

116TH CONGRESS
2D SESSION

H. R. 6223

To amend title 49, United States Code, to address blocked crossings, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2020

Mr. LIPINSKI (for himself, Mr. COOPER, and Mr. CARSON of Indiana) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to address blocked
crossings, 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 “Don’t BLock Our
5 Communities Act” or the “D-BLOC Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) SECRETARY.—The term “Secretary” means
9 the Secretary of Transportation.

1 (2) CROSSING.—The term “crossing” has the
2 meaning given the term under section 20160 of title
3 49, United States Code.

4 (3) BLOCKED CROSSING.—The term “blocked
5 crossing” means a circumstance in which a train,
6 railroad car, or locomotive engine is stopped or is
7 standing in a manner that obstructs public travel at
8 a crossing.

9 (4) COMMUTER AUTHORITIES.—The term
10 “commuter authorities” has the meaning given the
11 term in section 24102 of title 49, United States
12 Code.

13 **SEC. 3. COLLECTION OF DATA ON BLOCKED CROSSINGS**
14 **AND INCORPORATION INTO THE NATIONAL**
15 **HIGHWAY-RAIL CROSSING INVENTORY.**

16 (a) IN GENERAL.—Section 20160 of title 49, United
17 States Code, is amended to read as follows:

18 **“§ 20160. National crossing inventory and blocked**
19 **crossings**

20 “(a) INITIAL REPORTING OF INFORMATION ABOUT
21 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than
22 1 year after the date of enactment of the Rail Safety Im-
23 provement Act of 2008 or 6 months after a new crossing
24 becomes operational, whichever occurs later, each railroad
25 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 with respect to the
6 trackage over which it operates; or

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

10 “(b) UPDATING OF CROSSING INFORMATION.—

11 “(1) MONTHLY BASIS.—On a monthly period
12 beginning not later than 1 year after the date of en-
13 actment of the Don’t BLock Our Communities Act,
14 each railroad carrier shall report to the Secretary in-
15 formation concerning each crossing through which it
16 operates with respect to the trackage over which it
17 operates, including—

18 “(A) with respect to warning devices—

19 “(i) the type of crossing warning de-
20 vice;

21 “(ii) the total number of crossing acti-
22 vations;

23 “(iii) whether any active warning de-
24 vices, including gates or flashing light sig-
25 nals, are functioning properly;

1 “(iv) the timing of any repairs if such
2 active warning devices are not functioning
3 properly; and

4 “(v) if a repair has been made, the
5 timing of when the active warning device
6 was discovered to not function properly
7 and when the repair was made;

8 “(B) with respect to any crossing blocked
9 for more than 10 minutes—

10 “(i) the location of the blocked cross-
11 ing, including the Department of Trans-
12 portation crossing identification and inven-
13 tory numbers;

14 “(ii) the date of the blocked crossing;

15 “(iii) the time when the crossing was
16 blocked;

17 “(iv) the duration of the blockage (in
18 minutes);

19 “(v) the cause for the blockage;

20 “(vi) the direction of the train;

21 “(vii) the length of the train, amount
22 of cars in the train consist, and makeup of
23 consist;

1 “(viii) whether a train was cut for
2 each blockage and if not, the reason it was
3 not cut; and

4 “(ix) train number, symbol, or other
5 information as needed to identify the train;
6 and

7 “(C) the status of operating protocols with
8 any other railroad carrier whose operation could
9 cause interference with that railroad carrier’s
10 operation.

11 “(2) MEETING THE REQUIREMENTS.—A rail-
12 road carrier may meet the requirements of para-
13 graph (1) by ensuring that the information has been
14 reported to the Secretary by another railroad carrier
15 that operates through the crossing.

16 “(3) BLOCKED CROSSING DATA FORM.—The
17 Secretary shall develop and require railroad carriers
18 to use a separate blocked crossing data form when
19 reporting the data required under subparagraph (B)
20 of paragraph (1).

21 “(4) WORKER PARTICIPATION.—Each railroad
22 carrier shall check with the relevant railroad work-
23 ers, including signalmen, conductors, and engineers
24 to ensure the information reported under paragraph
25 (1) is accurate.

1 “(5) AUDITING.—The Secretary may periodi-
2 cally audit the reports each railroad carrier submits
3 under paragraph (1) to ensure their accuracy. The
4 Secretary shall have the authority to require any
5 corrective action with respect to the information sub-
6 mitted if it finds the information submitted is inac-
7 curate or false.

