

106TH CONGRESS
1ST SESSION

H. R. 2683

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) (by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, 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.**

4 This Act may be cited as the “Federal Railroad Safe-
5 ty Enhancement Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds and declares the following:

8 (1) Consistent with the purposes of the Govern-
9 ment Performance and Results Act of 1993, the
10 Federal Railroad Administration has reshaped the

1 regulatory and compliance components of the Federal
2 railroad safety program to ensure that the entire
3 program is squarely focused on achieving demonstrable
4 results, i.e., reducing the number of deaths and injuries associated with railroading in
5 the United States. The foundation of the program is
6 its emphasis on inclusion of all interested parties—
7 railroad employees and labor unions, railroad management,
8 manufacturers, State government groups,
9 and public associations—in identifying safety problems and implementing solutions. This emphasis on
10 safety partnership has helped begin a transformation
11 of key aspects of the corporate culture of the Nation’s railroads, a transformation that is producing
12 safety and business benefits.

13 (2) The Safety Assurance and Compliance Program is an approach to safety that emphasizes the active partnership of the Federal Railroad Administration, rail labor representatives, and railroad management in identifying current safety problems and jointly developing effective solutions to those problems. One fundamental principle of this approach is tracing a safety problem to its root cause and attacking that cause rather than only its symptoms. Where a problem is determined to be system-wide,

1 this approach calls for a system-wide solution.
2 Under this approach, the Federal Railroad Adminis-
3 tration seeks to focus its inspection and enforcement
4 resources on the most serious safety problems. This
5 approach has demonstrated significant capacity for
6 identifying and eliminating the root cause of system-
7 wide safety problems by enlisting those most directly
8 affected by such problems—railroad employees and
9 managers—in a partnership effort. Used together
10 with the Federal Railroad Administration’s regular
11 inspections and enforcement tools, this approach
12 provides a firm basis for addressing the safety chal-
13 lenges facing the changing railroad industry and ad-
14 vancing toward the safety program’s ultimate goal of
15 zero tolerance for any safety hazard in the railroad
16 industry.

17 (3) The Railroad Safety Advisory Committee,
18 which was established by the Federal Railroad Ad-
19 ministration under the Federal Advisory Committee
20 Act (5 U.S.C. App. 2), is proving to be an effective
21 means of involving interested members of the rail-
22 road community, including the staff of the National
23 Transportation Safety Board, in the development of
24 railroad safety rules issued by the Federal Railroad
25 Administration. The Congress strongly encourages

1 the continued use of this collaborative method of de-
2 veloping safety regulations, which is more likely to
3 produce rules that are based on an industry con-
4 sensus and, accordingly, more readily understood
5 and more consistently complied with, than rules pro-
6 duced under more traditional methods.

7 (4) A critical element for the sustained success
8 of any company's safety program is the establish-
9 ment and growth of a clearly defined, positive safety
10 culture. The safety culture of a company encom-
11 passes the beliefs, values, attitudes, and practices
12 shared by employees and company officials and in-
13 cludes such matters as how decisions are made, who
14 makes them, how rewards and discipline are distrib-
15 uted, who is promoted, and how people are treated.
16 Many of today's most successful organizations recog-
17 nize that people are their most important assets;
18 they have come to realize that it is important for
19 managers and employees to share a common vision
20 and work in concert to pursue common goals. By ex-
21 ploring innovative concepts involving employee em-
22 powerment, coaching, counseling, and enhanced
23 training—often through joint partnerships involving
24 rail labor, railroad management, and the Federal
25 Railroad Administration—some railroads are seeking

1 new and better methods to promote compliance with
2 company and Federal safety rules and to promote
3 the free flow of safety-related information to better
4 identify safety hazards and prevent injuries and ac-
5 cidents. The improvements in the industry's safety
6 culture that have resulted from these initiatives hold
7 the promise of increasing railroad safety to historic
8 levels and moving toward the ultimate goal of zero
9 tolerance for safety hazards. The Congress strongly
10 endorses efforts by the Federal Railroad Administra-
11 tion, rail labor, and individual railroads to build
12 meaningful safety partnerships that foster positive
13 safety cultures on the Nation's railroads. The Fed-
14 eral Railroad Administration has committed to re-
15 port regularly to the Congress on the continuing evo-
16 lution of the railroad industry's safety culture.

17 (5) Although advances have been made in the
18 industry's safety culture and rail safety trends are
19 generally favorable, in terms of total fatalities, em-
20 ployee and other injuries, and grade crossing inci-
21 dents, nevertheless, too many of these accidents and
22 incidents still occur, as illustrated by recent fatalities
23 related to railroading. In 1998, eight railroad em-
24 ployees were killed in switching-related incidents,
25 and one was killed in a train collision. In the same

1 year, hundreds of motorists, their passengers, and
2 others lost their lives in grade crossing accidents and
3 incidents, the vast majority of which are attributable
4 to human factors involving the motorists. More re-
5 cently, in March 1999, 11 Amtrak passengers died
6 in a truck-train grade crossing collision at Bourbo-
7 nais, Illinois. Furthermore, each year approximately
8 a third of all train accidents are caused by human
9 factors. Clearly, there is a need for changes in the
10 law to prevent deaths and accidents such as these
11 by finding remedies to the kinds of conditions and
12 behaviors that permitted these tragedies to occur;
13 therefore, we enact the following statute, which deals
14 with the critical human factor issues of fatigue and
15 safety culture in the railroad industry, with grade
16 crossing safety, and with other important rail safety
17 issues.

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

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

1 SEC. 4. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Amendment of title 49, United States Code.
- Sec. 4. Table of contents.

TITLE I—HOURS OF SERVICE

- Sec. 101. Definitions.
- Sec. 102. Limitations on duty hours of train employees.
- Sec. 103. Limitations on duty hours of signal employees.
- Sec. 104. Limitations on duty hours of dispatching service employees.
- Sec. 105. Conforming amendments regarding hours of service violations.
- Sec. 106. Fatigue management plans.
- Sec. 107. Joint submission of waiver petitions.
- Sec. 108. Employee sleeping quarters.

TITLE II—MONITORING OF RAILROAD RADIO COMMUNICATIONS

- Sec. 201. Enhanced inspection and investigation authority under the Federal railroad safety laws.
- Sec. 202. Exception to chapter 119, title 18, United States Code.

TITLE III—RULEMAKING AUTHORITY

- Sec. 301. Railroad accident and incident reporting.
- Sec. 302. High-speed rail noise regulation.

TITLE IV—WHISTLEBLOWER PROTECTION

- Sec. 401. Expansion of employee protections.

TITLE V—GRADE CROSSING SAFETY

- Sec. 501. Emergency notification of grade crossing problems.
- Sec. 502. Grade crossing signal violations.
- Sec. 503. National highway-rail crossing inventory.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Technical amendments regarding adjustment of civil penalties for inflation.
- Sec. 602. Revision of special preemption provision.
- Sec. 603. Railroad safety inspection user fees.
- Sec. 604. Authorization of appropriations.

