

106TH CONGRESS
1ST SESSION

H. R. 2666

To authorize activities under the Federal railroad safety laws for fiscal years 1999 through 2002, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1999

Mr. SHOWS (for himself and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To authorize activities under the Federal railroad safety laws for fiscal years 1999 through 2002, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Federal Railroad Safety Enhancement Act of 1999”.

6 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Amendment of title 49, United States Code.

TITLE I—HOURS OF SERVICE

Sec. 101. Definitions.

Sec. 102. Limitations on duty hours of train employees.

Sec. 103. Limitations on duty hours of signal employees.

- Sec. 104. Limitations on duty hours of dispatching service employees and power directors.
- Sec. 105. Employee sleeping quarters.
- Sec. 106. Fatigue management plans.
- Sec. 107. Conforming amendments.
- Sec. 108. Limitations on duty hours of transport vehicle drivers.
- Sec. 109. Electronic recordkeeping.

TITLE II—MONITORING OF RAILROAD RADIO COMMUNICATIONS

- Sec. 201. Enhanced inspection and investigation authority under the Federal railroad safety laws.

TITLE III—PROTECTION OF EMPLOYEES AND WITNESSES

- Sec. 301. Expansion of employee protections.
- Sec. 302. Employee reports.
- Sec. 303. Audits.
- Sec. 304. Interfering with or hampering safety investigations.

TITLE IV—PASSENGER SERVICE SAFETY STANDARDS

- Sec. 401. Emergency windows and doors.
- Sec. 402. Passenger railroad signal systems.
- Sec. 403. Passenger locomotive fuel tanks.
- Sec. 404. Passenger car crashworthiness.
- Sec. 405. Positive train control.

TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Expansion of emergency order authority.
- Sec. 502. Safety considerations in grants or loans to commuter railroads.
- Sec. 503. Technical amendments regarding adjustment of civil penalties for inflation.
- Sec. 504. Notification of grade crossing problems.
- Sec. 505. High-speed rail noise regulation.
- Sec. 506. Rulemaking status reports.
- Sec. 507. Track safety.
- Sec. 508. Rulemaking process.
- Sec. 509. Safety inspectors.
- Sec. 510. Certification of locomotive engineers and other safety-related railroad personnel.
- Sec. 511. Transport motor vehicle inspections.
- Sec. 512. Crane safety.
- Sec. 513. Conrail safety exemption.
- Sec. 514. Seniority rights.
- Sec. 515. Authorization of appropriations.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

- 3 (1) The railroad industry has achieved a reduc-
- 4 tion in the number of fatalities, and the number of

1 some types of accidents, such as collisions and
2 grade-crossing accidents, has fallen sharply. But the
3 number of derailments and employee fatalities has
4 remained almost unchanged in recent years, and
5 some key safety issues have not been adequately ad-
6 dressed. Employee fatigue remains a critical prob-
7 lem, and harassment and intimidation of railroad
8 employees continue to cast doubt on the reliability of
9 rail safety statistics and to create a hostile working
10 environment that is not conducive to safety. Con-
11 certed efforts are needed to address these problems
12 so that railroad safety can be further improved.

13 (2) Consistent with the purposes of the Govern-
14 ment Performance and Results Act of 1993, the
15 Federal Railroad Administration has reshaped the
16 regulatory and compliance components of the Fed-
17 eral railroad safety program to ensure that the en-
18 tire program is squarely focused on achieving de-
19 monstrable results, i.e., reducing the number of
20 deaths and injuries associated with railroading in
21 the United States. The foundation of the program is
22 its emphasis on inclusion of all interested parties—
23 railroad employees and labor unions, railroad man-
24 agement, manufacturers, State government groups,
25 and public associations—in identifying safety prob-

1 lems and implementing solutions. This emphasis on
2 safety partnership has helped begin a transformation
3 of the safety culture of the Nation's railroads that
4 is producing safety and business benefits.

5 (3) The Safety Assurance and Compliance Pro-
6 gram is an approach to safety that emphasizes the
7 active partnership of the Federal Railroad Adminis-
8 tration, rail labor representatives, and railroad man-
9 agement in identifying current safety problems and
10 jointly developing effective solutions to those prob-
11 lems. One fundamental principle of this approach is
12 tracing a safety problem to its root cause and at-
13 tacking that cause rather than only its symptoms.
14 Where a problem is determined to be system-wide,
15 this approach calls for a system-wide solution.
16 Under this approach, the Federal Railroad Adminis-
17 tration seeks to focus its inspection and enforcement
18 resources on the most serious safety problems. This
19 approach has demonstrated significant capacity for
20 identifying and eliminating the root cause of system-
21 wide safety problems by enlisting those most directly
22 affected by such problems—railroad employees and
23 managers in a partnership effort. Used together with
24 the Federal Railroad Administration's regular in-
25 spections and enforcement tools, this approach pro-

1 vides a firm basis for addressing the safety chal-
2 lenges facing the changing railroad industry and ad-
3 vancing toward the safety program's ultimate goal of
4 zero tolerance for any safety hazard in the railroad
5 industry.

6 (4) The Railroad Safety Advisory Committee,
7 which was established under the Federal Advisory
8 Committee Act (5 U.S.C. App. 2), is proving to be
9 an effective means of involving interested members
10 of the railroad community in the development of
11 railroad safety rules issued by the Federal Railroad
12 Administration. The continued use of this collabo-
13 rative method of developing safety regulations is
14 more likely to produce rules that are based on an in-
15 dustry consensus and, accordingly, that are more
16 readily understood and more consistently complied
17 with, than rules developed under more traditional
18 methods.

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

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

1 **TITLE I—HOURS OF SERVICE**

2 **SEC. 101. DEFINITIONS.**

3 Section 21101 is amended—

4 (1) by amending paragraph (2) to read as fol-
5 lows:

6 “(2) ‘dispatching service employee’ means an
7 operator, train dispatcher, or other train employee,
8 including an employee of an independent contractor,
9 who—

10 “(A) by the use of an electrical or mechan-
11 ical device dispatches, reports, transmits, re-
12 ceives, or delivers orders related to or affecting
13 train movements, including through control of
14 third rail or pantographic electric power; or

15 “(B) directly supervises an employee who
16 carries out responsibilities described in subpara-
17 graph (A).”;

18 (2) by redesignating paragraphs (3), (4), and
19 (5), as paragraphs (4), (7), and (8), respectively;

20 (3) by inserting after paragraph (2) the fol-
21 lowing new paragraph:

22 “(3) ‘dually employed’ means being at the same
23 time in the employ of two or more railroad carriers,
24 of two or more independent contractors, or of both

1 one or more railroad carriers and one or more inde-
2 pendent contractors.”;

3 (4) in paragraph (4), as so redesignated by
4 paragraph (2) of this section, by striking “or a train
5 employee” and inserting “a train employee, a power
6 director, or a transport vehicle driver”;

7 (5) by inserting after paragraph (4), as so re-
8 designated by paragraph (2) of this section, the fol-
9 lowing new paragraphs:

10 “(5) ‘independent contractor’ means an inde-
11 pendent contractor to a railroad carrier and includes
12 a subcontractor to an independent contractor.

13 “(6) ‘power director’ means—

14 “(A) a train employee who affects the
15 movement of trains through control of third rail
16 or pantographic electric power; and

17 “(B) an individual who—

18 “(i) supervises operations and section-
19 alizing of an electric power distribution
20 system which transmits electrical energy
21 for the propulsion of trains;

22 “(ii) directs opening and closing of
23 circuit breakers affecting the movement of
24 trains and for the protection of employees
25 and others engaged in work on, or in close

1 proximity to, any portion of the electric
2 power distribution system which transmits
3 electrical energy for the propulsion of
4 trains; or

5 “(iii) disconnects and sectionalizes
6 switches as required for the movement of
7 trains and for the protection of employees
8 and others engaged in work on, or in close
9 proximity to, any portion of the electric
10 power distribution system which transmits
11 electrical energy for the propulsion of
12 trains.”;

13 (6) in paragraph (7), as so redesignated by
14 paragraph (2) of this section, by striking “employed
15 by a railroad carrier who is engaged in installing, re-
16 pairing, or maintaining signal systems” and insert-
17 ing “who is engaged in installing, repairing, or
18 maintaining signal systems, including an employee of
19 an independent contractor, and including any indi-
20 vidual who directly supervises an individual engaged
21 in those activities”;

22 (7) in paragraph (8), as so redesignated by
23 paragraph (2) of this section, by inserting “and an
24 employee of an independent contractor, and any in-
25 dividual who directly supervises an individual en-

1 gaged in those activities” after “including a hos-
2 tler”; and

3 (8) by adding at the end the following new
4 paragraphs:

5 “(9) ‘transport motor vehicle’ means a motor
6 vehicle used to transport employees of a railroad
7 carrier or its independent contractors to or from a
8 work site.

9 “(10) ‘transport vehicle driver’ means a man-
10 ager, supervisor, official, agent, or other employee of
11 a railroad carrier or its independent contractor who
12 drives a transport motor vehicle to or from a work
13 site for the purpose of transporting employees of a
14 railroad carrier or its independent contractors.”.

15 **SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EM-**
16 **PLOYEES.**

17 (a) **GENERAL RULES.**—Section 21103(a) is
18 amended—

19 (1) by striking “officers” and inserting “man-
20 agers, supervisors, officers,”; and

21 (2) by inserting after paragraph (2) the fol-
22 lowing:

23 “In the case of a dually employed employee, a railroad
24 carrier shall not be held responsible for violating this sub-
25 section because of the employee’s work schedule for an-

1 other employer if none of the railroad carrier’s managers,
2 supervisors, officers, and agents had actual knowledge of
3 that work schedule. For purposes of the preceding sen-
4 tence, a railroad carrier’s managers, supervisors, officers,
5 and agents shall be considered to have actual knowledge
6 of the work schedules of the train employees of its inde-
7 pendent contractors. A railroad carrier shall be held re-
8 sponsible for the actions of its independent contractors in
9 requiring or allowing a train employee to remain or go
10 on duty.”.

11 (b) DETERMINING TIME ON DUTY.—Section
12 21103(b) is amended—

13 (1) in paragraph (3), by striking “the railroad
14 carrier” and inserting “a railroad carrier or inde-
15 pendent contractor”;

16 (2) in paragraph (4), by inserting “or waiting
17 on a train for deadhead transportation from a duty
18 assignment” after “to a duty assignment”;

19 (3) in paragraph (7)(D), by striking “officer or
20 agent” and inserting “manager, supervisor, officer,
21 or agent”; and

22 (4) by inserting the following new paragraph at
23 the end:

24 “(8) All time on duty for any railroad carrier
25 or independent contractor shall be included.”.

