

Public Law 100-342
100th Congress

An Act

June 22, 1988
[S. 1539]

Rail Safety
Improvement
Act of 1988.
Law
enforcement and
crime.
45 USC 421 note.

To amend the Federal Railroad Safety Act of 1970 and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1988".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed \$40,649,000 for the fiscal year ending September 30, 1988, not to exceed \$41,868,470 for the fiscal year ending September 30, 1989, and not to exceed \$44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended."

SEC. 3. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

(a) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than \$250 nor more than \$10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed \$20,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations.";

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(C) by adding at the end the following new sentences: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated

to the supervisor. Such individual shall have the right to document such protest.”; and

(4) by adding at the end the following new subsection:

“(f) Where an individual’s violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary’s authority under section 203 to take such action on an emergency basis.”.

(b) Within 30 days after the date of the enactment of this Act the Secretary of Transportation (hereafter in this Act referred to as the “Secretary”) shall issue interim rules, regulations, orders, or standards containing penalty schedules applicable to railroads and individuals reflecting the changes made by the amendments in subsection (a). The Secretary shall issue final rules, regulations, orders, or standards with respect to such penalty schedules within 6 months after such date of enactment.

Regulations.
45 USC 438 note.

SEC. 4. LICENSING OR CERTIFICATION OF ENGINEERS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

“(1)(1) The Secretary shall, within 12 months after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing or certification of any operator of a locomotive, including any locomotive engineer, after the expiration of 12 months following the establishment of such program.

Regulations.

“(2) The program established by the Secretary under paragraph (1)—

“(A) shall be implemented through review and approval of each railroad’s operator qualification standards;

“(B) shall provide minimum training requirements;

“(C) shall require comprehensive knowledge of applicable railroad operating practices and operating rules;

“(D) shall, except as provided in paragraph (4), require the consideration, to the extent information is available, of the motor vehicle driving record of each individual seeking licensing or certification under such program, including—

Records.

“(i) any denial of a motor vehicle operator’s license by a State for cause within the previous 5 years;

“(ii) any cancellation, revocation, or suspension of a motor vehicle operator’s license by a State for cause within the previous 5 years; and

“(iii) any conviction within the previous 5 years of an offense described under section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982,

and may, based on such driving record, require disqualification of an individual or the granting of a license or certification conditioned on such terms as the Secretary may prescribe; and

“(E) shall require any individual seeking a license or certification under this subsection to—

“(i) request the chief driver licensing official of each State in which such individual has within the previous 5 years

State and local
governments.
Records.

held a motor vehicle operator's license to provide information to his or her employer or prospective employer, or to the Secretary, as the Secretary may determine, with respect to such individual's driving record; and

"(ii) make the request provided for in section 206(b)(5) of the National Driver Register Act of 1982, for information to be transmitted to his or her employer, prospective employer, or the Secretary, as the Secretary may determine.

"(3) The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under paragraph (2)(E) available to the individual, who shall be given an opportunity to comment on it in writing. Any such comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains the information to which the comment is related.

Records.

"(4)(A) The Secretary shall establish standards and procedures for waiving the application of requirements established under paragraph (2)(D) to any individual or class of individuals who the Secretary determines are not currently unfit to operate a locomotive.

"(B) In establishing the program under this subsection, the Secretary may not waive the application of requirements established under paragraph (2)(D) to an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (6) (A) or (B) who have not successfully completed a rehabilitation program established by a railroad or approved by the Secretary.

"(5) An individual who is denied a license or certification or whose license or certification is conditioned under requirements established under paragraph (2)(D) shall be entitled to an administrative hearing under subsection (b) to determine whether such license or certification has been properly denied or conditioned.

"(6) No individual shall be denied a license or certification under requirements established under paragraph (2)(D) because of—

Alcohol and alcoholic beverages.
Drugs and drug abuse.

"(A) a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; or

"(B) the cancellation, revocation, or suspension of the motor vehicle operator's license of such individual on the basis of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance,

if such individual subsequent to such conviction, cancellation, revocation, or suspension has successfully completed a rehabilitation program established by a railroad or approved by the Secretary."

(b)(1) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following new paragraph:

State and local governments.
Records.

"(5) Any individual who is employed by a railroad as an operator of a locomotive, or who seeks employment with a railroad as an operator of a locomotive, may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer or prospective employer, or to the Secretary. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public

Classified information.

Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.”

(2) Paragraphs (1) and (2) of subsection (b) of section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401, note) are each amended by adding at the end the following: “Information submitted to the Register by States under Public Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.”

State and local governments.

