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October 18, 2007

Received; read twice and referred to the Committee on Commerce, Science, and Transportation

AN ACT

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the 'Federal Railroad Safety Improvement Act of 2007'.

(b) Table of Contents- The table of contents for 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.

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Sec. 103. Reports.

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Sec. 105. Authorization of appropriations.

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Sec. 201. Hours of service reform.

Sec. 202. Employee sleeping quarters.

Sec. 203. Fatigue management plans.

Sec. 204. Regulatory authority.

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Sec. 409. Fostering introduction of new technology to improve safety at highway-rail grade crossings.

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.

Sec. 609. Tunnel information.

Sec. 610. Museum locomotive study.

Sec. 611. Certification of Carmen.

Sec. 612. Train control systems deployment grants.

Sec. 613. Infrastructure safety investment reports.

Sec. 614. Emergency grade crossing safety improvements.

Sec. 615. Locomotive horn requirement waiver.

Sec. 616. Safety inspections in Mexico.

Sec. 617. Surface Transportation Board jurisdiction over solid waste facilities.

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.

SEC. 2. DEFINITIONS.

For purposes of this Act, the terms `railroad' and `railroad carrier' have the

meaning given those terms in section 20102 of title 49, United States Code.

TITLE I--FEDERAL RAILROAD SAFETY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF FEDERAL RAILROAD SAFETY ADMINISTRATION.

(a) Amendment- Section 103 of title 49, United States Code, is amended to read as follows:

Sec. 103. Federal Railroad Safety Administration

(a) In General- The Federal Railroad Safety Administration (in this section referred to as the 'Administration') shall be an administration in the Department of Transportation. To carry out all railroad safety laws of the United States, the Administration shall be divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation shall be responsible for enforcing those laws and for ensuring that those laws are uniformly administered and enforced among the safety offices.

(b) Safety as Highest Priority- In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

(c) Administrator- The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

(d) Deputy Administrator- The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) Chief Safety Officer- The Administration shall have an Associate Administrator for Railroad Safety appointed in the competitive service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties

and powers prescribed by the Administrator.

` (f) Duties and Powers of the Administrator- The Administrator shall carry out--

` (1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211; and

` (2) other duties and powers prescribed by the Secretary.

` (g) Limitation- A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another Federal Government entity only when specifically provided by law. A decision of the Administrator in carrying out the duties or powers of the Administration and involving notice and hearing required by law is administratively final.

` (h) Authorities- Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions at the Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.'

(b) References and Conforming Amendments- (1) All references in Federal law to the Federal Railroad Administration shall be deemed to be references to the Federal Railroad Safety Administration.

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

` 103. Federal Railroad Safety Administration.'

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) Safety Goals- In conjunction with existing federally required strategic planning efforts, the Secretary of Transportation shall develop a long-term strategy for improving railroad safety. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

- (1) Reducing the number and rates of accidents, injuries, and fatalities involving railroads.
- (2) Improving the consistency and effectiveness of enforcement and compliance programs.
- (3) Identifying and targeting enforcement at, and safety improvements to, high-risk highway-rail grade crossings.
- (4) Improving research efforts to enhance and promote railroad safety and performance.

(b) Resource Needs- The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each activity. Such estimates shall also include the staff skills and training needed for timely and effective accomplishment of each goal.

(c) Submission With the President's Budget- The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the strategy and annual plan at the same time as the President's budget submission.

(d) Achievement of Goals-

(1) PROGRESS ASSESSMENT- No less frequently than semiannually, the Secretary of Transportation and the Administrator of the Federal Railroad Safety Administration shall assess the progress of the Administration toward achieving the strategic goals described in subsection (a). The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Safety Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

(2) REPORT TO CONGRESS- The Secretary shall transmit a report

annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the performance of the Federal Railroad Safety Administration relative to the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. REPORTS.

(a) Reports by the Inspector General- Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Federal Railroad Safety Administration a report containing the following:

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

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

(b) Reports by the Secretary-

(1) STATUTORY MANDATES- Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

(2) NTSB AND INSPECTOR GENERAL RECOMMENDATIONS- Not later than January 1st of each year, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2), a copy of the Department of Transportation response to each such recommendation, and a progress report on implementing each such recommendation.

SEC. 104. RULEMAKING PROCESS.

(a) Amendment- Subchapter I of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following new section:

Sec. 20116. Rulemaking process

^ No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless that reference is to a particular code, rule, standard, requirement, or practice adopted before the date on which the rule is issued by the Secretary, and unless the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule.'

(b) Table of Sections Amendment- The table of sections of subchapter I of chapter 201 of title 49, United States Code, is amended by adding after the item relating to section 20115 the following new item:

^ 20116. Rulemaking process.'

