

110TH CONGRESS  
1ST SESSION

# H. R. 2095

To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2007

Mr. OBERSTAR (for himself and Ms. CORRINE BROWN of Florida) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Federal Railroad Safety Improvement Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—FEDERAL RAILROAD SAFETY ADMINISTRATION

- Sec. 101. Establishment of Federal Railroad Safety Administration.
- Sec. 102. Railroad safety strategy.
- Sec. 103. Reports.
- Sec. 104. Rulemaking process.
- Sec. 105. Authorization of appropriations.

#### TITLE II—EMPLOYEE FATIGUE

- Sec. 201. Hours of service reform.
- Sec. 202. Employee sleeping quarters.
- Sec. 203. Fatigue management plans.
- Sec. 204. Regulatory authority.
- Sec. 205. Conforming amendment.

#### TITLE III—PROTECTION OF EMPLOYEES AND WITNESSES

- Sec. 301. Employee protections.

#### TITLE IV—GRADE CROSSINGS

- Sec. 401. Toll-free number to report grade crossing problems.
- Sec. 402. Roadway user sight distance at highway-rail grade crossings.
- Sec. 403. Grade crossing signal violations.
- Sec. 404. National crossing inventory.
- Sec. 405. Accident and incident reporting.
- Sec. 406. Authority to buy promotional items to improve railroad crossing safety and prevent railroad trespass.

#### TITLE V—ENFORCEMENT

- Sec. 501. Enforcement.
- Sec. 502. Civil penalties.
- Sec. 503. Criminal penalties.
- Sec. 504. Expansion of emergency order authority.
- Sec. 505. Enforcement transparency.
- Sec. 506. Interfering with or hampering safety investigations.
- Sec. 507. Railroad radio monitoring authority.
- Sec. 508. Inspector staffing.

#### TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Positive train control systems.
- Sec. 602. Warning in nonsignaled territory.
- Sec. 603. Track safety.
- Sec. 604. Certification of conductors.
- Sec. 605. Minimum training standards.
- Sec. 606. Prompt medical attention.
- Sec. 607. Emergency escape breathing apparatus.
- Sec. 608. Locomotive cab environment.

#### TITLE VII—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

- Sec. 701. Short title.

Sec. 702. Assistance by National Transportation Safety Board to families of passengers involved in rail passenger accidents.

Sec. 703. Rail passenger carrier plans to address needs of families of passengers involved in rail passenger accidents.

Sec. 704. Establishment of task force.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the terms “railroad” and  
3 “railroad carrier” have the meaning given those terms in  
4 section 20102 of title 49, United States Code.

5 **TITLE I—FEDERAL RAILROAD**  
6 **SAFETY ADMINISTRATION**

7 **SEC. 101. ESTABLISHMENT OF FEDERAL RAILROAD SAFETY**  
8 **ADMINISTRATION.**

9 (a) AMENDMENT.—Section 103 of title 49, United  
10 States Code, is amended to read as follows:

11 **“§ 103. Federal Railroad Safety Administration**

12 “(a) IN GENERAL.—The Federal Railroad Safety Ad-  
13 ministration (in this section referred to as the ‘Adminis-  
14 tration’) shall be an administration in the Department of  
15 Transportation. To carry out all railroad safety laws of  
16 the United States, the Administration shall be divided on  
17 a geographical basis into at least 8 safety offices. The Sec-  
18 retary of Transportation shall be responsible for enforcing  
19 those laws and for ensuring that those laws are uniformly  
20 administered and enforced among the safety offices.

21 “(b) SAFETY AS HIGHEST PRIORITY.—In carrying  
22 out its duties, the Administration shall consider the as-  
23 signment and maintenance of safety as the highest pri-

1 ority, recognizing the clear intent, encouragement, and  
2 dedication of Congress to the furtherance of the highest  
3 degree of safety in railroad transportation.

4 “(c) ADMINISTRATOR.—The head of the Administra-  
5 tion shall be the Administrator who shall be appointed by  
6 the President, by and with the advice and consent of the  
7 Senate, and shall be an individual with professional experi-  
8 ence in railroad safety, hazardous materials safety, or  
9 other transportation safety. The Administrator shall re-  
10 port directly to the Secretary of Transportation.

11 “(d) DEPUTY ADMINISTRATOR.—The Administration  
12 shall have a Deputy Administrator who shall be appointed  
13 by the Secretary. The Deputy Administrator shall carry  
14 out duties and powers prescribed by the Administrator.

15 “(e) CHIEF SAFETY OFFICER.—The Administration  
16 shall have an Associate Administrator for Railroad Safety  
17 appointed in the competitive service by the Secretary. The  
18 Associate Administrator shall be the Chief Safety Officer  
19 of the Administration. The Associate Administrator shall  
20 carry out the duties and powers prescribed by the Admin-  
21 istrator.

22 “(f) DUTIES AND POWERS OF THE ADMINIS-  
23 TRATOR.—The Administrator shall carry out—

24 “(1) duties and powers related to railroad safe-  
25 ty vested in the Secretary by section 20134(c) and

1 chapters 203 through 211 of this title, and by chap-  
2 ter 213 of this title for carrying out chapters 203  
3 through 211; and

4 “(2) other duties and powers prescribed by the  
5 Secretary.

6 “(g) LIMITATION.—A duty or power specified in sub-  
7 section (f)(1) may be transferred to another part of the  
8 Department of Transportation or another Federal Govern-  
9 ment entity only when specifically provided by law. A deci-  
10 sion of the Administrator in carrying out the duties or  
11 powers of the Administration and involving notice and  
12 hearing required by law is administratively final.

13 “(h) AUTHORITIES.—Subject to the provisions of  
14 subtitle I of title 40 and title III of the Federal Property  
15 and Administrative Services Act of 1949 (41 U.S.C. 251  
16 et seq.), the Secretary of Transportation may make, enter  
17 into, and perform such contracts, grants, leases, coopera-  
18 tive agreements, and other similar transactions with Fed-  
19 eral or other public agencies (including State and local  
20 governments) and private organizations and persons, and  
21 make such payments, by way of advance or reimburse-  
22 ment, as the Secretary may determine to be necessary or  
23 appropriate to carry out functions at the Administration.  
24 The authority of the Secretary granted by this subsection  
25 shall be carried out by the Administrator. Notwith-

1 standing any other provision of this chapter, no authority  
2 to enter into contracts or to make payments under this  
3 subsection shall be effective, except as provided for in ap-  
4 propriations Acts.”.

5 (b) REFERENCES AND CONFORMING AMEND-  
6 MENTS.—(1) All references in Federal law to the Federal  
7 Railroad Administration shall be deemed to be references  
8 to the Federal Railroad Safety Administration.

9 (2) The item relating to section 103 in the table of  
10 sections of chapter 1 of title 49, United States Code, is  
11 amended to read as follows:

“103. Federal Railroad Safety Administration.”.

12 **SEC. 102. RAILROAD SAFETY STRATEGY.**

13 (a) SAFETY GOALS.—In conjunction with existing  
14 federally required strategic planning efforts, the Secretary  
15 of Transportation shall develop a long-term strategy for  
16 improving railroad safety. The strategy shall include an  
17 annual plan and schedule for achieving, at a minimum,  
18 the following goals:

19 (1) Reducing the number and rates of acci-  
20 dents, injuries, and fatalities involving railroads.

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

23 (3) Identifying and targeting enforcement at,  
24 and safety improvements to, high-risk highway-rail  
25 grade crossings.

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

3           (b) RESOURCE NEEDS.—The strategy and annual  
4           plans shall include estimates of the funds and staff re-  
5           sources needed to accomplish each activity. Such estimates  
6           shall also include the staff skills and training needed for  
7           timely and effective accomplishment of each goal.

8           (c) SUBMISSION WITH THE PRESIDENT’S BUDG-  
9           ET.—The Secretary of Transportation shall submit to the  
10          Committee on Transportation and Infrastructure of the  
11          House of Representatives and the Committee on Com-  
12          merce, Science, and Transportation of the Senate the  
13          strategy and annual plan at the same time as the Presi-  
14          dent’s budget submission.

15          (d) ACHIEVEMENT OF GOALS.—

16                (1) PROGRESS ASSESSMENT.—No less fre-  
17                quently than semiannually, the Secretary of Trans-  
18                portation and the Administrator of the Federal Rail-  
19                road Safety Administration shall assess the progress  
20                of the Administration toward achieving the strategic  
21                goals described in subsection (a). The Secretary and  
22                the Administrator shall convey their assessment to  
23                the employees of the Federal Railroad Safety Ad-  
24                ministration and shall identify any deficiencies that

1 should be remediated before the next progress as-  
2 sessment.

3 (2) REPORT TO CONGRESS.—The Secretary  
4 shall transmit a report annually to the Committee  
5 on Transportation and Infrastructure of the House  
6 of Representatives and the Committee on Commerce,  
7 Science, and Transportation of the Senate on the  
8 performance of the Federal Railroad Safety Admin-  
9 istration relative to the goals of the railroad safety  
10 strategy and annual plans under subsection (a).

11 **SEC. 103. REPORTS.**

12 (a) REPORTS BY THE INSPECTOR GENERAL.—Not  
13 later than 30 days after the date of enactment of this Act,  
14 the Inspector General of the Department of Transpor-  
15 tation shall submit to the Secretary of Transportation and  
16 the Administrator of the Federal Railroad Safety Admin-  
17 istration a report containing the following:

18 (1) A list of each statutory mandate regarding  
19 railroad safety that has not been implemented.

20 (2) A list of each open safety recommendation  
21 made by the National Transportation Safety Board  
22 or the Inspector General regarding railroad safety.

23 (b) REPORTS BY THE SECRETARY.—

24 (1) STATUTORY MANDATES.—Not later than 90  
25 days after the date of enactment of this Act, and

1 every 180 days thereafter until each of the mandates  
2 referred to in subsection (a)(1) has been imple-  
3 mented, the Secretary of Transportation shall trans-  
4 mit to the Committee on Transportation and Infra-  
5 structure of the House of Representatives and the  
6 Committee on Commerce, Science, and Transpor-  
7 tation of the Senate a report on the specific actions  
8 taken to implement such mandates.

