

105TH CONGRESS
1ST SESSION

H. R. 1720

To improve transportation safety, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mr. DINGELL (for himself and Mr. OBERSTAR) (both by request), introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Commerce, and the Judiciary, 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

A BILL

To improve transportation safety, 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; AMENDMENT OF TITLE 49,**
4 **UNITED STATES CODE; TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—Titles IX through XIV of this
6 Act may be cited as the “Surface Transportation Safety
7 Act of 1997”.

8 (b) AMENDMENT OF TITLE 49, UNITED STATES
9 CODE.—Except as otherwise expressly provided, whenever
10 in titles IX through XIV an amendment or repeal is ex-

1 pressed in terms of an amendment to, or a repeal of, a
 2 section or other provision, the reference shall be consid-
 3 ered to be made to a section or other provision of title
 4 49, United States Code.

5 (c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of title 49, United States Code; table of con-
 tents.

Sec. 2. Awards.

TITLE IX—TRAFFIC SAFETY

Sec. 9001. Amendment to title 23 (Primary Safety Belt Use).

Sec. 9002. Amendments to chapter 301 (Motor Vehicle Safety).

Sec. 9003. Amendments to chapter 323 (Consumer Information).

Sec. 9004. Amendment to chapter 329 (Automobile Fuel Economy).

Sec. 9005. Amendments to chapter 331 (Theft Prevention).

Sec. 9006. Titling and control of severely damaged passenger motor vehicles.

TITLE X—HAZARDOUS MATERIALS REAUTHORIZATION

Sec. 10001. Short title.

Sec. 10002. Definitions.

Sec. 10003. Handling criteria repeal.

Sec. 10004. Training.

Sec. 10005. Registration.

Sec. 10006. Highway transportation of hazardous materials.

Sec. 10007. Shipping paper retention.

Sec. 10008. Training curriculum.

Sec. 10009. Planning and training grants.

Sec. 10010. Special permits and exclusions.

Sec. 10011. Administration.

Sec. 10012. Cooperative agreements.

Sec. 10013. Enforcement.

Sec. 10014. Penalties.

Sec. 10015. Preemption.

Sec. 10016. Judicial review.

Sec. 10017. Authorization of appropriations.

TITLE XI—UNDERGROUND DAMAGE PREVENTION

Sec. 11001. Short title.

Sec. 11002. Underground damage prevention.

Sec. 11003. Technical amendment.

TITLE XII—SANITARY FOOD TRANSPORTATION

Sec. 12001. Short title.

Sec. 12002. Findings.

Sec. 12003. Health and Human Services responsibilities.

Sec. 12004. DOT responsibilities.

Sec. 12005. Effective date.

TITLE XIII—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM

- Sec. 13001. Short title.
 Sec. 13002. Purpose.
 Sec. 13003. “Wrecking trains” statute.
 Sec. 13004. Attacks against mass transportation.
 Sec. 13005. Investigative jurisdiction.

TITLE XIV—RAIL AND MASS TRANSPORTATION SAFETY

- Sec. 14001. Safety considerations in grants or loans to commuter railroads.
 Sec. 14002. Accident and incident reporting.
 Sec. 14003. Vehicle weight limitations—mass transportation buses.

1 **SEC. 2. AWARDS.**

2 (a) Section 326 is amended by—

3 (1) adding the following after subsection (d):

4 “(e) For the purpose of executing the powers and du-
 5 ties of the Department, and as a means to encourage safe-
 6 ty improvements by making special or periodic awards, the
 7 Secretary may provide for the honorary recognition of in-
 8 dividuals and organizations that significantly contribute to
 9 programs, missions, or operations, including State and
 10 local governments, transportation unions, and commercial
 11 and nonprofit organizations, and pay for plaques, medals,
 12 trophies, badges, and similar items to acknowledge the
 13 contribution, including reasonable expenses of ceremony
 14 and presentation, using any appropriations or other funds
 15 available to the Department and its agencies.”; and

16 (2) in the catchline for the section, inserting
 17 “and awards” after “Gifts”.

18 (b) In item 326 of the analysis of chapter 3, strike—
 “Gifts.”

1 and substitute—

“Gifts and awards.”.

2 **TITLE IX—TRAFFIC SAFETY**

3 **SEC. 9001. AMENDMENT TO TITLE 23, UNITED STATES**

4 **CODE.**

5 Section 402 of title 23, United States Code, is
6 amended by adding at the end the following new sub-
7 section:

8 “(p) TRANSFER OF FUNDS AND PERFORMANCE OP-
9 TION: PRIMARY SAFETY BELT USE.—

10 “(1) TRANSFER.—

11 “(A) FISCAL YEAR 2002.—If, by the last
12 day of fiscal year 2002, a State has not enacted
13 and had in continuous effect a primary enforce-
14 ment safety belt use law described in subsection
15 (m), the Secretary shall transfer 1½ percent of
16 the funds apportioned to the State for fiscal
17 year 2003 under each of paragraphs (1), (3),
18 and (5)(B) of section 104(b) of this title to the
19 apportionment of the State under section 402
20 of this title. These transferred funds may be
21 used only for occupant protection programs.

22 “(B) THEREAFTER.—If, by the last day of
23 any fiscal year beginning after September 30,
24 2002, a State has not enacted and had in con-
25 tinuous effect a primary enforcement safety belt

1 use law described in subsection (m), the Sec-
2 retary shall transfer 3 percent of the funds ap-
3 portioned to the State for the succeeding fiscal
4 year under each of paragraphs (1), (3), and
5 (5)(B) of section 104(b) of this title to the ap-
6 portionment of the State under section 402 of
7 this title. These transferred funds may be used
8 only for occupant protection programs.

9 “(2) FEDERAL SHARE.—The Federal share of
10 the cost of any project carried out under section 402
11 of this title with funds transferred to the appor-
12 tionment of section 402 shall be 100 percent.

13 “(3) TRANSFER OF OBLIGATION AUTHORITY.—
14 If the Secretary transfers under this subsection any
15 funds to the apportionment of a State under section
16 402 of this title for a fiscal year, the Secretary shall
17 allocate an amount of obligation authority distrib-
18 uted for such fiscal year to the State for Federal-
19 aid highways and highway construction programs for
20 carrying out only projects under section 402, which
21 is determined by multiplying—

22 “(A) the amount of funds transferred to
23 the apportionment of section 402 of the State
24 under section 402 for such fiscal year, by

“(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for its Federal-aid highways and highway construction programs to the total of the sums apportioned to the State for its Federal-aid highways and highway construction programs (excluding sums not subject to any obligation limitation) for such fiscal year.

“(4) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 of this title shall apply to funds transferred under this subsection to the State apportionment of section 402.

“(5) PERFORMANCE OPTION.—Paragraph (1) of this subsection shall not apply to a State in a fiscal year beginning after September 30, 2002, if the Secretary certifies before each such fiscal year that the State has a statewide safety belt use rate of 85 percent or higher in both front outboard seating positions in all passenger motor vehicles, as defined in subsection (m) of this section. The State shall document its safety belt use rate by conducting an annual survey that conforms to guidelines issued by

1 the Secretary ensuring that measurements are accu-
 2 rate and representative. The Secretary shall use this
 3 survey and may use additional surveys or other rel-
 4 evant information as necessary in deciding whether
 5 to certify that the State’s safety belt use rate is 85
 6 percent or higher.

7 “(6) DEFINITION.—For the purposes of this
 8 subsection, the term ‘safety belt’ means—

9 “(A) with respect to open-body passenger
 10 vehicles, including convertibles, an occupant re-
 11 straint system, consisting of a lap belt or a lap
 12 belt and a detachable shoulder belt; and

13 “(B) with respect to other passenger vehi-
 14 cles, an occupant restraint system consisting of
 15 integrated lap shoulder belts.”.

16 **SEC. 9002. AMENDMENTS TO CHAPTER 301 (MOTOR VEHI-**
 17 **CLE SAFETY).**

18 (a) Section 30113(d) is amended by striking “only
 19 if the Secretary determines the exemption is for not more
 20 than 2,500 vehicles” and inserting “for the number of ve-
 21 hicles the Secretary determines is appropriate.”

22 (b) Section 30118 is amended by striking the second
 23 sentence of subsection (d).

1 (c) Section 30120(i)(1) is amended by inserting “(in-
2 cluding retailers of motor vehicle equipment)” after “deal-
3 er” the first time it appears.

4 (d) Section 30123 is amended by striking subsections
5 (a), (b), and (c) and by redesignating subsections (d), (e),
6 and (f) as (a), (b), and (c), respectively.

7 (e) Section 30127(g)(1) is amended by striking
8 “every 6 months” and inserting “biennially”.

9 (f) Chapter 301 is amended by adding at the end the
10 following new section:

11 **§ 30148. International motor vehicle safety outreach**

12 (a) ACTIVITIES.—The Secretary is authorized, in
13 consultation with the Secretaries of State and Commerce
14 where appropriate, to engage in activities that improve
15 worldwide motor vehicle safety through appropriate activi-
16 ties. Such activities may include—

17 “(1) promoting the adoption of international
18 and national vehicle standards that are harmonized
19 with, functionally equivalent to, or compatible with
20 United States vehicle standards;

21 “(2) participating in efforts to foster an inter-
22 national acceptance of globally harmonized and/or
23 functionally equivalent or compatible motor vehicle
24 regulations and standards to otherwise improve
25 international highway and motor vehicle safety;

“(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States government agencies, any State or local agency, and any authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

22 SEC. 9003. AMENDMENTS TO CHAPTER 323 (CONSUMER IN-
23 FORMATION).

HR 1720 IH

1 (b) Section 32303 is repealed.

2 **SEC. 9004. AMENDMENT TO CHAPTER 329 (AUTOMOBILE**
 3 **FUEL ECONOMY).**

4 Section 32907(a)(2) is amended to read as follows:

5 “(2) A manufacturer shall submit a report
 6 under paragraph (1) of this subsection during the
 7 30 days before the beginning of each model year.”

8 **SEC. 9005. AMENDMENTS TO CHAPTER 331 (THEFT PREVEN-**
 9 **TION).**

10 (a) Section 33104(a)(6) is repealed.

11 (b) Section 33112 is repealed.

12 **SEC. 9006. TITLING AND CONTROL OF SEVERELY DAMAGED**
 13 **PASSENGER MOTOR VEHICLES.**

14 (a) IN GENERAL.—Part A of subtitle VI is amended
 15 by adding after chapter 305 the following new chapter:

“CHAPTER 307—TITLING AND CONTROL OF SEVERELY DAMAGED
 PASSENGER MOTOR VEHICLES

“Sec.

“30701. Definitions.

“30702. Titling disclosure requirements on the transfer of passenger motor vehicles; duplicate titles.

“30703. Requirements for a salvage title and a nonrepairable motor vehicle certificate and their cancellation.

“30704. Requirements for titling rebuilt salvage passenger motor vehicles.

“30705. Inspection criteria for rebuilt salvage passenger motor vehicles.

“30706. Prohibited acts.

“30707. Penalties and enforcement.

“30708. Civil actions by private persons.

“30709. Relationship to State law.

16 **“§ 30701. Definitions**

17 “In this chapter—

1 “(1) ‘flood motor vehicle’ means a motor vehicle
2 that has been submerged in water to the point that
3 rising water has reached over its door sill or has en-
4 tered its passenger or trunk compartment.

5 “(2) ‘flood motor vehicle title’ means a certifi-
6 cate of title issued by a State to the owner of a flood
7 motor vehicle.

8 “(3) ‘junk motor vehicle’ has the meaning given
9 that term in section 30501(4) of this title.