8 “(6) SELLING A CROSSING.—A railroad carrier
9 that sells a crossing or any part of a crossing on or
10 after the date of enactment of the Rail Safety Im-
11 provement Act of 2008 shall, not later than the date
12 that is 18 months after the date of enactment of
13 such Act or 3 months after the sale, whichever oc-
14 curs later, or as otherwise specified by the Secretary,
15 report to the Secretary current information, as spec-
16 ified by the Secretary, concerning the change in
17 ownership of the crossing or part of the crossing.

18 “(c) INCORPORATION OF DATA INTO NATIONAL
19 HIGHWAY-RAIL CROSSING INVENTORY.—

20 “(1) INCORPORATION.—The Secretary shall on
21 a quarterly basis incorporate the data collected on
22 the blocked crossing data form developed under sub-
23 section (b)(3) into the national highway-rail crossing
24 inventory.

1 “(2) DATA FILE.—In carrying out paragraph
2 (1), the Secretary shall ensure that the blocked
3 crossing data form remains its own data file.

4 “(3) SEARCHABLE.—In carrying out paragraph
5 (1), the Secretary shall ensure that the data is
6 searchable by—

7 “(A) State;

8 “(B) county;

9 “(C) city;

10 “(D) street;

11 “(E) railroad;

12 “(F) Department of Transportation grade
13 crossing identification and inventory numbers;

14 “(G) type of crossing;

15 “(H) level of crossing protections;

16 “(I) whether crossing protections were
17 functioning properly;

18 “(J) date of blocked crossing;

19 “(K) cause of blocked crossing;

20 “(L) duration crossing was blocked for (in
21 minutes); and

22 “(M) train number or symbol.

23 “(4) EXISTING DATA.—The Secretary may
24 draw on existing national highway-rail crossing in-
25 ventory data to carry out paragraph (1) and add any

1 relevant data from such inventory to the new
2 blocked crossing data file to effectively carry out this
3 section.

4 “(d) 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 was in effect on
10 the date of enactment of the Rail Safety Improvement Act
11 of 2008 and not superseded by the Don’t BLock Our
12 Communities Act or a regulation issued under this section.

13 “(e) DEFINITIONS.—In this section and in sections
14 20169 and 20170:

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

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

1 “(B) a pathway explicitly authorized by a
 2 public authority or a railroad carrier that is
 3 dedicated for the use of nonvehicular traffic, in-
 4 cluding pedestrians, bicyclists, and others, that
 5 is not associated with a public highway, road,
 6 or street, or a private roadway, crosses one or
 7 more railroad tracks either at grade or grade-
 8 separated.

9 “(2) BLOCKED CROSSING.—The term ‘blocked
 10 crossing’ means a circumstance in which a train,
 11 railroad car, or engine is stopped or is standing in
 12 a manner that obstructs public travel at a crossing.

13 “(3) STATE.—The term ‘State’ means a State
 14 of the United States, the District of Columbia, or
 15 the Commonwealth of Puerto Rico.”.

16 (b) CONFORMING AMENDMENT.—The table of con-
 17 tents for chapter 201 of title 49, United States Code, is
 18 amended by striking the item relating to section 20160
 19 and inserting the following:

“20160. National crossing inventory and blocked crossings.”.

20 **SEC. 4. ESTABLISHMENT OF 10-MINUTE TIME LIMIT FOR**
 21 **BLOCKING PUBLIC GRADE CROSSINGS.**

22 (a) IN GENERAL.—Chapter 201 of title 49, United
 23 States Code, is further amended by adding at the end of
 24 subchapter II the following:

1 **“§ 20169. Time limit for blocking a rail crossing**

2 “(a) TIME LIMIT.—A train, locomotive, railroad car,
3 or other rail equipment is prohibited from blocking a
4 crossing in excess of 10 minutes, unless the train, loco-
5 motive, or other equipment is directly delayed by—

6 “(1) a casualty or serious injury;

7 “(2) an accident;

8 “(3) a track obstruction;

9 “(4) an act of God; or

10 “(5) a derailment or a major equipment failure
11 that prevents the train from advancing.

12 “(b) CIVIL PENALTY AUTHORITY FOR THE SEC-
13 RETARY.—The Secretary may issue civil penalties for vio-
14 lations of subsection (a) for each incident where a crossing
15 is blocked by a standing train, locomotive, or rail equip-
16 ment in accordance with the following:

17 “(1) The minimum civil penalty for blocking a
18 crossing for over 10 minutes shall be \$1,000.

