, arrest warrants, or wanted or
- 4 missing persons, including the National Crime Information
- 5 Center and its incorporated criminal history databases and
- 6 the National Law Enforcement Telecommunications Sys-
- 7 tem.".
- 8 (b) Conforming Amendment.—The chapter analysis
- 9 for chapter 281 is amended by adding at the end the fol-
- 10 lowing:

"28104. Federal rail security officers' access to criminal history and other law enforcement records, systems, and communications.".

- 11 SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRA-
- 12 TION'S WEBSITE.
- 13 (a) In General.—The Secretary shall update the Fed-
- 14 eral Railroad Administration's public website to better fa-
- 15 cilitate the ability of the public, including those individuals
- 16 who are not regular users of the public website, to find cur-
- 17 rent information regarding the Federal Railroad Adminis-
- 18 tration's activities.
- 19 (b) Public Reporting of Violations.—On the Fed-
- 20 eral Railroad Administration's public website's home page,
- 21 the Secretary shall provide a mechanism for the public to
- 22 submit written reports of potential violations of Federal
- 23 railroad safety and hazardous materials transportation

1	laws, regulations and orders to the Federal Railroad Ad-
2	ministration.
3	TITLE IV—RAILROAD SAFETY
4	ENHANCEMENTS
5	SEC. 401. EMPLOYEE TRAINING.
6	(a) In General.—Subchapter II of chapter 201, as
7	amended by section 208 of this Act, is further amended by
8	adding at the end the following:
9	"§ 20162. Employee training
10	"(a) In General.—Not later than 1 year after the
11	date of enactment of the Railroad Safety Enhancement Act
12	of 2007, the Secretary of Transportation shall issue regula-
13	tions requiring railroad carriers and railroad carrier con-
14	tractors and subcontractors to develop training plans for
15	crafts and classes of employees, as the Secretary determines
16	appropriate.
17	"(b) Contents.—The Secretary shall require that
18	each training plan—
19	"(1) clearly identify the class of craft of employ-
20	ees to which the plan applies;
21	"(2) require that employees be trained on the re-
22	quirements of relevant Federal railroad safety laws,
23	regulations, and orders;

1	(3) require employees to be tested or otherwise
2	demonstrate their proficiency in the subject matter of
3	the training; and
4	"(4) contain any other relevant information that
5	the Secretary deems appropriate.
6	"(c) Submission for Approval.—The Secretary
7	shall require each railroad carrier, railroad carrier con-
8	tractor, and railroad carrier subcontractor to submit its
9	training plan to the Federal Railroad Administration for
10	review and approval.
11	"(d) Exemption.—The Secretary may exempt rail-
12	road carriers and railroad carrier contractors and sub-
13	contractors from submitting training plans covering em-
14	ployees for which the Secretary has issued training regula-
15	tions before the date of enactment of the Railroad Safety
16	Enhancement Act of 2007.".
17	(b) Conforming Amendment.—The chapter analysis
18	for chapter 201, as amended by section 208 of this Act, is
19	further amended by adding at the end thereof the following:
	"20162. Employee training.".
20	SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES
21	OF EMPLOYEES.
22	(a) Report.—Not later than 1 year after the date of
23	enactment of this Act, the Secretary shall issue a report to
24	the Senate Committee on Commerce, Science, and Trans-
25	portation and the House of Representatives Committee on

1 Transportation and Infrastructure about whether the certification of certain crafts or classes of railroad carrier or railroad carrier contractor or subcontractor employees is 3 4 necessary to reduce the number and rate of accidents and 5 incidents or to improve railroad safety. 6 (b) Crafts and Classes To Be Considered.—As part of the report, the Secretary shall consider— 8 (1) conductors; 9 (2) car repair and maintenance employees; (3) onboard service workers: 10 11 (4) rail welders: 12 (5) dispatchers; 13 (6) signal repair and maintenance employees; 14 and 15 (7) any other craft or class of employees that the Secretary determines appropriate. 16 17 (c) Regulations.—The Secretary may issue regulations requiring the certification of certain crafts or classes 18 of employees that the Secretary determines pursuant to the 19 report required by subsection (a) are necessary to reduce 21 the number and rate of accidents and incidents or to improve railroad safety. SEC. 403. TRACK INSPECTION TIME STUDY. 24 (a) STUDY.—Not later that 2 years after the date of enactment of this Act, the Secretary shall—

1	(1) complete a study to determine whether—
2	(A) the required intervals of track inspec-
3	tions for each class of track should be amended;
4	(B) track remedial action requirements
5	should be amended;
6	(C) different track inspection and repair
7	priorities or methods should be required; and
8	(2) issue recommendations for changes to the
9	Federal track safety standards in part 213 of title 49,
10	Code of Federal Regulations, based on the results of
11	$the \ study.$
12	(b) Considerations.—In conducting the study the
13	Secretary shall consider—
14	(1) the most current rail flaw, rail defect growth,
15	rail fatigue, and other relevant track- or rail-related
16	research and studies;
17	(2) the availability and feasibility of developing
18	and implementing new or novel rail inspection tech-
19	nology for routine track inspections;
20	(3) information from National Transportation
21	Safety Board or Federal Railroad Administration ac-
22	cident investigations where track defects were the
23	cause or a contributing cause; and
24	(4) other relevant information, as determined by
25	the Secretary.