1 (c) NOTICE ABOUT DUAL EMPLOYMENT.—Section
2 21103 is amended by adding at the end the following new
3 subsection:

4 “(d) NOTICE ABOUT DUAL EMPLOYMENT.—(1) Not
5 later than January 31 each year, a railroad carrier shall
6 inform in writing each train employee engaged in or con-
7 nected with the movement of a train the railroad carrier
8 operates—

9 “(A) that all time spent performing aggregate
10 duty for one or more railroad carriers and one or
11 more independent contractors counts as time on
12 duty under this section;

13 “(B) about the employee’s responsibilities under
14 paragraph (2); and

15 “(C) about the penalties applicable under sec-
16 tion 21303 to a failure to comply with paragraph (2)
17 of this subsection.

18 “(2) A dually employed train employee shall—

19 “(A) inform each of his or her railroad carrier
20 and independent contractor employers in writing
21 within 5 days after entering into an employment re-
22 lationship with an additional railroad carrier or inde-
23 pendent contractor; and

24 “(B) ensure that each of his or her railroad
25 carrier and independent contractor employers is kept

1 informed about the employee's work schedule with
2 each of the other employing railroad carriers and
3 independent contractors.

4 “(3) A railroad carrier or independent contractor re-
5 ceiving written notification of dual employment shall re-
6 tain a copy of the notification for a period of two years
7 after the termination of such dual employment status. A
8 copy of such notification shall be made available to rep-
9 resentatives of the Secretary of Transportation for inspec-
10 tion and copying during normal business hours at the rail-
11 road carrier's or independent contractor's system head-
12 quarters and at such subsystem headquarters as may be
13 required by the Secretary by regulation.”.

14 **SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EM-**
15 **PLOYEES.**

16 (a) GENERAL RULES.—Section 21104(a)(2) is
17 amended—

18 (1) by striking “officers” and inserting “man-
19 agers, supervisors, officers,”; and

20 (2) by inserting after subparagraph (C) the fol-
21 lowing:

22 “In the case of a dually employed employee, a railroad
23 carrier shall not be held responsible for violating this para-
24 graph because of the employee's work schedule for another
25 employer if none of the railroad carrier's managers, super-

1 visors, officers, and agents had actual knowledge of that
2 work schedule. For purposes of the preceding sentence, a
3 railroad carrier’s managers, supervisors, officers, and
4 agents shall be considered to have actual knowledge of the
5 work schedules of the signal employees of its independent
6 contractors. A railroad carrier shall be held responsible for
7 the actions of its independent contractors in requiring or
8 allowing a signal employee to remain or go on duty.”.

9 (b) DETERMINING TIME ON DUTY.—Section
10 21104(b) is amended—

11 (1) in paragraph (2), by striking “the railroad
12 carrier” and inserting “a railroad carrier or inde-
13 pendent contractor”;

14 (2) in paragraph (3), by striking “, except that
15 up to one hour of that time spent returning from the
16 final trouble call of a period of continuous or broken
17 service is time off duty”; and

18 (3) by inserting the following new paragraph at
19 the end:

20 “(8) All time on duty for any railroad carrier
21 or independent contractor shall be included.”.

22 (c) EMERGENCIES.—Section 21104(c) is amended by
23 adding at the end the following: “The repair or inspection
24 of a continuously operating or wholly nonoperational grade
25 crossing protection device shall not be considered an emer-

1 gency for purposes of this subsection. If a signal employee
2 has not received 8 or 10 consecutive hours off duty as
3 required by subsection (a)(2), and such employee is called
4 to duty between 12 midnight and 6 a.m., the employee
5 in his sole judgment may refuse to go on duty if he feels
6 too tired to perform the work safely.”.

7 (d) NOTICE ABOUT DUAL EMPLOYMENT.—Section
8 21104 is amended by adding at the end the following new
9 subsection:

10 “(d) NOTICE ABOUT DUAL EMPLOYMENT.—(1) Not
11 later than January 31 each year, a railroad carrier shall
12 inform in writing each signal employee engaged in install-
13 ing, repairing, or maintaining signal systems for the rail-
14 road carrier—

15 “(A) that all time spent performing aggregate
16 duty for one or more railroad carriers and one or
17 more independent contractors counts as time on
18 duty under this section;

19 “(B) about the employee’s responsibilities under
20 paragraph (2); and

21 “(C) about the penalties applicable under sec-
22 tion 21303 to a failure to comply with paragraph (2)
23 of this subsection.

24 “(2) A dually employed signal employee shall—

1 “(A) inform each of his or her railroad carrier
2 and independent contractor employers in writing
3 within 5 days after entering into an employment re-
4 lationship with an additional railroad carrier or inde-
5 pendent contractor; and

6 “(B) ensure that each of his or her railroad
7 carrier and independent contractor employers is kept
8 informed about the employee’s work schedule with
9 each of the other employing railroad carriers and
10 independent contractors.

11 “(3) A railroad carrier or independent contractor re-
12 ceiving written notification of dual employment shall re-
13 tain a copy of the notification for a period of two years
14 after the termination of such dual employment status. A
15 copy shall be made available to representatives of the Sec-
16 retary of Transportation for inspection and copying during
17 normal business hours at the railroad carrier’s or inde-
18 pendent contractor’s system headquarters and at such
19 subsystem headquarters as may be required by the Sec-
20 retary by regulation.”.

1 **SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING**
2 **SERVICE EMPLOYEES AND POWER DIREC-**
3 **TORS.**

4 (a) APPLICATION.—Section 21105(a) is amended by
5 inserting “or power director” after “dispatching service
6 employee”.

7 (b) GENERAL RULES.—Section 21105(b) is
8 amended—

9 (1) by striking “subsection (d)” and inserting
10 “subsection (e)”;

11 (2) by inserting “by a railroad carrier or its
12 managers, supervisors, officers, and agents” after
13 “or allowed”; and

14 (3) by inserting after paragraph (2) the fol-
15 lowing:

16 “In the case of a dually employed employee, a railroad
17 carrier shall not be held responsible for violating this sub-
18 section because of the employee’s work schedule for an-
19 other employer if none of the railroad carrier’s managers,
20 supervisors, officers, and agents had actual knowledge of
21 that work schedule. For purposes of the preceding sen-
22 tence, a railroad carrier’s managers, supervisors, officers,
23 and agents shall be considered to have actual knowledge
24 of the work schedules of the dispatching service employees
25 of its independent contractors. A railroad carrier shall be
26 held responsible for the actions of its independent contrac-

1 tors in requiring or allowing a dispatching service em-
2 ployee to remain or go on duty.”.

3 (c) REDESIGNATION.—Subsections (c) and (d) of sec-
4 tion 21105 are redesignated as subsections (d) and (e),
5 respectively.

6 (d) POWER DIRECTORS.—Section 21105 is amended
7 by inserting after subsection (b) the following new sub-
8 section:

9 “(c) POWER DIRECTORS.—A railroad carrier and its
10 managers, supervisors, officers, and agents may not re-
11 quire or allow a power director to remain or go on duty
12 for more than a total of 12 hours during a 24-hour pe-
13 riod.”.

14 (e) DETERMINING TIME ON DUTY.—Section
15 21105(d), as so redesignated by subsection (c) of this sec-
16 tion, is amended to read as follows:

17 “(d) DETERMINING TIME ON DUTY.—In determining
18 under subsection (b) or (c) the time a dispatching service
19 employee or power director is on or off duty, time spent
20 performing any other service for one or more railroad car-
21 riers or independent contractors (or a combination there-
22 of) during a 24-hour period in which the employee is on
23 duty in a tower, office, station, or other place is time on
24 duty in that tower, office, station, or place, and counts
25 toward the employee’s aggregate time on duty.”.

1 (f) NOTICE ABOUT DUAL EMPLOYMENT.—Section
2 21105 is amended by adding at the end the following new
3 subsection:

4 “(f) NOTICE ABOUT DUAL EMPLOYMENT.—(1) Not
5 later than January 31 each year, a railroad carrier shall
6 inform each of its dispatching service employees and power
7 directors in writing—

8 (A) that all time spent performing aggregate
9 duty for one or more railroad carriers and one or
10 more independent contractors counts as time on
11 duty under this section;

12 (B) about the employee’s responsibilities under
13 paragraph (2); and

14 (C) about the penalties applicable under sec-
15 tion 21303 to a failure to comply with paragraph (2)
16 of this subsection.

17 (2) A dually employed dispatching service employee
18 or power director shall—

19 (A) inform each of his or her railroad carrier
20 and independent contractor employers in writing
21 within 5 days after entering into an employment re-
22 lationship with an additional railroad carrier or inde-
23 pendent contractor; and

24 (B) ensure that each of his or her railroad
25 carrier and independent contractor employers is kept

1 informed about the employee’s work schedule with
2 each of the other employing railroad carriers and
3 independent contractors.

4 “(3) A railroad carrier or independent contractor re-
5 ceiving written notification of dual employment shall re-
6 tain a copy of the notification for a period of two years
7 after the termination of such dual employment status. A
8 copy shall be made available to representatives of the Sec-
9 retary of Transportation for inspection and copying during
10 normal business hours at the railroad carrier’s or inde-
11 pendent contractor’s system headquarters and at such
12 subsystem headquarters as may be required by the Sec-
13 retary by regulation.”.

14 (g) TECHNICAL AMENDMENTS.—(1) The heading of
15 section 21105 is amended by inserting “**and power di-**
16 **rectors**” after “**service employees**”.

17 (2) The item in the table of sections of chapter 211
18 relating to section 21105 is amended by inserting ‘and
19 power directors’ after “service employees”.

20 **SEC. 105. EMPLOYEE SLEEPING QUARTERS.**

21 Section 21106 is amended to read as follows:

22 “§ 21106. **Limitations on employee sleeping quarters**

23 “(a) GENERAL RULE.—A railroad carrier and its
24 managers, supervisors, officers, and agents may provide
25 sleeping quarters (including crew quarters, camp or bunk

1 cars, and trailers) for employees, including signal employ-
2 ees, and for any individuals employed to maintain the
3 right of way of a railroad carrier, only if the sleeping
4 quarters—

5 “(1) are clean, safe, and sanitary;

6 “(2) give those employees and other individuals
7 an opportunity for rest free from the interruptions
8 caused by noise; and

9 “(3) provide a separate bedroom for each em-
10 ployee or other individual.

