

109TH CONGRESS
1ST SESSION

S. 230

To improve railroad safety.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2005

Mr. SCHUMER (for himself and Mr. GRAHAM) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To improve railroad safety.

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 “Railroad Crossing and
5 Hazardous Materials Transport Safety Act of 2005”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—RAIL CROSSING SAFETY

Sec. 101. Review of safety of highway-rail grade crossings.

Sec. 102. Highway-rail grade crossing safety.

Sec. 103. Deputy Administrator for Highway-Rail Grade Crossing Safety.

Sec. 104. Employment of safety investigation personnel.

- Sec. 105. Increased civil penalties for violations of requirements related to highway-rail grade crossing safety.
 Sec. 106. Highway-rail grade crossing defined.
 Sec. 107. Authorization of appropriations.

TITLE II—SAFE TRANSPORT OF HAZARDOUS MATERIALS

- Sec. 201. Increased civil penalties for violations of rules regarding transportation of hazardous materials.
 Sec. 202. Authority to remove railroad cars from service.
 Sec. 203. Revocation of compliance orders.
 Sec. 204. Safety inspections of railroad cars carrying hazardous materials.
 Sec. 205. Requirement for railroad carriers to provide hazardous materials lists.
 Sec. 206. Miscellaneous amendments to chapter 51 of title 49.
 Sec. 207. Replacement of manual switches.
 Sec. 208. Employment of hazardous materials inspectors.
 Sec. 209. Deployment of positive train control systems.
 Sec. 210. Rail car separation.
 Sec. 211. Dynamic tank car standards.

1 **TITLE I—RAIL CROSSING** 2 **SAFETY**

3 **SEC. 101. REVIEW OF SAFETY OF HIGHWAY-RAIL GRADE** 4 **CROSSINGS.**

5 (a) REVIEW.—The Secretary of Transportation shall
 6 conduct a comprehensive review of the safety of all high-
 7 way-rail grade crossings in the United States. The matters
 8 reviewed shall include security measures, safety condi-
 9 tions, past accidents, and possible safety improvements.
 10 In the conduct of the review, the Secretary shall determine
 11 whether it is advisable to close any of the highway-rail
 12 grade crossings.

13 (b) PRIORITY LIST.—Based on the information col-
 14 lected in subsection (a), the Secretary shall compile, main-
 15 tain, and submit to Congress a list of the 10,000 highway-
 16 rail grade crossings most in need of safety improvements.

1 The information considered shall include, among other in-
2 formation, the population density near the highway-rail
3 grade crossings and the number of accidents and incidents
4 at crossings that are reported to the Federal Railway Ad-
5 ministration.

6 (c) INCLUSION IN HIGHWAY-RAIL GRADE CROSSING
7 DATABASE.—The Secretary shall include the information
8 collected under subsection (a) and the priority list sub-
9 mitted under subsection (b) in the national database on
10 the safety of highway-rail grade crossings required under
11 section 20154(a) of title 49, United States Code (as added
12 by section 102).

13 **SEC. 102. HIGHWAY-RAIL GRADE CROSSING SAFETY.**

14 (a) HIGHWAY-RAIL GRADE CROSSING SAFETY.—
15 Subchapter II of chapter 201 of title 49, United States
16 Code, is amended by adding at the end the following new
17 section:

18 **“§ 20154. Highway-rail grade crossing safety**

19 “(a) DATABASE OF HIGHWAY-RAIL GRADE CROSS-
20 ING SAFETY INFORMATION.—

21 “(1) REQUIREMENT FOR DATABASE.—The Sec-
22 retary of Transportation shall maintain a national
23 database of information on the safety of highway-
24 rail grade crossings in the United States.

1 “(2) ACCIDENT AND INCIDENT REPORTS TO BE
2 INCLUDED.—The Secretary shall include in the
3 database under paragraph (1), with other informa-
4 tion on the safety of highway-rail grade crossings,
5 information from incident reports filed with the Fed-
6 eral Railroad Administration regarding accidents
7 and other safety-related incidents that have occurred
8 at highway-rail grade crossings, including reports
9 submitted under paragraph (1) of subsection (c) and
10 the results of investigations under paragraph (2) of
11 such subsection.