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

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

^ (a) In General- (1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary--

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

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

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

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

^ (2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase 6 Gage Restraint Measurement System vehicles and 5 track geometry vehicles to enable the deployment of 1 Gage Restraint

Measurement System vehicle and 1 track geometry vehicle in each region.

` (3) There are authorized to be appropriated to the Secretary \$18,000,000 for the period encompassing fiscal years 2008 through 2011 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

` (4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2008 through 2011 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.

` (5) There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2011 such sums as may be necessary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas.'

TITLE II--EMPLOYEE FATIGUE

SEC. 201. HOURS OF SERVICE REFORM.

(a) Definitions- Section 21101(4) of title 49, United States Code, is amended by striking `employed by a railroad carrier'.

(b) Limitation on Duty Hours of Signal Employees- Section 21104 of title 49, United States Code, is amended--

(1) by amending subsection (a) to read as follows:

` (a) General- Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee, and a railroad contractor and its officers and agents may not require or allow a signal employee, to remain or go on duty--

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

` (2) for a period in excess of 12 consecutive hours; or

` (3) unless that employee has had at least one period of at least 24 consecutive hours off duty in the past 7 consecutive days.

The Secretary may waive paragraph (3) if a collective bargaining agreement provides a different arrangement and such arrangement provides an equivalent level of safety.';

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

(3) in subsection (c)--

(A) by inserting ` for not more than 3 days during a period of 7 consecutive days' after ` 24 consecutive hours'; and

(B) by adding at the end the following: ` A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.';

(4) by adding at the end the following new subsections:

` (d) Communication During Time Off Duty- During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier, and its managers, supervisors, officers, and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation posing potential risks to the employee's safety or health.

` (e) Exclusivity- The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours, or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Safety Administration.'.

(c) Limitation on Duty Hours of Train Employees- Section 21103 of title 49, United States Code, is amended--

(1) by amending subsection (a) to read as follows:

^ (a) General- Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty--

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

^ (2) for a period in excess of 12 consecutive hours; or

^ (3) unless that employee has had at least one period of at least 24 consecutive hours off duty in the past 7 consecutive days.

The Secretary may waive paragraph (3) if a collective bargaining agreement provides a different arrangement and such arrangement provides an equivalent level of safety.';

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

^ (4)(A)(i) Except as provided in clauses (ii) and (iii), time spent in deadhead transportation to a duty assignment, time spent waiting for deadhead transportation, and time spent in deadhead transportation from a duty assignment to a place of final release is time on duty.

^ (ii) Time spent waiting for deadhead transportation and time spent in deadhead transportation from a duty assignment to a place of final release is neither time on duty nor time off duty in situations involving delays in the operations of the railroad carrier, when the delays were caused by any of the following:

^ (I) A casualty.

^ (II) An accident.

^ (III) A track obstruction.

^ (IV) An act of God.

- ˘ (V) A weather event causing a delay.
 - ˘ (VI) A snowstorm.
 - ˘ (VII) A landslide.
 - ˘ (VIII) A track or bridge washout.
 - ˘ (IX) A derailment.
 - ˘ (X) A major equipment failure which prevents a train from advancing.
 - ˘ (XI) Other delay from a cause unknown or unforeseeable to a railroad carrier and its officers and agents in charge of the employee when the employee left a designated terminal.
- ˘ (iii) In addition to any time qualifying as neither on duty nor off duty under clause (ii), at the election of the railroad carrier, time spent waiting for deadhead transportation and time spent in deadhead transportation to the place of final release may be treated as neither time on duty nor time off duty, subject to the following limitations:
- ˘ (I) Not more than 40 hours a month may be elected by the railroad carrier, for an employee, during the period from the date of enactment of the Federal Railroad Safety Improvement Act of 2007 to one year after such date of enactment.
 - ˘ (II) Not more than 30 hours a month may be elected by the railroad carrier, for an employee, during the period beginning one year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and ending two years after such date of enactment.
 - ˘ (III) Not more than 10 hours a month may be elected by the railroad carrier, for an employee, during the period beginning two years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007.
- ˘ (B) Each railroad carrier shall report to the Secretary of Transportation, in accordance with procedures contained in 49 CFR

228.19, each instance within 30 days after the calendar month in which the instance occurs that a member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, exceeds 12 consecutive hours, including--

` (i) time on duty; and

` (ii) time spent waiting for deadhead transportation and the time spent in deadhead transportation from a duty assignment to the place of final release, that is not time on duty.