11 “(b) LOCATION.—Effective January 1, 2000, sleep-
12 ing quarters referred to in subsection (a) shall not be lo-
13 cated in an area or in the immediate vicinity of an area,
14 as determined under regulations prescribed by the Sec-
15 retary of Transportation, in which railroad switching or
16 humping operations are performed.

17 “(c) MAXIMUM NOISE LEVELS.—The Secretary, in
18 prescribing regulations under this section, shall set max-
19 imum noise levels which may be experienced in sleeping
20 quarters. Such levels shall be based in part on single event
21 noise levels.”.

22 **SEC. 106. FATIGUE MANAGEMENT PLANS.**

23 (a) AMENDMENT.—Chapter 211 is amended by add-
24 ing at the end the following new section:

1 **“§ 21109. Fatigue management plans**

2 “(a) PLAN SUBMISSION.—

3 “(1) REQUIREMENT.—Each Class I and Class
4 II railroad carrier, each railroad carrier providing
5 intercity rail passenger transportation (as such term
6 is defined in section 24102), and each railroad car-
7 rier providing commuter rail passenger transpor-
8 tation (as such term is defined in section 24102),
9 shall submit to the Secretary of Transportation a fa-
10 tigue management plan that is designed to reduce
11 the fatigue experienced by railroad employees em-
12 ployed by the railroad carrier or its independent con-
13 tractors and to reduce the likelihood of accidents
14 and injuries caused by fatigue. The plan shall be
15 submitted not later than 1 year after the date of the
16 enactment of this section, or not later than 45 days
17 prior to commencing operations, whichever is later.

18 “(2) CONTENTS OF PLAN.—The fatigue man-
19 agement plan shall—

20 “(A) include a summary of the railroad
21 carrier’s analysis supporting each plan element;

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

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

4 “(3) APPROVAL; NOTICE; AUDITS.—(A) The
5 Secretary shall review each proposed plan and pro-
6 posed amendment to a plan and approve or dis-
7 approve such plan or amendment based on whether
8 the requirements of this section are sufficiently and
9 appropriately addressed and the proposals are ade-
10 quately justified in the plan or amendment.

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

23 “(C) To carry out this section, the Secretary
24 may conduct periodic audits of a railroad carrier’s
25 compliance with its fatigue management plan.

1 “(4) AMENDMENTS.—Each affected railroad
2 carrier shall file any proposed amendment to its plan
3 with the Secretary not later than 60 days prior to
4 the proposed effective date of the amendment.

5 “(5) EMPLOYEE PARTICIPATION.—(A) Each af-
6 fected railroad carrier shall consult with, and employ
7 good faith and use its best efforts to reach agree-
8 ment by consensus with, all of its directly affected
9 employee groups on the contents of the fatigue man-
10 agement plan and amendments to the plan, and, ex-
11 cept as provided in subparagraph (C), shall jointly
12 with such groups submit the plan and each amend-
13 ment to the plan to the Secretary.

14 “(B) In the event that labor organizations rep-
15 resent classes or crafts of directly affected employees
16 of the railroad carrier, the railroad carrier shall con-
17 sult with these organizations in drafting the plan
18 and amendments to the plan. The Secretary may
19 provide assistance to the parties involved in a nego-
20 tiation.

21 “(C) If the railroad carrier and its directly af-
22 fected employees (including any labor organization
23 representing a class or craft of directly affected em-
24 ployees of the railroad carrier) cannot reach con-

1 sensus on the proposed contents of the plan or an
2 amendment to the plan, then—

3 “(i) the railroad carrier shall file the plan
4 or amendment with the Secretary; and

5 “(ii) directly affected employees and labor
6 organizations representing a class or craft of di-
7 rectly affected employees may, at their option,
8 file a statement with the Secretary explaining
9 their views on the plan or amendment on which
10 consensus was not reached.

11 “(6) TEMPORARY COMPLIANCE RULES.—Dur-
12 ing the first two years after the date of the enact-
13 ment of this section, compliance with a fatigue man-
14 agement plan approved by the Secretary not requir-
15 ing a waiver of a provision of law is not required.
16 However, compliance with a plan approved by the
17 Secretary involving waiver of one or more statutory
18 provisions under subsection (c) of this section is
19 mandatory.

20 “(7) PERMANENT COMPLIANCE RULES.—Effec-
21 tive two years after the date of the enactment of this
22 section:

23 “(A) Compliance with a fatigue manage-
24 ment plan and amendments becomes mandatory
25 and enforceable by the Secretary.

1 “(B) In the interest of railroad safety, ad-
2 ditional categories or classes of railroad carriers
3 may be required to submit a fatigue manage-
4 ment plan, as determined under regulations
5 prescribed by the Secretary.

6 “(8) RESUBMISSION OR REVISION.—The Sec-
7 retary may require resubmission or revision of a fa-
8 tigue management plan at any time.

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

11 “(1) CONSIDERATION OF VARYING CIR-
12 CUMSTANCES.—Each plan filed with the Secretary
13 under the procedures of subsection (a) shall take
14 into account the varying circumstances of operations
15 by the railroad carrier on different parts of its sys-
16 tem, and shall prescribe appropriate fatigue counter-
17 measures to address those varying circumstances.

18 “(2) ISSUES AFFECTING ALL EMPLOYEES.—
19 With respect to all directly affected employees, in-
20 cluding scheduled employees and nonscheduled em-
21 ployees, the plan shall address, at a minimum, the
22 following issues:

23 “(A) Education and training on the phys-
24 iological and psychological factors that affect
25 fatigue, as well as strategies to counter fatigue,

1 based on current and evolving scientific and
2 medical research and literature.

3 “(B) Opportunities for identification, diag-
4 nosis, and treatment of sleep disorders,
5 including—

6 “(i) screenings as part of required
7 physical examinations;

8 “(ii) questionnaires to identify em-
9 ployees at risk; and

10 “(iii) home screening of employees,
11 with the results thereof assessed by physicians
12 with a specialization in sleep disorders.

13 “(C) Effects on employee fatigue of emer-
14 gency response involving both short-term emer-
15 gency situations, including derailments, and
16 long-term emergency situations, including nat-
17 ural disasters.

18 “(D) Scheduling practices involving train
19 lineups and calling times, including work/rest
20 cycles for shift workers and on-call employees
21 that permit employees to compensate for cumu-
22 lative sleep loss by guaranteeing a minimum
23 number of consecutive days off (exclusive of
24 time off due to illness or injury).

1 “(E) Minimizing the scheduling of night-
2 time split shifts.

3 “(F) The effects of staffing levels and
4 workloads on fatigue.

5 “(G) Alertness strategies, such as policies
6 on napping, to address acute sleepiness and fa-
7 tigue while an employee is on duty.

8 “(H) Opportunities to obtain restful sleep
9 at lodging facilities, including sleeping quarters
10 provided by the railroad carrier.

11 “(I) Ways to minimize the amount of time
12 that employees spend awaiting the arrival of
13 deadhead transportation to their points of final
14 release, and to mitigate the fatigue con-
15 sequences of excessive waiting time.

16 “(3) ISSUES AFFECTING NONSCHEDULED EM-
17 PLOYEES.—With respect only to nonscheduled em-
18 ployees, the plan shall address, at a minimum, the
19 following issues:

20 “(A) In connection with the scheduling of
21 a duty call, increasing the number of consecu-
22 tive hours of rest off duty, during which an em-
23 ployee receives no communication from the em-
24 ploying railroad carrier or its managers, super-
25 visors, officers, or agents.

1 “(B) Lengthening the notice provided to
2 an employee of the time to report for duty.

3 “(C) Work/rest cycles that guarantee a
4 greater minimum number of consecutive days
5 off than is afforded to scheduled employees (ex-
6 clusive of time off due to illness or injury).

7 “(D) Avoiding abrupt changes in rest cy-
8 cles for employees returning to duty after an
9 extended absence due to circumstances such as
10 illness, injury, or vacation.

11 “(c) WAIVER.—

12 “(1) PETITION.—A railroad carrier and all
13 labor organizations representing any class or craft of
14 directly affected employees of the railroad carrier
15 may jointly request, as part of a proposed fatigue
16 management plan, the waiver of any provisions of
17 this chapter. The Secretary shall publish any peti-
18 tion for such a waiver in the Federal Register and
19 shall provide all parties an opportunity to comment
20 on the petition. The Secretary shall also, on the re-
21 quest of any interested party, conduct a hearing on
22 the petition.

23 “(2) AUTHORITY TO WAIVE.—The Secretary is
24 authorized to waive any provision of this chapter
25 pursuant to a request under paragraph (1) or para-

1 graph (3) if the petition demonstrates to the Sec-
2 retary's satisfaction that—

3 “(A) the waiver permits procedures that
4 are essential to achieving the objectives of re-
5 ducing fatigue and enhancing safety, which
6 would not be lawful without the waiver; and

7 “(B) the plan effectively protects the safe-
8 ty interest addressed by the provision to be
9 waived.

10 “(3) WHEN EMPLOYEES ARE NOT REP-
11 RESENTED BY LABOR ORGANIZATIONS.—In the
12 event that labor organizations do not represent
13 classes or crafts of directly affected employees of a
14 railroad carrier, the railroad carrier may, after con-
15 sulting with all of its directly affected employees or
16 employee groups in drafting the waiver request, re-
17 quest the waiver of any provisions of this chapter,
18 subject to the same conditions and procedures as a
19 request made under paragraph (1).

20 “(d) EXEMPTION.—

21 “(1) IN GENERAL.—If a railroad carrier and a
22 labor organization representing a class or craft of
23 the employees of that railroad carrier mutually agree
24 to a fatigue management plan submitted to the Sec-
25 retary, the railroad carrier shall be exempt from the

1 requirements of subsections (a), (b), and (c) of this
2 section with respect to the application of the plan
3 to that class or craft of employees.

4 “(2) TERMINATION OF EXEMPTION.—If at any
5 time a railroad carrier or a labor organization rep-
6 resenting a class or craft of the employees of the
7 railroad carrier notifies the Secretary that it no
8 longer agrees to a fatigue management plan sub-
9 mitted under paragraph (1), the exemption under
10 paragraph (1) shall cease, and the railroad carrier
11 shall be subject to the requirements of subsections
12 (a), (b), and (c) of this section with respect to the
13 application of the plan to that class or craft of em-
14 ployees, except that the date that the Secretary de-
15 clares that the exemption ceases shall be considered
16 as the date of enactment of this section for purposes
17 of subsection (a)(1), (6), and (7).