SEC. 5. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended to read as follows:

“(2) In any proceeding with respect to which a dispute, grievance, or claim arising under this section is brought for resolution before the Adjustment Board (or any division or delegate thereof) of any other board of adjustment created under section 3 of the Railway Labor Act (45 U.S.C. 153), such dispute, grievance, or claim shall be expedited by such Board or other board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee reasonable damages, including punitive damages, not to exceed \$20,000.”

Claims.

Wages.

(b) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

“(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

Classified information.

“(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.”

SEC. 6. NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended—

(1) by striking “and” before “installation of evacuation”; and

(2) by adding at the end the following: “improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty-eight passenger cars operating within the Northeast Corridor; installation of forty-four event record-

State listing.

ers and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use within the Northeast Corridor;”.

SEC. 7. JURISDICTION OVER HIGH SPEED RAIL SYSTEMS.

(a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

“(e) The term ‘railroad’ as used in this title means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.”.

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j), and (k), and redesignating subsection (l), as added by section 4 of this Act, as subsection (i).

SEC. 8. ENFORCEMENT OF SUBPOENAS AND ORDERS.

Business and
industry.
Corporations.
Courts, U.S.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking “Act;” and all that follows and inserting in lieu thereof the following: “title. In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary’s subpoena, order, or directive.”.

SEC. 9. AUTOMATIC TRAIN CONTROL AND RELATED SYSTEMS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsections:

Regulations.

“(j) Within 90 days after the date of enactment of this subsection, the Secretary shall issue such rules, regulations, orders, and standards as may be necessary to require that—

“(1) whoever performs any test required by the Secretary of an automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed; and

Records.

“(2) that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive.

District of
Columbia.
Massachusetts.

“(k)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor between Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.

"(1) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.

The Secretary shall submit to the Congress by April 1, 1990, a report detailing the results of such study."

Reports.

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsection:

45 USC 431.

"(m)(1)(A) The Secretary shall, within 18 months after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, standards, and orders as may be necessary to enhance safety by requiring that trains be equipped with event recorders within 1 year after such rules, regulations, orders, and standards are issued.

Regulations.

"(B) If the Secretary finds that it is impracticable to equip trains as required under subparagraph (A) within the time limit under such subparagraph, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued.

"(2) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

"(B) are designed to resist tampering."

SEC. 11. NORTHEAST CORRIDOR SAFETY COMMITTEE.

45 USC 431 note.

(a) Within 30 days after the date of enactment of this Act, the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall establish a Northeast Corridor Safety Committee and appoint members to the Committee which shall consist of representatives of—

Establishment.

- (1) the Secretary;
- (2) the National Railroad Passenger Corporation;
- (3) freight carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor;
- (4) commuter agencies;
- (5) railroad passengers;
- (6) rail labor; and
- (7) any other persons or organizations the Secretary determines to have a significant interest in rail safety.

(b) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements on the main line of the Northeast Corridor.

Transportation.

(c) Within 90 days after the date of enactment of this Act, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of rail carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor for the purpose of reducing through freight traffic on portions of such line used primarily for passenger traffic.

Reports.

(d) Within one year after the date of enactment of this Act the Secretary shall submit a report to the Congress on the status of efforts to improve safety on the main line of the Northeast Corridor pursuant to the provisions of this section.

SEC. 12. MISCELLANEOUS.

Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

SEC. 13. AMENDMENTS TO SAFETY APPLIANCE ACTS.

The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts, are amended as follows:

(1) The Act of March 2, 1893, is amended—

(A) in the first section (45 U.S.C. 1)—

(i) by striking “common carrier engaged in interstate commerce by”;

(ii) by striking “in moving interstate traffic”; and

(iii) by striking “in such traffic”;

(B) in section 2 (45 U.S.C. 2)—

(i) by striking “common carrier” and inserting in lieu thereof “railroad”; and

(ii) by striking “used in moving interstate traffic”;

(C) in section 3 (45 U.S.C. 3), by striking “person, firm, company, or corporation engaged in interstate commerce by”;

(D) in section 4 (45 U.S.C. 4), by striking “in interstate commerce”;

(E) in section 5 (45 U.S.C. 5)—

(i) by striking “common carriers” and inserting in lieu thereof “railroads”;

(ii) by striking “engaged in interstate commerce”; and

(iii) by striking “in interstate traffic”;

(F) in section 6 (45 U.S.C. 6)—

(i) by striking all before the first semicolon and inserting in lieu thereof the following: “Any person (including a railroad and any manager, supervisor,

Claims.
Courts, U.S.

official, or other employee or agent of a railroad) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(ii) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

Records.

(G) in section 7, by striking "common carrier" and inserting in lieu thereof "railroad"; and

(H) in section 8 (45 U.S.C. 7)—

(i) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(ii) by striking "such carrier" and inserting in lieu thereof "such railroad".