- 1 (c) UPDATE OF REGULATIONS.—Not later than 2 years
- 2 after the completion of the study required by subsection (b),
- 3 the Secretary shall issue regulations implementing the rec-
- 4 ommendations of the study.
- 5 SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT
- 6 STATION PLATFORM GAPS.
- 7 Not later than 2 years after the enactment of this Act,
- 8 the Secretary shall complete a study to determine the most
- 9 safe, efficient, and cost-effective way to improve the safety
- 10 of rail passenger station platforms gaps in order to increase
- 11 compliance with the requirements under the Americans
- 12 with Disabilities Act (42 U.S.C. 12101 et seq.), including
- 13 regulations issued pursuant to section 504 of such Act (42
- 14 U.S.C. 12204) and to minimize the safety risks associated
- 15 with such gaps for railroad passengers and employees.
- 16 SEC. 405. LOCOMOTIVE CAB STUDIES.
- 17 (a) In General.—Not later than 1 year after the date
- 18 of enactment of this Act, the Secretary, through the Rail-
- 19 road Safety Advisory Committee if the Secretary makes
- 20 such a request, shall complete a study on the safety impact
- 21 of the use of personal electronic devices, including cell
- 22 phones, video games, and other distracting devices, by safe-
- 23 ty-related railroad employees (as defined in section
- 24 20102(4) of title 49, United States Code), during the per-

- 1 formance of such employees' duties. The study shall consider
- 2 the prevalence of the use of such devices.
- 3 (b) Locomotive Cab Environment.—The Secretary
- 4 may also study other elements of the locomotive cab environ-
- 5 ment and their effect on an employee's health and safety.
- 6 (c) Report.—Not later than 6 months after the com-
- 7 pletion of any study under this section, the Secretary shall
- 8 issue a report on the study to the Senate Committee on
- 9 Commerce, Science, and Transportation and the House of
- 10 Representatives Committee on Transportation and Infra-
- 11 structure.
- 12 (d) AUTHORITY.—Based on the conclusions of the
- 13 study required under (a), the Secretary of Transportation
- 14 may prohibit the use of personal electronic devices, such as
- 15 cell phones, video games, or other electronic devices that
- 16 may distract employees from safely performing their duties,
- 17 unless those devices are being used according to railroad
- 18 operating rules or for other work purposes. Based on the
- 19 conclusions of other studies conducted under subsection (b),
- 20 the Secretary may issue regulations to improve elements of
- 21 the cab environment to protect an employee's health and
- 22 safety.

1	SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.
2	(a) In General.—Subchapter II of chapter 201, as
3	amended by section 401 of this Act, is further amended by
4	adding at the end thereof the following:
5	"§ 20163. Railroad safety technology grants
6	"(a) Grant Program.—The Secretary of Transpor-
7	tation shall establish a grant program for the deployment
8	of train control technologies, train control component tech-
9	nologies, processor-based technologies, electronically con-
10	trolled pneumatic brakes, rail integrity inspection systems,
11	rail integrity warning systems, switch position indicators,
12	remote control power switch technologies, track integrity
13	circuit technologies, and other new or novel railroad safety
14	technology.
15	"(b) Grant Criteria.—
16	"(1) Eligibility.—Grants shall be made under
17	this section to eligible passenger and freight railroad
18	carriers, railroad suppliers, and State and local gov-
19	ernments for projects described in subsection (a) that
20	have a public benefit of improved safety and network
21	efficiency.
22	"(2) Considerations.—Priority shall be given
23	to projects that—
24	"(A) focus on making technologies inter-
25	operable between railroad systems, such as train