9 (2) NTSB AND INSPECTOR GENERAL REC-  
10 OMMENDATIONS.—Not later than January 1st of  
11 each year, the Secretary of Transportation shall  
12 transmit to the Committee on Transportation and  
13 Infrastructure of the House of Representatives and  
14 the Committee on Commerce, Science, and Trans-  
15 portation of the Senate a report containing each rec-  
16 ommendation referred to in subsection (a)(2), a copy  
17 of the Department of Transportation response to  
18 each such recommendation, and a progress report on  
19 implementing each such recommendation.

20 **SEC. 104. RULEMAKING PROCESS.**

21 (a) AMENDMENT.—Subchapter I of chapter 201 of  
22 title 49, United States Code, is amended by inserting after  
23 section 20115 the following new section:

1 **“§ 20116. Rulemaking process**

2 “No rule or order issued by the Secretary under this  
3 part shall be effective if it incorporates by reference a  
4 code, rule, standard, requirement, or practice issued by an  
5 association or other entity that is not an agency of the  
6 Federal Government, unless that reference is to a par-  
7 ticular code, rule, standard, requirement, or practice  
8 adopted before the date on which the rule is issued by  
9 the Secretary, and unless the date on which the code, rule,  
10 standard, requirement, or practice was adopted is specifi-  
11 cally cited in the rule.”.

12 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
13 sections of subchapter I of chapter 201 of title 49, United  
14 States Code, is amended by adding after the item relating  
15 to section 20115 the following new item:

“20116. Rulemaking process.”.

16 **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 20117(a) of title 49, United States Code, is  
18 amended to read as follows:

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

23 “(A) \$230,000,000 for fiscal year 2008;

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

25 “(C) \$295,000,000 for fiscal year 2010; and

1           “(D) \$335,000,000 for fiscal year 2011.

2           “(2) With amounts appropriated pursuant to para-  
3 graph (1), the Secretary shall purchase 6 Gage Restraint  
4 Measurement System vehicles and 5 track geometry vehi-  
5 cles to enable the deployment of 1 Gage Restraint Meas-  
6 urement System vehicle and 1 track geometry vehicle in  
7 each region.

8           “(3) There are authorized to be appropriated to the  
9 Secretary \$18,000,000 for the period encompassing fiscal  
10 years 2008 through 2011 to design, develop, and construct  
11 the Facility for Underground Rail Station and Tunnel at  
12 the Transportation Technology Center in Pueblo, Colo-  
13 rado. The facility shall be used to test and evaluate the  
14 vulnerabilities of above-ground and underground rail tun-  
15 nels to prevent accidents and incidents in such tunnels,  
16 to mitigate and remediate the consequences of any such  
17 accidents or incidents, and to provide a realistic scenario  
18 for training emergency responders.”.

## 19       **TITLE II—EMPLOYEE FATIGUE**

### 20       **SEC. 201. HOURS OF SERVICE REFORM.**

21           (a) DEFINITIONS.—Section 21101(4) of title 49,  
22 United States Code, is amended by striking “employed by  
23 a railroad carrier”.

1 (b) LIMITATION ON DUTY HOURS OF SIGNAL EM-  
2 PLOYEES.—Section 21104 of title 49, United States Code,  
3 is amended—

4 (1) by amending subsection (a) to read as fol-  
5 lows:

6 “(a) GENERAL.—Except as provided in subsection (c)  
7 of this section, a railroad carrier and its officers and  
8 agents may not require or allow a signal employee to re-  
9 main or go on duty—

10 “(1) unless that employee has had at least 10  
11 consecutive hours off duty during the prior 24  
12 hours;

13 “(2) for a period in excess of 12 consecutive  
14 hours; or

15 “(3) unless that employee has had at least one  
16 period of at least 24 consecutive hours off duty in  
17 the past 7 consecutive days.”;

18 (2) in subsection (b)(3) by striking “, except  
19 that up to one hour of that time spent returning  
20 from the final trouble call of a period of continuous  
21 or broken service is time off duty”;

22 (3) in subsection (c)—

23 (A) by inserting “for not more than 3 days  
24 during a period of 7 consecutive days” after  
25 “24 consecutive hours”; and

1 (B) by adding at the end the following: “A  
2 signal employee may not be allowed to remain  
3 or go on duty under the emergency authority  
4 provided under this subsection to conduct rou-  
5 tine repairs, maintenance, or inspection of sig-  
6 nal systems.”;

7 (4) by adding at the end the following new sub-  
8 section:

9 “(d) COMMUNICATION DURING TIME OFF DUTY.—  
10 During a signal employee’s minimum off-duty period of  
11 10 consecutive hours, as provided under subsection (a),  
12 a railroad carrier, and its managers, supervisors, officers,  
13 and agents, shall not communicate with the signal em-  
14 ployee by telephone, by pager, or in any other manner that  
15 could disrupt the employee’s rest. Nothing in this sub-  
16 section shall prohibit communication necessary to notify  
17 an employee of an emergency situation posing potential  
18 risks to the employee’s safety or health.”.

19 (c) LIMITATION ON DUTY HOURS OF TRAIN EM-  
20 PLOYEES.—Section 21103 of title 49, United States Code,  
21 is amended—

22 (1) by amending subsection (a) to read as fol-  
23 lows:

24 “(a) GENERAL.—Except as provided in subsection (c)  
25 of this section, a railroad carrier and its officers and

1 agents may not require or allow a train employee to re-  
2 main or go on duty—

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

6 “(2) for a period in excess of 12 consecutive  
7 hours; or

8 “(3) unless that employee has had at least one  
9 period of at least 24 consecutive hours off duty in  
10 the past 7 consecutive days.”;

11 (2) by amending subsection (b)(4) to read as  
12 follows:

13 “(4) Time spent in deadhead transportation to  
14 a duty assignment, time spent waiting for deadhead  
15 transportation, and time spent in deadhead trans-  
16 portation from a duty assignment to the place of  
17 final release is time on duty.”; and

18 (3) by adding at the end the following new sub-  
19 section:

20 “(d) COMMUNICATION DURING TIME OFF DUTY.—  
21 During a train employee’s minimum off-duty period of 10  
22 consecutive hours, as provided under subsection (a), or  
23 during an interim period of at least 4 consecutive hours  
24 available for rest under subsection (b)(7), a railroad car-  
25 rier, and its managers, supervisors, officers, and agents,

1 shall not communicate with the train employee by tele-  
2 phone, by pager, or in any other manner that could dis-  
3 rupt the employee’s rest. Nothing in this subsection shall  
4 prohibit communication necessary to notify an employee  
5 of an emergency situation posing potential risks to the em-  
6 ployee’s safety or health.”.

7 **SEC. 202. EMPLOYEE SLEEPING QUARTERS.**

8 Section 21106(2) of title 49, United States Code, is  
9 amended to read as follows:

10 “(2) may not provide sleeping quarters referred  
11 to in paragraph (1) in an area or in the immediate  
12 vicinity of an area in which railroad switching or  
13 humping operations are performed.”.

14 **SEC. 203. FATIGUE MANAGEMENT PLANS.**

15 (a) AMENDMENT.—Chapter 211 of title 49, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing new section:

18 **“§ 21109. Fatigue management plans**

19 “(a) PLAN SUBMISSION.—

20 “(1) REQUIREMENT.—Each railroad carrier  
21 shall submit to the Secretary of Transportation, and  
22 update at least once every 2 years, a fatigue man-  
23 agement plan that is designed to reduce the fatigue  
24 experienced by railroad employees and to reduce the  
25 likelihood of accidents and injuries caused by fa-

1       tigue. The plan shall address the safety effects of fa-  
2       tigue on all employees, including employees not cov-  
3       ered by this chapter. The plan shall be submitted  
4       not later than 1 year after the date of the enactment  
5       of this section, or not later than 45 days prior to  
6       commencing operations, whichever is later.

7               “(2) CONTENTS OF PLAN.—The fatigue man-  
8       agement plan shall—

9               “(A) identify and prioritize all situations  
10              that pose a risk for safety that may be affected  
11              by fatigue;

12              “(B) include the railroad carrier’s—

13              “(i) rationale for including and not in-  
14              cluding each element described in sub-  
15              section (b)(2) in the plan;

16              “(ii) analysis supporting each element  
17              included in the plan; and

18              “(iii) explanations for how each ele-  
19              ment in the plan will reduce the risk asso-  
20              ciated with fatigue;

21              “(C) describe how every condition on the  
22              railroad carrier’s property, and every type of  
23              employee, that is likely to be affected by fatigue  
24              is addressed in the plan; and

1           “(D) include the name, title, address, and  
2           telephone number of the primary person to be  
3           contacted with regard to review of the plan.

4           “(3) APPROVAL.—(A) The Secretary shall re-  
5           view each proposed plan and approve or disapprove  
6           such plan based on whether the requirements of this  
7           section are sufficiently and appropriately addressed  
8           and the proposals are adequately justified in the  
9           plan.

10          “(B) If the proposed plan is not approved, the  
11          Secretary shall notify the affected railroad carrier as  
12          to the specific points in which the proposed plan is  
13          deficient, and the railroad carrier shall correct all  
14          deficiencies within 30 days following receipt of writ-  
15          ten notice from the Secretary. If a railroad carrier  
16          does not submit a plan (or, when directed by the  
17          Secretary, an amended plan), or if a railroad car-  
18          rier’s amended plan is not approved by the Sec-  
19          retary, the Secretary shall prescribe a fatigue man-  
20          agement plan for the railroad carrier.

21          “(4) EMPLOYEE PARTICIPATION.—(A) Each af-  
22          fected railroad carrier shall consult with, and employ  
23          good faith and use its best efforts to reach agree-  
24          ment by consensus with, all of its directly affected  
25          employee groups on the contents of the fatigue man-

1       agement plan, and, except as provided in subpara-  
2       graph (C), shall jointly with such groups submit the  
3       plan to the Secretary.

4               “(B) In the event that labor organizations rep-  
5       resent classes or crafts of directly affected employees  
6       of the railroad carrier, the railroad carrier shall con-  
7       sult with these organizations in drafting the plan.  
8       The Secretary may provide technical assistance and  
9       guidance to such parties in the drafting of the plan.

