

Calendar No. 590

110TH CONGRESS
2D SESSION**S. 1889****[Report No. 110-270]**

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2007

Mr. LAUTENBERG (for himself, Mr. SMITH, Mrs. CLINTON, Mr. KERRY, Mr. SCHUMER, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH 3, 2008

Reported by Mr. INOUE, with an amendment in the nature of a substitute
[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**
 2 **MENT OF TITLE 49.**

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Railroad Safety Enhancement Act of 2007”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents; amendment of title 49.

Sec. 2. Definitions.

Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD RISK REDUCTION AND STRATEGY

Sec. 101. Establishment of chief safety officer.

Sec. 102. Railroad safety strategy.

Sec. 103. Railroad safety risk reduction pilot program.

Sec. 104. Railroad safety risk reduction program.

Sec. 105. Positive train control system implementation.

Sec. 106. Hours of service reform.

Sec. 107. Protection of railroad safety risk analyses information.

**TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN
SAFETY AND TRESPASSER PREVENTION**

Sec. 201. Pedestrian crossing safety.

Sec. 202. State action plans.

Sec. 203. Improvements to sight distance at highway-rail grade crossings.

Sec. 204. National crossing inventory.

Sec. 205. Telephone number to report grade crossing problems.

Sec. 206. Operation Lifesaver.

Sec. 207. Trespasser prevention and highway-rail crossing safety.

Sec. 208. Fostering introduction of new technology to improve safety at high-
way-rail grade crossings.

TITLE III—FEDERAL RAILROAD ADMINISTRATION

Sec. 301. Human capital increases.

Sec. 302. Civil penalty increases.

Sec. 303. Enforcement report.

Sec. 304. Prohibition of individuals from performing safety-sensitive functions
for a violation of hazardous materials transportation law.

Sec. 305. Railroad radio monitoring authority.

Sec. 306. Emergency waivers.

Sec. 307. Federal rail security officers' access to information.

Sec. 308. Update of Federal Railroad Administration's website.

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

Sec. 401. Employee training.

Sec. 402. Certification of certain crafts or classes of employees.

Sec. 403. Track inspection time study.

Sec. 404. Study of methods to improve or correct station platform gaps.
 Sec. 405. Use of distracting devices in locomotive cabs.
 Sec. 406. Railroad safety technology grants.
 Sec. 407. Railroad safety infrastructure improvement grants.
 Sec. 408. Amendment to the movement-for-repair provision.
 Sec. 409. Development and use of rail safety technology.
 Sec. 410. Employee sleeping quarters.

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.
 Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.
 Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Clarification of Federal jurisdiction over solid waste facilities.

1 (c) ~~AMENDMENT OF TITLE 49.—Except as otherwise~~
 2 ~~expressly provided, whenever in this Act an amendment~~
 3 ~~or repeal is expressed in terms of an amendment to, or~~
 4 ~~a repeal of, a section or other provision, the reference shall~~
 5 ~~be considered to be made to a section or other provision~~
 6 ~~of title 49, United States Code.~~

7 **SEC. 2. DEFINITIONS.**

8 (a) ~~IN GENERAL.—In this Act:~~

9 (1) ~~CROSSING.—The term “crossing” means a~~
 10 ~~location within a State, other than a location where~~
 11 ~~one or more railroad tracks cross one or more rail-~~
 12 ~~road tracks either at grade or grade-separated,~~
 13 ~~where—~~

14 (A) ~~a public highway, road, or street, or a~~
 15 ~~private roadway, including associated sidewalks~~

and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(B) a pathway explicitly authorized by the property owner that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

(2) DEPARTMENT.—The term “Department” means the Department of Transportation.

(3) RAILROAD.—The term “railroad” has the meaning given that term by section 20102 of title 49, United States Code.

(4) RAILROAD CARRIER.—The term “railroad carrier” has the meaning given that term by section 20102 of title 49, United States Code.

(5) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(6) STATE.—The term “State” means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) IN TITLE 49.—Section 20102 is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘Class I railroad’ means a railroad carrier that has annual carrier operating revenues that meet the threshold amount for Class I carriers, as determined by the Surface Transportation Board under section 1201.1–1 of title 49, Code of Federal Regulations.”; and

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

“(4) ‘safety-related railroad employee’ means—

“(A) a railroad employee who is subject to chapter 211;

“(B) another operating railroad employee who is not subject to chapter 211;

“(C) an employee who maintains the right of way of a railroad carrier;

“(D) an employee of a railroad carrier who is a hazmat employees as defined in section 5102(3) of this title;

“(E) an employee who inspects, repairs, or maintains locomotives, passenger cars or freight cars; and

“(F) any other employee of a railroad who directly affects railroad safety, as determined by the Secretary.”.

1 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 20117(a) is amended to read as follows:

3 “(a) IN GENERAL.—(1) There are authorized to be
4 appropriated to the Secretary of Transportation to carry
5 out this part and to carry out responsibilities under chap-
6 ter 51 as delegated or authorized by the Secretary—

7 “(A) \$245,000,000 for fiscal year 2008;

8 “(B) \$260,000,000 for fiscal year 2009;

9 “(C) \$270,000,000 for fiscal year 2010;

10 “(D) \$280,000,000 for fiscal year 2011;

11 “(E) \$290,000,000 for fiscal year 2012; and

12 “(F) \$300,000,000 for fiscal year 2013.

13 “(2) With amounts appropriated pursuant to para-
14 graph (1), the Secretary shall purchase 6 Gage Restraint
15 Measurement System vehicles and 5 track geometry vehi-
16 cles or other comparable technology to enable the deploy-
17 ment of 1 Gage Restraint Measurement System vehicle
18 and 1 track geometry vehicle or other comparable tech-
19 nology in each region.

20 “(3) There are authorized to be appropriated to the
21 Secretary \$18,000,000 for the period encompassing fiscal
22 years 2008 through 2011 to design, develop, and construct
23 the Facility for Underground Rail Station and Tunnel
24 Testing and Training at the Transportation Technology
25 Center, Inc., in Pueblo, Colorado. The facility shall be
26 used to test and evaluate the safety and security

1 vulnerabilities of above-ground and underground rail tun-
 2 nels to prevent accidents and incidents in such tunnels;
 3 to mitigate and remediate the consequences of any such
 4 accidents or incidents; and to provide a realistic scenario
 5 for training emergency responders.

6 “(4) Such sums as may be necessary from the
 7 amount appropriated pursuant to paragraph (1) for each
 8 of the fiscal years 2008 through 2013 shall be made avail-
 9 able to the Secretary for personnel in regional offices and
 10 in Washington, DC, whose duties primarily involve rail se-
 11 curity.”.

12 **TITLE I—RAILROAD SAFETY** 13 **RISK REDUCTION AND STRAT-** 14 **EGY**

15 **SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.**

16 Section 103 is amended—

17 (1) by redesignating subsections (c), (d), and
 18 (e) as subsections (e), (f), and (g); and

19 (2) by inserting after subsection (b) the fol-
 20 lowing:

21 “(e) **SAFETY AS HIGHEST PRIORITY.**—In carrying
 22 out its duties, the Administration shall consider safety as
 23 the highest priority, recognizing the clear intent, encour-
 24 agement, and dedication of Congress to the furtherance
 25 of the highest degree of safety in railroad transportation.

1 “(d) CHIEF SAFETY OFFICER.—The Administration
 2 shall have an Associate Administrator for Railroad Safety
 3 appointed in the career service by the Secretary. The Asso-
 4 ciate Administrator shall be the Chief Safety Officer of
 5 the Administration. The Associate Administrator shall
 6 carry out the duties and powers prescribed by the Admin-
 7 istrator.”.

8 **SEC. 102. RAILROAD SAFETY STRATEGY.**

9 (a) SAFETY GOALS.—In conjunction with existing
 10 federally-required and voluntary strategic planning efforts
 11 ongoing at the Department and the Federal Railroad Ad-
 12 ministration on the date of enactment of this Act, the Sec-
 13 retary shall develop a long-term strategy for improving
 14 railroad safety to cover a period of not less than 5 years.
 15 The strategy shall include an annual plan and schedule
 16 for achieving, at a minimum, the following goals:

17 (1) Reducing the number and rates of acci-
 18 dents, injuries, and fatalities involving railroads in-
 19 cluding train collisions and derailments and human
 20 factors.

21 (2) Improving the consistency and effectiveness
 22 of enforcement and compliance programs.

23 (3) Improving the identification of high-risk
 24 highway-rail grade crossings and strengthening en-

1 enforcement and other methods to increase grade
2 crossing safety.

3 (4) Improving research efforts to enhance and
4 promote railroad safety and performance.

5 (5) Preventing railroad trespasser accidents, in-
6 juries, and fatalities.

7 (b) RESOURCE NEEDS.—The strategy and annual
8 plan shall include estimates of the funds and staff re-
9 sources needed to accomplish the goals established by sub-
10 section (a). Such estimates shall also include the staff
11 skills and training required for timely and effective accom-
12 plishment of each such goal.

13 (c) SUBMISSION WITH THE PRESIDENT’S BUDG-
14 ET.—The Secretary shall submit the strategy and annual
15 plan to the Senate Committee on Commerce, Science, and
16 Transportation and the House of Representatives Com-
17 mittee on Transportation and Infrastructure at the same
18 time as the President’s budget submission.

19 (d) ACHIEVEMENT OF GOALS.—

20 (1) PROGRESS ASSESSMENT.—No less fre-
21 quently than annually, the Secretary shall assess the
22 progress of the Department toward achieving the
23 strategic goals described in subsection (a). The Sec-
24 retary shall identify any deficiencies in achieving the

goals within the strategy and develop and institute measures to remediate such deficiencies.

(2) REPORT TO CONGRESS.—Not later than November 1st of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PROGRAM.

(a) IN GENERAL.—Subchapter H of chapter 201 is amended by adding at the end thereof the following:

“§ 20156. Railroad safety risk reduction pilot program

(a) PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary of Transportation shall develop a 2-year railroad safety risk reduction pilot program to systematically evaluate and manage railroad safety risks with the goal of reducing the numbers and rates of railroad accidents, injuries, and fatalities. Not later than 9 months after

1 the date of enactment of the Railroad Safety En-
2 hancement Act of 2007, the Secretary shall, in co-
3 ordination with selected railroads, railroad facilities,
4 and the nonprofit employee labor organizations that
5 represent safety-related railroad employees employed
6 at such railroad or railroad facility, at a minimum—

7 “(A) identify the aspects of a selected rail-
8 road or railroad facility, including operating
9 practices, infrastructure, equipment, employee
10 levels and schedules, safety culture, manage-
11 ment structure, employee training, and other
12 matters, including those not covered by railroad
13 safety regulations or other Federal regulations,
14 that impact railroad safety;

15 “(B) evaluate how these aspects of a se-
16 lected railroad or railroad facility increase or
17 decrease risks to railroad safety;

18 “(C) develop a safety risk reduction pro-
19 gram to improve the safety of a selected rail-
20 road or railroad facility by reducing the num-
21 bers and rates of accidents, injuries, and fatali-
22 ties through—

23 “(i) the mitigation of the aspects of a
24 selected railroad or railroad facility that
25 increase risks to railroad safety; and

1 “(ii) the enhancement of aspects of a
2 selected railroad or railroad facility that
3 decrease risks to railroad safety; and

4 “(D) incorporate into the program the con-
5 sideration and use of existing, new, or novel
6 technology; operating practices; risk manage-
7 ment practices or other behavior-based practices
8 that could improve railroad safety at the se-
9 lected railroad or railroad facility.

10 “(2) IMPLEMENTATION DEADLINE.—Not later
11 than 12 months after the date of enactment of the
12 Railroad Safety Enhancement Act of 2007, the se-
13 lected railroad or railroad facility shall implement
14 the safety risk reduction program developed under
15 paragraph (1)(C) on the selected railroad or railroad
16 facility and ensure that all employees at the selected
17 railroad or railroad facility have received and are
18 complying with training related to the program.

19 “(b) SELECTION OF RAILROAD OR RAILROAD FACIL-
20 ITY FOR PILOT PROGRAM.—Not later than 3 months after
21 the date of enactment of the Railroad Safety Enhance-
22 ment Act of 2007, the Secretary shall develop a voluntary
23 application process to select 1 or more railroad or railroad
24 facilities where the pilot project will be implemented. The
25 application process shall include criteria for rating appli-

1 cants, such as safety performance, accident and incident
 2 history, existence of risk management or behavior-based
 3 practices at the railroad or railroad facility, number of em-
 4 ployees employed at the railroad or railroad facility, and
 5 other relevant criteria determined by the Secretary.

6 “(c) EVALUATION.—Not later than 6 months after
 7 the completion of the safety risk reduction program pilot
 8 program, the Secretary shall submit a report to Congress
 9 evaluating the pilot program, which shall include—

10 “(1) a summary of the railroad safety risk re-
 11 duction pilot program and description of the actions
 12 taken by the Secretary and selected railroad or rail-
 13 road facilities during the program;

14 “(2) an analysis of the difference in the number
 15 and rates of accidents, injuries, and fatalities at a
 16 selected railroad or railroad facility before and after
 17 the implementation of the risk reduction pilot pro-
 18 gram at a selected railroad or railroad facility; and

19 “(3) guidelines on the preparation and imple-
 20 mentation of railroad safety risk reduction program
 21 for the railroad carriers required to develop such
 22 plans under section 20157 that reflect that best
 23 practices developed during the pilot program.”.

1 (b) **CONFORMING AMENDMENT.**—The chapter anal-
 2 ysis for chapter 201 is amended by inserting after the item
 3 relating to section 20155 the following:

“20156. Railroad safety risk reduction pilot program.”.

4 **SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.**

5 (a) **IN GENERAL.**—Subchapter H of chapter 201, as
 6 amended by section 103, is amended by adding at end
 7 thereof the following:

8 **“§ 20157. Railroad safety risk reduction program**

9 “(a) **IN GENERAL.**—

10 “(1) **PROGRAM REQUIREMENT.**—Not later than
 11 2 years after the Secretary of Transportation sub-
 12 mits the report required by section 20156, the Sec-
 13 retary, by regulation, shall require each railroad ear-
 14 rier that is a Class I railroad, a railroad carrier that
 15 has inadequate safety performance (as determined
 16 by the Secretary), or a railroad that provides inter-
 17 city passenger or commuter rail passenger transpor-
 18 tation—

19 “(A) to develop a railroad safety risk re-
 20 duction program under subsection (d) that sys-
 21 tematically evaluates railroad safety risks and
 22 manages those risks in order to reduce the
 23 numbers and rates of railroad accidents, inju-
 24 ries, and fatalities;

1 “(B) to submit its program, including any
2 required plans, to the Federal Railroad Admin-
3 istration for its review and approval; and

4 “(C) to implement the program and plans
5 approved by the Federal Railroad Administra-
6 tion.

7 “(2) RELIANCE ON PILOT PROGRAM.—The Sec-
8 retary shall use the information and experience gath-
9 ered through the pilot program under section 20156
10 in developing regulations under this section.

11 “(3) WAIVERS.—The Secretary may grant a
12 waiver under section 20103(d) to a railroad carrier
13 from compliance with all or a part of the require-
14 ments of this section if the Secretary determines
15 that the safety performance of the railroad carrier is
16 sufficient to warrant the waiver.

17 “(4) VOLUNTARY COMPLIANCE.—A railroad
18 carrier that is not required to submit a railroad
19 safety risk reduction program under this section
20 may voluntarily submit a program that meets the re-
21 quirements of this section to the Federal Railroad
22 Administration. The Federal Railroad Administra-
23 tion shall approve or disapprove any program sub-
24 mitted under this paragraph.

1 “(b) CERTIFICATION.—The chief official responsible
 2 for safety of each railroad carrier required to submit a
 3 railroad safety risk reduction program under subsection
 4 (a) shall certify that the contents of the program are accu-
 5 rate and that the railroad will implement the contents of
 6 the program as approved by the Federal Railroad Admin-
 7 istration.

8 “(c) RISK ANALYSIS.—In developing its railroad safe-
 9 ty risk reduction program each railroad required to submit
 10 such a program under subsection (a) shall identify and
 11 analyze the aspects of its railroad, including operating
 12 practices, infrastructure, equipment, employee levels and
 13 schedules, safety culture, management structure, employee
 14 training, and other matters, including those not covered
 15 by railroad safety regulations or other Federal regulations,
 16 that impact railroad safety.

17 “(d) PROGRAM ELEMENTS.—

18 “(1) IN GENERAL.—Each railroad required to
 19 submit a railroad safety risk reduction program
 20 under subsection (a) shall develop a comprehensive
 21 safety risk reduction program to improve safety by
 22 reducing the number and rates of accidents, injuries,
 23 and fatalities that is based on the risk analysis re-
 24 quired by subsection (c) through—

1 “(A) the mitigation of aspects that in-
2 crease risks to railroad safety; and

3 “(B) the enhancement of aspects that de-
4 crease risks to railroad safety.

5 “(2) REQUIRED COMPONENTS.—Each railroad’s
6 safety risk reduction program shall include a tech-
7 nology implementation plan that meets the require-
8 ments of subsection (e) and a fatigue management
9 plan that meets the requirements of subsection (f).

10 “(e) TECHNOLOGY IMPLEMENTATION PLAN.—

11 “(1) IN GENERAL.—As part of its railroad safe-
12 ty risk reduction program, a railroad required to
13 submit a railroad safety risk reduction program
14 under subsection (a) shall develop a 10-year tech-
15 nology implementation plan that describes the rail-
16 road’s plan for development, adoption, implementa-
17 tion, and use of current, new, or novel technologies
18 on its system over a 10-year period to reduce safety
19 risks identified under the railroad safety risk reduc-
20 tion program.

21 “(2) TECHNOLOGY ANALYSIS.—A railroad’s
22 technology implementation plan shall include an
23 analysis of the safety impact, feasibility, and cost
24 and benefits of implementing technologies, including
25 processor-based technologies, positive train control

1 systems (as defined in section 20158(b)), electroni-
 2 cally controlled pneumatic brakes, rail integrity in-
 3 spection systems, rail integrity warning systems,
 4 switch position indicators, trespasser prevention
 5 technology, highway rail grade crossing technology,
 6 and other new or novel railroad safety technology, as
 7 appropriate, that may mitigate risks to railroad safe-
 8 ty identified in the risk analysis required by sub-
 9 section (e).

10 “(3) IMPLEMENTATION SCHEDULE.—A rail-
 11 road’s technology implementation plan shall contain
 12 a prioritized implementation schedule for the devel-
 13 opment, adoption, implementation, and use of cur-
 14 rent, new, or novel technologies on its system to re-
 15 duce safety risks identified under the railroad safety
 16 risk reduction program.

17 “(f) FATIGUE MANAGEMENT PLAN.—

18 “(1) IN GENERAL.—As part of its railroad safe-
 19 ty risk reduction program, a railroad required to
 20 submit a railroad safety risk reduction program
 21 under subsection (a) for which the analysis under
 22 subsection (e) has shown fatigue to be a significant
 23 source of risk shall develop a fatigue management
 24 plan that is designed to reduce the fatigue experi-
 25 enced by safety-related railroad employees and to re-

duce the likelihood of accidents, injuries, and fatalities caused by fatigue.

~~“(2) TARGETED FATIGUE COUNTER-~~
~~MEASURES.—~~A railroad’s fatigue management plan shall take into account the varying circumstances of operations by the railroad on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

~~“(3) ADDITIONAL ELEMENTS.—~~A railroad shall consider the need to include in its fatigue management plan elements addressing each of the following items, as applicable:

~~“(A) Employee education and training on the physiological and human factors that affect fatigue, as well as strategies to reduce or mitigate the effects of fatigue, based on the most current scientific and medical research and literature.~~

~~“(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.~~

~~“(C) Effects on employee fatigue of an employee’s short-term or sustained response to emergency situations, such as derailments and~~

1 natural disasters, or engagement in other inten-
2 sive working conditions.

3 “(D) Scheduling practices for employees,
4 including innovative scheduling practices for
5 employees, including scheduling procedures, on-
6 duty call practices, work and rest cycles, in-
7 creases in consecutive days off for employees,
8 changes in shift patterns, appropriate sched-
9 uling practices for varying types of work, and
10 other aspects of employee scheduling that would
11 reduce employee fatigue and cumulative sleep
12 loss.

13 “(E) Methods to minimize accidents and
14 incidences that occur as a result of working at
15 times when scientific and medical research have
16 shown increased fatigue disrupts employees’ cir-
17 eadian rhythm.

18 “(F) Alertness strategies, such as policies
19 on napping, to address acute sleepiness and fa-
20 tigue while an employee is on duty.

21 “(G) Opportunities to obtain restful sleep
22 at lodging facilities, including employee sleeping
23 quarters provided by the railroad carrier.

24 “(H) The increase of the number of con-
25 secutive hours of off-duty rest, during which an

1 employee receives no communication from the
2 employing railroad carrier or its managers, su-
3 pervisors, officers, or agents.

4 “(I) Avoidance of abrupt changes in rest
5 cycles for employees.

6 “(J) Additional elements that the Sec-
7 retary considers appropriate.

8 “(g) CONSENSUS.—

9 “(1) IN GENERAL.—Each railroad required to
10 submit a railroad safety risk reduction program
11 under subsection (a) shall consult with, employ good
12 faith and use its best efforts to reach agreement
13 with, all of its directly affected employees on the
14 contents of the safety risk reduction program.

15 “(2) STATEMENT.—If the railroad carrier and
16 its directly affected employees, including any non-
17 profit employee labor organization representing a
18 class or craft of directly affected employees of the
19 railroad carrier, cannot reach consensus on the pro-
20 posed contents of the plan, then directly affected
21 employees and such organization may file a state-
22 ment with the Secretary explaining their views on
23 the plan on which consensus was not reached. The
24 Secretary shall consider such views during review
25 and approval of the program.

1 “(h) **ENFORCEMENT.**—The Secretary shall have the
 2 authority to assess civil penalties pursuant to chapter 213
 3 for a violation of this section, including the failure to sub-
 4 mit, certify, or comply with a safety risk reduction pro-
 5 gram, technology implementation plan, or fatigue manage-
 6 ment plan.”.

7 (b) **CONFORMING AMENDMENT.**—The chapter anal-
 8 ysis for chapter 201, as amended by section 103, is further
 9 amended by inserting after the item relating to section
 10 20156 the following:

“20157. Railroad safety risk reduction program.”.

11 **SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTA-**
 12 **TION.**

13 (a) **IN GENERAL.**—Subchapter H of chapter 201, as
 14 amended by section 104, is further amended by adding
 15 at end thereof the following:

16 **“§ 20158. Positive train control system implementa-**
 17 **tion**

18 “(a) **IN GENERAL.**—The Secretary of Transportation
 19 shall ensure that each railroad required to submit a rail-
 20 road safety risk reduction program pursuant to section
 21 20157 that includes in its technology implementation plan
 22 a schedule for implementation of a positive train control
 23 system complies with that schedule and implements its
 24 positive train control system by December 31, 2018, un-

1 less the Secretary determines that a railroad shall imple-
 2 ment its positive train control system by an earlier date.

3 “(b) POSITIVE TRAIN CONTROL SYSTEM DE-
 4 FINED.—The term ‘positive train control system’ means
 5 a system designed to prevent train-to-train collisions, over-
 6 speed derailments, and incursions into roadway worker
 7 work limits.”.

8 (b) CONFORMING AMENDMENT.—The chapter anal-
 9 ysis for chapter 201, as amended by section 104, is further
 10 amended by inserting after the item relating to section
 11 20157 the following:

“20158. Positive train control system implementation.”.

12 **SEC. 106. HOURS OF SERVICE REFORM.**

13 (a) CHANGE IN DEFINITION OF SIGNAL EM-
 14 PLOYEE.—Section 21101(4) is amended—

15 (1) by striking “employed by a railroad ear-
 16 rier”; and

17 (2) by inserting “railroad” after “maintaining”.

18 (b) LIMITATION ON DUTY HOURS OF TRAIN EM-
 19 PLOYEES.—Section 21103 is amended—

20 (1) by striking subsection (a) and inserting the
 21 following:

22 “(a) IN GENERAL.—Except as provided in subsection
 23 (c) of this section, a railroad carrier and its officers and
 24 agents may not require or allow a train employee to re-
 25 main or go on duty—

1 ~~“(1) for a period in excess of 12 consecutive~~
 2 ~~hours;~~

3 ~~“(2) unless the employee has had at least 10~~
 4 ~~consecutive hours off duty during the prior 24~~
 5 ~~hours; or~~

6 ~~“(3) unless the employee has had at least one~~
 7 ~~period of at least 24 consecutive hours off duty in~~
 8 ~~the past 7 consecutive days.~~

9 The Secretary may waive paragraph (3) if a collective bar-
 10 gaining agreement provides a different arrangement and
 11 such arrangement provides an equivalent level of safety
 12 and protection against fatigue for affected employees.”;

13 (2) by striking subsection (b)(4) and inserting
 14 the following:

15 ~~“(4)(A)(i) Time spent waiting for or in~~
 16 ~~deadhead transportation to a duty assignment and;~~
 17 ~~except as provided in clauses (ii) and (iii); time~~
 18 ~~spent waiting for or in deadhead transportation from~~
 19 ~~a duty assignment to the place of final release is~~
 20 ~~time on duty.~~

21 ~~“(ii) Time spent waiting for or in deadhead~~
 22 ~~transportation from a duty assignment to a place of~~
 23 ~~final release is neither time on duty nor time off~~
 24 ~~duty in situations involving delays in the operations~~

1 of the railroad carrier, when delays were caused
2 by—

3 “(I) a casualty;

4 “(II) an accident;

5 “(III) a track obstruction;

6 “(IV) an act of God;

7 “(V) a severe weather event;

8 “(VI) a severe snowstorm;

9 “(VII) a landslide;

10 “(VIII) a track or bridge washout;

11 “(IX) a derailment;

12 “(X) a major equipment failure which pre-
13 vents a train from advancing; or

14 “(XI) any other delay from a cause un-
15 known or unforeseeable to a railroad carrier
16 and its officers and agents in charge of the em-
17 ployee when the employee left a designated ter-
18 minal.

19 “(iii) In addition to any time qualifying as nei-
20 ther on duty nor off duty under clause (ii), the rail-
21 road carrier may elect to treat not more than 4
22 hours a day and not more than 30 hours a month
23 per employee of time spent waiting for or in
24 deadhead transportation to the place of final release
25 as neither time on duty nor time off duty for 3 years

1 after the date of enactment of the Railroad Safety
2 Enhancement Act of 2007.

3 “(B) Each railroad shall report to the Sec-
4 retary, in accordance with the procedures contained
5 in section 228.19 of title 49, Code of Federal Regu-
6 lations, each instance in which an employee subject
7 to this section spends time waiting for or in
8 deadhead transportation from a duty assignment to
9 the place of final release that is not time on duty.

10 “(C) If—

11 “(i) the time spent waiting for or in
12 deadhead transportation from a duty assign-
13 ment to the place of final release, that is not
14 time on duty, plus

15 “(ii) the time on duty,

16 exceeds 12 consecutive hours, the railroad carrier
17 and its officers and agents shall provide, at the elec-
18 tion of the employees subject to this section, employ-
19 ees with additional time off duty equal to the num-
20 ber of hours that such sum exceeds 12 hours.”; and

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

22 “(d) COMMUNICATION DURING TIME OFF DUTY.—

23 During a train employee’s minimum off-duty period of 10
24 consecutive hours, as provided under subsection (a), or
25 during an interim period of at least 4 consecutive hours

1 available for rest under subsection (b)(7), a railroad car-
 2 rier, and its managers, supervisors, officers, and agents,
 3 shall not communicate with the train employee by tele-
 4 phone, by pager, or in any other manner that could dis-
 5 rupt the employee's rest. Nothing in this subsection shall
 6 prohibit communication necessary to notify an employee
 7 of an emergency situation (as defined by the Secretary).
 8 The Secretary may waive the requirements of this para-
 9 graph, subject to section 20103, for a railroad that pro-
 10 vides commuter or intercity passenger transportation if
 11 the Secretary determines that it is necessary to maintain
 12 that railroad's efficient operations and on-time perform-
 13 ance of its trains."

14 (c) LIMITATION ON DUTY HOURS OF SIGNAL EM-
 15 PLOYEES.—Section 21104 is amended—

16 (1) by striking subsection (a) and inserting the
 17 following:

18 "(a) IN GENERAL.—Except as provided in subsection
 19 (c) of this section, a railroad carrier, its officers and
 20 agents, and a contractor or subcontractor to a railroad
 21 may not require or allow a signal employee to remain or
 22 go on duty—

23 "(1) for a period in excess of 12 consecutive
 24 hours; or

1 ~~“(2) unless the employee has had at least 10~~
 2 ~~consecutive hours off duty during the prior 24~~
 3 ~~hours.”;~~

4 (2) by striking “duty, except that up to one
 5 hour of that time spent returning from the final
 6 trouble call of a period of continuous or broken serv-
 7 ice is time off duty.” in subsection (b)(3) and insert-
 8 ing “duty.”;

9 (3) by adding “A signal employee may not be
 10 allowed to remain or go on duty under the emer-
 11 gency authority provided under this subsection to
 12 conduct routine repairs, maintenance, or inspection
 13 of signal systems.” at the end of subsection (c); and

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

15 ~~“(d) COMMUNICATION DURING TIME OFF DUTY.—~~
 16 ~~During a signal employee’s minimum off-duty period of~~
 17 ~~10 consecutive hours, as provided under subsection (a),~~
 18 ~~a railroad carrier, and its managers, supervisors, officers,~~
 19 ~~and agents, shall not communicate with the signal em-~~
 20 ~~ployee by telephone, by pager, or in any other manner that~~
 21 ~~could disrupt the employee’s rest. Nothing in this sub-~~
 22 ~~section shall prohibit communication necessary to notify~~
 23 ~~an employee of an emergency situation (as defined by the~~
 24 ~~Secretary).~~

1 “(e) ~~EXCLUSIVITY.~~—The hours of service, duty
 2 hours, and rest periods of signal employees shall be gov-
 3 erned exclusively by this chapter. Signal employees oper-
 4 ating motor vehicles shall not be subject to any hours of
 5 service rules, duty hours, or rest period rules promulgated
 6 by any Federal authority, including the Federal Motor
 7 Carrier Safety Administration, other than the Federal
 8 Railroad Administration.”.