3 **TITLE I—HOURS OF SERVICE**

4 SEC. 101. DEFINITIONS.

5 Section 21101 is amended—

3 (2) by inserting the following new paragraphs:

4 “(6) ‘dually employed’ means being at the same
5 time in the employ of two or more railroad carriers,
6 of two or more railroad contractors, or of both one
7 or more railroad carriers and one or more railroad
8 contractors.

9 “(7) ‘railroad contractor’ or, in context, ‘con-
10 tractor’ means an independent contractor to a rail-
11 road carrier or a subcontractor to an independent
12 contractor to a railroad carrier.”.

13 SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EM-
14 PLOYEES.

15 (a) Section 21103(a) is amended—

16 (1) by striking "officers" and inserting "man-
17 agers, supervisors, officers,";

18 (2) by redesignating the text of the subsection
19 as paragraph (1) of the subsection, and redesignating
20 paragraphs (1) and (2) as subparagraphs (A)
21 and (B), respectively, of the paragraph; and

22 (3) by inserting the following at the end:

“(2) Except as provided in subsection (c) of this section, a railroad carrier and its managers, supervisors, officers, and agents and a railroad contractor and the con-

1 tractor's managers, supervisors, officers, and agents may
2 not, if the railroad carrier or railroad contractor has ac-
3 tual knowledge that a train employee is dually employed
4 and actual knowledge of the individual's schedule for the
5 time period in question, require or allow the dually em-
6 ployed train employee to remain or go on duty, nor may
7 a dually employed train employee remain or go on duty—

8 “(A) unless that employee has had at least 8
9 consecutive hours off duty during the prior 24
10 hours; or

11 “(B) after that employee has been on duty for
12 12 consecutive hours, until that employee has had at
13 least 10 consecutive hours off duty.”.

14 (b) Section 21103 is amended by adding the following
15 at the end:

16 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND
17 SCHEDULE.—

18 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
19 RIERS AND RAILROAD CONTRACTORS.—Not later
20 than January 31 each year, a railroad carrier and
21 a railroad contractor shall inform each of its train
22 employees in writing—

23 “(A) that all time spent performing aggre-
24 gate duty on one or more railroad carriers or
25 one or more railroad contractors or a combina-

5 “(C) about the penalties under section
6 21303 of this title applicable to a failure to
7 comply with paragraph (2) of this subsection.

8 “(2) DUTIES OF EMPLOYEES.—A dually em-
9 ployed train employee—

10 “(A) shall inform each of his or her rail-
11 road carrier employers and railroad contractor
12 employers in writing within 5 days of estab-
13 lishing an employee-employer relationship that
14 results in the employee’s becoming dually em-
15 ployed; and

16 “(B) shall ensure that each of his or her
17 railroad carrier employers and railroad con-
18 tractor employers is kept informed about the
19 employee’s current work schedule with each of
20 his or her other employing railroad carriers and
21 railroad contractors. The notification shall state
22 which portions of that service are likely to be
23 in covered service.

24 "(3) RECORD RETENTION DUTIES OF RAILROAD
25 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-

1 ceiving written notification of dual employment, a
2 railroad carrier and a railroad contractor shall—

3 “(A) retain at the carrier’s system and di-
4 vision headquarters or at the contractor’s head-
5 quarters one copy of the notification for a pe-
6 riod of 2 years after termination of such dual
7 employment status; and

8 “(B) make the record available to rep-
9 resentatives of the Secretary for inspection and
10 copying during normal business hours.”.

11 **SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EM-
12 PLOYEES.**

13 (a) Section 21104(a)(2) is amended—

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

16 (2) by redesignating the text of the paragraph
17 as subparagraph (A) of the paragraph, and redesign-
18 nating subparagraphs (A), (B), and (C) as clauses
19 (i), (ii), and (iii), respectively, of the subparagraph;
20 and

21 (3) by inserting the following at the end:

22 “(B) Except as provided in subsection (c) of this sec-
23 tion, a railroad carrier and its managers, supervisors, offi-
24 cers, and agents and a railroad contractor and the con-
25 tractor’s managers, supervisors, officers, and agents may

1 not, if the railroad carrier or railroad contractor has ac-
2 tual knowledge that a signal employee is dually employed
3 and actual knowledge of the individual's schedule for the
4 time period in question, require or allow the dually em-
5 ployed signal employee to remain or go on duty, nor may
6 a dually employed signal employee remain or go on duty—

7 “(i) unless that employee has had at least 8
8 consecutive hours off duty during the prior 24
9 hours;

10 “(ii) after that employee has been on duty for
11 12 consecutive hours, until that employee has had at
12 least 10 consecutive hours off duty; or

13 “(iii) after that employee has been on duty a
14 total of 12 hours during a 24-hour period, or after
15 the end of that 24-hour period, whichever occurs
16 first, until that employee has had at least 8 consecu-
17 tive hours off duty.”.

18 (b) Section 21104(b) is amended in paragraph (3),
19 by striking “, except that up to one hour of that time
20 spent returning from the final trouble call of a period of
21 continuous or broken service is time off duty”.

22 (c) Section 21104 is amended by adding the following
23 at the end:

24 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND
25 SCHEDULE.—

1 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
2 RIERS AND RAILROAD CONTRACTORS.—Not later
3 than January 31 each year, a railroad carrier and
4 a railroad contractor shall inform each of its signal
5 employees in writing—

6 “(A) that all time spent performing aggre-
7 gate duty on one or more railroad carriers or
8 one or more railroad contractors or a combina-
9 tion thereof counts towards the limitations on
10 duty hours of this section;

11 “(B) about the employee’s responsibilities
12 under paragraph (2) of this subsection; and

13 “(C) about the penalties under section
14 21303 of this title applicable to a failure to
15 comply with paragraph (2) of this subsection.

16 “(2) DUTIES OF EMPLOYEES.—A dually em-
17 ployed signal employee—

18 “(A) shall inform each of his or her rail-
19 road carrier employers and railroad contractor
20 employers in writing within 5 days of estab-
21 lishing an employee-employer relationship that
22 results in the employee’s becoming dually em-
23 ployed; and

24 “(B) shall ensure that each of his or her
25 railroad carrier employers and railroad con-

1 tractor employers is kept informed about the
2 employee's current work schedule with each of
3 the other employing railroad carriers and rail-
4 road contractors. The notification shall state
5 which portions of that service are likely to be in
6 covered service.

7 “(3) RECORD RETENTION DUTIES OF RAILROAD
8 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-
9 ceiving written notification of dual employment, a
10 railroad carrier and railroad contractor shall—

11 “(A) retain at the carrier's system and di-
12 vision headquarters or at the contractor's head-
13 quarters one copy of the notification for a pe-
14 riod of 2 years after termination of such dual
15 employment status; and

16 “(B) make the record available to rep-
17 resentatives of the Secretary for inspection and
18 copying during normal business hours.”.