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 $control\ technologies;$

1	"(B) provide incentives for train control
2	technology deployment on high-risk corridors,
3	such as those that have high volumes of haz-
4	ardous materials shipments or over which com-
5	muter or passenger trains operate; or
6	"(C) benefit both passenger and freight safe-
7	ty and efficiency.
8	"(3) Technology implementation plan.—
9	Grants may not be awarded under this section to en-
10	tities that fail to develop and submit to the Secretary
11	a technology implementation plan as required by sec-
12	$tion \ 20157(d)(2).$
13	"(c) Authorization of Appropriations.—There are
14	authorized to be appropriated to the Secretary of Transpor-
15	tation \$20,000,000 for each of fiscal years 2008 through
16	2013 to carry out this section. Amounts appropriated pur-
17	suant to this section shall remain available until ex-
18	pended.".
19	(b) Conforming Amendment.—The chapter analysis
20	for chapter 201, as amended by section 401 of this Act, is
21	further amended by inserting after the item relating to sec-
22	tion 20163 the following:
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1	SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-
2	MENT GRANTS.
3	(a) In General.—Subchapter II of chapter 201, as
4	amended by section 406 of this Act, is further amended by
5	adding at the end thereof the following:
6	"§ 20164. Railroad safety infrastructure improvement
7	grants
8	"(a) Grant Program.—The Secretary of Transpor-
9	tation shall establish a grant program for safety improve-
10	ments to railroad infrastructure, including the acquisition,
11	improvement, or rehabilitation of intermodal or rail equip-
12	ment or facilities, including track, bridges, tunnels, yards,
13	buildings, passenger stations, facilities, and maintenance
14	and repair shops.
15	"(b) Eligibility.—Grants shall be made under this
16	section to eligible passenger and freight railroad carriers,
17	and State and local governments for projects described in
18	subsection (a).
19	"(c) Considerations.—In awarding grants the Sec-
20	retary shall consider, at a minimum—
21	"(1) the age and condition of the rail infrastruc-
22	ture of the applicant;
23	"(2) the railroad's safety record, including acci-
24	dent and incident numbers and rates;
25	"(3) the volume of hazardous materials trans-
26	ported by the railroad;

1	"(4) the operation of passenger trains over the
2	railroad; and
3	"(5) whether the railroad has submitted a rail-
4	road safety risk reduction program, as required by
5	section 20157.
6	"(d) Authorization of Appropriations.—There
7	are authorized to be appropriated to the Secretary of Trans-
8	portation \$15,000,000 for each of fiscal years 2008 through
9	2013 to carry out this section. Amounts appropriated pur-
10	suant to this subsection shall remain available until ex-
11	pended.".
12	(b) Conforming Amendment.—The chapter analysis
13	for chapter 201, as amended by section 406 of this Act, is
14	amended by inserting after the item relating to section
15	20163 the following:
	"20164. Railroad safety infrastructure improvement grants.".
16	SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR
17	PROVISION.
18	Section 20303 is amended by adding at the end the
19	following:
20	"(d) Additional Conditions for Movement To
21	Make Repairs to Defective or Insecure Vehicles.—
22	"(1) In General.—The Secretary of Transpor-
23	tation may impose conditions for the movement of a
24	defective or insecure vehicle to make renairs in addi-

1	tion to those conditions set forth in subsection (a) by
2	prescribing regulations or issuing orders as necessary.
3	"(2) Necessity of movement.—The movement
4	of a defective or insecure vehicle from a location may
5	be necessary to make repairs of the vehicle even
6	though a mobile repair truck capable of making the
7	repairs has gone to the location on an irregular basis
8	(as specified in regulations prescribed by the Sec-
9	retary).
10	"(e) Definitions.—In this section:
11	"(1) Nearest.—The term 'nearest' means the
12	closest in the forward direction of travel for the defec-
13	tive or insecure vehicle.
14	"(2) Place at which the repairs can be
15	MADE.—The term 'place at which the repairs can be
16	made' means—
17	"(A) a location with a fixed facility for con-
18	ducting the repairs that are necessary to bring
19	the defective or insecure vehicle into compliance
20	with this chapter; or
21	"(B) a location where a mobile repair truck
22	capable of making the repairs that are necessary
23	to bring the defective or insecure vehicle into
24	compliance with this chapter makes the same
25	kind of repair at the location regularly (as speci-

1	fied in regulations prescribed by the Sec-
2	retary).".
3	SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECH-
4	NOLOGY.
5	(a) In General.—Subchapter II of chapter 201, as
6	amended by section 407 of this Act, is further amended by
7	adding at the end the following new section:
8	"§ 20165. Development and use of rail safety tech-
9	nology
10	"(a) In General.—Not later than 1 year after enact-
11	ment of the Railroad Safety Enhancement Act of 2007, the
12	Secretary of Transportation shall issue standards, guid-
13	ance, regulations, or orders governing the development, use,
14	and implementation of rail safety technology in dark terri-
15	tory, in arrangements not defined in section 20501 or other-
16	wise not covered by Federal standards, guidance, regula-
17	tions, or orders that ensures its safe operation, such as—
18	"(1) switch position monitoring devices;
19	"(2) radio, remote control or other power-assisted
20	switches;
21	"(3) hot box, high water or earthquake detectors;
22	"(4) remote control locomotive zone limiting de-
23	vices;
24	"(5) slide fences;
25	"(6) grade crossing video monitors;