18 “(e) DEFINITIONS.—For purposes of this section—

19 “(1) the term ‘directly affected employees’
20 means employees, including employees of an inde-
21 pendent contractor, to whose hours of service the
22 terms of a fatigue management plan specifically
23 apply;

24 “(2) the term ‘interested party’ includes a labor
25 organization representing employees of a railroad

1 carrier performing work similar to the work per-
2 formed by the directly affected employees (who are
3 not members of a labor organization) of another
4 railroad carrier requesting a waiver under subsection
5 (c);

6 “(3) the term ‘nonscheduled employee’ means
7 an employee that is not a scheduled employee; and

8 “(4) the term ‘scheduled employee’ means an
9 employee who is assigned to work a tour of duty
10 with a regular and predictable starting and stopping
11 time.”.

12 (b) TABLE OF SECTIONS AMENDMENT.—The table of
13 sections for chapter 211 is amended by adding at the end
14 the following new item:

“21109. Fatigue management plans.”.

15 **SEC. 107. CONFORMING AMENDMENTS.**

16 (a) Section 21102(a)(4) is amended by striking “offi-
17 cer or agent” and inserting “manager, supervisor, officer,
18 or agent”.

19 (b) Section 21303(a)(1) is amended by inserting “or
20 21109” after “section 21108”.

21 (c) Section 21303(c) is amended by striking “officers
22 and agents” and inserting “managers, supervisors, offi-
23 cers, agents, and independent contractors”.

1 **SEC. 108. LIMITATIONS ON DUTY HOURS OF TRANSPORT**
2 **VEHICLE DRIVERS.**

3 (a) AMENDMENT.—Chapter 211 is amended by add-
4 ing at the end the following new section:

5 **“§ 21110. Limitations on duty hours of transport vehi-**
6 **cle drivers**

7 “(a) IN GENERAL.—Except as provided in subsection
8 (c) of this section, a railroad carrier and its managers,
9 supervisors, officers, and agents may not require or allow
10 a transport vehicle driver to remain or go on duty—

11 “(1) unless that transport vehicle driver has
12 had at least 8 consecutive hours of rest off duty,
13 during which the transport vehicle driver receives no
14 communication from such employing railroad carrier
15 or its managers, supervisors, officers, and agents,
16 during the prior 24 hours;

17 “(2) for a period in excess of 10 consecutive
18 hours;

19 “(3) unless that transport vehicle driver has re-
20 ceived notice at least 8 hours before going on duty;
21 and

22 “(4) unless that transport vehicle driver has
23 had at least one period of at least 24 consecutive
24 hours off duty in the past 7 days.

25 In the case of a dually employed transport vehicle driver,
26 a railroad carrier shall not be held responsible for violating

1 this subsection because of the transport vehicle driver's
2 work schedule for another employer if none of the railroad
3 carrier's managers, supervisors, officers, and agents had
4 actual knowledge of that work schedule. For purposes of
5 the preceding sentence, a railroad carrier's managers, su-
6 pervisors, officers, and agents shall be considered to have
7 actual knowledge of the work schedules of the transport
8 vehicle driver employees of its independent contractors. A
9 railroad carrier shall be held responsible for the actions
10 of its independent contractors in requiring or allowing a
11 transport vehicle driver to remain or go on duty.

12 “(b) DETERMINING TIME ON DUTY.—In determining
13 under subsection (a) of this section the time a transport
14 vehicle driver is on or off duty, the following rules apply:

15 “(1) Time on duty begins when the transport
16 vehicle driver reports for duty and ends when the
17 transport vehicle driver is finally released from duty.

18 “(2) Time when the transport vehicle driver is
19 engaged in or connected with the movement of a
20 transport motor vehicle is time on duty, even when
21 such vehicle is not actually transporting employees
22 of a railroad carrier or its independent contractor.

23 “(3) Time spent performing any other service
24 for a railroad carrier or for an independent con-
25 tractor for the benefit of a railroad carrier during a

1 24-hour period in which the transport vehicle driver
2 is engaged in or connected with the movement of a
3 transport motor vehicle is time on duty.

4 “(c) EMERGENCIES.—A transport vehicle driver, who
5 encounters an emergency and cannot, because of that
6 emergency, safely complete a transportation assignment
7 within the 10-hour maximum driving time permitted by
8 subsection (a)(2), may drive and be permitted or required
9 to drive a transport motor vehicle for not more than 2
10 additional hours in order to complete that transportation
11 assignment or to reach a place offering safety for the occu-
12 pants of the transport motor vehicle and security for the
13 transport motor vehicle, if such transportation assignment
14 reasonably could have been completed within such 10-hour
15 period absent the emergency. A railroad carrier shall exer-
16 cise due diligence to avoid or limit excess service even in
17 the event of an emergency.

18 “(d) NOTICE ABOUT DUAL EMPLOYMENT.—(1) Not
19 later than January 31 each year, a railroad carrier shall
20 inform each of its transport vehicle drivers in writing—

21 “(A) that all time spent performing aggregate
22 duty for one or more railroad carriers and one or
23 more independent contractors counts as time on
24 duty under this section;

1 “(B) about the transport vehicle driver’s re-
2 sponsibilities under paragraph (2); and

3 “(C) about the penalties applicable under sec-
4 tion 21303 to a failure to comply with paragraph (2)
5 of this subsection.

6 “(2) A dually employed transport vehicle driver
7 shall—

8 “(A) inform each of his or her railroad carrier
9 and independent contractor employers in writing
10 within 5 days after entering into an employment re-
11 lationship with an additional railroad carrier or inde-
12 pendent contractor; and

13 “(B) ensure that each of his or her railroad
14 carrier and independent contractor employers is kept
15 informed about the transport vehicle driver’s work
16 schedule with each of the other employing railroad
17 carriers and independent contractors.

18 “(3) A railroad carrier or independent contractor re-
19 ceiving written notification of dual employment shall re-
20 tain a copy of the notification for a period of two years
21 after the termination of such dual employment status. A
22 copy shall be made available to representatives of the Sec-
23 retary of Transportation for inspection and copying during
24 normal business hours at the railroad carrier’s or inde-
25 pendent contractor’s system headquarters and at such

1 subsystem headquarters as may be required by the Sec-
 2 retary by regulation.”.

3 (b) TABLE OF SECTIONS AMENDMENT.—The table of
 4 sections for chapter 211 is amended by adding after the
 5 item relating to section 21109 the following new item:

“21110. Limitations on duty hours of transport vehicle drivers.”.

6 **SEC. 109. ELECTRONIC RECORDKEEPING.**

7 (a) AMENDMENT.—Chapter 211 is amended by add-
 8 ing at the end the following new section:

9 **“§ 21111. Electronic recordkeeping**

10 “In rules or waivers issued under this part con-
 11 cerning recordkeeping related to compliance with this
 12 chapter, the Secretary of Transportation shall, where ap-
 13 propriate, permit that records be made, maintained, or
 14 submitted by electronic means. The Secretary shall ensure
 15 that railroad carriers making, maintaining, or submitting
 16 such records by electronic means—

17 “(1) provide adequate training to their employ-
 18 ees on how to use those electronic means; and

19 “(2) establish appropriate safeguards to ensure
 20 data integrity.”.

21 (b) TABLE OF SECTIONS AMENDMENT.—The table of
 22 sections for chapter 211 is amended by adding after the
 23 item relating to 21110 the following new item:

“21111. Electronic recordkeeping.”.

1 **TITLE II—MONITORING OF RAIL-**
2 **ROAD RADIO COMMUNICA-**
3 **TIONS**

4 **SEC. 201. ENHANCED INSPECTION AND INVESTIGATION AU-**
5 **THORITY UNDER THE FEDERAL RAILROAD**
6 **SAFETY LAWS.**

7 Section 20107 is amended by inserting at the end the
8 following new subsection:

9 “(c) RAILROAD RADIO COMMUNICATIONS.—(1) To
10 carry out the Secretary’s responsibilities under this part,
11 officers, employees, or agents of the Secretary are author-
12 ized to conduct the following kinds of inspection and inves-
13 tigative activities at reasonable times and in a reasonable
14 manner:

15 “(A) To receive or assist in receiving a radio
16 communication that is broadcast or transmitted over
17 a railroad carrier’s dedicated frequency not for the
18 use of the general public, with or without making
19 their presence known to the sender or other receivers
20 of the communication, and with or without obtaining
21 the consent of the sender or other receivers of the
22 communication.

23 “(B) To communicate the existence, contents,
24 substance, purport, effect, or meaning of a commu-
25 nication described in subparagraph (A).

1 “(C) To record a communication described in
2 subparagraph (A) by any means, including writing
3 and tape recording.

4 “(2) The purposes for which officers, employees, or
5 agents of the Secretary are permitted to engage in the
6 activities set forth in paragraph (1) of this subsection in-
7 clude rulemaking, accident investigation, and acquiring
8 general information as to railroad operations.

9 “(3) Information obtained in compliance with para-
10 graphs (1) and (2) of this subsection may not be used
11 as evidence for the assessment or collection of civil pen-
12 alties, or for the implementation of other enforcement
13 mechanisms provided in section 5122, 20702(b), 20111,
14 20112, 20113, or 20114 of this title, or in any disciplinary
15 proceeding by a railroad carrier, but may be used as back-
16 ground for further investigation which might lead to the
17 discovery of other useful evidence.

18 “(4) The authority granted by this subsection shall
19 be an exception to the general prohibitions of section 605
20 of title 47, United States Code, and chapter 119 of title
21 18, United States Code.”.

1 **TITLE III—PROTECTION OF**
2 **EMPLOYEES AND WITNESSES**

3 **SEC. 301. EXPANSION OF EMPLOYEE PROTECTIONS.**

4 (a) PROTECTED ACTIONS.—Section 20109(a) is
5 amended to read as follows:

6 “(a) PROTECTED ACTIONS.—A railroad carrier en-
7 gaged in interstate or foreign commerce, and an officer
8 or employee of such a railroad carrier, shall not by threat,
9 intimidation, or otherwise attempt to prevent an employee
10 from, or discharge, discipline, or in any way discriminate
11 against an employee for—

12 “(1) filing a complaint or bringing or causing
13 to be brought a proceeding related to the enforce-
14 ment of this part or, as applicable to railroad safety,
15 chapter 51 or 57 of this title;

16 “(2) testifying in a proceeding described in
17 paragraph (1);

18 “(3) notifying, or attempting to notify, the rail-
19 road carrier of a work-related personal injury or
20 work-related illness of an employee;

21 “(4) cooperating with a safety investigation by
22 the Secretary of Transportation or the National
23 Transportation Safety Board; or

24 “(5) furnishing information to any party as to
25 the facts relating to any accident or incident result-

1 ing in injury or death to an individual or damage to
2 property occurring in connection with railroad trans-
3 portation.”.

