

related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement." Since this limitation on federal regulatory pre-emption is limited by its terms to "state" rail safety requirements, it could be argued that it implicitly precludes rail safety requirements (including whistle-ban ordinances) adopted by local governmental authorities below the state level.

We understand that some railroads have taken one or two legal positions on this subject: either (1) the very enactment of Section 20153 immediately displaced all state and local authority to adopt and enforce grade-crossing whistle bans; or (2) that Section 20106 independently precludes locally enacted whistle bans, and allows only state-promulgated requirements in this area, prior to adoption and effectiveness of final FRA regulations.

This is an issue of immediate and pressing concern to our states. As FRA acknowledged in its proposed regulations [65 Fed. Reg. 2230, 2234 (Jan. 13, 2000)], well over half of all whistle-banned grade crossing in the United States are located in Wisconsin and Illinois. It is our understanding that many, if not most, of the bans now being ignored by some railroads were promulgated by local rather than state governmental units.

We are therefore requesting the formal legal opinion of the ERA on the following questions:

(1) Does Section 20153, Title 49, United States Code, pre-empt adoption and enforcement of state-issued or locally issued whistle bans prior to promulgation and legal effectiveness of final regulations issued by FRA under that section?

(2) Does Section 20106, Title 49, United States Code, pre-empt the adoption or enforcement of whistle bans issued by local governments prior to promulgation and legal effectiveness of final regulations issued by FRA under Section 20153 of that title?

Thank you for your prompt assistance on this important matter of rail safety policy.

Sincerely,

WILLIAM O. LIPINSKI,  
*Ranking Member,*  
*Aviation Sub-*  
*committee.*

THOMAS E. PETRI,  
*Chairman, Ground*  
*Transportation Sub-*  
*committee.*

Second, I have also prepared legislation which would spell out the ground rules governing local, state, and federal jurisdiction in this area, while the FRA rulemaking is still pending, and no fully effective regulations are in place. As with the request for the legal opinion, this legislation may prove to be an important option in clarifying the authority of state and local governments in the field of railroad noise abatement at grade crossings.

Finally, I want to commend the gentleman from Illinois, Mr. LIPINSKI, for arranging this evening's discussion of this important transportation safety issue. I look forward to working with him as we address this problem.

Mr. PORTER. Mr. Speaker, I rise today as one of the many Members of Congress opposed to the Federal Railroad Administration's proposed rule for trains to sound their horns at public crossings. Let me first state that I do not oppose efforts by the FRA or any other part of the Department of Transportation to improve safety. Each year there are over 35,000 transportation related deaths in America. We must reduce this terrible statistic. In fact, safer travel is the basis for my opposition to this proposed regulation.

In my opinion, the approach taken by the FRA to prevent train crossing accidents is extreme. I believe that the spending mandated by this regulation would be wasteful and ultimately not improve safety. These scarce dollars and resources can be used more effectively, saving more lives, if spent in other areas. Implementing this rule would draw funds away from other important safety measures for drivers, pedestrians, and other travelers on Americas roads in Illinois and elsewhere.

The main parts of the proposed rule are now well known: trains must blow their horns at all public grade crossings unless a new level of safety measures is installed. While there is flexibility in the types of safety measures and the time in which they must be installed, this sweeping regulation is flawed for several reasons.

First, the FRA data used to conclude that blowing horns at crossings reduces accidents fails to count a significant number of crossings and fails to properly classify and incorporate the nature of the accident. In fact, data has been compiled which indicates that in certain regions of the country, my district being one of them, there is a decrease in the number of accidents in places where train horns are prohibited from sounding. Further, the data does not account for the vast differences in vehicular traffic at the rail crossings where information was gathered.

Second, the majority of the data used by the FRA to formulate this proposal came from a multiyear study of areas in Florida that had implemented and then repealed bans on train horns at crossings. In my opinion, the specific data from the Florida crossings is neither applicable nor appropriate to determine the need for horn bans in the majority of the other states. In Cook County, Illinois there are more gate crossings than in the majority of states in the country.

Third, a recent Illinois study of detailed data compiled between 1988 and 1998 highlights several important facts that should be considered by the FRA. For example, train accidents involving vehicles remains a rare occurrence resulting in less than one percent of highway fatalities. Further, the study found that of train related vehicular accidents, over forty percent occurred because the driver circumvented the existing safety measures. Of the remaining accidents, a significant percentage occurred when a vehicle impacted against the side of a train, rather than the train striking a vehicle. From these facts, we can conclude that in many cases the safety measures currently in place are adequate for those citizens who chose to use them, and expenditures to further improve these safety measures would be better spent.

Mr. Speaker, little consensus exists on whether the data and analysis used by the FRA to support their position is correct, and whether the proposed rule is good public policy from any standpoint. Before forcing states and communities to pay for massive investments in rail crossing safety measures, this issue must be resolved. I ask the Federal Railroad Administration to consider the tens of thousands of citizens in Illinois and millions across the country that would be greatly impacted both financially and physically by this onerous proposal and to change the rule. At a minimum, the individual states should have much more flexibility to decide where they need to spend funds for transportation safety.

## RECESS

The SPEAKER pro tempore (Mr. HAYES). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

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## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 o'clock and 53 minutes p.m.

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## REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 106-605) on the resolution (H. Res. 488) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

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## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. FILNER, for 5 minutes, today.

Ms. STABENOW, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. WICKER) to revise and extend their remarks and include extraneous material:)

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. WHITFIELD, for 5 minutes, May 4.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BROWN of Ohio for 5 minutes today; and,

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. STEARNS for 5 minutes today.