10              “(C) If the railroad carrier and its directly af-  
11       fected employees (including any labor organization  
12       representing a class or craft of directly affected em-  
13       ployees of the railroad carrier) cannot reach con-  
14       sensus on the proposed contents of the plan, then—

15                      “(i) the railroad carrier shall file the plan  
16                      with the Secretary; and

17                      “(ii) directly affected employees and labor  
18                      organizations representing a class or craft of di-  
19                      rectly affected employees may, at their option,  
20                      file a statement with the Secretary explaining  
21                      their views on the plan on which consensus was  
22                      not reached.

23              “(b) ELEMENTS OF THE FATIGUE MANAGEMENT  
24       PLAN.—

1           “(1) CONSIDERATION OF VARYING CIR-  
2 CUMSTANCES.—Each plan filed with the Secretary  
3 under the procedures of subsection (a) shall take  
4 into account the varying circumstances of operations  
5 by the railroad carrier on different parts of its sys-  
6 tem, and shall prescribe appropriate fatigue counter-  
7 measures to address those varying circumstances.

8           “(2) ISSUES AFFECTING ALL EMPLOYEES.—  
9 The railroad carrier shall consider the need to in-  
10 clude in its fatigue management plan elements ad-  
11 dressing each of the following issues:

12                 “(A) Education and training on the phys-  
13 iological and human factors that affect fatigue,  
14 as well as strategies to counter fatigue, based  
15 on current and evolving scientific and medical  
16 research and literature.

17                 “(B) Opportunities for identification, diag-  
18 nosis, and treatment of any medical condition  
19 that may affect alertness or fatigue, including  
20 sleep disorders.

21                 “(C) Effects on employee fatigue of emer-  
22 gency response involving both short-term emer-  
23 gency situations, including derailments, and  
24 long-term emergency situations, including nat-  
25 ural disasters.

1           “(D) Scheduling practices involving train  
2 lineups and calling times, including work/rest  
3 cycles for shift workers and on-call employees  
4 that permit employees to compensate for cumu-  
5 lative sleep loss by guaranteeing a minimum  
6 number of consecutive days off (exclusive of  
7 time off due to illness or injury).

8           “(E) Minimizing the incidence of fatigue  
9 that occurs as a result of working at times  
10 when the natural circadian rhythm increases fa-  
11 tigue.

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

15           “(G) Opportunities to obtain restful sleep  
16 at lodging facilities, including sleeping quarters  
17 provided by the railroad carrier.

18           “(H) In connection with the scheduling of  
19 a duty call, increasing the number of consecu-  
20 tive hours of rest off duty, during which an em-  
21 ployee receives no communication from the em-  
22 ploying railroad carrier or its managers, super-  
23 visors, officers, or agents.

24           “(I) Avoiding abrupt changes in rest cycles  
25 for employees returning to duty after an ex-

1           tended absence due to circumstances such as ill-  
2           ness or injury.

3           “(J) Additional elements as the Secretary  
4           considers appropriate.

5           “(c) COMPLIANCE AND ENFORCEMENT.—

6           “(1) COMPLIANCE REQUIREMENT.—Effective  
7           upon approval or prescription of a fatigue manage-  
8           ment plan, compliance with that fatigue manage-  
9           ment plan becomes mandatory and enforceable by  
10          the Secretary.

11          “(2) EFFECTIVE DATE.—A fatigue manage-  
12          ment plan may include effective dates later than the  
13          date of approval of the plan, and may include dif-  
14          ferent effective dates for different parts of the plan.

15          “(3) AUDITS.—To enforce this section, the Sec-  
16          retary may conduct inspections and periodic audits  
17          of a railroad carrier’s compliance with its fatigue  
18          management plan.

19          “(d) DEFINITION.—For purposes of this section the  
20          term ‘directly affected employees’ means employees, in-  
21          cluding employees of an independent contractor or subcon-  
22          tractor, to whose hours of service the terms of a fatigue  
23          management plan specifically apply.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
2 sections for chapter 211 of title 49, United States Code,  
3 is amended by adding at the end the following new item:

“21109. Fatigue management plans.”.

4 **SEC. 204. REGULATORY AUTHORITY.**

5 (a) AMENDMENT.—Chapter 211 of title 49, United  
6 States Code, as amended by this Act, is further amended  
7 by adding at the end the following new section:

8 **“§ 21110. Regulatory authority**

9 “The Secretary of Transportation may by regula-  
10 tion—

11 “(1) reduce the maximum hours an employee  
12 may be required or allowed to go or remain on duty  
13 to a level less than the level established under this  
14 chapter; or

15 “(2) increase the minimum hours an employee  
16 may be required or allowed to rest to a level greater  
17 than the level established under this chapter.”.

18 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
19 sections for chapter 211 of title 49, United States Code,  
20 is amended by adding at the end the following new item:

“21110. Regulatory authority.”.

21 **SEC. 205. CONFORMING AMENDMENT.**

22 Section 21303(c) of title 49, United States Code, is  
23 amended by striking “officers and agents” and inserting  
24 “managers, supervisors, officers, and agents”.

1           **TITLE III—PROTECTION OF**  
2           **EMPLOYEES AND WITNESSES**

3   **SEC. 301. EMPLOYEE PROTECTIONS.**

4           Section 20109 of title 49, United States Code, is  
5 amended to read as follows:

6   **“§ 20109. Employee protections**

7           “(a) PROTECTED ACTIONS.—A railroad carrier en-  
8 gaged in interstate or foreign commerce, and an officer  
9 or employee of such a railroad carrier, shall not by threat,  
10 intimidation, or otherwise attempt to prevent an employee  
11 from, or discharge, discipline, or in any way discriminate  
12 against an employee for—

13                   “(1) filing a complaint or bringing or causing  
14 to be brought a proceeding related to the enforce-  
15 ment of this part or, as applicable to railroad safety,  
16 chapter 51 or 57 of this title;

17                   “(2) testifying in a proceeding described in  
18 paragraph (1);

19                   “(3) notifying, or attempting to notify, the rail-  
20 road carrier or the Secretary of Transportation of a  
21 work-related personal injury or work-related illness  
22 of an employee;

23                   “(4) cooperating with a safety investigation by  
24 the Secretary of Transportation or the National  
25 Transportation Safety Board;

1           “(5) furnishing information to the Secretary of  
2           Transportation, the National Transportation Safety  
3           Board, or any other public official as to the facts re-  
4           lating to any accident or incident resulting in injury  
5           or death to an individual or damage to property oc-  
6           curring in connection with railroad transportation;  
7           or

8           “(6) accurately reporting hours of duty pursu-  
9           ant to chapter 211.

10          “(b) HAZARDOUS CONDITIONS.—(1) A railroad car-  
11         rier engaged in interstate or foreign commerce, and an of-  
12         ficer or employee of such a railroad carrier, shall not by  
13         threat, intimidation, or otherwise attempt to prevent an  
14         employee from, or discharge, discipline, or in any way dis-  
15         criminate against an employee for—

16                 “(A) reporting a hazardous condition;

17                 “(B) refusing to work when confronted by a  
18                 hazardous condition related to the performance of  
19                 the employee’s duties, if the conditions described in  
20                 paragraph (2) exist; or

21                 “(C) refusing to authorize the use of any safe-  
22                 ty-related equipment, track, or structures, if the em-  
23                 ployee is responsible for the inspection or repair of  
24                 the equipment, track, or structures, when the em-  
25                 ployee believes that the equipment, track, or struc-

1       tures are in a hazardous condition, if the conditions  
2       described in paragraph (2) exist.

3       “(2) A refusal is protected under paragraph (1)(B)  
4 and (C) if—

5           “(A) the refusal is made in good faith and no  
6       reasonable alternative to the refusal is available to  
7       the employee;

8           “(B) the employee reasonably concludes that—

9               “(i) the hazardous condition presents an  
10       imminent danger of death or serious injury; and

11               “(ii) the urgency of the situation does not  
12       allow sufficient time to eliminate the danger  
13       without such refusal; and

14           “(C) the employee, where possible, has notified  
15       the carrier of the existence of the hazardous condi-  
16       tion and the intention not to perform further work,  
17       or not to authorize the use of the hazardous equip-  
18       ment, track, or structures, unless the condition is  
19       corrected immediately or the equipment, track, or  
20       structures are repaired properly or replaced.

21       “(3) This subsection does not apply to security per-  
22       sonnel employed by a railroad carrier to protect individ-  
23       uals and property transported by railroad.

24       “(c) ENFORCEMENT ACTION.—

1           “(1) IN GENERAL.—An employee who alleges  
2 discharge or other discrimination by any person in  
3 violation of subsection (a) may seek relief in accord-  
4 ance with the provisions of this section, with any pe-  
5 tition or other request for relief under this section  
6 to be initiated by filing a complaint with the Sec-  
7 retary of Labor.

8           “(2) PROCEDURE.—

9           “(A) IN GENERAL.—An action under this  
10 section shall be governed under the rules and  
11 procedures set forth in section 42121(b).

12           “(B) EXCEPTION.—Notification made  
13 under section 42121(b)(1) shall be made to the  
14 person named in the complaint and to the per-  
15 son’s employer.

16           “(C) BURDENS OF PROOF.—An action  
17 brought under this section shall be governed by  
18 the legal burdens of proof set forth in section  
19 42121(b).

20           “(D) STATUTE OF LIMITATIONS.—An ac-  
21 tion under this section shall be commenced not  
22 later than 1 year after the date on which the  
23 violation occurs.

24           “(3) DE NOVO REVIEW.—If the Secretary of  
25 Labor has not issued a final decision within 180

1 days after the filing of the complaint (or, in the  
2 event that a final order or decision is issued by the  
3 Secretary of Labor, whether within the 180-day pe-  
4 riod or thereafter, then, not later than 90 days after  
5 such an order or decision is issued), the employee  
6 may bring an original action at law or equity for de  
7 novo review in the appropriate district court of the  
8 United States, which shall have jurisdiction over  
9 such an action without regard to the amount in con-  
10 troversy, and which action shall, at the request of ei-  
11 ther party to such action, be tried by the court with  
12 a jury.

13 “(d) REMEDIES.—

14 “(1) IN GENERAL.—An employee prevailing in  
15 any action under this section shall be entitled to all  
16 relief necessary to make the covered individual  
17 whole.