10 “(4) ‘leased motor vehicle’ has the meaning
11 given that term in section 32702(4) of this title.

12 “(5) ‘motor vehicle’ has the meaning given that
13 term in section 32101(7) of this title.

14 “(6) ‘nonrepairable motor vehicle’ means a
15 motor vehicle that shall not be titled due to—

16 “(A) inability to operate safely on streets,
17 roads, and highways;

18 “(B) having no value except as a source of
19 parts or scrap; or

20 “(C) having been irrevocably designated as
21 a source of parts or scrap by its owner.

22 “(7) ‘nonrepairable motor vehicle certificate’
23 means a certificate of title that—

24 “(A) is issued by a State to the owner of
25 a nonrepairable motor vehicle; and

1 “(B) may only be used twice for the trans-
2 fer of ownership.

3 “(8) ‘rebuilt salvage motor vehicle’ means a
4 motor vehicle that—

5 “(A) was issued a salvage title;

6 “(B) has passed State inspections to en-
7 sure that it was rebuilt to required standards;

8 “(C) was issued a State certificate indicat-
9 ing that it has passed State inspections; and

10 “(D) has a permanent, easily identified
11 brand stating ‘Rebuilt Salvage Motor Vehicle—
12 Inspections Passed’ fixed to the driver’s door
13 jamb.

14 “(9) ‘rebuilt salvage title’ means a certificate of
15 title issued by a State to the owner of a rebuilt sal-
16 vage motor vehicle.

17 “(10) ‘salvage motor vehicle’ means a motor ve-
18 hicle that is—

19 “(A) wrecked, destroyed, or damaged, to
20 the extent that the total estimated cost of parts
21 and labor to rebuild or reconstruct the motor
22 vehicle to its preaccident condition and for legal
23 operation on the roads or highways exceeds 75
24 percent of the retail value of the motor vehicle

1 prior to its having been wrecked, destroyed, or
2 damaged; or

3 “(B) acquired by an insurance carrier pur-
4 suant to a damage settlement.

5 “(11) ‘salvage title’ means a certificate of title
6 issued by a State to the owner of a salvage motor
7 vehicle.

8 “(12) ‘severely damaged motor vehicle’ means a
9 motor vehicle that is defined as ‘salvage’, ‘nonrepair-
10 able’, or ‘flood’.

11 “(13) ‘transfer’ has the meaning given that
12 term in section 32702(8).

13 **“§ 30702. Titling disclosure requirements on the**
14 **transfer of passenger motor vehicles; du-**
15 **plicate titles**

16 “(a)(1) When the ownership of a passenger motor ve-
17 hicle is transferred, the State in which the transfer takes
18 place shall disclose, by conspicuously marking on the cer-
19 tificate of title, from records readily accessible to it—

20 “(A) if the motor vehicle was previously issued
21 a certificate of title or a nonrepairable motor vehicle
22 certificate that bore a word or symbol signifying that
23 the motor vehicle was ‘junk’, ‘salvage’, ‘rebuilt sal-
24 vage’, ‘nonrepairable’, ‘flood’, or any other word or
25 symbol signifying damage, and

1 “(B) the State that first issued such a certifi-
2 cate of title.

3 “(2) The Secretary shall require, by rule, as soon as
4 practicable after the enactment of this chapter, the man-
5 ner in which, and the date by which, a State shall disclose
6 on subsequent certificates of title, including a duplicate
7 or replacement, the information described in paragraph
8 (a)(1), and the manner in which such information shall
9 be retained by a State, to ensure an orderly transition to
10 the National Motor Vehicle Title Information System es-
11 tablished under chapter 305 of this title.

12 “(b)(1) Before a duplicate or replacement certificate
13 of title for a passenger motor vehicle is issued, a State
14 shall implement procedures that—

15 “(A) prohibit over-the-counter issuance of a du-
16 plicate or replacement certificate of title to anyone
17 other than the owner of the motor vehicle; and

18 “(B) require the duplicate or replacement cer-
19 tificate of title to be mailed to a requested address,
20 when a power of attorney is exercised, and a notifi-
21 cation of this action sent to the owner of the motor
22 vehicle.

23 “(2) When a duplicate or replacement certificate of
24 title for a passenger motor vehicle is issued, the State that

1 issues it shall conspicuously mark it with the word ‘DU-
2 PLICATE’ on its face.

3 “(3) The Secretary shall require, by rule, as soon as
4 practicable after the enactment of this chapter, the man-
5 ner in which, and the date by which, a State shall mark
6 duplicate or replacement certificates of title for passenger
7 motor vehicles with the information described in this sub-
8 section, and the manner in which such information shall
9 be retained by a State, to ensure an orderly transition to
10 the National Motor Vehicle Title Information System es-
11 tablished under chapter 305 of this title.

12 **“§ 30703. Requirements for a salvage title and a non-**
13 **repairable motor vehicle certificate and**
14 **their cancellation**

15 “(a) INSURANCE CARRIER ACTIONS.—(1) When the
16 ownership of a severely damaged passenger motor vehicle
17 is transferred to an insurance carrier, pursuant to a dam-
18 age settlement, and the damage to the motor vehicle re-
19 quires that it be titled either as a salvage motor vehicle
20 or a nonrepairable motor vehicle, the insurance carrier
21 shall apply to the State in which the transfer takes place,
22 within 15 days of the date of the transfer (with all liens
23 released), for a salvage title or a nonrepairable motor vehi-
24 cle certificate.

1 “(2) If the ownership of a severely damaged pas-
2 senger motor vehicle is not transferred to an insurance
3 carrier, pursuant to a damage settlement, and the damage
4 to the motor vehicle requires that it be titled either as
5 a salvage motor vehicle or a nonrepairable motor vehicle,
6 the insurance carrier shall provide written notification to
7 the owner: (i) of the owner’s obligation to apply for a sal-
8 vage title or a nonrepairable motor vehicle certificate and
9 also notify the State’s office for titling motor vehicles that
10 a salvage title or a nonrepairable motor vehicle certificate
11 must be issued for the motor vehicle; or (ii) that the insur-
12 ance carrier will withhold any payment on the damage set-
13 tlement until the owner applies for a salvage title or a
14 nonrepairable motor vehicle certificate.

15 “(b) OWNER ACTIONS.—When an insurance carrier
16 is not involved in a damage settlement regarding a pas-
17 senger motor vehicle that is damaged severely to the ex-
18 tent that it must be titled either as a salvage motor vehicle
19 or a nonrepairable motor vehicle, or a person becomes the
20 owner of such a motor vehicle, the owner shall, before the
21 motor vehicle is repaired or its ownership is further trans-
22 ferred, apply for a salvage title or a nonrepairable motor
23 vehicle certificate, no later than 30 days after the date
24 of the damage or its transfer, as appropriate.

1 “(c) LESSEE AND LESSOR ACTIONS.—(1) For a
 2 leased passenger motor vehicle, the lessee shall give a writ-
 3 ten notification to the lessor when the motor vehicle is se-
 4 verely damaged.

5 “(2) If the leased passenger motor vehicle has been
 6 severely damaged so that it must be titled either as a sal-
 7 vage motor vehicle or a nonrepairable motor vehicle, the
 8 lessor shall apply for a salvage title or nonrepairable motor
 9 vehicle certificate within 15 days after receiving the les-
 10 see’s notification of the damage.

11 “(d) SURRENDER AND CANCELLATION OF TITLES
 12 AND NONREPAIRABLE MOTOR VEHICLE CERTIFICATES.—
 13 When a passenger motor vehicle is destroyed by flattening,
 14 baling, shredding, or other means, no later than 30 days
 15 after the date of its destruction the motor vehicle’s owner
 16 shall surrender its title or nonrepairable motor vehicle cer-
 17 tificate to the State that issued it for permanent cancella-
 18 tion.

19 “(e) REGULATIONS.—The Secretary of Transpor-
 20 tation shall prescribe regulations to implement this section
 21 as soon as practicable after the enactment of this chapter.

22 **“§ 30704. Requirements for titling rebuilt salvage pas-**
 23 **senger motor vehicles**

24 “Under regulations prescribed by the Secretary of
 25 Transportation, a passenger motor vehicle for which a sal-

1 vage title has been issued may not be licensed for used
2 in a State unless the State issues a rebuilt salvage title
3 for it, indicating that—

4 “(1) the passenger motor vehicle has met State
5 inspection standards established in accordance with
6 regulations prescribed by the Secretary, pursuant to
7 section 30705, and that a certificate of inspection
8 that records this compliance on its face has been is-
9 sued to the motor vehicle’s owner; and

10 “(2) the passenger motor vehicle’s door jamb on
11 the driver’s side has secured on it a permanent label,
12 stating ‘Rebuilt Salvage Motor Vehicle—Inspections
13 Passed’, affixed by an inspection official of the
14 State.

15 **“§ 30705. Inspection criteria for rebuilt salvage pas-**
16 **senger motor vehicles**

17 “(a) ANTITHEFT INSPECTION.—(1) The Secretary of
18 Transportation shall, as soon as practicable after the en-
19 actment of this chapter, establish standards and proce-
20 dures for the anti-theft inspection of rebuilt salvage pas-
21 senger motor vehicles by State inspection systems, includ-
22 ing the training of inspectors and equipment standards,
23 to deter the use of stolen parts in the rebuilding and repair
24 of salvage motor vehicles.

1 “(2) The standards and procedures shall include re-
2 quirements directing that the passenger motor vehicle’s
3 owner submit—

4 “(A) the salvage title for the motor vehicle;

5 “(B) a declaration of the damages to the motor
6 vehicle and the replacement parts used in its repair,
7 prior to its being repaired, as evidenced by bills of
8 sale, invoices, or if such documents are not available,
9 other proofs of ownership; and

10 “(C) an affirmation that the information in
11 paragraph (2)(B) is complete and accurate and, to
12 the owner’s knowledge, no stolen parts were used to
13 rebuild and repair it.

14 “(3) The standards and procedures shall include re-
15 quirements directing that the State inspection system
16 seize as contraband a passenger motor vehicle, a major
17 part, or a major replacement part, required to be marked
18 in accordance with chapter 331 of this title, but which has
19 had its mark or vehicle identification number illegally al-
20 tered, defaced, or falsified, and cannot be identified as
21 having been obtained legally, as evidenced by bills of sale,
22 invoices, or other ownership documents.

23 “(4) The Secretary shall coordinate with the Attorney
24 General in carrying out the Secretary’s duties under this
25 subsection.

1 “(b) SAFETY INSPECTION.—The Secretary shall, as
2 soon as practicable after the enactment of this chapter,
3 establish standards and procedures for the safety inspec-
4 tion of rebuilt salvage passenger motor vehicles by State
5 inspection systems, including the training of inspectors
6 and equipment standards, in order to reduce death and
7 injuries attributable to failure or inadequate performance
8 of rebuilt salvage passenger motor vehicle systems.

9 “(c) FEES.—State inspections established and oper-
10 ated pursuant to this section shall be self-sufficient, paid
11 for by user fees collected and retained by the States.