19 “(2) The Secretary shall establish additional,
20 escalating time intervals and escalating minimum
21 civil penalties for blocked crossing violations in ex-
22 cess of 10 minutes.

23 “(3) The maximum civil penalty for a single
24 violation under paragraph (1) or (2) shall be
25 \$10,000.

1 “(4) The Secretary shall have the discretion,
2 pursuant to section 5 of this Act, to levy additional
3 civil penalties or countermeasures for persistent or
4 egregious instances of blocked crossings.

5 “(c) DELEGATION.—The Secretary may delegate en-
6 forcement actions under subsection (b) to States either
7 through a State inspector certified State by the Federal
8 Railroad Administration, or other law enforcement offi-
9 cials as designated by the States and approved by the Ad-
10 ministration. The Secretary shall issue guidance or regula-
11 tions not later than 1 year after the date of enactment
12 of the D-BLOC Act on the criteria and process for law
13 enforcement officials to gain approval under this section.

14 “(d) ANNUAL REPORT.—The Secretary shall report
15 annually to Congress on civil penalties issued pursuant to
16 this section. The Secretary may collect such information
17 as needed from the States to issue the report under this
18 section. The report shall include—

19 “(1) the rail operator in violation;

20 “(2) the reason a fine was issued;

21 “(3) the amount fined; and

22 “(4) the location and Department of Transpor-
23 tation grade crossing number where the violation oc-
24 curred.

1 “(e) APPLICATION TO AMTRAK AND COMMUTER
2 RAILROADS.—This section shall not apply to Amtrak or
3 commuter authorities, including Amtrak and commuter
4 authorities’ operations run or dispatched by a Class I rail-
5 road.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for chapter 201 of title 49, United States Code, is further
8 amended by adding at the end the following new item:

“20169. Time limit for blocking a rail crossing.”.

9 **SEC. 5. ESTABLISHMENT OF A PROCESS FOR OVERSEEING**
10 **RAILROADS THAT EGREGIOUSLY OR PER-**
11 **SISTENTLY BLOCK CROSSINGS.**

12 (a) IN GENERAL.—Chapter 201 of title 49, United
13 States Code, is further amended by adding at the end of
14 subchapter II the following:

15 **“§ 20170. Process to address egregiously or persist-**
16 **ently blocked crossings**

17 “(a) IN GENERAL.—Not less than 1 year after the
18 enactment of this section, the Secretary shall issue regula-
19 tions defining what is considered—

20 “(1) persistently blocking a crossing; and

21 “(2) egregiously blocking a crossing.

22 “(b) CONSIDERATIONS.—In issuing the regulations
23 under subsection (a), the Secretary shall take into consid-
24 eration—

1 “(1) the length of time a crossing is blocked
2 for;

3 “(2) the amount of times the carrier has
4 blocked other crossings;

5 “(3) the cause of such blocked crossings;

6 “(4) the length of the train, amount of cars in
7 the train consist, and makeup of consist;

8 “(5) the extent to which the blocked crossing
9 poses a public safety hazard;

10 “(6) the extent to which the blocked crossing
11 degrades the quality of life for the surrounding com-
12 munity;

13 “(7) the level of cooperation and measures the
14 carrier has taken to reduce the instances and impact
15 of blocked crossings; and

16 “(8) any other factor the Secretary considers
17 necessary.

18 “(c) SECRETARY AUTHORITY.—The Secretary may—

19 “(1) assess additional fines and requirements
20 based upon part 209 of title 49, Code of Federal
21 Regulations, to effectively address and deter in-
22 stances of persistently and/or egregiously blocked
23 crossings;

24 “(2) require changes to operating practices, in-
25 cluding train length, or procedures of a railroad, in-

1 including a systematic audit, to reduce the instances
2 of persistently and/or egregiously blocked crossings
3 by said railroad;

4 “(3) require additional data reporting;

5 “(4) assess additional monetary penalties or
6 compensation; and

7 “(5) additional measures needed to reduce or
8 eliminate instances of persistently and/or egregiously
9 blocked rail crossings.

10 “(d) REGULATORY AUTHORITY.—The Secretary may
11 revise regulations as needed to enforce the provisions of
12 this section.

13 “(e) LIMIT ON SECRETARY AUTHORITY.—Nothing in
14 this section shall be interpreted as allowing the Secretary
15 or a railroad to not comply with—

16 “(1) section 21103 or a regulation issued pur-
17 suant to such section; and

18 “(2) the Railway Labor Act of 1926 (45 U.S.C.
19 151 et seq.), as amended.