12 “(b) INVESTIGATIONS OF FATAL ACCIDENTS.—The
13 Administrator of the Federal Railroad Administration
14 shall conduct an investigation regarding the cause of each
15 fatal accident that occurs at a highway-rail grade crossing.

16 “(c) ACCIDENT REPORTS.—The Secretary of Trans-
17 portation, in consultation with the Administrator of the
18 Federal Railroad Administration, shall prescribe regula-
19 tions—

20 “(1) requiring that, not later than 7 days after
21 being involved in an accident at a highway-rail grade
22 crossing, a railroad carrier submit to the Adminis-
23 trator an accident report on that accident as pre-
24 scribed by the FRA Guide for Preparing Accident/
25 Incident Reports; and

1 “(2) providing for a railroad carrier to be sub-
2 ject to a civil penalty of \$10,000 for each day after
3 the last day on which the report is due that the rail-
4 road carrier fails to submit such report.

5 “(d) CROSSING MALFUNCTION REPORTS.—The Sec-
6 retary of Transportation, in consultation with the Admin-
7 istrator of the Federal Railroad Administration, shall pre-
8 scribe regulations—

9 “(1) requiring that a railroad carrier submit to
10 the Administrator a Highway Rail-Grade Crossing
11 Warning System Report regarding an activation fail-
12 ure of a highway-rail grade crossing warning system
13 not later than 5 days after the railroad carrier is on
14 notice of such failure; and

15 “(2) providing for a railroad carrier to be sub-
16 ject to a civil penalty of \$5,000 for each day after
17 the last day on which the report is due that the rail-
18 road carrier fails to submit such report.

19 “(e) SAFETY IMPROVEMENTS.—The Secretary of
20 Transportation, in consultation with the Administrator of
21 the Federal Railroad Administration, shall prescribe regu-
22 lations for improving the safety, maintenance, and surveil-
23 lance of highway-rail grade crossings, including regula-
24 tions that—

1 “(1) provide for installing surveillance cameras
2 at crossings where one or more fatal accidents have
3 occurred;

4 “(2) provide for a system of annual inspection
5 of every crossing by a State or Federal inspector to
6 ensure that automated safety systems are in working
7 order, that there is no vegetation or other obstruc-
8 tion blocking the view of crossing warning signs at
9 critical locations in approaches to crossings, and
10 that appropriate crossing warning signs and other
11 safety measures are in place; and

12 “(3) provide for installing redundant automated
13 warning systems at each crossing where the volume
14 of motor vehicle traffic traversing that crossing is
15 within the highest 10 percent of volumes of tra-
16 versing motor vehicle traffic per highway-rail grade
17 crossing in the United States.

18 “(f) COOPERATION WITH FEDERAL RAILROAD AD-
19 MINISTRATION.—(1) The Administrator of the Federal
20 Railroad Administration shall—

21 “(A) identify any public or private entity that
22 prevents the Administrator from making necessary
23 safety improvements at a highway-rail grade cross-
24 ing included on the priority list of dangerous cross-
25 ings submitted to Congress by the Secretary of

1 Transportation under section 101(b) of the Railroad
2 Crossing and Hazardous Materials Transport Safety
3 Act of 2005;

4 “(B) submit to the Secretary of Transpor-
5 tation—

6 “(i) a list of the public and private entities
7 identified pursuant to subparagraph (A); and

8 “(ii) recommendations for withholding
9 from such public entities funds in the amounts
10 specified under paragraph (3) that are other-
11 wise to be disbursed from the Highway Trust
12 Fund during the fiscal year in which such de-
13 termination is made; and

14 “(C) submit to the committees of Congress
15 named in paragraph (2)—

16 “(i) a list of the public and private entities
17 identified pursuant to subparagraph (A); and

18 “(ii) a report on the recommendations
19 made pursuant to subparagraph (B)(ii).