1	"(7) track integrity warning systems;
2	"(8) or other similar rail safety technologies, as
3	determined by the Secretary.
4	"(b) Dark Territory Defined.—In this section, the
5	term 'dark territory' means any territory in a railroad sys-
6	tem that does not have a signal or train control system in-
7	stalled or operational.".
8	(b) Conforming Amendment.—The chapter analysis
9	for chapter 201, as amended by section 407 of this Act, is
10	amended by inserting after the item relating to section
11	20164 the following:
	"20165. Development and use of rail safety technology.".
12	SEC. 410. EMPLOYEE SLEEPING QUARTERS.
13	Section 21106 is amended—
14	(1) by inserting "(a) In General.—" before "A
15	railroad carrier";
16	(2) by striking "sanitary and give those employ-
17	ees and individuals an opportunity for rest free from
18	the interruptions caused by noise under the control of
19	the carrier;" in paragraph (1) and inserting "sani-
20	tary, give those employees and individuals an oppor-
21	tunity for rest free from the interruptions caused by
22	noise under the control of the carrier, and provide in-
23	door toilet facilities, potable water, and other features
24	to protect the health of employees;" and
25	(3) by adding at the end the following:

1	"(b) CAMP CARS.—No later than 12 months after the
2	date of enactment of the Railroad Safety Enhancement Act
3	of 2007, the Secretary, in consultation with the Secretary
4	of Labor, shall issue regulations governing the use of camp
5	cars, pursuant to subsection (a)(1), for employees and any
6	individuals employed to maintain the right of way of a
7	railroad carrier. The regulations may also prohibit the use
8	of camp cars, if necessary, to protect the health and safety
9	of the employees.".
10	SEC. 411. EMPLOYEE PROTECTIONS.
11	Section 20109(a) is amended—
12	(1) by redesignating paragraphs (5) through (7)
13	as paragraphs (6) through (8), respectively; and
14	(2) by inserting after paragraph (4) the fol-
15	lowing:
16	"(5) to request that a railroad carrier provide
17	first aid, prompt medical treatment, or transpor-
18	tation to an appropriate medical facility or hospital
19	after being injured during the course of employment,
20	or to comply with treatment prescribed by a physi-
21	cian or licensed health care professional consistent
22	with the carrier's medical standards for fitness for
23	duty;".

1 SEC. 412. UNIFIED TREATMENT OF FAMILIES OF RAILROAD

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<u> </u>	CARRIERS.

- 3 Section 20102(3), as redesignated by section 2(b) of
- 4 this Act, is amended to read as follows:
- 5 "(3) 'railroad carrier' means a person providing
- 6 railroad transportation, except that, upon petition by
- 7 a group of commonly controlled railroad carriers that
- 8 the Secretary determines is operating within the
- 9 United States as a single, integrated rail system, the
- 10 Secretary may by order treat the group of railroad
- 11 carriers as a single railroad carrier for purposes of
- one or more provisions of part A, subtitle V of this
- title and implementing regulations and order, subject
- 14 to any appropriate conditions that the Secretary may
- impose.".

16 SEC. 413. STUDY OF REPEAL OF CONRAIL PROVISION.

- Within 1 year after the date of enactment of this Act,
- 18 the Secretary shall complete a study of the impacts of re-
- 19 pealing section 711 of the Regional Rail Reorganization Act
- 20 of 1973 (45 U.S.C. 797j). Within 6 months after completing
- 21 the study, the Secretary shall transmit a report with the
- 22 Secretary's findings, conclusions, and recommendations to
- 23 the Senate Committee on Commerce, Science, and Trans-
- 24 portation and the House of Representatives Committee on
- 25 Transportation and Infrastructure.

1	SEC. 414. LIMITATIONS ON NON-FEDERAL ALCOHOL AND
2	DRUG TESTING BY RAILROAD CARRIERS.
3	(a) In General.—Chapter 20l, as amended by section
4	409, is further amended by adding at the end the following:
5	"§ 20166. Limitations on non-federal alcohol and drug
6	testing
7	"(a) Testing Requirements.—Any non-Federal al-
8	cohol and drug testing program of a railroad carrier must
9	provide that all post-employment tests of the specimens of
10	employees who are subject to both the program and chapter
11	211 of this title be conducted using a scientifically recog-
12	nized method of testing capable of determining the presence
13	of the specific analyte at a level above the cut-off level estab-
14	lished by the carrier.
15	"(b) Redress Process.—Each railroad carrier that
16	has a non-Federal alcohol and drug testing program must
17	provide a redress process to its employees who are subject
18	to both the alcohol and drug testing program and chapter
19	211 of this title for such an employee to petition for, and
20	receive, a carrier hearing to review his or her specimen test
21	results that were determined to be in violation of the pro-
22	gram. A dispute or grievance raised by a railroad carrier
23	or its employee, except a probationary employee, in connec-
24	tion with the carrier's alcohol and drug testing program
25	and the application of this section is subject to resolution
26	under section 3 of the Railway Labor Act (45 U.S.C. 153).".