12 **“§ 30706. Prohibited acts**

13 “A person may not—

14 “(1) with intent to defraud, alter a certificate
15 of title, including a duplicate or a replacement;

16 “(2) with intent to defraud, make or cause to
17 be made any false statement on an application for
18 a certificate of title, including a duplicate or a re-
19 placement;

20 “(3) fail to apply, within the prescribed time
21 and manner, for either a salvage title or a non-
22 repairable motor vehicle certificate for a passenger
23 motor vehicle when such an application is required;

24 “(4) fail to provide any written notification
25 when such written notification is required;

1 “(5) fail to surrender a certificate of title or
2 nonrepairable motor vehicle certificate when such
3 surrender is required;

4 “(6) alter, forge, or counterfeit a certificate of
5 title, a certificate of inspection recording compliance
6 with a State’s inspection criteria for a rebuilt sal-
7 vage passenger motor vehicle, or a State’s perma-
8 nent label, stating ‘Rebuilt Salvage Motor Vehicle—
9 Inspections Passed’;

10 “(7) falsify the results of, or provide false infor-
11 mation in the course of, any inspection conducted
12 pursuant to section 30705;

13 “(8) operate or introduce into commerce a sal-
14 vage motor vehicle or a nonrepairable motor vehicle
15 as a rebuilt salvage passenger motor vehicle;

16 “(9) conspire to violate this section or sections
17 30703, 30704, or 30705 of this chapter; or

18 “(10) fail to comply with applicable regulations
19 prescribed the Secretary in carrying out this chap-
20 ter.

21 **“§ 30707. Penalties and enforcement**

22 “(a) CIVIL PENALTY.—(1) A person that violates this
23 chapter or a regulation prescribed or an order issued
24 under this chapter is liable to the United States Govern-
25 ment for a civil penalty of not more than \$2,000 for each

1 violation. A separate violation occurs for each motor vehi-
2 cle involved. The maximum penalty under this subsection
3 for a related series of violations is \$100,000.

4 “(2) The Secretary of Transportation may impose a
5 civil penalty under this subsection. The Attorney General
6 may bring a civil action to collect the penalty. Before re-
7 ferring a penalty claim to the Attorney General, the Sec-
8 retary may compromise the amount of the penalty. Before
9 compromising the amount of the penalty, the Secretary
10 shall give the person charged with a violation an oppor-
11 tunity to establish that the violation did not occur.

12 “(3) In determining the amount of the penalty, the
13 Secretary shall consider—

14 “(A) the nature, circumstances, extent, and
15 gravity of the violation;

16 “(B) with respect to the violator, the degree of
17 culpability, any history of prior violations, the ability
18 to pay, and any effect on the ability to continue
19 doing business; and

20 “(C) other matters that justice requires.

21 “(b) CRIMINAL PENALTY.—A person that knowingly
22 and willfully violates this chapter or a regulation pre-
23 scribed or an order issued under this chapter shall be fined
24 under title 18, United States Code, imprisoned for not
25 more than 3 years, or both. If the person is a corporation,

1 the penalties of this subsection also apply to a director,
2 officer, or individual agent of a corporation who knowingly
3 and willfully authorizes, orders, or performs an act in vio-
4 lation of this chapter or a regulation prescribed or order
5 issued under this chapter without regard to penalties im-
6 posed on the corporation.

7 “(c) CIVIL ACTION BY ATTORNEY GENERAL.—The
8 Attorney General may bring a civil action to enjoin a viola-
9 tion of this chapter or a regulation prescribed or an order
10 issued under this chapter. The action may be brought in
11 the United States district court for the judicial district
12 in which the violation occurred or the defendant is found,
13 resides, or does business. Process in the action may be
14 served in any other judicial district in which the defendant
15 resides or is found. A subpoena for a witness in the action
16 may be served in any judicial district.

17 “(d) CIVIL ACTIONS BY STATES.—(1) When a person
18 violates this chapter or a regulation prescribed or an order
19 issued under this chapter, the chief law enforcement offi-
20 cer of the State in which the violation occurs may bring
21 a civil action—

22 “(A) to enjoin the violation; or

23 “(B) to recover amounts for which the person
24 is liable under this section for each person on whose
25 behalf the action is brought.

1 “(2) An action under this subsection may be brought
 2 in an appropriate United States district court or in a State
 3 court of competent jurisdiction. The action must be
 4 brought not later than 2 years after the claim accrues.

5 **“§ 30708. Civil actions by private persons**

6 “(a) VIOLATION AND AMOUNT OF DAMAGES.—A per-
 7 son that violates this chapter or a regulation prescribed
 8 or an order issued under this chapter, with intent to de-
 9 fraud, is liable for three times the actual damages or
 10 \$1,500, whichever is greater.

11 “(b) CIVIL ACTIONS.—A person may bring a civil ac-
 12 tion to enforce a claim under this section in an appropriate
 13 United States district court or in another court of com-
 14 petent jurisdiction. The action must be brought not later
 15 than 2 years after the claim accrues. The court shall
 16 award costs and a reasonable attorney’s fee to the person
 17 when a judgment is entered for that person.

18 **“§ 30709. Relationship to State law**

19 “Except to the extent that State law is inconsistent
 20 with this chapter and its implementing regulations, this
 21 chapter does not—

22 “(1) set forth the form of a State certificate of
 23 title;

24 “(2) affect a State law on titling, record-
 25 keeping, inspection, or titling control procedures in

1 connection with any passenger motor vehicle with in-
2 tent to defraud; or

3 “(3) exempt a person from complying with that
4 law.”.

5 (b) CONFORMING AND TECHNICAL AMENDMENTS.—

6 (1) Chapter 305 is amended by striking “auto-
7 mobile”, “automobiles”, and “an automobile” wher-
8 ever they appear and substituting in their place
9 “passenger motor vehicle”, “passenger motor vehi-
10 cles”, and “a passenger motor vehicle” as appro-
11 priate, including upper and lower case letters as ap-
12 propriate.

13 (2) In section 30501, the matter before clause
14 (1) is amended to read as follows: “In this chapter
15 and in chapter 307—”.

16 (3) Section 30501 is amended by—

17 (A) revising paragraph (1) to read as fol-
18 lows:

19 “(1) ‘motor vehicle’ means a vehicle driven or
20 drawn by mechanical power and manufactured pri-
21 marily for use on public streets, roads, and high-
22 ways, but does not include a vehicle operated only on
23 a rail line.”;

24 (B) striking paragraph (7), renumbering
25 paragraphs (6), (8), and (9) as paragraphs (7),

1 (10), and (11), and adding new paragraphs (6),
2 (8), and (9) to read as follows:

3 “(6) ‘multipurpose passenger vehicle’ means a
4 passenger motor vehicle constructed on a truck chas-
5 sis or with special features for occasional off-road
6 operation.

7 “(8) ‘passenger motor vehicle’ means a motor
8 vehicle with motive power designed to carry not
9 more than 12 people, but does not include a motor-
10 cycle or a truck not designed primarily to carry its
11 operator or passengers, except that it includes a
12 multipurpose passenger vehicle or light duty truck
13 when that vehicle or truck is rated at not more than
14 8,500 pounds gross vehicle weight.

15 “(9) ‘salvage motor vehicle’ means a motor ve-
16 hicle that is—

17 “(A) wrecked, destroyed, or damaged, to
18 the extent that the total estimated cost of parts
19 and labor to rebuild or reconstruct the motor
20 vehicle to its pre-accident condition and for
21 legal operation on the roads or highways ex-
22 ceeds 75 percent of the retail value of the motor
23 vehicle prior to its having been wrecked, de-
24 stroyed, or damaged; or

1 “(B) acquired by an insurance carrier pur-
 2 suant to a damage settlement.”

3 (4) In section 33101, the matter before clause
 4 (1) is amended to read as follows:

5 “In this chapter, and in chapters 305 and 307—”.

6 (5) The analysis for part A of subtitle VI is
 7 amended by inserting a new chapter 307 as follows:

“307. TITLING AND CONTROL OF SEVERELY DAMAGED PASSENGER
 MOTOR VEHICLES”.

8 **TITLE X—HAZARDOUS MATERIALS** 9 **REAUTHORIZATION**

10 **SEC. 10001. SHORT TITLE.**

11 This title may be cited as the “Hazardous Materials
 12 Transportation Safety Reauthorization Act of 1997”.

13 **SEC. 10002. DEFINITIONS.**

14 Section 5102 is amended—

15 (1) by revising paragraph (1) to read as follows:

16 “(1) ‘commerce’ means trade or transportation
 17 in the jurisdiction of the United States—

18 “(A) between a place in a State and a
 19 place outside of the State;

20 “(B) that affects trade or transportation
 21 between a place in a State and a place outside
 22 of the State; or

23 “(C) on a United States-registered air-
 24 craft.”;

1 (2) by revising paragraph (3) to read as follows:

2 “(3) ‘hazmat employee’ means an individual

3 who—

4 “(A) is—

5 “(i) employed by a hazmat employer,

6 “(ii) self-employed, or

7 “(iii) an owner-operator of a motor

8 vehicle; and

9 “(B) during the course of employment—

10 “(i) loads, unloads, or handles hazard-

11 ous material;

12 “(ii) manufactures, reconditions, or

13 tests containers, drums, or other

14 packagings represented as qualified for use

15 in transporting hazardous material;

16 “(iii) performs any function pertain-

17 ing to the offering of hazardous material

18 for transportation;

19 “(iv) is responsible for the safety of

20 transporting hazardous material; or

21 “(v) operates a vehicle used to trans-

22 port hazardous material.”;

23 (3) by revising paragraph (4) to read as follows:

24 “(4) ‘hazmat employer’ means a person who—

25 “(A) either—

1 “(i) is self-employed,

2 “(ii) is an owner-operator of a motor
3 vehicle, or

4 “(iii) has at least one employee; and

5 “(B) performs a function, or uses at least
6 one employee, in connection with—

7 “(i) transporting hazardous material
8 in commerce;

9 “(ii) causing hazardous material to be
10 transported in commerce, or

11 “(iii) manufacturing, reconditioning,
12 or testing containers, drums, or other
13 packagings represented as qualified for use
14 in transporting hazardous material.”;

15 (4) by revising paragraph (7) to add after the
16 word “title” the words “, except that a freight for-
17 warder is included only if performing a function re-
18 lated to highway transportation”;

19 (5) by renumbering paragraphs (9) through
20 (13) as paragraphs (12) through (16);

21 (6) by adding the following after paragraph (8):

22 “(9) ‘out-of-service order’ means a mandate
23 that an aircraft, vessel, motor vehicle, train, other
24 vehicle, or a part of any of these, not be moved until
25 specified conditions have been met.

1 “(10) ‘package’ or ‘outside package’ means a
2 packaging plus its contents.

3 “(11) ‘packaging’ means a receptacle and any
4 other components or materials necessary for the re-
5 ceptacle to perform its containment function in con-
6 formance with the minimum packaging requirements
7 established by the Secretary of Transportation.”;
8 and

9 (7) by revising paragraph (12)(A), as renum-
10 bered, to strike the words “or transporting” and in-
11 sert “, transporting”, and to insert after the word
12 “enterprise” the words “, or manufacturing, recondi-
13 tioning, or testing containers, drums, or other
14 packagings represented as qualified for use in trans-
15 porting hazardous material”.

16 **SEC. 10003. HANDLING CRITERIA REPEAL.**

17 Title 49 is amended by striking and reserving section
18 5106 and the reference to the section in the analysis of
19 chapter 51.

20 **SEC. 10004. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.**

21 Section 5107(f)(2) is amended to strike the words
22 “and sections 5106, 5108 (a)–(g)(1) and (h), and” and
23 insert the words “or sections 5108 (c)–(g)(1) and (h), or”.

24 **SEC. 10005. REGISTRATION.**

25 Section 5108 is amended—

1 (1) by revising subsection (b)(1)(C) to read as
 2 follows:

3 “(C) each State in which the person car-
 4 ries out any of the activities.”;

5 (2) by revising subsection (c) to read as follows:

6 “(c) FILING SCHEDULE.—Each person required to
 7 file a registration statement under subsection (a) of this
 8 section shall file that statement annually in accordance
 9 with regulations issued by the Secretary.”;

10 (3) in subsection (f), by striking “552(f)” and
 11 inserting “552(b)”; and

12 (4) in subsection (g)(1), by striking “may” and
 13 inserting “shall”.