9 (d) ~~REGULATORY AUTHORITY.~~—

10 (1) ~~IN GENERAL.~~—Chapter 211 is amended by
 11 adding at the end thereof the following:

12 **“§ 21109. Regulatory authority**

13 “(a) ~~IN GENERAL.~~—The Secretary of Transportation
 14 may issue regulations—

15 “(1) to reduce the maximum hours an employee
 16 or class of employees may be required or allowed to
 17 go or remain on duty to a level less than the level
 18 established under this chapter;

19 “(2) to increase the minimum hours an em-
 20 ployee or class of employees may be required to rest
 21 to a level greater than the level established under
 22 this chapter; or

23 “(3) to make other changes to the maximum
 24 hours or minimum hours an employee or class of
 25 employees may be allowed to go or remain on duty;

1 or may be required to rest, that will significantly in-
 2 crease safety.

3 “(b) REDUCTION OF LIMBO TIME.—Not later than
 4 2 years after the date of enactment of the Railroad Safety
 5 Enhancement Act of 2007, the Secretary shall issue regu-
 6 lations that limit the time an employee spends waiting for
 7 or in deadhead transportation to the place of final release
 8 to be considered neither on duty nor off duty under section
 9 21103(b)(4)(A)(iii) to a number of hours per day and per
 10 month per employee that is necessary to maintain an ade-
 11 quate level of safety, not to exceed 20 hours per month.

12 “(c) CONSIDERATIONS.—In issuing regulations pur-
 13 suant to subsection (a) and (b), the Secretary shall con-
 14 sider the variations in freight and passenger railroad
 15 scheduling practices; the variations in duties performed by
 16 employees subject to this chapter; the railroad’s required
 17 or voluntary use of fatigue management plans covering
 18 employees subject to this chapter; scientific or medical re-
 19 search or knowledge related to fatigue; the railroad’s use
 20 of new or novel technology intended to eliminate human
 21 error; and any other relevant factors.

22 “(d) TIME LIMITS.—If the Secretary requests that
 23 the Railroad Safety Advisory Committee accept the task
 24 of developing regulations under subsection (a) and (b) and
 25 the Committee accepts the task, the Committee shall reach

1 consensus on the rulemaking within 24 months after ac-
 2 cepting the task. If the Committee does not reach con-
 3 sensus within 24 months after the Secretary makes the
 4 request, the Secretary shall prescribe appropriate regula-
 5 tions within 1 year. If the Secretary does not request that
 6 the Railroad Safety Advisory Committee accept the task
 7 of developing regulations under subsections (a) and (b),
 8 the Secretary shall issue regulations within 3 years.

9 “(c) PILOT PROJECTS.—

10 “(1) IN GENERAL.—Not later than 2 years
 11 after the date of enactment of the Railroad Safety
 12 Enhancement Act of 2007, the Secretary shall con-
 13 duct 2 pilot projects to analyze specific practices
 14 which may be used to reduce fatigue for railroad em-
 15 ployees as follows:

16 “(A) A pilot project at a railroad or rail-
 17 road facility to evaluate the efficacy of commu-
 18 nicating to employees notice of their assigned
 19 shift time 10 hours prior to the beginning of
 20 their assigned shift as a method for reducing
 21 employee fatigue.

22 “(B) A pilot project at a railroad or rail-
 23 road facility to evaluate the efficacy of requiring
 24 railroads who use employee scheduling practices
 25 that subject employees to periods of unsched-

1 uled duty calls to assign employees to defined
 2 or specific unscheduled call shifts that are fol-
 3 lowed by shifts not subject to call, as a method
 4 for reducing employee fatigue.

5 “(2) ~~WAIVER.~~—The Secretary may temporarily
 6 waive the requirements of this section, if necessary,
 7 to complete a pilot project under this subsection.

8 “(f) ~~DUTY CALL DEFINED.~~—In this section the term
 9 ‘duty call’ means a telephone call that a railroad places
 10 to an employee to notify the employee of his or her as-
 11 signed shift time.”.

12 (2) ~~CONFORMING AMENDMENT.~~—The chapter
 13 analysis for chapter 211 is amended by adding at
 14 the end thereof the following:

“21109. Regulatory authority.”.

15 **SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANAL-**
 16 **YSES INFORMATION.**

17 (a) ~~AMENDMENT.~~—Subchapter I of chapter 201 is
 18 amended by adding at the end thereof the following:

19 **“§ 20118. Prohibition on public disclosure of required**
 20 **railroad safety analyses records**

21 “(a) ~~IN GENERAL.~~—Notwithstanding section 552 of
 22 title 5 or any other provision of law, except as necessary
 23 for enforcement of any provision of Federal law by the
 24 Secretary of Transportation or by another Federal agency,
 25 the Secretary shall not disclose publicly any part of any

1 record (including, but not limited to, a railroad carrier's
 2 analysis of its safety risks and its statement of the mitiga-
 3 tion measures it has identified with which to address those
 4 risks) that the Secretary has obtained pursuant to a provi-
 5 sion of, or regulation or order under, this chapter related
 6 to the establishment, implementation, or modification of
 7 a railroad safety risk reduction program if the record is—

8 “(1) supplied to the Secretary pursuant to that
 9 safety risk reduction program; or

10 “(2) made available for inspection and copying
 11 by an officer, employee, or agent of the Secretary
 12 pursuant to that safety risk reduction program.

13 “(b) EXCEPTION.—Notwithstanding subsection (a),
 14 the Secretary may disclose any part of any record com-
 15 prised of facts otherwise available to the public if, in the
 16 Secretary's sole discretion, the Secretary determines that
 17 disclosure would be consistent with the confidentiality
 18 needed for that safety risk reduction program.

19 “(c) DISCRETIONARY PROHIBITION OF DISCLO-
 20 SURE.—The Secretary may prohibit the public disclosure
 21 of risk or risk mitigation analyses that the Secretary has
 22 obtained under other provisions of, or regulations or or-
 23 ders under, this chapter if the Secretary determines that
 24 the prohibition of public disclosure is necessary to promote
 25 railroad safety.

1 **“§ 20119. Discovery and admission into evidence of**
 2 **certain reports and surveys**

3 “Notwithstanding any other provision of law, no part
 4 of any report, survey, schedule, list, or data compiled or
 5 collected for the purpose of evaluating, planning, or imple-
 6 menting a railroad safety risk reduction program or other
 7 risk or risk mitigation analysis designated by the Sec-
 8 retary of Transportation under section 20118(c) pursuant
 9 to a provision of, or regulation or order under, this chapter
 10 (including a railroad carrier’s analysis of its safety risks
 11 and its statement of the mitigation measures with which
 12 it will address those risks) shall be subject to discovery
 13 or admitted into evidence in a Federal or State court pro-
 14 ceeding, or considered for another purpose, in any action
 15 by a private party or parties for damages against the ear-
 16 rier, or its officers, employees, or contractors. The pre-
 17 ceding sentence does not apply to any report, survey, list,
 18 or data otherwise available to the public.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
 20 ysis for chapter 201 is amended by inserting after the item
 21 relating to section 20117 the following:

“20118. Prohibition on public disclosure of required railroad safety risk anal-
 yses:

“20119. Discovery and admission into evidence of certain reports and surveys.”.

1 **TITLE II—HIGHWAY-RAIL GRADE**
 2 **CROSSING AND PEDESTRIAN**
 3 **SAFETY AND TRESPASSER**
 4 **PREVENTION**

5 **SEC. 201. PEDESTRIAN CROSSING SAFETY.**

6 Not later than 1 year after the date of enactment
 7 of this Act, the Secretary shall provide guidance to rail-
 8 roads on strategies and methods to prevent pedestrian ac-
 9 cidents, injuries, and fatalities at or near passenger sta-
 10 tions, including—

11 (1) providing audible warning of approaching
 12 trains to the pedestrians at railroad passenger sta-
 13 tions;

14 (2) using signs, signals, or other visual devices
 15 to warn pedestrians of approaching trains;

16 (3) installing infrastructure at pedestrian cross-
 17 ings to improve the safety of pedestrians crossing
 18 railroad tracks;

19 (4) installing fences to prohibit access to rail-
 20 road tracks; and

21 (5) other strategies or methods as determined
 22 by the Secretary.

23 **SEC. 202. STATE ACTION PLANS.**

24 (a) IN GENERAL.—Beginning not later than 6
 25 months after the date of enactment of this Act, the Sec-

1 retary shall identify on an annual basis the 10 States that
2 receive Federal funds for highway-rail grade crossing safe-
3 ty projects that have had the most highway-rail grade
4 crossing collisions in the preceding fiscal year. The Sec-
5 retary shall require as a condition of receiving such funds
6 in the future (in addition to any requirements imposed
7 under any other provision of law) that each of these States
8 develop a State Grade Crossing Action Plan that identifies
9 specific solutions for improving safety at crossings, includ-
10 ing highway-rail grade crossing closures or grade separa-
11 tions, particularly at crossings that have experienced mul-
12 tiple accidents, and shall provide assistance to the States
13 in developing the plan.

14 (b) REVIEW AND APPROVAL.—Not later than 60 days
15 after the Secretary receives a plan under subsection (a),
16 the Secretary shall review and approve or disapprove it.
17 If the proposed plan is not approved, the Secretary shall
18 notify the affected State as to the specific points in which
19 the proposed plan is deficient, and the State shall correct
20 all deficiencies within 30 days following receipt of written
21 notice from the Secretary.

1 **SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-**
 2 **WAY-RAIL GRADE CROSSINGS.**

3 (a) ~~IN GENERAL.~~—Subchapter H of chapter 201, as
 4 amended by section 105 of this Act, is further amended
 5 by inserting after section 20158 the following:

6 **“§ 20159. Roadway user sight distance at highway-**
 7 **rail grade crossings**

8 “(a) ~~IN GENERAL.~~—Not later than 18 months after
 9 the date of enactment of the Railroad Safety Enhance-
 10 ment Act of 2007, the Secretary of Transportation shall
 11 prescribe regulations that require each railroad carrier to
 12 remove from its rights-of-way at all public highway-rail
 13 grade crossings, and at all private highway-rail grade
 14 crossings open to unrestricted public access (as declared
 15 in writing by the holder of the crossing right), grass,
 16 brush, shrubbery, trees, and other vegetation which may
 17 obstruct the view of a pedestrian or a vehicle operator for
 18 a reasonable distance in either direction of the train’s ap-
 19 proach, and to maintain its rights-of-way at all such cross-
 20 ings free of such vegetation. In prescribing the regula-
 21 tions, the Secretary shall take into consideration to the
 22 extent practicable—

23 “(1) the type of warning device or warning de-
 24 vices installed at such crossings;

25 “(2) factors affecting the timeliness and effec-
 26 tiveness of roadway user decisionmaking, including

1 the maximum allowable roadway speed, maximum
2 authorized train speed, angle of intersection, and to-
3 pography;

4 “(3) the presence or absence of other sight dis-
5 tance obstructions off the railroad right-of-way; and

6 “(4) any other factors affecting safety at such
7 crossings.

8 “(b) PROTECTED VEGETATION.—In promulgating
9 regulations pursuant to this section, the Secretary may
10 make allowance for preservation of trees and other orna-
11 mental or protective growth where State or local law or
12 policy would otherwise protect the vegetation from removal
13 and where the roadway authority or private crossing hold-
14 er is notified of the sight distance obstruction and, within
15 a reasonable period specified by the regulation, takes ap-
16 propriate action to abate the hazard to roadway users
17 (such as by closing the crossing, posting supplementary
18 signage, installing active warning devices, lowering road-
19 way speed, or installing traffic calming devices).

20 “(c) MODEL LEGISLATION.—Not later than 18
21 months after the date of enactment of the Railroad Safety
22 Enhancement Act of 2007, the Secretary, after consulta-
23 tion with the Federal Railroad Administration, the Fed-
24 eral Highway Administration, and States, shall develop
25 and make available to States model legislation providing

1 for improving safety by addressing sight obstructions, at
 2 highway-rail grade crossings that are equipped solely with
 3 passive warnings, as recommended by the Inspector Gen-
 4 eral of the Department of Transportation in Report No.
 5 MH-2007-044.”.

6 (b) CONFORMING AMENDMENT.—The chapter anal-
 7 ysis for chapter 201, as amended by section 105 of this
 8 Act, is amended by inserting after the item relating to sec-
 9 tion 20158 the following new item:

“20159. Roadway user sight distance at highway-rail grade crossings.”.

10 **SEC. 204. NATIONAL CROSSING INVENTORY.**

11 (a) IN GENERAL.—Subchapter H of chapter 201, as
 12 amended by section 203 of this Act, is further amended
 13 by adding at the end the following new section:

14 **“§ 20160. National crossing inventory**

15 “(a) INITIAL REPORTING OF INFORMATION ABOUT
 16 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than
 17 1 year after the date of enactment of the Railroad Safety
 18 Enhancement Act of 2007 or 6 months after a new cross-
 19 ing becomes operational, whichever occurs later, each rail-
 20 road carrier shall—

21 “(1) report to the Secretary of Transportation
 22 current information, including information about
 23 warning devices and signage, as specified by the Sec-
 24 retary, concerning each previously unreported cross-
 25 ing through which it operates; or

1 “(2) ensure that the information has been re-
 2 ported to the Secretary by another railroad carrier
 3 that operates through the crossing.

4 “(b) UPDATING OF CROSSING INFORMATION.—

5 “(1) On a periodic basis beginning not later
 6 than 2 years after the date of enactment of the Rail-
 7 road Safety Enhancement Act of 2007 and on or be-
 8 fore September 30 of every year thereafter, or as
 9 otherwise specified by the Secretary, each railroad
 10 carrier shall—

11 “(A) report to the Secretary current infor-
 12 mation, including information about warning
 13 devices and signage, as specified by the Sec-
 14 retary, concerning each crossing through which
 15 it operates; or

16 “(B) ensure that the information has been
 17 reported to the Secretary by another railroad
 18 carrier that operates through the crossing.

19 “(2) A railroad carrier that sells a crossing or
 20 any part of a crossing on or after the date of enact-
 21 ment of the Railroad Safety Enhancement Act of
 22 2007 shall, not later than the date that is 18
 23 months after the date of enactment of that Act or
 24 3 months after the sale, whichever occurs later, or
 25 as otherwise specified by the Secretary, report to the

1 Secretary current information, as specified by the
 2 Secretary, concerning the change in ownership of the
 3 crossing or part of the crossing.

4 “(c) RULEMAKING AUTHORITY.—The Secretary shall
 5 prescribe the regulations necessary to implement this sec-
 6 tion. The Secretary may enforce each provision of the De-
 7 partment of Transportation’s statement of the national
 8 highway-rail crossing inventory policy, procedures, and in-
 9 struction for States and railroads that is in effect on the
 10 date of enactment of the Railroad Safety Enhancement
 11 Act of 2007, until such provision is superseded by a regu-
 12 lation issued under this section.

13 “(d) DEFINITIONS.—In this section:

14 “(1) CROSSING.—The term ‘crossing’ means a
 15 location within a State, other than a location where
 16 one or more railroad tracks cross one or more rail-
 17 road tracks either at grade or grade-separated,
 18 where—

19 “(A) a public highway, road, or street, or
 20 a private roadway, including associated side-
 21 walks and pathways, crosses one or more rail-
 22 road tracks either at grade or grade-separated;
 23 or

24 “(B) a pathway explicitly authorized by the
 25 property owner that is dedicated for the use of

1 nonvehicular traffic, including pedestrians,
 2 bicyclists, and others, that is not associated
 3 with a public highway, road, or street, or a pri-
 4 vate roadway, crosses one or more railroad
 5 tracks either at grade or grade-separated.

6 “(2) STATE.—The term ‘State’ means a State
 7 of the United States, the District of Columbia, or
 8 the Commonwealth of Puerto Rico.”

9 (b) CONFORMING AMENDMENT.—The chapter anal-
 10 ysis for chapter 201, as amended by section 203 of this
 11 Act, is amended by inserting after the item relating to sec-
 12 tion 20159 the following:

“20160: National crossing inventory.”

13 (c) REPORTING AND UPDATING.—Section 130 of title
 14 23, United States Code, is amended by adding at the end
 15 the following:

16 “(1) NATIONAL CROSSING INVENTORY.—

17 “(1) INITIAL REPORTING OF CROSSING INFOR-
 18 MATION.—Not later than 1 year after the date of
 19 enactment of the Railroad Safety Enhancement Act
 20 of 2007 or within 6 months of a new crossing be-
 21 coming operational, whichever occurs later, each
 22 State shall report to the Secretary of Transportation
 23 current information, including information about
 24 warning devices and signage, as specified by the Sec-

retary, concerning each previously unreported crossing located within its borders.

~~“(2) PERIODIC UPDATING OF CROSSING INFORMATION.—~~On a periodic basis beginning not later than 2 years after the date of enactment of the Railroad Safety Enhancement Act of 2007 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

~~“(3) RULEMAKING AUTHORITY.—~~The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation’s statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Railroad Safety Enhancement Act of 2007, until such provision is superseded by a regulation issued under this subsection.

~~“(4) DEFINITIONS.—~~In this subsection, the terms ‘crossing’ and ‘State’ have the meaning given

1 those terms by section 20160(d)(1) and (2), respec-
 2 tively, of title 49.”.

3 (d) CIVIL PENALTIES.—(1) Section 21301(a)(1) is
 4 amended—

5 (A) by inserting “with section 20160 or” after
 6 “comply” in the first sentence; and

7 (B) by inserting “section 20157 of this title or”
 8 after “violating” in the second sentence.

9 (2) Section 21301(a)(2) is amended by inserting
 10 “The Secretary shall impose a civil penalty for a violation
 11 of section 20160 of this title.” after the first sentence.

12 **SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-**
 13 **ING PROBLEMS.**

14 (a) IN GENERAL.—Section 20152 is amended to read
 15 as follows:

16 **“§ 20152. Notification of grade crossing problems**

17 “Not later than 18 months after the date of enact-
 18 ment of the Railroad Safety Enhancement Act of 2007,
 19 the Secretary of Transportation shall require each railroad
 20 carrier to—

21 “(1) establish and maintain a telephone service;
 22 which may be required to be a toll-free telephone for
 23 specific railroad carriers as determined by the Sec-
 24 retary to be appropriate, for rights-of-way over

1 which it dispatches trains, to directly receive calls
2 reporting—

3 “(A) malfunctions of signals, crossing
4 gates, and other devices to promote safety at
5 the grade crossing of railroad tracks on those
6 rights-of-way and public or private roads;

7 “(B) disabled vehicles blocking railroad
8 tracks at such grade crossings;

9 “(C) obstructions to the view of a pedes-
10 trian or a vehicle operator for a reasonable dis-
11 tance in either direction of a train’s approach;
12 or

13 “(D) other safety information involving
14 such grade crossings;

15 “(2) upon receiving a report pursuant to para-
16 graph (1)(A) or (B), immediately contact trains op-
17 erating near the grade crossing to warn them of the
18 malfunction or disabled vehicle;

19 “(3) upon receiving a report pursuant to para-
20 graph (1)(A) or (B), and after contacting trains
21 pursuant to paragraph (2), contact, as necessary,
22 appropriate public safety officials having jurisdiction
23 over the grade crossing to provide them with the in-
24 formation necessary for them to direct traffic, assist

1 in the removal of the disabled vehicle, or carry out
 2 other activities as appropriate;

3 “(4) upon receiving a report pursuant to para-
 4 graph (1)(C) or (D), timely investigate the report,
 5 remove the obstruction if possible, or correct the un-
 6 safe circumstance; and

7 “(5) ensure the placement at each grade cross-
 8 ing on rights-of-way that it owns of appropriately lo-
 9 cated signs, on which shall appear, at a minimum—

10 “(A) a telephone number to be used for
 11 placing calls described in paragraph (1) to the
 12 railroad carrier dispatching trains on that
 13 right-of-way;

14 “(B) an explanation of the purpose of that
 15 telephone number; and

16 “(C) the grade crossing number assigned
 17 for that crossing by the National Highway-Rail
 18 Crossing Inventory established by the Depart-
 19 ment of Transportation.”.

20 (b) CONFORMING AMENDMENT.—The chapter anal-
 21 ysis for chapter 201 is amended by striking the item relat-
 22 ing to section 20152 and inserting the following:

“20152. Notification of grade crossing problems.”.

23 **SEC. 206. OPERATION LIFESAVER.**

24 (a) GRANT.—The Federal Railroad Administration
 25 shall make a grant or grants to Operation Lifesaver to

1 carry out a public information and education program to
2 help prevent and reduce pedestrian, motor vehicle, and
3 other incidents, injuries, and fatalities, and to improve
4 awareness along railroad rights-of-way and at highway-rail
5 grade crossings. This includes development, placement,
6 and dissemination of Public Service Announcements in
7 newspaper, radio, television, and other media. It will also
8 include school presentations, brochures and materials,
9 support for public awareness campaigns, and related sup-
10 port for the activities of Operation Lifesaver's member or-
11 ganizations. As part of an educational program funded by
12 grants awarded under this section, Operation Lifesaver
13 shall provide information to the public on how to identify
14 and report to the appropriate authorities unsafe or mal-
15 functioning highway-rail grade crossings.

16 (b) PILOT PROGRAM.—The Secretary may allow
17 funds provided under subsection (a) also to be used by
18 Operation Lifesaver to implement a pilot program, to be
19 known as the Railroad Safety Public Awareness Program,
20 that addresses the need for targeted and sustained com-
21 munity outreach on the subjects described in subsection
22 (a). Such a pilot program shall be established in 1 or more
23 States identified under section 202 of this Act. In carrying
24 out such a pilot program Operation Lifesaver shall work
25 with the State, community leaders, school districts, and

1 public and private partners to identify the communities
 2 at greatest risk, to develop appropriate measures to reduce
 3 such risks, and shall coordinate the pilot program with
 4 the State grade crossing action plan.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to the Federal Railroad
 7 Administration for carrying out this section—

8 (1) \$2,000,000 for each of fiscal years 2008,
 9 2009, and 2010; and

10 (2) \$1,500,000 for each of fiscal years 20011,
 11 2012, and 2013.

12 **SEC. 207. TRESPASSER PREVENTION AND HIGHWAY-RAIL**
 13 **CROSSING SAFETY.**

14 (a) TRESPASSER PREVENTION AND HIGHWAY-RAIL
 15 GRADE CROSSING WARNING SIGN VIOLATIONS.—Section
 16 20151 is amended—

17 (1) by striking the section heading and insert-
 18 ing the following:

19 **“§ 20151. Railroad trespassing, vandalism, and high-**
 20 **way-rail grade crossing warning sign vio-**
 21 **lation prevention strategy”;**

22 (2) by striking subsection (a) and inserting the
 23 following:

24 **“(a) EVALUATION OF EXISTING LAWS.—In consulta-**
 25 **tion with affected parties, the Secretary of Transportation**

1 shall evaluate and review current local, State, and Federal
 2 laws regarding trespassing on railroad property, van-
 3 dalism affecting railroad safety, and violations of highway-
 4 rail grade crossing warning signs and develop model pre-
 5 ventation strategies and enforcement laws to be used for the
 6 consideration of State and local legislatures and govern-
 7 mental entities. The first such evaluation and review con-
 8 cerning violations of grade crossing signals shall be com-
 9 pleted within 1 year after the date of enactment of the
 10 Railroad Safety Enhancement Act of 2007. The Secretary
 11 shall revise the model prevention strategies and enforce-
 12 ment codes periodically.”;

13 (3) by inserting “FOR TRESPASSING AND VAN-
 14 DALISM PREVENTION” in the subsection heading of
 15 subsection (b) after “OUTREACH PROGRAM”;

16 (4) in subsection (c)—

17 (A) by redesignating paragraphs (1) and
 18 (2) as subparagraphs (A) and (B), respectively;

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

21 (C) by adding at the end the following new
 22 paragraph:

23 “(2) Within 18 months after the date of enactment
 24 of the Railroad Safety Enhancement Act of 2007, the Sec-
 25 retary, after consultation with State and local govern-

1 ments and railroad carriers, shall develop and make avail-
 2 able to State and local governments model State legisla-
 3 tion providing for civil or criminal penalties, or both, for
 4 violations of highway-rail grade crossing warning signs.”;
 5 and

6 (5) by adding at the end the following new sub-
 7 section:

8 “(d) DEFINITION.—In this section, the term ‘viola-
 9 tion of highway-rail grade crossing warning signs’ includes
 10 any action by a motorist, unless directed by an authorized
 11 safety officer—

12 “(1) to drive around a grade crossing gate in
 13 a position intended to block passage over railroad
 14 tracks;

15 “(2) to drive through a flashing grade crossing
 16 signal;

17 “(3) to drive through a grade crossing with pas-
 18 sive warning signs without ensuring that the grade
 19 crossing could be safely crossed before any train ar-
 20 rived; and

21 “(4) in the vicinity of a grade crossing, who
 22 creates a hazard of an accident involving injury or
 23 property damage at the grade crossing.”.

24 (b) CONFORMING AMENDMENT.—The chapter anal-
 25 ysis for chapter 201 of title 49, United States Code, is

1 amended by striking the item relating to section 20151
 2 and inserting the following:

“20151. Railroad trespassing, vandalism, and highway-rail grade crossing warn-
 ing sign violation prevention strategy.”.

3 (e) EDUCATIONAL OR AWARENESS PROGRAM ITEMS
 4 FOR DISTRIBUTION.—Section 20134(a) is amended by
 5 adding at the end of the subsection the following: “The
 6 Secretary may purchase items of nominal value and dis-
 7 tribute them to the public without charge as part of an
 8 educational or awareness program to accomplish the pur-
 9 poses of this section and of any other sections of this title
 10 related to improving the safety of highway-rail crossings
 11 and to preventing trespass on railroad rights of way, and
 12 the Secretary shall prescribe guidelines for the administra-
 13 tion of this authority.”.

14 **SEC. 208. FOSTERING INTRODUCTION OF NEW TECH-**
 15 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**
 16 **RAIL GRADE CROSSINGS.**

17 (a) AMENDMENT.—Subchapter H of chapter 201, as
 18 amended by section 204 of this Act, is further amended
 19 by adding at the end the following:

20 **“§ 20161. Fostering introduction of new technology to**
 21 **improve safety at highway-rail grade**
 22 **crossings**

23 **“(a) FINDINGS.—The Congress finds the following:**

1 “(1) Collisions between highway users and
2 trains at highway-rail grade crossings continue to
3 cause loss of life and serious personal injury and
4 also threaten the safety of rail transportation.

5 “(2) While elimination of at-grade crossings
6 through consolidation of crossings and grade separa-
7 tions offers the greatest long-term promise for opti-
8 mizing the safety and efficiency of the two modes of
9 transportation, over 140,000 public grade crossings
10 remain on the general rail system—approximately
11 one for each route mile on the general rail system.

12 “(3) Conventional highway traffic control de-
13 vices such as flashing lights and gates are effective
14 in warning motorists of a train’s approach to an
15 equipped crossing.

16 “(4) Since enactment of the Highway Safety
17 Act of 1973, over \$4,200,000,000 of Federal fund-
18 ing has been invested in safety improvements at
19 highway-rail grade crossings, yet a majority of pub-
20 lic highway-rail grade crossings are not yet equipped
21 with active warning systems.

22 “(5) The emergence of new technologies sup-
23 porting Intelligent Transportation Systems presents
24 opportunities for more effective and affordable warn-

1 ings and safer passage of highway users and trains
 2 at remaining highway-rail grade crossings.

3 ~~“(6) Implementation of new crossing safety~~
 4 ~~technology will require extensive cooperation between~~
 5 ~~highway authorities and railroad carriers.~~

6 ~~“(7) Federal Railroad Administration regula-~~
 7 ~~tions establishing performance standards for proc-~~
 8 ~~essor-based signal and train control systems provide~~
 9 ~~a suitable framework for qualification of new or~~
 10 ~~novel technology at highway-rail grade crossings,~~
 11 ~~and the Federal Highway Administration’s Manual~~
 12 ~~on Uniform Traffic Control Devices provides an ap-~~
 13 ~~propriate means of determining highway user inter-~~
 14 ~~face with such new technology.~~

15 ~~“(b) POLICY.—It is the policy of the Department of~~
 16 ~~Transportation to encourage the development of new tech-~~
 17 ~~nology that can prevent loss of life and injuries at high-~~
 18 ~~way-rail grade crossings. The Secretary of Transportation~~
 19 ~~shall carry out this policy in consultation with States and~~
 20 ~~necessary public and private entities.~~

21 ~~“(c) EFFECT OF SECRETARIAL APPROVAL.—If the~~
 22 ~~Secretary approves new technology to provide warning to~~
 23 ~~highway users at a highway-rail grade crossing and such~~
 24 ~~technology is installed at a highway-rail grade crossing in~~
 25 ~~accordance with the conditions of the approval, this deter-~~

1 mination preempts any State law concerning the adequacy
 2 of the technology in providing warning at the crossing.
 3 Under no circumstances may a person (including a State,
 4 other public authority, railroad carrier, system designer,
 5 or supplier of the technology) be held liable for damages
 6 for any harm to persons or property because of an acci-
 7 dent or incident at the crossing protected by such tech-
 8 nology based upon the carrier's failure to properly inspect
 9 and maintain such technology, if the carrier has inspected
 10 and maintained the technology in accordance with the
 11 terms of the Secretary's approval.”.

12 (b) CONFORMING AMENDMENT.—The chapter anal-
 13 ysis for chapter 201, as amended by section 204 of this
 14 Act, is further amended by inserting after the item relat-
 15 ing to section 20160, the following:

“20161. Fostering introduction of new technology to improve safety at highway-
 rail grade crossings.”.

16 **TITLE III—FEDERAL RAILROAD** 17 **ADMINISTRATION**

18 **SEC. 301. HUMAN CAPITAL INCREASES.**

19 (a) IN GENERAL.—The Secretary shall increase the
 20 number of Federal Railroad Administration employees
 21 by—

- 22 (1) 25 employees in fiscal year 2008;
- 23 (2) 50 employees in fiscal year 2009;
- 24 (3) 50 employees in fiscal year 2010;

1 (4) 25 employees in fiscal year 2011;

2 (5) 25 employees in fiscal year 2012; and

3 (6) 25 employees in fiscal year 2013.