20 “(f) APPLICATION TO AMTRAK AND COMMUTER
21 RAILROADS.—This section shall not apply to Amtrak or
22 commuter authorities, including Amtrak and commuter
23 authorities’ operations run or dispatched by a Class I rail-
24 road.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
 2 for chapter 201 of title 49, United States Code, is further
 3 amended by adding at the end the following new item:

“20170. Process to address egregiously or persistently blocked crossings.”.

4 **SEC. 6. NATIONAL STRATEGY TO ADDRESS BLOCKED**
 5 **CROSSINGS.**

6 (a) IN GENERAL.—Not later than 1 year after the
 7 date of enactment of this Act, the Secretary shall issue
 8 a national strategy on how the Secretary plans to address
 9 blocked crossings. The Secretary shall submit to the Com-
 10 mittee on Commerce, Science, and Transportation of the
 11 Senate and the Committee on Transportation and Infra-
 12 structure of the House of Representatives such strategy
 13 and publish such strategy publicly on the Department of
 14 Transportation’s website.

15 (b) PUBLIC LAW 116–94.—The strategy required
 16 under subsection (a) shall incorporate the recommenda-
 17 tions and briefing carried out pursuant to the provisions
 18 under the heading “Federal Railroad Administration—
 19 Safety and Operations” in the Department of Transpor-
 20 tation Appropriations Act, 2020 (Public Law 116–94).

21 (c) REPORT CONTENTS.—The strategy required
 22 under subsection (a) shall include an analysis of the fol-
 23 lowing topics, including whether there are specific legisla-
 24 tive or regulatory recommendations for each of the fol-
 25 lowing:

1 (1) How best to engage the public, representa-
2 tives of labor organizations representing railroad em-
3 ployees, law enforcement officers, highway traffic of-
4 ficials, or other employees of a public agency acting
5 in an official capacity to identify and address
6 blocked crossings.

7 (2) How current and future technology could be
8 used to identify and address instances of blocked
9 crossings, including the data collected by each rail
10 carrier's positive train control (PTC) system.

11 (3) How to identify and address instances of
12 blocked crossings at crossings with only passive or
13 no warning devices.

14 (4) Whether rail carriers should be required to
15 address credible reports, as defined in section 234.5
16 of title 49, Code of Federal Regulations, of blocked
17 crossings.

18 (5) How best to use the data collected under
19 the web page established by the Secretary for the
20 public and law enforcement to report instances of
21 blocked crossings, including whether such data
22 should be verified by each rail carrier or incor-
23 porated into the National Crossing Inventory.

24 (d) AUTHORITY TO IMPLEMENT REGULATIONS.—If
25 the Secretary finds in the report required under subsection

1 (a) additional regulatory changes that are warranted to
 2 alleviate or reduce the instances or impacts of blocked
 3 crossings, the Secretary may promulgate rulemakings to
 4 implement such changes.

5 (e) LIMIT ON SECRETARY AUTHORITY.—Nothing in
 6 this section shall be interpreted as allowing the Secretary
 7 or a railroad to not comply with—

8 (1) section 21103 or a regulation issued pursu-
 9 ant to such section; or

10 (2) the Railway Labor Act of 1926 (45 U.S.C.
 11 151 et seq.).

12 (f) UPDATING STRATEGY.—The Secretary shall up-
 13 date the strategy required by subsection (a) not less than
 14 every 4 years.

15 **SEC. 7. RAILROAD POINT OF CONTACT FOR BLOCKED**
 16 **CROSSING MATTERS.**

17 Section 20152 of title 49, United States Code, is
 18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1)—

21 (i) in subparagraph (C) by striking

22 “or” at the end;

23 (ii) by redesignating subparagraph

24 (D) as subparagraph (E); and

1 (iii) by inserting the following after
2 subparagraph (C)—

3 “(D) blocked crossings; or”;

4 (B) in paragraph (4) by striking “and” at
5 the end;

6 (C) in paragraph (5) by striking the period
7 at the end and inserting “; and”; and

8 (D) by adding at the end the following:

9 “(6) to promptly inform the Secretary if the
10 number required to be established under subsection
11 (a) has changed and report the new number to the
12 Secretary.”; and

13 (2) by adding at the end the following:

14 “(c) PUBLICATION OF TELEPHONE NUMBERS.—The
15 Secretary shall make any telephone number established
16 under subsection (a) publicly available on the website of
17 the Department of Transportation in an easy to find loca-
18 tion.”.

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