20 “(2) The committees of Congress referred to in para-
21 graph (1)(B) are as follows:

22 “(A) The Committee on Commerce, Science,
23 and Transportation of the Senate.

24 “(B) The Committee on Transportation and In-
25 frastructure of the House of Representatives.

1 “(C) The Committee on Banking, Housing, and
2 Urban Affairs of the Senate.

3 “(D) The Committee on Financial Services of
4 the House of Representatives.

5 “(E) The Committee on Environment and Pub-
6 lic Works of the Senate.

7 “(3) The amounts referred to in paragraph (1)(B)
8 are the percentages of the funds apportioned to the State
9 of the relevant public entity for fiscal year 2004 under
10 paragraphs (1), (3), and (4) of section 104(b) of title 23,
11 United States Code, as follows:

12 “(A) For fiscal year 2005, 2 percent.

13 “(B) For fiscal year 2006, 4 percent.

14 “(C) For fiscal year 2007, 6 percent.

15 “(D) For fiscal year 2008, and each fiscal year
16 thereafter, 8 percent.

17 “(g) ACCIDENT DEFINED.—For purposes of this sec-
18 tion, the term ‘accident’ means an impact between on-
19 track railroad equipment and an automobile, bus, truck,
20 motorcycle, bicycle, farm vehicle, or pedestrian.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by adding
23 at the end the following new item:

“20154. Highway-rail grade crossing safety.”.

1 **SEC. 103. DEPUTY ADMINISTRATOR FOR HIGHWAY-RAIL**
2 **GRADE CROSSING SAFETY.**

3 Section 103 of title 49, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(f)(1) There is a Deputy Administrator of the Fed-
7 eral Railroad Administration for Highway-Rail Grade
8 Crossing Safety in the Federal Railroad Administration.
9 The Administrator shall appoint the Deputy Adminis-
10 trator.

11 “(2) The Deputy Administrator shall have the fol-
12 lowing duties:

13 “(A) Developing and evaluating policies related
14 to improving nationally the safety of highway-rail
15 grade crossings.

16 “(B) Advising the Administrator, the Secretary
17 of Transportation, and Congress regarding the sta-
18 tus of—

19 “(i) efforts to improve the safety of high-
20 way-rail grade crossings;

21 “(ii) pending investigations of accidents
22 and other safety-related incidents that have oc-
23 curred at highway-rail grade crossings; and

24 “(iii) pending civil and criminal actions re-
25 lated to highway-rail grade crossing safety.

1 “(C) Evaluating the efforts of railroad carriers
2 to improve safety measures related to highway-rail
3 grade crossings.

4 “(D) Monitoring actions taken by railroad car-
5 riers in response to failures of highway-rail grade
6 crossing warning systems.

7 “(E) Monitoring the progress of, and ensuring
8 the expeditious completion of, Federal Railroad Ad-
9 ministration investigations of accidents and other
10 safety-related incidents that have occurred at high-
11 way-rail grade crossings.

12 “(F) Ensuring that fair and adequate penalties
13 are imposed for safety violations related to highway-
14 rail grade crossings, including by—

15 “(i) advising the Chief Counsel of the Fed-
16 eral Railroad Administration regarding penalty
17 decisions;

18 “(ii) submitting an annual report to Con-
19 gress on penalties assessed for such violations,
20 including information on the minimum and
21 maximum possible fines, the initial fine rec-
22 ommendations, and the fines actually imposed;
23 and

24 “(iii) consulting with the Secretary of
25 Transportation and the Attorney General to en-

1 sure that railroad carriers responsible for such
 2 violations are consistently fined fairly and in ac-
 3 cordance with the law.

4 “(G) Establishing priorities and prescribing
 5 regulations related to improving highway-rail grade
 6 crossing safety.”.

7 **SEC. 104. EMPLOYMENT OF SAFETY INVESTIGATION PER-**
 8 **SONNEL.**

9 (a) IN GENERAL.—Not later than one year after the
 10 date of the enactment of this Act, the Secretary of Trans-
 11 portation shall employ 50 grade crossing inspectors to con-
 12 duct annual safety reviews, including reviews in connection
 13 with the comprehensive review required under section 101.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 15 are authorized to be appropriated such sums as may be
 16 necessary for the purpose of carrying out this section.

