

106TH CONGRESS
1ST SESSION

H. R. 968

To authorize appropriations for hazardous material transportation safety,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1999

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. FRANKS of New Jersey, and
Mr. WISE) (all by request) introduced the following bill; which was re-
ferred to the Committee on Transportation and Infrastructure

A BILL

To authorize appropriations for hazardous material
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.**

4 This Act may be cited as the “Hazardous Material
5 Transportation Safety Reauthorization Act of 1999”.

6 **SEC. 2. PURPOSES.**

7 (a) PURPOSES.—Section 5101 of title 49, United
8 States Code, is amended to read as follows:

1 **“§ 5101. Purposes**

2 “(a) PURPOSES.—The purposes of this chapter are
3 to—

4 “(1) ensure the safe and efficient transpor-
5 tation of hazardous material in intrastate, interstate,
6 and foreign commerce, including the loading, unload-
7 ing, and incidental storage of hazardous material;

8 “(2) provide the Secretary of Transportation
9 with preemption authority to achieve uniform regula-
10 tion of hazardous material transportation, eliminate
11 inconsistent rules that apply differently than rules
12 issued by the Secretary, ensure efficient movement
13 of hazardous material in commerce, and promote the
14 national health, welfare, and safety; and

15 “(3) provide adequate training for public sector
16 emergency response teams and hazmat employees to
17 ensure safe responses to hazardous material trans-
18 portation accidents and incidents.”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 chapter 51 of title 49, United States Code, is amended
21 by striking the item relating to section 5101 and inserting
22 the following:

“5101. Purposes.”.

23 **SEC. 3. DEFINITIONS.**

24 Section 5102 of title 49, United States Code, is
25 amended—

1 (1) in paragraph (1)—

2 (A) by striking “or” at the end of subpara-
3 graph (A);

4 (B) by striking the period at the end of
5 subparagraph (B) and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(C) on a United States-registered air-
8 craft.”; and

9 (2) in paragraph (3)—

10 (A) in subparagraph (A)(i) by inserting
11 “or self-employed” after “employer”;

12 (B) in subparagraph (B) by striking “vehi-
13 cle” and inserting “vehicle, vessel, or aircraft”;
14 and

15 (C) in subparagraph (C)(ii)—

16 (i) by inserting “designs, inspects,”
17 after “manufactures,”; and

18 (ii) by striking “and packagings” and
19 inserting “or other packagings, or a com-
20 ponent thereof,”; and

21 (D) in subparagraph (C)(iii) by inserting
22 “or rejects” after “prepares”;

23 (3) by striking paragraph (4) and inserting the
24 following:

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

1 “(A) either—

2 “(i) is self-employed;

3 “(ii) is an owner-operator of a motor
4 vehicle, vessel, or aircraft; or

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

6 “(B) performs, or uses at least one em-
7 ployee to perform, a function in connection
8 with—

9 “(i) transporting hazardous material
10 in commerce;

11 “(ii) causing hazardous material to be
12 transported in commerce;

13 “(iii) rejecting hazardous material for
14 transportation in commerce; or

15 “(iv) designing, manufacturing, recon-
16 ditioning, inspecting, or testing containers,
17 drums, other packagings, or a component
18 thereof, represented as qualified for use in
19 transporting hazardous material.”;

20 (4) in paragraph (7) by striking “title” and in-
21 serting “title, except that a freight forwarder is in-
22 cluded only if performing a function related to high-
23 way transportation”;

24 (5) by redesignating paragraphs (9) through
25 (13) as paragraphs (12) through (16), respectively;

1 (6) by inserting after paragraph (8) the follow-
2 ing:

3 “(9) ‘out-of-service order’ means a mandate
4 that an aircraft, vessel, motor vehicle, train, railcar,
5 other vehicle, transport unit, transport vehicle,
6 freight container, portable tank, or other package
7 not be moved until specified conditions have been
8 met.

9 “(10) ‘package’ or ‘outside package’ means a
10 packaging and its contents.