19 **SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING**
20 **SERVICE EMPLOYEES.**

21 (a) Section 21105(b) is amended—

22 (1) by striking “or allowed” and inserting “or
23 allowed by a railroad carrier or its managers, super-
24 visors, officers, and agents”;

1 (2) by redesignating the text of the subsection
2 as paragraph (1) of the subsection, and redesign-
3 nating paragraphs (1) and (2) as subparagraphs (A)
4 and (B), respectively, of the paragraph; and

5 (3) by inserting the following at the end:

6 “(2) Except as provided in subsection (d) of this sec-
7 tion, a railroad carrier and its managers, supervisors, offi-
8 cers, and agents and a railroad contractor and the con-
9 tractor’s managers, supervisors, officers, and agents may
10 not, if the railroad carrier or railroad contractor has ac-
11 tual knowledge that a dispatching service employee is du-
12 ally employed and actual knowledge of the individual’s
13 schedule for the time period in question, require or allow
14 the dually employed dispatching service employee to re-
15 main or go on duty, nor may a dually employed dis-
16 patching service employee remain or go on duty, for more
17 than—

18 “(A) a total of 9 hours during a 24-hour period
19 in a tower, office, station, or place at which at least
20 2 shifts are employed; or

21 “(B) a total of 12 hours during a 24-hour pe-
22 riod in a tower, office, station, or place at which only
23 one shift is employed.”.

24 (b) Section 21105(c) is amended to read as follows:

1 “(c) DETERMINING TIME ON DUTY.—In determining
2 under subsection (b) of this section the time a dispatching
3 service employee is on or off duty, the following rules
4 apply:

5 “(1) Time spent performing any other service
6 for one or more railroad carriers or one or more rail-
7 road contractors or a combination thereof during a
8 24-hour period in which the employee is on duty in
9 a tower, office, station, or other place is time on
10 duty in that tower, office, station, or place, and
11 counts toward the employee’s aggregate time on
12 duty.

13 “(2) If during a 24-hour period an employee
14 performs the duties of a dispatching service em-
15 ployee for more than one railroad carrier or railroad
16 contractor or for a railroad carrier and a railroad
17 contractor, and at least one of those tours of duty
18 is in a tower, office, station, or other place at which
19 at least 2 shifts are employed, then the duty limits
20 of subsection (b)(1) of this section apply.

21 “(3) All time on duty by the employee for any
22 railroad carrier or railroad contractor shall be in-
23 cluded.”.

24 (c) Section 21105 is amended by adding the following
25 at the end:

1 “(e) NOTICE ABOUT DUAL EMPLOYMENT AND
2 SCHEDULE.—

3 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-
4 RIERS AND RAILROAD CONTRACTORS.—Not later
5 than January 31 each year, a railroad carrier and
6 a railroad contractor shall inform each of its dis-
7 patching service employees in writing—

8 “(A) that all time spent performing aggre-
9 gate duty on one or more railroad carriers or
10 railroad contractors or a combination thereof
11 counts towards the limitations on duty hours of
12 this section;

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

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

18 “(2) DUTIES OF EMPLOYEES.—A dually em-
19 ployed dispatching service employee—

20 “(A) shall inform each of his or her rail-
21 road carrier employers and railroad contractor
22 employers in writing within 5 days of estab-
23 lishing an employee-employer relationship that
24 results in the employee’s becoming dually em-
25 ployed; and

1 “(B) shall ensure that each of his or her
2 railroad carrier employers and railroad con-
3 tractor employers is kept informed about the
4 employee’s current work schedule with each of
5 his or her other employing railroad carriers and
6 railroad contractors. The notification shall state
7 which portions of that service are likely to be in
8 covered service.

9 “(3) RECORD RETENTION DUTIES OF RAILROAD
10 CARRIERS AND RAILROAD CONTRACTORS.—Upon re-
11 ceiving written notification of dual employment, a
12 railroad carrier and a railroad contractor shall—

13 “(A) retain at the carrier’s system and di-
14 vision headquarters or at the railroad contrac-
15 tor’s headquarters one copy of the notification
16 for a period of 2 years after termination of such
17 dual employment status; and

18 “(B) make the record available to rep-
19 resentatives of the Secretary for inspection and
20 copying during normal business hours.”.

21 **SEC. 105. CONFORMING AMENDMENTS REGARDING HOURS
22 OF SERVICE VIOLATIONS.**

23 (a) Section 21106 is amended by striking “officers”
24 and inserting “managers, supervisors, officers.”.

1 (b) Section 21303(c) is amended by striking “offi-
2 cers” and inserting “managers, supervisors, officers.”.

3 **SEC. 106. FATIGUE MANAGEMENT PLANS.**

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

6 **“§ 21109. Fatigue management plans**

7 “(a) SUBMISSION OF PLANS AND AMENDMENTS.—
8 (1) Each Class I and Class II railroad carrier, each rail-
9 road carrier providing intercity railroad passenger service,
10 and each railroad carrier providing commuter or other
11 short-haul railroad passenger service in a metropolitan or
12 suburban area, shall submit to the Secretary of Transpor-
13 tation a fatigue management plan that is designed to re-
14 duce the fatigue experienced by railroad employees (as de-
15 fined by section 21101 of this chapter) covered by the
16 hours of service laws and railroad employees who con-
17 struct or maintain track, and to reduce the likelihood of
18 accidents and injuries caused by fatigue. The plan shall
19 discuss each of the elements set forth in subsection (b)
20 of this section and shall be submitted not more than one
21 year after enactment of this section, or not less than 45
22 days prior to commencing railroad operations, whichever
23 is later. However, with respect to any group of directly
24 affected employees, a carrier may submit its plan within
25 two years of enactment if, within one year of enactment,

1 it submits to the Secretary a letter signed by the labor
2 organization representing those employees stating that the
3 carrier is actively involved in negotiating a fatigue man-
4 agement plan with that organization. A carrier shall file
5 any amendment to its plan with the Secretary.

6 “(2) Each Class III railroad carrier that operates on
7 the track of a carrier subject to paragraph (1) of this sub-
8 section (or otherwise engages in joint operations with a
9 carrier subject to paragraph (1) of this subsection), except
10 as necessary for purposes of interchange, shall submit to
11 the Secretary a fatigue management plan that is designed
12 to reduce the fatigue experienced by train employees (as
13 defined by section 21101 of this chapter) covered by the
14 hours of service laws and to reduce the likelihood of acci-
15 dents and injuries caused by fatigue. However, the plan
16 submitted by each affected Class III railroad carrier need
17 not discuss employees who are not engaged in or connected
18 with the movement of a train over the track of a carrier
19 subject to paragraph (1) of this subsection (or otherwise
20 engage in joint operations with a carrier subject to para-
21 graph (1) of this subsection) except as necessary for the
22 purpose of interchange. The plan shall discuss the ele-
23 ments set forth in subsection (b) of this section and shall
24 be submitted not more than three years after enactment

1 of this section, or not less than 60 days prior to com-
2 mencing railroad operations, whichever is later.