1	(b) Conforming Amendment.—The chapter analysis
2	for chapter 201, as amended by section 409 of this Act, is
3	further amended by inserting after the item relating to sec-
4	tion 20165 the following:
	"20166. Limitations on non-federal alcohol and drug testing by railroad carriers.".
5	SEC. 415. CRITICAL INCIDENT STRESS PLAN.
6	The Secretary, in consultation with the Secretary of
7	Labor and the Secretary of Health and Human Services,
8	as appropriate, shall require each Class 1 railroad, and any
9	other railroad that the Secretary determines appropriate—
10	(1) to develop and submit for approval to the
11	Secretary a critical incident stress plan that provides
12	for debriefing, counseling, guidance, and other appro-
13	priate support services to be offered to an employee
14	affected by a critical incident;
15	(2) immediately relieve an employee involved in
16	a critical incident of his or her duties; and
17	(3) upon the employee's request, relieve an em-
18	ployee that witnessed a critical incident of his or her
19	duties as soon as feasible.

1	TITLE V—RAIL PASSENGER
2	DISASTER FAMILY ASSISTANCE
3	SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION
4	SAFETY BOARD TO FAMILIES OF PASSENGERS
5	INVOLVED IN RAIL PASSENGER ACCIDENTS.
6	(a) In General.—Chapter 11 is amended by adding
7	at the end of subchapter III the following:
8	"§ 1139. Assistance to families of passengers involved
9	in rail passenger accidents
10	"(a) In General.—As soon as practicable after being
11	notified of a rail passenger accident within the United
12	States involving a rail passenger carrier and resulting in
13	a major loss of life, the Chairman of the National Transpor-
14	tation Safety Board shall—
15	"(1) designate and publicize the name and phone
16	number of a director of family support services who
17	shall be an employee of the Board and shall be re-
18	sponsible for acting as a point of contact within the
19	Federal Government for the families of passengers in-
20	volved in the accident and a liaison between the rail
21	passenger carrier and the families; and
22	"(2) designate an independent nonprofit organi-
23	zation, with experience in disasters and posttrauma
24	communication with families, which shall have pri-
25	mary responsibility for coordinating the emotional

1	care and support of the families of passengers in-
2	volved in the accident.
3	"(b) Responsibilities of the Board.—The Board
4	shall have primary Federal responsibility for—
5	"(1) facilitating the recovery and identification
6	of fatally injured passengers involved in an accident
7	described in subsection (a); and
8	"(2) communicating with the families of pas-
9	sengers involved in the accident as to the roles of—
10	"(A) the organization designated for an ac-
11	$cident\ under\ subsection\ (a)(2);$
12	"(B) Government agencies; and
13	"(C) the rail passenger carrier involved,
14	with respect to the accident and the post-accident ac-
15	tivities.
16	"(c) Responsibilities of Designated Organiza-
17	TION.—The organization designated for an accident under
18	subsection (a)(2) shall have the following responsibilities
19	with respect to the families of passengers involved in the
20	accident:
21	"(1) To provide mental health and counseling
22	services, in coordination with the disaster response
23	team of the rail passenger carrier involved.

1	"(2) To take such actions as may be necessary
2	to provide an environment in which the families may
3	grieve in private.

- "(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.
- "(4) To arrange a suitable memorial service, in consultation with the families.

"(d) Passenger Lists.—

"(1) Requests for passenger lists.—

"(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A

rail passenger carrier shall use reasonable efforts,

with respect to its unreserved trains, and passengers not holding reservations on its other

trains, to ascertain the names of passengers

aboard a train involved in an accident.

- "(B) REQUESTS BY DESIGNATED ORGANIZA-TION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).
- "(2) USE OF INFORMATION.—Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.
- 19 "(e) CONTINUING RESPONSIBILITIES OF THE
 20 BOARD.—In the course of its investigation of an accident
 21 described in subsection (a), the Board shall, to the max22 imum extent practicable, ensure that the families of pas-