18 “(2) DAMAGES.—Relief in an action under this  
19 section shall include—

20 “(A) reinstatement with the same seniority  
21 status that the covered individual would have  
22 had, but for the discrimination;

23 “(B) the amount of any back pay, with in-  
24 terest; and

1           “(C) compensation for any special damages  
2           sustained as a result of the discrimination, in-  
3           cluding litigation costs, expert witness fees, and  
4           reasonable attorney fees.

5           “(3) POSSIBLE RELIEF.—Relief may also in-  
6           clude punitive damages in an amount not to exceed  
7           10 times the amount of any compensatory damages  
8           awarded under this section.

9           “(e) CRIMINAL PENALTIES.—

10           “(1) IN GENERAL.—It shall be unlawful for any  
11           railroad carrier to commit an act prohibited by sub-  
12           section (a). Any person who willfully violates this  
13           section by terminating or retaliating against any  
14           such covered individual who makes a claim under  
15           this section shall be fined under title 18, United  
16           States Code, imprisoned not more than 1 year, or  
17           both.

18           “(2) REPORTING REQUIREMENT.—

19           “(A) IN GENERAL.—The Attorney General  
20           shall submit to the Committee on Transpor-  
21           tation and Infrastructure of the House of Rep-  
22           resentatives and the Committee on Commerce,  
23           Science, and Transportation of the Senate an  
24           annual report on the enforcement of paragraph  
25           (1).

1           “(B) CONTENTS.—Each such report  
2 shall—

3           “(i) identify each case in which formal  
4 charges under paragraph (1) were brought;

5           “(ii) describe the status or disposition  
6 of each such case; and

7           “(iii) in any actions under subsection  
8 (c)(1) in which the employee was the pre-  
9 vailing party or the substantially prevailing  
10 party, indicate whether or not any formal  
11 charges under paragraph (1) of this sub-  
12 section have been brought and, if not, the  
13 reasons therefor.

14       “(f) NO PREEMPTION.—Nothing in this section pre-  
15 empts or diminishes any other safeguards against dis-  
16 crimination, demotion, discharge, suspension, threats, har-  
17 assment, reprimand, retaliation, or any other manner of  
18 discrimination provided by Federal or State law.

19       “(g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—  
20 Nothing in this section shall be deemed to diminish the  
21 rights, privileges, or remedies of any covered individual  
22 under any Federal or State law or under any collective  
23 bargaining agreement. The rights and remedies in this  
24 section may not be waived by any agreement, policy, form,  
25 or condition of employment.”.

1     **TITLE IV—GRADE CROSSINGS**

2     **SEC. 401. TOLL-FREE NUMBER TO REPORT GRADE CROSS-**  
3             **ING PROBLEMS.**

4             Section 20152 of title 49, United States Code, is  
5     amended to read as follows:

6     **“§ 20152. Emergency notification of grade crossing**  
7             **problems**

8             “Not later than 18 months after the date of enact-  
9     ment of the Federal Railroad Safety Improvement Act of  
10    2007, the Secretary of Transportation shall require each  
11    railroad carrier to—

12             “(1) establish and maintain a toll-free telephone  
13             service, for rights-of-way over which it dispatches  
14             trains, to directly receive calls reporting—

15                     “(A) malfunctions of signals, crossing  
16                     gates, and other devices to promote safety at  
17                     the grade crossing of railroad tracks on those  
18                     rights-of-way and public or private roads; and

19                     “(B) disabled vehicles blocking railroad  
20                     tracks at such grade crossings;

21             “(2) upon receiving a report of a malfunction or  
22             disabled vehicle pursuant to paragraph (1), imme-  
23             diately contact trains operating near the grade  
24             crossing to warn them of the malfunction or disabled  
25             vehicle;

1           “(3) upon receiving a report of a malfunction or  
2 disabled vehicle pursuant to paragraph (1), and  
3 after contacting trains pursuant to paragraph (2),  
4 contact, as necessary, appropriate public safety offi-  
5 cials having jurisdiction over the grade crossing to  
6 provide them with the information necessary for  
7 them to direct traffic, assist in the removal of the  
8 disabled vehicle, or carry out other activities appro-  
9 priate to responding to the hazardous circumstance;  
10 and

11           “(4) ensure the placement at each grade cross-  
12 ing on rights-of-way that it owns of appropriately lo-  
13 cated signs, on which shall appear, at a minimum—

14           “(A) a toll-free telephone number to be  
15 used for placing calls described in paragraph  
16 (1) to the railroad carrier dispatching trains on  
17 that right-of-way;

18           “(B) an explanation of the purpose of that  
19 toll-free number as described in paragraph (1);  
20 and

21           “(C) the grade crossing number assigned  
22 for that crossing by the National Highway-Rail  
23 Crossing Inventory established by the Depart-  
24 ment of Transportation.

1 The Secretary of Transportation shall implement this sec-  
2 tion through appropriate regulations.”.

3 **SEC. 402. ROADWAY USER SIGHT DISTANCE AT HIGHWAY-**  
4 **RAIL GRADE CROSSINGS.**

5 (a) IN GENERAL.—Subchapter II of chapter 201 of  
6 title 49, United States Code, is amended by adding at the  
7 end the following new section:

8 **“§ 20156. Roadway user sight distance at highway-**  
9 **rail grade crossings**

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

1           “(1) the type of warning device or warning de-  
2           vices installed at the crossing;

3           “(2) factors affecting the timeliness and effec-  
4           tiveness of roadway user decisionmaking, including  
5           the maximum allowable roadway speed, maximum  
6           authorized train speed, angle of intersection, and to-  
7           pography;

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  
13 regulations pursuant to this section, the Secretary may  
14 make allowance for preservation of trees and other orna-  
15 mental or protective growth where State or local law or  
16 policy would otherwise protect the vegetation from removal  
17 and where the roadway authority or private crossing hold-  
18 er is notified of the sight distance obstruction and, within  
19 a reasonable period specified by the regulation, takes ap-  
20 propriate temporary and permanent action to abate the  
21 hazard to roadway users (such as by closing the crossing,  
22 posting supplementary signage, installing active warning  
23 devices, lowering roadway speed, or installing traffic  
24 calming devices).

1       “(c) NO PREEMPTION.—Notwithstanding section  
 2 20106, subsections (a) and (b) of this section do not pro-  
 3 hibit a State from continuing in force, or from enacting,  
 4 a law, regulation, or order requiring the removal of ob-  
 5 structive vegetation from a railroad right-of-way for safety  
 6 reasons that is more stringent than the requirements of  
 7 the regulations prescribed pursuant to this section.”.

8       (b) CONFORMING AMENDMENT.—The table of sec-  
 9 tions for such subchapter II of chapter 201 is amended  
 10 by inserting after the item relating to section 20155 the  
 11 following new item:

“20156. Roadway user sight distance at highway-rail grade crossings.”.

12 **SEC. 403. GRADE CROSSING SIGNAL VIOLATIONS.**

13       (a) AMENDMENTS.—Section 20151 of title 49,  
 14 United States Code, is amended—

15               (1) by amending the section heading to read as  
 16 follows:

17 **“§ 20151. Railroad trespassing, vandalism, and signal**  
 18 **violation prevention strategy”;**

19               (2) in subsection (a)—

20                       (A) by striking “and vandalism affecting  
 21 railroad safety” and inserting in lieu thereof “,  
 22 vandalism affecting railroad safety, and viola-  
 23 tions of grade crossing signals”;

1 (B) by inserting “, concerning trespassing  
2 and vandalism,” after “such evaluation and re-  
3 view”; and

4 (C) by inserting “The second such evalua-  
5 tion and review, concerning violations of grade  
6 crossing signals, shall be completed before April  
7 1, 2008.” after “November 2, 1994.”;

8 (3) in the subsection heading of subsection (b),  
9 by inserting “FOR TRESPASSING AND VANDALISM  
10 PREVENTION” after “OUTREACH PROGRAM”;

11 (4) in subsection (c)—

12 (A) by redesignating paragraphs (1) and  
13 (2) as subparagraphs (A) and (B), respectively;

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

16 (C) by adding at the end the following new  
17 paragraph:

18 “(2) Within 18 months after the date of enactment  
19 of the Federal Railroad Safety Improvement Act of 2007,  
20 the Secretary, after consultation with State and local gov-  
21 ernments, railroad carriers, and rail labor organizations,  
22 shall develop and make available to State and local govern-  
23 ments model State legislation providing for civil or crimi-  
24 nal penalties, or both, for violations of grade crossing sig-  
25 nals.”; and



1 **SEC. 404. NATIONAL CROSSING INVENTORY.**

2 (a) IN GENERAL.—Subchapter II of chapter 201 of  
3 title 49, United States Code, as amended by this Act, is  
4 further amended by adding at the end the following new  
5 section:

6 **“§ 20157. National crossing inventory**

7 “(a) INITIAL REPORTING OF INFORMATION ABOUT  
8 PREVIOUSLY UNREPORTED CROSSINGS.—Not later than  
9 1 year after the date of enactment of the Federal Railroad  
10 Safety Improvement Act of 2007 or 6 months after a new  
11 crossing becomes operational, whichever occurs later, each  
12 railroad carrier shall—

13 “(1) report to the Secretary of Transportation  
14 current information, including information about  
15 warning devices and signage, as specified by the Sec-  
16 retary, concerning each previously unreported cross-  
17 ing through which it operates; or

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

21 “(b) UPDATING OF CROSSING INFORMATION.—(1)  
22 On a periodic basis beginning not later than 3 years after  
23 the date of enactment of the Federal Railroad Safety Im-  
24 provement Act of 2007 and on or before September 30  
25 of every third year thereafter, or as otherwise specified  
26 by the Secretary, each railroad carrier shall—

1           “(A) report to the Secretary current informa-  
2           tion, including information about warning devices  
3           and signage, as specified by the Secretary, con-  
4           cerning each crossing through which it operates; or

5           “(B) ensure that the information has been re-  
6           ported to the Secretary by another railroad carrier  
7           that operates through the crossing.

8           “(2) A railroad carrier that sells a crossing or any  
9           part of a crossing on or after the date of enactment of  
10          the Federal Railroad Safety Improvement Act of 2007  
11          shall, not later than the date that is 18 months after the  
12          date of enactment of that Act or 3 months after the sale,  
13          whichever occurs later, or as otherwise specified by the  
14          Secretary, report to the Secretary current information, as  
15          specified by the Secretary, concerning the change in own-  
16          ership of the crossing or part of the crossing.