3 “(3) Each railroad carrier subject to paragraph (1)
4 or (2) of this subsection shall implement its plan and any
5 amendment to that plan no later than 90 days after the
6 date of its submission to the Secretary. If the plan fails
7 to contain a discussion of any required element, the Sec-
8 retary shall notify the carrier as to the specific element
9 or elements that were omitted. The carrier shall then sub-
10 mit an amended plan within 90 days of such notification.

11 “(4)(A) Each railroad carrier subject to paragraph
12 (1) or (2) of this subsection shall employ good faith and
13 use its best efforts to reach agreement by consensus with
14 all of its directly affected employee groups (including each
15 labor organization representing a class or craft of directly
16 affected employees of the railroad carrier (as applicable))
17 on the contents of the fatigue management plan and
18 amendments to the plan, and, wherever possible, the car-
19 rier and those employee groups shall jointly submit the
20 plan and each amendment to the Secretary.

21 “(B) If the carrier and its employees cannot reach
22 consensus on the contents of the plan or an amendment
23 to the plan, then—

1 “(i) the carrier shall file the plan or amendment
2 with the Secretary as required by subsection (a) of
3 this section; and

4 “(ii) each directly affected employee group (as
5 applicable), may include in the plan or an amend-
6 ment to a plan a statement explaining its views on
7 the plan or amendment on which consensus was not
8 reached.

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

11 “(1) GENERAL FACTORS.—The fatigue manage-
12 ment plan and each amendment shall—

13 “(A) be based upon scientific knowledge
14 and literature relating to fatigue;

15 “(B) describe the methods and measures
16 the carrier will utilize to determine the effec-
17 tiveness of each fatigue countermeasure;

18 “(C) take into account the varying cir-
19 cumstances of operations by the railroad carrier
20 on different parts of its system, and what vari-
21 ations in fatigue countermeasures are appro-
22 priate to address those varying circumstances;
23 and

24 “(D) to the extent that implementation of
25 the plan is connected in any way to a waiver re-

3 “(2) SUBJECTS THAT CONCERN ALL DIRECTLY
4 AFFECTED EMPLOYEES.—With respect to directly
5 affected employees, whether working in scheduled or
6 nonscheduled service, the plan shall discuss the fol-
7 lowing subjects:

8 “(A) Education and training on the phys-
9 iological and other human factors that affect fa-
10 tigue, as well as strategies to counter fatigue.

11 “(B) Joint labor/management initiatives
12 concerning the identification, diagnosis, and
13 treatment of sleep disorders that could con-
14 tribute to fatigue.

15 “(C) Methods of avoiding increased fatigue
16 due to the need to respond to emergency situa-
17 tions, such as derailments and natural disas-
18 ters.

19 “(D) Scheduling practices that improve
20 work/rest cycles and minimize cumulative sleep
21 loss and fatigue.

22 “(E) Methods used to determine that cur-
23 rent and future staffing levels are adequate to
24 ensure that current and anticipated workloads

1 can be handled without exacerbating fatigue on
2 the part of affected employees.

3 “(F) Alertness strategies to address acute
4 sleepiness and fatigue while an employee is on
5 duty.

6 “(G) Opportunities to obtain restful sleep
7 at lodging facilities.

8 “(H) How to minimize disturbances of the
9 employee’s rest within the carrier’s control dur-
10 ing rest periods.

11 “(3) SUBJECTS THAT CONCERN DIRECTLY AF-
12 FECTED EMPLOYEES IN NONSCHEDULED SERVICE.—
13 With respect to directly affected employees working
14 in nonscheduled service, the plan shall also discuss
15 the following subjects:

16 “(A) Methods of affording greater sched-
17 uling predictability to allow an employee to bet-
18 ter plan personal activities, sleep, and prepara-
19 tion for work during the off-duty period.

20 “(B) How to provide employees with op-
21 portunities to take days off from work on a
22 scheduled basis.

23 “(C) How to avoid abrupt changes in rest
24 cycles for employees returning to duty after an

1 extended absence due to circumstances includ-
2 ing illness, injury, or vacation.

3 “(D) Ways to minimize the amount of time
4 that employees spend awaiting the arrival of
5 deadhead transportation to their points of final
6 release, and to mitigate the fatigue con-
7 sequences of excessive waiting time.

8 “(E) How to maximize the amount of rest
9 time given at the employee’s home terminal.

10 “(c) REPORTS TO THE SECRETARY ON EFFECTIVE-
11 NESS OF COUNTERMEASURES.—(1) Each railroad carrier
12 required by paragraph (1) of subsection (a) of this section
13 to submit a fatigue management plan shall also submit
14 to the Secretary by June 30 of the years 2000 through
15 2003, an annual report on the effectiveness of each fatigue
16 countermeasure that it has employed, including a descrip-
17 tion of the methods and measures employed by the carrier
18 to determine the effectiveness of these countermeasures
19 and any problems encountered in implementing them. In
20 preparing each report, a carrier shall consult with the
21 labor organizations that represent the classes or crafts of
22 directly affected employees of the railroad carrier; each re-
23 port shall include any comments these organizations have
24 on the report.

1 “(2) Each railroad carrier required by paragraph (2)
2 of subsection (a) of this section to submit a fatigue man-
3 agement plan for its affected train employees shall also
4 submit to the Secretary by June 30, 2003, a report on
5 the effectiveness of each fatigue countermeasure that it
6 has employed, including a description of the methods and
7 measures employed by the carrier to determine the effec-
8 tiveness of these countermeasures and any problems en-
9 countered in implementing them. In preparing the report,
10 a carrier shall consult with the labor organizations that
11 represent the affected train employees of the carrier, and
12 each report shall include any comments these organiza-
13 tions have on the report.

14 “(d) SECRETARY’S ASSESSMENT OF FATIGUE COUN-
15 TERMEASURES.—The Secretary shall, at least once every
16 fiscal year for the fiscal years 2000 through 2003, provide
17 to the committees of jurisdiction a current assessment
18 (which may be in letter form) of fatigue mitigation efforts
19 by railroad carriers and their directly affected employees,
20 a summary of any regulatory or other action the Secretary
21 intends to take regarding fatigue mitigation, and any rec-
22 ommendations for legislative action concerning fatigue. In
23 making such recommendations, the Secretary shall con-
24 sider whether, in the interest of railroad safety, additional
25 categories or classes of railroad carriers should be required

1 to submit fatigue management plans, including whether
2 additional categories or classes of carrier employees should
3 be covered.