` (C) If--

` (i) the time spent waiting for deadhead transportation, and the time spent in deadhead transportation from a duty assignment to the place of final release, that is not time on duty; plus

` (ii) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the train employee with additional time off duty equal to the number of hours that such sum exceeds 12 hours.'; and

(3) by adding at the end the following new subsection:

` (d) Communication During Time Off Duty- During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7), a railroad carrier, and its managers, supervisors, officers, and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation posing potential risks to the employee's safety or health.'

SEC. 202. EMPLOYEE SLEEPING QUARTERS.

Section 21106 of title 49, United States Code, is amended--

(1) by inserting ` (a) In General- ' before ` A railroad carrier'; and

(2) by adding at the end the following new subsection:

` (b) Camp Cars- Effective 12 months after the date of enactment of this subsection, a railroad carrier and its officers and agents may not provide sleeping quarters through the use of camp cars, as defined in Appendix C to part 228 of title 49 of the Code of Federal Regulations, for employees and any individuals employed to maintain the right of way of a railroad carrier.'

SEC. 203. FATIGUE MANAGEMENT PLANS.

(a) Amendment- Chapter 211 of title 49, United States Code, is amended by adding at the end the following new section:

Sec. 21109. Fatigue management plans

` (a) Plan Submission-

` (1) REQUIREMENT- Each railroad carrier shall submit to the Secretary of Transportation, and update at least once every 2 years, a fatigue management plan that is designed to reduce the fatigue experienced by railroad employees and to reduce the likelihood of accidents and injuries caused by fatigue. The plan shall address the safety effects of fatigue on all employees performing safety sensitive functions, including employees not covered by this chapter. The plan shall be submitted not later than 1 year after the date of the enactment of this section, or not later than 45 days prior to commencing operations, whichever is later.

` (2) CONTENTS OF PLAN- The fatigue management plan shall--

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

` (B) include the railroad carrier's--

` (i) rationale for including and not including each element described in subsection (b)(2) in the plan;

` (ii) analysis supporting each element included in the plan;
and

˘ (iii) explanations for how each element in the plan will reduce the risk associated with fatigue;

˘ (C) describe how every condition on the railroad carrier's property, and every type of employee, that is likely to be affected by fatigue is addressed in the plan; and

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

˘ (3) APPROVAL- (A) The Secretary shall review each proposed plan and approve or disapprove such plan based on whether the requirements of this section are sufficiently and appropriately addressed and the proposals are adequately justified in the plan.

˘ (B) If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific points in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. If a railroad carrier does not submit a plan (or, when directed by the Secretary, an amended plan), or if a railroad carrier's amended plan is not approved by the Secretary, the Secretary shall prescribe a fatigue management plan for the railroad carrier.

˘ (4) EMPLOYEE PARTICIPATION- (A) Each affected railroad carrier shall consult with, and employ good faith and use its best efforts to reach agreement by consensus with, all of its directly affected employee groups on the contents of the fatigue management plan, and, except as provided in subparagraph (C), shall jointly with such groups submit the plan to the Secretary.

˘ (B) In the event that labor organizations represent classes or crafts of directly affected employees of the railroad carrier, the railroad carrier shall consult with these organizations in drafting the plan. The Secretary may provide technical assistance and guidance to such parties in the drafting of the plan.

˘ (C) If the railroad carrier and its directly affected employees (including any labor organization representing a class or craft of directly affected employees of the railroad carrier) cannot reach consensus on the proposed contents of the plan, then--

- ˘ (i) the railroad carrier shall file the plan with the Secretary; and
- ˘ (ii) directly affected employees and labor organizations representing a class or craft of directly affected employees may, at their option, file a statement with the Secretary explaining their views on the plan on which consensus was not reached.

˘ (b) Elements of the Fatigue Management Plan-

˘ (1) CONSIDERATION OF VARYING CIRCUMSTANCES- Each plan filed with the Secretary under the procedures of subsection (a) shall take into account the varying circumstances of operations by the railroad carrier on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

˘ (2) ISSUES AFFECTING ALL EMPLOYEES PERFORMING SAFETY SENSITIVE FUNCTIONS- The railroad carrier shall consider the need to include in its fatigue management plan elements addressing each of the following issues:

˘ (A) Education and training on the physiological and human factors that affect fatigue, as well as strategies to counter fatigue, based on current and evolving scientific and medical research and literature.

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

˘ (C) Effects on employee fatigue of emergency response involving both short-term emergency situations, including derailments, and long-term emergency situations, including natural disasters.

˘ (D) Scheduling practices involving train lineups and calling times, including work/rest cycles for shift workers and on-call employees that permit employees to compensate for cumulative sleep loss by guaranteeing a minimum number of consecutive days off (exclusive of time off due to illness or injury).

˘ (E) Minimizing the incidence of fatigue that occurs as a result of

working at times when the natural circadian rhythm increases fatigue.