17          “(c) RULEMAKING AUTHORITY.—The Secretary shall  
18          prescribe the regulations necessary to implement this sec-  
19          tion. The Secretary may enforce each provision of the De-  
20          partment of Transportation’s statement of the national  
21          highway-rail crossing inventory policy, procedures, and in-  
22          struction for States and railroads that is in effect on the  
23          date of enactment of the Federal Railroad Safety Improve-  
24          ment Act of 2007, until such provision is superseded by  
25          a regulation issued under this section.

1 “(d) DEFINITIONS.—In this section:

2 “(1) CROSSING.—The term ‘crossing’ means a  
3 location within a State, other than a location where  
4 one or more railroad tracks cross one or more rail-  
5 road tracks either at grade or grade-separated,  
6 where—

7 “(A) a public highway, road, or street, or  
8 a private roadway, including associated side-  
9 walks and pathways, crosses one or more rail-  
10 road tracks either at grade or grade-separated;  
11 or

12 “(B) a pathway dedicated for the use of  
13 nonvehicular traffic, including pedestrians,  
14 bicyclists, and others, that is not associated  
15 with a public highway, road, or street, or a pri-  
16 vate roadway, crosses one or more railroad  
17 tracks either at grade or grade-separated.

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

21 (b) CONFORMING AMENDMENT.—The table of sec-  
22 tions for such subchapter II of chapter 201 is amended  
23 by adding at the end the following new item:

“20157. National crossing inventory.”.

1           (c) REPORTING AND UPDATING.—Section 130 of title  
2 23, United States Code, is amended by adding at the end  
3 the following:

4           “(1) NATIONAL CROSSING INVENTORY.—

5                   “(1) INITIAL REPORTING OF CROSSING INFOR-  
6 MATION.—Not later than 1 year after the date of  
7 enactment of the Federal Railroad Safety Improve-  
8 ment Act of 2007 or within 6 months of a new  
9 crossing becoming operational, whichever occurs  
10 later, each State shall report to the Secretary of  
11 Transportation current information, including infor-  
12 mation about warning devices and signage, as speci-  
13 fied by the Secretary, concerning each previously un-  
14 reported crossing located within its borders.

15                   “(2) PERIODIC UPDATING OF CROSSING INFOR-  
16 MATION.—On a periodic basis beginning not later  
17 than 3 years after the date of enactment of the Fed-  
18 eral Railroad Safety Improvement Act of 2007 and  
19 on or before September 30 of every third year there-  
20 after, or as otherwise specified by the Secretary,  
21 each State shall report to the Secretary current in-  
22 formation, including information about warning de-  
23 vices and signage, as specified by the Secretary, con-  
24 cerning each crossing located within its borders.

1           “(3) RULEMAKING AUTHORITY.—The Secretary  
2           shall prescribe the regulations necessary to imple-  
3           ment this section. The Secretary may enforce each  
4           provision of the Department of Transportation’s  
5           statement of the national highway-rail crossing in-  
6           ventory policy, procedures, and instructions for  
7           States and railroads that is in effect on the date of  
8           enactment of the Federal Railroad Safety Improve-  
9           ment Act of 2007, until such provision is superseded  
10          by a regulation issued under this subsection.

11          “(4) DEFINITIONS.—In this subsection, the  
12          terms ‘crossing’ and ‘State’ have the meaning given  
13          those terms by section 20157(d)(1) and (2), respec-  
14          tively, of title 49.”.

15          (d) CIVIL PENALTIES.—(1) Section 21301(a)(1) of  
16          title 49, United States Code, is amended—

17                 (A) by inserting “with section 20157 or” after  
18                 “comply” in the first sentence; and

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

21          (2) Section 21301(a)(2) of title 49, United States  
22          Code, is amended by inserting “The Secretary shall im-  
23          pose a civil penalty for a violation of section 20157 of this  
24          title.” after the first sentence.

1 **SEC. 405. ACCIDENT AND INCIDENT REPORTING.**

2 The Federal Railroad Safety Administration shall  
 3 conduct an audit of each Class I railroad at least once  
 4 every 2 years and conduct an audit of each non-Class I  
 5 railroad at least once every 5 years to ensure that all grade  
 6 crossing collisions and fatalities are reported to the na-  
 7 tional accident database.

8 **SEC. 406. AUTHORITY TO BUY PROMOTIONAL ITEMS TO IM-**  
 9 **PROVE RAILROAD CROSSING SAFETY AND**  
 10 **PREVENT RAILROAD TRESPASS.**

11 Section 20134(a) of title 49, United States Code, is  
 12 amended by adding at the end the following: “The Sec-  
 13 retary may purchase promotional items of nominal value  
 14 and distribute them to the public without charge as part  
 15 of an educational or awareness program to accomplish the  
 16 purposes of this section and of any other sections of this  
 17 title related to improving the safety of highway-rail cross-  
 18 ings and to prevent trespass on railroad rights of way,  
 19 and the Secretary shall prescribe guidelines for the admin-  
 20 istration of this authority.”.

21 **TITLE V—ENFORCEMENT**

22 **SEC. 501. ENFORCEMENT.**

23 Section 20112(a) of title 49, United States Code, is  
 24 amended—

25 (1) by inserting “this part or” in paragraph (1)  
 26 after “enforce,”;

1           (2) by striking “21301” in paragraph (2) and  
2           inserting “21301, 21302, or 21303”;

3           (3) by striking “subpena” in paragraph (3) and  
4           inserting “subpoena, request for admissions, request  
5           for production of documents or other tangible  
6           things, or request for testimony by deposition”; and

7           (4) by striking “chapter.” in paragraph (3) and  
8           inserting “part.”.

9   **SEC. 502. CIVIL PENALTIES.**

10          (a) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-  
11          tion 21301(a)(2) of title 49, United States Code, is  
12          amended—

13               (1) by striking “\$10,000” and inserting  
14               “\$100,000, or the amount in which the stated min-  
15               imum or maximum penalty, respectively, is adjusted  
16               if required by the Federal Civil Penalties Inflation  
17               Adjustment Act of 1990 (28 U.S.C. 2461 note)”;  
18               and

19               (2) by striking the last sentence.

20          (b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-  
21          TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH  
22          209.—Section 21302(a)(2) of title 49, United States  
23          Code, is amended—

24               (1) by striking “\$10,000” and inserting  
25               “\$100,000, or the amount to which the stated min-

1 imum or maximum penalty, respectively, is adjusted  
2 if required by the Federal Civil Penalties Inflation  
3 Adjustment Act of 1990 (28 U.S.C. 2461 note)”;  
4 and

5 (2) by striking the last sentence.

6 (c) VIOLATIONS OF CHAPTER 211.—Section  
7 21303(a)(2) of title 49, United States Code, is amended—

8 (1) by striking “\$10,000” and inserting  
9 “\$100,000, or the amount to which the stated min-  
10 imum or maximum penalty, respectively, is adjusted  
11 if required by the Federal Civil Penalties Inflation  
12 Adjustment Act of 1990 (28 U.S.C. 2461 note)”;  
13 and

14 (2) by striking the last sentence.

15 **SEC. 503. CRIMINAL PENALTIES.**

16 Section 21311(b) of title 49, United States Code, is  
17 amended by striking “\$500” both places it appears and  
18 inserting “\$2,500”.

19 **SEC. 504. EXPANSION OF EMERGENCY ORDER AUTHORITY.**

20 Section 20104(a)(1) of title 49, United States Code,  
21 is amended by striking “death or personal injury” and in-  
22 serting “death, personal injury, or significant harm to the  
23 environment”.

1 **SEC. 505. ENFORCEMENT TRANSPARENCY.**

2 (a) AMENDMENT.—Subchapter I of chapter 201 of  
3 title 49, United States Code, is amended by adding at the  
4 end the following:

5 **“§ 20118. Enforcement transparency**

6 “(a) IN GENERAL.—Not later than December 31,  
7 2007, the Secretary of Transportation shall—

8 “(1) provide a monthly updated summary to  
9 the public of all railroad enforcement actions taken  
10 by the Secretary or the Federal Railroad Safety Ad-  
11 ministration, from the time a notice commencing an  
12 enforcement action is issued until the enforcement  
13 action is final;

14 “(2) include in each such summary identifica-  
15 tion of the railroad carrier or person involved in the  
16 enforcement activity, the type of alleged violation,  
17 the penalty or penalties proposed, any changes in  
18 case status since the previous summary, the final as-  
19 sessment amount of each penalty, and the reasons  
20 for a reduction in the proposed penalty, if appro-  
21 priate; and

22 “(3) provide a mechanism by which a railroad  
23 carrier or person named in an enforcement action  
24 may make information, explanations, or documents  
25 it believes are responsive to the enforcement action  
26 available to the public.

1       “(b) ELECTRONIC AVAILABILITY.—Each summary  
2 under this section shall be made available to the public  
3 by electronic means.

4       “(c) RELATIONSHIP TO FOIA.—Nothing in this sec-  
5 tion shall be construed to require disclosure of information  
6 or records that are exempt from disclosure under section  
7 552 of title 5.”.

8       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
9 sections of subchapter I of chapter 201 of title 49, United  
10 States Code, is amended by adding at the end the fol-  
11 lowing new item:

“20118. Enforcement transparency.”.

12 **SEC. 506. INTERFERING WITH OR HAMPERING SAFETY IN-**  
13 **VESTIGATIONS.**

14       (a) AMENDMENT.—Subchapter II of chapter 213 of  
15 title 49, United States Code, is amended by adding at the  
16 end the following new section:

17 **“§ 21312. Interfering with or hampering safety inves-**  
18 **tigations**

19       “(a) IN GENERAL.—It shall be unlawful for any per-  
20 son knowingly to interfere with, obstruct, or hamper an  
21 investigation by the Secretary of Transportation con-  
22 ducted under section 20703 or 20902 of this title, or a  
23 railroad investigation by the National Transportation  
24 Safety Board under chapter 11 of this title.