4 “(e) ENFORCEMENT.—(1) It shall be a violation of
5 this section for a railroad carrier subject to this section
6 to—

7 “(A) fail to submit to the Secretary a fatigue
8 management plan or, in any, an amendment to a fa-
9 tigue management plan, by the required date;

10 “(B) submit a fatigue management plan that
11 fails to contain a discussion of the elements required
12 to be included under subsection (b) of this section,
13 unless the carrier submits a properly amended plan
14 within the time provided under subsection (a)(3) of
15 this section;

16 “(C) fail to implement substantially its fatigue
17 management plan by the required date;

18 “(D) fail to submit to the Secretary a report
19 under subsection (c) of this section by the required
20 date; or

21 “(E) submit a report under subsection (c) of
22 this section that fails to contain a discussion of the
23 elements required to be included.

24 “(2) Every day that a violation continues constitutes
25 a separate violation.

1 “(3) In addition to other enforcement actions avail-
2 able with regard to violations of this section, the Secretary
3 may, with regard to violations listed in subparagraphs
4 (1)(A) and (C) of this subsection, issue an order under
5 section 20111 of this part, directing the carrier to imple-
6 ment whatever fatigue mitigation measures the Secretary
7 finds to be appropriate to deal with the lack of a plan
8 or lack of substantial implementation of one or more ele-
9 ments of a plan, which may include restrictions on max-
10 imum on-duty hours or minimum off-duty periods, or
11 both, that are more stringent than the restrictions of this
12 chapter, such as minimum periods of advance notice of
13 reporting times, minimum periods of undisturbed rest, a
14 specified number of days off in a week or month, longer
15 periods off duty, and shorter periods on duty.

16 “(f) DEFINITIONS.—In this section:

17 “(1) DIRECTLY AFFECTED EMPLOYEE.—The
18 term ‘directly affected employee’ means—

19 “(A) with respect to a Class I or II rail-
20 road carrier or a railroad carrier providing
21 intercity railroad passenger service or commuter
22 or other short-haul railroad passenger service in
23 a metropolitan or suburban area, an employee
24 of that carrier covered by the hours of service
25 laws and an employee of that carrier who con-

3 “(B) with respect to a Class III railroad
4 carrier, a train employee (as defined by section
5 21101 of this chapter) covered by the hours of
6 service laws who is engaged in or connected
7 with the movement of a train over the track of
8 a carrier subject to subsection (a)(1) of this
9 section (or otherwise engaged in joint oper-
10 ations with a carrier subject to subsection
11 (a)(1) of this section) except as necessary for
12 purposes of interchange.

13 “(2) EMPLOYEE IN NONSCHEDULED SERV-
14 ICE.—The term ‘employee in nonscheduled service’
15 means a directly affected employee who is assigned
16 to work a tour of duty without regular and predict-
17 able starting and stopping times.

18 “(g) CONSULTATION WITH KNOWLEDGEABLE
19 GROUPS.—In carrying out duties under this section, the
20 Secretary may consult with and receive advice and rec-
21 ommendations from any group comprised of labor and
22 management representatives with relevant expertise, in-
23 cluding the North American Rail Alertness Partnership,
24 or technical experts. Such consultation is not subject to
25 the Federal Advisory Committee Act (5 U.S.C. App.).”.

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

“21109. Fatigue management plans.”.

4 **SEC. 107. JOINT SUBMISSION OF WAIVER PETITIONS.**

5 (a) AMENDMENT.—Chapter 211 is amended by strik-
6 ing section 21108 and inserting the following:

7 **“§ 21108. Joint submission of waiver petitions**

8 “(a) WAIVER.—

9 “(1) PETITION.—A railroad carrier (including a
10 Class III railroad carrier) and all labor organizations
11 representing any class or craft of directly affected
12 employees of the railroad carrier may jointly petition
13 the Secretary of Transportation for approval of a
14 waiver, in whole or in part, of compliance with this
15 chapter, in order to implement alternatives to the
16 strict application of the requirements of this chapter
17 to such class or crafts of employees, including re-
18 quirements concerning maximum on-duty and min-
19 imum off-duty periods. If the petition has any con-
20 nection to a fatigue management plan that has been
21 or will be submitted under section 21109 of this
22 chapter, the petition shall explain the relationship
23 between the waiver being sought and any specific
24 provisions of that plan.

1 “(2) AUTHORITY TO WAIVE.—Based on such a
2 joint petition under paragraph (1) or paragraph (3)
3 of this subsection, the Secretary may, after notice
4 and opportunity for comment, waive in whole or in
5 part compliance with this chapter for any specified
6 time period, if the Secretary determines that such a
7 waiver of compliance is in the public interest and
8 consistent with railroad safety. A waiver is con-
9 sistent with railroad safety if it is demonstrated that
10 the employees involved will perform their job func-
11 tions at a level of safety at least functionally equiva-
12 lent to that afforded by the provision or provisions
13 of this chapter sought to be waived. A notice of any
14 petition under this section and an explanation of any
15 waiver granted under this section shall be published
16 in the Federal Register.

17 “(3) WHEN EMPLOYEES ARE NOT REP-
18 RESENTED BY LABOR ORGANIZATIONS.—In the
19 event that labor organizations do not represent
20 classes or crafts of directly affected employees of a
21 railroad carrier, the carrier may, after consulting
22 with all of its directly affected employee groups in
23 drafting the waiver request, request the waiver of
24 any provisions of this chapter, subject to the same

1 conditions and procedures as a request made under
2 paragraph (1) of this subsection.

3 “(b) DEFINITION.—In this section, the term ‘directly
4 affected employee’ means an employee covered by the
5 hours of service laws to whose hours of service the terms
6 of the waiver petitioned for specifically apply.”.

7 (b) TABLE OF SECTIONS AMENDMENT.—The item
8 relating to section 21108 in the table of sections for chap-
9 ter 211 is amended to read as follows:

“21108. Joint submission of waiver petitions.”.

10 **SEC. 108. EMPLOYEE SLEEPING QUARTERS.**

11 Section 21106 is amended—

12 (1) by inserting “(a) SLEEPING QUARTERS.—”
13 before “A railroad carrier and its”;

14 (2) by striking the word “and” at the end of
15 paragraph (1);

16 (3) by striking the word “performed” at the
17 end of paragraph (2) and inserting “performed;
18 and”;

19 (4) by inserting the following new paragraph
20 after paragraph (2):

21 “(3) may not, after January 1, 2002, provide
22 sleeping quarters (including crew quarters, camp or
23 bunk cars, and trailers) for employees, and any indi-
24 viduals employed to maintain the right of way of a
25 railroad carrier in an area or in the immediate vicin-

1 ity of an area in which railroad switching or hump-
2 ing operations are performed.”; and

3 (5) by inserting the following at the end:

4 "(b) DEFINITION.—In subsection (a)(3) of this sec-
5 tion, the term 'immediate vicinity' means the area within
6 one-half mile (2,640 feet) (804 meters) of switching or
7 humping operations as measured from the nearest rail of
8 the nearest trackage where switching or humping oper-
9 ations are performed to the exterior wall of the structure
10 housing the sleeping quarters that is closest to such oper-
11 ations.".