11 “(11) ‘packaging’ means a receptacle and any
12 other components or materials necessary for the re-
13 ceptacle to perform its containment function in con-
14 formance with the minimum packaging requirements
15 established by the Secretary of Transportation.”;
16 and

17 (7) in paragraph (12)(A) (as redesignated by
18 paragraph (5) of this section) by striking “commerce
19 or transporting hazardous material to further a com-
20 mercial enterprise” and inserting “commerce, trans-
21 porting hazardous material to further a commercial
22 enterprise, or manufacturing, reconditioning, or test-
23 ing containers, drums, or other packagings, or a
24 component thereof, represented as qualified for use
25 in transporting hazardous material”.

1 **SEC. 4. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.**

2 Section 5107 of title 49, United States Code, is
3 amended—

4 (1) in subsection (d) by striking “or duplicate”
5 in the matter preceding paragraph (1);

6 (2) in subsection (d)(2) by striking “Agency”
7 and inserting “Administrator of the Environmental
8 Protection Agency” ; and

9 (3) in subsection (e) by striking section
10 “5127(c)(3)” and inserting “section 5129(b)(1)”.

11 **SEC. 5. REGISTRATION.**

12 Section 5108 of title 49, United States Code, is
13 amended—

14 (1) by striking subsection (b)(1)(C) and insert-
15 ing the following:

16 “(C) each State in which the person carries out
17 any of the activities.”;

18 (2) by striking subsection (c) and inserting the
19 following:

20 “(c) FILING SCHEDULE.—Each person required to
21 file a registration statement under subsection (a) of this
22 section shall file that statement in accordance with regula-
23 tions issued by the Secretary.”;

24 (3) in subsection (g)(1) by striking “may” and
25 inserting “shall”;

1 (4) in subsection (g)(2)(A) by striking “\$250
2 but not more than \$5,000” and inserting “\$500”;

3 (5) in subsection (g)(2)(A) by striking “sub-
4 paragraph (B)” and inserting “subparagraph (E)”;

5 (6) in subsection (g)(2)(A)(viii) by striking
6 “sections 5108(g)(2), 5115, and 5116” and insert-
7 ing “chapter 51 (except sections 5109, 5112, and
8 5119)”;

9 (7) by striking subparagraphs (B) and (C) of
10 subsection (g)(2) and inserting the following:

11 “(B) At the beginning of each fiscal year, the Sec-
12 retary shall publish a fee schedule for the fee established
13 under this paragraph. The fee schedule shall be designed
14 to collect the following amounts:

15 “(i) Amounts authorized for that fiscal year
16 under sections 5129(b), 5129(d), 5129(e), and
17 5129(f).

18 “(ii) Amounts appropriated to the Research and
19 Special Programs Administration (RSPA) for that
20 fiscal year under subsection 5129(a)(2).

21 “(iii) Amounts appropriated to RSPA for that
22 fiscal year under subsections 5129(c) and 5129(g).

23 “(C) The Secretary shall transfer to the Secretary of
24 the Treasury all funds received by the Secretary under
25 this paragraph, except the amounts appropriated to RSPA

1 pursuant to subsection 5129(a)(2), for deposit in the ac-
 2 count the Secretary of the Treasury established under sec-
 3 tion 5116(i) of this title.

4 “(D) Fees authorized under subsection (g)(2)(B)(ii)
 5 shall be collected and available for obligation only to the
 6 extent and in the amount provided in advance in appro-
 7 priations Acts. Such fees are authorized to remain avail-
 8 able until expended.

9 “(E) The Secretary shall adjust the amount being
 10 collected under subparagraph (B) to reflect any unex-
 11 pended balance in the account established under section
 12 5116(i) of this title. However, the Secretary is not re-
 13 quired to refund any fee collected under this paragraph.”;
 14 and

15 (8) in subsection (i)(2)(B) by striking “State,”
 16 and inserting “State, Indian tribe,”.

17 **SEC. 6. MOTOR CARRIER SAFETY.**

18 (a) **MOTOR CARRIER SAFETY PERMITS.**—Section
 19 5109(h) of title 49, United States Code, is amended by
 20 striking “not later than November 16, 1991” and insert-
 21 ing “based upon the findings of the study required by sec-
 22 tion 5128(a) of this title”.

23 (b) **UNSATISFACTORY SAFETY RATING.**—Section
 24 5113 of title 49, United States Code, is amended by strik-

1 ing subsections (a) through (d) and inserting the follow-
 2 ing:

3 “A violation of section 31144(c)(3) of this title shall
 4 be considered a violation of this chapter and shall be sub-
 5 ject to the penalties in sections 5123 and 5124 of this
 6 chapter.”.

7 (c) SAFETY FITNESS OF OWNERS AND OPERA-
 8 TORS.—Section 31144(c) of title 49, United States Code,
 9 is amended—

10 (1) in paragraph (1) by striking “sections
 11 521(b)(5)(A) and 5113” and inserting “section
 12 521(b)(5)(A)”; and

13 (2) in paragraph (3) by adding at the end the
 14 following: “A violation of this paragraph shall be
 15 considered a violation of chapter 51, and shall be
 16 subject to the penalties in sections 5123 and 5124
 17 of this title.”.

18 **SEC. 7. SHIPPING PAPER RETENTION.**

19 Section 5110(e) of title 49, United States Code, is
 20 amended by striking the first sentence and inserting the
 21 following: “The person who provided the shipping paper
 22 and the carrier required to maintain it under subsection
 23 (a) of this section shall retain the paper, or an electronic
 24 image of it, for a period of 1 year after the shipping paper

1 was provided to the carrier, to be accessible through their
 2 respective principal places of business.”.

3 **SEC. 8. PUBLIC SECTOR TRAINING CURRICULUM.**

4 Section 5115 of title 49, United States Code, is
 5 amended—

6 (1) in subsection (a)—

7 (A) by striking “DEVELOPMENT AND UP-
 8 DATING.—Not later than November 16, 1992,
 9 in” and inserting “UPDATING.—In”;

10 (B) in the first sentence by striking “na-
 11 tional response team” and inserting “National
 12 Response Team for Oil and Hazardous Sub-
 13 stances”;

14 (C) in the first sentence by striking “de-
 15 velop and”; and

16 (D) by striking the second sentence;

17 (2) in subsection (b)—

18 (A) in the matter preceding paragraph (1)
 19 by striking “developed” and inserting “main-
 20 tained”;

21 (B) in paragraphs (1)(A) and (1)(B) by in-
 22 serting “or involving an alternative fuel vehicle”
 23 after “material” ; and

24 (C) in paragraph (1)(C) by striking “under
 25 other United States Government grant pro-

1 grams, including those developed with grants
2 made under section 126(g) of the Superfund
3 Amendments and Reauthorization Act of 1986
4 (42 U.S.C. 9660a)” and inserting “with Fed-
5 eral financial assistance” ;

6 (3) in subsection (c)(3) by striking “the Na-
7 tional Fire Protection Association” and inserting
8 “such voluntary consensus standard-setting organi-
9 zations as the Secretary deems appropriate”; and
10 (4) by striking subsection (d) and inserting the
11 following:

12 “(d) DISTRIBUTION AND PUBLICATION.—With the
13 National Response Team for Oil and Hazardous Sub-
14 stances, the Secretary of Transportation may publish a
15 list of programs that use a course developed under this
16 section for training public-sector employees to respond to
17 accidents or incidents involving hazardous material.”.

18 **SEC. 9. PLANNING AND TRAINING GRANTS; EMERGENCY**
19 **PREPAREDNESS FUND.**

20 (a) IN GENERAL.—Section 5116 of title 49, United
21 States Code, is amended by—

22 (1) by striking the section heading and insert-
23 ing the following:

1 **“§ 5116. Planning and training grants; emergency**
2 **preparedness fund”;**

3 (2) in the second sentence of subsection (e) by
4 striking “of the State or tribe under subsections
5 (a)(2)(A) and (b)(2)(A)” and inserting “received by
6 the State or tribe under subsections (a)(1) and
7 (b)(1)”;

8 (3) by striking subsection (f) and inserting the
9 following:

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

23 (4) in subsection (g) by striking “Government
24 grant” and inserting “Federal financial assistance”;

25 (5) by striking subsection (i) and inserting the
26 following:

1 “(i) EMERGENCY PREPAREDNESS FUND.—The Sec-
2 retary of the Treasury shall establish an Emergency Pre-
3 paredness Fund account in the Treasury into which the
4 Secretary of the Treasury shall deposit amounts the Sec-
5 retary of Transportation transfers to the Secretary of the
6 Treasury under section 5108(g)(2)(C) of this title. With-
7 out further appropriation, amounts in the account are
8 available—