1       “(b) INTIMIDATION AND HARASSMENT.—It shall be  
2 unlawful for any person, with regard to an investigation  
3 conducted by the Secretary under section 20703 or 20902  
4 of this title, or a railroad investigation by the National  
5 Transportation Safety Board under chapter 11 of this  
6 title, knowingly or intentionally to use intimidation, har-  
7 assment, threats, or physical force toward another person,  
8 or corruptly persuade another person, or attempt to do  
9 so, or engage in misleading conduct toward another per-  
10 son, with the intent or effect of—

11           “(1) influencing the testimony or statement of  
12 any person;

13           “(2) hindering, delaying, preventing, or dis-  
14 suading any person from—

15           “(A) attending a proceeding or interview  
16 with, testifying before, or providing a written  
17 statement to, a National Transportation Safety  
18 Board railroad investigator, a Federal railroad  
19 safety inspector or State railroad safety inspec-  
20 tor, or their superiors;

21           “(B) communicating or reporting to a Na-  
22 tional Transportation Safety Board railroad in-  
23 vestigator, a Federal railroad safety inspector,  
24 or a State railroad safety inspector, or their su-  
25 periors, information relating to the commission

1 or possible commission of one or more violations  
2 of this part or of chapter 51 of this title; or

3 “(C) recommending or using any legal  
4 remedy available to the Secretary under this  
5 title; or

6 “(3) causing or inducing any person to—

7 “(A) withhold testimony, or a statement,  
8 record, document, or other object, from the in-  
9 vestigation;

10 “(B) alter, destroy, mutilate, or conceal a  
11 statement, record, document, or other object  
12 with intent to impair the integrity or avail-  
13 ability of the statement, record, document, or  
14 other object for use in the investigation;

15 “(C) evade legal process summoning that  
16 person to appear as a witness, or to produce a  
17 statement, record, document, or other object, in  
18 the investigation; or

19 “(D) be absent from an investigation to  
20 which such person has been summoned by legal  
21 process.

22 “(c) ELEMENTS OF VIOLATION.—(1) For the pur-  
23 poses of this section, the testimony or statement, or the  
24 record, document, or other object, need not be admissible  
25 in evidence or free from a claim of privilege.

1       “(2) In a prosecution for an offense under this sec-  
 2 tion, no state of mind need be proved with respect to the  
 3 circumstance that the investigation is being conducted by  
 4 the Secretary under section 20703 or 20902 of this title  
 5 or by the National Transportation Safety Board under  
 6 chapter 11 of this title.

7       “(d) CRIMINAL PENALTIES.—A person violating this  
 8 section shall be fined under title 18, imprisoned for not  
 9 more than 1 year, or both.”.

10       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 11 sections of subchapter II of chapter 213 of title 49, United  
 12 States Code, is amended by adding at the end the fol-  
 13 lowing new item:

“21312. Interfering with or hampering safety investigations.”.

14 **SEC. 507. RAILROAD RADIO MONITORING AUTHORITY.**

15       Section 20107 of title 49, United States Code, is  
 16 amended by inserting at the end the following:

17       “(c) RAILROAD RADIO COMMUNICATIONS.—

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

24                       “(A) Intercepting a radio communication  
 25                       that is broadcast or transmitted over a fre-

1           quency authorized for the use of one or more  
2           railroad carriers by the Federal Communica-  
3           tions Commission, with or without the consent  
4           of the sender or other receivers of the commu-  
5           nication.

6           “(B) Communicating the existence, con-  
7           tents, substance, purport, effect, or meaning of  
8           the communication, subject to the restrictions  
9           in paragraph (3).

10          “(C) Receiving or assisting in receiving the  
11          communication (or any information therein con-  
12          tained).

13          “(D) Disclosing the contents, substance,  
14          purport, effect, or meaning of the communica-  
15          tion (or any part thereof of such communica-  
16          tion) or using the communication (or any infor-  
17          mation contained therein), subject to the re-  
18          strictions in paragraph (3), after having re-  
19          ceived the communication or acquired knowl-  
20          edge of the contents, substance, purport, effect,  
21          or meaning of the communication (or any part  
22          thereof).

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

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

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

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

14                   “(ii) to impeach evidence offered by a  
15 party other than the Federal Government re-  
16 garding the existence, electronic characteristics,  
17 content, substance, purport, effect, meaning, or  
18 timing of, or identity of parties to, a commu-  
19 nication intercepted pursuant to paragraphs (1)  
20 and (2) in proceedings pursuant to section  
21 5122, 5123, 20702(b), 20111, 20112, 20113,  
22 or 20114 of this title.

23           “(B) If information obtained through activities  
24 set forth in paragraphs (1) and (2) is admitted into  
25 evidence for impeachment purposes in accordance

1 with subparagraph (A), the court, administrative law  
2 judge, or other officer before whom the proceeding  
3 is conducted may make such protective orders re-  
4 garding the confidentiality or use of the information  
5 as may be appropriate in the circumstances to pro-  
6 tect privacy and administer justice.

7 “(C) No evidence shall be excluded in an ad-  
8 ministrative or judicial proceeding solely because the  
9 government would not have learned of the existence  
10 of or obtained such evidence but for the interception  
11 of information that is not admissible in such pro-  
12 ceeding under subparagraph (A).

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

17 “(E) Nothing in this subsection shall be con-  
18 strued to impair or otherwise affect the authority of  
19 the United States to intercept a communication, and  
20 collect, retain, analyze, use, and disseminate the in-  
21 formation obtained thereby, under a provision of law  
22 other than this subsection.

23 “(4) APPLICATION WITH OTHER LAW.—Section  
24 705 of the Communications Act of 1934 (47 U.S.C.  
25 605) and chapter 119 of title 18 shall not apply to

1       conduct authorized by and pursuant to this sub-  
2       section.”.

3       **SEC. 508. INSPECTOR STAFFING.**

4       The Secretary shall increase the total number of posi-  
5       tions for railroad safety inspection and enforcement per-  
6       sonnel at the Federal Railroad Safety Administration so  
7       that by December 31, 2008, the total number of such posi-  
8       tion is at least 500, by December 31, 2009, the total num-  
9       ber of such positions is at least 600, by December 31,  
10      2010, the total number of such positions is at least 700,  
11      and by December 31, 2011, the total number of positions  
12      is at least 800.

13           **TITLE VI—MISCELLANEOUS**  
14                   **PROVISIONS**

15      **SEC. 601. POSITIVE TRAIN CONTROL SYSTEMS.**

16      (a) IN GENERAL.—Not later than 12 months after  
17      the date of enactment of this Act, each Class I railroad  
18      carrier shall develop and submit to the Secretary a plan  
19      for implementing a positive train control system by De-  
20      cember 31, 2014, that will prevent train collisions and  
21      over-speed derailments, provide protection to mainte-  
22      nance-of-way workers within established work zone limits,  
23      and prevent the movement of a train through a switch left  
24      in the wrong position.

1           (b) SAFETY REDUNDANCY.—The positive train con-  
2 trol system required under subsection (a) shall provide a  
3 safety redundancy to prevent accidents by overriding  
4 human performance failures involving train movements on  
5 main line tracks.

6           (c) CONTENTS OF PLAN.—The Secretary may pro-  
7 vide technical assistance and guidance to railroad carriers  
8 in developing the plans required under subsection (a), and  
9 shall require that each railroad carrier include in the plan,  
10 at a minimum—

11                 (1) measurable goals, including a strategy and  
12                 timeline for implementation of such systems;

13                 (2) a prioritization of how the systems will be  
14                 implemented, with particular emphasis on high-risk  
15                 corridors such as those that have significant move-  
16                 ments of hazardous materials or where commuter  
17                 and intercity passenger railroads operate;

18                 (3) identification of detailed steps the carriers  
19                 will take to implement the systems; and

20                 (4) any other element the Secretary considers  
21                 appropriate.

22           (d) REVIEW AND APPROVAL.—Not later than 90 days  
23 after the Secretary receives a plan, the Secretary shall re-  
24 view and approve it. If the proposed plan is not approved,  
25 the Secretary shall notify the affected railroad carrier as

1 to the specific points in which the proposed plan is defi-  
2 cient, and the railroad carrier shall correct all deficiencies  
3 within 30 days following receipt of written notice from the  
4 Secretary. The Secretary shall annually conduct a review  
5 to ensure that the railroads are complying with their  
6 plans.

7 (e) REPORT.—Not later than December 31, 2011, the  
8 Secretary shall transmit a report to the Committee on  
9 Transportation and Infrastructure of the House of Rep-  
10 resentatives and the Committee on Commerce, Science,  
11 and Transportation of the Senate on the progress of the  
12 railroad carriers in implementing such positive train con-  
13 trol systems.

14 **SEC. 602. WARNING IN NONSIGNALLED TERRITORY.**

15 (a) AMENDMENT.—Subchapter II of chapter 201 of  
16 title 49, United States Code, as amended by this Act, is  
17 further amended by adding at the end the following new  
18 section:

19 **“§ 20158. Warning in nonsignaled territory**

20 “Not later than 12 months after the date of enact-  
21 ment of the Federal Railroad Safety Improvement Act of  
22 2007, the Secretary of Transportation shall prescribe reg-  
23 ulations that—

24 “(1) require that, along main lines in nonsig-  
25 naled territory without a train speed enforcement

1 system that would stop a train in advance of a mis-  
2 aligned switch, railroads install an automatically ac-  
3 tivated device, independent of the switch banner,  
4 that will, visually or electronically, compellingly cap-  
5 ture the attention of employees involved with switch  
6 operations and clearly convey the status of the  
7 switch both in daylight and darkness; and

8 “(2) require railroads, in nonsignaled territory  
9 without a train speed enforcement system that would  
10 stop a train in advance of a misaligned switch, and  
11 in the absence of switch position indicator lights or  
12 other automated systems that provide train crews  
13 with advance notice of switch positions, to operate  
14 those trains at speeds that will allow them to be  
15 safely stopped in advance of misaligned switches.”.

16 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
17 sections of subchapter II of chapter 201 of title 49, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing new item:

“20158. Warning in nonsignaled territory.”.