12 **TITLE II—MONITORING OF RAIL-** 13 **ROAD RADIO COMMUNICA-** 14 **TIONS**

15 SEC. 201. ENHANCED INSPECTION AND INVESTIGATION AU-
16 THORITY UNDER THE FEDERAL RAILROAD
17 SAFETY LAWS.

18 Section 20107 is amended by inserting at the end the
19 following new subsections:

20 "(c) RAILROAD RADIO COMMUNICATIONS.—(1) To
21 carry out the Secretary's responsibilities under this part,
22 officers, employees, or agents of the Secretary are author-
23 ized to conduct the following kinds of inspection and inves-
24 tigative activities at reasonable times:

1 “(A) To listen to a radio communication that is
2 broadcast or transmitted over a frequency author-
3 ized by the Federal Communications Commission to
4 a railroad carrier, with or without making their
5 presence known to the sender or other receivers of
6 the communication and with or without obtaining
7 the consent of the sender or other receivers of the
8 communication.

9 “(B) To communicate the existence, contents,
10 substance, purport, effect, or meaning of the com-
11 munication, subject to the restrictions in paragraph
12 (3) of this subsection.

13 “(C) To receive or assist in receiving the com-
14 munication (or any information therein contained).

15 “(D) Having received the communication or
16 having become acquainted with the contents, sub-
17 stance, purport, effect, or meaning of the commu-
18 nication (or any part thereof), to disclose the con-
19 tents, substance, purport, effect, or meaning of the
20 communication (or any part thereof of such commu-
21 nication) or use the communication (or any informa-
22 tion contained therein), subject to the restrictions in
23 paragraph (3) of this subsection.

24 “(E) To record the communication by any
25 means, including writing and tape recording.

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

6 “(3) Information obtained in compliance with para-
7 graphs (1) and (2) of this subsection may not be used
8 as evidence for the assessment or collection of civil pen-
9 alties or for the implementation of other enforcement
10 mechanisms provided in sections 20702(b), 20111, 20112,
11 20113, or 20114 of this title and may not be conveyed
12 to a railroad carrier, but may be used as background for
13 further investigation which might lead to the discovery of
14 other useful evidence.

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

19 “(d) DEFINITION.—In this section, the term ‘at rea-
20 sonable times’ means at any time that the railroad carrier
21 being inspected or investigated is performing its rail trans-
22 portation business.”.

1 **SEC. 202. EXCEPTION TO CHAPTER 119, TITLE 18, UNITED**2 **STATES CODE.**

3 Section 2511(2) of title 18, United States Code, is
4 amended by adding after paragraph (h) the following new
5 paragraph:

6 “(i) Notwithstanding any other provision of this
7 chapter or section 605 of title 47, United States Code,
8 officers, employees, or agents of the Secretary of Trans-
9 portation in the normal course of employment and in fur-
10 therance of the Federal railroad safety laws at subtitle V,
11 part A, of title 49 may intercept radio communications
12 broadcast or transmitted over a frequency authorized by
13 the Federal Communications Commission to a railroad
14 carrier and may disclose or use the information thereby
15 obtained, for the purposes and to the extent permitted by
16 section 20107(c) of title 49.”.

17 **TITLE III—RULEMAKING
18 AUTHORITY**

19 **SEC. 301. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

20 Section 20901(a) is amended to read as follows:

21 “(a) GENERAL REQUIREMENTS.—On a periodic basis
22 not less often than monthly or, if no qualifying accident
23 or incident occurs, on a periodic basis not less often than
24 quarterly, as specified by the Secretary of Transportation,
25 a railroad carrier shall file a report with the Secretary on
26 all accidents and incidents resulting in injury or death to

1 an individual or damage to equipment or a roadbed arising
2 from the carrier's operations during that month or other
3 applicable period. The report shall state the nature, cause,
4 and circumstances of each reported accident or incident.
5 If a railroad carrier assigns human error as a cause, the
6 report shall include, at the option of each employee whose
7 error is alleged, a statement by the employee explaining
8 any factors the employee alleges contributed to the acci-
9 dent or incident.”.

10 **SEC. 302. HIGH-SPEED RAIL NOISE REGULATION.**

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

13 **“§ 20154. High-speed rail noise regulation**

14 “The Secretary of Transportation, with the concur-
15 rence of the Administrator of the Environmental Protec-
16 tion Agency, shall prescribe regulations governing noise
17 emissions from high-speed rail systems, including mag-
18 netic levitation systems, when operating at speeds greater
19 than 150 miles per hour. Railroad-related noise regula-
20 tions issued pursuant to the Noise Control Act of 1972
21 (42 U.S.C. 4916(a)) shall govern noise emissions from lo-
22 comotives, cars, and consists of locomotives and cars,
23 when operating at speeds equal to or less than 150 miles
24 per hour.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of
2 sections of subchapter II of chapter 201 is amended by
3 adding at the end the following new item:
“20154. High-speed rail noise regulation.”.

4 **TITLE IV—WHISTLEBLOWER**

5 **PROTECTION**

6 SEC. 401. EXPANSION OF EMPLOYEE PROTECTIONS.

7 (a) Section 20109(a) is amended—

13 (2) by striking “or” following the semicolon in
14 paragraph (1); and

15 (3) by striking the period at the end of para-
16 graph (2) and inserting a semicolon and the fol-
17 lowing:

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

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

24 (b) Section 20109(b) is amended—

1 (1) by striking the subsection heading and in-
2 serting “HAZARDOUS CONDITIONS.—”;

12 (3) by striking subparagraph (C) and sub-
13 stituting the following new subparagraph:

14 “(C) the employee, where possible, has notified
15 the carrier of the existence of the hazardous condi-
16 tion and the intention not to perform further work
17 or not to authorize the use of the hazardous equip-
18 ment, track, or structures, unless the condition is
19 corrected immediately or the equipment, track, or
20 structures are repaired properly or replaced.”.

21 (c) Section 20109(c) is amended by striking the sub-
22 section and inserting the following:

23 “(c) DISPUTE RESOLUTION.—

1 “(1) IN GENERAL.—A dispute, grievance, or
2 claim arising under this section is subject to
3 resolution—

4 “(A) under section 3 of the Railway Labor
5 Act (45 U.S.C. 553); or

6 “(B) through a tort action brought by the
7 employee in a district court of the United
8 States.

9 “(2) EXPEDITED RESOLUTION UNDER RAILWAY
10 LABOR ACT.—In a proceeding by the National Rail-
11 road Adjustment Board, a division of delegate of the
12 Board, or another board of adjustment established
13 under section 3 (45 U.S.C. 553) to resolve the dis-
14 pute, grievance, or claim, the proceeding shall be ex-
15 pedited and the dispute, grievance, or claim shall be
16 resolved not later than 180 days after it is filed.