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1	"(1) are briefed, prior to any public briefing,
2	about the accident and any other findings from the
3	investigation; and
4	"(2) are individually informed of and allowed to
5	attend any public hearings and meetings of the Board
6	about the accident.
7	"(f) Use of Rail Passenger Carrier Re-
8	SOURCES.—To the extent practicable, the organization des-
9	ignated for an accident under subsection (a)(2) shall coordi-
10	nate its activities with the rail passenger carrier involved
11	in the accident to facilitate the reasonable use of the re-
12	sources of the carrier.
13	"(g) Prohibited Actions.—
14	"(1) Actions to impede the board.—No per-
15	son (including a State or political subdivision) may
16	impede the ability of the Board (including the direc-
17	tor of family support services designated for an acci-
18	dent under subsection (a)(1)), or an organization des-
19	ignated for an accident under subsection (a)(2), to
20	carry out its responsibilities under this section or the
21	ability of the families of passengers involved in the
22	accident to have contact with one another.
23	"(2) Unsolicited communications.—No unso-
24	licited communication concerning a potential action

for personal injury or wrongful death may be made

by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

"(3) Prohibition on actions to prevent
Mental Health and counseling services.—No
State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from
providing mental health and counseling services
under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under
subsection (a)(1) may extend such period for not to
exceed an additional 30 days if the director determines that the extension is necessary to meet the
needs of the families and if State and local authorities are notified of the determination.

- "(h) Definitions.—In this section:
- 23 "(1) RAIL PASSENGER ACCIDENT.—The term 24 'rail passenger accident' means any rail passenger

1	disaster resulting in a major loss of life occurring in
2	the provision of—
3	"(A) interstate intercity rail passenger
4	transportation (as such term is defined in sec-
5	tion 24102); or
6	"(B) interstate or intrastate high-speed rail
7	(as such term is defined in section 26105) trans-
8	portation,
9	regardless of its cause or suspected cause.
10	"(2) Rail passenger carrier.—The term 'rail
11	passenger carrier' means a rail carrier providing—
12	"(A) interstate intercity rail passenger
13	transportation (as such term is defined in sec-
14	tion 24102); or
15	"(B) interstate or intrastate high-speed rail
16	(as such term is defined in section 26105) trans-
17	portation,
18	except that such term does not include a tourist, his-
19	toric, scenic, or excursion rail carrier.
20	"(3) Passenger.—The term 'passenger' in-
21	cludes—
22	"(A) an employee of a rail passenger car-
23	rier aboard a train;
24	"(B) any other person aboard the train
25	without regard to whether the person paid for the

1	transportation, occupied a seat, or held a res-
2	ervation for the rail transportation; and
3	"(C) any other person injured or killed in
4	the accident.
5	"(i) Limitation on Statutory Construction.—
6	Nothing in this section may be construed as limiting the
7	actions that a rail passenger carrier may take, or the obli-
8	gations that a rail passenger carrier may have, in pro-
9	viding assistance to the families of passengers involved in
10	a rail passenger accident.
11	"(j) Relinquishment of Investigative Pri-
12	ORITY.—
13	"(1) General rule.—This section (other than
14	subsection (g)) shall not apply to a railroad accident
15	if the Board has relinquished investigative priority
16	under section $1131(a)(2)(B)$ and the Federal agency
17	to which the Board relinquished investigative priority
18	is willing and able to provide assistance to the vic-
19	tims and families of the passengers involved in the
20	accident.
21	"(2) Board Assistance.—If this section does
22	not apply to a railroad accident because the Board
23	has relinquished investigative priority with respect to
24	the accident, the Board shall assist, to the maximum
25	extent possible, the agency to which the Board has re-

1	linquished investigative priority in assisting families
2	with respect to the accident.
3	"(k) Savings Clause.—Nothing in this section shall
4	be construed to abridge the authority of the Board or the
5	Secretary of Transportation to investigate the causes or cir-
6	cumstances of any rail accident, including development of
7	information regarding the nature of injuries sustained and
8	the manner in which they were sustained for the purposes
9	of determining compliance with existing laws and regula-
10	tions or for identifying means of preventing similar inju-
11	ries in the future, or both.".
12	(b) Conforming Amendment.—The table of sections
13	for such chapter is amended by inserting after the item re-
14	lating to section 1138 the following:
	"1139. Assistance to families of passengers involved in rail passenger accidents.".
15	SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMI-
16	LIES OF PASSENGERS INVOLVED IN RAIL PAS-
17	SENGER ACCIDENTS.
18	(a) In General.—Chapter 243 is amended by adding
19	at the end the following:
20	"§ 24316. Plans to address needs of families of pas-
21	sengers involved in rail passenger acci-
22	dents
23	"(a) Submission of Plan.—Not later than 6 months
24	after the date of the enactment of the Railroad Safety En-
25	hancement Act of 2007, a rail passenger carrier shall sub-