14 **SEC. 10006. HIGHWAY TRANSPORTATION OF HAZARDOUS**
 15 **MATERIALS.**

16 (a) MOTOR CARRIER SAFETY PERMITS.—Title 49 is
 17 amended by striking and reserving section 5109.

18 (b) HAZARDOUS MATERIALS PILOT PROGRAM.—

19 (1) GENERAL.—The Secretary of Transpor-
 20 tation shall implement a pilot program to evaluate
 21 the use of automated carrier assessment programs
 22 for carriers of certain hazardous materials.

23 (2) HAZARDOUS MATERIALS COVERED.—The
 24 Secretary shall determine the hazardous materials to

1 be covered by the pilot program. The Secretary may
2 limit materials to—

3 (A) class 1.1, 1.2, or 1.3 explosives;

4 (B) liquefied natural gas;

5 (C) hazardous materials the Secretary des-
6 ignates as extremely toxic by inhalation;

7 (D) a highway route controlled quantity of
8 radioactive material, as defined by the Sec-
9 retary; or

10 (E) any other hazardous material des-
11 ignated by the Secretary under section 5103(a)
12 of this title.

13 (c) CONFORMING AMENDMENT.—The analysis for
14 chapter 51 of this title is amended by striking the item
15 relating to section 5109.

16 **SEC. 10007. SHIPPING PAPER RETENTION.**

17 Section 5110 is amended by revising the first sen-
18 tence of subsection (e) to read as follows:

19 “(e) RETENTION OF SHIPPING PAPERS.—After expi-
20 ration of the requirement in subsection (c) of this section,
21 the person who provided the shipping paper and the car-
22 rier required to maintain it under subsection (a) of this
23 section shall retain the paper or an electronic image there-
24 of, for a period of 1 year after the shipping paper was

1 provided to the carrier, to be accessible through their re-
 2 spectve principal places of business.”.

3 **SEC. 10008. PUBLIC SECTOR TRAINING CURRICULUM.**

4 (a) The catchline for section 5115(a) is amended by
 5 striking “DEVELOPMENT AND”.

6 (b) Section 5115(a) is amended by striking “Not
 7 later than November 16, 1992, in” and “develop and” in
 8 the first sentence, inserting the word “In” before the word
 9 “coordination” in the first sentence, and deleting the sec-
 10 ond sentence.

11 (c) Section 5115(b) is amended by striking “devel-
 12 oped” in the first sentence and revising paragraphs (b)(1)
 13 (A) and (B) by inserting the words “or involving an alter-
 14 native fuel vehicle” after the word “material”.

15 (d) Section 5115(d) is amended by striking all after
 16 “national response team” and before “the Secretary of
 17 Transportation”, and substituting “,”, and by striking
 18 “uses” and substituting “use”.

19 **SEC. 10009. PLANNING AND TRAINING GRANTS.**

20 Section 5116 is amended—

21 (1) by revising subsection (e) to strike the word
 22 “of” in the second sentence and insert the words
 23 “received by”;

24 (2) by revising subsection (f) to read as follows:

1 “(f) MONITORING AND TECHNICAL ASSISTANCE.—
 2 The Secretary of Transportation shall monitor public sec-
 3 tor emergency response planning and training for an acci-
 4 dent or incident involving hazardous material. Considering
 5 the results of the monitoring, the Secretary shall provide
 6 technical assistance to a State, political subdivision of a
 7 State, or Indian tribe for carrying out emergency response
 8 training and planning for an accident or incident involving
 9 hazardous material and shall coordinate the assistance
 10 using the existing coordinating mechanisms of the Na-
 11 tional Response Team for Oil and Hazardous Substances
 12 and, for radioactive material, the Federal Radiological
 13 Preparedness Coordinating Committee.”; and

14 (3) by adding a new subsection (l) to read as
 15 follows:

16 “(l) SMALL BUSINESSES.—The Secretary may au-
 17 thorize a State or Indian tribe receiving a grant under
 18 this section to use up to 25 percent of the amount of the
 19 grant to assist small businesses in complying with regula-
 20 tions issued under this chapter.”.

21 **SEC. 10010. SPECIAL PERMITS AND EXCLUSIONS.**

22 (a) The heading of section 5117 is revised to read
 23 as follows:

1 **“§ 5117. Special permits and exclusions”.**

2 (b) Section 5117 is amended by striking the word
3 “exemption” each time it appears and replacing it with
4 the words “special permit”, and by inserting the words
5 “authorizing variances” after “special permit” the first
6 time it appears.

7 (c) Section 5117(a)(2) is amended by striking “2”
8 and inserting “4”.

9 (d) In the analysis of chapter 51, the item designated
10 “5117” is amended by striking “Exemptions” and sub-
11 stituting “Special permits”.

12 **SEC. 10011. ADMINISTRATION.**

13 Title 49 is amended by redesignating sections 5122
14 (a) and (b) as sections 5122 (f) and (g); redesignating
15 sections 5121 (a), (b), and (c) as sections 5122 (a), (b),
16 and (c); and redesignating sections 5121 (d) and (e) as
17 sections 5121 (a) and (b).

18 **SEC. 10012. COOPERATIVE AGREEMENTS.**

19 Section 5121 is further amended by adding a new
20 section (c) to read as follows:

21 “(c) AUTHORITY FOR COOPERATIVE AGREE-
22 MENTS.—To carry out this chapter, the Secretary may
23 enter into grants, cooperative agreements, and other
24 transactions with a person, agency or instrumentality of
25 the United States, a unit of State or local government,
26 an Indian tribe, a foreign government (in coordination

1 with the State Department), an educational institution, or
 2 other entity to further the objectives of this chapter. The
 3 objectives of this chapter include the conduct of research,
 4 development, demonstration, risk assessment, emergency
 5 response planning and training activities.”.

6 **SEC. 10013. ENFORCEMENT.**

7 Section 5122 is further amended—

8 (1) in subsection (a), as redesignated, by insert-
 9 ing “inspect,” after the word “may” in the first sen-
 10 tence, and revising the last sentence to read: “Ex-
 11 cept as provided in subsection (e) of this section, the
 12 Secretary shall provide notice and an opportunity for
 13 a hearing prior to issuing an order requiring compli-
 14 ance with this chapter or a regulation, order, special
 15 permit, or approval issued under this chapter.”; and

16 (2) by adding new subsections (d) and (e) to
 17 read as follows:

18 “(d) OTHER AUTHORITY.—During inspections and
 19 investigations, officers, employees, or agents of the Sec-
 20 retary may—

21 “(1) open and examine the contents of a pack-
 22 age offered for, or in, transportation when—

23 “(A) the package is marked, labeled, cer-
 24 tified, placarded, or otherwise represented as
 25 containing a hazardous material, or

1 “(B) there is an objectively reasonable and
2 articulable belief that the package may contain
3 a hazardous material;

4 “(2) take a sample, sufficient for analysis, of
5 material marked or represented as a hazardous ma-
6 terial or for which there is an objectively reasonable
7 and articulable belief that the material may be a
8 hazardous material, and analyze that material;

9 “(3) when there is an objectively reasonable and
10 articulable belief that an imminent hazard may exist,
11 prevent the further transportation of the material
12 until the hazardous qualities of that material have
13 been determined; and

14 “(4) when safety might otherwise be com-
15 promised, authorize properly qualified personnel to
16 conduct the examination, sampling, or analysis of a
17 material.

18 “(e) EMERGENCY ORDERS.—(1) If, through testing,
19 inspection, investigation, or research carried out under
20 this chapter, the Secretary decides that an unsafe condi-
21 tion or practice, or a combination of them, causes an
22 emergency situation involving a hazard of death, personal
23 injury, or significant harm to the environment, the Sec-
24 retary may immediately issue or impose restrictions, pro-
25 hibitions, recalls, or out-of-service orders, without notice

1 or the opportunity for a hearing, that may be necessary
2 to abate the situation.

3 “(2) The Secretary’s action under this subsection
4 must be in a written order describing the condition or
5 practice, or combination of them, that causes the emer-
6 gency situation; stating the restrictions, prohibitions, re-
7 calls, or out-of-service orders being issued or imposed; and
8 prescribing standards and procedures for obtaining relief
9 from the order.

10 “(3) After taking action under this subsection, the
11 Secretary shall provide an opportunity for review of that
12 action under section 554 of title 5.

13 “(4) If a petition for review is filed and the review
14 is not completed by the end of the 30-day period beginning
15 on the date the petition was filed, the action will cease
16 to be effective at the end of that period unless the Sec-
17 retary determines in writing that the emergency situation
18 still exists.”.

19 **SEC. 10014. PENALTIES.**

20 (a) Section 5123(a)(1) is amended by revising the
21 first sentence to read as follows: “A person that knowingly
22 violates this chapter or a regulation, order, special permit,
23 or approval issued under this chapter is liable to the
24 United States Government for a civil penalty of at least
25 \$250 but not more than \$27,500 for each violation.”.

1 (b) Section 5123(c)(2) is amended to read as follows:

2 “(2) with respect to the violator, the degree of
3 culpability, any good-faith efforts to comply with the
4 applicable requirements, any history of prior viola-
5 tions, any economic benefit resulting from the viola-
6 tion, the ability to pay, and any effect on the ability
7 to continue to do business; and”.

8 (c) Section 5124 is amended to read as follows:

9 **“§ 5124. Criminal penalty**

10 “(a) GENERAL.—A person knowingly violating sec-
11 tion 5104(b) of this title or willfully violating this chapter
12 or a regulation, order, special permit, or approval issued
13 under this chapter, shall be fined under title 18, impris-
14 oned for not more than 5 years, or both.

15 “(b) AGGRAVATED VIOLATIONS.—A person know-
16 ingly violating section 5104(b) of this title or willfully vio-
17 lating this chapter or a regulation, order, special permit,
18 or approval issued under this chapter, and thereby causing
19 the release of a hazardous material, shall be fined under
20 title 18, imprisoned for not more than 20 years, or both.”.

21 **SEC. 10015. PREEMPTION.**

22 Section 5125(b)(2) is amended by striking “after No-
23 vember 16, 1990” at the end of the second sentence.

1 **SEC. 10016. JUDICIAL REVIEW.**

2 (a) Title 49 is amended by redesignating section
3 5127 as section 5128, and by inserting after section 5126
4 the following new section:

5 **“§ 5127. Judicial review**

6 (a) FILING AND VENUE.—Except as provided in sec-
7 tion 20114(c) of this title, a person disclosing a substan-
8 tial interest in a final order issued, under the authority
9 of section 5122 or 5123 of this title, by the Secretary of
10 Transportation, the Administrators of the Research and
11 Special Programs Administration, the Federal Aviation
12 Administration, or the Federal Highway Administration,
13 or the Commandant of the United States Coast Guard
14 (“modal Administrator”), with respect to the duties and
15 powers designated to be carried out by the Secretary
16 under this chapter, may apply for review in the United
17 States Court of Appeals for the District of Columbia or
18 in the court of appeals for the United States for the circuit
19 in which the person resides or has its principal place of
20 business. The petition must be filed not more than 60 days
21 after the order is issued. The court may allow the petition
22 to be filed after the 60th day only if there are reasonable
23 grounds for not filing by the 60th day.

24 “(b) JUDICIAL PROCEDURES.—When a petition is
25 filed under subsection (a) of this section, the clerk of the
26 court immediately shall send a copy of the petition to the

1 Secretary or the modal Administrator, as appropriate. The
2 Secretary or the modal Administrator shall file with the
3 court a record of any proceeding in which the order was
4 issued, as provided in section 2112 of title 28.

5 “(c) AUTHORITY OF COURT.—When the petition is
6 sent to the Secretary or the modal Administrator, the
7 court has exclusive jurisdiction to affirm, amend, modify,
8 or set aside any part of the order and may order the Sec-
9 retary or the modal Administrator to conduct further pro-
10 ceedings. After reasonable notice to the Secretary or the
11 modal Administrator, the court may grant interim relief
12 by staying the order or taking other appropriate action
13 when good cause for its action exists. Findings of fact by
14 the Secretary or the modal Administrator, if supported by
15 substantial evidence, are conclusive.

16 “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-
17 viewing a final order under this section, the court may
18 consider an objection to a final order of the Secretary or
19 the modal Administrator only if the objection was made
20 in the course of a proceeding or review conducted by the
21 Secretary, the modal Administrator, or an administrative
22 law judge, or if there was a reasonable ground for not
23 making the objection in the proceeding.

24 “(e) SUPREME COURT REVIEW.—A decision by a
25 court under this section may be reviewed only by the Su-

1 preme Court under section 1254 of title 28, United States
2 Code.”.

3 (b) In the analysis of chapter 51, strike the item des-
4 ignated “5127” and substitute the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

5 **SEC. 10017. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 5128, as redesignated, is amended—

7 (1) by striking subsection (e) and redesignating
8 subsections (f) and (g) as subsections (e) and (f);

9 (2) by revising subsection (a) to read as follows:

10 “(a) GENERAL.—Not more than \$15,492,000 may be
11 appropriated to the Secretary of Transportation for fiscal
12 year 1998, and such sums as may be necessary for fiscal
13 years 1999, 2000, 2001, 2002, and 2003, to carry out
14 this chapter (except sections 5107(e), 5108(g)(2), 5113,
15 5115, 5116, and 5119).”;

16 (3) by amending subsection (c) to read as fol-
17 lows:

18 “(c) TRAINING CURRICULUM.—Not more than
19 \$200,000 is available to the Secretary of Transportation
20 from the account established under section 5116(i) of this
21 title for each of the fiscal years ending September 30,
22 1999–2003, to carry out section 5115 of this title.”;

23 (4) by amending subsection (d) to read as fol-
24 lows:

1 “(d) PLANNING AND TRAINING.—(1) Not more than
 2 \$2,444,000 is available to the Secretary of Transportation
 3 from the account established under section 5116(i) of this
 4 title for the fiscal year ending September 30, 1998, and
 5 such sums as may be necessary for fiscal years 1999–
 6 2003, to carry out section 5116(a) of this title.

7 “(2) Not more than \$3,666,000 is available to the
 8 Secretary of Transportation from the account established
 9 under section 5116(i) of this title for the fiscal year ending
 10 September 30, 1998, and such sums as may be necessary
 11 for fiscal years 1999–2003, to carry out section 5116(b)
 12 of this title.

13 “(3) Not more than \$600,000 is available to the Sec-
 14 retary of Transportation from the account established
 15 under section 5116(i) of this title for the fiscal year ending
 16 September 30, 1998, and such sums as may be necessary
 17 for fiscal years 1999–2003, to carry out section 5116(f)
 18 of this title.”; and

19 (5) by amending subsection (f), as redesignated,
 20 by striking “(c)–(e)” and inserting “(c) and (d)”.

21 **TITLE XI—UNDERGROUND DAMAGE**

22 **PREVENTION**

23 **SEC. 11001. SHORT TITLE.**

24 This title may be cited as the “Underground Damage
 25 Prevention Act of 1997”.

1 **SEC. 11002. UNDERGROUND DAMAGE PREVENTION.**

2 (a) Subtitle VIII of title 49 is amended by adding
3 a new chapter 602 to read as follows:

“CHAPTER 602—UNDERGROUND DAMAGE PREVENTION

“Sec.

“60201. Definitions.

“60202. Nationwide toll-free telephone number system.

“60203. Elements of a State program.

“60204. Enforcement.

“60205. Grants to States.

“60206. Model program.

“60207. Department of Transportation role.

4 **§ 60201. Definitions**

5 “In this chapter—

6 “(1) ‘damage’ means an impact or contract
7 with an underground facility, its appurtenances, or
8 its protective coating, or weakening of the support
9 for the facility or protective housing, that requires
10 repair.

11 “(2) ‘excavation’ means an operation in which
12 earth, rock, or other material in the ground is
13 moved, removed, or otherwise displaced by means of
14 any mechanized tools or equipment, or any explosive,
15 but does not include—

16 “(A) tilling of the soil for agricultural pur-
17 poses to a depth of 18 inches or less and other
18 common agricultural practices, as determined
19 by each State;

20 “(B) common lawn and garden activities,
21 as determined by each State; or

1 “(C) the digging of a grave in a cemetery.

2 “(3) ‘excavator’ means a person who conducts
3 excavation.

4 “(4) ‘facility operator’ means a person who op-
5 erates an underground facility.

6 “(5) ‘hazardous liquid’ has the same meaning
7 as in section 60101(a)(4) of this title.

8 “(6) ‘gas’ has the same meaning as in section
9 60101(a)(2) of this title.

10 “(7) ‘person’ in addition to its meaning under
11 section 1 of title 1, includes any agency of Federal,
12 State, or local government.

13 “(8) ‘State’ has the same meaning as in section
14 60101(a)(20) of this title.

15 “(9) ‘State program’ means the program of a
16 State to establish or maintain a comprehensive
17 statewide one-call notification program to protect all
18 underground facilities from damage due to exca-
19 vation that contains each element described in sec-
20 tion 60204 of this title.

21 “(10) ‘underground facility’ means an under-
22 ground line, system, or structure used for gathering,
23 storing, transmitting, or distributing hazardous liq-
24 uids, gas, communication, electricity, water, steam,
25 sewage, or other commodities the Secretary of

1 Transportation determines should be included under
2 the requirements of this Act, but does not include a
3 portion of a line, system, or structure only used to
4 provide services or materials within real property
5 controlled by a person with an oil or gas mineral
6 leasehold interest in that property unless that por-
7 tion is used for hazardous liquid or gas and is lo-
8 cated within an easement for a public road, a toll
9 highway, bridge, or tunnel (within the meaning of 23
10 U.S.C. 101(a) and 129(a)(2)) or within the bound-
11 aries of a city, town, or village.

12 **“§ 60202. Nationwide toll-free telephone number sys-**
13 **tem**

14 “The Secretary of Transportation shall, in consulta-
15 tion with the Federal Communications Commission, facil-
16 ity operators, excavators, and one-call notification system
17 operators, consider the establishment of a nationwide toll-
18 free telephone number system to be used in State one-
19 call notification programs.

20 **“§ 60203. Elements of a State program**

21 “(a) IN GENERAL.—A State program shall—

22 “(1) provide for a one-call notification system
23 that—

24 “(A) applies to all excavators and to all fa-
25 cility operators;

1 “(B) operates in all areas of the State and
2 does not duplicate the geographical coverage of
3 other one-call notification systems;

4 “(C) receives and records appropriate in-
5 formation from excavators about intended exca-
6 vations;

7 “(D) informs facility operators of any in-
8 tended excavations that may be in the vicinity
9 of their underground facilities; and

10 “(E) informs excavators of the facility op-
11 erators who will be notified of the intended ex-
12 cavation;

13 “(2) provide for 24-hour coverage for emer-
14 gency excavation, with the manner and scope of cov-
15 erage determined by the State;

16 “(3) employ mechanisms to ensure that exca-
17 vators and the general public are aware of the one-
18 call telephone number and the requirements, sanc-
19 tions, and benefits of the State program;

20 “(4) inform excavators of State damage preven-
21 tion procedures to be followed when excavating;

22 “(5) require that an excavator contact the one-
23 call notification system in accordance with State
24 specifications, which may vary depending on whether

1 the excavation is short-term, long-term, routine, con-
2 tinuous, or emergency;

3 “(6) require facility operators to locate and
4 mark or otherwise identify their facilities at an exca-
5 vation site, in accordance with State specifications,
6 which may vary depending on whether the exca-
7 vation is short-term, long-term, routine, continuous,
8 or emergency;

9 “(7) provide effective mechanisms for enforce-
10 ment as described in section 60205 of this title; and

11 “(8) provide for a fair and appropriate schedule
12 of fees to cover the costs of providing for, maintain-
13 ing, and operating the State program.

14 “(b) EXCEPTION.—A State program need not require
15 an excavator to contact the one-call system if the exca-
16 vation is undertaken on behalf of a person with an oil or
17 gas mineral leasehold interest in real property who also
18 operates all underground facilities on that property.

19 “(c) IMPLEMENTATION.—A State program may be
20 provided for through the establishment of a new program,
21 or through modification or improvement of an existing
22 program and may be implemented, in whole or in part,
23 by a nongovernmental organization, including a railroad
24 or an airport authority.

1 **“§ 60204. Enforcement**

2 “(a) GENERAL.—Effective mechanisms for enforce-
3 ment of a State program shall be developed by the State.
4 The State shall consider inclusion of the following ele-
5 ments:

6 “(1) Enforcement against an excavator or facil-
7 ity operator who violates the requirements of the
8 State program.

9 “(2) Appropriate civil penalty sanctions admin-
10 istratively assessed.

11 “(3) Increased penalties if a violation is sub-
12 stantially the same as a prior violation, or if a viola-
13 tion results in death, serious bodily harm, or actual
14 damage to property exceeding \$50,000, or in the re-
15 lease of more than 50 barrels of hazardous liquid.

16 “(4) Criminal sanctions for a knowing and will-
17 ful violation.

18 “(5) Lesser sanctions in case of a violation that
19 is promptly reported by the violator.

20 “(6) Equitable relief to compel compliance.

21 “(7) Procedures for issuing a citation of viola-
22 tion at the site and time of the violation.

23 “(b) STATE ENFORCEMENT.—Nothing in this section
24 limits a State in developing any mechanism for enforce-
25 ment that the State finds effective.

1 **“§ 60205. Grants to States**

2 “(a) **AUTHORITY.**—The Secretary of Transportation
3 may make grants to States or to operators of one-call noti-
4 fication systems to plan for, establish, or implement a
5 State program. For the purpose of making these grants,
6 there is available to the Secretary until expended from
7 amounts collected under section 60301 of this title,
8 \$1,000,000 for fiscal year 1998, and such sums as may
9 be necessary for fiscal years 1999 and 2000, to the extent
10 provided in appropriations Acts.

11 “(b) **CRITERIA.**—Grants under this section may be
12 used to—

13 “(1) evaluate a State’s damage prevention
14 needs and to plan for establishment of a qualified
15 State program;

16 “(2) improve communications systems linking
17 one-call notification systems;

18 “(3) improve location capabilities, including
19 training personnel and developing and using location
20 technology;

21 “(4) improve record retention and recording ca-
22 pabilities;

23 “(5) enhance public information and education
24 campaigns, including promotional activities;

25 “(6) develop enhanced enforcement mecha-
26 nisms; and

1 “(7) otherwise further the purposes of this
2 chapter.

3 “(c) ALTERNATE FORM OF STATE PROGRAM.—The
4 Secretary may make a grant under subsection (a) to a
5 State that establishes or maintains a comprehensive state-
6 wide one-call notification program to protect all under-
7 ground facilities from damage due to excavation that does
8 not meet the requirements for a State program if the Sec-
9 retary determines that the program is at least as protec-
10 tive of public safety and the environment as a program
11 that has the elements described in section 60203 of this
12 title.