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## SENATE CONCURRENT RESOLUTION

A concurrent resolution of the Senate of the following title was taken

from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 81. Concurrent resolution expressing the sense of the Congress that the Government of the People's Republic of China should immediately release Rabiya Kadeer, her secretary, and her son, and permit them to move to the United States if they so desire; to the Committee on International Relations.

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#### SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 452. An act for the relief of Belinda McGregor.

S.J. Res. 40. Joint resolution providing for the appointment of Alan G. Spoon as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 42. Joint resolution providing for the reappointment of Manuel L. Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

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#### ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, May 4, 2000, at 10 a.m.

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#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7450. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 13-313, "Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000" received May 2, 2000, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7451. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 13-315, "Adoption and Safe Families Amendment Act of 2000" received May 2, 2000, pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

7452. A letter from the District of Columbia Retirement Board, transmitting the personal financial disclosure statements of Board members, pursuant to D.C. Code section 1-732 and 1-734(a)(1)(A); to the Committee on Government Reform.

7453. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes [Docket No. 98-NM-262-AD] (RIN: 2120-AA64) received March 3, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7454. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. 98-NM-354-AD; Amendment 39-11601; AD 2000-04-18] (RIN: 2120-AA64) received March 3, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7455. A communication from the President of the United States, transmitting His ap-

proval of the findings of the Secretary of Commerce in his report "The Effect on the National Security Imports of Crude Oil and Refined Petroleum Products," pursuant to 19 U.S.C. 1862(d)(2); to the Committee on Ways and Means.

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#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1523. A bill to establish mandatory procedures to be followed by the Forest Service and the Bureau of Land Management in advance of the permanent closure of any forest road so as to ensure local public participation in the decisionmaking process; with an amendment (Rept. 106-604 Pt. 1).

Mr. REYNOLDS: Committee on Rules. House Resolution 488. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 106-605). Referred to the House Calendar.

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#### DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, the Committee on Agriculture discharged. H.R. 1523 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

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#### TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X, the following action was taken by the Speaker:

H.R. 1523. Referral to the Committee on Agriculture extended for a period ending not later than May 3, 2000.

H.R. 3244. Referral to the Committee on Ways and Means extended for a period ending not later than May 8, 2000.

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#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BILIRAKIS (for himself and Mr. BROWN of Ohio):

H.R. 4365. A bill to amend the Public Health Service Act with respect to children's health; to the Committee on Commerce.

By Mr. HOYER (for himself, Mr. WELDON of Pennsylvania, and Mr. ANDREWS):

H.R. 4366. A bill to establish in the Office of the Architect of the Capitol the position of Director of Fire Safety and Protection to assume responsibility for fire safety and protection activities of the Architect of the Capitol, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:  
H.R. 4367. A bill to amend title 10, United States Code, to enhance the ability of States and local governments to participate in projects conducted under the alternative authority of the Department of Defense to acquire and improve military housing; to the Committee on Armed Services.

By Ms. DELAURO (for herself, Mr. WELDON of Pennsylvania, Mr. ANDREWS, and Mr. BOEHLERT):

H.R. 4368. A bill to amend the Consumer Product Safety Act to provide for the flam-

mability testing and labeling of upholstered furniture which is sold in interstate commerce; to the Committee on Commerce.

By Mr. LUCAS of Kentucky:  
H.R. 4369. A bill to amend title 10, United States Code, to improve access to benefits under the TRICARE program; to extend and improve certain demonstration programs under the Defense Health Program, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Government Reform, Veterans' Affairs, Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MINK of Hawaii:  
H.R. 4370. A bill for the relief of the Philippine citizens collectively referred to as the "Marcos Entourage"; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:  
H.R. 4371. A bill to amend the Immigration and Nationality Act to extend the retroactive period of provisions providing for the crediting of service with the Armed Forces of the United States toward the period of required United States residence of a citizen parent in order for a person born outside the United States of an alien parent and a citizen parent to acquire United States citizenship at birth; to the Committee on the Judiciary.

By Mr. RANGEL:  
H.R. 4372. A bill to amend the Convention on Cultural Property Implementation Act to improve the procedures for restricting imports of archaeological and ethnological material; to the Committee on Ways and Means.

By Ms. SCHAKOWSKY:  
H.R. 4373. A bill to amend the Fair Credit Reporting Act to limit disclosure of consumer reports on an employee which are obtained in connection with allegations of illegal conduct; to the Committee on Banking and Financial Services.

By Mr. SMITH of Texas:  
H.R. 4374. A bill to provide for the appointment of 2 additional Federal district judges for the Western District of Texas; to the Committee on the Judiciary.

By Ms. BALDWIN (for herself, Mr. WAXMAN, Mr. STARK, Mr. PALLONE, Mr. KLECZKA, Mrs. THURMAN, Mr. ALLEN, and Mr. MINGE):

H.R. 4375. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of self-administered drugs that, when used as a replacement for covered drugs, result in overall cost savings to the program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Texas (for himself and Mr. GREENWOOD):

H. Con. Res. 315. Concurrent resolution expressing the sense of the Congress with respect to increased funding for the immunizations program under the Public Health Service Act; to the Committee on Commerce.

By Mr. PAYNE (for himself and Mr. CAMPBELL):

H. Con. Res. 316. Concurrent resolution concerning efforts to avert drought and famine in Africa, particularly Ethiopia; to the Committee on International Relations.

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#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows: