

108TH CONGRESS
2D SESSION

H. R. 5119

To prohibit the use of remote control locomotives to carry hazardous materials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2004

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To prohibit the use of remote control locomotives to carry hazardous materials, 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. FINDINGS.**

4 The Congress finds the following:

5 (1) In issuing remote control railroad operation
6 guidelines in 2001, the Federal Railroad Adminis-
7 tration noted that its “first priority . . . is to ensure
8 that these operations pose no threat to railroad
9 workers or the general public”.

1 (2) The Nation's freight rail system is relatively
2 open to outside access when compared to the avia-
3 tion system. Security is provided almost solely by
4 private railroad carriers, and terrorists could easily
5 gain access to a remote control locomotive or an op-
6 erator control unit and then operate a remote con-
7 trol transmitter controlling a remote control loco-
8 motive.

9 (3) Remote control locomotives carrying haz-
10 ardous materials in urban areas could be sabotaged
11 or remote control locomotives could be used to cause
12 intentional accidents with other trains, causing loss
13 of life, release of hazardous materials, and the dis-
14 ruption of interstate and international commerce.

15 (4) Therefore, the risk of terrorists hijacking
16 remote control locomotive operations is far too great
17 in situations where remote control locomotives are
18 carrying hazardous materials.

19 **SEC. 2. REMOTE CONTROL LOCOMOTIVE USE.**

20 (a) PROHIBITION.—No railroad carrier shall operate
21 or cause to be operated on the general system of railroad
22 transportation a remote control locomotive to carry haz-
23 ardous materials.

24 (b) PENALTY.—(1) A railroad carrier that knowingly
25 violates this section or a rule issued under this section is

1 liable to the United States Government for a civil penalty
2 of at least \$5,000 but not more than \$50,000 for each
3 violation. A railroad carrier acts knowingly when—

4 (A) the railroad carrier has actual knowledge of
5 the facts giving rise to the violation; or

6 (B) a reasonable railroad carrier acting in the
7 circumstances and exercising reasonable care would
8 have that knowledge.

9 (2) A separate violation occurs for each day the viola-
10 tion continues.

11 **SEC. 3. REMOTE CONTROL TRANSMITTER SECURITY.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of enactment of this Act, the Secretary of Transpor-
14 tation shall issue a rule requiring that—

15 (1) railroad carriers inventory and maintain a
16 continuous accounting of remote control transmit-
17 ters;

18 (2) such transmitters be assigned only to per-
19 sonnel with proper identification and authorization
20 to use such devices; and

21 (3) such transmitters be kept in a secure loca-
22 tion (under lock and key) when not in use.

23 (b) PENALTY.—A railroad carrier that violates the
24 rule issued under subsection (a) shall be liable to the

1 United States Government for a civil penalty of at least
2 \$5,000 for each occurrence.

3 **SEC. 4. REMOTE CONTROL LOCOMOTIVE SECURITY.**

4 (a) IN GENERAL.—Not later than 180 days after the
5 date of enactment of this Act, the Secretary of Transpor-
6 tation shall issue a rule requiring that the manual oper-
7 ational control area of any remote control locomotive be
8 kept under lock and key when such locomotive is operated
9 without personnel of the railroad carrier present.

10 (b) PENALTY.—A railroad carrier that violates the
11 rule issued under subsection (a) shall be liable to the
12 United States Government for a civil penalty of at least
13 \$5,000 for each occurrence.

14 **SEC. 5. CIVIL PENALTIES.**

15 (a) HEARING REQUIREMENT.—The Secretary of
16 Transportation may find that a railroad carrier has vio-
17 lated this Act only after notice and an opportunity for a
18 hearing. The Secretary shall impose a civil penalty under
19 this Act by giving the railroad carrier written notice of
20 the amount of the penalty.

21 (b) PENALTY CONSIDERATION.—In determining the
22 amount of a civil penalty under this Act, the Secretary
23 shall consider—

24 (1) the nature, circumstances, extent, and grav-
25 ity of the violation;

1 (2) with respect to the violator, the degree of
2 culpability, any history of prior violations, the ability
3 to pay, and any effect on the ability to continue to
4 do business; and

5 (3) other matters that justice requires.

6 (c) CIVIL ACTIONS TO COLLECT.—The Attorney
7 General may bring a civil action in an appropriate district
8 court of the United States to collect a civil penalty under
9 this Act.

10 **SEC. 6. CRIMINAL PENALTY.**

11 (a) IN GENERAL.—A railroad carrier knowingly vio-
12 lating this Act shall be fined under title 18, United States
13 Code, imprisoned for not more than 5 years, or both; ex-
14 cept that the maximum amount of imprisonment shall be
15 10 years in any case in which the violation involves the
16 release of a hazardous material that results in death or
17 bodily injury to any person.

18 (b) KNOWING VIOLATIONS.—For purposes of this
19 section—

20 (1) a railroad carrier acts knowingly when—

21 (A) the railroad carrier has actual knowl-
22 edge of the facts giving rise to the violation; or

23 (B) a reasonable railroad carrier acting in
24 the circumstances and exercising reasonable
25 care would have that knowledge; and

1 (2) knowledge of the existence of a statutory
2 provision, or a regulation or a requirement issued by
3 the Secretary of Transportation, is not an element
4 of an offense under this Act.

5 **SEC. 7. DEFINITIONS.**

6 For purposes of this Act—

7 (1) the term “hazardous material” has the
8 meaning given that term in section 5102(2) of title
9 49, United States Code;

10 (2) the term “railroad carrier” has the meaning
11 given that term in section 20102 of title 49, United
12 States Code;

13 (3) the term “remote control locomotive” means
14 a locomotive which, through use of a radio trans-
15 mitter and receiver system, can be operated by a
16 person not physically located at the controls within
17 the confines of the locomotive cab, but does not in-
18 clude a locomotive that is remotely controlled from
19 the lead locomotive of the same train; and

20 (4) the term “remote control transmitter”
21 means the transmitter component of a remote con-
22 trol locomotive system.

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