13 “(d) PROGRESS REPORTS.—As a condition of receipt
14 of a grant under this section, a State or an operator of
15 a one-call notification system shall report to the Secretary
16 on progress made in implementing this chapter. The Sec-
17 retary shall prescribe the form and contents of the report,
18 including available data on use of the one-call notification
19 system and excavation damage.

20 **“§ 60206. Model program**

21 “(a) DEVELOPMENT OF MODEL PROGRAM.—Within
22 1 year after the date of enactment of this chapter, the
23 Secretary of Transportation, in consultation with facility
24 operators, excavators, one-call notification system opera-
25 tors, and interested government agencies, including State

1 and local governments, shall develop and make available
2 to States a model State one-call notification program. The
3 Secretary may amend the model program from time to
4 time.

5 “(b) ELEMENTS OF MODEL PROGRAM.—The model
6 program developed under subsection (a) shall include all
7 elements of a State program described in section 60203
8 of this chapter. In addition, the Secretary shall consider
9 incorporating the following elements into the model pro-
10 gram:

11 “(1) Specific information that a one-call notifi-
12 cation system must receive and record from exca-
13 vators;

14 “(2) length of time one-call records must be re-
15 tained;

16 “(3) recommended practices on distributing in-
17 formation on damage prevention to excavators;

18 “(4) a requirement that an excavator contact
19 the one-call notification system at least two (2) busi-
20 ness days, and not more than ten (10) business
21 days, before excavation begins;

22 “(5) alternative notification procedures for ex-
23 cavation activities conducted as part of ongoing op-
24 erations within specific geographic locations over an
25 extended period of time;

1 “(6) guidelines for incorporating into a one-call
2 notification system alternative notification and
3 marking systems in special circumstances such as
4 within railroad rights-of-way or at airports;

5 “(7) specific reference to standards for identify-
6 ing underground facilities developed by the American
7 Public Works Association Uniform Color Code for
8 Utilities and the American National Standards Insti-
9 tute;

10 “(8) a requirement that a facility operator
11 mark underground facilities at the site of an in-
12 tended excavation within two (2) business days after
13 notification;

14 “(9) a provision for notification of excavators if
15 no underground facilities are located at the exca-
16 vation site;

17 “(10) procedures for excavators and facility op-
18 erators when the location of underground facilities is
19 unknown;

20 “(11) practices to improve underground facility
21 location capabilities;

22 “(12) recommended procedures for emergency
23 circumstances; and

24 “(13) revocation of the license or permit to do
25 business of any excavator determined to be a habit-

1 ual violator of the requirements of the State pro-
2 gram.

3 “(14) recommended procedures for protecting
4 underground facilities from intentional damage as a
5 result of the line being marked or located and from
6 security breaches.

7 “(c) WORKSHOPS.—The Secretary shall conduct
8 workshops with facility operators, excavators, one-call no-
9 tification system operators, and interested government
10 agencies, including State and local governments, in order
11 to develop, amend, and promote the model program, and
12 to provide an opportunity to share information among
13 such parties.

14 “(d) PUBLIC EDUCATION.—The Secretary shall work
15 with facility operators, excavators, one-call notification
16 systems operators, and interested government agencies,
17 including State and local governments, to develop public
18 service announcements and other educational materials
19 and programs to be broadcast or published to educate the
20 public about one-call notification systems.

21 **“§ 60207. Department of Transportation role**

22 “The Secretary of Transportation shall coordinate
23 the implementation of this chapter with the implementa-
24 tion of chapter 601 of this title. An activity conducted by
25 the Secretary under this chapter shall be deemed an activ-

1 ity related to gas or hazardous liquid under chapter 601
2 of this title.”.

3 (b) The analysis of subtitle VIII is amended by add-
4 ing a new item:

“CHAPTER 602—UNDERGROUND DAMAGE PREVENTION”.

5 **SEC. 11003. TECHNICAL AMENDMENT.**

6 Title 49 is amended by striking and reserving section
7 60114, and striking the item for section 60114 in the
8 analysis of chapter 601.

9 **TITLE XII—SANITARY FOOD**
10 **TRANSPORTATION**

11 **SEC. 12001. SHORT TITLE.**

12 This title may be cited as the “Sanitary Food Trans-
13 portation Act of 1997”.

14 **SEC. 12002. FINDINGS.**

15 Congress finds that—

16 (1) the Department of Transportation, the De-
17 partment of Agriculture, and the Food and Drug
18 Administration in the Department of Health and
19 Human Services have consulted about how best to
20 ensure that food is not adulterated as a result of the
21 conditions under which it is transported. As a result
22 of these consultations, the agencies have confirmed
23 that steps to ensure the safety of food are more effi-
24 cient if taken by the agencies directly charged with
25 the responsibility for food safety;

1 (2) the Secretary of Agriculture has ample au-
2 thority under the Federal Meat Inspection Act (21
3 U.S.C. 601 et seq.), the Poultry Products Inspection
4 Act (21 U.S.C. 451 et seq.), and the Egg Products
5 Inspection Act (21 U.S.C. 1031 et seq.), to inspect
6 and regulate continuously the transportation of
7 meat, poultry, and eggs in commerce for use in
8 human food, has exercised the statutory authority in
9 a diligent manner so as to prevent the transpor-
10 tation of unwholesome or adulterated meat, poultry,
11 and egg products in commerce, and does not need
12 additional enforcement authority to regulate the
13 transportation of meat, poultry, and egg products in
14 commerce;

15 (3) certain statutory changes are necessary to
16 provide the Secretary of Health and Human Services
17 with the authority necessary to ensure that food,
18 other than that regulated by the Secretary of Agri-
19 culture, will not be rendered adulterated in transpor-
20 tation;

21 (4) the appropriate role for the Secretary of
22 Transportation is to provide assistance concerning
23 the transportation aspects of food safety; and

24 (5) therefore, amendment of chapter 57 of title
25 49, United States Code, and the transfer of certain

1 authorities to the Secretary of Health and Human
2 Services, is appropriate.

3 **SEC. 12003. RESPONSIBILITIES OF THE SECRETARY OF**
4 **HEALTH AND HUMAN SERVICES.**

5 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-
6 TION.—Section 402 of the Federal Food, Drug, and Cos-
7 metic Act (21 U.S.C. 342) is amended by adding at the
8 end the following new subsection:

9 “(h) If it is transported under conditions that are not
10 in compliance with the sanitary transportation practices
11 prescribed by the Secretary under section 414.”.

12 (b) SANITARY TRANSPORTATION REQUIREMENTS.—
13 Chapter IV of the Federal Food, Drug, and Cosmetic Act
14 (21 U.S.C. 341 et seq.) is amended by adding at the end
15 the following new section:

16 **“§ 414. Sanitary transportation of food**

17 “(a) SANITARY TRANSPORTATION PRACTICES.—The
18 Secretary shall establish by regulation sanitary transpor-
19 tation practices which shippers, carriers, receivers, and
20 other persons engaged in the transportation of food shall
21 be required to follow to ensure that the food is not trans-
22 ported under conditions that may render it adulterated,
23 including such practices as the Secretary may find appro-
24 priate relating to—

25 “(1) sanitation;

1 “(2) packaging, isolation, and other protective
2 measures;

3 “(3) limitations on the use of vehicles;

4 “(4) information to be disclosed—

5 “(A) to a carrier by a person arranging for
6 the transport of food, and

7 “(B) to a manufacturer or other persons
8 arranging for the transport of food by a carrier
9 or other person furnishing a tank or bulk vehi-
10 cle for the transport of food; and

11 “(5) recordkeeping.

12 “(b) LIST OF UNACCEPTABLE NONFOOD PROD-
13 UCTS.—The Secretary by publication in the Federal Reg-
14 ister, may establish and periodically amend—

15 “(1) a list of nonfood products that the Sec-
16 retary determines may, if shipped in a tank or bulk
17 vehicle, render adulterated food transported subse-
18 quently in such vehicle; and

19 “(2) a list of nonfood products that the Sec-
20 retary determines may, if shipped in a motor or rail
21 vehicle (other than a tank or bulk vehicle), render
22 adulterated food transported simultaneously or sub-
23 sequently in such vehicle.

24 “(c) WAIVER AUTHORITY.—

1 “(1) IN GENERAL.—The Secretary may waive
2 all or part of this section, or any requirement under
3 this section, with respect to any class of persons, of
4 vehicles, of food, or of nonfood products, if the Sec-
5 retary determines that such waiver—

6 “(A) will not result in the transportation
7 of food under conditions that would be unsafe
8 for human or animal health; and

9 “(B) will not be contrary to the public in-
10 terest of this Act.

11 “(2) PUBLICATION.—The Secretary shall pub-
12 lish in the Federal Register any waiver and the rea-
13 sons for the waiver.

14 “(d) PREEMPTION.—

15 “(1) IN GENERAL.—No State or political sub-
16 division of a State may directly or indirectly estab-
17 lish or continue in effect, as to any food in interest
18 commerce, any authority or requirement concerning
19 that transportation of food that is not identical to
20 the requirement of this section.

21 “(2) EFFECTIVE DATE.—The provisions of this
22 subsection apply only with respect to transportation
23 occurring on or after the effective date of regulations
24 prescribed under subsection (a).

1 “(e) ASSISTANCE OF OTHER AGENCIES.—The Sec-
2 retary of Transportation, the Secretary of Agriculture, the
3 Administrator of the Environmental Protection Agency,
4 and the heads of other Federal agencies, as appropriate,
5 shall provide assistance upon request, to the extent re-
6 sources are available, to the Secretary of Health and
7 Human Services for the purposes of carrying out this sec-
8 tion.

9 “(f) DEFINITIONS.—For purposes of the section—

10 “(1) The term transportation means any move-
11 ment of property in commerce by motor vehicle or
12 rail vehicle.

13 “(2) The term ‘tank or bulk vehicle’ includes
14 any vehicle in which food is shipped in bulk and in
15 which the food comes directly into contact with the
16 vehicle, including tank trucks, hopper trucks, rail
17 tank cars, hopper cars, cargo tanks, portable tanks,
18 freight containers, or hopper bins.”.

19 “(c) INSPECTION OF TRANSPORTATION RECORDS.—

20 “(1) REQUIREMENT.—Chapter VII of the Fed-
21 eral Food, Drug, and Cosmetic Act (21 U.S.C. 371
22 et seq.) is amended by inserting after section 703
23 the following new section:

1 **“§ 703A. Food transportation records**

2 “Shippers, carriers by motor vehicle or rail vehicle,
3 and other persons subject to section 414 shall, upon re-
4 quest of an officer or employee duly designated by the Sec-
5 retary, permit such officer or employee, at reasonable
6 times, to have access to and to copy all records that the
7 Secretary requires them to make or retain under section
8 414(a)(5) of this Act.”.

9 (2) CONFORMING AMENDMENT.—Section 703
10 of the Act (21 U.S.C. 373) is amended in the second
11 proviso by inserting “, unless otherwise explicitly
12 provided,” after “That”.

13 (d) PROHIBITED ACTS.

14 (1) RECORDS INSPECTION.—Section 301(c) of
15 the Federal Food, Drug, and Cosmetic Act (21
16 U.S.C. 331(e)) is amended—

17 (A) by striking “or 703” and inserting “,
18 703, or 703a”, and

19 (B) by inserting “414,” before “505(i)”.