- 1 mit to the Chairman of the National Transportation Safety
- 2 Board, the Secretary of Transportation, and the Secretary
- 3 of Homeland Security a plan for addressing the needs of
- 4 the families of passengers involved in any rail passenger
- 5 accident involving a rail passenger carrier intercity train
- 6 and resulting in a major loss of life.
- 7 "(b) Contents of Plans.—The plan to be submitted
- 8 by a rail passenger carrier under subsection (a) shall in-
- 9 clude, at a minimum, the following:
- 10 "(1) A process by which a rail passenger carrier 11 will maintain and provide to the National Transpor-12 tation Safety Board, the Secretary of Transportation, 13 and the Secretary of Homeland Security, immediately 14 upon request, a list (which is based on the best avail-15 able information at the time of the request) of the 16 names of the passengers aboard the train (whether or 17 not such names have been verified), and will periodi-18 cally update the list. The plan shall include a proce-19 dure, with respect to unreserved trains and passengers 20 not holding reservations on other trains, for a rail 21 passenger carrier to use reasonable efforts to ascertain 22 the number and names of passengers aboard a train 23 involved in an accident.
 - "(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after

24

- such an accident occurs, and for providing staff, to
 handle calls from the families of the passengers.
 - "(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.
 - "(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as a rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).
 - "(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within a rail passenger carrier's control; that any possession of the passenger within a rail passenger carrier's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within a rail passenger carrier's control will be retained by the rail passenger carrier for at least 18 months.
 - "(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

1 "(7) A	n assurance	that a	rail	passenger	carrier
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- 2 will provide adequate training to its employees and
- 3 agents to meet the needs of survivors and family
- 4 members following an accident.
- 5 "(c) Use of Information.—Neither the National
- 6 Transportation Safety Board, the Secretary of Transpor-
- 7 tation, the Secretary of Homeland Security, nor a rail pas-
- 8 senger carrier may release any personal information on a
- 9 list obtained under subsection (b)(1) but may provide infor-
- 10 mation on the list about a passenger to the family of the
- 11 passenger to the extent that the Board or a rail passenger
- 12 carrier considers appropriate.
- 13 "(d) Limitation on Liability.—A rail passenger car-
- 14 rier shall not be liable for damages in any action brought
- 15 in a Federal or State court arising out of the performance
- 16 of a rail passenger carrier under this section in preparing
- 17 or providing a passenger list, or in providing information
- 18 concerning a train reservation, pursuant to a plan sub-
- 19 mitted by a rail passenger carrier under subsection (b), un-
- 20 less such liability was caused by a rail passenger carrier's
- 21 gross negligence or extreme misconduct.
- 22 "(e) Limitation on Statutory Construction.—
- 23 Nothing in this section may be construed as limiting the
- 24 actions that a rail passenger carrier may take, or the obli-
- 25 gations that a rail passenger carrier may have, in pro-

- 1 viding assistance to the families of passengers involved in
- 2 a rail passenger accident.
- 3 "(f) Funding.—Out of funds appropriated pursuant
- 4 to section 20117(a)(1)(A), there shall be made available to
- 5 the Secretary of Transportation \$500,000 for fiscal year
- 6 2008 to carry out this section. Amounts made available
- 7 pursuant to this subsection shall remain available until ex-
- 8 pended.".
- 9 (b) Conforming Amendment.—The chapter analysis
- 10 for chapter 243 is amended by adding at the end the fol-
- 11 lowing:

"24316. Plan to assist families of passengers involved in rail passenger accidents.".

12 SEC. 503. ESTABLISHMENT OF TASK FORCE.

- 13 (a) Establishment.—The Secretary, in cooperation
- 14 with the National Transportation Safety Board, organiza-
- 15 tions potentially designated under section 1139(a)(2) of
- 16 title 49, United States Code, rail passenger carriers, and
- 17 families which have been involved in rail accidents, shall
- 18 establish a task force consisting of representatives of such
- 19 entities and families, representatives of passenger rail car-
- 20 rier employees, and representatives of such other entities as
- 21 the Secretary considers appropriate.
- 22 (b) Model Plan and Recommendations.—The task
- 23 force established pursuant to subsection (a) shall develop—

1	(1) a model plan to assist passenger rail carriers
2	in responding to passenger rail accidents;
3	(2) recommendations on methods to improve the
4	timeliness of the notification provided by passenger
5	rail carriers to the families of passengers involved in
6	a passenger rail accident;
7	(3) recommendations on methods to ensure that
8	the families of passengers involved in a passenger rail
9	accident who are not citizens of the United States re-
10	ceive appropriate assistance; and
11	(4) recommendations on methods to ensure that
12	emergency services personnel have as immediate and
13	accurate a count of the number of passengers onboard
14	the train as possible.
15	(c) Report.—Not later than 1 year after the date of
16	the enactment of this Act, the Secretary shall transmit to
17	Congress a report containing the model plan and rec-
18	ommendations developed by the task force under subsection
19	<i>(b)</i> .