4 (b) ~~FUNCTIONS.~~—In increasing the number of em-
5 ployees pursuant to subsection (a), the Secretary shall
6 focus on hiring employees—

7 (1) specifically trained to conduct on-site rail-
8 road and highway-rail grade crossing accident inves-
9 tigations;

10 (2) to implement the Railroad Safety Strategy;

11 (3) to administer and implement the Railroad
12 Safety Risk Reduction Pilot Program and the Rail-
13 road Safety Risk Reduction Program;

14 (4) to implement section 20166 of title 49,
15 United States Code, and to focus on encouragement
16 and oversight of the use of new or novel rail safety
17 technology;

18 (5) to conduct routine inspections and audits of
19 railroad and hazardous materials facilities and
20 records for compliance with railroad safety laws and
21 regulations; and

22 (6) to support the Federal Railroad Administra-
23 tion's safety mission.

1 **SEC. 302. CIVIL PENALTY INCREASES.**

2 (a) ~~GENERAL VIOLATIONS OF CHAPTER 201.~~—Sec-
 3 tion ~~21301(a)(2)~~ is amended—

4 (1) by striking “\$10,000” and inserting
 5 “\$25,000”; and

6 (2) by striking “\$20,000” and inserting
 7 “\$100,000”.

8 (b) ~~ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-~~
 9 ~~TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH~~
 10 ~~209.~~—Section ~~21302(a)(2)~~ is amended—

11 (1) by striking “\$10,000” and inserting
 12 “\$25,000”; and

13 (2) by striking “\$20,000” and inserting
 14 “\$100,000”.

15 (c) ~~VIOLATIONS OF CHAPTER 211.~~—Section
 16 ~~21303(a)(2)~~ is amended—

17 (1) by striking “\$10,000” and inserting
 18 “\$25,000”; and

19 (2) by striking “\$20,000” and inserting
 20 “\$100,000”.

21 **SEC. 303. ENFORCEMENT REPORT.**

22 (a) ~~IN GENERAL.~~—Subchapter I of chapter 201, as
 23 amended by section 107 of this Act, is amended by adding
 24 at the end the following:

1 **“§ 20120. Enforcement Report.**

2 “(a) IN GENERAL.—Not later than December 31,
3 2008, the Secretary of Transportation shall make avail-
4 able to the public and publish on its public website an an-
5 nual report that—

6 “(1) provides a summary of railroad safety and
7 hazardous materials compliance inspections and au-
8 dits that Federal or state inspectors conducted in
9 the prior fiscal year organized by type of alleged vio-
10 lation, including track, motive power and equipment,
11 signal, grade crossing, operating practices, accident
12 and incidence reporting, and hazardous materials;

13 “(2) provides a summary of all enforcement ac-
14 tions taken by the Secretary or the Federal Railroad
15 Administration during the prior fiscal year, includ-
16 ing—

17 “(A) the number of civil penalties assessed
18 against railroad carriers, hazardous material
19 shippers, and individuals;

20 “(B) the initial amount of civil penalties
21 assessed against railroad carriers, hazardous
22 materials shippers, and individuals;

23 “(C) the number of civil penalty cases set-
24 tled against railroad carriers, hazardous mate-
25 rial shippers, and individuals;

1 “(D) the final amount of civil penalties as-
 2 sessed against railroad carriers, hazardous ma-
 3 terials shippers, and individuals;

4 “(E) the difference between the initial and
 5 final amounts of civil penalties assessed against
 6 railroad carriers, hazardous materials shippers,
 7 and individuals;

8 “(F) the number of administrative hear-
 9 ings requested and completed related to haz-
 10 ardous materials transportation law violations
 11 or enforcement actions against individuals;

12 “(G) the number of cases referred to the
 13 Attorney General for civil or criminal prosecu-
 14 tion;

15 “(H) the number and subject matter of all
 16 compliance orders, emergency orders or pre-
 17 cursor agreements;

18 “(3) analyzes the effect of the number of in-
 19 spections conducted and enforcement actions taken
 20 on the number and rate of reported accidents and
 21 incidents and railroad safety;

22 “(4) identifies the number of locomotive engi-
 23 neer certification denial or revocation cases appealed
 24 to and the average length of time it took to be de-
 25 cided by—

1 “(A) the Locomotive Engineer Review
2 Board;

3 “(B) an Administrative Hearing Officer or
4 Administrative Law Judge; or

5 “(C) the Administrator of the Federal
6 Railroad Administration;

7 “(5) provides any explanation regarding
8 changes in the Secretary’s or the Federal Railroad
9 Administration’s enforcement programs or policies
10 that may substantially affect the information re-
11 ported; and

12 “(6) includes any additional information that
13 the Secretary determines is useful to improve the
14 transparency of its enforcement program.”.

15 (b) CONFORMING AMENDMENT.—The chapter anal-
16 ysis for chapter 201, as amended by section 107 of this
17 Act, is amended by inserting after the item relating to sec-
18 tion 20119 the following:

“20120: Enforcement report.”.

19 **SEC. 304. PROHIBITION OF INDIVIDUALS FROM PER-**
20 **FORMING SAFETY-SENSITIVE FUNCTIONS**
21 **FOR A VIOLATION OF HAZARDOUS MATE-**
22 **RIALS TRANSPORTATION LAW.**

23 Section 20111(c) is amended to read as follows:

24 “(c) ORDERS PROHIBITING INDIVIDUALS FROM PER-
25 FORMING SAFETY-SENSITIVE FUNCTIONS.—

1 “(1) If an individual’s violation of this part,
 2 chapter 51 of this title, or a regulation prescribed,
 3 or an order issued, by the Secretary under this part
 4 or chapter 51 of this title is shown to make that in-
 5 dividual unfit for the performance of safety-sensitive
 6 functions, the Secretary, after providing notice and
 7 an opportunity for a hearing, may issue an order
 8 prohibiting the individual from performing safety-
 9 sensitive functions in the railroad industry for a
 10 specified period of time or until specified conditions
 11 are met.

12 “(2) This subsection does not affect the Sec-
 13 retary’s authority under section 20104 of this title
 14 to act on an emergency basis.”.

15 **SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.**

16 Section 20107 is amended by inserting at the end the
 17 following:

18 “(c) RAILROAD RADIO COMMUNICATIONS.—

19 “(1) IN GENERAL.—To carry out the Sec-
 20 retary’s responsibilities under this part and under
 21 chapter 51, the Secretary may authorize officers,
 22 employees, or agents of the Secretary to conduct the
 23 following activities in circumstances the Secretary
 24 finds to be reasonable:

1 “(A) Intercepting a radio communication;
2 with or without the consent of the sender or
3 other receivers of the communication, but only
4 where such communication is broadcast or
5 transmitted over a radio frequency which is—

6 “(i) authorized for use by one or more
7 railroad carriers by the Federal Commu-
8 nications Commission; and

9 “(ii) primarily used by such railroad
10 carriers for communications in connection
11 with railroad operations.

12 “(B) Communicating the existence, con-
13 tents, substance, purport, effect, or meaning of
14 the communication, subject to the restrictions
15 in paragraph (3).

16 “(C) Receiving or assisting in receiving the
17 communication (or any information therein con-
18 tained).

19 “(D) Disclosing the contents, substance,
20 purport, effect, or meaning of the communica-
21 tion (or any part thereof of such communica-
22 tion) or using the communication (or any infor-
23 mation contained therein), subject to the re-
24 strictions in paragraph (3), after having re-
25 ceived the communication or acquired knowl-

edge of the contents, substance, purport, effect,
or meaning of the communication (or any part
thereof).

“(E) Recording the communication by any
means, including writing and tape recording.

“(2) ACCIDENT PREVENTION AND ACCIDENT
INVESTIGATION.—The Secretary, and officers, em-
ployees, and agents of the Department of Transpor-
tation authorized by the Secretary, may engage in
the activities authorized by paragraph (1) for the
purpose of accident prevention and accident inves-
tigation.

“(3) USE OF INFORMATION.—(A) Information
obtained through activities authorized by paragraphs
(1) and (2) shall not be admitted into evidence in
any administrative or judicial proceeding except—

“(i) in a prosecution of a felony under
Federal or State criminal law; or

“(ii) to impeach evidence offered by a
party other than the Federal Government re-
garding the existence, electronic characteristics,
content, substance, purport, effect, meaning, or
timing of, or identity of parties to, a commu-
nication intercepted pursuant to paragraphs (1)
and (2) in proceedings pursuant to section

1 ~~5122, 5123, 20702(b), 20111, 20112, 20113,~~
2 ~~or 20114 of this title.~~

3 ~~“(B) If information obtained through activities~~
4 ~~set forth in paragraphs (1) and (2) is admitted into~~
5 ~~evidence for impeachment purposes in accordance~~
6 ~~with subparagraph (A), the court, administrative law~~
7 ~~judge, or other officer before whom the proceeding~~
8 ~~is conducted may make such protective orders re-~~
9 ~~garding the confidentiality or use of the information~~
10 ~~as may be appropriate in the circumstances to pro-~~
11 ~~tect privacy and administer justice.~~

12 ~~“(C) No evidence shall be excluded in an ad-~~
13 ~~ministrative or judicial proceeding solely because the~~
14 ~~government would not have learned of the existence~~
15 ~~of or obtained such evidence but for the interception~~
16 ~~of information that is not admissible in such pro-~~
17 ~~ceeding under subparagraph (A).~~

18 ~~“(D) Information obtained through activities~~
19 ~~set forth in paragraphs (1) and (2) shall not be sub-~~
20 ~~ject to publication or disclosure, or search or review~~
21 ~~in connection therewith, under section 552 of title 5.~~

22 ~~“(E) Nothing in this subsection shall be con-~~
23 ~~strued to impair or otherwise affect the authority of~~
24 ~~the United States to intercept a communication, and~~
25 ~~collect, retain, analyze, use, and disseminate the in-~~

1 formation obtained thereby, under a provision of law
2 other than this subsection.

3 ~~“(4) APPLICATION WITH OTHER LAW.—Section~~
4 ~~705 of the Communications Act of 1934 (47 U.S.C.~~
5 ~~605) and chapter 119 of title 18 shall not apply to~~
6 ~~conduct authorized by and pursuant to this sub-~~
7 ~~section.”.~~

8 **SEC. 306. EMERGENCY WAIVERS.**

9 Section ~~20103~~ is amended—

10 (1) by striking subsection (e) and inserting the
11 following:

12 ~~“(e) HEARINGS.—Except as provided in subsection~~
13 ~~(g) of this section, the Secretary shall conduct a hearing~~
14 ~~as provided by section 553 of title 5 when prescribing a~~
15 ~~regulation or issuing an order under this chapter, includ-~~
16 ~~ing a regulation or order establishing, amending, or~~
17 ~~waiving compliance with a railroad safety regulation pre-~~
18 ~~scribed or order issued under this chapter. An opportunity~~
19 ~~for an oral presentation shall be provided.”; and~~

20 (2) by adding at the end thereof the following:

21 ~~“(g) EMERGENCY WAIVERS.—~~

22 ~~“(1) IN GENERAL.—The Secretary shall pre-~~
23 ~~scribe procedures concerning the handling of re-~~
24 ~~quests for waivers of regulations prescribed or or-~~
25 ~~ders issued under this chapter in emergency situa-~~

1 tions and may prescribe temporary emergency waiv-
2 er procedures without first providing an opportunity
3 for public comment. The Secretary may grant a
4 waiver request if the waiver is directly related to the
5 emergency event or necessary to aid in any recovery
6 efforts and is in the public interest and consistent
7 with railroad safety. The relief shall not extend for
8 a period of more than 9 months, including the pe-
9 riod of the relief granted under any renewal of the
10 waiver pursuant to the emergency waiver procedures.
11 For matters that may impact the missions of the
12 Department of Homeland Security, the Secretary of
13 Transportation shall consult and coordinate with the
14 Secretary of Homeland Security as soon as prac-
15 ticable.

16 “(2) ~~WAIVER BEFORE HEARING.~~—If, under the
17 emergency waiver procedures established under
18 paragraph (1) of this subsection, the Secretary de-
19 termines the public interest would be better served
20 by addressing a request for waiver prior to providing
21 an opportunity for a hearing under section 553 of
22 title 5 and an oral presentation, the Secretary may
23 act on the waiver request and, if the request is
24 granted, the Secretary shall subsequently provide no-
25 tice and an opportunity for a hearing and oral pres-

entation pursuant to procedures prescribed under paragraph (1) of this subsection. Should the Secretary receive comment or a request for oral presentation on a waiver request after granting the waiver, the Secretary may take any necessary action with regard to that waiver (including rescission or modification) based on the newly acquired information.

“(3) **EMERGENCY SITUATION; EMERGENCY EVENT.**—In this subsection, the terms ‘emergency situation’ and ‘emergency event’ mean a natural or manmade disaster, such as a hurricane, flood, earthquake, mudslide, forest fire, snowstorm, terrorist act, biological outbreak, release of a dangerous radiological, chemical, explosive, or biological material, or a war-related activity, that poses a risk of death, serious illness, severe injury, or substantial property damage. The disaster may be local, regional, or national in scope.”.

SEC. 307. FEDERAL RAIL SECURITY OFFICERS’ ACCESS TO INFORMATION.

(a) **AMENDMENT.**—Chapter 281 is amended by adding at the end thereof the following:

1 **“§ 28104. Federal rail security officers’ access to in-**
 2 **formation**

3 ~~“(a) ACCESS TO RECORDS OR DATABASE SYSTEMS~~
 4 ~~BY THE ADMINISTRATOR OF THE FEDERAL RAILROAD~~
 5 ~~ADMINISTRATION.—~~

6 ~~“(1) IN GENERAL.—The Administrator of the~~
 7 ~~Federal Railroad Administration is authorized to~~
 8 ~~have access to a system of documented criminal jus-~~
 9 ~~tice information maintained by the Department of~~
 10 ~~Justice or by a State for the purpose of carrying out~~
 11 ~~the civil and administrative responsibilities of the~~
 12 ~~Administrator to protect the safety, including secu-~~
 13 ~~rity, of railroad operations and for other purposes~~
 14 ~~authorized by law, including the National Crime~~
 15 ~~Prevention and Privacy Compact (42 U.S.C. 14611–~~
 16 ~~14616). The Administrator shall be subject to the~~
 17 ~~same conditions or procedures established by the De-~~
 18 ~~partment of Justice or State for access to such an~~
 19 ~~information system by other governmental agencies~~
 20 ~~with access to the system.~~

21 ~~“(2) LIMITATION.—The Administrator may not~~
 22 ~~use the access authorized under paragraph (1) to~~
 23 ~~conduct criminal investigations.~~

24 ~~“(b) DESIGNATED EMPLOYEES OF THE FEDERAL~~
 25 ~~RAILROAD ADMINISTRATION.—The Administrator shall,~~
 26 ~~by order, designate each employee of the Administration~~

1 whose primary responsibility is rail security who shall
 2 carry out the authority described in subsection (a). The
 3 Administrator shall strictly limit access to a system of doc-
 4 umented criminal justice information to persons with secu-
 5 rity responsibilities and with appropriate security clear-
 6 ances. Such a designated employee may, insofar as author-
 7 ized or permitted by the National Crime Prevention and
 8 Privacy Compact or other law or agreement governing an
 9 affected State with respect to such a State—

10 “(1) have access to and receive criminal history;
 11 driver, vehicle, and other law enforcement informa-
 12 tion contained in the law enforcement databases of
 13 the Department of Justice, or of any jurisdiction in
 14 a State in the same manner as a police officer em-
 15 ployed by a State or local authority of that State
 16 who is certified or commissioned under the laws of
 17 that State;

18 “(2) use any radio, data link, or warning sys-
 19 tem of the Federal Government and of any jurisdic-
 20 tion in a State that provides information about
 21 wanted persons, be-on-the-lookout notices, or war-
 22 rant status or other officer safety information to
 23 which a police officer employed by a State or local
 24 authority in that State who is certified or commis-

1 sioned under the laws of that State has access and
 2 in the same manner as such police officer; or

3 ~~“(3) receive Federal, State, or local government~~
 4 communications with a police officer employed by a
 5 State or local authority in that State in the same
 6 manner as a police officer employed by a State or
 7 local authority in that State who is commissioned
 8 under the laws of that State.

9 ~~“(e) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE~~
 10 INFORMATION DEFINED.—In this section, the term ‘sys-
 11 tem of documented criminal justice information’ means
 12 any law enforcement database, systems, or communica-
 13 tions containing information concerning identification,
 14 criminal history, arrests, convictions, arrest warrants, or
 15 wanted or missing persons, including the National Crime
 16 Information Center and its incorporated criminal history
 17 databases and the National Law Enforcement Tele-
 18 communications System.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
 20 ysis for chapter 281 is amended by adding at the end the
 21 following:

 “28104. Federal rail security officers’ access to criminal history and other law
 enforcement records, systems, and communications.”.

1 **SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRA-**
 2 **TION'S WEBSITE.**

3 (a) IN GENERAL.—The Secretary shall update the
 4 Federal Railroad Administration's public website to better
 5 facilitate the ability of the public, including those individ-
 6 uals who are not regular users of the public website, to
 7 find current information regarding the Federal Railroad
 8 Administration's activities.

9 (b) PUBLIC REPORTING OF VIOLATIONS.—On the
 10 Federal Railroad Administration's public website's home
 11 page, the Secretary shall provide a mechanism for the pub-
 12 lic to submit written reports of potential violations of Fed-
 13 eral railroad safety and hazardous materials transpor-
 14 tation laws, regulations and orders to the Federal Railroad
 15 Administration.

16 **TITLE IV—RAILROAD SAFETY**
 17 **ENHANCEMENTS**

18 **SEC. 401. EMPLOYEE TRAINING.**

19 (a) IN GENERAL.—Subchapter II of chapter 201, as
 20 amended by section 208 of this Act, is further amended
 21 by adding at the end the following:

22 **“§ 20162. Employee training**

23 **“(a) IN GENERAL.—**Not later than 1 year after the
 24 date of enactment of the Railroad Safety Enhancement
 25 Act of 2007, the Secretary of Transportation shall issue
 26 regulations requiring railroad carriers and railroad carrier

1 contractors and subcontractors to develop training plans
2 for crafts and classes of employees, as the Secretary deter-
3 mines appropriate.

4 “(b) CONTENTS.—The Secretary shall require that
5 each training plan—

6 “(1) clearly identify the class of craft of em-
7 ployees to which the plan applies;

8 “(2) require that employees be trained on the
9 requirements of relevant Federal railroad safety
10 laws, regulations, and orders;

11 “(3) require employees to be tested or otherwise
12 demonstrate their proficiency in the subject matter
13 of the training; and

14 “(4) contain any other relevant information
15 that the Secretary deems appropriate.

16 “(c) SUBMISSION FOR APPROVAL.—The Secretary
17 shall require each railroad carrier, railroad carrier con-
18 tractor, and railroad carrier subcontractor to submit its
19 training plan to the Federal Railroad Administration for
20 review and approval.

21 “(d) EXEMPTION.—The Secretary may exempt rail-
22 road carriers and railroad carrier contractors and sub-
23 contractors from submitting training plans covering em-
24 ployees for which the Secretary has issued training regula-

1 tions before the date of enactment of the Railroad Safety
2 Enhancement Act of 2007.”.

3 (b) CONFORMING AMENDMENT.—The chapter anal-
4 ysis for chapter 201, as amended by section 208 of this
5 Act, is further amended by adding at the end thereof the
6 following:

“20162. Employee training.”.

7 **SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASS-**
8 **ES OF EMPLOYEES.**

9 (a) REPORT.—Not later than 1 year after the date
10 of enactment of this Act, the Secretary shall issue a report
11 to the Senate Committee on Commerce, Science, and
12 Transportation and the House of Representatives Com-
13 mittee on Transportation and Infrastructure about wheth-
14 er the certification of certain crafts or classes of railroad
15 carrier or railroad carrier contractor or subcontractor em-
16 ployees is necessary to reduce the number and rate of acci-
17 dents and incidents or to improve railroad safety.

18 (b) CRAFTS AND CLASSES TO BE CONSIDERED.—As
19 part of the report, the Secretary shall consider—

20 (1) conductors;

21 (2) carmen;

22 (3) onboard service workers;

23 (4) rail welders; and

24 (5) any other craft or class of employees that
25 the Secretary determines appropriate.

1 (c) **REGULATIONS.**—The Secretary may issue regula-
 2 tions requiring the certification of certain crafts or classes
 3 of employees that the Secretary determines pursuant to
 4 the report required by subsection (a) are necessary to re-
 5 duce the number and rate of accidents and incidents or
 6 to improve railroad safety

7 **SEC. 403. TRACK INSPECTION TIME STUDY.**

8 (a) **FINDINGS.**—The Congress finds the following:

9 (1) Rail revenue ton miles have increased by
 10 approximately 25 percent in the past 10 years.

11 (2) Federal track safety regulations require
 12 track inspectors to complete inspections by walking
 13 or in a hi-rail vehicle and are often time intensive.

14 (3) Track inspectors are required to receive per-
 15 mission to occupy track to complete inspections,
 16 which often delays trains from operating through the
 17 segment of track being inspected, especially on high-
 18 density lines.

19 (4) Obtaining track time to complete required
 20 track repairs of defects identified during track in-
 21 spections can further delay train operations.

22 (5) The competition for track time between
 23 track inspectors and trains potentially can leave seri-
 24 ous rail defects undetected and unrepaired, increas-
 25 ing the risk of derailments, accidents and injuries.

1 (6) Results of rail and track defect detection
 2 technology studies have shown promise that such
 3 technologies can better identify or predict the most
 4 serious track problems, which could reduce inspec-
 5 tion time or decrease the need for as frequent track
 6 inspections.

7 (7) Being able to better detect track defects or
 8 predict when track defects will occur by using new
 9 or novel inspection technology could assist railroads
 10 in maximizing track inspection time and more effi-
 11 ciently using track repair time.

12 (b) STUDY.—Not later than 2 years after the date
 13 of enactment of this Act, the Secretary shall—

14 (1) complete a study to determine whether—

15 (A) the required intervals of track inspec-
 16 tions for each class of track should be amended;

17 (B) track remedial action requirements
 18 should be amended;

19 (C) different track inspection and repair
 20 priorities or methods should be required; and

21 (2) issue recommendations for changes to the
 22 Federal track safety standards in part 213 of title
 23 49, Code of Federal Regulations, based on the re-
 24 sults of the study.

1 (e) CONSIDERATIONS.—In conducting the study the
2 Secretary shall consider—

3 (1) the most current rail flaw, rail defect
4 growth, rail fatigue, and other relevant track- or
5 rail-related research and studies;

6 (2) the availability and feasibility of developing
7 and implementing new or novel rail inspection tech-
8 nology for routine track inspections;

9 (3) information from National Transportation
10 Safety Board or Federal Railroad Administration
11 accident investigations where track defects were the
12 cause or a contributing cause; and

13 (4) other relevant information, as determined
14 by the Secretary.

15 (d) UPDATE OF REGULATIONS.—Not later than 2
16 years after the completion of the study required by sub-
17 section (b), the Secretary shall issue regulations imple-
18 menting the recommendations of the study.

19 **SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT**
20 **STATION PLATFORM GAPS.**

21 Not later than 2 years after the enactment of this
22 Act, the Secretary shall complete a study to determine the
23 most safe, efficient, and cost-effective way to improve the
24 safety of rail passenger station platforms gaps in order
25 to increase compliance with the requirements under the

1 Americans with Disabilities Act (42 U.S.C. 12101 et seq.),
2 including regulations issued pursuant to section 504 of
3 such Act (42 U.S.C. 12204) and to minimize the safety
4 risks associated with such gaps for railroad passengers
5 and employees.

6 **SEC. 405. USE OF DISTRACTING DEVICES IN LOCOMOTIVE**
7 **CABS.**

8 (a) IN GENERAL.—Not later than 3 years after the
9 date of enactment of this Act, the Secretary shall complete
10 a study on the prevalence of the use of personal electronic
11 devices, including cell phones, video games, and other dis-
12 tracting devices, by safety-related railroad employees (as
13 defined in section 20102(4) of title 49, United States
14 Code, during the performance of such employees' duties.
15 The study shall consider the safety impact of the use of
16 such devices.

17 (b) REPORT.—Not later than 6 months after the
18 completion of the study, the Secretary shall issue a report
19 on the study to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Represent-
21 atives Committee on Transportation and Infrastructure.

22 (c) PROHIBITORY AUTHORITY.—Based on the con-
23 clusions of the study required under (a), the Secretary of
24 Transportation may prohibit the use of personal electronic
25 devices, such as cell phones, video games, or other elec-

1 tronic devices that may distract employees from safely per-
 2 forming their duties, unless those devices are being used
 3 according to railroad operating rules or for other work
 4 purposes.

5 **SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.**

6 (a) IN GENERAL.—Subchapter H of chapter 201, as
 7 amended by section 401 of this Act, is further amended
 8 by adding at the end thereof the following:

9 **“§ 20163. Railroad safety technology grants**

10 “(a) GRANT PROGRAM.—The Secretary of Transpor-
 11 tation shall establish a grant program for the deployment
 12 of train control technologies; train control component tech-
 13 nologies; processor-based technologies; electronically con-
 14 trolled pneumatic brakes; rail integrity inspection systems;
 15 rail integrity warning systems; switch position indicators;
 16 remote control power switch technologies; track integrity
 17 circuit technologies; and other new or novel railroad safety
 18 technology.

19 “(b) GRANT CRITERIA.—

20 “(1) ELIGIBILITY.—Grants shall be made under
 21 this section to eligible passenger and freight railroad
 22 carriers; railroad suppliers; and State and local gov-
 23 ernments for projects described in subsection (a)
 24 that have a public benefit of improved safety and
 25 network efficiency.

1 “(2) CONSIDERATIONS.—Priority shall be given
2 to projects that—

3 “(A) focus on making technologies inter-
4 operable between railroad systems; such as
5 train control technologies;

6 “(B) provide incentives for train control
7 technology deployment on high-risk corridors;
8 such as those that have high volumes of haz-
9 ardous materials shipments or over which com-
10 muter or passenger trains operate; or

11 “(C) benefit both passenger and freight
12 safety and efficiency.

13 “(3) TECHNOLOGY IMPLEMENTATION PLAN.—
14 Grants may not be awarded under this section to en-
15 tities that fail to develop and submit to the Sec-
16 retary a technology implementation plan as required
17 by section 20157(d)(2).

18 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary of
20 Transportation \$20,000,000 for each of fiscal years 2008
21 through 2013 to carry out this section. Amounts appro-
22 priated pursuant to this section shall remain available
23 until expended.”.

24 “(b) CONFORMING AMENDMENT.—The chapter anal-
25 ysis for chapter 201, as amended by section 401 of this

1 Act, is further amended by inserting after the item relat-
 2 ing to section 20163 the following:

“20163. Railroad safety technology grants.”.

3 **SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-**
 4 **MENT GRANTS.**

5 (a) IN GENERAL.—Subchapter H of chapter 201, as
 6 amended by section 406 of this Act, is further amended
 7 by adding at the end thereof the following:

8 **“§ 20164. Railroad safety infrastructure improvement**
 9 **grants**

10 “(a) GRANT PROGRAM.—The Secretary of Transpor-
 11 tation shall establish a grant program for safety improve-
 12 ments to railroad infrastructure, including the acquisition,
 13 improvement, or rehabilitation of intermodal or rail equip-
 14 ment or facilities, including track, bridges, tunnels, yards,
 15 buildings, passenger stations, facilities, and maintenance
 16 and repair shops.

17 “(b) ELIGIBILITY.—Grants shall be made under this
 18 section to eligible passenger and freight railroad carriers,
 19 and State and local governments for projects described in
 20 subsection (a).

21 “(c) CONSIDERATIONS.—In awarding grants the Sec-
 22 retary shall consider, at a minimum—

23 “(1) the age and condition of the rail infra-
 24 structure of the applicant;

1 “(2) the railroad’s safety record, including acci-
2 dent and incident numbers and rates;

3 “(3) the volume of hazardous materials trans-
4 ported by the railroad;

5 “(4) the operation of passenger trains over the
6 railroad; and

7 “(5) whether the railroad has submitted a rail-
8 road safety risk reduction program, as required by
9 section 20157.

10 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of
12 Transportation \$15,000,000 for each of fiscal years 2008
13 through 2013 to carry out this section. Amounts appro-
14 priated pursuant to this subsection shall remain available
15 until expended.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
17 ysis for chapter 201, as amended by section 406 of this
18 Act, is amended by inserting after the item relating to sec-
19 tion 20163 the following:

 “20164. Railroad safety infrastructure improvement grants.”.

20 **SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR**
21 **PROVISION.**

22 Section 20303 is amended by adding at the end the
23 following:

1 “(d) ADDITIONAL CONDITIONS FOR MOVEMENT TO
 2 MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHIC-
 3 LES.—

4 “(1) IN GENERAL.—The Secretary of Transpor-
 5 tation may impose conditions for the movement of a
 6 defective or insecure vehicle to make repairs in addi-
 7 tion to those conditions set forth in subsection (a)
 8 by prescribing regulations or issuing orders as nec-
 9 essary.

10 “(2) NECESSITY OF MOVEMENT.—The move-
 11 ment of a defective or insecure vehicle from a loca-
 12 tion may be necessary to make repairs of the vehicle
 13 even though a mobile repair truck capable of making
 14 the repairs has gone to the location on an irregular
 15 basis (as specified in regulations prescribed by the
 16 Secretary).

17 “(e) DEFINITIONS.—In this section:

18 “(1) NEAREST.—the term ‘nearest’ means the
 19 closest in the forward direction of travel for the de-
 20 fective or insecure vehicle.

21 “(2) PLACE AT WHICH THE REPAIRS CAN BE
 22 MADE.—The term ‘place at which the repairs can be
 23 made’ means—

24 “(A) a location with a fixed facility for
 25 conducting the repairs that are necessary to

bring the defective or insecure vehicle into compliance with this chapter; or

“(B) a location where a mobile repair truck capable of making the repairs that are necessary to bring the defective or insecure vehicle into compliance with this chapter makes the same kind of repair at the location regularly (as specified in regulations prescribed by the Secretary).”.

SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECHNOLOGY.