20 (2) UNSAFE FOOD TRANSPORTATION.—Section
21 301 of the Act (21 U.S.C. 331) is further amend-
22 ed—

23 (A) by redesignating subsection (u) as sub-
24 section (v); and

25 (B) by adding at the end the following new
26 subsection:

1 “(w) The failure, by a shipper, carrier, receiver, or
 2 any other person engaged in the transportation of food,
 3 to comply with the sanitary transportation practices pre-
 4 scribed by the Secretary under section 414.”.

5 **SEC. 12004. DEPARTMENT OF TRANSPORTATION REQUIRE-**
 6 **MENTS.**

7 Chapter 57 of title 49, relating to sanitary food trans-
 8 portation, is revised to read as follows:

 “CHAPTER 57—SANITARY FOOD TRANSPORTATION

 “Sec.

 “5701. Findings

 “5702. Food transportation safety inspections

9 **“§ 5701. Findings**

10 “Congress finds that—

11 “(1) the United States public is entitled to re-
 12 ceive food and other consumer products that are not
 13 made unsafe because of certain transportation prac-
 14 tices;

15 “(2) the United States public is threatened by
 16 the transportation of products potentially harmful to
 17 consumers in motor vehicles and rail vehicles that
 18 are used to transport food and other consumer prod-
 19 ucts; and

20 “(3) the risks to consumers by those transpor-
 21 tation practices are unnecessary and those practices
 22 must be ended.

1 **“§ 5702. Food transportation safety inspections**

2 “(a) INSPECTION PROCEDURES.—(1) The Secretary
3 of Transportation, in consultation with the Secretaries of
4 Health and Human Services and Agriculture, shall estab-
5 lish procedures to be used in performing transportation
6 safety inspections for the purpose of identifying suspected
7 incidents of contamination or adulteration of food that
8 may violate regulations issued under section 414 of title
9 21, United States Code, and shall train personnel of the
10 Department of Transportation in the appropriate use of
11 such procedures.

12 “(2) The procedures established under paragraph (1)
13 of this subsection shall apply, at a minimum, to the De-
14 partment of Transportation personnel who perform com-
15 mercial motor vehicle and railroad safety inspections.

16 “(b) NOTIFICATION OF SECRETARIES OF HEALTH
17 AND HUMAN SERVICES AND AGRICULTURE.—The Sec-
18 retary of Transportation shall promptly notify the Sec-
19 retary of Health and Human Services or the Secretary of
20 Agriculture, as applicable, of any instances of potential
21 food contamination or adulteration of a food identified
22 during transportation safety inspections.

23 “(c) USE OF STATE EMPLOYEES.—The means by
24 which the Secretary of Transportation carries out sub-
25 section (b) of this section may include inspections con-
26 ducted by State employees using funds authorized to be

1 appropriated under sections 31102 through 31104 of this
2 title.”.

3 **SEC. 12005. EFFECTIVE DATE OF THE ACT.**

4 Unless otherwise specified, the provisions of this title
5 are effective October 1, 1997.

6 **TITLE XIII—RAIL AND MASS**
7 **TRANSPORTATION ANTI-TERRORISM**

8 **SEC. 13001. SHORT TITLE.**

9 This title may be cited as the “Transportation Anti-
10 Terrorism Act of 1997”.

11 **SEC. 13002. PURPOSE.**

12 The purpose of this title is to protect the passengers
13 and employees of railroad carriers and mass transpor-
14 tation systems and the movement of freight by railroad
15 from terrorist attacks.

16 **SEC. 13003. AMENDMENTS TO THE “WRECKING TRAINS”**
17 **STATUTE.**

18 (a) Section 1992 of title 18, United States Code, is
19 amended to read as follows:

20 **“§ 1992. Terrorist attacks against railroads**

21 **“(a) GENERAL PROHIBITIONS.—Whoever willfully—**

22 **“(1) wrecks, derails, sets fire to, or disables any**
23 **train, locomotive, motor unit, or freight or passenger**
24 **car used, operated, or employed by a railroad car-**
25 **rier;**

1 “(2) brings, carries, possesses, places, or causes
2 to be placed any destructive substance, or destruc-
3 tive device in, upon, or near any train, locomotive,
4 motor unit, or freight or passenger car used, oper-
5 ated, or employed by a railroad carrier, without pre-
6 viously obtaining the permission of the carrier, and
7 with intent to endanger the safety of any passenger
8 or employee of the carrier, or with a reckless dis-
9 regard for the safety of human life;

10 “(3) sets fire to, or places any destructive sub-
11 stance, or destructive device in, upon, or near, or
12 undermines any tunnel, bridge, viaduct, trestle,
13 track, signal, station, depot, warehouse, terminal, or
14 any other way, structure, property, or appurtenance
15 used in the operation of, or in support of the oper-
16 ation of, a railroad carrier, or otherwise makes any
17 such tunnel, bridge, viaduct, trestle, track, station,
18 depot, warehouse, terminal, or any other way, struc-
19 ture, property, or appurtenance unworkable or unus-
20 able or hazardous to work or use, knowing or having
21 reason to know such activity would likely derail, dis-
22 able, or wreck a train, locomotive, motor unit, or
23 freigh or passenger car used, operated, or employed
24 by a railroad carrier;

1 “(4) removes appurtenances from, damages, or
2 otherwise impairs the operation of any railroad sig-
3 nal system, including a train control system, central-
4 ized dispatching system, or highway-railroad grade
5 crossing warning signal on a railroad line used, op-
6 erated, or employed by a railroad carrier.

7 “(5) interferes with, disables or incapacitates
8 any locomotive engineer, conductor, or other person
9 while they are operating or maintaining a train, lo-
10 comotive, motor unit, or freight or passenger car
11 used, operated, or employed by a railroad carrier,
12 with intent to endanger the safety of any passenger
13 or employee of the carrier, or with a reckless dis-
14 regard for the safety of human life;

15 “(6) commits an act intended to cause death or
16 serious bodily injury to an employee or passenger of
17 a railroad carrier while on the property of the car-
18 rier;

19 “(7) causes the release of a hazardous material
20 being transported by a rail freight car, with the in-
21 tent to endanger the safety of any person, or with
22 a reckless disregard for the safety of human life;

23 “(8) conveys or causes to be conveyed false in-
24 formation, knowing the information to be false, con-
25 cerning an attempt or alleged attempt being made or

1 to be made, to do any act which would be a crime
2 prohibited by this subsection; or

3 “(9) attempts, threatens, or conspires to do any
4 of the aforesaid acts—

5 shall be fined under this title or imprisoned not more than
6 twenty years, or both, if such act is committed, or in the
7 case of a threat or conspiracy such act would be commit-
8 ted, within the United States on, against, or affecting a
9 railroad carrier engaged in or affecting interstate or for-
10 eign commerce, or if in the course of committing such acts,
11 that person travels or communicates across a State line
12 in order to commit such acts, or transports materials
13 across a State line in aid of the commission of such acts:
14 *Provided however,* That whoever is convicted of any crime
15 prohibited by this subsection shall be:

16 “(1) imprisoned for not less than thirty years
17 or for life if the railroad train involved carried high-
18 level radioactive waste or spent nuclear fuel at the
19 time of the offense;

20 “(2) imprisoned for life if the railroad train in-
21 volved was carrying passengers at the time of the of-
22 fense; and

23 “(3) imprisoned for life or sentenced to death
24 if the offense has resulted in the death of any per-
25 son.

1 “(b) PROHIBITIONS ON THE USE OF FIREARMS AND
2 DANGEROUS WEAPONS.—(1) Except as provided in para-
3 graph (4), whoever knowingly possesses or causes to be
4 present any firearm or other dangerous weapon on board
5 a passenger train of a railroad carrier, or attempts to do
6 so, shall be fined under this title or imprisoned not more
7 than one year, or both, if such act is committed on a rail-
8 road carrier that is engaged in or affecting interstate or
9 foreign commerce, or if in the course of committing such
10 act, that person travels or communicates across a State
11 line in order to commit such act, or transports materials
12 across a State line in aid of the commission of such act.

13 “(2) Whoever, with intent that a firearm or other
14 dangerous weapon be used in the commission of a crime,
15 knowingly possesses or causes to be present such firearm
16 or dangerous weapon on board a passenger train or in a
17 passenger terminal facility of a railroad carrier, or at-
18 tempts to do so, shall be fined under this title or impris-
19 oned not more than five years, or both, if such act is com-
20 mitted on a railroad carrier that is engaged in or affecting
21 interstate or foreign commerce, or if in the course of com-
22 mitting such act, that person travels or communicates
23 across a State line in order to commit such act, or trans-
24 ports materials across a State line in aid of the commis-
25 sion of such act.

1 “(3) A person who kills or attempts to kill a person
2 in the course of a violation of paragraphs (1) or (2), or
3 in the course of an attack on a passenger train or a pas-
4 senger terminal facility of a railroad carrier involving the
5 use of a firearm or other dangerous weapon, shall be pun-
6 ished as provided in sections 1111, 1112, and 1113 of this
7 title.

8 “(4) Paragraph (1) shall not apply to:

9 “(A) the possession of a firearm or other dan-
10 gerous weapon by an officer, agent, or employee of
11 the United States, a State, or a political subdivision
12 thereof, while engaged in the lawful performance of
13 official duties, who is authorized by law to engage in
14 the transportation of people accused or convicted of
15 crimes, or supervise the prevention, detection, inves-
16 tigation, or prosecution of any violation of law;

17 “(B) the possession of a firearm or other dan-
18 gerous weapon by an officer, agent, or employee of
19 the United States, a State or a political subdivision
20 thereof, while off duty, if such possession is author-
21 ized by law;

22 “(C) the possession of a firearm or other dan-
23 gerous weapon by a Federal official or a member of
24 the Armed Forces if such possession is authorized by
25 law; or

1 “(D) an individual transporting a firearm on
2 board a railroad passenger train (except a loaded
3 firearm) in baggage not accessible to any passenger
4 on board the train, if the railroad carrier was in-
5 formed of the presence of the weapon prior to the
6 firearm being placed on board the train.

7 “(c) PROHIBITION AGAINST PROPELLING OB-
8 JECTS.—Whoever willfully or recklessly throws, shoots, or
9 propels a rock, stone, brick, or piece of iron, steel, or other
10 metal or any deadly or dangerous object or destructive
11 substance at any locomotive or car of a train, knowing
12 or having reason to know such activity would likely cause
13 personal injury, shall be fined under this title or impris-
14 oned for not more than five years, or both, if such act
15 is committed on or against a railroad carrier engaged in
16 or affecting interstate or foreign commerce, or if in the
17 course of committing such act, that person travels or com-
18 municates across a State line in order to commit such act,
19 or transports materials across a State line in aid of the
20 commission of such act. Whoever is convicted of any crime
21 prohibited by this subsection shall also be subject to im-
22 prisonment for not more than twenty years if the offense
23 has resulted in the death of any person.