` (F) Alertness strategies, such as policies on napping, to address acute sleepiness and fatigue while an employee is on duty.

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

` (H) In connection with the scheduling of a duty call, increasing the number of consecutive hours of rest off duty, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

` (I) Avoiding abrupt changes in rest cycles for employees returning to duty after an extended absence due to circumstances such as illness or injury.

` (J) Additional elements as the Secretary considers appropriate.

` (c) Compliance and Enforcement-

` (1) COMPLIANCE REQUIREMENT- Effective upon approval or prescription of a fatigue management plan, compliance with that fatigue management plan becomes mandatory and enforceable by the Secretary.

` (2) EFFECTIVE DATE- A fatigue management plan may include effective dates later than the date of approval of the plan, and may include different effective dates for different parts of the plan.

` (3) AUDITS- To enforce this section, the Secretary may conduct inspections and periodic audits of a railroad carrier's compliance with its fatigue management plan.

` (d) Definition- For purposes of this section the term ` directly affected employees' means employees, including employees of an independent contractor or subcontractor, to whose hours of service the terms of a fatigue management plan specifically apply.'

(b) Table of Sections Amendment- The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following

new item:

` 21109. Fatigue management plans.'.

SEC. 204. REGULATORY AUTHORITY.

(a) Amendment- Chapter 211 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 21110. Regulatory authority

` The Secretary of Transportation may by regulation--

` (1) reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter, based on scientific and medical research; or

` (2) increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter, based on scientific and medical research.'.

(b) Table of Sections Amendment- The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following new item:

` 21110. Regulatory authority.'.

SEC. 205. CONFORMING AMENDMENT.

Section 21303(c) of title 49, United States Code, is amended by striking `officers and agents' and inserting `managers, supervisors, officers, and agents'.

TITLE III--BRIDGE SAFETY

SEC. 301. RAILROAD BRIDGE SAFETY ASSURANCE.

Not later than 12 months after the date of enactment of this Act, the Federal Railroad Safety Administration shall implement regulations requiring owners

of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The regulations shall, at a minimum--

(1) require each track owner to--

(A) develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(B) ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

(C) maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

(D) develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

(E) conduct regular comprehensive inspections of each bridge, at least once per year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

(F) ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

(G) ensure that an engineer who is competent in the field of railroad bridge engineering--

(i) is responsible for the development of all inspection procedures;

(ii) reviews all inspection reports; and

(iii) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

(H) designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems;

(2) instruct Administration bridge inspectors to obtain copies of the most recent bridge management programs and procedures of each railroad within the inspector's areas of responsibility, and require that inspectors use those programs when conducting bridge inspections; and

(3) establish a program to review bridge inspection and maintenance data from railroads and Administration bridge inspectors periodically.

TITLE IV--GRADE CROSSINGS

SEC. 401. TOLL-FREE NUMBER TO REPORT GRADE CROSSING PROBLEMS.

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

Sec. 20152. Emergency notification of grade crossing problems

Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall require each railroad carrier to--

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

- ˘ (A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads; and
 - ˘ (B) disabled vehicles blocking railroad tracks at such grade crossings;
- ˘ (2) upon receiving a report of a malfunction or disabled vehicle pursuant to paragraph (1), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;
- ˘ (3) upon receiving a report of a malfunction or disabled vehicle pursuant to paragraph (1), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities appropriate to responding to the hazardous circumstance; and
- ˘ (4) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum--
- ˘ (A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;
 - ˘ (B) an explanation of the purpose of that toll-free number as described in paragraph (1); and
 - ˘ (C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

The Secretary of Transportation shall implement this section through appropriate regulations.'.

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

(a) In General- Subchapter II of chapter 201 of title 49, United States Code,

is amended by adding at the end the following new section:

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

(a) In General- Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require each railroad carrier to remove from its rights-of-way at all public highway-rail grade crossings, and at all private highway-rail grade crossings open to unrestricted public access (as declared in writing by the holder of the crossing right), grass, brush, shrubbery, trees, and other vegetation which may obstruct the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of the train's approach, and to maintain its rights-of-way at all such crossings free of such vegetation. In prescribing the regulations, the Secretary shall take into consideration to the extent practicable--

(1) the type of warning device or warning devices installed at the crossing;

(2) factors affecting the timeliness and effectiveness of roadway user decisionmaking, including the maximum allowable roadway speed, maximum authorized train speed, angle of intersection, and topography;

(3) the presence or absence of other sight distance obstructions off the railroad right-of-way; and

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

(b) Protected Vegetation- In promulgating regulations pursuant to this section, the Secretary may make allowance for preservation of trees and other ornamental or protective growth where State or local law or policy would otherwise protect the vegetation from removal and where the roadway authority or private crossing holder is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes appropriate temporary and permanent action to abate the hazard to roadway users (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).