4 (b) HAZARDOUS CONDITIONS.—Section 20109(b) is
5 amended to read as follows:

6 “(b) HAZARDOUS CONDITIONS.—(1) A railroad car-
7 rier engaged in interstate or foreign commerce, and an of-
8 ficer or employee of such a railroad carrier, shall not by
9 threat, intimidation, or otherwise attempt to prevent an
10 employee from, or discharge, discipline, or in any way dis-
11 criminate against an employee for—

12 “(A) reporting a hazardous condition;

13 “(B) refusing to work when confronted by a
14 hazardous condition related to the performance of
15 the employee’s duties, if the conditions described in
16 paragraph (2) exist; or

17 “(C) refusing to authorize the use of any safe-
18 ty-related equipment, track, or structures, if the em-
19 ployee is responsible for the inspection or repair of
20 the equipment, track, or structures, when the em-
21 ployee believes that the equipment, track, or struc-
22 tures are in a hazardous condition, if the conditions
23 described in paragraph (2) exist.

24 “(2) A refusal is protected under paragraph (1)(B)
25 and (C) if—

1 “(A) the refusal is made in good faith and no
2 reasonable alternative to the refusal is available to
3 the employee;

4 “(B) the employee reasonably concludes that—

5 “(i) the hazardous condition presents an
6 imminent danger of death or serious injury; and

7 “(ii) the urgency of the situation does not
8 allow sufficient time to eliminate the danger
9 without such refusal; and

10 “(C) the employee, where possible, has notified
11 the carrier of the existence of the hazardous condi-
12 tion and the intention not to perform further work,
13 or not to authorize the use of the hazardous equip-
14 ment, track, or structures, unless the condition is
15 corrected immediately.

16 “(3) This subsection does not apply to security per-
17 sonnel employed by a railroad carrier to protect individ-
18 uals and property transported by railroad.”.

19 (c) ENFORCEMENT AND DISPUTE RESOLUTION.—
20 Section 20109(c) is amended—

21 (1) by striking “DISPUTE RESOLUTION.—A
22 dispute” and inserting “ENFORCEMENT AND DIS-
23 PUTE RESOLUTION.—(1) The Secretary of Trans-
24 portation may enforce this section under section
25 20111, the Attorney General may enforce this sec-

1 tion under section 20112, and the States may en-
2 force this section under section 20113.

3 “(2) Any employee aggrieved by a violation of sub-
4 section (a) or (b) may in a civil action obtain appropriate
5 relief.

6 “(3) A dispute”;

7 (2) by striking “180 days after it is filed” and
8 inserting “60 days after it is filed if the violation is
9 a form of discrimination that involves discharge, sus-
10 pension, or another action affecting pay, and 180
11 days after the dispute, grievance, or claim is filed if
12 the violation is a form of discrimination that does
13 not involve discharge, suspension, or another action
14 affecting pay”;

15 (3) by striking the last sentence and inserting
16 the following: “If the employee has been found by
17 the Board, division, delegate, or board of adjustment
18 to have been discharged, suspended, or otherwise
19 discriminated against in violation of subsection (a)
20 or (b) of this section, the employee shall be made
21 whole, including reinstatement, with an award of
22 back pay, and with all benefits and accumulated se-
23 niority. The employee may also be awarded punitive
24 damages sufficient to deter the railroad carrier from
25 such conduct in the future.”; and

1 (4) by adding at the end the following new
2 paragraph:

3 “(4) An employee may not seek relief under both
4 paragraph (2) and paragraph (3) with respect to the same
5 violation.”.

6 (d) PENALTIES.—

7 (1) CIVIL PENALTIES.—Section 21302(a)(1) is
8 amended by striking “a regulation prescribed or
9 order issued under chapter 201 of this title” and in-
10 sserting “chapter 201 of this title, or a regulation
11 prescribed or order issued under chapter 201,”.

12 (2) CRIMINAL PENALTIES.—Section 21311(a) is
13 amended—

14 (A) by striking “or” at the end of para-
15 graph (4);

16 (B) by striking the period at the end of
17 paragraph (5) and inserting “; or”; and

18 (C) by adding at the end the following new
19 paragraph:

20 “(6) violates section 20109.”.

21 (e) EXCLUSION FROM EMPLOYMENT.—

22 (1) AMENDMENT.—Chapter 213 is amended by
23 adding at the end the following new subchapter:

1 reasons for the proposed order and an opportunity for a
2 hearing.

3 “(c) DURATION.—An order under subsection (a) shall
4 be of indefinite duration. Not less than 1 year after the
5 issuance of such an order, an individual subject to such
6 an order may petition the Secretary for the rescission of
7 the order. The Secretary may grant such a petition if the
8 Secretary finds that employment by a railroad carrier of
9 the individual who was the subject of the order is not likely
10 to result in a reduction in railroad safety or in an in-
11 creased likelihood of harassment and intimidation of safe-
12 ty-critical railroad employees.”.

13 (2) TABLE OF SECTIONS AMENDMENT.—The
14 table of sections of part A of subtitle V is amended
15 by adding at the end the following:

“SUBCHAPTER III—EXCLUSION FROM EMPLOYMENT

“21321. Exclusion from employment.”.

16 **SEC. 302. EMPLOYEE REPORTS.**

17 Section 20901(a) is amended—

18 (1) by striking “the carrier’s operations” and
19 inserting in lieu thereof “the operations of the car-
20 rier or of any contractor to the carrier working on
21 the carrier’s property or operating the carrier’s
22 equipment”; and

23 (2) by inserting “The report shall also include
24 copies of any written safety-related complaint or re-

1 port filed with the carrier by an employee or con-
2 tractor during the month, whether or not the com-
3 plaint or report relates to a reported accident or in-
4 cident.” after “contributed to the accident or inci-
5 dent.”.

6 **SEC. 303. AUDITS.**

7 Section 20901 is amended by adding at the end the
8 following new subsection:

9 “(c) AUDITS.—A railroad carrier shall at least annu-
10 ally have an audit conducted of the process by which it
11 reports accidents and incidents pursuant to subsection (a).
12 The audit shall determine whether the reporting process
13 is substantially accurate as to the numbers and severity
14 of accidents and incidents. The audit shall be conducted
15 by an independent auditor approved by the Secretary.”.

16 **SEC. 304. INTERFERING WITH OR HAMPERING SAFETY IN-**
17 **VESTIGATIONS.**

18 (a) AMENDMENT.—Subchapter II of chapter 213 is
19 amended by adding at the end the following new section:

20 **“§ 21312. Interfering with or hampering safety inves-**
21 **tigations**

22 “(a) IN GENERAL.—It shall be unlawful for any per-
23 son knowingly to interfere with, obstruct, or hamper an
24 investigation by the Secretary of Transportation con-
25 ducted under section 20703 or 20902 of this title, or by

1 the National Transportation Safety Board under chapter
2 11 of this title.

3 “(b) INTIMIDATION AND HARASSMENT.—It shall be
4 unlawful for any person, with regard to an investigation
5 conducted by the Secretary under section 20703 or 20902
6 of this title, or by the National Transportation Safety
7 Board under chapter 11 of this title, knowingly or inten-
8 tionally to use intimidation, harassment, threats, or phys-
9 ical force toward another person, or corruptly persuade
10 another person, or attempt to do so, or engage in mis-
11 leading conduct toward another person, with the intent or
12 effect of—

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

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

17 “(A) attending a proceeding or interview
18 with, testifying before, or providing a written
19 statement to, a National Transportation Safety
20 Board investigator, a Federal railroad safety in-
21 spector or State railroad safety inspector, or
22 their superiors;

23 “(B) communicating or reporting to a Na-
24 tional Transportation Safety Board investi-
25 gator, a Federal railroad safety inspector, or a

1 State railroad safety inspector, or their superi-
2 ors, information relating to the commission or
3 possible commission of one or more violations of
4 this part or of chapter 51 of this title; or

5 “(C) recommending or using any legal
6 remedy available to the Secretary under this
7 title; or

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

9 “(A) withhold testimony, or a statement,
10 record, document, or other object, from the in-
11 vestigation;

12 “(B) alter, destroy, mutilate, or conceal a
13 statement, record, document, or other object
14 with intent to impair the integrity or avail-
15 ability of the statement, record, document, or
16 other object for use in the investigation;

17 “(C) evade legal process summoning that
18 person to appear as a witness, or to produce a
19 statement, record, document, or other object, in
20 the investigation; or

21 “(D) be absent from an investigation to
22 which such person has been summoned by legal
23 process.

24 “(c) ELEMENTS OF VIOLATION.—(1) For the pur-
25 poses of this section, the testimony or statement, or the

1 record, document, or other object, need not be admissible
2 in evidence or free from a claim of privilege.

3 “(2) In a prosecution for an offense under this sec-
4 tion, no state of mind need be proved with respect to the
5 circumstance that the investigation is being conducted by
6 the Secretary under section 20703 or 20902 of this title
7 or by the National Transportation Safety Board under
8 chapter 11 of this title.

9 “(d) CRIMINAL PENALTIES.—A person violating this
10 section shall be fined under title 18, imprisoned for not
11 more than two years, or both.”.

12 (b) TABLE OF SECTIONS AMENDMENT.—The table of
13 sections of subchapter II of chapter 213 is amended by
14 adding at the end the following new item:

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

15 **TITLE IV—PASSENGER SERVICE**
16 **SAFETY STANDARDS**

17 **SEC. 401. EMERGENCY WINDOWS AND DOORS.**

18 Section 20133 is amended by adding at the end the
19 following new subsection:

20 “(e) EMERGENCY WINDOWS AND DOORS.—(1) After
21 January 1, 2002, all railroad cars, including self-propelled
22 cars, used for providing transportation for members of the
23 general public shall—

24 “(A) have emergency windows installed in at
25 least one half of their window locations;

1 “(B) have emergency windows or emergency
2 panels in each of their interior and exterior doors;

3 “(C) have emergency doors at each exterior and
4 interior door location; and

5 “(D) adjacent to each emergency window, emer-
6 gency panel, and emergency door, have—

7 “(i) on the exterior car surface,
8 retroreflective signage; and

9 “(ii) on the interior car surface, fluores-
10 cent signage,

11 clearly marking the emergency window, emergency
12 panel, or emergency door and containing easily un-
13 derstood instructions on the operation of the emer-
14 gency window, emergency panel, or emergency door.