24 “(d) DEFINITIONS.—In this section—

1 “(1) ‘dangerous device’ has the meaning given
2 to that term in section 921(a)(4) of this title;

3 “(2) ‘dangerous weapon’ has the meaning given
4 to that term in section 930 of this title;

5 “(3) ‘destructive substance’ has the meaning
6 given to that term in section 31 of this title, except
7 that: (A) the term ‘radioactive device’ does not in-
8 clude any radioactive device or material used solely
9 for medical, industrial, research, or other peaceful
10 purposes, and (B) ‘destructive substance’ includes
11 any radioactive device or material that can be used
12 to cause a harm listed in subsection (a) and that is
13 not in use solely for medical, industrial, research, or
14 other peaceful purposes;

15 “(4) ‘firearm’ has the meaning given to that
16 term in section 921 of this title;

17 “(5) ‘hazardous material’ has the meaning
18 given to that term in section 5102(2) of title 49,
19 United States Code;

20 “(6) ‘high-level radioactive waste’ has the
21 meaning given to that term in section 10101(12) of
22 title 42, United States Code;

23 “(7) ‘railroad’ has the meaning given to that
24 term in section 20102(1) of title 49, United States
25 Code;

1 “(8) ‘railroad carrier’ has the meaning given to
2 that term in section 20102(2) of title 49, United
3 States Code;

4 “(9) ‘serious bodily injury’ has the meaning
5 given to that term in section 1365 of this title;

6 “(10) ‘spent nuclear fuel’ has the meaning
7 given to that term in section 10101(23) of title 42,
8 United States Code; and

9 “(11) ‘State’ has the meaning given to that
10 term in section 2266 of this title.”.

11 (b) In the analysis of chapter 97 of title 18, United
12 States Code, item “1992” is amended to read:

“1992. Terrorist attacks against railroads.”.

13 **SEC. 13004. TERRORIST ATTACKS AGAINST MASS TRANS-**
14 **PORTATION.**

15 (a) Chapter 97 of title 18, United States Code, is
16 amended by adding at the end thereof the following new
17 section:

18 **“§ 1994. Terrorist attacks against mass transportation**

19 **“(a) GENERAL PROHIBITIONS.—Whoever willfully—**

20 **“(1) wrecks, derails, sets fire to, or disables a**
21 **mass transportation vehicle or vessel;**

22 **“(2) places or causes to be placed any destruc-**
23 **tive substance in, upon, or near a mass transpor-**
24 **tation vehicle or vessel, without previously obtaining**
25 **the permission of the mass transportation provider,**

1 and with intent to endanger the safety of any pas-
2 senger or employee of the mass transportation pro-
3 vider, or with a reckless disregard for the safety of
4 human life;

5 “(3) sets fire to, or places any destructive sub-
6 stance in, upon, or near any garage, terminal, struc-
7 ture, supply, or facility used in the operation of, or
8 in support of the operation of, a mass transportation
9 vehicle, knowing or having reason to know such ac-
10 tivity would likely derail, disable, or wreck a mass
11 transportation vehicle used, operated, or employed
12 by a mass transportation provider;

13 “(4) removes appurtenances from, damages, or
14 otherwise impairs the operation of a mass transpor-
15 tation signal system, including a train control sys-
16 tem, centralized dispatching system, or rail grade-
17 crossing warning signal;

18 “(5) interferes with, disables, or incapacitates
19 any driver or person while they are employed in op-
20 erating or maintaining a mass transportation vehicle
21 or vessel, with intent to endanger the safety of any
22 passenger or employee of the mass transportation
23 provider, or with a reckless disregard for the safety
24 of human life;

1 “(6) commits an act intended to cause death or
2 serious bodily injury to an employee or passenger of
3 a mass transportation provider on the property of a
4 mass transportation provider;

5 “(7) conveys or causes to be conveyed false in-
6 formation, knowing the information to be false, con-
7 cerning an attempt or alleged attempt being made or
8 to be made, to do any act which would be a crime
9 prohibited by this subsection; or

10 “(8) attempts, threatens, or conspires to do any
11 of the aforesaid acts—

12 shall be fined under this title or imprisoned not more than
13 twenty years, or both, if such act is committed, or in the
14 case of a threat or conspiracy such act would be commit-
15 ted, within the United States on, against, or affecting a
16 mass transportation provider engaged in or affecting
17 interstate or foreign commerce, or if in the course of com-
18 mitting such act, that person travels or communicates
19 across a State line in order to commit such act, or trans-
20 ports materials across a State line in aid of the commis-
21 sion of such act. Whoever is convicted of a crime prohib-
22 ited by this section shall also be subject to imprisonment
23 for life if the mass transportation vehicle or vessel was
24 carrying a passenger at the time of the offense, and im-

1 prisonment for life or sentenced to death if the offense
2 has resulted in the death of any person.

3 “(b) PROHIBITIONS ON THE USE OF FIREARMS AND
4 DANGEROUS WEAPONS.—(1) Except as provided in para-
5 graph (4), whoever knowingly possesses or causes to be
6 present any firearm or other dangerous weapon on board
7 a mass transportation vehicle or vessel, or attempts to do
8 so, shall be fined under this title or imprisoned not more
9 than one year, or both, if such act is committed on a mass
10 transportation provider engaged in or affecting interstate
11 or foreign commerce, or if in the course of committing
12 such act, that person travels or communicates across a
13 State line in order to commit such act, or transports mate-
14 rials across a State line in aid of the commission of such
15 act.

16 “(2) Whoever, with intent that a firearm or other
17 dangerous weapon be used in the commission of a crime,
18 knowingly possesses or causes to be present such firearm
19 or dangerous weapon on board a mass transportation vehi-
20 cle or vessel, or in a mass transportation passenger termi-
21 nal facility, or attempts to do so, shall be fined under this
22 title, or imprisoned not more than five years, or both, if
23 such act is committed on a mass transportation provider
24 engaged in or affecting interstate or foreign commerce, or
25 if in the course of committing such act, that person travels

1 or communicates across a State line in order to commit
2 such act, or transports materials across a State line in
3 aid of the commission of such act.

4 “(3) A person who kills or attempts to kill a person
5 in the course of a violation of paragraphs (1) or (2), or
6 in the course of an attack on a mass transportation vehicle
7 or vessel, or a mass transportation passenger terminal fa-
8 cility involving the use of a firearm or other dangerous
9 weapon, shall be punished as provided in sections 1111,
10 1112, and 1113 of this title.

11 “(4) Paragraph (1) shall not apply to:

12 “(A) the possession of a firearm or other dan-
13 gerous weapon by an officer, agent, or employee of
14 the United States, a State, or a political subdivision
15 thereof, while engaged in the lawful performance of
16 official duties, who is authorized by law to engage in
17 the transportation of people accused or convicted of
18 crimes, or supervise the prevention, detection, inves-
19 tigation, or prosecution of any violation of law;

20 “(B) the possession of a firearm or other dan-
21 gerous weapon by an officer, agent, or employee of
22 the United States, a State, or a political subdivision
23 thereof, while off duty, if such possession is author-
24 ized by law;

1 “(C) the possession of a firearm or other dan-
2 gerous weapon by a Federal official or a member of
3 the Armed Forces if such possession is authorized by
4 law; or

5 “(D) an individual transporting a firearm on
6 board a mass transportation vehicle or vessel (except
7 a loaded firearm) in baggage not accessible to any
8 passenger on board the vehicle or vessel, if the mass
9 transportation provider was informed of the presence
10 of the weapon prior to the firearm being placed on
11 board the vehicle or vessel.

12 “(c) PROHIBITION AGAINST PROPELLING OB-
13 JECTS.—Whoever willfully or recklessly throws, shoots, or
14 propels a rock, stone, brick, or piece of iron, steel, or other
15 metal or any deadly or dangerous object or destructive
16 substance at any mass transportation vehicle or vessel,
17 knowing or having reason to know such activity would like-
18 ly cause personal injury, shall be fined under this title or
19 imprisoned for not more than five years, or both, if such
20 act is committed on or against a mass transportation pro-
21 vider engaged in or substantially affecting interstate or
22 foreign commerce, or if in the course of committing such
23 acts, that person travels or communicates across a State
24 line in order to commit such acts, or transports materials
25 across a State line in aid of the commission of such acts.

1 Whoever is convicted of any crime prohibited by this sub-
2 section shall also be subject to imprisonment for not more
3 than twenty years if the offense has resulted in the death
4 of any person.

5 “(d) DEFINITIONS.—In this section—

6 “(1) ‘dangerous device’ has the meaning given
7 to that term in section 921(a)(4) of this title;

8 “(2) ‘dangerous weapon’ has the meaning given
9 to that term in section 930 of this title;

10 “(3) ‘destructive substance’ has the meaning
11 given to that term in section 31 of this title, except;
12 that (A) the term ‘radioactive device’ does not in-
13 clude any radioactive device or material used solely
14 for medical, industrial, research, or other peaceful
15 purposes, and (B) ‘destructive substance’ includes
16 any radioactive device or material that can be used
17 to cause a harm listed in subsection (a) and that is
18 not in use solely for medical, industrial, research, or
19 other peaceful purposes;

20 “(4) ‘firearm’ has the meaning given to that
21 term in section 921 of this title;

22 “(5) ‘mass transportation’ has the meaning
23 given to that term in section 5302(a)(7) of title 49,
24 United States Code, except that the term shall in-

1 clude schoolbus, charter, and sightseeing transpor-
2 tation;

3 “(6) ‘serious bodily injury’ has the meaning
4 given to that term in section 1365 of this title; and;

5 “(7) ‘State’ has the meaning given to that term
6 in section 2266 of this title;

7 (b) The analysis of chapter 97 of title 18, United
8 States Code, is amended by adding at the end thereof:

“1994. Terrorist attacks against mass transportation.”.

9 **SEC. 13005. INVESTIGATIVE JURISDICTION.**

10 The Federal Bureau of Investigation shall lead the
11 investigation of all offenses under this title. The Federal
12 Bureau of Investigation shall cooperative with the Na-
13 tional Transportation Safety Board and with the Depart-
14 ment of Transportation in safety investigations by these
15 agencies, and with the Treasury Department’s Bureau of
16 Alcohol, Tobacco and Firearms concerning an investiga-
17 tion regarding the possession of firearms and explosives.

18 **TITLE XIV—RAIL AND MASS**
19 **TRANSPORTATION SAFETY**

20 **SEC. 14001. SAFETY CONSIDERATIONS IN GRANTS OR**
21 **LOANS TO COMMUTER RAILROADS.**

22 Section 5329 is amended by adding at the end the
23 following new subsection:

24 “(c) COMMUTER RAILROAD SAFETY CONSIDER-
25 ATIONS.—In making a grant or loan under this chapter

1 that concerns a railroad subject to the Secretary's railroad
2 safety jurisdiction under section 20102 of this title, the
3 Federal Transit Administrator shall consult with the Fed-
4 eral Railroad Administrator concerning relevant safety is-
5 sues. The Secretary may use appropriate authority under
6 this chapter, including the authority to prescribe particu-
7 lar terms or covenants under section 5334 of this title,
8 to address any safety issues identified in the project sup-
9 ported by the loan or grant.”.

10 **SEC. 14002. RAILROAD ACCIDENT AND INCIDENT REPORT-**
11 **ING.**

12 Section 20901(a) of title 49 is amended to read as
13 follows:

14 “(a) GENERAL REQUIREMENTS.—On a periodic basis
15 as specified by the Secretary of Transportation, a railroad
16 carrier shall file a report with the Secretary on all acci-
17 dents and incidents resulting in injury or death to an indi-
18 vidual or damage to equipment or a roadbed arising from
19 the carrier's operations during that period. The report
20 shall state the nature, cause, and circumstances of each
21 reported accident or incident. If a railroad carrier assigns
22 human error as a cause, the report shall include, at the
23 option of each employee whose error is alleged, a state-
24 ment by the employee explaining any factors the employee
25 alleges contributed to the accident or incident.”.

1 **SEC. 14003. VEHICLE WEIGHT LIMITATIONS—MASS TRANS-**
2 **PORTATION BUSES.**

3 Section 1023(h)(1) of the Intermodal Surface Trans-
4 portation Efficiency Act of 1991, as amended (23 U.S.C.
5 127 note), is amended by striking “the date on which”
6 and all that follows through “1995” and substituting
7 “January 1, 2003.”

○