(2) The Act of March 2, 1903, is amended—

(A) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(B) in section 2 (45 U.S.C. 9)—

(i) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu thereof "railroads"; and

(ii) by striking "engaged in interstate commerce"; and

(C) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)".

(3) The Act of April 14, 1910, is amended—

(A) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(B) in section 3 (45 U.S.C. 12)—

(i) by striking "in interstate or foreign traffic" wherever it appears;

(ii) by striking "common carrier" and inserting in lieu thereof "railroads"; and

(iii) by striking "common carrier" and inserting in lieu thereof "railroad";

(C) in section 4 (45 U.S.C. 13)—

(i) by striking "common carrier subject to this Act" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(ii) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

(iii) by striking "of not less than \$250 and not more than \$2,500 for each and every such violation, to" and inserting in lieu thereof the following: "in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall";

(iv) by striking "and recovered" and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered"; and

(v) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

(D) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(E) by amending the first section (45 U.S.C. 16) to read as follows: "That as used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)."

SEC. 14. AMENDMENTS TO LOCOMOTIVE INSPECTION ACT.

The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 24), by striking "common carriers" and inserting in lieu thereof "railroads";

(4) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu thereof "railroad" and "railroads", respectively;

(6) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(7) in section 9 (45 U.S.C. 34)—

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be liable to a penalty in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."

Claims.
Courts, U.S.

Records.

SEC. 15. AMENDMENTS TO ACCIDENT REPORTS ACT.

The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) by adding at the end the following: "The term 'railroad' when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate or foreign commerce by"; and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"**SEC. 7.** Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."

Claims.
Courts, U.S.

Records.

SEC. 16. AMENDMENTS TO HOURS OF SERVICE ACT.

The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof "'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)."; and

(C) in subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to \$1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an act by an individual that causes a railroad to be in violation of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."

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(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

Records.

SEC. 17. AMENDMENTS TO SIGNAL INSPECTION ACT.

Section 25 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.);"

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(7) in subsection (h)—

(A) by amending the first sentence to read as follows: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating any provision of this section, or failing to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than \$250 nor more than \$10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed \$20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this section, or to fail to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved under this section, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."; and

(8) by striking "Commission" wherever it appears, except as it appears in subsection (f) in the title of the Act of May 6, 1910, and inserting in lieu thereof "Secretary of Transportation".

SEC. 18. RAIL PASSENGER SERVICE AMENDMENTS.

(a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality, authority, or entity,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed."

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

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Records.

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decision to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

(g)(1) The National Railroad Passenger Corporation (hereafter in this subsection referred to as "Amtrak"), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this subsection.

(2) If the Secretary determines that—

(A) a facility which is the subject of a petition under paragraph (1) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

(B) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger,

the Secretary shall recommend to the Congress that the Congress authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

(3) Petitions may be submitted under paragraph (1) with respect to any relocation or remedial measures undertaken on or after January 1, 1978.

(h)(1) There is authorized to be appropriated to the Secretary for the purposes of this subsection, \$1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or such Corporation jointly with any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

SEC. 19. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(n) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used."

45 USC 543 note.

45 USC 650a.

Appropriation
authorization.
45 USC 650a
note.

Regulations.
Bridges.
Maritime affairs.

(b)(1) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

“(e) As used in section 2(a)(3) of this Act, the term ‘employees’ shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.”.

Effective date.
45 USC 62 note.

(2) As it applies to interruptions caused by noise under section 2(a)(3) of such Act, the amendment made by paragraph (1) shall take effect 180 days after the date of the enactment of this Act.

(c) The Secretary shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 20. GRADE CROSSING DEMONSTRATION PROJECTS.

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

45 USC 445.
Highways.

“SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS.

“(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

“(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

“(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

“(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

Reports.

“(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1988, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

Appropriation
authorization.

“(c) There is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety other than the demonstration projects provided for under subsection (a), \$1,000,000, to remain available until expended.”.

SEC. 21. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

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“(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices.

“(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

“(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who

knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or loss of a license or certification issued under subsection (i).”.

SEC. 22. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

“(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1988, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

“(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary’s recommendations, and if the Secretary recommends that rules, regulations, orders, or standards be issued, the Secretary shall promptly initiate appropriate rulemaking proceedings.”.

Reports.

SEC. 23. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

“(q) The Secretary shall, within one year after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.”.

Regulations.
Highways.

SEC. 24. ACCIDENT REPORTS.

45 USC 43a.

If a railroad, in reporting an accident or incident under the Accident Reports Act (45 U.S.C. 38 et seq.), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

Approved June 22, 1988.

LEGISLATIVE HISTORY—S. 1539 (H.R. 3743):

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