20 **SEC. 603. TRACK SAFETY.**

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

1 **“§ 20159. Track safety**

2       “(a) RAIL INTEGRITY.—(1) Not later than 12  
3 months after the date of enactment of the Federal Rail-  
4 road Safety Improvement Act of 2007, the Secretary of  
5 Transportation shall prescribe regulations to require rail-  
6 road carriers to manage the rail in their tracks so as to  
7 minimize accidents due to internal rail flaws. The regula-  
8 tions shall, at a minimum—

9               “(A) require railroad carriers to conduct ultra-  
10 sonic or other appropriate inspections to ensure that  
11 rail used to replace defective segments of existing  
12 rail is free from internal defects;

13               “(B) require railroad carriers to perform rail  
14 integrity inspections to manage a service failure rate  
15 of less than .1 per track mile; and

16               “(C) encourage railroad carrier use of advanced  
17 rail defect inspection equipment and similar tech-  
18 nologies as part of a comprehensive rail inspection  
19 program.

20       “(2) In carrying out paragraph (1)(B), the Secretary  
21 shall set priorities for performing rail integrity inspec-  
22 tions, with particular emphasis on high-risk corridors such  
23 as those that have significant movements of hazardous  
24 materials or where commuter and intercity passenger rail-  
25 roads operate.

1       “(b) CONCRETE CROSSTIES.—Not later than 12  
 2 months after the date of enactment of the Federal Rail-  
 3 road Safety Improvement Act of 2007, the Secretary shall  
 4 develop and implement regulations for all classes of track  
 5 for concrete crossties that address, at a minimum—

6               “(1) limits for rail seat abrasion;

7               “(2) concrete crosstie pad wear limits;

8               “(3) missing or broken rail fasteners;

9               “(4) loss of appropriate toeload pressure;

10              “(5) improper fastener configurations; and

11              “(6) excessive lateral rail movement.”.

12       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 13 sections of subchapter II of chapter 201 of title 49, United  
 14 States Code, is amended by adding at the end the fol-  
 15 lowing new item:

“20159. Track safety.”.

16 **SEC. 604. CERTIFICATION OF CONDUCTORS.**

17       (a) AMENDMENT.—Subchapter II of chapter 201 of  
 18 title 49, United States Code, as amended by this Act, is  
 19 further amended by adding at the end the following new  
 20 section:

21 **“§ 20160. Certification of conductors**

22       “(a) REGULATIONS.—Not later than 6 months after  
 23 the date of enactment of the Federal Railroad Safety Im-  
 24 provement Act of 2007, the Secretary of Transportation  
 25 shall prescribe regulations and issue orders to establish

1 a program requiring the certification of train conductors.  
2 In prescribing such regulations, the Secretary shall require  
3 that conductors on passenger trains be trained in security,  
4 first aid, and emergency preparedness.

5 “(b) PROGRAM DESIGN.—The program established  
6 under this section shall be designed based on the require-  
7 ments of section 20135(b) through (e).”.

8 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
9 sections of subchapter II of chapter 201 of title 49, United  
10 States Code, is amended by adding at the end the fol-  
11 lowing new item:

“20160. Certification of conductors.”.

12 **SEC. 605. MINIMUM TRAINING STANDARDS.**

13 (a) AMENDMENT.—Subchapter II of chapter 201 of  
14 title 49, United States Code, as amended by this Act, is  
15 further amended by adding at the end the following new  
16 section:

17 **“§ 20161. Minimum training standards**

18 “The Secretary of Transportation shall, not later  
19 than 180 days after the date of enactment of the Federal  
20 Railroad Safety Improvement Act of 2007, establish—

21 “(1) minimum training standards for each craft  
22 of railroad employees, which shall require railroad  
23 carriers to qualify or otherwise document the pro-  
24 ficiency of their employees in each craft regarding  
25 their knowledge of, and ability to comply with, Fed-

1       eral railroad safety laws and regulations and rail-  
2       road carrier rules and procedures promulgated to  
3       implement those Federal railroad safety laws and  
4       regulations; and

5               “(2) a requirement for railroad carriers to sub-  
6       mit their training and qualification programs to the  
7       Federal Railroad Safety Administration for ap-  
8       proval.”.

9       (b) TABLE OF SECTIONS AMENDMENT.—The table of  
10      sections of subchapter II of chapter 201 of title 49, United  
11      States Code, is amended by adding at the end the fol-  
12      lowing new item:

      “20161. Minimum training standards.”.

13      **SEC. 606. PROMPT MEDICAL ATTENTION.**

14       (a) AMENDMENT.—Subchapter II of chapter 201 of  
15      title 49, United States Code, as amended by this Act, is  
16      further amended by adding at the end the following new  
17      section:

18      **“§ 20162. Prompt medical attention**

19       “(a) PROHIBITION.—A railroad or person covered  
20      under this title shall not deny, delay, or interfere with the  
21      medical or first aid treatment of an employee who is in-  
22      jured during the course of employment. If transportation  
23      to a hospital is requested by an employee who is injured  
24      during the course of employment, the railroad shall

1 promptly arrange to have the injured employee trans-  
2 ported to the requested hospital.

3 “(b) DISCIPLINE.—A railroad or person covered  
4 under this title shall not discipline, or threaten discipline  
5 to, an employee for requesting medical or first aid treat-  
6 ment, or for following orders or a treatment plan of a  
7 treating physician. For purposes of this subsection, dis-  
8 cipline means to bring charges against a person in a dis-  
9 ciplinary proceeding, suspend, terminate, place on proba-  
10 tion, or make note of reprimand on an employee’s  
11 record.”.

12 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
13 sections of subchapter II of chapter 201 of title 49, United  
14 States Code, is amended by adding at the end the fol-  
15 lowing new item:

“20162. Prompt medical attention.”.

16 **SEC. 607. EMERGENCY ESCAPE BREATHING APPARATUS.**

17 (a) AMENDMENT.—Subchapter II of chapter 201 of  
18 title 49, United States Code, as amended by this Act, is  
19 further amended by adding at the end the following new  
20 section:

21 **“§ 20163. Emergency escape breathing apparatus**

22 “Not later than 6 months after the date of enactment  
23 of the Federal Railroad Safety Improvement Act of 2007,  
24 the Secretary of Transportation shall prescribe regulations  
25 that require railroads to—

1           “(1) provide emergency escape breathing appa-  
2           ratus for all crewmembers on freight trains carrying  
3           hazardous materials that would pose an inhalation  
4           hazard in the event of release; and

5           “(2) provide their crewmembers with appro-  
6           priate training for using the breathing apparatus.”.

7           (b) TABLE OF SECTIONS AMENDMENT.—The table of  
8           sections of subchapter II of chapter 201 of title 49, United  
9           States Code, is amended by adding at the end the fol-  
10          lowing new item:

          “20163. Emergency escape breathing apparatus.”.

11       **SEC. 608. LOCOMOTIVE CAB ENVIRONMENT.**

12           Not later than 12 months after the date of enactment  
13           of this Act, the Secretary of Transportation shall transmit  
14           to the Committee on Transportation and Infrastructure  
15           of the House of Representatives and the Committee on  
16           Commerce, Science, and Transportation of the Senate a  
17           report on the effects of the locomotive cab environment  
18           on the safety, health, and performance of train crews.

19       **TITLE VII—RAIL PASSENGER**  
20       **DISASTER FAMILY ASSISTANCE**

21       **SEC. 701. SHORT TITLE.**

22           This title may be cited as the “Rail Passenger Dis-  
23           aster Family Assistance Act of 2007”.

1 **SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION**  
2 **SAFETY BOARD TO FAMILIES OF PAS-**  
3 **SENGERS INVOLVED IN RAIL PASSENGER AC-**  
4 **CIDENTS.**

5 (a) IN GENERAL.—Subchapter III of chapter 11 of  
6 title 49, United States Code, is amended by adding at the  
7 end the following:

8 **“§ 1138. Assistance to families of passengers involved**  
9 **in rail passenger accidents**

10 “(a) IN GENERAL.—As soon as practicable after  
11 being notified of a rail passenger accident within the  
12 United States involving a rail passenger carrier and result-  
13 ing in a major loss of life, the Chairman of the National  
14 Transportation Safety Board shall—

15 “(1) designate and publicize the name and  
16 phone number of a director of family support serv-  
17 ices who shall be an employee of the Board and shall  
18 be responsible for acting as a point of contact within  
19 the Federal Government for the families of pas-  
20 sengers involved in the accident and a liaison be-  
21 tween the rail passenger carrier and the families;  
22 and

23 “(2) designate an independent nonprofit organi-  
24 zation, with experience in disasters and posttrauma  
25 communication with families, which shall have pri-  
26 mary responsibility for coordinating the emotional

1 care and support of the families of passengers in-  
2 volved 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  
15 activities.

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 trav-  
5           eled to the location of the accident, to contact the  
6           families unable to travel to such location, and to  
7           contact all affected families periodically thereafter  
8           until such time as the organization, in consultation  
9           with the director of family support services des-  
10          ignated for the accident under subsection (a)(1), de-  
11          termines that further 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  
21                         the rail passenger carrier involved in the acci-  
22                         dent a list, which is based on the best available  
23                         information at the time of the request, of the  
24                         names of the passengers that were aboard the  
25                         rail passenger carrier’s train involved in the ac-

1           ident. A rail passenger carrier shall use rea-  
2           sonable efforts, with respect to its unreserved  
3           trains, and passengers not holding reservations  
4           on its other trains, to ascertain the names of  
5           passengers aboard a train involved in an acci-  
6           dent.

7                   “(B) REQUESTS BY DESIGNATED ORGANI-  
8           ZATION.—The organization designated for an  
9           accident under subsection (a)(2) may request  
10          from the rail passenger carrier involved in the  
11          accident a list described in subparagraph (A).

12                   “(2) USE OF INFORMATION.—The director of  
13          family support services and the organization may  
14          not release to any person information on a list ob-  
15          tained under paragraph (1) but may provide infor-  
16          mation on the list about a passenger to the family  
17          of the passenger to the extent that the director of  
18          family support services or the organization considers  
19          appropriate.

20                   “(e) CONTINUING RESPONSIBILITIES OF THE  
21          BOARD.—In the course of its investigation of an accident  
22          described in subsection (a), the Board shall, to the max-  
23          imum extent practicable, ensure that the families of pas-  
24          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  
6           Board about the accident.