9 “(1) to make grants under this section;

10 “(2) to monitor and provide technical assistance
11 under subsection (f) of this section;

12 “(3) to publish and distribute the North Amer-
13 ican Emergency Response Guidebook; and

14 “(4) to pay administrative costs of carrying out
15 this section and sections 5108(g)(2) and 5115 of
16 this title, except that not more than 10 percent of
17 the amounts made available from the account in a
18 fiscal year to carry out these sections may be used
19 to pay these costs.”; and

20 (6) by striking subsection (k) and inserting the
21 following:

22 “(k) SMALL BUSINESSES.—The Secretary may au-
23 thorize a State or Indian tribe receiving a grant under
24 this section to use up to 25 percent of the amount of the

1 grant to assist small businesses in complying with regula-
 2 tions issued under this chapter.”.

3 (b) CONFORMING AMENDMENT.—The table of sec-
 4 tions for chapter 51 of title 49, United States Code, is
 5 amended by striking the item relating to section 5116 and
 6 inserting the following:

“5116. Planning and training grants; emergency preparedness fund.”.

7 **SEC. 10. SPECIAL PERMITS AND EXCLUSIONS.**

8 (a) IN GENERAL.—Section 5117 of title 49, United
 9 States Code, is amended—

10 (1) by striking the section heading and insert-
 11 ing the following:

12 **“§ 5117. Special permits and exclusions”;**

13 (2) in subsection (a) by striking “AUTHORITY
 14 TO EXEMPT” and inserting “AUTHORITY TO ISSUE
 15 SPECIAL PERMITS”;

16 (3) by striking “an exemption” each place it ap-
 17 pears and inserting “a special permit”;

18 (4) by striking “the exemption” each place it
 19 appears and inserting “the special permit”;

20 (5) in subsection (a)(1) by inserting “authoriz-
 21 ing variances” before “from this chapter”;

22 (6) in subsection (a)(2)—

23 (A) by striking “An exemption” and in-
 24 serting “A special permit”; and

1 (B) by striking “2 years” and inserting “4
2 years”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 chapter 51 of title 49, United States Code, is amended
5 by striking the item relating to section 5117 and inserting
6 the following:

“5117. Special permits and exclusions.”.

7 **SEC. 11. UNIFORM FORMS AND PROCEDURES.**

8 Section 5119 of title 49, United States Code, is
9 amended—

10 (1) in subsection (a)(1)(A) by inserting “and
11 issue permits to” after “register”; and

12 (2) by adding at the end of subsection (c) the
13 following:

14 “(4) Pending promulgation of regulations under this
15 subsection, States may participate in a program of uni-
16 form forms and procedures recommended by the working
17 group under subsection (b).”.

18 **SEC. 12. ADMINISTRATION.**

19 Section 5121 of title 49, United States Code, is
20 amended—

21 (1) by striking subsections (a), (b), and (c);

22 (2) by redesignating subsections (d) and (e) as
23 subsections (a) and (b), respectively:

24 (3) in the second sentence of subsection (b) (as
25 so redesignated) by striking “The report shall in-

1 clude” and inserting “The report shall include or
2 make appropriate reference to”; and

3 (4) by adding at the end the following:

4 “(c) AUTHORITY FOR GRANTS, COOPERATIVE
5 AGREEMENTS, AND OTHER TRANSACTIONS.—To carry
6 out this chapter, the Secretary may enter into grants, co-
7 operative agreements, and other transactions with a per-
8 son, agency or instrumentality of the United States, a unit
9 of State or local government, an Indian tribe, a foreign
10 government (in coordination with the Department of
11 State), an educational institution, or other entity to fur-
12 ther the objectives of this chapter. The objectives of this
13 chapter include the conduct of research, development,
14 demonstration, risk assessment, emergency response plan-
15 ning and training activities.”.

16 **SEC. 13. ENFORCEMENT.**

17 Section 5122 of title 49, United States Code, is
18 amended to read as follows:

19 **“§ 5122. Enforcement**

20 “(a) GENERAL AUTHORITY.—To carry out this chap-
21 ter, the Secretary of Transportation may investigate,
22 make reports, issue subpoenas, conduct hearings, require
23 the production of records and property, take depositions,
24 and conduct research, development, demonstration, and
25 training activities. Except as provided in subsection (d)

1 of this section, the Secretary shall provide notice and an
2 opportunity for a hearing prior to issuing an order direct-
3 ing compliance with this chapter or a regulation, order,
4 special permit, or approval issued under this chapter.

5 “(b) RECORDS, REPORTS, PROPERTY, AND INFORMA-
6 TION.—A person subject to this chapter shall—

7 “(1) maintain records, make reports, and pro-
8 vide information that the Secretary by regulation or
9 order requires; and

10 “(2) make the records, reports, property, and
11 information available for inspection when the Sec-
12 retary requests.

13 “(c) INSPECTIONS AND INVESTIGATIONS.—(1) A des-
14 ignated officer or employee of the Secretary may—

15 “(A) inspect and investigate, at a reasonable
16 time and in a reasonable way, records and property
17 related to—

18 “(i) designing, manufacturing, fabricating,
19 marking, maintaining, reconditioning, repairing,
20 inspecting, testing, or distributing a packaging,
21 or a component thereof, for use by a person in
22 transporting hazardous materials in commerce;
23 or

24 “(ii) the transportation of hazardous mate-
25 rial in commerce;

1 “(B) except for the packaging immediately ad-
2 jacent to its hazardous material contents, open and
3 examine a package offered for or in transportation
4 when the officer or employee has an objectively rea-
5 sonable and articulable belief that the package may
6 contain a hazardous material;

7 “(C) remove from transportation a package or
8 related packages in a shipment offered for or in
9 transportation, and for which such officer or em-
10 ployee has an objectively reasonable and articulable
11 belief that the package or packages may pose an im-
12 minent hazard, and for which the officer or employee
13 contemporaneously documents that belief in accord-
14 ance with procedures adopted under subsection (e)
15 of this section;

16 “(D) gather information from the offeror, pack-
17 aging manufacturer or retester, or other person re-
18 sponsible for the package to ascertain the nature
19 and hazards of the contents of the package;

20 “(E) as necessary, under terms and conditions
21 specified by the Secretary, order the offeror, packag-
22 ing manufacturer or retester, or other person re-
23 sponsible for the package to have the package trans-
24 ported to, opened, and the contents examined and

1 analyzed at a facility appropriate for the conduct of
2 this activity; and

3 “(F) when safety might otherwise be com-
4 promised, authorize properly qualified personnel to
5 assist in the activities conducted under subsection
6 (c)(1)(B) of this section.

7 “(2) An officer or employee acting under this sub-
8 section shall display proper credentials when requested.

9 “(3) For instances when, as a result of the inspection
10 or investigation, an imminent hazard is not found to exist,
11 the Secretary shall develop procedures to assist in the safe
12 resumption of transportation of the package and transport
13 unit.

14 “(d) EMERGENCY ORDERS.—(1) If, upon inspection
15 or investigation, the Secretary determines that either a
16 violation of a provision of this chapter or a regulation
17 issued under this chapter, or an unsafe condition or prac-
18 tice, is causing an imminent hazard, the Secretary may
19 issue or impose emergency restrictions, prohibitions, re-
20 calls, or out-of-service orders, without notice or the oppor-
21 tunity for a hearing, but only to the extent necessary to
22 abate the imminent hazard.

23 “(2) The Secretary’s action under subsection (d)(1)
24 must be in a written order describing the violation, condi-
25 tion or practice that is causing the imminent hazard, and

1 stating the restrictions, prohibitions, recalls, or out-of-
2 service orders issued or imposed. The order also shall de-
3 scribe the standards and procedures for obtaining relief
4 from the emergency order.

5 “(3) After taking action under subsection (d)(1), the
6 Secretary shall provide an opportunity for review of that
7 action under section 554 of title 5, and such review shall
8 occur no later than 20 days after issuance of such order.

9 “(e) REGULATIONS.—The Secretary shall issue regu-
10 lations with notice and comment, including an opportunity
11 for informal hearing, to implement the authority in sub-
12 sections (c) and (d) of this section.

13 “(f) ENFORCEMENT BY THE ATTORNEY GENERAL.—
14 At the request of the Secretary, the Attorney General may
15 bring a civil action in an appropriate district court of the
16 United States to enforce this chapter or a regulation pre-
17 scribed or order issued under this chapter. The court may
18 award appropriate relief, including punitive damages.

19 “(g) IMMINENT HAZARD.—If the Secretary has rea-
20 son to believe that an imminent hazard exists, the Sec-
21 retary may request the Attorney General to bring a civil
22 action in an appropriate district court of the United
23 States—

1 “(1) to suspend or restrict the transportation of
2 the hazardous material responsible for the hazard;
3 or

4 “(2) to eliminate or mitigate the hazard.

5 “(h) WITHHOLDING OF CLEARANCE.—(1) If an
6 owner, operator, or individual in charge of a vessel is liable
7 for a civil penalty under section 5123 of this title or for
8 a fine under section 5124 of this title, or if reasonable
9 cause exists to believe that the owner, operator, or individ-
10 ual in charge may be subject to penalty or fine, the Sec-
11 retary of the Treasury, upon request of the Secretary of
12 Transportation, shall with respect to such vessel refuse or
13 revoke any clearance required by section 4197 of the re-
14 vised Statutes of the United States (46 U.S.C. App. 91).

15 “(2) Clearance refused or revoked under this sub-
16 section may be granted upon the filing of a bond or other
17 surety satisfactory to the Secretary of the Treasury.”.

18 **SEC. 14. PENALTIES.**

19 (a) CIVIL PENALTY.—Section 5123 of title 49,
20 United States Code, is amended—

21 (1) in subsection (a)(1) by striking the first
22 sentence and inserting the following: “A person that
23 knowingly violates this chapter or a regulation,
24 order, special permit, or approval issued under this
25 chapter is liable to the United States Government

1 for a civil penalty of at least \$250 but not more
2 than \$27,500 for each violation.”; and

3 (2) by striking subsection (c)(2) and inserting
4 the following:

5 “(2) with respect to the violator, the degree of cul-
6 pability, any good-faith efforts to comply with the applica-
7 ble requirements, any history of prior violations, any eco-
8 nomic benefit resulting from the violation, the ability to
9 pay, and any effect on the ability to continue to do busi-
10 ness; and”.

11 (b) CRIMINAL PENALTY.—Section 5124 of title 49,
12 United States Code, is amended to read as follows:

13 **“§ 5124. Criminal penalty**

14 “(a) GENERAL.—A person knowingly violating sec-
15 tion 5104(b) of this title or willfully violating this chapter
16 or a regulation, order, special permit, or approval issued
17 under this chapter, shall be fined under title 18, impris-
18 oned for not more than 5 years, or both. Knowledge by
19 the person of the existence of a regulation or requirement
20 prescribed by the Secretary is not an element of an offense
21 under this section.

22 “(b) AGGRAVATED VIOLATIONS.— A person know-
23 ingly violating section 5104(b) of this title or willfully vio-
24 lating this chapter or a regulation, order, special permit,
25 or approval issued under this chapter, and thereby causing

1 the release of a hazardous material, shall be fined under
 2 title 18, imprisoned for not more than 20 years, or both.”.

3 **SEC. 15. PREEMPTION.**

4 Section 5125 of title 49, United States Code, is
 5 amended—

6 (1) in subsection (a)(2) by striking “chapter”
 7 the first place it appears and inserting “chapter, the
 8 purposes of this chapter,”;

9 (2) in subsection (b)(2) by striking “after No-
 10 vember 16, 1990”; and

11 (3) by adding at the end the following:

12 “(h) INDEPENDENT APPLICATION OF EACH STAND-
 13 ARD.—Each preemption standard in subsections (a),
 14 (b)(1), (c), and (g) of this section and section 5119(c)(2)
 15 of this title is independent in its application to a require-
 16 ment of any State, political subdivision of a State, or In-
 17 dian tribe.”.

18 **SEC. 16. JUDICIAL REVIEW.**

19 (a) IN GENERAL.—Chapter 51 of title 49, United
 20 States Code, is amended—

21 (1) by redesignating section 5127 as section
 22 5129; and

23 (2) by inserting after section 5126 the follow-
 24 ing:

1 **“§ 5127. Judicial review**

2 “(a) FILING AND VENUE.—Except as provided in
3 section 20114(c) of this title, a person disclosing a sub-
4 stantial interest in a final order issued, under the author-
5 ity of section 5122 or 5123 of this title, by the Secretary
6 of Transportation, with respect to the duties and powers
7 designated to be carried out by the Secretary under this
8 chapter, may apply for review of the order in the United
9 States Court of Appeals for the District of Columbia or
10 in the court of appeals for the United States for the circuit
11 in which the person resides or has its principal place of
12 business. The petition must be filed not more than 60 days
13 after the order is issued. The court may allow the petition
14 to be filed after the 60th day only if there are reasonable
15 grounds for not filing by the 60th day.

16 “(b) JUDICIAL PROCEDURES.—When a petition is
17 filed under subsection (a) of this section, the clerk of the
18 court immediately shall send a copy of the petition to the
19 Secretary. The Secretary shall file with the court a record
20 of any proceeding in which the order was issued, as pro-
21 vided in section 2112 of title 28, United States Code.

22 “(c) AUTHORITY OF COURT.—When the petition is
23 sent to the Secretary, the court has exclusive jurisdiction
24 to affirm, amend, modify, or set aside any part of the
25 order and may order the Secretary to conduct further pro-

ceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

“(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.

“(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 of title 49, United States Code, is amended by striking the item related to section 5127 and inserting the following:

“5127. Judicial review.”

SEC. 17. SAFETY STUDY.

(a) IN GENERAL.—Chapter 51 of title 49, United States Code (as amended by section 16 of this Act) is amended by inserting after section 5127 the following:

“§ 5128. High-risk hazardous material; motor carrier safety study

“(a) STUDY.—The Secretary of Transportation shall conduct a study to—

1 “(1) determine the safety benefits and adminis-
2 trative efficiency of implementing a Federal permit
3 program for high-risk hazardous material carriers;

4 “(2) identify and evaluate alternative regulatory
5 methods and procedures that may improve the safety
6 of high-risk hazardous material carriers;

7 “(3) examine the safety benefits of increased
8 monitoring of high-risk hazardous material carriers,
9 and the costs, benefits, and procedures of existing
10 State permit programs;

11 “(4) make such recommendations as may be
12 appropriate for the improvement of uniformity
13 among existing State permit programs; and

14 “(5) assess the potential of advanced tech-
15 nologies for improving the assessment of high-risk
16 hazardous material carriers” compliance with motor
17 carrier safety regulations.

18 “(b) TIME FRAME.—The Secretary shall begin the
19 study required by subsection (a) within 6 months after
20 the date of enactment of this section and complete it with-
21 in 30 months.

22 “(c) REPORT.—The Secretary shall report the find-
23 ings of the study required by subsection (a), together with
24 such recommendations as may be appropriate, within 36
25 months after the date of enactment of this section.”.

1 (b) CONFORMING AMENDMENT.—The chapter analy-
 2 sis for chapter 51 of title 49, United States Code, is
 3 amended by adding at the end the following:

“5128. High-risk hazardous material; motor carrier safety study.

“5129. Authorization of appropriations.”.

4 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—Section 5129 of title 49, United
 6 States Code, as redesignated by section 16 of this Act,
 7 is amended to read as follows:

8 **“§ 5129. Authorization of appropriations**

9 “(a) GENERAL.—To carry out this chapter (except
 10 sections 5107(e), 5108(g), 5109, 5112, 5113, 5115, 5116,
 11 5119, and 5128)—

12 “(1) not more than \$13,638,000 is authorized
 13 to be appropriated to the Secretary of Transpor-
 14 tation for fiscal year 2000; and

15 “(2) from amounts collected under section
 16 5108(g)(2)(B)(ii) of this title, not more than
 17 \$18,213,000 is authorized to be appropriated to the
 18 Secretary for fiscal year 2000, and such sums as
 19 may be necessary are authorized to be appropriated
 20 to the Secretary for fiscal years 2001 through 2005.

21 “(b) SUPPLEMENTAL TRAINING GRANTS.—Not more
 22 than \$250,000 is available to the Secretary for fiscal year
 23 2000 and such amounts as are necessary for fiscal years
 24 2001 through 2005, from amounts in the account estab-

1 lished under section 5116(i) of this title, to carry out sec-
2 tion 5116(j) of this title.