15 “(2) For purposes of this subsection—

16 “(A) the term ‘emergency door’ means a door
17 with an easily accessible interior quick-release mech-
18 anism allowing the door to be opened quickly in an
19 emergency without tools;

20 “(B) the term ‘emergency panel’ means an
21 opaque panel designed to permit rapid and easy re-
22 moval for passenger escape in an emergency without
23 tools; and

1 “(C) the term ‘emergency window’ means a
2 window designed to permit rapid and easy removal
3 for passenger escape in an emergency without tools.

4 “(3) This subsection shall not apply to railroad cars
5 used by tourist, excursion, scenic, or historic railroads that
6 are not part of the general system of railroad transpor-
7 tation and that do not operate at speeds in excess of 30
8 miles per hour.”.

9 **SEC. 402. PASSENGER RAILROAD SIGNAL SYSTEMS.**

10 (a) AMENDMENT.—(1) Section 20502 is amended by
11 adding at the end the following new subsection:

12 “(c) PASSENGER RAILROAD SIGNALS.—Each rail-
13 road line on which passenger service operates, except lines
14 where automatic train stop or cab signaling equipment is
15 in use for all passenger service, shall have installed ap-
16 proach and stop signals such that at least one approach
17 signal intervenes between a passenger station stop and a
18 subsequent stop signal.”.

19 (2) The amendment made by paragraph (1) shall
20 take effect January 1, 2001.

21 (b) STUDY.—The Secretary of Transportation shall,
22 within 1 year after the date of the enactment of this Act,
23 transmit to the Congress a report on the results of a study
24 of the safety implications of signal systems and their
25 placement. In conducting the study, the Secretary shall

1 consult with representatives of railroad labor, railroad
2 management, and railroad equipment manufacturers.
3 After transmitting the report, the Secretary shall initiate
4 appropriate rulemaking proceedings under chapter 205 to
5 implement the recommendations made in the report.

6 **SEC. 403. PASSENGER LOCOMOTIVE FUEL TANKS.**

7 (a) AMENDMENT.—Chapter 207 is amended by add-
8 ing at the end the following new section:

9 **“§ 20704. Passenger locomotive fuel tanks**

10 “(a) REQUIREMENTS.—Any locomotive manufac-
11 tured after the date of the enactment of the Federal Rail-
12 road Safety Enhancement Act of 1999, and delivered to
13 a railroad carrier on or after January 1, 2001, for use
14 on passenger trains, except for a locomotive intended pri-
15 marily for yard switching purposes, shall—

16 “(1) be equipped with fuel tanks that are inter-
17 nal and compartmentalized;

18 “(2) be equipped with internal fuel tank bulk-
19 heads and skin that are either $\frac{3}{8}$ inch steel plate
20 with 25,000-pound yield strength or another mate-
21 rial of equivalent strength; and

22 “(3) have fuel tank vent systems that are de-
23 signed to prevent those systems from becoming a
24 path of fuel loss in the event the tank is placed in

1 an abnormal orientation due to a locomotive derail-
2 ing.

3 “(b) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘compartmentalized’ means hav-
5 ing an interior divided into at least 4 separate com-
6 partments designed so that penetration of the exte-
7 rior skin of any 1 compartment shall result in loss
8 of fuel only from that compartment; and

9 “(2) the term ‘internal’ means having its lowest
10 point at least 18 inches above the lowest point on
11 the locomotive wheel tread, and being enclosed by, or
12 part of, the locomotive structure.”.

13 (b) TABLE OF SECTIONS AMENDMENT.—The table of
14 sections of chapter 207 is amended by adding at the end
15 the following new item:

“20704. Passenger locomotive fuel tanks.”.

16 **SEC. 404. PASSENGER CAR CRASHWORTHINESS.**

17 Section 20133, as amended by section 401 of this
18 Act, is further amended by adding at the end the following
19 new subsection:

20 “(f) CRASHWORTHINESS.—(1) Any railroad pas-
21 senger car, including a self-propelled car, manufactured
22 after the date of the enactment of the Federal Railroad
23 Safety Enhancement Act of 1999, and delivered to a rail-
24 road carrier on or after January 1, 2001, shall be
25 equipped with corner posts—

1 “(A) extending from the underframe structure
2 to the roof structure; and

3 “(B) capable of resisting a horizontal load (with
4 an orientation ranging from longitudinal inward to
5 transverse inward) of 150,000 pounds at the point
6 of attachment to the underframe without a failure.

7 “(2) Any railroad passenger car, including a self-pro-
8 pelled car, used by a railroad carrier after January 1,
9 2003, shall be equipped with corner posts described in
10 paragraph (1)(A) and (B). This paragraph shall not apply
11 to railroad passenger cars used by tourist, excursion, see-
12 nic, or historic railroads that are not part of the general
13 system of railroad transportation and that do not operate
14 at speeds in excess of 30 miles per hour.”.

15 **SEC. 405. POSITIVE TRAIN CONTROL.**

16 (a) AMENDMENTS.—Section 20150 is amended—

17 (1) by striking “**progress report**” in the
18 section heading;

19 (2) by inserting “(a) PROGRESS REPORT.—”
20 before “The Secretary of Transportation”; and

21 (3) by adding at the end the following new sub-
22 section:

23 “(b) SCHEDULE FOR IMPLEMENTATION.—(1) The
24 Secretary shall—

25 “(A) before March 31, 2000—

1 “(i) develop a model for assessing the risks
2 associated with accident or injury on railroad
3 corridors;

4 “(ii) compile data on each railroad corridor
5 to enable the application of the model developed
6 under clause (i); and

7 “(iii) rank railroad corridors on the basis
8 of their risks associated with accident or injury;

9 “(B) before October 1, 2000, identify high-pri-
10 ority railroad corridors the Secretary will require to
11 be equipped with positive train control systems,
12 which shall include, at a minimum, all railroad lines
13 on which more than 42 regularly scheduled pas-
14 senger trains per week operate and all railroad lines
15 on which more than 2,500,000 tons of hazardous
16 materials are transported each year; and

17 “(C) before October 1, 2001, issue regulations
18 establishing standards for the use of positive train
19 control systems and requiring their use on high-pri-
20 ority railroad corridors by no later than September
21 30, 2003.

22 “(2) For purposes of this subsection—

23 “(A) the term ‘passenger train’ does not include
24 trains operated by tourist, excursion, scenic, or his-
25 toric railroads that are not part of the general sys-

1 tem of railroad transportation and that do not oper-
 2 ate at speeds in excess of 30 miles per hour; and

3 “(B) the term ‘positive train control system’
 4 means a system for automatically controlling the
 5 speed of or stopping a train to prevent collisions, en-
 6 force speed restrictions, and protect roadway work-
 7 ers and their equipment in the event that the train
 8 operator has failed to take appropriate action.”.

9 (b) CONFORMING AMENDMENT.—The item relating
 10 to section 20150 in the table of sections of subchapter II
 11 of chapter 201 is amended by striking “progress report”.

12 **TITLE V—MISCELLANEOUS** 13 **PROVISIONS**

14 **SEC. 501. EXPANSION OF EMERGENCY ORDER AUTHORITY.**

15 Section 20104(a)(1) is amended by striking “death
 16 or personal injury” and inserting “death, personal injury,
 17 or significant harm to the environment”.

18 **SEC. 502. SAFETY CONSIDERATIONS IN GRANTS OR LOANS**

19 **TO COMMUTER RAILROADS.**

20 Section 5329 is amended by adding at the end the
 21 following new subsection:

22 “(c) COMMUTER RAILROAD SAFETY CONSIDER-
 23 ATIONS.—In making a grant or loan under this chapter
 24 that concerns a railroad subject to the Secretary’s safety
 25 jurisdiction under section 20102 of this title, the Adminis-

1 trator of the Federal Transit Administration shall consult
2 with the Administrator of the Federal Railroad Adminis-
3 tration concerning relevant safety issues. The Secretary
4 may use appropriate authority under this chapter, includ-
5 ing the authority to prescribe particular terms or cov-
6 enants under section 5334 of this title, to address any
7 safety issues identified in the project supported by the
8 loan or grant.”.

9 **SEC. 503. TECHNICAL AMENDMENTS REGARDING ADJUST-**
10 **MENT OF CIVIL PENALTIES FOR INFLATION.**

11 (a) CHAPTER 201 GENERAL VIOLATIONS.—In sec-
12 tion 21301(a)(2), insert after “\$10,000” and after
13 “\$20,000” the following: “, as adjusted pursuant to the
14 Federal Civil Penalties Inflation Adjustment Act of 1990
15 (28 U.S.C. 2461 note)”.

16 (b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLA-
17 TIONS AND CHAPTER 203–209 VIOLATIONS.—In section
18 21302(a)(2), insert after “\$10,000” and after “\$20,000”
19 the following: “, as adjusted pursuant to the Federal Civil
20 Penalties Inflation Adjustment Act of 1990 (28 U.S.C.
21 2461 note)”.

22 (c) CHAPTER 211 VIOLATIONS.—In section
23 21303(a)(2), insert after “\$10,000” and after “\$20,000”
24 the following: “, as adjusted pursuant to the Federal Civil

1 Penalties Inflation Adjustment Act of 1990 (28 U.S.C.
2 2461 note)”).

3 **SEC. 504. NOTIFICATION OF GRADE CROSSING PROBLEMS.**

4 (a) AMENDMENT.—Section 20152 is amended to
5 read as follows:

6 **“§ 20152. Notification of grade crossing problems**

7 “(a) PROGRAM.—(1) The Secretary of Transpor-
8 tation shall require the establishment of notification sys-
9 tems utilizing toll-free telephone numbers that the public
10 can use to convey to railroad carriers, either directly or
11 through public safety personnel, information about mal-
12 functions of automated warning devices or other safety
13 problems at highway-rail grade crossings.

14 “(2) To accelerate the implementation of such sys-
15 tems, the Secretary may provide technical assistance and
16 enter into cooperative agreements. Such assistance shall
17 include appropriate emphasis on the public safety needs
18 associated with operation of small railroad carriers.