17 “(3) VENUE.—A tort action under paragraph
18 (1)(B) of this subsection may be brought in the judi-
19 cial district in which the dispute, grievance, or claim
20 arose or the defendant has its principal executive of-
21 fice.

22 “(4) RELIEF.—If the employee has been found
23 by the Board, division, delegate, or other board of
24 adjustment or by the court, as applicable, to have
25 been discharged, suspended, or otherwise discrimi-

1 nated against in violation of subsection (a) or (b) of
2 this section, the Board division, delegate, or other
3 board of adjustment or the court, as applicable—

4 “(A) may award reasonable damages, in-
5 cluding punitive damages sufficient to deter the
6 railroad carrier from such conduct in the future
7 up to \$100,000; and

8 “(B) shall make the employee whole, in-
9 cluding reinstatement, with an award of back
10 pay, and with all benefits and accumulated se-
11 niority.”.

12 **TITLE V—GRADE CROSSING 13 SAFETY**

14 **SEC. 501. EMERGENCY NOTIFICATION OF GRADE CROSSING 15 PROBLEMS.**

16 Section 20152 is revised to read as follows:

17 **“§ 20152. Emergency notification of grade crossing 18 problems**

19 “(a) PROGRAM.—(1) The Secretary of Transpor-
20 tation shall promote the establishment of emergency noti-
21 fication systems utilizing toll-free telephone numbers that
22 the public can use to convey to railroad carriers, either
23 directly or through public safety personnel, information
24 about malfunctions of automated warning devices or other
25 safety problems at highway-rail grade crossings.

1 “(2) To assist in encouraging widespread use of such
2 systems, the Secretary may provide technical assistance
3 and enter into cooperative agreements. Such assistance
4 shall include appropriate emphasis on the public safety
5 needs associated with operation of small railroads.

6 “(b) REPORT.—Not later than 24 months following
7 enactment of the Federal Railroad Safety Enhancement
8 Act of 1999, the Secretary shall report to Congress the
9 status of such emergency notification systems, together
10 with any recommendations for further legislation that the
11 Secretary considers appropriate.

12 “(c) CLARIFICATION OF TERM.—In this section, the
13 use of the term ‘emergency’ does not alter the cir-
14 cumstances under which a signal employee subject to the
15 hours of service law limitations in chapter 211 of this title
16 may be permitted to work up to 4 additional hours in a
17 24-hour period when an actual ‘emergency’ under section
18 21104(c) of this title exists and the work of that employee
19 is related to the emergency.”.

20 **SEC. 502. VIOLATION OF GRADE CROSSING SIGNALS.**

21 (a) GENERAL.—Section 20151 is amended—

22 (1) by amending the section heading to read as
23 follows:

4 (2) in subsection (a)—

5 (A) by striking “and vandalism affecting
6 railroad safety” and inserting “, vandalism af-
7 fecting railroad safety, and violations of high-
8 way-rail grade crossing signals”;

9 (B) by inserting “, concerning trespassing
10 and vandalism,” after “such evaluation and re-
11 view”; and

12 (C) by inserting “The second such evalua-
13 tion and review, concerning violations of high-
14 way-rail grade crossing signals, shall be com-
15 pleted not later than one year after the date of
16 enactment of the Federal Railroad Safety En-
17 hancement Act of 1999” after “November 2,
18 1994.”;

19 (3) in the subsection heading of subsection (b),
20 by inserting “FOR TRESPASSING AND VANDALISM
21 PREVENTION” after “OUTREACH PROGRAM”;

22 (4) in subsection (c)—

23 (A) by redesignating paragraphs (1) and
24 (2) as subparagraphs (A) and (B), respectively;

25 (B) by inserting “(1)” after “MODEL LEG-
26 ISLATION.—”; and

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

3 “(2) Not later than two years after the date of the
4 enactment of the Federal Railroad Safety Enhancement
5 Act of 1999, the Secretary, after consultation with State
6 and local governments and railroad carriers, shall develop
7 and make available to State and local governments model
8 State legislation providing for civil or criminal penalties,
9 or both, for violations of highway-rail grade crossing sig-
10 nals.”; and

11 (5) by adding at the end the following new sub-
12 section:

13 "(d) DEFINITION.—In this section, 'violation of high-
14 way-rail grade crossing signals' includes any action by a
15 motorist, unless directed by an authorized safety officer—

16 “(1) to drive around or through a grade cross-
17 ing gate in a position intended to block passage over
18 railroad tracks;

19 “(2) to drive through a flashing grade crossing
20 signal;

21 “(3) to drive through a grade crossing with pas-
22 sive warning signs without determining that the
23 grade crossing could be safely crossed before any
24 train arrived; and

1 “(4) in the vicinity of a grade crossing, that
2 creates a hazard of an accident involving injury or
3 property damage at the grade crossing.”.

4 (b) CONFORMING AMENDMENT.—The item relating
5 to section 20151 in the table of sections for subchapter
6 II of chapter 201 of title 49, United States Code, is
7 amended to read as follows:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of
grade crossing signals.”.

8 **SEC. 503. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.**

9 (a) AMENDMENT.—Subchapter II of chapter 201, as
10 amended by this Act, is further amended by adding at the
11 end the following new section:

12 **“§ 20155. National highway-rail crossing inventory**

13 “(a) MANDATORY INITIAL REPORTING OF CROSSING
14 INFORMATION.—No later than September 30, 2001, each
15 railroad carrier shall—

16 “(1) report to the Secretary of Transportation
17 certain information, as specified by the Secretary by
18 rule or order issued after notice and opportunity for
19 public comment or by guidelines, concerning each
20 highway-rail crossing through which the carrier op-
21 erates; or

22 “(2) otherwise ensure that the information has
23 been reported to the Secretary by that date.

1 “(b) MANDATORY PERIODIC UPDATING OF CROSSING
2 INFORMATION.—On a periodic basis beginning no later
3 than September 30, 2003, and not less often than Sep-
4 tember 30 of every third year thereafter, or as otherwise
5 specified by the Secretary of Transportation by rule or
6 order issued after notice and opportunity for public com-
7 ment or by guidelines, each railroad carrier shall—

8 “(1) report to the Secretary certain current in-
9 formation, as specified by the Secretary by rule or
10 order issued after notice and opportunity for public
11 comment or by guidelines, concerning each highway-
12 rail grade crossing through which it operates; or

13 “(2) otherwise ensure that the information has
14 been reported to the Secretary by that date.

15 “(c) DEFINITIONS.—In this section:

16 “(1) HIGHWAY-RAIL CROSSING.—The term
17 ‘highway-rail crossing’ means a location within a
18 State where a public highway, road, street, or pri-
19 vate roadway, including associated sidewalks and
20 pathways, crosses one or more railroad tracks either
21 at grade or grade separated.