(c) No Preemption- Notwithstanding section 20106, subsections (a) and (b) of this section do not prohibit a State from continuing in force, or from

enacting, a law, regulation, or order requiring the removal of obstructive vegetation from a railroad right-of-way for safety reasons that is more stringent than the requirements of the regulations prescribed pursuant to this section.

` (d) Model Legislation- Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary, after consultation with the Federal Railroad Safety Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions at highway-rail grade crossings that are equipped solely with passive warnings, such as permanent structures, temporary structures, and standing railroad equipment, as recommended by the Inspector General of the Department of Transportation in Report No. MH-2007-044.'

(b) Conforming Amendment- The table of sections for such subchapter II of chapter 201 is amended by inserting after the item relating to section 20155 the following new item:

` 20156. Roadway user sight distance at highway-rail grade crossings.'

SEC. 403. GRADE CROSSING SIGNAL VIOLATIONS.

(a) Amendments- Section 20151 of title 49, United States Code, is amended--

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

` Sec. 20151. Railroad trespassing, vandalism, and signal violation prevention strategy';

(2) in subsection (a)--

(A) by striking `and vandalism affecting railroad safety' and inserting in lieu thereof `, vandalism affecting railroad safety, and violations of grade crossing signals';

(B) by inserting `, concerning trespassing and vandalism,' after `such evaluation and review'; and

(C) by inserting `The second such evaluation and review,

concerning violations of grade crossing signals, shall be completed before April 1, 2008.' after `November 2, 1994.';

(3) in the subsection heading of subsection (b), by inserting `for Trespassing and Vandalism Prevention' after `Outreach Program';

(4) in subsection (c)--

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

(B) by inserting `(1)' after `Model Legislation- ';

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

`(2) Within 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary, after consultation with State and local governments, railroad carriers, and rail labor organizations, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of grade crossing signals.'; and

(5) by adding at the end the following new subsection:

`(d) Definition- For purposes of this section, the term `violation of grade crossing signals' includes any action by a motorist, unless directed by an authorized safety officer--

`(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

`(2) to drive through a flashing grade crossing signal;

`(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

`(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.'.

(b) Conforming Amendment- The item relating to section 20151 in the table

of sections for subchapter II of chapter 201 of title 49, United States Code, is amended to read as follows:

“ 20151. Railroad trespassing, vandalism, and signal violation prevention strategy.”.

SEC. 404. NATIONAL CROSSING INVENTORY.

(a) In General- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

“ Sec. 20157. National crossing inventory

“ (a) Initial Reporting of Information About Previously Unreported Crossings- Not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall--

“ (1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates; or

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

“ (b) Updating of Crossing Information- (1) On a periodic basis beginning not later than 3 years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall--

“ (A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates; or

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

“ (2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Federal Railroad Safety Improvement Act

of 2007 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

` (c) Rulemaking Authority- The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act of 2007, until such provision is superseded by a regulation issued under this section.

` (d) Definitions- In this section:

` (1) CROSSING- The term ` crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where--

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

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

` (2) STATE- The term ` State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.'

(b) Conforming Amendment- The table of sections for such subchapter II of chapter 201 is amended by adding at the end the following new item:

` 20157. National crossing inventory.'

(c) Reporting and Updating- Section 130 of title 23, United States Code, is amended by adding at the end the following:

` (I) National Crossing Inventory-

` (1) INITIAL REPORTING OF CROSSING INFORMATION- Not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

` (2) PERIODIC UPDATING OF CROSSING INFORMATION- On a periodic basis beginning not later than 3 years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

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

` (4) DEFINITIONS- In this subsection, the terms `crossing' and `State' have the meaning given those terms by section 20157(d)(1) and (2), respectively, of title 49.'

(d) Civil Penalties- (1) Section 21301(a)(1) of title 49, United States Code, is amended--

(A) by inserting `with section 20157 or' after `comply' in the first sentence; and

(B) by inserting `section 20157 of this title or' after `violating' in the second sentence.

(2) Section 21301(a)(2) of title 49, United States Code, is amended by

inserting `The Secretary shall impose a civil penalty for a violation of section 20157 of this title.' after the first sentence.

SEC. 405. ACCIDENT AND INCIDENT REPORTING.

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

SEC. 406. AUTHORITY TO BUY PROMOTIONAL ITEMS TO IMPROVE RAILROAD CROSSING SAFETY AND PREVENT RAILROAD TRESPASS.

Section 20134(a) of title 49, United States Code, is amended by adding at the end the following: `The Secretary may purchase promotional items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to prevent trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.'