(a) IN GENERAL.—Subchapter H of chapter 201, as amended by section 407 of this Act, is further amended by adding at the end the following new section:

“§ 20165. Development and use of rail safety technology

“(a) IN GENERAL.—Not later than 1 year after enactment of the Railroad Safety Enhancement Act of 2007, the Secretary of Transportation shall issue standards, guidance, regulations, or orders to encourage the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensures its safe operation, such as—

- 1 “(1) switch position monitoring devices;
- 2 “(2) radio, remote control or other power-as-
- 3 sisted switches;
- 4 “(3) hot box, high water or earthquake detec-
- 5 tors;
- 6 “(4) remote control locomotive zone limiting de-
- 7 vices;
- 8 “(5) slide fences;
- 9 “(6) grade crossing video monitors;
- 10 “(7) track integrity warning systems; or
- 11 “(8) other similar rail safety technologies, as
- 12 determined by the Secretary.

13 “(b) DARK TERRITORY DEFINED.—In this section,
 14 the term ‘dark territory’ means any territory in a railroad
 15 system that does not have a signal or train control system
 16 installed or operational.”.

17 (b) CONFORMING AMENDMENT.—The chapter anal-
 18 ysis for chapter 201, as amended by section 407 of this
 19 Act, is amended by inserting after the item relating to sec-
 20 tion 20164 the following:

“20165. Development and use of rail safety technology.”.

21 **SEC. 410. EMPLOYEE SLEEPING QUARTERS.**

22 Section 21106 is amended—

- 23 (1) by inserting “(a) IN GENERAL.—” before
- 24 “A railroad carrier”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “~~(b) CAMP CARS.—~~Effective 12 months after the
4 date of enactment of the Railroad Safety Enhancement
5 Act of 2007, a railroad carrier and its officers and agents
6 may not provide sleeping quarters through the use of camp
7 cars, as defined in Appendix C to part 228 of title 49,
8 Code of Federal Regulations, for employees and any indi-
9 viduals employed to maintain the right of way of a railroad
10 carrier.”.

11 **TITLE V—RAIL PASSENGER** 12 **DISASTER FAMILY ASSISTANCE**

13 **SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION** 14 **SAFETY BOARD TO FAMILIES OF PAS-** 15 **SENGERS INVOLVED IN RAIL PASSENGER AC-** 16 **CIDENTS.**

17 ~~(a) IN GENERAL.—~~Chapter 11 is amended by adding
18 at the end of subchapter III the following:

19 **“§ 1139. Assistance to families of passengers involved** 20 **in rail passenger accidents**

21 ~~“(a) IN GENERAL.—~~As soon as practicable after
22 being notified of a rail passenger accident within the
23 United States involving a rail passenger carrier and result-
24 ing in a major loss of life, the Chairman of the National
25 Transportation Safety Board shall—

1 “(1) designate and publicize the name and
 2 phone number of a director of family support serv-
 3 ices who shall be an employee of the Board and shall
 4 be responsible for acting as a point of contact within
 5 the Federal Government for the families of pas-
 6 sengers involved in the accident and a liaison be-
 7 tween the rail passenger carrier and the families;
 8 and

9 “(2) designate an independent nonprofit organi-
 10 zation, with experience in disasters and posttrauma
 11 communication with families, which shall have pri-
 12 mary responsibility for coordinating the emotional
 13 care and support of the families of passengers in-
 14 volved in the accident.

15 “(b) RESPONSIBILITIES OF THE BOARD.—The Board
 16 shall have primary Federal responsibility for—

17 “(1) facilitating the recovery and identification
 18 of fatally injured passengers involved in an accident
 19 described in subsection (a); and

20 “(2) communicating with the families of pas-
 21 sengers involved in the accident as to the roles of—

22 “(A) the organization designated for an ac-
 23 cident under subsection (a)(2);

24 “(B) Government agencies; and

25 “(C) the rail passenger carrier involved;

1 with respect to the accident and the post-accident
2 activities.

3 ~~“(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-~~
4 ~~TION.—~~The organization designated for an accident under
5 subsection (a)(2) shall have the following responsibilities
6 with respect to the families of passengers involved in the
7 accident:

8 “(1) To provide mental health and counseling
9 services, in coordination with the disaster response
10 team of the rail passenger carrier involved.

11 “(2) To take such actions as may be necessary
12 to provide an environment in which the families may
13 grieve in private.

14 “(3) To meet with the families who have trav-
15 eled to the location of the accident, to contact the
16 families unable to travel to such location, and to
17 contact all affected families periodically thereafter
18 until such time as the organization, in consultation
19 with the director of family support services des-
20 ignated for the accident under subsection (a)(1), de-
21 termines that further assistance is no longer needed.

22 “(4) To arrange a suitable memorial service, in
23 consultation with the families.

24 ~~“(d) PASSENGER LISTS.—~~

25 ~~“(1) REQUESTS FOR PASSENGER LISTS.—~~

1 “(A) REQUESTS BY DIRECTOR OF FAMILY
2 SUPPORT SERVICES.—It shall be the responsi-
3 bility of the director of family support services
4 designated for an accident under subsection
5 (a)(1) to request, as soon as practicable, from
6 the rail passenger carrier involved in the acci-
7 dent a list, which is based on the best available
8 information at the time of the request, of the
9 names of the passengers that were aboard the
10 rail passenger carrier’s train involved in the ac-
11 cident. A rail passenger carrier shall use rea-
12 sonable efforts, with respect to its unreserved
13 trains, and passengers not holding reservations
14 on its other trains, to ascertain the names of
15 passengers aboard a train involved in an acci-
16 dent.

17 “(B) REQUESTS BY DESIGNATED ORGANI-
18 ZATION.—The organization designated for an
19 accident under subsection (a)(2) may request
20 from the rail passenger carrier involved in the
21 accident a list described in subparagraph (A).

22 “(2) USE OF INFORMATION.—The director of
23 family support services and the organization may
24 not release to any person information on a list ob-
25 tained under paragraph (1) but may provide infor-

1 mation on the list about a passenger to the family
 2 of the passenger to the extent that the director of
 3 family support services or the organization considers
 4 appropriate.

5 “(e) CONTINUING RESPONSIBILITIES OF THE
 6 BOARD.—In the course of its investigation of an accident
 7 described in subsection (a), the Board shall, to the max-
 8 imum extent practicable, ensure that the families of pas-
 9 sengers involved in the accident—

10 “(1) are briefed, prior to any public briefing,
 11 about the accident and any other findings from the
 12 investigation; and

13 “(2) are individually informed of and allowed to
 14 attend any public hearings and meetings of the
 15 Board about the accident.

16 “(f) USE OF RAIL PASSENGER CARRIER RE-
 17 SOURCES.—To the extent practicable, the organization
 18 designated for an accident under subsection (a)(2) shall
 19 coordinate its activities with the rail passenger carrier in-
 20 volved in the accident to facilitate the reasonable use of
 21 the resources of the carrier.

22 “(g) PROHIBITED ACTIONS.—

23 “(1) ACTIONS TO IMPEDE THE BOARD.—No
 24 person (including a State or political subdivision)
 25 may impede the ability of the Board (including the

1 director of family support services designated for an
2 accident under subsection (a)(1)); or an organization
3 designated for an accident under subsection (a)(2);
4 to carry out its responsibilities under this section or
5 the ability of the families of passengers involved in
6 the accident to have contact with one another.

7 “(2) ~~UNSOLICITED COMMUNICATIONS.—~~No un-
8 solicited communication concerning a potential ac-
9 tion for personal injury or wrongful death may be
10 made by an attorney (including any associate, agent,
11 employee, or other representative of an attorney) or
12 any potential party to the litigation to an individual
13 (other than an employee of the rail passenger car-
14 rier) injured in the accident, or to a relative of an
15 individual involved in the accident, before the 45th
16 day following the date of the accident.

17 “(3) ~~PROHIBITION ON ACTIONS TO PREVENT~~
18 ~~MENTAL HEALTH AND COUNSELING SERVICES.—~~No
19 State or political subdivision may prevent the em-
20 ployees, agents, or volunteers of an organization des-
21 ignated for an accident under subsection (a)(2) from
22 providing mental health and counseling services
23 under subsection (c)(1) in the 30-day period begin-
24 ning on the date of the accident. The director of
25 family support services designated for the accident

under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

“(h) DEFINITIONS.—In this section:

“(1) RAIL PASSENGER ACCIDENT.—The term ‘rail passenger accident’ means any rail passenger disaster occurring in the provision of—

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation;

regardless of its cause or suspected cause.

“(2) RAIL PASSENGER CARRIER.—The term ‘rail passenger carrier’ means a rail carrier providing—

“(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

“(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation;

1 except that such term does not include a tourist, his-
 2 toric, scenic, or excursion rail carrier.

3 ~~“(3) PASSENGER.—~~The term ‘passenger’ in-
 4 cludes—

5 ~~“(A) an employee of a rail passenger car-~~
 6 rier aboard a train;

7 ~~“(B) any other person aboard the train~~
 8 without regard to whether the person paid for
 9 the transportation, occupied a seat, or held a
 10 reservation for the rail transportation; and

11 ~~“(C) any other person injured or killed in~~
 12 the accident.

13 ~~“(i) LIMITATION ON STATUTORY CONSTRUCTION.—~~
 14 Nothing in this section may be construed as limiting the
 15 actions that a rail passenger carrier may take, or the obli-
 16 gations that a rail passenger carrier may have, in pro-
 17 viding assistance to the families of passengers involved in
 18 a rail passenger accident.

19 ~~“(j) RELINQUISHMENT OF INVESTIGATIVE PRI-~~
 20 ORITY.—

21 ~~“(1) GENERAL RULE.—~~This section (other than
 22 subsection (g)) shall not apply to a railroad accident
 23 if the Board has relinquished investigative priority
 24 under section 1131(a)(2)(B) and the Federal agency
 25 to which the Board relinquished investigative pri-

1 ority is willing and able to provide assistance to the
 2 victims and families of the passengers involved in
 3 the accident.

4 “(2) BOARD ASSISTANCE.—If this section does
 5 not apply to a railroad accident because the Board
 6 has relinquished investigative priority with respect to
 7 the accident, the Board shall assist, to the maximum
 8 extent possible, the agency to which the Board has
 9 relinquished investigative priority in assisting fami-
 10 lies with respect to the accident.”.

11 (b) CONFORMING AMENDMENT.—The table of sec-
 12 tions for such chapter is amended by inserting after the
 13 item relating to section 1138 the following:

“1139. Assistance to families of passengers involved in rail passenger acci-
 dents.”.

14 **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAM-**
 15 **ILIES OF PASSENGERS INVOLVED IN RAIL**
 16 **PASSENGER ACCIDENTS.**

17 (a) IN GENERAL.—Chapter 243 is amended by add-
 18 ing at the end the following:

19 **“§ 24316. Plans to address needs of families of pas-**
 20 **sengers involved in rail passenger acci-**
 21 **dents**

22 “(a) SUBMISSION OF PLAN.—Not later than 6
 23 months after the date of the enactment of the Railroad
 24 Safety Enhancement Act of 2007, a rail passenger carrier

1 shall submit to the Chairman of the National Transpor-
 2 tation Safety Board, the Secretary of Transportation, and
 3 the Secretary of Homeland Security a plan for addressing
 4 the needs of the families of passengers involved in any rail
 5 passenger accident involving a rail passenger carrier inter-
 6 city train and resulting in a loss of life.

7 “(b) CONTENTS OF PLANS.—The plan to be sub-
 8 mitted by a rail passenger carrier under subsection (a)
 9 shall include, at a minimum, the following:

10 “(1) A process by which a rail passenger carrier
 11 will maintain and provide to the National Transpor-
 12 tation Safety Board, the Secretary of Transpor-
 13 tation, and the Secretary of Homeland Security, im-
 14 mediately upon request, a list (which is based on the
 15 best available information at the time of the request)
 16 of the names of the passengers aboard the train
 17 (whether or not such names have been verified), and
 18 will periodically update the list. The plan shall in-
 19 clude a procedure, with respect to unreserved trains
 20 and passengers not holding reservations on other
 21 trains, for a rail passenger carrier to use reasonable
 22 efforts to ascertain the number and names of pas-
 23 sengers aboard a train involved in an accident.

24 “(2) A plan for creating and publicizing a reli-
 25 able, toll-free telephone number within 4 hours after

1 such an accident occurs, and for providing staff, to
2 handle calls from the families of the passengers.

3 “(3) A process for notifying the families of the
4 passengers, before providing any public notice of the
5 names of the passengers, by suitably trained individ-
6 uals.

7 “(4) A process for providing the notice de-
8 scribed in paragraph (2) to the family of a pas-
9 senger as soon as a rail passenger carrier has
10 verified that the passenger was aboard the train
11 (whether or not the names of all of the passengers
12 have been verified).

13 “(5) A process by which the family of each pas-
14 senger will be consulted about the disposition of all
15 remains and personal effects of the passenger within
16 a rail passenger carrier’s control; that any posses-
17 sion of the passenger within a rail passenger ear-
18 rier’s control will be returned to the family unless
19 the possession is needed for the accident investiga-
20 tion or any criminal investigation; and that any un-
21 claimed possession of a passenger within a rail pas-
22 senger carrier’s control will be retained by the rail
23 passenger carrier for at least 18 months.

24 “(6) A process by which the treatment of the
25 families of nonrevenue passengers will be the same

1 as the treatment of the families of revenue pas-
2 sengers.

3 “(7) An assurance that a rail passenger carrier
4 will provide adequate training to its employees and
5 agents to meet the needs of survivors and family
6 members following an accident.

7 “(c) USE OF INFORMATION.—Neither the National
8 Transportation Safety Board, the Secretary of Transpor-
9 tation, the Secretary of Homeland Security, nor a rail pas-
10 senger carrier may release any personal information on
11 a list obtained under subsection (b)(1) but may provide
12 information on the list about a passenger to the family
13 of the passenger to the extent that the Board or a rail
14 passenger carrier considers appropriate.

15 “(d) LIMITATION ON LIABILITY.—A rail passenger
16 carrier shall not be liable for damages in any action
17 brought in a Federal or State court arising out of the per-
18 formance of a rail passenger carrier under this section in
19 preparing or providing a passenger list, or in providing
20 information concerning a train reservation, pursuant to a
21 plan submitted by a rail passenger carrier under sub-
22 section (b), unless such liability was caused by a rail pas-
23 senger carrier’s conduct.

24 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—
25 Nothing in this section may be construed as limiting the

1 actions that a rail passenger carrier may take, or the obli-
 2 gations that a rail passenger carrier may have, in pro-
 3 viding assistance to the families of passengers involved in
 4 a rail passenger accident.

5 “(f) FUNDING.—Out of funds appropriated pursuant
 6 to section 20117(a)(1)(A), there shall be made available
 7 to the Secretary of Transportation \$500,000 for fiscal
 8 year 2008 to carry out this section. Amounts made avail-
 9 able pursuant to this subsection shall remain available
 10 until expended.”.

11 (b) CONFORMING AMENDMENT.—The chapter anal-
 12 ysis for chapter 243 is amended by adding at the end the
 13 following:

“24316. Plan to assist families of passengers involved in rail passenger acci-
 dents.”.

14 **SEC. 503. ESTABLISHMENT OF TASK FORCE.**

15 (a) ESTABLISHMENT.—The Secretary, in cooperation
 16 with the National Transportation Safety Board, organiza-
 17 tions potentially designated under section 1139(a)(2) of
 18 title 49, United States Code, rail passenger carriers, and
 19 families which have been involved in rail accidents, shall
 20 establish a task force consisting of representatives of such
 21 entities and families, representatives of passenger rail ear-
 22 rier employees, and representatives of such other entities
 23 as the Secretary considers appropriate.

1 (b) MODEL PLAN AND RECOMMENDATIONS.—The
2 task force established pursuant to subsection (a) shall de-
3 velop—

4 (1) a model plan to assist passenger rail car-
5 riers in responding to passenger rail accidents;

6 (2) recommendations on methods to improve
7 the timeliness of the notification provided by pas-
8 senger rail carriers to the families of passengers in-
9 volved in a passenger rail accident;

10 (3) recommendations on methods to ensure that
11 the families of passengers involved in a passenger
12 rail accident who are not citizens of the United
13 States receive appropriate assistance; and

14 (4) recommendations on methods to ensure that
15 emergency services personnel have as immediate and
16 accurate a count of the number of passengers on-
17 board the train as possible.

18 (c) REPORT.—Not later than 1 year after the date
19 of the enactment of this Act, the Secretary shall transmit
20 to Congress a report containing the model plan and rec-
21 ommendations developed by the task force under sub-
22 section (b).

1 **TITLE VI—CLARIFICATION OF**
 2 **FEDERAL JURISDICTION**
 3 **OVER SOLID WASTE FACILI-**
 4 **TIES**

5 **SEC. 601. CLARIFICATION OF FEDERAL JURISDICTION**
 6 **OVER SOLID WASTE FACILITIES.**

7 Section 10501 is amended—

8 (1) by striking “facilities,” in subsection (b)(2)
 9 and inserting “facilities (except solid waste manage-
 10 ment facilities (as defined in section 1004 of the
 11 Solid Waste Disposal Act (42 U.S.C. 6903))),”; and

12 (2) by striking “over mass transportation pro-
 13 vided by a local governmental authority.” in sub-
 14 section (c)(2) and inserting “over—

15 “(A) mass transportation provided by a local
 16 governmental authority; or

17 “(B) the processing or sorting of solid waste.”.

18 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMEND-**
 19 **MENT OF TITLE 49.**

20 (a) *SHORT TITLE.*—*This Act may be cited as the*
 21 *“Railroad Safety Enhancement Act of 2007”.*

22 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 23 *this Act is as follows:*

Sec. 1. Short title; table of contents; amendment of title 49.

Sec. 2. Definitions.

Sec. 3. Authorization of appropriations.

TITLE I—RAILROAD RISK REDUCTION AND STRATEGY

- Sec. 101. Establishment of chief safety officer.*
- Sec. 102. Railroad safety strategy.*
- Sec. 103. Railroad safety risk reduction pilot program.*
- Sec. 104. Railroad safety risk reduction program.*
- Sec. 105. Positive train control system implementation.*
- Sec. 106. Hours-of-service reform.*
- Sec. 107. Protection of railroad safety risk analyses information.*

TITLE II—HIGHWAY-RAIL GRADE CROSSING AND PEDESTRIAN SAFETY AND TRESPASSER PREVENTION

- Sec. 201. Pedestrian crossing safety.*
- Sec. 202. State action plans.*
- Sec. 203. Improvements to sight distance at highway-rail grade crossings.*
- Sec. 204. National crossing inventory.*
- Sec. 205. Telephone number to report grade crossing problems.*
- Sec. 206. Operation Lifesaver.*
- Sec. 207. Trespasser prevention and highway-rail crossing safety.*
- Sec. 208. Fostering introduction of new technology to improve safety at highway-rail grade crossings.*

TITLE III—FEDERAL RAILROAD ADMINISTRATION

- Sec. 301. Human capital increases.*
- Sec. 302. Civil penalty increases.*
- Sec. 303. Enforcement report.*
- Sec. 304. Prohibition of individuals from performing safety-sensitive functions for a violation of hazardous materials transportation law.*
- Sec. 305. Railroad radio monitoring authority.*
- Sec. 306. Emergency waivers.*
- Sec. 307. Federal rail security officers' access to information.*
- Sec. 308. Update of Federal Railroad Administration's website.*

TITLE IV—RAILROAD SAFETY ENHANCEMENTS

- Sec. 401. Employee training.*
- Sec. 402. Certification of certain crafts or classes of employees.*
- Sec. 403. Track inspection time study.*
- Sec. 404. Study of methods to improve or correct station platform gaps.*
- Sec. 405. Locomotive cab studies.*
- Sec. 406. Railroad safety technology grants.*
- Sec. 407. Railroad safety infrastructure improvement grants.*
- Sec. 408. Amendment to the movement-for-repair provision.*
- Sec. 409. Development and use of rail safety technology.*
- Sec. 410. Employee sleeping quarters.*
- Sec. 411. Employee protections.*
- Sec. 412. Unified treatment of families of railroad carriers.*
- Sec. 413. Study of repeal of Conrail provision.*
- Sec. 414. Limitations on non-federal alcohol and drug testing by railroad carriers.*
- Sec. 415. Critical incident stress plan.*

TITLE V—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

Sec. 501. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.

Sec. 502. Rail passenger carrier plan to assist families of passengers involved in rail passenger accidents.

Sec. 503. Establishment of task force.

TITLE VI—CLARIFICATION OF FEDERAL JURISDICTION OVER SOLID WASTE FACILITIES

Sec. 601. Short title.

Sec. 602. Regulation of solid waste transfer facilities.

Sec. 603. Conforming amendment to title 49.

1 (c) *AMENDMENT OF TITLE 49.—Except as otherwise*
 2 *expressly provided, whenever in this Act an amendment or*
 3 *repeal is expressed in terms of an amendment to, or a repeal*
 4 *of, a section or other provision, the reference shall be consid-*
 5 *ered to be made to a section or other provision of title 49,*
 6 *United States Code.*

7 **SEC. 2. DEFINITIONS.**

8 (a) *IN GENERAL.—In this Act:*

9 (1) *CROSSING.—The term “crossing” means a lo-*
 10 *cation within a State, other than a location where*
 11 *one or more railroad tracks cross one or more rail-*
 12 *road tracks at grade where—*

13 (A) *a public highway, road, or street, or a*
 14 *private roadway, including associated sidewalks*
 15 *and pathways, crosses one or more railroad*
 16 *tracks either at grade or grade-separated; or*

17 (B) *a pathway explicitly authorized by a*
 18 *public authority or a railroad that is dedicated*
 19 *for the use of nonvehicular traffic, including pe-*

1 *destrians, bicyclists, and others, that is not asso-*
 2 *ciated with a public highway, road, or street, or*
 3 *a private roadway, crosses one or more railroad*
 4 *tracks either at grade or grade-separated.*

5 (2) *DEPARTMENT.*—*The term “Department”*
 6 *means the Department of Transportation.*

7 (3) *RAILROAD.*—*The term “railroad” has the*
 8 *meaning given that term by section 20102 of title 49,*
 9 *United States Code.*

10 (4) *RAILROAD CARRIER.*—*The term “railroad*
 11 *carrier” has the meaning given that term by section*
 12 *20102 of title 49, United States Code.*

13 (5) *SECRETARY.*—*The term “Secretary” means*
 14 *the Secretary of Transportation.*

15 (6) *STATE.*—*The term “State” means a State of*
 16 *the United States, the District of Columbia, or the*
 17 *Commonwealth of Puerto Rico.*

18 (b) *IN TITLE 49.*—*Section 20102 is amended—*

19 (1) *by redesignating paragraphs (1) and (2) as*
 20 *paragraphs (2) and (3), respectively;*

21 (2) *by inserting before paragraph (2), as redesi-*
 22 *gnated, the following:*

23 *“(1) ‘Class I railroad’ means a railroad carrier*
 24 *that has annual carrier operating revenues that meet*
 25 *the threshold amount for Class I carriers, as deter-*

1 *mined by the Surface Transportation Board under*
 2 *section 1201.1–1 of title 49, Code of Federal Regula-*
 3 *tions.”; and*

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

5 *“(4) ‘safety-related railroad employee’ means—*

6 *“(A) a railroad employee who is subject to*
 7 *chapter 211;*

8 *“(B) another operating railroad employee*
 9 *who is not subject to chapter 211;*

10 *“(C) an employee who maintains the right*
 11 *of way of a railroad carrier;*

12 *“(D) an employee of a railroad carrier who*
 13 *is a hazmat employee as defined in section*
 14 *5102(3) of this title;*

15 *“(E) an employee who inspects, repairs, or*
 16 *maintains locomotives, passenger cars or freight*
 17 *cars; and*

18 *“(F) any other employee of a railroad who*
 19 *directly affects railroad safety, as determined by*
 20 *the Secretary.”.*

21 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

22 *Section 20117(a) is amended to read as follows:*

23 *“(a) IN GENERAL.—*

24 *“(1) There are authorized to be appropriated to*
 25 *the Secretary of Transportation to carry out this part*

1 *and to carry out responsibilities under chapter 51 as*
 2 *delegated or authorized by the Secretary—*

3 *“(A) \$245,000,000 for fiscal year 2008;*

4 *“(B) \$260,000,000 for fiscal year 2009;*

5 *“(C) \$270,000,000 for fiscal year 2010;*

6 *“(D) \$280,000,000 for fiscal year 2011;*

7 *“(E) \$290,000,000 for fiscal year 2012; and*

8 *“(F) \$300,000,000 for fiscal year 2013.*

9 *“(2) With amounts appropriated pursuant to*
 10 *paragraph (1), the Secretary may designate the fol-*
 11 *lowing amounts for research and development:*

12 *“(A) \$40,000,000.*

13 *“(B) \$42,000,000.*

14 *“(C) \$44,000,000.*

15 *“(D) \$46,000,000.*

16 *“(E) \$48,000,000.*

17 *“(F) \$51,000,000.*

18 *“(3) With amounts appropriated pursuant to*
 19 *paragraph (1), the Secretary shall purchase Gage Re-*
 20 *straint Measurement System vehicles and track geom-*
 21 *etry vehicles or other comparable technology as needed*
 22 *to assess track safety, consistent with the results of the*
 23 *track inspection study required by section 403 of the*
 24 *Railroad Safety Enhancement Act of 2007.*

1 “(4) *There are authorized to be appropriated to*
 2 *the Secretary \$18,000,000 for the period encom-*
 3 *passing fiscal years 2008 through 2011 to design, de-*
 4 *velop, and construct the Facility for Underground*
 5 *Rail Station and Tunnel Testing and Training at the*
 6 *Transportation Technology Center, Inc., in Pueblo,*
 7 *Colorado. The facility shall be used to test and evalu-*
 8 *ate the safety and security vulnerabilities of above-*
 9 *ground and underground rail tunnels to prevent acci-*
 10 *dents and incidents in such tunnels, to mitigate and*
 11 *remediate the consequences of any such accidents or*
 12 *incidents, and to provide a realistic scenario for*
 13 *training emergency responders.*

14 “(5) *Such sums as may be necessary from the*
 15 *amount appropriated pursuant to paragraph (1) for*
 16 *each of the fiscal years 2008 through 2013 shall be*
 17 *made available to the Secretary for personnel in re-*
 18 *gional offices and in Washington, DC, whose duties*
 19 *primarily involve rail security.”.*

20 ***TITLE I—RAILROAD SAFETY RISK*** 21 ***REDUCTION AND STRATEGY***

22 ***SEC. 101. ESTABLISHMENT OF CHIEF SAFETY OFFICER.***

23 *Section 103 is amended—*

24 *(1) by redesignating subsections (c), (d), and (e)*
 25 *as subsections (e), (f), and (g);*

1 (2) *by inserting after subsection (b) the fol-*
 2 *lowing:*

3 “(c) *SAFETY AS HIGHEST PRIORITY.*—*In carrying out*
 4 *its duties, the Administration shall consider safety as the*
 5 *highest priority, recognizing the clear intent, encourage-*
 6 *ment, and dedication of Congress to the furtherance of the*
 7 *highest degree of safety in railroad transportation.*

8 “(d) *CHIEF SAFETY OFFICER.*—*The Administration*
 9 *shall have an Associate Administrator for Railroad Safety*
 10 *appointed in the career service by the Secretary. The Asso-*
 11 *ciate Administrator shall be the Chief Safety Officer of the*
 12 *Administration. The Associate Administrator shall carry*
 13 *out the duties and powers prescribed by the Adminis-*
 14 *trator.”; and*

15 (3) *by striking “(c)(1)” in subsection (f), as re-*
 16 *designated, and inserting “(e)(1)”.*

17 **SEC. 102. RAILROAD SAFETY STRATEGY.**

18 (a) *SAFETY GOALS.*—*In conjunction with existing fed-*
 19 *erally-required and voluntary strategic planning efforts on-*
 20 *going at the Department and the Federal Railroad Admin-*
 21 *istration on the date of enactment of this Act, the Secretary*
 22 *shall develop a long-term strategy for improving railroad*
 23 *safety to cover a period of not less than 5 years. The strat-*
 24 *egy shall include an annual plan and schedule for achiev-*
 25 *ing, at a minimum, the following goals:*

1 (1) *Reducing the number and rates of accidents,*
 2 *injuries, and fatalities involving railroads including*
 3 *train collisions and derailments and human factors.*

4 (2) *Improving the consistency and effectiveness of*
 5 *enforcement and compliance programs.*

6 (3) *Improving the identification of high-risk*
 7 *highway-rail grade crossings and strengthening en-*
 8 *forcement and other methods to increase grade cross-*
 9 *ing safety.*

10 (4) *Improving research efforts to enhance and*
 11 *promote railroad safety and performance.*

12 (5) *Preventing railroad trespasser accidents, in-*
 13 *juries, and fatalities.*

14 (6) *Improving the safety of railroad bridges, tun-*
 15 *nels, and related infrastructure to prevent accidents,*
 16 *injuries, and fatalities caused by catastrophic failures*
 17 *and other bridge and tunnel failures.*

18 (b) *RESOURCE NEEDS.—The strategy and annual*
 19 *plan shall include estimates of the funds and staff resources*
 20 *needed to accomplish the goals established by subsection (a).*
 21 *Such estimates shall also include the staff skills and train-*
 22 *ing required for timely and effective accomplishment of each*
 23 *such goal.*

24 (c) *SUBMISSION WITH THE PRESIDENT'S BUDGET.—*
 25 *The Secretary shall submit the strategy and annual plan*

1 *to the Senate Committee on Commerce, Science, and Trans-*
2 *portation and the House of Representatives Committee on*
3 *Transportation and Infrastructure at the same time as the*
4 *President's budget submission.*

5 *(d) ACHIEVEMENT OF GOALS.—*

6 *(1) PROGRESS ASSESSMENT.—No less frequently*
7 *than annually, the Secretary shall assess the progress*
8 *of the Department toward achieving the strategic*
9 *goals described in subsection (a). The Secretary shall*
10 *identify any deficiencies in achieving the goals within*
11 *the strategy and develop and institute measures to re-*
12 *mediate such deficiencies.*

13 *(2) REPORT TO CONGRESS.—Not later than No-*
14 *vember 1st of each year, the Secretary shall transmit*
15 *a report to the Senate Committee on Commerce,*
16 *Science, and Transportation and the House of Rep-*
17 *resentatives Committee on Transportation and Infra-*
18 *structure on the performance of the Federal Railroad*
19 *Administration containing the progress assessment re-*
20 *quired by paragraph (1) toward achieving the goals*
21 *of the railroad safety strategy and annual plans*
22 *under subsection (a).*

1 **SEC. 103. RAILROAD SAFETY RISK REDUCTION PILOT PRO-**
 2 **GRAM.**

3 (a) *IN GENERAL.*—Subchapter II of chapter 201 is
 4 amended by adding at the end thereof the following:

5 **“§ 20156. Railroad safety risk reduction pilot program**

6 **“(a) PILOT PROGRAM.—**

7 **“(1) IN GENERAL.**—*In conjunction with ongoing*
 8 *behavior-based safety research at the Department of*
 9 *Transportation, the Secretary shall develop a 4-year*
 10 *railroad safety risk reduction pilot program to sys-*
 11 *tematically evaluate and manage railroad safety risks*
 12 *with the goal of reducing the numbers and rates of*
 13 *railroad accidents, injuries, and fatalities. Not later*
 14 *than 1 year after the date of enactment of the Rail-*
 15 *road Safety Enhancement Act of 2007, the Secretary*
 16 *shall, in coordination with selected railroads, railroad*
 17 *facilities, nonprofit employee labor organizations that*
 18 *represent safety-related railroad employees employed*
 19 *at such railroad or railroad facility, and any other*
 20 *entities that the Secretary determines to be relevant,*
 21 *at a minimum—*

22 *“(A) identify the aspects of a selected rail-*
 23 *road or railroad facility, including operating*
 24 *practices, infrastructure, equipment, employee*
 25 *levels and schedules, safety culture, management*
 26 *structure, employee training, and other matters,*

1 *including those not covered by railroad safety*
 2 *regulations or other Federal regulations, that im-*
 3 *pact railroad safety;*

4 *“(B) evaluate how these aspects of a selected*
 5 *railroad or railroad facility increase or decrease*
 6 *risks to railroad safety;*

7 *“(C) develop a safety risk reduction pro-*
 8 *gram to improve the safety of a selected railroad*
 9 *or railroad facility by reducing the numbers and*
 10 *rates of accidents, injuries, and fatalities*
 11 *through—*

12 *“(i) the mitigation of the aspects of a*
 13 *selected railroad or railroad facility that in-*
 14 *crease risks to railroad safety; and*

15 *“(ii) the enhancement of aspects of a*
 16 *selected railroad or railroad facility that de-*
 17 *crease risks to railroad safety; and*

18 *“(D) incorporate into the program the con-*
 19 *sideration and use of existing, new, or novel*
 20 *technology, operating practices, risk management*
 21 *practices or other behavior-based practices that*
 22 *could improve railroad safety at the selected rail-*
 23 *road or railroad facility.*

24 *“(2) IMPLEMENTATION DEADLINE.—Not later*
 25 *than 2 years after the date of enactment of the Rail-*

1 road Safety Enhancement Act of 2007, the selected
 2 railroad or railroad facility shall implement the safe-
 3 ty risk reduction program developed under paragraph
 4 (1)(C) on the selected railroad or railroad facility and
 5 ensure that all employees at the selected railroad or
 6 railroad facility have received training related to the
 7 program.