7           “(f) USE OF RAIL PASSENGER CARRIER RE-  
8 SOURCES.—To the extent practicable, the organization  
9 designated for an accident under subsection (a)(2) shall  
10 coordinate its activities with the rail passenger carrier in-  
11 volved in the accident to facilitate the reasonable use of  
12 the resources of the carrier.

13          “(g) PROHIBITED ACTIONS.—

14           “(1) ACTIONS TO IMPEDE THE BOARD.—No  
15           person (including a State or political subdivision)  
16           may impede the ability of the Board (including the  
17           director of family support services designated for an  
18           accident under subsection (a)(1)), or an organization  
19           designated for an accident under subsection (a)(2),  
20           to carry out its responsibilities under this section or  
21           the ability of the families of passengers involved in  
22           the accident to have contact with one another.

23           “(2) UNSOLICITED COMMUNICATIONS.—No un-  
24           solicited communication concerning a potential ac-  
25           tion for personal injury or wrongful death may be

1 made by an attorney (including any associate, agent,  
2 employee, or other representative of an attorney) or  
3 any potential party to the litigation to an individual  
4 (other than an employee of the rail passenger car-  
5 rier) injured in the accident, or to a relative of an  
6 individual involved in the accident, before the 45th  
7 day 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 igned 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  
16 family support services designated for the accident  
17 under subsection (a)(1) may extend such period for  
18 not to exceed an additional 30 days if the director  
19 determines that the extension is necessary to meet  
20 the needs of the families and if State and local au-  
21 thorities are notified of the determination.

22 “(h) DEFINITIONS.—In this section, the following  
23 definitions apply:

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

4           “(A) interstate intercity rail passenger  
5 transportation (as such term is defined in sec-  
6 tion 24102); or

7           “(B) interstate or intrastate high-speed  
8 rail (as such term is defined in section 26105)  
9 transportation,  
10 regardless of its cause or suspected cause.

11           “(2) RAIL PASSENGER CARRIER.—The term  
12 ‘rail passenger carrier’ means a rail carrier pro-  
13 viding—

14           “(A) interstate intercity rail passenger  
15 transportation (as such term is defined in sec-  
16 tion 24102); or

17           “(B) interstate or intrastate high-speed  
18 rail (as such term is defined in section 26105)  
19 transportation,  
20 except that such term shall not include a tourist,  
21 historic, scenic, or excursion rail carrier.

22           “(3) PASSENGER.—The term ‘passenger’ in-  
23 cludes—

24           “(A) an employee of a rail passenger car-  
25 rier aboard a train;

1           “(B) any other person aboard the train  
2           without regard to whether the person paid for  
3           the transportation, occupied a seat, or held a  
4           reservation for the rail transportation; and

5           “(C) any other person injured or killed in  
6           the accident.

7           “(i) LIMITATION ON STATUTORY CONSTRUCTION.—  
8           Nothing in this section may be construed as limiting the  
9           actions that a rail passenger carrier may take, or the obli-  
10          gations that a rail passenger carrier may have, in pro-  
11          viding assistance to the families of passengers involved in  
12          a rail passenger accident.

13          “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-  
14          ORITY.—

15                 “(1) GENERAL RULE.—This section (other than  
16                 subsection (g)) shall not apply to a railroad accident  
17                 if the Board has relinquished investigative priority  
18                 under section 1131(a)(2)(B) and the Federal agency  
19                 to which the Board relinquished investigative pri-  
20                 ority is willing and able to provide assistance to the  
21                 victims and families of the passengers involved in  
22                 the accident.

23                 “(2) BOARD ASSISTANCE.—If this section does  
24                 not apply to a railroad accident because the Board  
25                 has relinquished investigative priority with respect to

1 the accident, the Board shall assist, to the maximum  
 2 extent possible, the agency to which the Board has  
 3 relinquished investigative priority in assisting fami-  
 4 lies with respect to the accident.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-  
 6 tions for such chapter is amended by inserting after the  
 7 item relating to section 1137 the following:

“1138. Assistance to families of passengers involved in rail passenger acci-  
 dents”.

8 **SEC. 703. RAIL PASSENGER CARRIER PLANS TO ADDRESS**  
 9 **NEEDS OF FAMILIES OF PASSENGERS IN-**  
 10 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

11 (a) IN GENERAL.—Part C of subtitle V of title 49,  
 12 United States Code, is amended by adding at the end the  
 13 following new chapter:

14 **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail pas-  
 senger accidents.

15 **“§ 25101. Plans to address needs of families of pas-**  
 16 **sengers involved in rail passenger acci-**  
 17 **dents**

18 “(a) SUBMISSION OF PLANS.—Not later than 6  
 19 months after the date of the enactment of this section,  
 20 each rail passenger carrier shall submit to the Secretary  
 21 of Transportation and the Chairman of the National  
 22 Transportation Safety Board a plan for addressing the

1 needs of the families of passengers involved in any rail  
2 passenger accident involving a train of the rail passenger  
3 carrier and resulting in a major loss of life.

4 “(b) CONTENTS OF PLANS.—A plan to be submitted  
5 by a rail passenger carrier under subsection (a) shall in-  
6 clude, at a minimum, the following:

7 “(1) A plan for publicizing a reliable, toll-free  
8 telephone number, and for providing staff, to handle  
9 calls from the families of the passengers.

10 “(2) A process for notifying the families of the  
11 passengers, before providing any public notice of the  
12 names of the passengers, either by utilizing the serv-  
13 ices of the organization designated for the accident  
14 under section 1138(a)(2) of this title or the services  
15 of other suitably trained individuals.

16 “(3) An assurance that the notice described in  
17 paragraph (2) will be provided to the family of a  
18 passenger as soon as the rail passenger carrier has  
19 verified that the passenger was aboard the train  
20 (whether or not the names of all of the passengers  
21 have been verified) and, to the extent practicable, in  
22 person.

23 “(4) An assurance that the rail passenger car-  
24 rier will provide to the director of family support  
25 services designated for the accident under section

1 1138(a)(1) of this title, and to the organization des-  
2 igned for the accident under section 1138(a)(2) of  
3 this title, immediately upon request, a list (which is  
4 based on the best available information at the time  
5 of the request) of the names of the passengers  
6 aboard the train (whether or not such names have  
7 been verified), and will periodically update the list.  
8 The plan shall include a procedure, with respect to  
9 unreserved trains and passengers not holding res-  
10 ervations on other trains, for the rail passenger car-  
11 rier to use reasonable efforts to ascertain the names  
12 of passengers aboard a train involved in an accident.

13 “(5) An assurance that 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 the control of the rail passenger carrier.

17 “(6) An assurance that if requested by the fam-  
18 ily of a passenger, any possession of the passenger  
19 within the control of the rail passenger carrier (re-  
20 gardless of its condition) will be returned to the fam-  
21 ily unless the possession is needed for the accident  
22 investigation or any criminal investigation.

23 “(7) An assurance that any unclaimed posses-  
24 sion of a passenger within the control of the rail

1 passenger carrier will be retained by the rail pas-  
2 senger carrier for at least 18 months.

3 “(8) An assurance that the family of each pas-  
4 senger or other person killed in the accident will be  
5 consulted about construction by the rail passenger  
6 carrier of any monument to the passengers, includ-  
7 ing any inscription on the monument.

8 “(9) An assurance that the treatment of the  
9 families of nonrevenue passengers will be the same  
10 as the treatment of the families of revenue pas-  
11 sengers.

12 “(10) An assurance that the rail passenger car-  
13 rier will work with any organization designated  
14 under section 1138(a)(2) of this title on an ongoing  
15 basis to ensure that families of passengers receive an  
16 appropriate level of services and assistance following  
17 each accident.

18 “(11) An assurance that the rail passenger car-  
19 rier will provide reasonable compensation to any or-  
20 ganization designated under section 1138(a)(2) of  
21 this title for services provided by the organization.

22 “(12) An assurance that the rail passenger car-  
23 rier will assist the family of a passenger in traveling  
24 to the location of the accident and provide for the

1 physical care of the family while the family is stay-  
2 ing at such location.

3 “(13) An assurance that the rail passenger car-  
4 rier will commit sufficient resources to carry out the  
5 plan.

6 “(14) An assurance that the rail passenger car-  
7 rier will provide adequate training to the employees  
8 and agents of the carrier to meet the needs of sur-  
9 vivors and family members following an accident.

10 “(15) An assurance that, upon request of the  
11 family of a passenger, the rail passenger carrier will  
12 inform the family of whether the passenger’s name  
13 appeared on any preliminary passenger manifest for  
14 the train involved in the accident.

15 “(c) 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 the rail passenger carrier in preparing or pro-  
19 viding a passenger list, or in providing information con-  
20 cerning a train reservation, pursuant to a plan submitted  
21 by the rail passenger carrier under subsection (b), unless  
22 such liability was caused by conduct of the rail passenger  
23 carrier which was grossly negligent or which constituted  
24 intentional misconduct.

25 “(d) DEFINITIONS.—In this section—

1           “(1) the terms ‘rail passenger accident’ and  
2           ‘rail passenger carrier’ have the meanings such  
3           terms have in section 1138 of this title; and

4           “(2) the term ‘passenger’ means a person  
5           aboard a rail passenger carrier’s train that is in-  
6           volved in a rail passenger accident.

7           “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
8           Nothing in this section may be construed as limiting the  
9           actions that a rail passenger carrier may take, or the obli-  
10          gations that a rail passenger carrier may have, in pro-  
11          viding assistance to the families of passengers involved in  
12          a rail passenger accident.”.

13          (b) CONFORMING AMENDMENT.—The table of chap-  
14          ters for subtitle V of title 49, United States Code, is  
15          amended by adding after the item relating to chapter 249  
16          the following new item:

          “251. FAMILY ASSISTANCE ..... 25101”.

17          **SEC. 704. ESTABLISHMENT OF TASK FORCE.**

18          (a) ESTABLISHMENT.—The Secretary of Transpor-  
19          tation, in cooperation with the National Transportation  
20          Safety Board, organizations potentially designated under  
21          section 1138(a)(2) of title 49, United States Code, rail  
22          passenger carriers, and families which have been involved  
23          in rail accidents, shall establish a task force consisting of  
24          representatives of such entities and families, representa-  
25          tives of passenger rail carrier employees, and representa-

1 tives of such other entities as the Secretary considers ap-  
2 propriate.

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

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

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

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

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

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

○