SEC. 407. OPERATION LIFESAVER.

(a) Grant- The Federal Railroad Safety Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, bicycle, motor vehicle, and other incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. This includes development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. It will also include school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations.

(b) Pilot Program- Funds provided under subsection (a) may also be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted, sustained community outreach on the subjects described in subsection (a). Such pilot program shall be established in States and communities where risk is greatest, in terms of the number of crashes and population density near the railroad, including residences, businesses, and

schools. Such pilot program shall be carried out through grants to Operation Lifesaver for work with community leaders, school districts, and public and private partners to identify the communities at greatest risk, and through development of an implementation plan. An evaluation component requirement shall be included in the grant to measure results.

(c) Authorization of Appropriations- There are authorized to be appropriated to the Federal Railroad Safety Administration for carrying out this section \$1,500,000 for each of the fiscal years 2008 through 2011.

SEC. 408. STATE ACTION PLAN.

(a) In General- The Secretary shall identify on an annual basis the top 10 States that have had the most highway-rail grade crossing collisions over the past year. The Secretary shall work with each of these States to develop a State Grade Crossing Action Plan that identifies specific solutions for improving safety at crossings, particularly at crossings that have experienced multiple accidents.

(b) Review and Approval- Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected State as to the specific points in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary.

SEC. 409. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) Amendment- Chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following:

Sec. 20165. Fostering introduction of new technology to improve safety at highway-rail grade crossings

(a) Findings- (1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life and serious personal injury and also threaten the safety of rail transportation.

(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for

optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system-- approximately one for each route mile on the general rail system.

` (3) Conventional highway traffic control devices such as flashing lights and gates are effective in warning motorists of a train's approach to an equipped crossing.

` (4) Since enactment of the Highway Safety Act of 1973, over \$4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

` (5) The emergence of new technologies supporting Intelligent Transportation Systems presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

` (6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

` (7) Federal Railroad Safety Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for qualification of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration's Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

` (b) Policy- It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.'

(b) Table of Sections Amendment- The table of sections for chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new item:

` 20165. Fostering introduction of new technology to improve safety at highway-rail grade crossings.'

TITLE V--ENFORCEMENT

SEC. 501. ENFORCEMENT.

Section 20112(a) of title 49, United States Code, is amended--

(1) by inserting `this part or' in paragraph (1) after `enforce,';

(2) by striking `21301' in paragraph (2) and inserting `21301, 21302, or 21303';

(3) by striking `subpena' in paragraph (3) and inserting `subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition'; and

(4) by striking `chapter.' in paragraph (3) and inserting `part.'.

SEC. 502. CIVIL PENALTIES.

(a) General Violations of Chapter 201- Section 21301(a)(2) of title 49, United States Code, is amended--

(1) by striking `\$10,000' and inserting `\$25,000'; and

(2) by striking `\$20,000' and inserting `\$100,000'.

(b) Accident and Incident Violations of Chapter 201; Violations of Chapters 203 Through 209- Section 21302(a)(2) of title 49, United States Code, is amended--

(1) by striking `\$10,000' and inserting `\$25,000'; and

(2) by striking `\$20,000' and inserting `\$100,000'.

(c) Violations of Chapter 211- Section 21303(a)(2) of title 49, United States Code, is amended--

(1) by striking `\$10,000' and inserting `\$25,000'; and

(2) by striking `\$20,000' and inserting `\$100,000'.

SEC. 503. CRIMINAL PENALTIES.

Section 21311(b) of title 49, United States Code, is amended by striking ` \$500' both places it appears and inserting ` \$2,500'.

SEC. 504. EXPANSION OF EMERGENCY ORDER AUTHORITY.

Section 20104(a)(1) of title 49, United States Code, is amended by striking ` death or personal injury' and inserting ` death, personal injury, or significant harm to the environment'.

SEC. 505. ENFORCEMENT TRANSPARENCY.

(a) Amendment- Subchapter I of chapter 201 of title 49, United States Code, is amended by adding at the end the following:

Sec. 20118. Enforcement transparency

` (a) In General- Not later than December 31, 2007, the Secretary of Transportation shall--

` (1) provide a monthly updated summary to the public of all railroad enforcement actions taken by the Secretary or the Federal Railroad Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final;

` (2) include in each such summary identification of the railroad carrier or person involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

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

` (b) Electronic Availability- Each summary under this section shall be made available to the public by electronic means.

` (c) Relationship to FOIA- Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.'

(b) Table of Sections Amendment- The table of sections of subchapter I of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

` 20118. Enforcement transparency.'

SEC. 506. INTERFERING WITH OR HAMPERING SAFETY INVESTIGATIONS.