8 “(b) *SELECTION OF RAILROAD OR RAILROAD FACILITY*
 9 *FOR PILOT PROGRAM.*—Not later than 6 months after the
 10 date of enactment of the Railroad Safety Enhancement Act
 11 of 2007, the Secretary shall develop a voluntary application
 12 process to select 1 or more railroad or railroad facilities
 13 where the pilot project will be implemented. The application
 14 process shall include criteria for rating applicants, such as
 15 safety performance, accident and incident history, existence
 16 of risk management or behavior-based practices at the rail-
 17 road or railroad facility, number of employees employed at
 18 the railroad or railroad facility, and other relevant criteria
 19 determined by the Secretary. If more than 1 railroad or
 20 railroad facility is selected, the Secretary shall select rail-
 21 roads and railroad facilities that are representative of the
 22 railroad industry as a whole, if possible.

23 “(c) *EVALUATION.*—Not later than 6 months after the
 24 completion of the safety risk reduction program pilot pro-

1 gram, the Secretary shall submit a report to Congress evalu-
2 ating the pilot program, which shall include—

3 “(1) a summary of the railroad safety risk re-
4 duction pilot program and description of the actions
5 taken by the Secretary and selected railroad or rail-
6 road facilities during the program;

7 “(2) an analysis of the difference in the number
8 and rates of accidents, injuries, and fatalities at a se-
9 lected railroad or railroad facility before and after the
10 implementation of the risk reduction pilot program at
11 a selected railroad or railroad facility; and

12 “(3) guidelines on the preparation and imple-
13 mentation of railroad safety risk reduction program
14 for the railroad carriers required to develop such
15 plans under section 20157 that reflect that best prac-
16 tices developed during the pilot program.

17 “(d) GRANTS.—The Secretary shall establish a grant
18 program for implementation of the railroad safety risk re-
19 duction pilot program. Railroads and railroad facilities se-
20 lected by the Secretary shall be eligible for grants.

21 “(e) AUTHORIZATION OF APPROPRIATIONS.—There are
22 authorized to be appropriated to the Secretary of Transpor-
23 tation \$1,000,000 for fiscal years 2009 and 2010 to carry
24 out this section.”.

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 201 is amended by inserting after the item relat-*
 3 *ing to section 20155 the following:*

“20156. Railroad safety risk reduction pilot program.”.

4 **SEC. 104. RAILROAD SAFETY RISK REDUCTION PROGRAM.**

5 (a) *IN GENERAL.*—*Subchapter II of chapter 201, as*
 6 *amended by section 103, is amended by adding at end there-*
 7 *of the following:*

8 **“§ 20157. Railroad safety risk reduction program**

9 “(a) *IN GENERAL.*—

10 “(1) *PROGRAM REQUIREMENT.*—*Not later than 5*
 11 *years after the date of enactment, the Secretary, by*
 12 *regulation, shall require each railroad carrier that is*
 13 *a Class I railroad, a railroad carrier that has inad-*
 14 *equately safety performance (as determined by the Sec-*
 15 *retary), or a railroad that provides intercity pas-*
 16 *senger or commuter rail passenger transportation—*

17 “(A) *to develop a railroad safety risk reduc-*
 18 *tion program under subsection (d) that system-*
 19 *atically evaluates system-wide railroad safety*
 20 *risks and manages those risks in order to reduce*
 21 *the numbers and rates of railroad accidents, in-*
 22 *juries, and fatalities;*

23 “(B) *to submit its program, including any*
 24 *required plans, to the Federal Railroad Adminis-*
 25 *tration for its review and approval; and*

1 “(C) to implement the program and plans
2 approved by the Federal Railroad Administra-
3 tion.

4 “(2) *RELIANCE ON PILOT PROGRAM.*—The Sec-
5 retary shall use the information and experience gath-
6 ered through the pilot program under section 20156
7 in developing regulations under this section.

8 “(3) *WAIVERS.*—The Secretary may grant a
9 waiver under section 20103(d) to a railroad carrier
10 from compliance with all or a part of the require-
11 ments of this section if the Secretary determines that
12 the safety performance of the railroad carrier is suffi-
13 cient to warrant the waiver.

14 “(4) *VOLUNTARY COMPLIANCE.*—A railroad car-
15 rier that is not required to submit a railroad safety
16 risk reduction program under this section may volun-
17 tarily submit a program that meets the requirements
18 of this section to the Federal Railroad Administra-
19 tion. The Federal Railroad Administration shall ap-
20 prove or disapprove any program submitted under
21 this paragraph.

22 “(b) *CERTIFICATION.*—The chief official responsible for
23 safety of each railroad carrier required to submit a railroad
24 safety risk reduction program under subsection (a) shall
25 certify that the contents of the program are accurate and

1 *that the railroad will implement the contents of the pro-*
 2 *gram as approved by the Federal Railroad Administration.*

3 “(c) *RISK ANALYSIS.*—*In developing its railroad safe-*
 4 *ty risk reduction program each railroad required to submit*
 5 *such a program under subsection (a) shall identify and*
 6 *analyze the aspects of its railroad, including operating*
 7 *practices, infrastructure, equipment, employee levels and*
 8 *schedules, safety culture, management structure, employee*
 9 *training, and other matters, including those not covered by*
 10 *railroad safety regulations or other Federal regulations,*
 11 *that impact railroad safety.*

12 “(d) *PROGRAM ELEMENTS.*—

13 “(1) *IN GENERAL.*—*Each railroad required to*
 14 *submit a railroad safety risk reduction program*
 15 *under subsection (a) shall develop a comprehensive*
 16 *safety risk reduction program to improve safety by re-*
 17 *ducing the number and rates of accidents, injuries,*
 18 *and fatalities that is based on the risk analysis re-*
 19 *quired by subsection (c) through—*

20 “(A) *the mitigation of aspects that increase*
 21 *risks to railroad safety; and*

22 “(B) *the enhancement of aspects that de-*
 23 *crease risks to railroad safety.*

24 “(2) *REQUIRED COMPONENTS.*—*Each railroad’s*
 25 *safety risk reduction program shall include a tech-*

nology implementation plan that meets the requirements of subsection (e) and a fatigue management plan that meets the requirements of subsection (f).

“(e) *TECHNOLOGY IMPLEMENTATION PLAN.*—

“(1) *IN GENERAL.*—As part of its railroad safety risk reduction program, a railroad required to submit a railroad safety risk reduction program under subsection (a) shall develop a 10-year technology implementation plan that describes the railroad’s plan for development, adoption, implementation, and use of current, new, or novel technologies on its system over a 10-year period to reduce safety risks identified under the railroad safety risk reduction program.

“(2) *TECHNOLOGY ANALYSIS.*—A railroad’s technology implementation plan shall include an analysis of the safety impact, feasibility, and cost and benefits of implementing technologies, including processor-based technologies, positive train control systems (as defined in section 20158(b)), electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators, trespasser prevention technology, highway rail grade crossing technology, and other new or novel railroad safety technology, as appropriate, that may

1 *mitigate risks to railroad safety identified in the risk*
2 *analysis required by subsection (c).*

3 “(3) *IMPLEMENTATION SCHEDULE.*—*A railroad’s*
4 *technology implementation plan shall contain a*
5 *prioritized implementation schedule for the develop-*
6 *ment, adoption, implementation, and use of current,*
7 *new, or novel technologies on its system to reduce*
8 *safety risks identified under the railroad safety risk*
9 *reduction program.*

10 “(f) *FATIGUE MANAGEMENT PLAN.*—

11 “(1) *IN GENERAL.*—*As part of its railroad safety*
12 *risk reduction program, a railroad required to submit*
13 *a railroad safety risk reduction program under sub-*
14 *section (a) for which the analysis under subsection (c)*
15 *has shown fatigue to be a significant source of risk*
16 *shall develop a fatigue management plan that is de-*
17 *signed to reduce the fatigue experienced by safety-re-*
18 *lated railroad employees and to reduce the likelihood*
19 *of accidents, injuries, and fatalities caused by fatigue.*

20 “(2) *TARGETED FATIGUE COUNTERMEASURES.*—
21 *A railroad’s fatigue management plan shall take into*
22 *account the varying circumstances of operations by*
23 *the railroad on different parts of its system, and shall*
24 *prescribe appropriate fatigue countermeasures to ad-*
25 *dress those varying circumstances.*

1 “(3) *ADDITIONAL ELEMENTS.*—A railroad shall
2 *consider the need to include in its fatigue manage-*
3 *ment plan elements addressing each of the following*
4 *items, as applicable:*

5 “(A) *Employee education and training on*
6 *the physiological and human factors that affect*
7 *fatigue, as well as strategies to reduce or miti-*
8 *gate the effects of fatigue, based on the most cur-*
9 *rent scientific and medical research and lit-*
10 *erature.*

11 “(B) *Opportunities for identification, diag-*
12 *nosis, and treatment of any medical condition*
13 *that may affect alertness or fatigue, including*
14 *sleep disorders.*

15 “(C) *Effects on employee fatigue of an em-*
16 *ployee’s short-term or sustained response to*
17 *emergency situations, such as derailments and*
18 *natural disasters, or engagement in other inten-*
19 *sive working conditions.*

20 “(D) *Scheduling practices for employees, in-*
21 *cluding innovative scheduling practices for em-*
22 *ployees, including scheduling procedures, on-duty*
23 *call practices, work and rest cycles, increases in*
24 *consecutive days off for employees, changes in*
25 *shift patterns, appropriate scheduling practices*

1 *for varying types of work, and other aspects of*
 2 *employee scheduling that would reduce employee*
 3 *fatigue and cumulative sleep loss.*

4 “(E) *Methods to minimize accidents and*
 5 *incidences that occur as a result of working at*
 6 *times when scientific and medical research have*
 7 *shown increased fatigue disrupts employees’ cir-*
 8 *cadian rhythm.*

9 “(F) *Alertness strategies, such as policies on*
 10 *napping, to address acute sleepiness and fatigue*
 11 *while an employee is on duty.*

12 “(G) *Opportunities to obtain restful sleep at*
 13 *lodging facilities, including employee sleeping*
 14 *quarters provided by the railroad carrier.*

15 “(H) *The increase of the number of consec-*
 16 *utive hours of off-duty rest, during which an em-*
 17 *ployee receives no communication from the em-*
 18 *ploying railroad carrier or its managers, super-*
 19 *visors, officers, or agents.*

20 “(I) *Avoidance of abrupt changes in rest cy-*
 21 *cles for employees.*

22 “(J) *Additional elements that the Secretary*
 23 *considers appropriate.*

24 “(g) *CONSENSUS.—*

1 “(1) *IN GENERAL.*—Each railroad required to
2 submit a railroad safety risk reduction program
3 under subsection (a) shall consult with, employ good
4 faith and use its best efforts to reach agreement with,
5 all of its directly affected employees, including any
6 non-profit labor organization representing a class or
7 craft of directly affected employees of the railroad car-
8 rier, on the contents of the safety risk reduction pro-
9 gram.

10 “(2) *STATEMENT.*—If the railroad carrier and
11 its directly affected employees, including any non-
12 profit employee labor organization representing a
13 class or craft of directly affected employees of the rail-
14 road carrier, cannot reach consensus on the proposed
15 contents of the plan, then directly affected employees
16 and such organization may file a statement with the
17 Secretary explaining their views on the plan on
18 which consensus was not reached. The Secretary shall
19 consider such views during review and approval of
20 the program.

21 “(h) *ENFORCEMENT.*—The Secretary shall have the
22 authority to assess civil penalties pursuant to chapter 213
23 for a violation of this section, including the failure to sub-
24 mit, certify, or comply with a safety risk reduction pro-

1 gram, technology implementation plan, or fatigue manage-
 2 ment plan.”.

3 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 4 *for chapter 201, as amended by section 103, is further*
 5 *amended by inserting after the item relating to section*
 6 *20156 the following:*

“20157. Railroad safety risk reduction program.”.

7 **SEC. 105. POSITIVE TRAIN CONTROL SYSTEM IMPLEMENTA-**
 8 **TION.**

9 (a) *IN GENERAL.*—*Subchapter II of chapter 201, as*
 10 *amended by section 104, is further amended by adding at*
 11 *end thereof the following:*

12 **“§ 20158. Positive train control system implementation**

13 “(a) *IN GENERAL.*—*The Secretary of Transportation*
 14 *shall ensure that each railroad required to submit a rail-*
 15 *road safety risk reduction program pursuant to section*
 16 *20157 that includes in its technology implementation plan*
 17 *a schedule for implementation of a positive train control*
 18 *system complies with that schedule and implements its posi-*
 19 *tive train control system by December 31, 2018, unless the*
 20 *Secretary determines that a railroad shall implement its*
 21 *positive train control system by an earlier date.*

22 “(b) *POSITIVE TRAIN CONTROL SYSTEM DEFINED.*—
 23 *The term ‘positive train control system’ means a system de-*
 24 *signed to prevent train-to-train collisions, overspeed*

1 *derailments, and incursions into roadway worker work lim-*
 2 *its.”.*

3 (b) *CONFORMING AMENDMENT.—The chapter analysis*
 4 *for chapter 201, as amended by section 104, is further*
 5 *amended by inserting after the item relating to section*
 6 *20157 the following:*

“20158. Positive train control system implementation.”.

7 ***SEC. 106. HOURS-OF-SERVICE REFORM.***

8 (a) *CHANGE IN DEFINITION OF SIGNAL EMPLOYEE.—*
 9 *Section 21101(4) is amended—*

10 (1) *by striking “employed by a railroad carrier”;*

11 *and*

12 (2) *by inserting “railroad” after “maintaining”.*

13 (b) *LIMITATION ON DUTY HOURS OF TRAIN EMPLOY-*
 14 *EES.—Section 21103 is amended—*

15 (1) *by striking subsection (a) and inserting the*
 16 *following:*

17 “(a) *IN GENERAL.—Except as provided in subsection*
 18 *(d) of this section, a railroad carrier and its officers and*
 19 *agents may not require or allow a train employee to—*

20 (1) *remain or go on duty in any calendar*
 21 *month where the employee had spent a total of 276*
 22 *hours—*

23 (A) *on duty; or*

1 “(B) waiting for transportation, or in
2 deadhead transportation, to a place of final re-
3 lease;

4 “(2) remain or go on duty for a period in excess
5 of 12 consecutive hours;

6 “(3) remain or go on duty unless that employee
7 has had at least 10 consecutive hours off duty during
8 the prior 24 hours; and

9 “(4) remain or go on duty after that employee
10 has initiated an on-duty period each day for—

11 “(A) 6 consecutive days, unless that em-
12 ployee has had at least 48 consecutive hours off
13 duty at the employee’s home terminal during
14 which time the employee is unavailable for any
15 service for any railroad carrier; or

16 “(B) 7 consecutive days, if permitted by a
17 collective bargaining agreement, unless that em-
18 ployee has had at least 72 consecutive hours off
19 duty at the employee’s home terminal during
20 which time the employee is unavailable for any
21 service for any railroad carrier.

22 The Secretary may waive paragraph (4), consistent with
23 the procedural requirements of section 20103, if a collective
24 bargaining agreement provides a different arrangement and

1 *such an arrangement is in the public interest and consistent*
 2 *with railroad safety.”;*

3 *(2) by redesignating subsection (c) as subsection*
 4 *(d) and inserting after subsection (b) the following:*

5 *“(c) LIMBO TIME LIMITATION AND ADDITIONAL REST*
 6 *REQUIREMENT.—*

7 *“(1) A railroad carrier may not require or allow*
 8 *an employee to remain or go on duty in excess of 15*
 9 *hours of time on duty and time waiting for deadhead*
 10 *transportation on a train, not including interim rest*
 11 *periods unless the train carrying the employee is di-*
 12 *rectly delayed by—*

13 *“(A) a casualty;*

14 *“(B) an accident;*

15 *“(C) an act of God;*

16 *“(D) a derailment;*

17 *“(E) a major equipment failure that pre-*
 18 *vents the train from advancing; or*

19 *“(F) a delay resulting from a cause un-*
 20 *known and unforeseeable to a railroad carrier or*
 21 *its officer or agent in charge of the employee*
 22 *when the employee left a terminal.*

23 *“(2) Each railroad shall report to the Secretary,*
 24 *in accordance with procedures established by the Sec-*
 25 *retary, each instance where an employee subject to*

1 *this section spends time waiting for deadhead trans-*
 2 *portation on a train in excess of the requirements of*
 3 *paragraph (1).*

4 *“(3) A railroad carrier and its officers and*
 5 *agents shall provide, at the election of employees sub-*
 6 *ject to this section at the beginning of the employee’s*
 7 *off-duty period additional time off duty equal to the*
 8 *number of hours that such sum exceeds 12 hours if—*

9 *“(A) the time spent waiting for transpor-*
 10 *tation, or in deadhead transportation, from a*
 11 *duty assignment to the place of final release that*
 12 *is not time on duty, plus*

13 *“(B) the time on duty,*
 14 *exceeds 12 consecutive hours.”; and*

15 *(3) by adding at the end thereof the following:*

16 *“(e) COMMUNICATION DURING TIME OFF DUTY.—*
 17 *During a train employee’s minimum off-duty period of 10*
 18 *consecutive hours, as provided under subsection (a), during*
 19 *an interim period of at least 4 consecutive hours available*
 20 *for rest under subsection (b)(7), or during additional off*
 21 *duty hours elected to be taken by an employee under para-*
 22 *graph (b)(3), a railroad carrier, and its managers, super-*
 23 *visors, officers, and agents, shall not communicate with the*
 24 *train employee by telephone, by pager, or in any other man-*
 25 *ner that could reasonably be expected to disrupt the employ-*

1 *ee's rest. Nothing in this subsection shall prohibit commu-*
 2 *nication necessary to notify an employee of an emergency*
 3 *situation, as defined by the Secretary. The Secretary may*
 4 *waive the requirements of this paragraph for commuter or*
 5 *intercity passenger railroads if the Secretary determines*
 6 *that such a waiver will not reduce safety and is necessary*
 7 *to maintain such railroads' efficient operations and on-*
 8 *time performance of its trains."*

9 (c) *LIMITATION ON DUTY HOURS OF SIGNAL EMPLOY-*
 10 *EES.—Section 21104 is amended—*

11 (1) *by striking subsection (a) and inserting the*
 12 *following:*

13 “(a) *IN GENERAL.—Except as provided in subsection*
 14 *(c) of this section, a railroad carrier and its officers and*
 15 *agents may not require or allow its signal employee to re-*
 16 *main or go on duty and a contractor or subcontractor to*
 17 *a railroad may not require or allow one of its signal em-*
 18 *ployees to remain or go on duty —*

19 “(1) *for a period in excess of 12 consecutive*
 20 *hours; or*

21 “(2) *unless that employee has had at least 10*
 22 *consecutive hours off duty during the prior 24*
 23 *hours.”;*

24 (2) *by striking “duty, except that up to one hour*
 25 *of that time spent returning from the final trouble*

1 *call of a period of continuous or broken service is*
 2 *time off duty.” in subsection (b)(3) and inserting*
 3 *“duty.”;*

4 (3) by inserting “A signal employee may not be
 5 *allowed to remain or go on duty under the emergency*
 6 *authority provided under this subsection to conduct*
 7 *routine repairs, routine maintenance, or routine in-*
 8 *spection of signal systems.” after “service.” in sub-*
 9 *section (c);*

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

11 “(d) *COMMUNICATION DURING TIME OFF DUTY.—*
 12 *During a signal employee’s minimum off-duty period of 10*
 13 *consecutive hours, as provided under subsection (a), a rail-*
 14 *road carrier, and its managers, supervisors, officers, and*
 15 *agents, shall not communicate with the signal employee by*
 16 *telephone, by pager, or in any other manner that could rea-*
 17 *sonably be expected to disrupt the employee’s rest. Nothing*
 18 *in this subsection shall prohibit communication necessary*
 19 *to notify an employee of an emergency situation, as defined*
 20 *by the Secretary.*

21 “(e) *EXCLUSIVITY.—The hours of service, duty hours,*
 22 *and rest periods of signal employees shall be governed exclu-*
 23 *sively by this chapter. Signal employees operating motor*
 24 *vehicles shall not be subject to any hours of service rules,*
 25 *duty hours or rest period rules promulgated by any Federal*

1 *authority, including the Federal Motor Carrier Safety Ad-*
 2 *ministration, other than the Federal Railroad Administra-*
 3 *tion.”.*

4 *(d) ALTERNATE HOURS OF SERVICE REGIME.—*

5 *(1) IN GENERAL.—Section 21102 is amended—*

6 *(A) by striking the section caption and in-*
 7 *serting the following:*

8 ***“§21102. Nonapplication, exemption, and alternate***
 9 ***hours of service regime”;***

10 *and*

11 *(B) by adding at the end thereof the fol-*
 12 *lowing:*

13 *“(c) ALTERNATE HOURS OF SERVICE REGIME.—A*
 14 *railroad carrier and its directly affected employees or a*
 15 *non-profit employee labor organization that represents such*
 16 *employees may jointly develop and submit for approval to*
 17 *the Secretary an alternate hours of service regime to that*
 18 *provided in this chapter that would increase the maximum*
 19 *hours an employee may be required or allowed to go or re-*
 20 *main on duty or decrease the minimum hours an employee*
 21 *may be required to rest and would become effective no ear-*
 22 *lier than 1 year after the date of enactment of the Railroad*
 23 *Safety Enhancement Act of 2007. The Secretary may con-*
 24 *sider such a request anytime after the date of enactment*
 25 *of the Railroad Safety Enhancement Act of 2007 and may*

1 *approve such a request only after providing an opportunity*
 2 *for public notice and comment and determining that the*
 3 *proposed hours of service regime is in the public interest*
 4 *and will not adversely affect railroad safety. The exemption*
 5 *shall be for a specific period of time and shall be subject*
 6 *to review upon a schedule determined appropriate by the*
 7 *Secretary.”.*

8 (2) *CONFORMING AMENDMENT.—The chapter*
 9 *analysis for chapter 211 is amended by striking the*
 10 *item relating to section 21102 and inserting the fol-*
 11 *lowing:*

“21102. Nonapplication, exemption, and alternate hours of service regime.”.

12 (e) *REGULATORY AUTHORITY.—*

13 (1) *IN GENERAL.—Chapter 211 is amended by*
 14 *adding at the end thereof the following:*

15 **“§21109. Regulatory authority**

16 “(a) *IN GENERAL.—In order to improve safety and re-*
 17 *duce employee fatigue, the Secretary may issue regula-*
 18 *tions—*

19 “(1) *to reduce the maximum hours an employee*
 20 *may be required or allowed to go or remain on duty*
 21 *to a level less than the level established under this*
 22 *chapter;*

23 “(2) *to increase the minimum hours an employee*
 24 *may be required or allowed to rest to a level greater*
 25 *than the level established under this chapter;*

1 “(3) to limit or eliminate the amount of time an
2 employee spends waiting for or in deadhead transpor-
3 tation to the place of final release that is considered
4 neither on duty nor off duty under this chapter;

5 “(4) to make changes to the number of hours an
6 employee may spend waiting on a train for deadhead
7 transportation to the place of final release that is con-
8 sidered neither on duty nor off duty that provide for
9 an equivalent level of safety as the level established
10 under this chapter;

11 “(5) to make changes to the requirements of off-
12 duty communications with employees that provide for
13 an equivalent level of safety as the level established
14 under this chapter;

15 “(6) for signal employees—

16 “(A) to limit or eliminate the amount of
17 time that is considered to be neither on duty nor
18 off duty under this chapter that an employee
19 spends returning from an outlying worksite after
20 scheduled duty hours or returning from a trouble
21 call to the employee’s headquarters or directly to
22 the employee’s residence; and

23 “(B) to increase the amount of time that
24 constitutes a release period, that does not break

1 *the continuity of service and is considered time*
 2 *off duty; and*

3 “(7) *to require other changes to railroad oper-*
 4 *ating and scheduling practices that could affect em-*
 5 *ployee fatigue and railroad safety.*

6 “(b) *CONSIDERATIONS.—In issuing regulations under*
 7 *subsection (a) the Secretary shall consider scientific and*
 8 *medical research related to fatigue and fatigue abatement,*
 9 *railroad scheduling and operating practices that improve*
 10 *safety or reduce employee fatigue, a railroad’s use of new*
 11 *or novel technology intended to reduce or eliminate human*
 12 *error, the variations in freight and passenger railroad*
 13 *scheduling practices and operating conditions, the vari-*
 14 *ations in duties and operating conditions for employees*
 15 *subject to this chapter, a railroad’s required or voluntary*
 16 *use of fatigue management plans covering employees subject*
 17 *to this chapter, and any other relevant factors.*

18 “(c) *TIME LIMITS.—If the Secretary requests that the*
 19 *Railroad Safety Advisory Committee accept the task of de-*
 20 *veloping regulations under paragraph (a) and the Com-*
 21 *mittee accepts the task, the Committee shall reach consensus*
 22 *on the rulemaking within 18 months after accepting the*
 23 *task. If the Committee does not reach consensus within 18*
 24 *months after the Secretary makes the request, the Secretary*
 25 *shall prescribe appropriate regulations within 18 months.*

1 *If the Secretary does not request that the Railroad Safety*
 2 *Advisory Committee accept the task of developing regula-*
 3 *tions under subsection (a), the Secretary shall issue regula-*
 4 *tions within 3 years after the date of enactment of the Rail-*
 5 *road Safety Enhancement Act of 2007.*

6 “(d) *PILOT PROJECTS.*—

7 “(1) *IN GENERAL.*—Not later than 2 years after
 8 the date of enactment of the Railroad Safety En-
 9 hancement Act of 2007, the Secretary shall conduct at
 10 least 2 pilot projects of sufficient size and scope to
 11 analyze specific practices which may be used to re-
 12 duce fatigue for train and engine and other railroad
 13 employees as follows:

14 “(A) *A pilot project at a railroad or rail-*
 15 *road facility to evaluate the efficacy of commu-*
 16 *nicating to employees notice of their assigned*
 17 *shift time 10 hours prior to the beginning of*
 18 *their assigned shift as a method for reducing em-*
 19 *ployee fatigue.*

20 “(B) *A pilot project at a railroad or rail-*
 21 *road facility to evaluate the efficacy of requiring*
 22 *railroads who use employee scheduling practices*
 23 *that subject employees to periods of unscheduled*
 24 *duty calls to assign employees to defined or spe-*
 25 *cific unscheduled call shifts that are followed by*

1 *shifts not subject to call, as a method for reduc-*
 2 *ing employee fatigue.*

3 “(2) *WAIVER.*—*The Secretary may temporarily*
 4 *waive the requirements of this section, if necessary, to*
 5 *complete a pilot project under this subsection.*

6 “(e) *DUTY CALL DEFINED.*—*In this section the term*
 7 *‘duty call’ means a telephone call that a railroad places*
 8 *to an employee to notify the employee of his or her assigned*
 9 *shift time.”.*

10 (2) *CONFORMING AMENDMENT.*—*The chapter*
 11 *analysis for chapter 211 is amended by adding at the*
 12 *end thereof the following:*

“21109. Regulatory authority.”.