17 **SEC. 105. INCREASED CIVIL PENALTIES FOR VIOLATIONS**
 18 **OF REQUIREMENTS RELATED TO HIGHWAY-**
 19 **RAIL GRADE CROSSING SAFETY.**

20 (a) IN GENERAL.—Subchapter II of chapter 201 of
 21 title 49, United States Code (as amended by section 102),
 22 is further amended by adding at the end the following new
 23 section:

1 **“§ 20155. Civil penalties for violations of require-**
2 **ments related to highway-rail grade**
3 **crossing safety**

4 “The Secretary of Transportation, in consultation
5 with the Administrator of the Federal Railroad Adminis-
6 tration, shall prescribe regulations providing that a rail-
7 road carrier that knowingly violates, or knowingly causes
8 a violation of, a requirement related to highway-rail grade
9 crossing safety that is applicable to such carrier under this
10 subchapter is liable to the United States Government—

11 “(1) for a civil penalty of at least \$1,000,000,
12 but not more than \$20,000,000, in the case of a vio-
13 lation involving gross negligence and resulting in a
14 fatal accident;

15 “(2) for a civil penalty of at least \$25,000, but
16 not more than \$10,000,000, in the case of a viola-
17 tion involving gross negligence and not resulting in
18 a fatal accident; or

19 “(3) for a civil penalty of at least \$10,000, but
20 not more than \$1,000,000, in the case of a violation
21 not involving gross negligence.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of such chapter (as amended by section
24 102(b)) is further amended by adding at the end the fol-
25 lowing new item:

“20155. Civil penalties for violations of requirements related to highway-rail grade crossing safety.”.

1 **SEC. 106. HIGHWAY-RAIL GRADE CROSSING DEFINED.**

2 (a) IN GENERAL.—In this Act, the term “highway-
3 rail grade crossing” means any street or highway crossing
4 over a line of railroad at grade.

5 (b) DEFINITION FOR CHAPTER 201 OF TITLE 49.—
6 Section 20102 of title 49, United States Code, is amended
7 by adding at the end the following new paragraph:

8 “(3) ‘highway-rail grade crossing’ means any
9 street or highway crossing over a line of railroad at
10 grade.”.

11 (c) REPEAL OF SUPERSEDED PROVISION.—Section
12 20153(a) of such title is amended—

13 (1) by striking paragraph (1); and

14 (2) by redesignating paragraphs (2) and (3) as
15 paragraphs (1) and (2), respectively.

16 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) SAFETY IMPROVEMENTS.—There is authorized to
18 be appropriated for each of fiscal years 2005 through
19 2010, \$400,000,000 for safety improvements, including
20 the purchasing, installation, and maintenance by the Ad-
21 ministrator of the Federal Railroad Administration of
22 safety equipment and devices, at highway-rail grade cross-
23 ings, of which not less than \$100,000,000 shall be avail-
24 able for such safety improvements at highway-rail grade

1 crossings that are included on the priority list of dan-
 2 gerous crossings submitted to Congress under section
 3 101(b).

4 (b) GRANTS FOR SAFETY ENFORCEMENT.—There is
 5 authorized to be appropriated \$50,000,000 in each of fis-
 6 cal years 2005 through 2010 for grants to State and local
 7 law enforcement agencies for the support of the enforce-
 8 ment of traffic safety laws and regulations at highway-
 9 rail grade crossings.