(a) Amendment- Subchapter II of chapter 213 of title 49, United States Code, is amended by adding at the end the following new section:

` Sec. 21312. Interfering with or hampering safety investigations

` (a) In General- It shall be unlawful for any person knowingly to interfere with, obstruct, or hamper an investigation by the Secretary of Transportation conducted under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title.

` (b) Intimidation and Harassment- It shall be unlawful for any person, with regard to an investigation conducted by the Secretary under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title, knowingly or intentionally to use intimidation, harassment, threats, or physical force toward another person, or corruptly persuade another person, or attempt to do so, or engage in misleading conduct toward another person, with the intent or effect of--

` (1) influencing the testimony or statement of any person;

` (2) hindering, delaying, preventing, or dissuading any person from--

` (A) attending a proceeding or interview with, testifying before, or providing a written statement to, a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector or State railroad safety inspector, or their superiors;

` (B) communicating or reporting to a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector, or a State railroad safety inspector, or their superiors, information relating to the commission or possible commission of one or more violations of this part or of chapter 51 of this title; or

` (C) recommending or using any legal remedy available to the Secretary under this title; or

` (3) causing or inducing any person to--

` (A) withhold testimony, or a statement, record, document, or other object, from the investigation;

` (B) alter, destroy, mutilate, or conceal a statement, record, document, or other object with intent to impair the integrity or availability of the statement, record, document, or other object for use in the investigation;

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

` (D) be absent from an investigation to which such person has been summoned by legal process.

` (c) Elements of Violation- (1) For the purposes of this section, the testimony or statement, or the record, document, or other object, need not be admissible in evidence or free from a claim of privilege.

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

` (d) Criminal Penalties- A person violating this section shall be fined under title 18, imprisoned for not more than 1 year, or both.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 213 of title 49, United States Code, is amended by adding at the end the following new item:

21312. Interfering with or hampering safety investigations.'

SEC. 507. RAILROAD RADIO MONITORING AUTHORITY.

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

(c) Railroad Radio Communications-

(1) IN GENERAL- To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct the following activities in circumstances the Secretary finds to be reasonable:

(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is--

(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

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

(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

(C) Receiving or assisting in receiving the communication (or any information therein contained).

(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

(E) Recording the communication by any means, including

writing and tape recording.

` (2) ACCIDENT PREVENTION AND ACCIDENT INVESTIGATION- The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident prevention and accident investigation.

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

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

` (ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

` (B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

` (C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

` (D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

` (E) Nothing in this subsection shall be construed to impair or

otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

^ (4) APPLICATION WITH OTHER LAW- Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.'

SEC. 508. INSPECTOR STAFFING.

The Secretary shall increase the total number of positions for railroad safety inspection and enforcement personnel at the Federal Railroad Safety Administration so that by December 31, 2008, the total number of such positions is at least 500, by December 31, 2009, the total number of such positions is at least 600, by December 31, 2010, the total number of such positions is at least 700, and by December 31, 2011, the total number of positions is at least 800.

TITLE VI--MISCELLANEOUS PROVISIONS

SEC. 601. POSITIVE TRAIN CONTROL SYSTEMS.

(a) In General- Not later than 12 months after the date of enactment of this Act, each Class I railroad carrier shall develop and submit to the Secretary a plan for implementing a positive train control system by December 31, 2014, that will minimize the risk of train collisions and over-speed derailments, provide protection to maintenance-of-way workers within established work zone limits, and minimize the risk of the movement of a train through a switch left in the wrong position.

(b) Safety Redundancy- The positive train control system required under subsection (a) shall provide a safety redundancy to minimize the risk of accidents by overriding human performance failures involving train movements on main line tracks.

(c) Contents of Plan- The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a), and shall require that each railroad carrier include in the plan, at a minimum--

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

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

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

(4) any other element the Secretary considers appropriate.

(d) Review and Approval- Not later than 90 days after the Secretary receives a plan, the Secretary shall review and approve it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific points in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroads are complying with their plans.

(e) Report- Not later than December 31, 2011, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems.

(f) Authority To Extend Deadline- The Secretary may extend the date for implementation required under subsection (a) for any Class I railroad carrier for a period of not more than 24 months if the Secretary determines such an extension is necessary--

(1) to implement a more effective positive train control system than would be possible under the date established in subsection (a);

(2) to obtain interoperability between positive train control systems implemented by railroad carriers;

(3) for the Secretary to determine that a positive train control system meets the requirements of this section and regulations issued by the Secretary; or

(4) to otherwise enhance safety.