1	TITLE VI—CLARIFICATION OF
2	FEDERAL JURISDICTION
3	OVER SOLID WASTE FACILI-
4	TIES
5	SEC. 601. SHORT TITLE.
6	This title may be cited as the "Clean Railroads Act
7	of 2007".
8	SEC. 602. REGULATION OF SOLID WASTE RAIL TRANSFER
9	FACILITIES.
10	Subtitle A of the Solid Waste Disposal Act (42 U.S.C.
11	6901 et seq.) is amended by adding at the end thereof the
12	following:
13	"SEC. 1009. CLARIFICATION OF FEDERAL JURISDICTION
14	OVER SOLID WASTE RAIL TRANSFER FACILI-
15	TIES.
16	"(a) In General.—A State or political subdivision
17	thereof may enforce state solid waste environmental laws
18	at a solid waste rail transfer facility.
19	"(b) Existing Facilities.—
20	"(1) In General.—Within 180 days after the
21	date of enactment of the Rail Safety Enhancement
22	Act of 2007, a solid waste rail transfer facility oper-
23	ating as of that date shall comply with all State solid
24	waste environmental laws other than those requiring
25	permits

1	"(2) Permitting requirements.—Any solid
2	waste rail transfer facility described in paragraph (1)
3	that does not already posses permits related to State
4	solid waste environmental laws as of the date of en-
5	actment of the Rail Safety Enhancement Act of 2007
6	shall not be required by a solid waste facility permit-
7	ting agency to possess any permits related to State
8	solid waste environmental laws in order to operate
9	the facility—
10	"(A) if within 1 year after the date of en-
11	actment of the Rail Safety Enhancement Act of
12	2007, the railroad carrier that owns or operates
13	the solid waste rail transfer facility has sub-
14	mitted, in good faith, a complete application for
15	all permits required by a State's solid waste en-
16	vironmental laws to a solid waste facility per-
17	mitting agency authorized to grant such permits,
18	and
19	"(B) until a solid waste facility permitting
20	agency has either approved or denied the rail-
21	road carrier's application for a permit or per-
22	mits.
23	"(c) Definitions.—In this section:
24	"(1) Solid waste facility permitting agen-
25	cv —The term 'solid waste facility permitting agency

1	means an agency of a State or subdivision thereof au-
2	thorized to grant permits, including licenses or other
3	approvals or credentials, from such State or subdivi-
4	sion in order to generate, store, treat, handle, manage,
5	or dispose of solid waste in such State.
6	"(2) Solid waste rail transfer facility.—
7	The term 'solid waste rail transfer facility'—
8	"(A) means the portion of a facility owned
9	or operated by or on behalf of a railroad carrier
10	(as defined in section 10102 of title 49, United
11	States Code) where solid waste, as a commodity
12	to be transported in commerce, is collected,
13	stored, separated, processed, treated, managed,
14	disposed of, or transferred outside of original
15	sealed shipping containers; but
16	"(B) does not include a facility to the extent
17	that activities taking place at such facility are
18	comprised of the railroad transportation of solid
19	waste after the solid waste is placed on or in a
20	rail car, including railroad transportation for
21	the purpose of interchanging railroad cars con-
22	taining sealed solid waste shipments.
23	"(3) State solid waste environmental
24	LAWS.—The term 'State solid waste environmental
25	laws'—

1	"(A) means—
2	"(i) the substantive and procedural as-
3	pects of statutes, regulations, and orders of
4	a State or its subdivisions that establish
5	public health and safety or environmental
6	standards concerning the generation, stor-
7	age, treatment, handling, management, or
8	disposal of solid waste; and
9	"(ii) the substantive and procedural
10	aspects of statutes, regulations, and orders
11	of a State or its subdivisions which govern
12	the processes and procedures by which per-
13	mits, licenses, or other approvals or creden-
14	tials from such State or subdivision are re-
15	quired in order to generate, store, treat,
16	handle, manage, or dispose of solid waste
17	are granted; but
18	"(B) does not include the statutes, regula-
19	tions, and orders of a State or its subdivisions
20	which govern land use, including land use re-
21	strictions or zoning ordinances.".
22	SEC. 603. CONFORMING AMENDMENT TO TITLE 49.
23	Section $10501(c)(2)$ is amended to read as follows:

1	"(2) Except as provided in paragraph (3), the
2	Board does not have jurisdiction under this part
3	over—
4	"(A) mass transportation provided by a
5	local government authority; or
6	"(B) a solid waste rail transfer facility (as
7	defined in section 1009 (c)(2) of the Solid Waste
8	Disposal Act (42 U.S.C. $6909(c)(2)$).".

Calendar No. 590

110TH CONGRESS S. 1889

[Report No. 110-270]

A BILL

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

March 3, 2008

Reported with an amendment in the nature of a substitute