3 “(c) TRAINING CURRICULUM.—Not more than
4 \$200,000 is available to the Secretary for fiscal year 2000
5 and such amounts as are necessary for fiscal years 2001
6 through 2005, from amounts in the account established
7 under section 5116(i) of this title, to carry out section
8 5115 of this title.

9 “(d) PLANNING AND TRAINING.—(1) Not more than
10 \$5,000,000 is available to the Secretary for fiscal year
11 2000 and such amounts as are necessary for fiscal years
12 2001 through 2005, from amounts in the account estab-
13 lished under section 5116(i) of this title, to carry out sec-
14 tion 5116(a) of this title.

15 “(2) Not more than \$7,800,000 is available to the
16 Secretary for fiscal year 2000 and such amounts as are
17 necessary for fiscal years 2001 through 2005, from
18 amounts in the account established under section 5116(i)
19 of this title, to carry out section 5116(b) of this title.

20 “(3) Not more than \$150,000 is available to the Sec-
21 retary for fiscal year 2000 and such amounts as are nec-
22 essary for fiscal years 2001 through 2005, from amounts
23 in the account established under section 5116(i) of this
24 title, to carry out section 5116(f) of this title.

1 “(e) EMERGENCY RESPONSE GUIDEBOOK.—Not
2 more than \$600,000 is available to the Secretary for fiscal
3 year 2000 and such amounts as are necessary for fiscal
4 years 2001 through 2005, from amounts in the account
5 established under section 5116(i) of this title, to publish
6 and distribute the North American Emergency Response
7 Guidebook.

8 “(f) ADMINISTRATIVE COSTS.—Not more than
9 \$300,000 is available to the Secretary for fiscal year 2000
10 and such amounts as are necessary for fiscal years 2001
11 through 2005, from amounts in the account established
12 under section 5116(i) of this title, to carry out section
13 5116(i)(4) of this title.

14 “(g) TRAINING OF HAZMAT EMPLOYEE INSTRU-
15 CTIONS.—Such amounts as necessary are authorized to be
16 appropriated to the Secretary, from amounts in the ac-
17 count established under section 5116(i) of this title, for
18 each of fiscal years 2001 through 2005, to carry out sec-
19 tion 5107(e) of this title.

20 “(h) CREDITS TO APPROPRIATIONS.—The Secretary
21 of Transportation may credit to any appropriation to carry
22 out this chapter an amount received from a State, Indian
23 tribe, or other public authority or private entity for ex-
24 penses the Secretary incurs in providing training to the
25 State, authority, or entity.

1 “(i) AVAILABILITY OF AMOUNTS.—Amounts avail-
2 able under this section remain available until expended.”.

3 (b) CONFORMING AMENDMENT.—Section 5107(e) of
4 title 49, United States Code, is amended by striking “sec-
5 tion 5127(c)(3)” and inserting “section 5129”.

6 **SEC. 19. INTERMODAL CONTAINER PILOT PROGRAM.**

7 The Secretary of Transportation, through the Com-
8 mandant of the Coast Guard, shall conduct a two-year
9 pilot program to randomly inspect intermodal containers
10 in coastal port areas in order to determine the extent to
11 which undeclared hazardous material is being offered for
12 transportation in commerce. Under this program, Coast
13 Guard inspection personnel may open and inspect any
14 intermodal container on a vessel or marine terminal or
15 elsewhere in a port area on the Atlantic, Pacific, or Gulf
16 of Mexico coasts if that container has been randomly se-
17 lected for inspection by a supervisor who is not on site.
18 The Secretary shall initiate such program within 1 year
19 after the date of enactment of this Act. Within 6 months
20 after completion of this program, the Secretary shall re-
21 port to Congress on the results of this program. That re-
22 port shall contain the number of containers inspected, the
23 number of containers containing undeclared hazardous
24 material, a description of the safety hazards posed by the

1 undeclared hazardous material, and a recommendation for
2 any legislation necessary to address those safety hazards.

3 **SEC. 20. MODES AND ROUTES STUDY.**

4 Section 5105 of title 49, United States Code, is
5 amended—

6 (1) by striking subsection (d); and

7 (2) by redesignating subsection (e) as sub-
8 section (d).

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