

115TH CONGRESS
1ST SESSION

H. R. 2223

To amend title 49, United States Code, to provide for a rail spill preparedness fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2017

Mr. DEFazio (for himself, Mr. WALDEN, Mr. BLUMENAUER, and Ms. BONAMICI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to provide for a rail spill preparedness fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Protection
5 and Preparedness Act of 2017”.

6 **SEC. 2. RAIL SPILL PREPAREDNESS FUND.**

7 (a) IN GENERAL.—Chapter 51 of title 49, United
8 States Code, is amended by inserting after section 5110
9 the following:

1 **“§ 5111. Rail spill preparedness fund**

2 “(a) ESTABLISHMENT OF RAIL ACCOUNT.—There is
3 established in the Oil Spill Liability Trust Fund a sepa-
4 rate account to be known as the ‘Rail Account’ consisting
5 of such amounts as may be appropriated, credited, depos-
6 ited, or transferred to such account as provided in this
7 section.

8 “(b) FEE FOR CERTAIN RAILROAD TANK CARS
9 TRANSPORTING CLASS 3 FLAMMABLE LIQUIDS.—Not
10 later than October 1, 2017, and annually thereafter, the
11 Secretary shall impose a fee of \$1,500 for each DOT–111
12 specification railroad tank car, including each CPC–1232
13 tank car, used to transport Class 3 flammable liquids dur-
14 ing the previous fiscal year that, at the time such tank
15 car was used, did not meet the DOT–117, DOT–117P,
16 or DOT–117R specifications in part 179 of title 49, Code
17 of Federal Regulations. Such fee shall be—

18 “(1) paid by each person who causes such liq-
19 uids to be transported by such a tank car in com-
20 merce; and

21 “(2) imposed regardless of—

22 “(A) train composition; or

23 “(B) the phase-out schedule under section
24 7304(b) of the FAST Act (49 U.S.C. 20155
25 note).

1 “(c) LIMITATION.—A fee imposed pursuant to sub-
2 section (b) may not be imposed on a railroad carrier that
3 transports Class 3 flammable liquids.

4 “(d) MEANS OF COLLECTION.—The Secretary shall
5 prescribe procedures to collect the fees described in sub-
6 section (b). The Secretary may use a department, agency,
7 or instrumentality of the United States Government or of
8 a State or local government to collect the fee and may
9 reimburse the department, agency, or instrumentality a
10 reasonable amount for its services.

11 “(e) DEPOSITS.—Amounts equivalent to the fees col-
12 lected pursuant to subsection (b) shall be deposited into
13 the Rail Account.

14 “(f) EXPENDITURES.—Amounts deposited pursuant
15 to subsection (e) shall be available to the Secretary, with-
16 out need of further appropriation, only for the following
17 purposes:

18 “(1) The payment of removal and remediation
19 costs and other costs, expenses, claims, and damages
20 related to an accident or incident involving the
21 transportation of Class 3 flammable liquids by rail.

22 “(2) For the Secretary to make grants to
23 States and Indian tribes to—

24 “(A) to develop, improve, and carry out
25 emergency plans under the Emergency Plan-

1 ning and Community Right-To-Know Act of
2 1986 (42 U.S.C. 11001 et seq.) related to an
3 accident or incident involving the transportation
4 of Class 3 flammable liquids by rail, including
5 ascertaining flow patterns of Class 3 flammable
6 liquids on lands under the jurisdiction of a
7 State or Indian tribe and lands of another State
8 or Indian tribe;

9 “(B) to develop and train regional haz-
10 ardous material emergency response teams to
11 prepare for an accident or incident involving the
12 transportation of Class 3 flammable liquids by
13 rail;

14 “(C) to train public sector employees to re-
15 spond to accidents and incidents involving the
16 transportation of Class 3 flammable liquids by
17 rail consistent with the requirements of section
18 5116; and

19 “(D) for any other measures that the Sec-
20 retary, in consultation with States and Indian
21 tribes, determines necessary to assist such
22 States and Indian tribes in preparing for acci-
23 dents and incidents involving the transportation
24 of Class 3 flammable liquids by rail.

1 “(g) PUBLIC SECTOR TRAINING STANDARDS.—To
2 the extent that a grant under subsection (f) is used to
3 train emergency responders, the State or Indian tribe shall
4 ensure that the emergency responders who receive training
5 under the grant have the ability to protect nearby persons,
6 property, and the environment from the effects of acci-
7 dents or incidents involving the transportation of haz-
8 ardous material in accordance with existing regulations or
9 National Fire Protection Association standards for com-
10 petence of responders to accidents and incidents involving
11 hazardous materials, including the transportation of Class
12 3 flammable liquids by rail.

13 “(h) NO EFFECT ON COMPLIANCE OR LIABILITY
14 UNDER FEDERAL OR STATE LAW.—Nothing in this sec-
15 tion may be construed to affect or limit the application
16 of, obligation to comply with, or liability under any Fed-
17 eral or State law.

18 “(i) DEFINITIONS.—

19 “(1) CLASS 3 FLAMMABLE LIQUID.—The term
20 ‘Class 3 flammable liquid’ has the meaning given the
21 term flammable liquid in section 173.120(a) of title
22 49, Code of Federal Regulations.

23 “(2) RAILROAD CARRIER.—The term ‘railroad
24 carrier’ has the meaning given such term in section
25 20102.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 51 of title 49, United States Code, is amended
3 by inserting after the item relating to section 5110 the
4 following new item:

“5111. Rail spill preparedness fund.”.

5 **SEC. 3. FINAL RULE ON OIL SPILL RESPONSE PLANS.**

6 Not later than 3 months after the date of enactment
7 of this Act, the Administrator of the Pipeline and Haz-
8 ardous Materials Safety Administration shall issue a final
9 rule relating to the notice of proposed rulemaking issued
10 on July 29, 2016, entitled “Hazardous Materials: Oil Spill
11 Response Plans and Information Sharing for High-Haz-
12 ard Flammable Trains” (81 Fed. Reg. 50067).

13 **SEC. 4. TRACK SAFETY SPECIALISTS.**

14 There are authorized to be appropriated such sums
15 as may be necessary for the Administrator of the Federal
16 Railroad Administration to hire a minimum of 2 addi-
17 tional track safety specialists per region.

18 **SEC. 5. STUDY ON THE ADEQUACY OF CERTAIN TRACK IN-**
19 **SPECTIONS AND REGULATIONS.**

20 Not later than 180 days after the date of enactment
21 of this Act, the Secretary of Transportation shall transmit
22 to the Committee on Transportation and Infrastructure
23 of the House of Representatives and the Committee on
24 Commerce, Science, and Transportation of the Senate—

25 (1) an assessment of the adequacy of—

1 (A) railroad track inspections, including
2 the frequency of inspections;

3 (B) training provided to railroad track in-
4 spectors and related railroad personnel;

5 (C) railroad compliance with Federal track
6 safety regulations; and

7 (D) Federal oversight of railroads with re-
8 spect to track safety; and

9 (2) an evaluation on the leading causes of track
10 defects, particularly along routes where passenger
11 trains, high-hazardous flammable trains, or trains
12 carrying poisonous or toxic-by-inhalation materials,
13 explosives, or radioactive material traverse.

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