22 “(2) STATE.—The term ‘State’ means a State
23 of the United States, the District of Columbia, Puer-
24 to Rico, the Northern Mariana Islands, Guam,
25 American Samoa, and the Virgin Islands.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of
2 sections for chapter 201 is amended by adding after new
3 item 20154 the following new item:

“20155. National highway-rail crossing inventory.”.

4 (c) AMENDMENT.—Section 130 of title 23, United
5 States Code, is amended—

6 (1) by amending the section heading to read as
7 follows:

8 **“§ 130. Highway-rail crossings”;**

9 (2) by inserting the following new subsection at
10 the end:

11 “(k) NATIONAL HIGHWAY-RAIL CROSSING INVEN-
12 TORY.—

13 “(1) MANDATORY INITIAL REPORTING OF
14 CROSSING INFORMATION.—No later than September
15 30, 2001, each State shall—

16 “(A) report to the Secretary of Transpor-
17 tation certain information, as specified by the
18 Secretary by rule or order issued after notice
19 and opportunity for public comment or by
20 guidelines, concerning each highway-rail cross-
21 ing located within its borders; or

22 “(B) otherwise ensure that the information
23 has been reported to the Secretary by that date.

24 “(2) MANDATORY PERIODIC UPDATING OF
25 CROSSING INFORMATION.—On a periodic basis be-

1 ginning no later than September 30, 2003, and not
2 less often than September 30 of every third year
3 thereafter, or as otherwise specified by the Secretary
4 of Transportation by rule or order issued after no-
5 tice and opportunity for public comment or by guide-
6 lines, each State shall—

7 “(A) report to the Secretary certain cur-
8 rent information, as determined by the Sec-
9 retary by rule or order issued after notice and
10 opportunity for public comment or by guide-
11 lines, concerning each highway-rail crossing lo-
12 cated within its borders; or

13 “(B) otherwise ensure that the information
14 has been reported to the Secretary by that date.

15 “(3) DEFINITIONS.—In this subsection:

16 “(A) HIGHWAY-RAIL CROSSING.—The term
17 ‘highway-rail crossing’ means a location where
18 a public highway, road, street, or private road-
19 way, including associated sidewalks and path-
20 ways, crosses one or more railroad tracks either
21 at grade or grade separated.

22 “(B) STATE.—The term ‘State’ means a
23 State of the United States, the District of Co-
24 lumbia, Puerto Rico, the Northern Mariana Is-

1 lands, Guam, American Samoa, and the Virgin
2 Islands.”.

3 (d) TABLE OF SECTIONS AMENDMENT.—The table
4 of sections for chapter 1 of title 23, United States Code,
5 is amended by striking the existing item for section 130
6 and inserting:

“130. Highway-rail crossings.”

7 (e) CIVIL PENALTIES.—(1) Section 21301(a)(1) is
8 amended—

9 (A) by striking the period at the end of the first
10 sentence and inserting “or with section 20155”; and

11 (B) in the second sentence, by inserting “or vio-
12 lating section 20155” between “chapter 201” and
13 “is liable”.

14 (2) Section 21301(a)(2) is amended by inserting after
15 the first sentence the following: “The Secretary shall sub-
16 ject a person to a civil penalty for a violation of section
17 20155 of this title”.

TITLE VI—MISCELLANEOUS PROVISIONS

20 SEC. 601. TECHNICAL AMENDMENTS REGARDING ADJUST-
21 MENT OF CIVIL PENALTIES FOR INFLATION.

22 (a) CHAPTER 201 GENERAL VIOLATIONS.—In sec-
23 tion 21301(a)(2), as amended by this Act, insert after
24 “\$10,000” and after “\$20,000” the following: “or such
25 other amount to which the stated maximum penalty is ad-

1 justed if required by the Federal Civil Penalties Inflation
2 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.
3 2461 note)’.

4 (b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLA-
5 TIONS AND CHAPTER 203–209 VIOLATIONS.—In section
6 21302(a)(2), as amended by this Act, insert after
7 “\$10,000” and after “\$20,000” the following: “or such
8 other amount to which the stated maximum penalty is ad-
9 justed if required by the Federal Civil Penalties Inflation
10 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.
11 2461 note)’.

12 (c) CHAPTER 211 VIOLATIONS.—In section
13 21303(a)(2), as amended by this Act, insert after
14 “\$10,000” and after “\$20,000” the following: “or such
15 other amount to which the stated maximum penalty is ad-
16 justed if required by the Federal Civil Penalties Inflation
17 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.
18 2461 note)’.

19 **SEC. 602. REVISION OF SPECIAL PREEMPTION PROVISION.**

20 Section 711 of the Regional Rail Reorganization Act
21 of 1973 (section 797j of title 45, United States Code),
22 is revised to read as follows:

23 “SEC. 711. No State may continue in force any law,
24 rule, regulation, order, or standard adopted before the
25 date of enactment of the Federal Railroad Safety En-

1 hancement Act of 1999 requiring any railroad in the Re-
2 gion to employ any specified number of persons to perform
3 any particular task, function, or operation, or requiring
4 the railroad to pay protective benefits to employees.”.

5 **SEC. 603. RAILROAD SAFETY INSPECTION USER FEES.**

6 Section 20115 is amended—

7 (1) in subsection (a)—

8 (A) by striking “chapter” in the first sen-
9 tence and inserting “part”; and

10 (B) by striking paragraph (1) and insert-
11 ing the following:

12 “(1) shall cover the costs incurred by the Fed-
13 eral Railroad Administration in carrying out this
14 part and chapter 51 of this title;”;

15 (2) by striking subsection (c) and inserting the
16 following:

17 “(c) COLLECTION, DEPOSIT, AND USE.—(1) The
18 Secretary is authorized to impose and collect fees under
19 this section for each fiscal year (beginning with fiscal year
20 2000) before the end of the fiscal year to cover the costs
21 of carrying out this part and Federal Railroad Adminis-
22 tration activities in connection with chapter 51 of this
23 title.

24 “(2) Fees authorized under this section shall be col-
25 lected and available for obligation only to the extent and

1 in the amount provided in advance in appropriations acts.
2 Such fees are authorized to be appropriated to remain
3 available until expended.”; and
4 (3) by striking subsections (d) and (e).

5 SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

6 Section 20117(a) is amended—

7 (1) in subsection (a)(1), by striking “chapter”
8 and inserting “part and to carry out chapter 51 of
9 this title with respect to the railroad mode of trans-
10 portation” and by striking subparagraphs (A)
11 through (F);
12 (2) by striking subsection (a)(2); and
13 (3) by redesignating subsection (a)(1) as sub-
14 section (a), and inserting the following at the end:
15 “(1) \$117,262,000 for the fiscal year ending
16 September 30, 2000.
17 “(2) Such sums as may be necessary for fiscal
18 years 2001 through 2003.”.

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