13 (f) *RECORD KEEPING AND REPORTING.*—

14 (1) *REGULATIONS.*—*Not later than 180 days*
 15 *after the date of enactment of this Act, the Secretary*
 16 *shall issue a regulation revising the requirements for*
 17 *recordkeeping and reporting for Hours of Service of*
 18 *Railroad Employees contained in part 228 of title 49,*
 19 *Code of Federal Regulations—*

20 (A) *to adjust record keeping and reporting*
 21 *requirements to support fully compliance with*
 22 *chapter 211 of title 49, United States Code, as*
 23 *amended by this Act;*

24 (B) *to authorize electronic record keeping,*
 25 *and reporting of excess service, consistent with*

1 *appropriate considerations for user interface;*
 2 *and*

3 *(C) to require training of affected employees*
 4 *and supervisors, including training of employees*
 5 *in the entry of hours of service data.*

6 *(2) PROCEDURE.—In lieu of issuing a notice of*
 7 *proposed rulemaking as contemplated by section 553*
 8 *of title 5, United States Code, the Secretary may uti-*
 9 *lize the Railroad Safety Advisory Committee to assist*
 10 *in development of the regulation. The Secretary may*
 11 *propose and adopt amendments to the revised regula-*
 12 *tions thereafter as may be necessary in light of expe-*
 13 *rience under the revised requirements.*

14 *(g) 1-YEAR DELAY IN IMPLEMENTATION OF DUTY*
 15 *HOURS LIMITATION CHANGES.—The amendments made by*
 16 *subsections (a), (b), and (c) shall take effect 1 year after*
 17 *the date of enactment of this Act.*

18 **SEC. 107. PROTECTION OF RAILROAD SAFETY RISK ANAL-**
 19 **YSES INFORMATION.**

20 *(a) AMENDMENT.—Subchapter I of chapter 201 is*
 21 *amended by adding at the end thereof the following:*

22 **“§20118. Prohibition on public disclosure of required**
 23 **railroad safety analyses records**

24 *“(a) IN GENERAL.—Notwithstanding section 552 of*
 25 *title 5 or any other provision of law, except as necessary*

1 *for the Secretary of Transportation or another Federal*
 2 *agency to enforce or carry out any provision of Federal law,*
 3 *the Secretary shall not disclose publicly any part of any*
 4 *record (including, but not limited to, a railroad carrier's*
 5 *analysis of its safety risks and its statement of the mitiga-*
 6 *tion measures it has identified with which to address those*
 7 *risks) that the Secretary has obtained pursuant to a provi-*
 8 *sion of, or regulation or order under, this chapter related*
 9 *to the establishment, implementation, or modification of a*
 10 *railroad safety risk reduction program or pilot program if*
 11 *the record is—*

12 “(1) *supplied to the Secretary pursuant to that*
 13 *safety risk reduction program or pilot program; or*

14 “(2) *made available for inspection and copying*
 15 *by an officer, employee, or agent of the Secretary pur-*
 16 *suant to that safety risk reduction program or pilot*
 17 *program.*

18 “(b) *EXCEPTION.—Notwithstanding subsection (a), the*
 19 *Secretary may disclose any part of any record comprised*
 20 *of facts otherwise available to the public if, in the Sec-*
 21 *retary's sole discretion, the Secretary determines that dis-*
 22 *closure would be consistent with the confidentiality needed*
 23 *for that safety risk reduction program.*

24 “(c) *DISCRETIONARY PROHIBITION OF DISCLOSURE.—*
 25 *The Secretary may prohibit the public disclosure of risk*

1 *analyses or risk mitigation analyses that the Secretary has*
 2 *obtained under other provisions of, or regulations or orders*
 3 *under, this chapter if the Secretary determines that the pro-*
 4 *hibition of public disclosure is necessary to promote rail-*
 5 *road safety.*

6 **“§20119. Discovery and admission into evidence of**
 7 **certain reports and surveys**

8 *“Notwithstanding any other provision of law, no part*
 9 *of any report, survey, schedule, list, or data compiled or*
 10 *collected for the purpose of evaluating, planning, or imple-*
 11 *menting a railroad safety risk reduction program or other*
 12 *risk or risk mitigation analysis designated by the Secretary*
 13 *of Transportation under section 20118(c) pursuant to a*
 14 *provision of, or regulation or order under, this chapter (in-*
 15 *cluding a railroad carrier’s analysis of its safety risks and*
 16 *its statement of the mitigation measures with which it will*
 17 *address those risks) shall be subject to discovery or admitted*
 18 *into evidence in a Federal or State court proceeding, or con-*
 19 *sidered for another purpose, in any action by a private*
 20 *party or parties for damages against the carrier, or its offi-*
 21 *cers, employees, or contractors. The preceding sentence does*
 22 *not apply to any report, survey, list, or data otherwise*
 23 *available to the public.”.*

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 201 is amended by inserting after the item relat-*
 3 *ing to section 20117 the following:*

“20118. Prohibition on public disclosure of required railroad safety risk analyses.
“20119. Discovery and admission into evidence of certain reports and surveys.”.

4 ***TITLE II—HIGHWAY-RAIL GRADE***
 5 ***CROSSING AND PEDESTRIAN***
 6 ***SAFETY AND TRESPASSER***
 7 ***PREVENTION***

8 ***SEC. 201. PEDESTRIAN CROSSING SAFETY.***

9 *Not later than 1 year after the date of enactment of*
 10 *this Act, the Secretary shall provide guidance to railroads*
 11 *on strategies and methods to prevent pedestrian accidents,*
 12 *injuries, and fatalities at or near passenger stations, in-*
 13 *cluding—*

14 (1) *providing audible warning of approaching*
 15 *trains to the pedestrians at railroad passenger sta-*
 16 *tions;*

17 (2) *using signs, signals, or other visual devices*
 18 *to warn pedestrians of approaching trains;*

19 (3) *installing infrastructure at pedestrian cross-*
 20 *ings to improve the safety of pedestrians crossing rail-*
 21 *road tracks;*

22 (4) *installing fences to prohibit access to railroad*
 23 *tracks; and*

1 (5) other strategies or methods as determined by
2 the Secretary.

3 **SEC. 202. STATE ACTION PLANS.**

4 (a) *IN GENERAL.*—Beginning not later than 6 months
5 after the date of enactment of this Act, the Secretary shall
6 identify on an annual basis the 10 States that receive Fed-
7 eral funds for highway-rail grade crossing safety projects
8 that have had the most highway-rail grade crossing colli-
9 sions in the preceding fiscal year. The Secretary shall re-
10 quire as a condition of receiving such funds in the future
11 (in addition to any requirements imposed under any other
12 provision of law) that each of these States develop a State
13 Grade Crossing Action Plan that identifies specific solu-
14 tions for improving safety at crossings, including highway-
15 rail grade crossing closures or grade separations, particu-
16 larly at crossings that have experienced multiple accidents,
17 and shall provide assistance to the States in developing the
18 plan.

19 (b) *REVIEW AND APPROVAL.*—Not later than 60 days
20 after the Secretary receives a plan under subsection (a), the
21 Secretary shall review and approve or disapprove it. If the
22 proposed plan is not approved, the Secretary shall notify
23 the affected State as to the specific points in which the pro-
24 posed plan is deficient, and the State shall correct all defi-

1 *ciencies within 30 days following receipt of written notice*
 2 *from the Secretary.*

3 **SEC. 203. IMPROVEMENTS TO SIGHT DISTANCE AT HIGH-**
 4 **WAY-RAIL GRADE CROSSINGS.**

5 *(a) IN GENERAL.—Subchapter II of chapter 201, as*
 6 *amended by section 105 of this Act, is further amended by*
 7 *inserting after section 20158 the following:*

8 **“§ 20159. Roadway user sight distance at highway-rail**
 9 **grade crossings**

10 *“(a) IN GENERAL.—Not later than 18 months after the*
 11 *date of enactment of the Railroad Safety Enhancement Act*
 12 *of 2007, the Secretary of Transportation shall prescribe reg-*
 13 *ulations that require each railroad carrier to remove from*
 14 *its active rights-of-way at all public highway-rail grade*
 15 *crossings, and at all private highway-rail grade crossings*
 16 *open to unrestricted public access (as declared in writing*
 17 *by the holder of the crossing right), grass, brush, shrubbery,*
 18 *trees, and other vegetation which may materially obstruct*
 19 *the view of a pedestrian or a vehicle operator for a reason-*
 20 *able distance, as specified by the Secretary, in either direc-*
 21 *tion of the train’s approach, and to maintain its rights-*
 22 *of-way at all such crossings free of such vegetation. In pre-*
 23 *scribing the regulations, the Secretary shall take into con-*
 24 *sideration to the extent practicable—*

1 “(1) *the type of warning device or warning de-*
2 *vices installed at such crossings;*

3 “(2) *factors affecting the timeliness and effective-*
4 *ness of roadway user decisionmaking, including the*
5 *maximum allowable roadway speed, maximum au-*
6 *thorized train speed, angle of intersection, and topog-*
7 *raphy;*

8 “(3) *the presence or absence of other sight dis-*
9 *tance obstructions off the railroad right-of-way; and*

10 “(4) *any other factors affecting safety at such*
11 *crossings.*

12 “(b) *PROTECTED VEGETATION.—In promulgating reg-*
13 *ulations pursuant to this section, the Secretary may make*
14 *allowance for preservation of trees and other ornamental*
15 *or protective growth where State or local law or policy*
16 *would otherwise protect the vegetation from removal and*
17 *where the roadway authority or private crossing holder is*
18 *notified of the sight distance obstruction and, within a rea-*
19 *sonable period specified by the regulation, takes appropriate*
20 *action to abate the hazard to roadway users (such as by*
21 *closing the crossing, posting supplementary signage, install-*
22 *ing active warning devices, lowering roadway speed, or in-*
23 *stalling traffic calming devices).*

24 “(c) *MODEL LEGISLATION.—Not later than 18 months*
25 *after the date of enactment of the Railroad Safety Enhance-*

1 *ment Act of 2007, the Secretary, after consultation with the*
 2 *Federal Railroad Administration, the Federal Highway*
 3 *Administration, and States, shall develop and make avail-*
 4 *able to States model legislation providing for improving*
 5 *safety by addressing sight obstructions, at highway-rail*
 6 *grade crossings that are equipped solely with passive warn-*
 7 *ings, as recommended by the Inspector General of the De-*
 8 *partment of Transportation in Report No. MH-2007-*
 9 *044.”.*

10 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 11 *for chapter 201, as amended by section 105 of this Act, is*
 12 *amended by inserting after the item relating to section*
 13 *20158 the following new item:*

“20159. Roadway user sight distance at highway-rail grade crossings.”.

14 **SEC. 204. NATIONAL CROSSING INVENTORY.**

15 *(a) IN GENERAL.—Subchapter II of chapter 201, as*
 16 *amended by section 203 of this Act, is further amended by*
 17 *adding at the end the following new section:*

18 **“§20160. National crossing inventory**

19 *“(a) INITIAL REPORTING OF INFORMATION ABOUT*
 20 *PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1*
 21 *year after the date of enactment of the Railroad Safety En-*
 22 *hancement Act of 2007 or 6 months after a new crossing*
 23 *becomes operational, whichever occurs later, each railroad*
 24 *carrier shall—*

1 “(1) report to the Secretary of Transportation
 2 current information, including information about
 3 warning devices and signage, as specified by the Sec-
 4 retary, concerning each previously unreported cross-
 5 ing through which it operates; or

6 “(2) ensure that the information has been re-
 7 ported to the Secretary by another railroad carrier
 8 that operates through the crossing.

9 “(b) *UPDATING OF CROSSING INFORMATION.*—

10 “(1) On a periodic basis beginning not later
 11 than 2 years after the date of enactment of the Rail-
 12 road Safety Enhancement Act of 2007 and on or be-
 13 fore September 30 of every year thereafter, or as oth-
 14 erwise specified by the Secretary, each railroad car-
 15 rier shall—

16 “(A) report to the Secretary current information,
 17 including information about warning devices and
 18 signage, as specified by the Secretary, concerning each
 19 crossing through which it operates; or

20 “(B) ensure that the information has been re-
 21 ported to the Secretary by another railroad carrier
 22 that operates through the crossing.

23 “(2) A railroad carrier that sells a crossing or any
 24 part of a crossing on or after the date of enactment of the
 25 Railroad Safety Enhancement Act of 2007 shall, not later

1 *than the date that is 18 months after the date of enactment*
 2 *of that Act or 3 months after the sale, whichever occurs*
 3 *later, or as otherwise specified by the Secretary, report to*
 4 *the Secretary current information, as specified by the Sec-*
 5 *retary, concerning the change in ownership of the crossing*
 6 *or part of the crossing.*

7 “(c) *RULEMAKING AUTHORITY.*—*The Secretary shall*
 8 *prescribe the regulations necessary to implement this sec-*
 9 *tion. The Secretary may enforce each provision of the De-*
 10 *partment of Transportation’s statement of the national*
 11 *highway-rail crossing inventory policy, procedures, and in-*
 12 *struction for States and railroads that is in effect on the*
 13 *date of enactment of the Railroad Safety Enhancement Act*
 14 *of 2007, until such provision is superseded by a regulation*
 15 *issued under this section.*

16 “(d) *DEFINITIONS.*—*In this section:*

17 “(1) *CROSSING.*—*The term ‘crossing’ means a lo-*
 18 *cation within a State, other than a location where*
 19 *one or more railroad tracks cross one or more rail-*
 20 *road tracks either at grade or grade-separated,*
 21 *where—*

22 “(A) *a public highway, road, or street, or a*
 23 *private roadway, including associated sidewalks*
 24 *and pathways, crosses one or more railroad*
 25 *tracks either at grade or grade-separated; or*

1 “(B) a pathway explicitly authorized by a
 2 public authority or a railroad that is dedicated
 3 for the use of nonvehicular traffic, including pe-
 4 destrians, bicyclists, and others, that is not asso-
 5 ciated with a public highway, road, or street, or
 6 a private roadway, crosses one or more railroad
 7 tracks either at grade or grade-separated.

8 “(2) STATE.—The term ‘State’ means a State of
 9 the United States, the District of Columbia, or the
 10 Commonwealth of Puerto Rico.”.

11 (b) CONFORMING AMENDMENT.—The chapter analysis
 12 for chapter 201, as amended by section 203 of this Act, is
 13 amended by inserting after the item relating to section
 14 20159 the following:

 “20160. National crossing inventory.”.

15 (c) REPORTING AND UPDATING.—Section 130 of title
 16 23, United States Code, is amended by adding at the end
 17 the following:

18 “(l) NATIONAL CROSSING INVENTORY.—

19 “(1) INITIAL REPORTING OF CROSSING INFORMA-
 20 TION.—Not later than 1 year after the date of enact-
 21 ment of the Railroad Safety Enhancement Act of
 22 2007 or within 6 months of a new crossing becoming
 23 operational, whichever occurs later, each State shall
 24 report to the Secretary of Transportation current in-
 25 formation, including information about warning de-

1 *vices and signage, as specified by the Secretary, con-*
 2 *cerning each previously unreported crossing located*
 3 *within its borders.*

4 “(2) *PERIODIC UPDATING OF CROSSING INFOR-*
 5 *MATION.—On a periodic basis beginning not later*
 6 *than 2 years after the date of enactment of the Rail-*
 7 *road Safety Enhancement Act of 2007 and on or be-*
 8 *fore September 30 of every year thereafter, or as oth-*
 9 *erwise specified by the Secretary, each State shall re-*
 10 *port to the Secretary current information, including*
 11 *information about warning devices and signage, as*
 12 *specified by the Secretary, concerning each crossing*
 13 *located within its borders.*

14 “(3) *RULEMAKING AUTHORITY.—The Secretary*
 15 *shall prescribe the regulations necessary to implement*
 16 *this subsection. The Secretary may enforce each provi-*
 17 *sion of the Department of Transportation’s statement*
 18 *of the national highway-rail crossing inventory pol-*
 19 *icy, procedures, and instructions for States and rail-*
 20 *roads that is in effect on the date of enactment of the*
 21 *Railroad Safety Enhancement Act of 2007, until such*
 22 *provision is superseded by a regulation issued under*
 23 *this subsection.*

24 “(4) *DEFINITIONS.—In this subsection, the terms*
 25 *‘crossing’ and ‘State’ have the meaning given those*

1 *terms by section 20160(d)(1) and (2), respectively, of*
 2 *title 49.”.*

3 *(d) CIVIL PENALTIES.—*

4 *(1) Section 21301(a)(1) is amended—*

5 *(A) by inserting “with section 20160 or”*
 6 *after “comply” in the first sentence; and*

7 *(B) by inserting “section 20157 of this title*
 8 *or” after “violating” in the second sentence.*

9 *(2) Section 21301(a)(2) is amended by inserting*
 10 *“The Secretary shall impose a civil penalty for a vio-*
 11 *lation of section 20160 of this title.” after the first*
 12 *sentence.*

13 **SEC. 205. TELEPHONE NUMBER TO REPORT GRADE CROSS-**
 14 **ING PROBLEMS.**

15 *(a) IN GENERAL.—Section 20152 is amended to read*
 16 *as follows:*

17 **“§ 20152. Notification of grade crossing problems**

18 *“Not later than 18 months after the date of enactment*
 19 *of the Railroad Safety Enhancement Act of 2007, the Sec-*
 20 *retary of Transportation shall require each railroad carrier*
 21 *to—*

22 *“(1) establish and maintain a telephone service,*
 23 *which may be required to be a toll-free telephone for*
 24 *specific railroad carriers as determined by the Sec-*
 25 *retary to be appropriate, for rights-of-way over which*

1 *it dispatches trains, to directly receive calls report-*
 2 *ing—*

3 *“(A) malfunctions of signals, crossing gates,*
 4 *and other devices to promote safety at the grade*
 5 *crossing of railroad tracks on those rights-of-way*
 6 *and public or private roads;*

7 *“(B) disabled vehicles blocking railroad*
 8 *tracks at such grade crossings;*

9 *“(C) obstructions to the view of a pedestrian*
 10 *or a vehicle operator for a reasonable distance in*
 11 *either direction of a train’s approach; or*

12 *“(D) other safety information involving*
 13 *such grade crossings;*

14 *“(2) upon receiving a report pursuant to para-*
 15 *graph (1)(A) or (B), immediately contact trains oper-*
 16 *ating near the grade crossing to warn them of the*
 17 *malfunction or disabled vehicle;*

18 *“(3) upon receiving a report pursuant to para-*
 19 *graph (1)(A) or (B), and after contacting trains pur-*
 20 *suant to paragraph (2), contact, as necessary, appro-*
 21 *priate public safety officials having jurisdiction over*
 22 *the grade crossing to provide them with the informa-*
 23 *tion necessary for them to direct traffic, assist in the*
 24 *removal of the disabled vehicle, or carry out other ac-*
 25 *tivities as appropriate;*

1 “(4) upon receiving a report pursuant to para-
 2 graph (1)(C) or (D), timely investigate the report, re-
 3 move the obstruction if possible, or correct the unsafe
 4 circumstance; and

5 “(5) ensure the placement at each grade crossing
 6 on rights-of-way that it owns of appropriately located
 7 signs, on which shall appear, at a minimum—

8 “(A) a telephone number to be used for plac-
 9 ing calls described in paragraph (1) to the rail-
 10 road carrier dispatching trains on that right-of-
 11 way;

12 “(B) an explanation of the purpose of that
 13 telephone number; and

14 “(C) the grade crossing number assigned for
 15 that crossing by the National Highway-Rail
 16 Crossing Inventory established by the Depart-
 17 ment of Transportation.”.

18 (b) **CONFORMING AMENDMENT.**—*The chapter analysis*
 19 *for chapter 201 is amended by striking the item relating*
 20 *to section 20152 and inserting the following:*

“20152. Notification of grade crossing problems.”.

21 **SEC. 206. OPERATION LIFESAVER.**

22 (a) **GRANT.**—*The Federal Railroad Administration*
 23 *shall make a grant or grants to Operation Lifesaver to*
 24 *carry out a public information and education program to*
 25 *help prevent and reduce pedestrian, motor vehicle, and other*

1 incidents, injuries, and fatalities, and to improve awareness
2 along railroad rights-of-way and at highway-rail grade
3 crossings. This includes development, placement, and dis-
4 semination of Public Service Announcements in newspaper,
5 radio, television, and other media. It will also include
6 school presentations, brochures and materials, support for
7 public awareness campaigns, and related support for the
8 activities of Operation Lifesaver's member organizations.
9 As part of an educational program funded by grants
10 awarded under this section, Operation Lifesaver shall pro-
11 vide information to the public on how to identify and report
12 to the appropriate authorities unsafe or malfunctioning
13 highway-rail grade crossings.

14 (b) *PILOT PROGRAM.*—The Secretary may allow funds
15 provided under subsection (a) also to be used by Operation
16 Lifesaver to implement a pilot program, to be known as
17 the Railroad Safety Public Awareness Program, that ad-
18 dresses the need for targeted and sustained community out-
19 reach on the subjects described in subsection (a). Such a
20 pilot program shall be established in 1 or more States iden-
21 tified under section 202 of this Act. In carrying out such
22 a pilot program Operation Lifesaver shall work with the
23 State, community leaders, school districts, and public and
24 private partners to identify the communities at greatest
25 risk, to develop appropriate measures to reduce such risks,

1 *and shall coordinate the pilot program with the State grade*
 2 *crossing action plan.*

3 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 4 *authorized to be appropriated to the Federal Railroad Ad-*
 5 *ministration for carrying out this section—*

6 (1) *\$2,000,000 for each of fiscal years 2008,*
 7 *2009, and 2010; and*

8 (2) *\$1,500,000 for each of fiscal years 20011,*
 9 *2012, and 2013.*

10 **SEC. 207. TRESPASSER PREVENTION AND HIGHWAY-RAIL**
 11 **CROSSING SAFETY.**

12 (a) *TRESPASSER PREVENTION AND HIGHWAY-RAIL*
 13 *GRADE CROSSING WARNING SIGN VIOLATIONS.—Section*
 14 *20151 is amended—*

15 (1) *by striking the section heading and inserting*
 16 *the following:*

17 **“§20151. Railroad trespassing, vandalism, and high-**
 18 **way-rail grade crossing warning sign vio-**
 19 **lation prevention strategy”;**

20 (2) *by striking subsection (a) and inserting the*
 21 *following:*

22 **“(a) EVALUATION OF EXISTING LAWS.—In consulta-**
 23 **tion with affected parties, the Secretary of Transportation**
 24 **shall evaluate and review current local, State, and Federal**
 25 **laws regarding trespassing on railroad property, vandalism**

1 *affecting railroad safety, and violations of highway-rail*
 2 *grade crossing warning signs and develop model prevention*
 3 *strategies and enforcement laws to be used for the consider-*
 4 *ation of State and local legislatures and governmental enti-*
 5 *ties. The first such evaluation and review concerning viola-*
 6 *tions of grade crossing signals shall be completed within*
 7 *1 year after the date of enactment of the Railroad Safety*
 8 *Enhancement Act of 2007. The Secretary shall revise the*
 9 *model prevention strategies and enforcement codes periodi-*
 10 *cally.”;*

11 *(3) by inserting “FOR TRESPASSING AND VAN-*
 12 *DALISM PREVENTION” in the subsection heading of*
 13 *subsection (b) after “OUTREACH PROGRAM”;*

14 *(4) in subsection (c)—*

15 *(A) by redesignating paragraphs (1) and*
 16 *(2) as subparagraphs (A) and (B), respectively;*

17 *(B) by inserting “(1)” after “MODEL LEG-*
 18 *ISLATION.—”;* and

19 *(C) by adding at the end the following new*
 20 *paragraph:*

21 *“(2) Within 18 months after the date of enactment of*
 22 *the Railroad Safety Enhancement Act of 2007, the Sec-*
 23 *retary, after consultation with State and local governments*
 24 *and railroad carriers, shall develop and make available to*
 25 *State and local governments model State legislation pro-*

1 *viding for civil or criminal penalties, or both, for violations*
 2 *of highway-rail grade crossing warning signs.”; and*

3 *(5) by adding at the end the following new sub-*
 4 *section:*

5 *“(d) DEFINITION.—In this section, the term ‘violation*
 6 *of highway-rail grade crossing warning signs’ includes any*
 7 *action by a motorist, unless directed by an authorized safety*
 8 *officer—*

9 *“(1) to drive around a grade crossing gate in a*
 10 *position intended to block passage over railroad*
 11 *tracks;*

12 *“(2) to drive through a flashing grade crossing*
 13 *signal;*

14 *“(3) to drive through a grade crossing with pas-*
 15 *sive warning signs without ensuring that the grade*
 16 *crossing could be safely crossed before any train ar-*
 17 *rived; and*

18 *“(4) in the vicinity of a grade crossing, who cre-*
 19 *ates a hazard of an accident involving injury or*
 20 *property damage at the grade crossing.”.*

21 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 22 *for chapter 201 of title 49, United States Code, is amended*
 23 *by striking the item relating to section 20151 and inserting*
 24 *the following:*

“20151. Railroad trespassing, vandalism, and highway-rail grade crossing warn-
ing sign violation prevention strategy.”.

1 (c) *EDUCATIONAL OR AWARENESS PROGRAM ITEMS*
 2 *FOR DISTRIBUTION.*—Section 20134(a) is amended by add-
 3 *ing at the end of the subsection the following: “The Sec-*
 4 *retary may purchase items of nominal value and distribute*
 5 *them to the public without charge as part of an educational*
 6 *or awareness program to accomplish the purposes of this*
 7 *section and of any other sections of this title related to im-*
 8 *proving the safety of highway-rail crossings and to pre-*
 9 *venting trespass on railroad rights of way, and the Sec-*
 10 *retary shall prescribe guidelines for the administration of*
 11 *this authority.”.*

12 **SEC. 208. FOSTERING INTRODUCTION OF NEW TECH-**
 13 **NOLOGY TO IMPROVE SAFETY AT HIGHWAY-**
 14 **RAIL GRADE CROSSINGS.**

15 (a) *AMENDMENT.*—Subchapter II of chapter 201, as
 16 *amended by section 204 of this Act, is further amended by*
 17 *adding at the end the following:*

18 **“§20161. Fostering introduction of new technology to**
 19 **improve safety at highway-rail grade**
 20 **crossings**

21 “(a) *POLICY.*—It is the policy of the Department of
 22 *Transportation to encourage the development of new tech-*
 23 *nology that can prevent loss of life and injuries at highway-*
 24 *rail grade crossings. The Secretary of Transportation shall*

1 *carry out this policy in consultation with States and nec-*
 2 *essary public and private entities.*

3 “(b) *SUBMISSION OF NEW TECHNOLOGY PRO-*
 4 *POSALS.—Railroad carriers and railroad suppliers may*
 5 *submit for review and approval to the Secretary such new*
 6 *technology designed to improve safety at highway-rail grade*
 7 *crossings. The Secretary shall approve the new technology*
 8 *designed to improve safety at highway-rail grade crossings*
 9 *in accordance with Federal Railroad Administration stand-*
 10 *ards for the development and use of processor-based signal*
 11 *and train control systems and shall consider the effects on*
 12 *safety of highway-user interface with the new technology.*

13 “(c) *EFFECT OF SECRETARIAL APPROVAL.—If the Sec-*
 14 *retary approves new technology to provide warning to high-*
 15 *way users at a highway-rail grade crossing and such tech-*
 16 *nology is installed at a highway-rail grade crossing in ac-*
 17 *cordance with the conditions of the approval, this deter-*
 18 *mination preempts any State law concerning the adequacy*
 19 *of the technology in providing warning at the crossing.*
 20 *Under no circumstances may a person (including a State,*
 21 *other public authority, railroad carrier, system designer, or*
 22 *supplier of the technology) be held liable for damages for*
 23 *any harm to persons or property because of an accident*
 24 *or incident at the crossing protected by such technology*
 25 *based upon the carrier’s failure to properly inspect and*

1 *maintain such technology, if the carrier has inspected and*
 2 *maintained the technology in accordance with the terms of*
 3 *the Secretary’s approval.”.*

4 *(b) CONFORMING AMENDMENT.—The chapter analysis*
 5 *for chapter 201, as amended by section 204 of this Act, is*
 6 *further amended by inserting after the item relating to sec-*
 7 *tion 20160, the following:*

“20161. Fostering introduction of new technology to improve safety at highway-
rail grade crossings.”.