10 **TITLE II—SAFE TRANSPORT OF**
 11 **HAZARDOUS MATERIALS**

12 **SEC. 201. INCREASED CIVIL PENALTIES FOR VIOLATIONS**
 13 **OF RULES REGARDING TRANSPORTATION OF**
 14 **HAZARDOUS MATERIALS**

15 Section 5123(a) of title 49, United States Code, is
 16 amended—

17 (1) by redesignating subparagraphs (A) and
 18 (B) as clauses (i) and (ii), respectively;

19 (2) by striking “(1) A person” and inserting
 20 “(1)(A) Except as provided in paragraph (2), a per-
 21 son”;

22 (3) by redesignating paragraph (2) as subpara-
 23 graph (B); and

1 (4) by inserting after subparagraph (B) (as re-
 2 designated by paragraph (3)) the following new
 3 paragraph:

4 “(2) A railroad carrier that knowingly violates a reg-
 5 ulation prescribed or order issued under this chapter is
 6 liable to the United States Government—

7 “(A) for a civil penalty of at least \$50,000 but
 8 not more than \$10,000,000 in the case of a violation
 9 involving gross negligence and resulting in a fatal
 10 accident;

11 “(B) for a civil penalty of at least \$5,000 but
 12 not more than \$2,500,000 in the case of a violation
 13 involving gross negligence and not resulting in a
 14 fatal accident; or

15 “(C) for a civil penalty of at least \$5,000 but
 16 not more than \$50,000 in the case of a violation not
 17 involving gross negligence.”.

18 **SEC. 202. AUTHORITY TO REMOVE RAILROAD CARS FROM**
 19 **SERVICE.**

20 Chapter 51 of title 49, United States Code, is amend-
 21 ed by adding at the end the following new section:

22 **“§ 5128. Removal of rail cars from service**

23 “The Secretary of Transportation shall prescribe reg-
 24 ulations authorizing hazardous materials inspectors to im-
 25 mediately remove railroad cars from service upon deter-

1 mining that such removal is necessary for the protection
2 of the public health and safety.”.

3 **SEC. 203. REVOCATION OF COMPLIANCE ORDERS.**

4 Chapter 51 of title 49, United States Code (as
5 amended by section 202) is further amended by adding
6 at the end the following new section:

7 **“§ 5129. Revocation of compliance orders for certain
8 railroad carriers**

9 “The Administrator of the Federal Railroad Adminis-
10 tration shall revoke and renegotiate any compliance order
11 issued under this chapter the gross violation of which by
12 a railroad carrier results in a derailment or other accident
13 involving railroad cars transporting hazardous mate-
14 rials.”.

15 **SEC. 204. SAFETY INSPECTIONS OF RAILROAD CARS CAR-
16 RYING HAZARDOUS MATERIALS.**

17 Chapter 51 of title 49, United States Code (as
18 amended by section 203) is further amended by adding
19 at the end the following new section:

20 **“§ 5130. Age limits for railroad cars carrying haz-
21 ardous materials**

22 “(a) NEWER RAILROAD CARS.—A railroad car manu-
23 factured after the date of the enactment of the Railroad
24 Crossing and Hazardous Materials Transport Safety Act
25 of 2005 may not be used to carry hazardous materials un-

1 less such car passes a safety inspection as prescribed by
 2 Federal regulations at least once every 15 years.

3 “(b) OLDER RAILROAD CARS.—A railroad car manu-
 4 factured before the date of the enactment of the Railroad
 5 Crossing and Hazardous Materials Transport Safety Act
 6 of 2005 may not be used to carry hazardous materials un-
 7 less such car—

8 “(1) passes a safety inspection as prescribed by
 9 Federal regulations not later than 1 year after such
 10 date of enactment; and

11 “(2) passes a safety inspection as prescribed by
 12 Federal regulations at least once every 15 years
 13 thereafter.

14 “(b) DATE OF MANUFACTURE.—For the purposes of
 15 this section, the date of manufacture of a railroad car is
 16 the date on which such car is put into service.”

17 **SEC. 205. REQUIREMENT FOR RAILROAD CARRIERS TO**
 18 **PROVIDE HAZARDOUS MATERIALS LISTS.**

19 Chapter 51 of title 49, United States Code (as
 20 amended by section 204) is further amended by adding
 21 at the end the following new section:

22 **“§ 5131. Requirement for railroad carriers to provide**
 23 **hazardous materials lists**

24 “(a) AUTHORITY TO REQUEST LIST.—A State home-
 25 land security coordinator may, up to 12 times in a 12-

1 month period, request from a rail carrier a comprehensive
 2 list of all hazardous materials scheduled to be transported
 3 through such State during any 6-month period.