19 “(b) REPORT.—Not later than 2 years after the date
20 of the enactment of the Federal Railroad Safety Enhance-
21 ment Act of 1999, the Secretary shall report to the Con-
22 gress the status of such notification systems, together with
23 any recommendations for further legislation that the Sec-
24 retary considers appropriate to enhance grade crossing
25 safety.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The item
2 relating to section 20152 in the table of sections of sub-
3 chapter II of chapter 201 is amended to read as follows:

“20152. Notification of grade crossing problems.”.

4 **SEC. 505. HIGH-SPEED RAIL NOISE REGULATION.**

5 (a) AMENDMENT.—Chapter 201 is amended by add-
6 ing a new section at the end as follows:

7 **“§ 20154. High-speed rail noise regulation**

8 “The Secretary of Transportation, in consultation
9 with the Administrator of the Environmental Protection
10 Agency, shall prescribe regulations addressing noise emis-
11 sions from high-speed rail systems, including magnetic
12 levitation systems, when operating at speeds greater than
13 150 miles per hour. Such regulations shall be prescribed
14 to protect the public health and welfare, including the
15 health and welfare of railroad employees, taking into ac-
16 count the degree of noise reduction achievable through the
17 application of the best available technology and the cost
18 of compliance. Regulations issued under this section shall
19 be in lieu of railroad-related noise regulations issued pur-
20 suant to the Noise Control Act of 1972 (42 U.S.C.
21 4916(a)) only for locomotives, cars, and consists of loco-
22 motives and cars, when operating at speeds greater than
23 150 miles per hour.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of
2 sections of chapter 201 is amended by adding at the end
3 the following new item:

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

4 **SEC. 506. RULEMAKING STATUS REPORTS.**

5 (a) REQUIREMENT.—The Administrator of the Fed-
6 eral Railroad Administration shall report once every 3
7 months to the Committee on Transportation and Infra-
8 structure of the House of Representatives and to the Com-
9 mittee on Commerce, Science, and Transportation of the
10 Senate on the status of the Federal Railroad Administra-
11 tion’s safety-related—

12 (1) rulemakings, whether specifically required
13 by statute or initiated by the Secretary of Transpor-
14 tation or the Administrator of the Federal Railroad
15 Administration under general statutory authority;
16 and

17 (2) reports required by statute and any other
18 reports intended for publication.

19 (b) CONTENTS.—A report required by subsection (a)
20 shall discuss the progress of the Federal Railroad Admin-
21 istration in completing those rulemakings and reports, in-
22 cluding achieved and expected dates of completing various
23 phases of the rulemakings and reports. In the case of
24 rulemakings and reports required by law, these dates shall
25 be compared with the dates required by law, and the re-

1 port required by subsection (a) shall explain the failure
2 to meet any rulemaking or reporting deadlines established
3 by law. The report shall also discuss the extent to which
4 any review or approval of the rulemaking or report, that
5 is required by law or otherwise to be performed by a Fed-
6 eral official, has been completed. The report may also dis-
7 cuss any other topics that the Administrator considers rel-
8 evant to the Federal Railroad Administration's railroad
9 safety program.

10 **SEC. 507. TRACK SAFETY.**

11 Section 20142 is amended to read as follows:

12 **“§ 20142. Track safety**

13 “(a) SPEED OF INSPECTION VEHICLES.—Not later
14 than one year after the date of the enactment of the Fed-
15 eral Railroad Safety Enhancement Act of 1999, the Sec-
16 retary of Transportation shall issue rules requiring that
17 no track inspection shall be conducted from a vehicle trav-
18 eling at a speed of more than 15 miles per hour.

19 “(b) MAINTENANCE-OF-WAY EQUIPMENT.—(1) All
20 track motor vehicles, self-propelled maintenance-of-way
21 equipment, and other equipment which is designed with
22 a wheeled carriage allowing the equipment to move along
23 a railroad track shall be designed and maintained so as
24 to conduct electrical current from one rail of the track to
25 the other, enabling the activation of signal systems de-

1 signed to detect the presence of locomotives, cars, trains,
2 and other rolling equipment on the track.

3 “(2) All roadway work groups and lone roadway
4 workers when working in a classification yard shall be
5 equipped with portable equipment permitting the motion
6 of freely rolling railroad cars to be automatically arrested.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘roadway work group’ means 2 or
9 more roadway workers working together on a com-
10 mon task who are in direct communication with each
11 other; and

12 “(2) the term ‘roadway worker’ means an em-
13 ployee of a railroad carrier, or of a contractor to a
14 railroad carrier, including a maintenance-of-way
15 worker or a signalman, who is working on or near
16 railroad track.

17 “(d) EFFECTIVE DATE.—Subsection (b)(1) shall take
18 effect on January 1, 2002.”.

19 **SEC. 508. RULEMAKING PROCESS.**

20 (a) AMENDMENT.—Subchapter I of chapter 201 is
21 amended by inserting after section 20115 the following
22 new section:

23 **“§ 20116. Rulemaking process**

24 “(a) RULES PROPOSED BY RAILROAD SAFETY ADVI-
25 SORY COMMITTEE.—A rule that has been proposed unani-

1 mously by the Railroad Safety Advisory Committee shall
2 be issued as a proposed rule by the Secretary of Transpor-
3 tation without preparation of a regulatory analysis, regu-
4 latory evaluation, or any other assessment of the costs or
5 benefits of the proposed rule, and without soliciting the
6 approval or comment of any Federal agency or employee
7 outside the Department of Transportation.

8 “(b) INCORPORATION BY REFERENCE.—No rule or
9 order issued by the Secretary under this part shall be ef-
10 fective if it incorporates by reference a code, rule, stand-
11 ard, requirement, or practice issued by an association or
12 other entity that is not an agency of the Federal Govern-
13 ment, unless that reference is to a particular code, rule,
14 standard, requirement, or practice adopted before the date
15 on which the rule is issued by the Secretary, and unless
16 the date on which the code, rule, standard, requirement,
17 or practice was adopted is specifically cited in the rule.”.

18 (b) TABLE OF SECTIONS AMENDMENT.—The table of
19 sections of subchapter I of chapter 201 is amended by
20 adding after the item relating to section 20115 the fol-
21 lowing new item:

“20116. Rulemaking process.”.

22 **SEC. 509. SAFETY INSPECTORS.**

23 Section 20115 is amended—

24 (1) by amending paragraph (1) of subsection

25 (a) to read as follows:

1 “(1) shall cover the costs of providing 400 rail-
2 road safety inspectors, in addition to those already
3 employed by the Federal Railroad Administration as
4 of October 1, 1998, to improve the safety of railroad
5 carriers subject to this chapter;”;

6 (2) in subsection (c)(2), by striking “only to
7 carry out this chapter” and inserting in lieu thereof
8 “only for the purposes described in subsection
9 (a)(1)”;

10 (3) in subsection (c)(3), by striking “of activi-
11 ties under” and all that follows through “financed
12 by the fees” and inserting in lieu thereof “described
13 in subsection (a)(1)”;

14 (4) in the heading of subsection (d), by striking
15 “ANNUAL REPORT” and inserting “REPORTS”;

16 (5) in subsection (d)(1), by striking “90 days
17 after the end of each fiscal year in which fees are
18 collected under this section” and inserting in lieu
19 thereof “180 days after the end of fiscal year 2002,
20 and every 3 years thereafter”;

21 (6) in subsection (d)(1)(A), by striking “that
22 fiscal year” and inserting in lieu thereof “the 3 pre-
23 vious fiscal years”;

24 (7) in subsection (d)(2), by striking “for a fis-
25 cal year”; and

1 (8) by striking subsection (e).

2 **SEC. 510. CERTIFICATION OF LOCOMOTIVE ENGINEERS**
3 **AND OTHER SAFETY-RELATED RAILROAD**
4 **PERSONNEL.**

5 (a) AMENDMENT.—Section 20135 is amended to
6 read as follows:

7 **“§ 20135. Certification of locomotive engineers and**
8 **other safety-related railroad personnel**

9 “(a) IN GENERAL.—The Administrator of the Fed-
10 eral Railroad Administration shall establish a program for
11 issuing certificates for—

12 “(1) carmen;

13 “(2) conductors;

14 “(3) dispatchers;

15 “(4) locomotive engineers;

16 “(5) power directors; and

17 “(6) trainmen,

18 to individuals when the Administrator finds, after inves-
19 tigation, that the individuals are qualified for, and phys-
20 ically able to perform the duties related to, the position
21 to be authorized by the certificates. After January 1,
22 2002, no person shall carry out the responsibilities of the
23 carman, conductor, dispatcher, locomotive engineer, power
24 director, or trainman unless that person has been certifi-
25 cated for that position by the Administrator.

1 “(b) GENERAL QUALIFICATIONS.—The program es-
2 tablished under subsection (a)—

3 “(1) shall provide qualification standards and
4 minimum training requirements for each type of po-
5 sition described in subsection (a); and

6 “(2) shall require comprehensive knowledge of
7 applicable railroad carrier operating practices and
8 rules.

9 “(c) LOCOMOTIVE ENGINEERS.—

10 “(1) QUALIFICATIONS.—The program estab-
11 lished under subsection (a), in the case of certifi-
12 cation of a locomotive engineer—

13 “(A) except as provided in paragraph
14 (2)(A), shall require consideration, to the extent
15 the information is available, of the motor vehi-
16 cle driving record of each individual seeking
17 certification, including—

18 “(i) any denial, cancellation, revoca-
19 tion, or suspension of a motor vehicle oper-
20 ator’s license by a State for cause within
21 the prior 5 years; and

22 “(ii) any conviction within the prior 5
23 years of an offense described in section
24 30304(a)(3)(A) or (B) of this title;

1 “(B) may require, based on the individ-
2 ual’s driving record, disqualification or the
3 granting of a certificate conditioned on require-
4 ments the Administrator prescribes; and

5 “(C) shall require an individual seeking
6 certification—

7 “(i) to request the chief driver licens-
8 ing official of each State in which the indi-
9 vidual has held a motor vehicle operator’s
10 license within the prior 5 years to provide
11 information about the individual’s driving
12 record to the individual’s employer, pro-
13 spective employer, or the Administrator, as
14 the Administrator requires; and

15 “(ii) to make the request provided for
16 in section 30305(b)(4) of this title for in-
17 formation to be sent to the individual’s em-
18 ployer, prospective employer, or the Ad-
19 ministrator, as the Administrator requires.

20 “(2) WAIVERS.—(A) The Administrator shall
21 prescribe standards and establish procedures for
22 waiving paragraph (1)(A) for an individual or class
23 of individuals who the Administrator decides are not
24 currently unfit to operate a locomotive. However, the
25 Administrator may waive paragraph (1)(A) for an

1 individual or class of individuals with a conviction,
2 cancellation, revocation, or suspension described in
3 subparagraph (B)(i) or (ii) only if the individual or
4 class, after the conviction, cancellation, revocation,
5 or suspension, successfully completes a rehabilitation
6 program established by a railroad carrier or ap-
7 proved by the Administrator.