8 ***TITLE III—FEDERAL RAILROAD*** 9 ***ADMINISTRATION***

10 ***SEC. 301. HUMAN CAPITAL INCREASES.***

11 *(a) IN GENERAL.—The Secretary shall increase the*
 12 *number of Federal Railroad Administration employees*
 13 *by—*

- 14 *(1) 25 employees in fiscal year 2008;*
- 15 *(2) 50 employees in fiscal year 2009;*
- 16 *(3) 50 employees in fiscal year 2010;*
- 17 *(4) 25 employees in fiscal year 2011;*
- 18 *(5) 25 employees in fiscal year 2012; and*
- 19 *(6) 25 employees in fiscal year 2013.*

20 *(b) FUNCTIONS.—In increasing the number of employ-*
 21 *ees pursuant to subsection (a), the Secretary shall focus on*
 22 *hiring employees—*

1 (1) *specifically trained to conduct on-site rail-*
 2 *road and highway-rail grade crossing accident inves-*
 3 *tigations;*

4 (2) *to implement the Railroad Safety Strategy;*

5 (3) *to administer and implement the Railroad*
 6 *Safety Risk Reduction Pilot Program and the Rail-*
 7 *road Safety Risk Reduction Program;*

8 (4) *to implement section 20166 of title 49,*
 9 *United States Code, and to focus on encouragement*
 10 *and oversight of the use of new or novel rail safety*
 11 *technology;*

12 (5) *to conduct routine inspections and audits of*
 13 *railroad and hazardous materials facilities and*
 14 *records for compliance with railroad safety laws and*
 15 *regulations;*

16 (6) *to inspect railroad bridges, tunnels, and re-*
 17 *lated infrastructure, and to review or analyze rail-*
 18 *road bridge, tunnel, and related infrastructure inspec-*
 19 *tion reports; and*

20 (7) *to support the Federal Railroad Administra-*
 21 *tion's safety mission.*

22 **SEC. 302. CIVIL PENALTY INCREASES.**

23 (a) *GENERAL VIOLATIONS OF CHAPTER 201.—Section*
 24 *21301(a)(2) is amended—*

1 (1) *by striking “\$10,000.” and inserting*
 2 *“\$25,000.”; and*

3 (2) *by striking “\$20,000.” and inserting*
 4 *“\$100,000.”.*

5 (b) *ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER*
 6 *201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Sec-*
 7 *tion 21302(a)(2) is amended—*

8 (1) *by striking “\$10,000.” and inserting*
 9 *“\$25,000.”; and*

10 (2) *by striking “\$20,000.” and inserting*
 11 *“\$100,000.”.*

12 (c) *VIOLATIONS OF CHAPTER 211.—Section*
 13 *21303(a)(2) is amended—*

14 (1) *by striking “\$10,000.” and inserting*
 15 *“\$25,000.”; and*

16 (2) *by striking “\$20,000.” and inserting*
 17 *“\$100,000.”.*

18 ***SEC. 303. ENFORCEMENT REPORT.***

19 (a) *IN GENERAL.—Subchapter I of chapter 201, as*
 20 *amended by section 107 of this Act, is amended by adding*
 21 *at the end the following:*

22 ***“§ 20120. Enforcement Report.***

23 “(a) *IN GENERAL.—Not later than December 31, 2008,*
 24 *the Secretary of Transportation shall make available to the*

1 public and publish on its public website an annual report
2 that—

3 “(1) provides a summary of railroad safety and
4 hazardous materials compliance inspections and au-
5 dits that Federal or state inspectors conducted in the
6 prior fiscal year organized by type of alleged viola-
7 tion, including track, motive power and equipment,
8 signal, grade crossing, operating practices, accident
9 and incidence reporting, and hazardous materials;

10 “(2) provides a summary of all enforcement ac-
11 tions taken by the Secretary or the Federal Railroad
12 Administration during the prior fiscal year, includ-
13 ing—

14 “(A) the number of civil penalties assessed
15 against railroad carriers, hazardous material
16 shippers, and individuals;

17 “(B) the initial amount of civil penalties
18 assessed against railroad carriers, hazardous ma-
19 terials shippers, and individuals;

20 “(C) the number of civil penalty cases set-
21 tled against railroad carriers, hazardous mate-
22 rial shippers, and individuals;

23 “(D) the final amount of civil penalties as-
24 sessed against railroad carriers, hazardous mate-
25 rials shippers, and individuals;

1 “(E) the difference between the initial and
 2 final amounts of civil penalties assessed against
 3 railroad carriers, hazardous materials shippers,
 4 and individuals;

5 “(F) the number of administrative hearings
 6 requested and completed related to hazardous
 7 materials transportation law violations or en-
 8 forcement actions against individuals;

9 “(G) the number of cases referred to the At-
 10 torney General for civil or criminal prosecution;

11 “(H) the number and subject matter of all
 12 compliance orders, emergency orders or precursor
 13 agreements;

14 “(3) analyzes the effect of the number of inspec-
 15 tions conducted and enforcement actions taken on the
 16 number and rate of reported accidents and incidents
 17 and railroad safety;

18 “(4) identifies the number of locomotive engineer
 19 certification denial or revocation cases appealed to
 20 and the average length of time it took to be decided
 21 by—

22 “(A) the Locomotive Engineer Review
 23 Board;

24 “(B) an Administrative Hearing Officer or
 25 Administrative Law Judge; or

1 “(C) *the Administrator of the Federal Rail-*
2 *road Administration;*

3 “(5) *provides any explanation regarding changes*
4 *in the Secretary’s or the Federal Railroad Adminis-*
5 *tration’s enforcement programs or policies that may*
6 *substantially affect the information reported; and*

7 “(6) *includes any additional information that*
8 *the Secretary determines is useful to improve the*
9 *transparency of its enforcement program.”.*

10 (b) *CONFORMING AMENDMENT.—The chapter analysis*
11 *for chapter 201, as amended by section 107 of this Act, is*
12 *amended by inserting after the item relating to section*
13 *20119 the following:*

“20120. Enforcement report.”.

14 **SEC. 304. PROHIBITION OF INDIVIDUALS FROM PER-**
15 **FORMING SAFETY-SENSITIVE FUNCTIONS**
16 **FOR A VIOLATION OF HAZARDOUS MATE-**
17 **RIALS TRANSPORTATION LAW.**

18 *Section 20111(c) is amended to read as follows:*

19 “(c) *ORDERS PROHIBITING INDIVIDUALS FROM PER-*
20 *FORMING SAFETY-SENSITIVE FUNCTIONS.—*

21 “(1) *If an individual’s violation of this part,*
22 *chapter 51 of this title, or a regulation prescribed, or*
23 *an order issued, by the Secretary under this part or*
24 *chapter 51 of this title is shown to make that indi-*
25 *vidual unfit for the performance of safety-sensitive*

1 *functions, the Secretary, after providing notice and*
 2 *an opportunity for a hearing, may issue an order*
 3 *prohibiting the individual from performing safety-*
 4 *sensitive functions in the railroad industry for a spec-*
 5 *ified period of time or until specified conditions are*
 6 *met.*

7 *“(2) This subsection does not affect the Sec-*
 8 *retary’s authority under section 20104 of this title to*
 9 *act on an emergency basis.”.*

10 **SEC. 305. RAILROAD RADIO MONITORING AUTHORITY.**

11 *Section 20107 is amended by inserting at the end the*
 12 *following:*

13 *“(c) RAILROAD RADIO COMMUNICATIONS.—*

14 *“(1) IN GENERAL.—To carry out the Secretary’s*
 15 *responsibilities under this part and under chapter 51,*
 16 *the Secretary may authorize officers, employees, or*
 17 *agents of the Secretary to conduct the following ac-*
 18 *tivities in circumstances the Secretary finds to be rea-*
 19 *sonable:*

20 *“(A) Intercepting a radio communication,*
 21 *with or without the consent of the sender or other*
 22 *receivers of the communication, but only where*
 23 *such communication is broadcast or transmitted*
 24 *over a radio frequency which is—*

1 “(i) authorized for use by one or more
2 railroad carriers by the Federal Commu-
3 nications Commission; and

4 “(ii) primarily used by such railroad
5 carriers for communications in connection
6 with railroad operations.

7 “(B) Communicating the existence, contents,
8 substance, purport, effect, or meaning of the com-
9 munication, subject to the restrictions in para-
10 graph (3).

11 “(C) Receiving or assisting in receiving the
12 communication (or any information therein con-
13 tained).

14 “(D) Disclosing the contents, substance,
15 purport, effect, or meaning of the communication
16 (or any part thereof of such communication) or
17 using the communication (or any information
18 contained therein), subject to the restrictions in
19 paragraph (3), after having received the commu-
20 nication or acquired knowledge of the contents,
21 substance, purport, effect, or meaning of the com-
22 munication (or any part thereof).

23 “(E) Recording the communication by any
24 means, including writing and tape recording.

1 “(2) *ACCIDENT PREVENTION AND ACCIDENT IN-*
 2 *VESTIGATION.*—*The Secretary, and officers, employ-*
 3 *ees, and agents of the Department of Transportation*
 4 *authorized by the Secretary, may engage in the ac-*
 5 *tivities authorized by paragraph (1) for the purpose*
 6 *of accident prevention and accident investigation.*

7 “(3) *USE OF INFORMATION.*—(A) *Information*
 8 *obtained through activities authorized by paragraphs*
 9 *(1) and (2) shall not be admitted into evidence in any*
 10 *administrative or judicial proceeding except—*

11 “(i) *in a prosecution of a felony under Fed-*
 12 *eral or State criminal law; or*

13 “(ii) *to impeach evidence offered by a party*
 14 *other than the Federal Government regarding the*
 15 *existence, electronic characteristics, content, sub-*
 16 *stance, purport, effect, meaning, or timing of, or*
 17 *identity of parties to, a communication inter-*
 18 *cepted pursuant to paragraphs (1) and (2) in*
 19 *proceedings pursuant to section 5122, 5123,*
 20 *20702(b), 20111, 20112, 20113, or 20114 of this*
 21 *title.*

22 “(B) *If information obtained through activities*
 23 *set forth in paragraphs (1) and (2) is admitted into*
 24 *evidence for impeachment purposes in accordance*
 25 *with subparagraph (A), the court, administrative law*

1 judge, or other officer before whom the proceeding is
2 conducted may make such protective orders regarding
3 the confidentiality or use of the information as may
4 be appropriate in the circumstances to protect pri-
5 vacy and administer justice.

6 “(C) No evidence shall be excluded in an admin-
7 istrative or judicial proceeding solely because the gov-
8 ernment would not have learned of the existence of or
9 obtained such evidence but for the interception of in-
10 formation that is not admissible in such proceeding
11 under subparagraph (A).

12 “(D) Information obtained through activities set
13 forth in paragraphs (1) and (2) shall not be subject
14 to publication or disclosure, or search or review in
15 connection therewith, under section 552 of title 5.

16 “(E) Nothing in this subsection shall be con-
17 strued to impair or otherwise affect the authority of
18 the United States to intercept a communication, and
19 collect, retain, analyze, use, and disseminate the in-
20 formation obtained thereby, under a provision of law
21 other than this subsection.

22 “(4) APPLICATION WITH OTHER LAW.—Section
23 705 of the Communications Act of 1934 (47 U.S.C.
24 605) and chapter 119 of title 18 shall not apply to

1 *conduct authorized by and pursuant to this sub-*
 2 *section.”.*

3 **SEC. 306. EMERGENCY WAIVERS.**

4 *Section 20103 is amended—*

5 *(1) by striking subsection (e) and inserting the*
 6 *following:*

7 *“(e) HEARINGS.—Except as provided in subsection (g)*
 8 *of this section, the Secretary shall conduct a hearing as pro-*
 9 *vided by section 553 of title 5 when prescribing a regulation*
 10 *or issuing an order under this chapter, including a regula-*
 11 *tion or order establishing, amending, or waiving compli-*
 12 *ance with a railroad safety regulation prescribed or order*
 13 *issued under this chapter. An opportunity for an oral pres-*
 14 *entation shall be provided.”; and*

15 *(2) by adding at the end thereof the following:*

16 *“(g) EMERGENCY WAIVERS.—*

17 *“(1) IN GENERAL.—The Secretary shall prescribe*
 18 *procedures concerning the handling of requests for*
 19 *waivers of regulations prescribed or orders issued*
 20 *under this chapter in emergency situations and may*
 21 *prescribe temporary emergency waiver procedures*
 22 *without first providing an opportunity for public*
 23 *comment. The Secretary may grant a waiver request*
 24 *if the waiver is directly related to the emergency event*
 25 *or necessary to aid in any recovery efforts and is in*

1 *the public interest and consistent with railroad safety.*
2 *The relief shall not extend for a period of more than*
3 *9 months, including the period of the relief granted*
4 *under any renewal of the waiver pursuant to the*
5 *emergency waiver procedures. For matters that may*
6 *impact the missions of the Department of Homeland*
7 *Security, the Secretary of Transportation shall con-*
8 *sult and coordinate with the Secretary of Homeland*
9 *Security as soon as practicable.*

10 *“(2) WAIVER BEFORE HEARING.—If, under the emer-*
11 *gency waiver procedures established under paragraph (1)*
12 *of this subsection, the Secretary determines the public inter-*
13 *est would be better served by addressing a request for waiver*
14 *prior to providing an opportunity for a hearing under sec-*
15 *tion 553 of title 5 and an oral presentation, the Secretary*
16 *may act on the waiver request and, if the request is granted,*
17 *the Secretary shall subsequently provide notice and an op-*
18 *portunity for a hearing and oral presentation pursuant to*
19 *procedures prescribed under paragraph (1) of this sub-*
20 *section. Should the Secretary receive comment or a request*
21 *for oral presentation on a waiver request after granting the*
22 *waiver, the Secretary may take any necessary action with*
23 *regard to that waiver (including rescission or modification)*
24 *based on the newly acquired information.*

1 “(3) *EMERGENCY SITUATION; EMERGENCY EVENT.*—In
 2 *this subsection, the terms ‘emergency situation’ and ‘emer-*
 3 *gency event’ mean a natural or manmade disaster, such as*
 4 *a hurricane, flood, earthquake, mudslide, forest fire, snow-*
 5 *storm, terrorist act, biological outbreak, release of a dan-*
 6 *gerous radiological, chemical, explosive, or biological mate-*
 7 *rial, or a war-related activity, that poses a risk of death,*
 8 *serious illness, severe injury, or substantial property dam-*
 9 *age. The disaster may be local, regional, or national in*
 10 *scope.”.*

11 **SEC. 307. FEDERAL RAIL SECURITY OFFICERS’ ACCESS TO**
 12 **INFORMATION.**

13 (a) *AMENDMENT.*—Chapter 281 is amended by adding
 14 *at the end thereof the following:*

15 **“§28104. Federal rail security officers’ access to infor-**
 16 **mation**

17 “(a) *ACCESS TO RECORDS OR DATABASE SYSTEMS BY*
 18 *THE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMIN-*
 19 *ISTRATION.*—

20 “(1) *IN GENERAL.*—The Administrator of the
 21 *Federal Railroad Administration is authorized to*
 22 *have access to a system of documented criminal jus-*
 23 *tice information maintained by the Department of*
 24 *Justice or by a State for the purpose of carrying out*
 25 *the civil and administrative responsibilities of the*

1 *Administrator to protect the safety, including secu-*
 2 *rity, of railroad operations and for other purposes au-*
 3 *thorized by law, including the National Crime Pre-*
 4 *vention and Privacy Compact (42 U.S.C. 14611–*
 5 *14616). The Administrator shall be subject to the*
 6 *same conditions or procedures established by the De-*
 7 *partment of Justice or State for access to such an in-*
 8 *formation system by other governmental agencies with*
 9 *access to the system.*

10 “(2) *LIMITATION.—The Administrator may not*
 11 *use the access authorized under paragraph (1) to con-*
 12 *duct criminal investigations.*

13 “(b) *DESIGNATED EMPLOYEES OF THE FEDERAL*
 14 *RAILROAD ADMINISTRATION.—The Administrator shall, by*
 15 *order, designate each employee of the Administration whose*
 16 *primary responsibility is rail security who shall carry out*
 17 *the authority described in subsection (a). The Adminis-*
 18 *trator shall strictly limit access to a system of documented*
 19 *criminal justice information to persons with security re-*
 20 *sponsibilities and with appropriate security clearances.*
 21 *Such a designated employee may, insofar as authorized or*
 22 *permitted by the National Crime Prevention and Privacy*
 23 *Compact or other law or agreement governing an affected*
 24 *State with respect to such a State—*

1 “(1) have access to and receive criminal history,
 2 driver, vehicle, and other law enforcement informa-
 3 tion contained in the law enforcement databases of the
 4 Department of Justice, or of any jurisdiction in a
 5 State in the same manner as a police officer employed
 6 by a State or local authority of that State who is cer-
 7 tified or commissioned under the laws of that State;

8 “(2) use any radio, data link, or warning system
 9 of the Federal Government and of any jurisdiction in
 10 a State that provides information about wanted per-
 11 sons, be-on-the-lookout notices, or warrant status or
 12 other officer safety information to which a police offi-
 13 cer employed by a State or local authority in that
 14 State who is certified or commissioned under the laws
 15 of that State has access and in the same manner as
 16 such police officer; or

17 “(3) receive Federal, State, or local government
 18 communications with a police officer employed by a
 19 State or local authority in that State in the same
 20 manner as a police officer employed by a State or
 21 local authority in that State who is commissioned
 22 under the laws of that State.

23 “(c) *SYSTEM OF DOCUMENTED CRIMINAL JUSTICE IN-*
 24 *FORMATION DEFINED.*—In this section, the term ‘system of
 25 documented criminal justice information’ means any law

1 *enforcement database, systems, or communications con-*
 2 *taining information concerning identification, criminal*
 3 *history, arrests, convictions, arrest warrants, or wanted or*
 4 *missing persons, including the National Crime Information*
 5 *Center and its incorporated criminal history databases and*
 6 *the National Law Enforcement Telecommunications Sys-*
 7 *tem.”.*

8 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 9 *for chapter 281 is amended by adding at the end the fol-*
 10 *lowing:*

“28104. Federal rail security officers’ access to criminal history and other law en-
forcement records, systems, and communications.”.

11 ***SEC. 308. UPDATE OF FEDERAL RAILROAD ADMINISTRA-***
 12 ***TION’S WEBSITE.***

13 (a) *IN GENERAL.*—*The Secretary shall update the Fed-*
 14 *eral Railroad Administration’s public website to better fa-*
 15 *cilitate the ability of the public, including those individuals*
 16 *who are not regular users of the public website, to find cur-*
 17 *rent information regarding the Federal Railroad Adminis-*
 18 *tration’s activities.*

19 (b) *PUBLIC REPORTING OF VIOLATIONS.*—*On the Fed-*
 20 *eral Railroad Administration’s public website’s home page,*
 21 *the Secretary shall provide a mechanism for the public to*
 22 *submit written reports of potential violations of Federal*
 23 *railroad safety and hazardous materials transportation*

1 *laws, regulations and orders to the Federal Railroad Ad-*
 2 *ministration.*

3 ***TITLE IV—RAILROAD SAFETY***
 4 ***ENHANCEMENTS***

5 ***SEC. 401. EMPLOYEE TRAINING.***

6 (a) *IN GENERAL.*—Subchapter II of chapter 201, as
 7 *amended by section 208 of this Act, is further amended by*
 8 *adding at the end the following:*

9 ***“§ 20162. Employee training***

10 “(a) *IN GENERAL.*—Not later than 1 year after the
 11 *date of enactment of the Railroad Safety Enhancement Act*
 12 *of 2007, the Secretary of Transportation shall issue regula-*
 13 *tions requiring railroad carriers and railroad carrier con-*
 14 *tractors and subcontractors to develop training plans for*
 15 *crafts and classes of employees, as the Secretary determines*
 16 *appropriate.*

17 “(b) *CONTENTS.*—The Secretary shall require that
 18 *each training plan—*

19 “(1) *clearly identify the class of craft of employ-*
 20 *ees to which the plan applies;*

21 “(2) *require that employees be trained on the re-*
 22 *quirements of relevant Federal railroad safety laws,*
 23 *regulations, and orders;*

1 “(3) *require employees to be tested or otherwise*
 2 *demonstrate their proficiency in the subject matter of*
 3 *the training; and*

4 “(4) *contain any other relevant information that*
 5 *the Secretary deems appropriate.*

6 “(c) *SUBMISSION FOR APPROVAL.—The Secretary*
 7 *shall require each railroad carrier, railroad carrier con-*
 8 *tractor, and railroad carrier subcontractor to submit its*
 9 *training plan to the Federal Railroad Administration for*
 10 *review and approval.*

11 “(d) *EXEMPTION.—The Secretary may exempt rail-*
 12 *road carriers and railroad carrier contractors and sub-*
 13 *contractors from submitting training plans covering em-*
 14 *ployees for which the Secretary has issued training regula-*
 15 *tions before the date of enactment of the Railroad Safety*
 16 *Enhancement Act of 2007.”.*

17 “(b) *CONFORMING AMENDMENT.—The chapter analysis*
 18 *for chapter 201, as amended by section 208 of this Act, is*
 19 *further amended by adding at the end thereof the following:*

 “20162. *Employee training.*”.

20 **SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES**
 21 **OF EMPLOYEES.**

22 “(a) *REPORT.—Not later than 1 year after the date of*
 23 *enactment of this Act, the Secretary shall issue a report to*
 24 *the Senate Committee on Commerce, Science, and Trans-*
 25 *portation and the House of Representatives Committee on*

1 *Transportation and Infrastructure about whether the cer-*
 2 *tification of certain crafts or classes of railroad carrier or*
 3 *railroad carrier contractor or subcontractor employees is*
 4 *necessary to reduce the number and rate of accidents and*
 5 *incidents or to improve railroad safety.*

6 (b) *CRAFTS AND CLASSES TO BE CONSIDERED.—As*
 7 *part of the report, the Secretary shall consider—*

8 (1) *conductors;*

9 (2) *car repair and maintenance employees;*

10 (3) *onboard service workers;*

11 (4) *rail welders;*

12 (5) *dispatchers;*

13 (6) *signal repair and maintenance employees;*

14 *and*

15 (7) *any other craft or class of employees that the*
 16 *Secretary determines appropriate.*

17 (c) *REGULATIONS.—The Secretary may issue regula-*
 18 *tions requiring the certification of certain crafts or classes*
 19 *of employees that the Secretary determines pursuant to the*
 20 *report required by subsection (a) are necessary to reduce*
 21 *the number and rate of accidents and incidents or to im-*
 22 *prove railroad safety.*

23 **SEC. 403. TRACK INSPECTION TIME STUDY.**

24 (a) *STUDY.—Not later than 2 years after the date of*
 25 *enactment of this Act, the Secretary shall—*

1 (1) *complete a study to determine whether—*

2 (A) *the required intervals of track inspec-*
3 *tions for each class of track should be amended;*

4 (B) *track remedial action requirements*
5 *should be amended;*

6 (C) *different track inspection and repair*
7 *priorities or methods should be required; and*

8 (2) *issue recommendations for changes to the*
9 *Federal track safety standards in part 213 of title 49,*
10 *Code of Federal Regulations, based on the results of*
11 *the study.*

12 (b) *CONSIDERATIONS.—In conducting the study the*
13 *Secretary shall consider—*

14 (1) *the most current rail flaw, rail defect growth,*
15 *rail fatigue, and other relevant track- or rail-related*
16 *research and studies;*

17 (2) *the availability and feasibility of developing*
18 *and implementing new or novel rail inspection tech-*
19 *nology for routine track inspections;*

20 (3) *information from National Transportation*
21 *Safety Board or Federal Railroad Administration ac-*
22 *cident investigations where track defects were the*
23 *cause or a contributing cause; and*

24 (4) *other relevant information, as determined by*
25 *the Secretary.*

1 (c) *UPDATE OF REGULATIONS.*—Not later than 2 years
 2 after the completion of the study required by subsection (b),
 3 the Secretary shall issue regulations implementing the rec-
 4 ommendations of the study.

5 **SEC. 404. STUDY OF METHODS TO IMPROVE OR CORRECT**
 6 **STATION PLATFORM GAPS.**

7 Not later than 2 years after the enactment of this Act,
 8 the Secretary shall complete a study to determine the most
 9 safe, efficient, and cost-effective way to improve the safety
 10 of rail passenger station platforms gaps in order to increase
 11 compliance with the requirements under the Americans
 12 with Disabilities Act (42 U.S.C. 12101 et seq.), including
 13 regulations issued pursuant to section 504 of such Act (42
 14 U.S.C. 12204) and to minimize the safety risks associated
 15 with such gaps for railroad passengers and employees.

16 **SEC. 405. LOCOMOTIVE CAB STUDIES.**

17 (a) *IN GENERAL.*—Not later than 1 year after the date
 18 of enactment of this Act, the Secretary, through the Rail-
 19 road Safety Advisory Committee if the Secretary makes
 20 such a request, shall complete a study on the safety impact
 21 of the use of personal electronic devices, including cell
 22 phones, video games, and other distracting devices, by safe-
 23 ty-related railroad employees (as defined in section
 24 20102(4) of title 49, United States Code), during the per-

1 *formance of such employees' duties. The study shall consider*
2 *the prevalence of the use of such devices.*

3 **(b) LOCOMOTIVE CAB ENVIRONMENT.**—*The Secretary*
4 *may also study other elements of the locomotive cab environ-*
5 *ment and their effect on an employee's health and safety.*

6 **(c) REPORT.**—*Not later than 6 months after the com-*
7 *pletion of any study under this section, the Secretary shall*
8 *issue a report on the study to the Senate Committee on*
9 *Commerce, Science, and Transportation and the House of*
10 *Representatives Committee on Transportation and Infra-*
11 *structure.*

12 **(d) AUTHORITY.**—*Based on the conclusions of the*
13 *study required under (a), the Secretary of Transportation*
14 *may prohibit the use of personal electronic devices, such as*
15 *cell phones, video games, or other electronic devices that*
16 *may distract employees from safely performing their duties,*
17 *unless those devices are being used according to railroad*
18 *operating rules or for other work purposes. Based on the*
19 *conclusions of other studies conducted under subsection (b),*
20 *the Secretary may issue regulations to improve elements of*
21 *the cab environment to protect an employee's health and*
22 *safety.*

1 **SEC. 406. RAILROAD SAFETY TECHNOLOGY GRANTS.**

2 (a) *IN GENERAL.*—Subchapter II of chapter 201, as
3 amended by section 401 of this Act, is further amended by
4 adding at the end thereof the following:

5 **“§ 20163. Railroad safety technology grants**

6 “(a) *GRANT PROGRAM.*—The Secretary of Transpor-
7 tation shall establish a grant program for the deployment
8 of train control technologies, train control component tech-
9 nologies, processor-based technologies, electronically con-
10 trolled pneumatic brakes, rail integrity inspection systems,
11 rail integrity warning systems, switch position indicators,
12 remote control power switch technologies, track integrity
13 circuit technologies, and other new or novel railroad safety
14 technology.

15 “(b) *GRANT CRITERIA.*—

16 “(1) *ELIGIBILITY.*—Grants shall be made under
17 this section to eligible passenger and freight railroad
18 carriers, railroad suppliers, and State and local gov-
19 ernments for projects described in subsection (a) that
20 have a public benefit of improved safety and network
21 efficiency.

22 “(2) *CONSIDERATIONS.*—Priority shall be given
23 to projects that—

24 “(A) focus on making technologies inter-
25 operable between railroad systems, such as train
26 control technologies;

1 “(B) provide incentives for train control
 2 technology deployment on high-risk corridors,
 3 such as those that have high volumes of haz-
 4 ardous materials shipments or over which com-
 5 muter or passenger trains operate; or

6 “(C) benefit both passenger and freight safe-
 7 ty and efficiency.

8 “(3) *TECHNOLOGY IMPLEMENTATION PLAN.*—
 9 Grants may not be awarded under this section to en-
 10 tities that fail to develop and submit to the Secretary
 11 a technology implementation plan as required by sec-
 12 tion 20157(d)(2).

13 “(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
 14 authorized to be appropriated to the Secretary of Transpor-
 15 tation \$20,000,000 for each of fiscal years 2008 through
 16 2013 to carry out this section. Amounts appropriated pur-
 17 suant to this section shall remain available until ex-
 18 pended.”.

19 “(b) *CONFORMING AMENDMENT.*—The chapter analysis
 20 for chapter 201, as amended by section 401 of this Act, is
 21 further amended by inserting after the item relating to sec-
 22 tion 20163 the following:

“20163. *Railroad safety technology grants.*”.

1 **SEC. 407. RAILROAD SAFETY INFRASTRUCTURE IMPROVE-**
 2 **MENT GRANTS.**

3 (a) *IN GENERAL.*—Subchapter II of chapter 201, as
 4 amended by section 406 of this Act, is further amended by
 5 adding at the end thereof the following:

6 **“§20164. Railroad safety infrastructure improvement**
 7 **grants**

8 “(a) *GRANT PROGRAM.*—The Secretary of Transpor-
 9 tation shall establish a grant program for safety improve-
 10 ments to railroad infrastructure, including the acquisition,
 11 improvement, or rehabilitation of intermodal or rail equip-
 12 ment or facilities, including track, bridges, tunnels, yards,
 13 buildings, passenger stations, facilities, and maintenance
 14 and repair shops.

15 “(b) *ELIGIBILITY.*—Grants shall be made under this
 16 section to eligible passenger and freight railroad carriers,
 17 and State and local governments for projects described in
 18 subsection (a).

19 “(c) *CONSIDERATIONS.*—In awarding grants the Sec-
 20 retary shall consider, at a minimum—

21 “(1) *the age and condition of the rail infrastruc-*
 22 *ture of the applicant;*

23 “(2) *the railroad’s safety record, including acci-*
 24 *dent and incident numbers and rates;*

25 “(3) *the volume of hazardous materials trans-*
 26 *ported by the railroad;*

1 “(4) the operation of passenger trains over the
2 railroad; and

3 “(5) whether the railroad has submitted a rail-
4 road safety risk reduction program, as required by
5 section 20157.

6 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—There
7 are authorized to be appropriated to the Secretary of Trans-
8 portation \$15,000,000 for each of fiscal years 2008 through
9 2013 to carry out this section. Amounts appropriated pur-
10 suant to this subsection shall remain available until ex-
11 pended.”.

12 (b) *CONFORMING AMENDMENT.*—The chapter analysis
13 for chapter 201, as amended by section 406 of this Act, is
14 amended by inserting after the item relating to section
15 20163 the following:

“20164. Railroad safety infrastructure improvement grants.”.

16 **SEC. 408. AMENDMENT TO THE MOVEMENT-FOR-REPAIR**
17 **PROVISION.**

18 Section 20303 is amended by adding at the end the
19 following:

20 “(d) *ADDITIONAL CONDITIONS FOR MOVEMENT TO*
21 *MAKE REPAIRS TO DEFECTIVE OR INSECURE VEHICLES.*—

22 “(1) *IN GENERAL.*—The Secretary of Transpor-
23 tation may impose conditions for the movement of a
24 defective or insecure vehicle to make repairs in addi-

1 *tion to those conditions set forth in subsection (a) by*
 2 *prescribing regulations or issuing orders as necessary.*

3 “(2) *NECESSITY OF MOVEMENT.*—*The movement*
 4 *of a defective or insecure vehicle from a location may*
 5 *be necessary to make repairs of the vehicle even*
 6 *though a mobile repair truck capable of making the*
 7 *repairs has gone to the location on an irregular basis*
 8 *(as specified in regulations prescribed by the Sec-*
 9 *retary).*

10 “(e) *DEFINITIONS.*—*In this section:*

11 “(1) *NEAREST.*—*The term ‘nearest’ means the*
 12 *closest in the forward direction of travel for the defec-*
 13 *tive or insecure vehicle.*

14 “(2) *PLACE AT WHICH THE REPAIRS CAN BE*
 15 *MADE.*—*The term ‘place at which the repairs can be*
 16 *made’ means—*

17 “(A) *a location with a fixed facility for con-*
 18 *ducting the repairs that are necessary to bring*
 19 *the defective or insecure vehicle into compliance*
 20 *with this chapter; or*

21 “(B) *a location where a mobile repair truck*
 22 *capable of making the repairs that are necessary*
 23 *to bring the defective or insecure vehicle into*
 24 *compliance with this chapter makes the same*
 25 *kind of repair at the location regularly (as speci-*

1 *fied in regulations prescribed by the Sec-*
 2 *retary).”.*

3 **SEC. 409. DEVELOPMENT AND USE OF RAIL SAFETY TECH-**
 4 **NOLOGY.**

5 *(a) IN GENERAL.—Subchapter II of chapter 201, as*
 6 *amended by section 407 of this Act, is further amended by*
 7 *adding at the end the following new section:*

8 **“§20165. Development and use of rail safety tech-**
 9 **nology**

10 *“(a) IN GENERAL.—Not later than 1 year after enact-*
 11 *ment of the Railroad Safety Enhancement Act of 2007, the*
 12 *Secretary of Transportation shall issue standards, guid-*
 13 *ance, regulations, or orders governing the development, use,*
 14 *and implementation of rail safety technology in dark terri-*
 15 *tory, in arrangements not defined in section 20501 or other-*
 16 *wise not covered by Federal standards, guidance, regula-*
 17 *tions, or orders that ensures its safe operation, such as—*

18 *“(1) switch position monitoring devices;*

19 *“(2) radio, remote control or other power-assisted*
 20 *switches;*

21 *“(3) hot box, high water or earthquake detectors;*

22 *“(4) remote control locomotive zone limiting de-*
 23 *vices;*

24 *“(5) slide fences;*

25 *“(6) grade crossing video monitors;*

1 “(7) *track integrity warning systems*;

2 “(8) *or other similar rail safety technologies, as*
3 *determined by the Secretary.*

4 “(b) *DARK TERRITORY DEFINED.—In this section, the*
5 *term ‘dark territory’ means any territory in a railroad sys-*
6 *tem that does not have a signal or train control system in-*
7 *stalled or operational.’.*”

8 (b) *CONFORMING AMENDMENT.—The chapter analysis*
9 *for chapter 201, as amended by section 407 of this Act, is*
10 *amended by inserting after the item relating to section*
11 *20164 the following:*

 “20165. *Development and use of rail safety technology.*”.