4 “(b) REQUIREMENT TO PROVIDE LIST.—Not later
 5 than 30 days after receiving a request from a State home-
 6 land security coordinator under subsection (a), a railroad
 7 carrier shall submit the requested list to such coordinator.

8 “(c) SCOPE OF INFORMATION.—A railroad carrier
 9 submitting a list under this section shall not be required
 10 to include on such list information relating to the specific
 11 times, locations, or amounts of shipments of hazardous
 12 materials.”.

13 **SEC. 206. MISCELLANEOUS AMENDMENTS TO CHAPTER 51**
 14 **OF TITLE 49.**

15 (a) DEFINITION OF RAILROAD CARRIER.—Section
 16 5102 of title 49, United States Code, is amended by add-
 17 ing at the end the following new paragraph:

18 “(14) ‘railroad carrier’ has the meaning given
 19 that term in section 20102 of this title.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
 21 at the beginning of chapter 51 of title 49 is amended by
 22 adding at the end the following new items:

“5128. Removal of rail cars from service.

“5129. Revocation of compliance orders for certain railroad carriers.

“5130. Age limits for railroad cars carrying hazardous materials.

“5131. Requirement for railroad carriers to provide hazardous materials lists.”.

1 **SEC. 207. REPLACEMENT OF MANUAL SWITCHES.**

2 The Administrator of the Federal Railroad Adminis-
3 tration shall—

4 (1) not later than one year after the date of the
5 enactment of this Act, conduct a nationwide review
6 to determine and identify the manual railroad track
7 switches in the United States that are most in need
8 of maintenance and upgrades, based on such criteria
9 as population density near the highway-rail grade
10 crossings and the number and severity of accidents
11 and incidents at crossings that are reported to the
12 Federal Railroad Administration;

13 (2) not later than 60 days after the date of the
14 enactment of this Act, compile and submit to Con-
15 gress a list of the criteria to be used in the nation-
16 wide review under paragraph (1);

17 (3) submit to Congress not later than one year
18 after the date of the enactment of this Act a report
19 making recommendations for the replacement of the
20 switches most in need of maintenance and upgrades;
21 and

22 (4) seek, not later than 5 years after the date
23 of the enactment of this Act, to reduce by half the
24 number of switches included in the report submitted
25 under paragraph (3).

1 **SEC. 208. EMPLOYMENT OF HAZARDOUS MATERIALS IN-**
2 **SPECTORS.**

3 (a) IN GENERAL.—Not later than 5 years after the
4 date of the enactment of this Act, the Administrator of
5 the Federal Railroad Administration shall double the num-
6 ber of hazardous materials inspectors employed by the
7 Federal Railroad Administration as of the date of the en-
8 actment of this Act.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary for the purpose of carrying out this title.

12 **SEC. 209. DEPLOYMENT OF POSITIVE TRAIN CONTROL SYS-**
13 **TEMS.**

14 Not later than one year after the date of the enact-
15 ment of this Act, the Administrator of the Federal Rail-
16 road Administration shall submit to Congress a report on
17 the deployment nationally of positive train control sys-
18 tems.

19 **SEC. 210. RAIL CAR SEPARATION.**

20 Not later than one year after the date of the enact-
21 ment of this Act, the Administrator of the Federal Rail-
22 road Administration shall submit to Congress a report
23 making recommendations related to best practices for rail
24 car separation to ensure the safe transport of hazardous
25 materials.

1 **SEC. 211. DYNAMIC TANK CAR STANDARDS.**

2 The Administrator of the Federal Railroad Adminis-
3 tration shall—

4 (1) not later than one year after the date of the
5 enactment of this Act, validate the predictive model
6 the Administration is developing to quantify the rel-
7 evant dynamic forces acting on railroad tank cars
8 under accident conditions; and

9 (2) not later than 18 months after the date of
10 the enactment of this Act, initiate a rulemaking to
11 develop and implement appropriate design standards
12 for pressurized tank cars.

○