8 “(B) An individual may not be denied a certifi-
9 cate under paragraph (1)(A) because of—

10 “(i) a conviction for operating a motor ve-
11 hicle when under the influence of, or impaired
12 by, alcohol or a controlled substance; or

13 “(ii) the cancellation, revocation, or sus-
14 pension of the individual’s motor vehicle opera-
15 tor’s license for operating a motor vehicle when
16 under the influence of, or impaired by, alcohol
17 or a controlled substance,

18 if the individual, after the conviction, cancellation,
19 revocation, or suspension, successfully completes a
20 rehabilitation program established by a railroad car-
21 rier or approved by the Administrator.

22 “(3) OPPORTUNITY TO EXAMINE AND COMMENT
23 ON INFORMATION.—The Administrator, employer, or
24 prospective employer, as appropriate, shall make in-
25 formation obtained under paragraph (1)(C) available

1 to the individual. The individual shall be given an
2 opportunity to comment in writing about the infor-
3 mation. Any comment shall be included in any
4 record or file maintained by the Administrator, em-
5 ployer, or prospective employer that contains infor-
6 mation to which the comment is related.

7 “(d) DELEGATION.—

8 “(1) IN GENERAL.—Subject to any regulations,
9 supervision, and review the Administrator may pre-
10 scribe, the Administrator may delegate, to a quali-
11 fied private person or an employee under the super-
12 vision of that person, a matter related to—

13 “(A) the examination, testing, and inspec-
14 tion necessary to issue a certificate under this
15 section; and

16 “(B) issuing the certificate.

17 “(2) RESCISSION.—The Administrator may re-
18 scind a delegation under this section at any time for
19 any reason the Administrator considers appropriate.

20 “(3) RECONSIDERATION.—A person affected by
21 an action of a person to whom responsibilities have
22 been delegated under this subsection may apply for
23 reconsideration of the action by the Administrator,
24 and, on the Administrator’s own initiative, the Ad-
25 ministrator may reconsider the action of such a per-

1 son at any time. If the Administrator decides on re-
2 consideration that the action is unreasonable or un-
3 warranted, the Administrator shall change, modify,
4 or reverse the action. If the Administrator decides
5 that the action is warranted, the Administrator shall
6 affirm the action.

7 “(e) SUSPENSION OR REVOCATION.—

8 “(1) AUTHORITY.—The Administrator may re-
9 view the certification of any employee holding a cer-
10 tificate under this section. The Administrator may
11 suspend or revoke a certificate issued under this sec-
12 tion if—

13 “(A) the employee, in the course of rail-
14 road employment, has engaged in or authorized
15 a practice that endangers human life, including
16 authorizing the use of unsafe equipment or
17 track; or

18 “(B) the Administrator decides after re-
19 viewing the actions or qualifications of the em-
20 ployee that railroad safety and the public inter-
21 est require such a suspension or revocation.

22 The length of a suspension shall be at the discretion
23 of the Administrator. In determining the length of a
24 suspension, the Administrator shall take into ac-

1 count the seriousness of the unsafe practice and the
2 employee's past safety record.

3 “(2) PROCEDURES.—Before acting to suspend
4 or revoke a certificate, the Administrator shall ad-
5 vise the holder of the certificate of the charges or
6 other reasons on which the Administrator relies for
7 the proposed action. Except in an emergency, the
8 Administrator shall provide the holder of the certifi-
9 cate with an opportunity to answer the charges and
10 to be heard on why the certificate should not be sus-
11 pended or revoked. Except as provided in paragraph
12 (3), the action of the Administrator suspending or
13 revoking a certificate shall be stayed pending the
14 outcome of an appeal under subsection (f).

15 “(3) EMERGENCIES.—If the Administrator de-
16 termines that an emergency exists and that railroad
17 safety requires that a suspension or revocation be ef-
18 fective immediately, then the Administrator's action
19 shall be effective immediately.

20 “(f) APPEALS.—The Administrator shall establish an
21 appropriate procedure through which a person adversely
22 affected by—

23 “(1) an action denying a certificate under this
24 section; or

1 “(2) an order suspending or revoking a certifi-
2 cate under subsection (e),
3 may appeal such action or order. If a finding is made
4 under that appeals procedure, after notice and an oppor-
5 tunity for a hearing, that railroad safety and the public
6 interest do not require affirmation of the original action
7 or order, the Administrator shall amend, modify, or re-
8 verse that action or order.

9 “(g) CERTIFICATION OF SAFETY BY A CARMAN.—(1)
10 After January 1, 2002, no locomotive, railroad car, or
11 train shall depart its initial terminal until it has been in-
12 spected and its safety has been certified in writing by a
13 carman certificated under this section.

14 “(2) After January 1, 2002, no locomotive, railroad
15 car, or train shall be used or operated after it has been
16 repaired or reported to have a defect potentially affecting
17 safety until it has been inspected by a carman certificated
18 under this section and its safety has been subsequently
19 certified in writing by that carman. A safety certification
20 made under this paragraph may be made conditional on
21 the locomotive, railroad car, or train being repaired at the
22 first practical opportunity.

23 “(h) AUTHORITY TO REFUSE TO OPERATE TRAINS
24 OR LOCOMOTIVES.—A locomotive engineer may refuse to
25 operate a train or locomotive if that locomotive engineer

1 is not satisfied that the train or locomotive can be oper-
2 ated safely.

3 “(i) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘carman’ means a railroad em-
5 ployee who inspects, tests, maintains, and repairs
6 brakes, other mechanical systems and components,
7 and safety appliances on railroad cars or loco-
8 motives;

9 “(2) the term ‘conductor’ means a railroad road
10 or yard employee who is in charge of a train’s pas-
11 sengers or freight;

12 “(3) the term ‘dispatcher’ has the meaning
13 given the term ‘dispatching service employee’ in sec-
14 tion 21101 of this title;

15 “(4) the term ‘locomotive engineer’ means an
16 operator of a locomotive other than—

17 “(A) a person who operates a locomotive
18 solely within the confines of a locomotive repair
19 or servicing area; and

20 “(B) a person who operates a locomotive
21 for short distances for inspection and mainte-
22 nance purposes;

23 “(5) the term ‘power director’ has the meaning
24 given such term in section 21101 of this title; and

1 “(6) the term ‘trainman’ means a railroad road
2 or yard employee who is under the supervision of a
3 conductor.”.

4 (b) TABLE OF SECTIONS AMENDMENT.—The item
5 relating to section 20135 in the table of sections of chap-
6 ter 201 is amended to read as follows:

 “20135. Certification of locomotive engineers and other safety-related railroad
 personnel.”.

7 (c) EFFECT OF AMENDMENT.—Notwithstanding the
8 amendment made by subsection (a), the requirements for
9 licensing or certification of locomotive operators under sec-
10 tion 20135 as in effect before the date of the enactment
11 of this Act shall continue in effect until the program estab-
12 lished under the amendment made by subsection (a) takes
13 effect with respect to locomotive engineers.

14 **SEC. 511. TRANSPORT MOTOR VEHICLE INSPECTIONS.**

15 (a) DEFINITION.—Section 20301(a) is amended to
16 read as follows:

17 “(a) DEFINITIONS.—In this chapter—

18 “(1) the term ‘vehicle’ means a car, locomotive,
19 tender, or similar vehicle; and

20 “(2) the term ‘transport motor vehicle’ means
21 a motor vehicle used to transport employees of a
22 railroad carrier or its independent contractors to or
23 from a work site.”.

1 (b) INSPECTION REQUIREMENT.—Section 20302 is
2 amended by adding at the end the following new sub-
3 section:

4 “(f) TRANSPORT MOTOR VEHICLES.—A railroad car-
5 rier shall not require or allow a transport motor vehicle
6 to be used to transport employees to or from a work site,
7 whether that transport motor vehicle is owned or operated
8 by the railroad carrier or by an independent contractor
9 to the railroad carrier, unless the transport motor vehicle
10 has been tested and inspected, in accordance with regula-
11 tions promulgated by the Secretary, to ensure that it has
12 been properly maintained and can safely transport rail-
13 road employees.”.

14 **SEC. 512. CRANE SAFETY.**

15 The Secretary of Transportation shall initiate a rule-
16 making, based on the recommendations of the Railroad
17 Safety Advisory Committee, to ensure the safety of opera-
18 tors of railroad cranes and other hoisting equipment, and
19 of railroad employees working in the vicinity of cranes and
20 other hoisting equipment. If the Railroad Safety Advisory
21 Committee has not made consensus recommendations
22 within 12 months after the date of the enactment of this
23 Act, the Secretary shall discharge the Committee of its
24 responsibilities under this section and shall, within 24

1 months after the date of the enactment of this Act, issue
2 a final rule.

3 **SEC. 513. CONRAIL SAFETY EXEMPTION.**

4 Section 711 of the Regional Rail Reorganization Act
5 of 1973 (45 U.S.C. 797j) is repealed.

6 **SEC. 514. SENIORITY RIGHTS.**

7 (a) AMENDMENT.—Part E of subtitle V is amended
8 by adding at the end the following new chapter:

9 **“CHAPTER 285—SENIORITY RIGHTS**

“Sec.
“28501. Seniority rights.

10 **“§ 28501. Seniority rights**

11 “Reemployment rights, seniority rights, and the right
12 to return to employment after a leave of absence from a
13 railroad carrier, negotiated by a labor organization pursu-
14 ant to the Railway Labor Act, shall not be considered for
15 purposes of section 208(b) of title 18 to be a financial
16 interest so substantial as to be deemed likely to affect the
17 integrity of the services which the Government may expect
18 from an officer or employee who has such rights. Such
19 an officer or employee shall be considered to have received
20 in advance a written determination to that effect.”.

21 (b) TABLE OF CHAPTERS AMENDMENT.—The table
22 of chapters of part E of subtitle V is amended by adding
23 at the end the following new item:

“285. SENIORITY RIGHTS 28501”.

1 **SEC. 515. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20117(a)(1) is amended by striking subpara-
3 graphs (A) through (F) and inserting the following new
4 subparagraphs:

5 “(A) \$82,086,000 for fiscal year 1999.

6 “(B) Such sums as may be necessary for fiscal
7 years 2000 through 2002.”.

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