12 **SEC. 410. EMPLOYEE SLEEPING QUARTERS.**

13 *Section 21106 is amended—*

14 (1) *by inserting “(a) IN GENERAL.—” before “A*
15 *railroad carrier”;*

16 (2) *by striking “sanitary and give those employ-*
17 *ees and individuals an opportunity for rest free from*
18 *the interruptions caused by noise under the control of*
19 *the carrier;” in paragraph (1) and inserting “sani-*
20 *tary, give those employees and individuals an oppor-*
21 *tunity for rest free from the interruptions caused by*
22 *noise under the control of the carrier, and provide in-*
23 *door toilet facilities, potable water, and other features*
24 *to protect the health of employees;” and*

25 (3) *by adding at the end the following:*

1 “(b) *CAMP CARS.*—No later than 12 months after the
 2 date of enactment of the *Railroad Safety Enhancement Act*
 3 of 2007, the Secretary, in consultation with the Secretary
 4 of Labor, shall issue regulations governing the use of camp
 5 cars, pursuant to subsection (a)(1), for employees and any
 6 individuals employed to maintain the right of way of a
 7 railroad carrier. The regulations may also prohibit the use
 8 of camp cars, if necessary, to protect the health and safety
 9 of the employees.”.

10 **SEC. 411. EMPLOYEE PROTECTIONS.**

11 Section 20109(a) is amended—

12 (1) by redesignating paragraphs (5) through (7)
 13 as paragraphs (6) through (8), respectively; and

14 (2) by inserting after paragraph (4) the fol-
 15 lowing:

16 “(5) to request that a railroad carrier provide
 17 first aid, prompt medical treatment, or transpor-
 18 tation to an appropriate medical facility or hospital
 19 after being injured during the course of employment,
 20 or to comply with treatment prescribed by a physi-
 21 cian or licensed health care professional consistent
 22 with the carrier’s medical standards for fitness for
 23 duty;”.

1 **SEC. 412. UNIFIED TREATMENT OF FAMILIES OF RAILROAD**
 2 **CARRIERS.**

3 *Section 20102(3), as redesignated by section 2(b) of*
 4 *this Act, is amended to read as follows:*

5 *“(3) ‘railroad carrier’ means a person providing*
 6 *railroad transportation, except that, upon petition by*
 7 *a group of commonly controlled railroad carriers that*
 8 *the Secretary determines is operating within the*
 9 *United States as a single, integrated rail system, the*
 10 *Secretary may by order treat the group of railroad*
 11 *carriers as a single railroad carrier for purposes of*
 12 *one or more provisions of part A, subtitle V of this*
 13 *title and implementing regulations and order, subject*
 14 *to any appropriate conditions that the Secretary may*
 15 *impose.”.*

16 **SEC. 413. STUDY OF REPEAL OF CONRAIL PROVISION.**

17 *Within 1 year after the date of enactment of this Act,*
 18 *the Secretary shall complete a study of the impacts of re-*
 19 *pealing section 711 of the Regional Rail Reorganization Act*
 20 *of 1973 (45 U.S.C. 797j). Within 6 months after completing*
 21 *the study, the Secretary shall transmit a report with the*
 22 *Secretary’s findings, conclusions, and recommendations to*
 23 *the Senate Committee on Commerce, Science, and Trans-*
 24 *portation and the House of Representatives Committee on*
 25 *Transportation and Infrastructure.*

1 **SEC. 414. LIMITATIONS ON NON-FEDERAL ALCOHOL AND**
 2 **DRUG TESTING BY RAILROAD CARRIERS.**

3 (a) *IN GENERAL.*—Chapter 20l, as amended by section
 4 409, is further amended by adding at the end the following:

5 **“§20166. Limitations on non-federal alcohol and drug**
 6 **testing**

7 “(a) *TESTING REQUIREMENTS.*—Any non-Federal al-
 8 cohol and drug testing program of a railroad carrier must
 9 provide that all post-employment tests of the specimens of
 10 employees who are subject to both the program and chapter
 11 211 of this title be conducted using a scientifically recog-
 12 nized method of testing capable of determining the presence
 13 of the specific analyte at a level above the cut-off level estab-
 14 lished by the carrier.

15 “(b) *REDRESS PROCESS.*—Each railroad carrier that
 16 has a non-Federal alcohol and drug testing program must
 17 provide a redress process to its employees who are subject
 18 to both the alcohol and drug testing program and chapter
 19 211 of this title for such an employee to petition for, and
 20 receive, a carrier hearing to review his or her specimen test
 21 results that were determined to be in violation of the pro-
 22 gram. A dispute or grievance raised by a railroad carrier
 23 or its employee, except a probationary employee, in connec-
 24 tion with the carrier’s alcohol and drug testing program
 25 and the application of this section is subject to resolution
 26 under section 3 of the Railway Labor Act (45 U.S.C. 153).”.

1 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 2 *for chapter 201, as amended by section 409 of this Act, is*
 3 *further amended by inserting after the item relating to sec-*
 4 *tion 20165 the following:*

“20166. Limitations on non-federal alcohol and drug testing by railroad carriers.”.

5 ***SEC. 415. CRITICAL INCIDENT STRESS PLAN.***

6 *The Secretary, in consultation with the Secretary of*
 7 *Labor and the Secretary of Health and Human Services,*
 8 *as appropriate, shall require each Class 1 railroad, and any*
 9 *other railroad that the Secretary determines appropriate—*

10 *(1) to develop and submit for approval to the*
 11 *Secretary a critical incident stress plan that provides*
 12 *for debriefing, counseling, guidance, and other appro-*
 13 *priate support services to be offered to an employee*
 14 *affected by a critical incident;*

15 *(2) immediately relieve an employee involved in*
 16 *a critical incident of his or her duties; and*

17 *(3) upon the employee’s request, relieve an em-*
 18 *ployee that witnessed a critical incident of his or her*
 19 *duties as soon as feasible.*

1 ***TITLE V—RAIL PASSENGER***
 2 ***DISASTER FAMILY ASSISTANCE***

3 ***SEC. 501. ASSISTANCE BY NATIONAL TRANSPORTATION***
 4 ***SAFETY BOARD TO FAMILIES OF PASSENGERS***
 5 ***INVOLVED IN RAIL PASSENGER ACCIDENTS.***

6 (a) *IN GENERAL.*—Chapter 11 is amended by adding
 7 at the end of subchapter III the following:

8 ***“§ 1139. Assistance to families of passengers involved***
 9 ***in rail passenger accidents***

10 “(a) *IN GENERAL.*—As soon as practicable after being
 11 notified of a rail passenger accident within the United
 12 States involving a rail passenger carrier and resulting in
 13 a major loss of life, the Chairman of the National Transpor-
 14 tation Safety Board shall—

15 “(1) designate and publicize the name and phone
 16 number of a director of family support services who
 17 shall be an employee of the Board and shall be re-
 18 sponsible for acting as a point of contact within the
 19 Federal Government for the families of passengers in-
 20 volved in the accident and a liaison between the rail
 21 passenger carrier and the families; and

22 “(2) designate an independent nonprofit organi-
 23 zation, with experience in disasters and posttrauma
 24 communication with families, which shall have pri-
 25 mary responsibility for coordinating the emotional

1 *care and support of the families of passengers in-*
 2 *involved in the accident.*

3 “(b) *RESPONSIBILITIES OF THE BOARD.*—*The Board*
 4 *shall have primary Federal responsibility for—*

5 “(1) *facilitating the recovery and identification*
 6 *of fatally injured passengers involved in an accident*
 7 *described in subsection (a); and*

8 “(2) *communicating with the families of pas-*
 9 *sengers involved in the accident as to the roles of—*

10 “(A) *the organization designated for an ac-*
 11 *cident under subsection (a)(2);*

12 “(B) *Government agencies; and*

13 “(C) *the rail passenger carrier involved,*
 14 *with respect to the accident and the post-accident ac-*
 15 *tivities.*

16 “(c) *RESPONSIBILITIES OF DESIGNATED ORGANIZA-*
 17 *TION.*—*The organization designated for an accident under*
 18 *subsection (a)(2) shall have the following responsibilities*
 19 *with respect to the families of passengers involved in the*
 20 *accident:*

21 “(1) *To provide mental health and counseling*
 22 *services, in coordination with the disaster response*
 23 *team of the rail passenger carrier involved.*

1 “(2) *To take such actions as may be necessary*
 2 *to provide an environment in which the families may*
 3 *grieve in private.*

4 “(3) *To meet with the families who have traveled*
 5 *to the location of the accident, to contact the families*
 6 *unable to travel to such location, and to contact all*
 7 *affected families periodically thereafter until such*
 8 *time as the organization, in consultation with the di-*
 9 *rector of family support services designated for the ac-*
 10 *cident under subsection (a)(1), determines that fur-*
 11 *ther assistance is no longer needed.*

12 “(4) *To arrange a suitable memorial service, in*
 13 *consultation with the families.*

14 “(d) *PASSENGER LISTS.—*

15 “(1) *REQUESTS FOR PASSENGER LISTS.—*

16 “(A) *REQUESTS BY DIRECTOR OF FAMILY*
 17 *SUPPORT SERVICES.—It shall be the responsi-*
 18 *bility of the director of family support services*
 19 *designated for an accident under subsection*
 20 *(a)(1) to request, as soon as practicable, from the*
 21 *rail passenger carrier involved in the accident a*
 22 *list, which is based on the best available infor-*
 23 *mation at the time of the request, of the names*
 24 *of the passengers that were aboard the rail pas-*
 25 *senger carrier’s train involved in the accident. A*

1 *rail passenger carrier shall use reasonable efforts,*
 2 *with respect to its unreserved trains, and pas-*
 3 *sengers not holding reservations on its other*
 4 *trains, to ascertain the names of passengers*
 5 *aboard a train involved in an accident.*

6 *“(B) REQUESTS BY DESIGNATED ORGANIZA-*
 7 *TION.—The organization designated for an acci-*
 8 *dent under subsection (a)(2) may request from*
 9 *the rail passenger carrier involved in the acci-*
 10 *dent a list described in subparagraph (A).*

11 *“(2) USE OF INFORMATION.—Except as provided*
 12 *in subsection (k), the director of family support serv-*
 13 *ices and the organization may not release to any per-*
 14 *son information on a list obtained under paragraph*
 15 *(1) but may provide information on the list about a*
 16 *passenger to the family of the passenger to the extent*
 17 *that the director of family support services or the or-*
 18 *ganization considers appropriate.*

19 *“(e) CONTINUING RESPONSIBILITIES OF THE*
 20 *BOARD.—In the course of its investigation of an accident*
 21 *described in subsection (a), the Board shall, to the max-*
 22 *imum extent practicable, ensure that the families of pas-*
 23 *sengers involved in the accident—*

1 “(1) are briefed, prior to any public briefing,
2 about the accident and any other findings from the
3 investigation; and

4 “(2) are individually informed of and allowed to
5 attend any public hearings and meetings of the Board
6 about the accident.

7 “(f) *USE OF RAIL PASSENGER CARRIER RE-*
8 *SOURCES.*—To the extent practicable, the organization des-
9 ignated for an accident under subsection (a)(2) shall coordi-
10 nate its activities with the rail passenger carrier involved
11 in the accident to facilitate the reasonable use of the re-
12 sources of the carrier.

13 “(g) *PROHIBITED ACTIONS.*—

14 “(1) *ACTIONS TO IMPEDE THE BOARD.*—No per-
15 son (including a State or political subdivision) may
16 impede the ability of the Board (including the direc-
17 tor of family support services designated for an acci-
18 dent under subsection (a)(1)), or an organization des-
19 ignated for an accident under subsection (a)(2), to
20 carry out its responsibilities under this section or the
21 ability of the families of passengers involved in the
22 accident to have contact with one another.

23 “(2) *UNSOLICITED COMMUNICATIONS.*—No unso-
24 licited communication concerning a potential action
25 for personal injury or wrongful death may be made

1 *by an attorney (including any associate, agent, em-*
 2 *ployee, or other representative of an attorney) or any*
 3 *potential party to the litigation to an individual*
 4 *(other than an employee of the rail passenger carrier)*
 5 *injured in the accident, or to a relative of an indi-*
 6 *vidual involved in the accident, before the 45th day*
 7 *following the date of the accident.*

8 “(3) *PROHIBITION ON ACTIONS TO PREVENT*
 9 *MENTAL HEALTH AND COUNSELING SERVICES.—No*
 10 *State or political subdivision may prevent the em-*
 11 *ployees, agents, or volunteers of an organization des-*
 12 *ignated for an accident under subsection (a)(2) from*
 13 *providing mental health and counseling services*
 14 *under subsection (c)(1) in the 30-day period begin-*
 15 *ning on the date of the accident. The director of fam-*
 16 *ily support services designated for the accident under*
 17 *subsection (a)(1) may extend such period for not to*
 18 *exceed an additional 30 days if the director deter-*
 19 *mines that the extension is necessary to meet the*
 20 *needs of the families and if State and local authori-*
 21 *ties are notified of the determination.*

22 “(h) *DEFINITIONS.—In this section:*

23 “(1) *RAIL PASSENGER ACCIDENT.—The term*
 24 *‘rail passenger accident’ means any rail passenger*

1 *disaster resulting in a major loss of life occurring in*
 2 *the provision of—*

3 “(A) interstate intercity rail passenger
 4 *transportation (as such term is defined in sec-*
 5 *tion 24102); or*

6 “(B) interstate or intrastate high-speed rail
 7 *(as such term is defined in section 26105) trans-*
 8 *portation,*
 9 *regardless of its cause or suspected cause.*

10 “(2) RAIL PASSENGER CARRIER.—*The term ‘rail*
 11 *passenger carrier’ means a rail carrier providing—*

12 “(A) interstate intercity rail passenger
 13 *transportation (as such term is defined in sec-*
 14 *tion 24102); or*

15 “(B) interstate or intrastate high-speed rail
 16 *(as such term is defined in section 26105) trans-*
 17 *portation,*

18 *except that such term does not include a tourist, his-*
 19 *toric, scenic, or excursion rail carrier.*

20 “(3) PASSENGER.—*The term ‘passenger’ in-*
 21 *cludes—*

22 “(A) an employee of a rail passenger car-
 23 *rier aboard a train;*

24 “(B) any other person aboard the train
 25 *without regard to whether the person paid for the*

1 *transportation, occupied a seat, or held a res-*
 2 *ervation for the rail transportation; and*

3 “(C) *any other person injured or killed in*
 4 *the accident.*

5 “(i) *LIMITATION ON STATUTORY CONSTRUCTION.—*
 6 *Nothing in this section may be construed as limiting the*
 7 *actions that a rail passenger carrier may take, or the obli-*
 8 *gations that a rail passenger carrier may have, in pro-*
 9 *viding assistance to the families of passengers involved in*
 10 *a rail passenger accident.*

11 “(j) *RELINQUISHMENT OF INVESTIGATIVE PRI-*
 12 *ORITY.—*

13 “(1) *GENERAL RULE.—This section (other than*
 14 *subsection (g)) shall not apply to a railroad accident*
 15 *if the Board has relinquished investigative priority*
 16 *under section 1131(a)(2)(B) and the Federal agency*
 17 *to which the Board relinquished investigative priority*
 18 *is willing and able to provide assistance to the vic-*
 19 *tims and families of the passengers involved in the*
 20 *accident.*

21 “(2) *BOARD ASSISTANCE.—If this section does*
 22 *not apply to a railroad accident because the Board*
 23 *has relinquished investigative priority with respect to*
 24 *the accident, the Board shall assist, to the maximum*
 25 *extent possible, the agency to which the Board has re-*

1 *linquished investigative priority in assisting families*
 2 *with respect to the accident.*

3 “(k) *SAVINGS CLAUSE.*—*Nothing in this section shall*
 4 *be construed to abridge the authority of the Board or the*
 5 *Secretary of Transportation to investigate the causes or cir-*
 6 *cumstances of any rail accident, including development of*
 7 *information regarding the nature of injuries sustained and*
 8 *the manner in which they were sustained for the purposes*
 9 *of determining compliance with existing laws and regula-*
 10 *tions or for identifying means of preventing similar inju-*
 11 *ries in the future, or both.”.*

12 (b) *CONFORMING AMENDMENT.*—*The table of sections*
 13 *for such chapter is amended by inserting after the item re-*
 14 *lating to section 1138 the following:*

“1139. Assistance to families of passengers involved in rail passenger accidents.”.

15 **SEC. 502. RAIL PASSENGER CARRIER PLAN TO ASSIST FAMI-**
 16 **LIES OF PASSENGERS INVOLVED IN RAIL PAS-**
 17 **SENGER ACCIDENTS.**

18 (a) *IN GENERAL.*—*Chapter 243 is amended by adding*
 19 *at the end the following:*

20 **“§24316. Plans to address needs of families of pas-**
 21 **sengers involved in rail passenger acci-**
 22 **dents**

23 “(a) *SUBMISSION OF PLAN.*—*Not later than 6 months*
 24 *after the date of the enactment of the Railroad Safety En-*
 25 *hancement Act of 2007, a rail passenger carrier shall sub-*

1 *mit to the Chairman of the National Transportation Safety*
 2 *Board, the Secretary of Transportation, and the Secretary*
 3 *of Homeland Security a plan for addressing the needs of*
 4 *the families of passengers involved in any rail passenger*
 5 *accident involving a rail passenger carrier intercity train*
 6 *and resulting in a major loss of life.*

7 “(b) *CONTENTS OF PLANS.*—*The plan to be submitted*
 8 *by a rail passenger carrier under subsection (a) shall in-*
 9 *clude, at a minimum, the following:*

10 “(1) *A process by which a rail passenger carrier*
 11 *will maintain and provide to the National Transpor-*
 12 *tation Safety Board, the Secretary of Transportation,*
 13 *and the Secretary of Homeland Security, immediately*
 14 *upon request, a list (which is based on the best avail-*
 15 *able information at the time of the request) of the*
 16 *names of the passengers aboard the train (whether or*
 17 *not such names have been verified), and will periodi-*
 18 *cally update the list. The plan shall include a proce-*
 19 *dure, with respect to unreserved trains and passengers*
 20 *not holding reservations on other trains, for a rail*
 21 *passenger carrier to use reasonable efforts to ascertain*
 22 *the number and names of passengers aboard a train*
 23 *involved in an accident.*

24 “(2) *A plan for creating and publicizing a reli-*
 25 *able, toll-free telephone number within 4 hours after*

1 *such an accident occurs, and for providing staff, to*
2 *handle calls from the families of the passengers.*

3 *“(3) A process for notifying the families of the*
4 *passengers, before providing any public notice of the*
5 *names of the passengers, by suitably trained individ-*
6 *uals.*

7 *“(4) A process for providing the notice described*
8 *in paragraph (2) to the family of a passenger as soon*
9 *as a rail passenger carrier has verified that the pas-*
10 *senger was aboard the train (whether or not the*
11 *names of all of the passengers have been verified).*

12 *“(5) A process by which the family of each pas-*
13 *senger will be consulted about the disposition of all*
14 *remains and personal effects of the passenger within*
15 *a rail passenger carrier’s control; that any possession*
16 *of the passenger within a rail passenger carrier’s con-*
17 *trol will be returned to the family unless the posses-*
18 *sion is needed for the accident investigation or any*
19 *criminal investigation; and that any unclaimed pos-*
20 *session of a passenger within a rail passenger car-*
21 *rier’s control will be retained by the rail passenger*
22 *carrier for at least 18 months.*

23 *“(6) A process by which the treatment of the*
24 *families of nonrevenue passengers will be the same as*
25 *the treatment of the families of revenue passengers.*

1 “(7) *An assurance that a rail passenger carrier*
 2 *will provide adequate training to its employees and*
 3 *agents to meet the needs of survivors and family*
 4 *members following an accident.*

5 “(c) *USE OF INFORMATION.—Neither the National*
 6 *Transportation Safety Board, the Secretary of Transpor-*
 7 *tation, the Secretary of Homeland Security, nor a rail pas-*
 8 *senger carrier may release any personal information on a*
 9 *list obtained under subsection (b)(1) but may provide infor-*
 10 *mation on the list about a passenger to the family of the*
 11 *passenger to the extent that the Board or a rail passenger*
 12 *carrier considers appropriate.*

13 “(d) *LIMITATION ON LIABILITY.—A rail passenger car-*
 14 *rier shall not be liable for damages in any action brought*
 15 *in a Federal or State court arising out of the performance*
 16 *of a rail passenger carrier under this section in preparing*
 17 *or providing a passenger list, or in providing information*
 18 *concerning a train reservation, pursuant to a plan sub-*
 19 *mitted by a rail passenger carrier under subsection (b), un-*
 20 *less such liability was caused by a rail passenger carrier’s*
 21 *gross negligence or extreme misconduct.*

22 “(e) *LIMITATION ON STATUTORY CONSTRUCTION.—*
 23 *Nothing in this section may be construed as limiting the*
 24 *actions that a rail passenger carrier may take, or the obli-*
 25 *gations that a rail passenger carrier may have, in pro-*

1 *viding assistance to the families of passengers involved in*
 2 *a rail passenger accident.*

3 “(f) *FUNDING.*—*Out of funds appropriated pursuant*
 4 *to section 20117(a)(1)(A), there shall be made available to*
 5 *the Secretary of Transportation \$500,000 for fiscal year*
 6 *2008 to carry out this section. Amounts made available*
 7 *pursuant to this subsection shall remain available until ex-*
 8 *pended.”.*

9 (b) *CONFORMING AMENDMENT.*—*The chapter analysis*
 10 *for chapter 243 is amended by adding at the end the fol-*
 11 *lowing:*

“24316. Plan to assist families of passengers involved in rail passenger acci-
dents.”.

12 ***SEC. 503. ESTABLISHMENT OF TASK FORCE.***

13 (a) *ESTABLISHMENT.*—*The Secretary, in cooperation*
 14 *with the National Transportation Safety Board, organiza-*
 15 *tions potentially designated under section 1139(a)(2) of*
 16 *title 49, United States Code, rail passenger carriers, and*
 17 *families which have been involved in rail accidents, shall*
 18 *establish a task force consisting of representatives of such*
 19 *entities and families, representatives of passenger rail car-*
 20 *rier employees, and representatives of such other entities as*
 21 *the Secretary considers appropriate.*

22 (b) *MODEL PLAN AND RECOMMENDATIONS.*—*The task*
 23 *force established pursuant to subsection (a) shall develop—*

1 (1) *a model plan to assist passenger rail carriers*
2 *in responding to passenger rail accidents;*

3 (2) *recommendations on methods to improve the*
4 *timeliness of the notification provided by passenger*
5 *rail carriers to the families of passengers involved in*
6 *a passenger rail accident;*

7 (3) *recommendations on methods to ensure that*
8 *the families of passengers involved in a passenger rail*
9 *accident who are not citizens of the United States re-*
10 *ceive appropriate assistance; and*

11 (4) *recommendations on methods to ensure that*
12 *emergency services personnel have as immediate and*
13 *accurate a count of the number of passengers onboard*
14 *the train as possible.*

15 (c) *REPORT.*—*Not later than 1 year after the date of*
16 *the enactment of this Act, the Secretary shall transmit to*
17 *Congress a report containing the model plan and rec-*
18 *ommendations developed by the task force under subsection*
19 *(b).*

1 **TITLE VI—CLARIFICATION OF**
 2 **FEDERAL JURISDICTION**
 3 **OVER SOLID WASTE FACILI-**
 4 **TIES**

5 **SEC. 601. SHORT TITLE.**

6 *This title may be cited as the “Clean Railroads Act*
 7 *of 2007”.*

8 **SEC. 602. REGULATION OF SOLID WASTE RAIL TRANSFER**
 9 **FACILITIES.**

10 *Subtitle A of the Solid Waste Disposal Act (42 U.S.C.*
 11 *6901 et seq.) is amended by adding at the end thereof the*
 12 *following:*

13 **“SEC. 1009. CLARIFICATION OF FEDERAL JURISDICTION**
 14 **OVER SOLID WASTE RAIL TRANSFER FACILI-**
 15 **TIES.**

16 *“(a) IN GENERAL.—A State or political subdivision*
 17 *thereof may enforce state solid waste environmental laws*
 18 *at a solid waste rail transfer facility.*

19 *“(b) EXISTING FACILITIES.—*

20 *“(1) IN GENERAL.—Within 180 days after the*
 21 *date of enactment of the Rail Safety Enhancement*
 22 *Act of 2007, a solid waste rail transfer facility oper-*
 23 *ating as of that date shall comply with all State solid*
 24 *waste environmental laws other than those requiring*
 25 *permits.*

1 “(2) *PERMITTING REQUIREMENTS.*—Any solid
 2 *waste rail transfer facility described in paragraph (1)*
 3 *that does not already possess permits related to State*
 4 *solid waste environmental laws as of the date of en-*
 5 *actment of the Rail Safety Enhancement Act of 2007*
 6 *shall not be required by a solid waste facility permit-*
 7 *ting agency to possess any permits related to State*
 8 *solid waste environmental laws in order to operate*
 9 *the facility—*

10 “(A) *if within 1 year after the date of en-*
 11 *actment of the Rail Safety Enhancement Act of*
 12 *2007, the railroad carrier that owns or operates*
 13 *the solid waste rail transfer facility has sub-*
 14 *mitted, in good faith, a complete application for*
 15 *all permits required by a State’s solid waste en-*
 16 *vironmental laws to a solid waste facility per-*
 17 *mitting agency authorized to grant such permits;*
 18 *and*

19 “(B) *until a solid waste facility permitting*
 20 *agency has either approved or denied the rail-*
 21 *road carrier’s application for a permit or per-*
 22 *mits.*

23 “(c) *DEFINITIONS.*—*In this section:*

24 “(1) *SOLID WASTE FACILITY PERMITTING AGEN-*
 25 *CY.*—*The term ‘solid waste facility permitting agency’*

1 *means an agency of a State or subdivision thereof au-*
 2 *thorized to grant permits, including licenses or other*
 3 *approvals or credentials, from such State or subdivi-*
 4 *sion in order to generate, store, treat, handle, manage,*
 5 *or dispose of solid waste in such State.*

6 “(2) *SOLID WASTE RAIL TRANSFER FACILITY.*—
 7 *The term ‘solid waste rail transfer facility’—*

8 “(A) *means the portion of a facility owned*
 9 *or operated by or on behalf of a railroad carrier*
 10 *(as defined in section 10102 of title 49, United*
 11 *States Code) where solid waste, as a commodity*
 12 *to be transported in commerce, is collected,*
 13 *stored, separated, processed, treated, managed,*
 14 *disposed of, or transferred outside of original*
 15 *sealed shipping containers; but*

16 “(B) *does not include a facility to the extent*
 17 *that activities taking place at such facility are*
 18 *comprised of the railroad transportation of solid*
 19 *waste after the solid waste is placed on or in a*
 20 *rail car, including railroad transportation for*
 21 *the purpose of interchanging railroad cars con-*
 22 *taining sealed solid waste shipments.*

23 “(3) *STATE SOLID WASTE ENVIRONMENTAL*
 24 *LAWS.*—*The term ‘State solid waste environmental*
 25 *laws’—*

1 “(A) means—

2 “(i) the substantive and procedural as-
3 pects of statutes, regulations, and orders of
4 a State or its subdivisions that establish
5 public health and safety or environmental
6 standards concerning the generation, stor-
7 age, treatment, handling, management, or
8 disposal of solid waste; and

9 “(ii) the substantive and procedural
10 aspects of statutes, regulations, and orders
11 of a State or its subdivisions which govern
12 the processes and procedures by which per-
13 mits, licenses, or other approvals or creden-
14 tials from such State or subdivision are re-
15 quired in order to generate, store, treat,
16 handle, manage, or dispose of solid waste
17 are granted; but

18 “(B) does not include the statutes, regula-
19 tions, and orders of a State or its subdivisions
20 which govern land use, including land use re-
21 strictions or zoning ordinances.”.

22 **SEC. 603. CONFORMING AMENDMENT TO TITLE 49.**

23 *Section 10501(c)(2) is amended to read as follows:*

1 “(2) *Except as provided in paragraph (3), the*
2 *Board does not have jurisdiction under this part*
3 *over—*

4 “(A) *mass transportation provided by a*
5 *local government authority; or*

6 “(B) *a solid waste rail transfer facility (as*
7 *defined in section 1009 (c)(2) of the Solid Waste*
8 *Disposal Act (42 U.S.C. 6909(c)(2))).”.*

Calendar No. 590

110TH CONGRESS
2^D Session

S. 1889

[Report No. 110-270]

A BILL

To amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes.

MARCH 3, 2008

Reported with an amendment in the nature of a
substitute