(g) Certification- The Secretary shall not permit the installation of any positive train control system or component unless the Secretary has certified that such system or component has not experienced a safety-critical failure during prior testing and evaluation. If such a failure has occurred, the system or component may be repaired and evaluated in accordance with part 236 of title 49 of the Code of Federal Regulations and may be installed when the Secretary certifies that the factors causing the failure have been corrected and approves the system for installation in accordance with such part 236.

(h) Notice- Not later than 30 days after the Secretary grants an extension under subsection (f), the Secretary shall publish a notice in the Federal Register that identifies the Class I railroad carrier that is being granted the extension, the reasons for granting the extension, and the length of the extension.

SEC. 602. WARNING IN NONSIGNALLED TERRITORY.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20158. Warning in nonsignaled territory

Not later than 12 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require railroads, with respect to main lines in nonsignaled territory without a train speed enforcement system that would stop a train in advance of a misaligned switch, to either--

(1) install an automatically activated device, in addition to the switch banner, that will, visually or electronically, compellingly capture the attention of the employees involved with switch operations and clearly convey the status of the switch both in daylight and darkness; or

(2) operate trains at speeds that will allow them to be safely stopped in advance of misaligned switches.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the

end the following new item:

20158. Warning in nonsignaled territory.'

SEC. 603. TRACK SAFETY.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20159. Track safety

(a) Rail Integrity- Not later than 12 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations to require railroad carriers to manage the rail in their tracks so as to minimize accidents due to internal rail flaws. The regulations shall, at a minimum--

(1) require railroad carriers to conduct ultrasonic or other appropriate inspections to ensure that rail used to replace defective segments of existing rail is free from internal defects;

(2) require railroad carriers to perform rail integrity inspections to manage an annual service failure rate of less than .1 per track mile on high-risk corridors such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate; and

(3) encourage railroad carrier use of advanced rail defect inspection equipment and similar technologies as part of a comprehensive rail inspection program.

(b) Concrete Crossties- Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary shall develop and implement regulations for all classes of track for concrete crossties that address, at a minimum--

(1) limits for rail seat abrasion;

(2) concrete crosstie pad wear limits;

- ` (3) missing or broken rail fasteners;
- ` (4) loss of appropriate toeload pressure;
- ` (5) improper fastener configurations; and
- ` (6) excessive lateral rail movement.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

- ` 20159. Track safety.'

SEC. 604. CERTIFICATION OF CONDUCTORS.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

` Sec. 20160. Certification of conductors

` (a) Regulations- Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that conductors on passenger trains be trained in security, first aid, and emergency preparedness.

` (b) Program Design- The program established under this section shall be designed based on the requirements of section 20135(b) through (e).'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

- ` 20160. Certification of conductors.'

SEC. 605. MINIMUM TRAINING STANDARDS.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States

Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20161. Minimum training standards

The Secretary of Transportation shall, not later than 180 days after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, establish--

(1) minimum training standards for each class and craft of railroad employees, which shall require railroad carriers to qualify or otherwise document the proficiency of their employees in each class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

(2) a requirement for railroad carriers to submit their training and qualification programs to the Federal Railroad Safety Administration for approval; and

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that railroad employees charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, or injury. In implementing the requirements of this paragraph, the Secretary shall take into consideration existing training programs of railroad carriers.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

20161. Minimum training standards.'

SEC. 606. PROMPT MEDICAL ATTENTION.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20162. Prompt medical attention

(a) Prohibition- A railroad or person covered under this title shall not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest medically appropriate hospital.

(b) Discipline- A railroad or person covered under this title shall not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician. For purposes of this subsection, discipline means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

20162. Prompt medical attention.'

SEC. 607. EMERGENCY ESCAPE BREATHING APPARATUS.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20163. Emergency escape breathing apparatus

Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require railroads to--

(1) provide emergency escape breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release; and

(2) provide their crewmembers with appropriate training for using the breathing apparatus.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

20163. Emergency escape breathing apparatus.'

SEC. 608. LOCOMOTIVE CAB ENVIRONMENT.

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

SEC. 609. TUNNEL INFORMATION.

Not later than 120 days after the date of enactment of this Act, each railroad carrier (as defined in section 20102 of title 49, United States Code) shall, with respect to each of its tunnels which--

(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of Toxic Inhalation Hazardous materials per year,

maintain for at least two years historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall also provide periodic briefings to the government of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information provided by the railroad carrier under this section, consistent with national security interests.

SEC. 610. MUSEUM LOCOMOTIVE STUDY.

(a) Study- The Secretary of Transportation shall conduct a study of its regulations relating to safety inspections of diesel-electric locomotives and equipment and the safety consequences of requiring less frequent inspections of such locomotives which are operated by museums, including annual inspections or inspections based on accumulated operating hours. The study shall include an analysis of the safety consequences of requiring less frequent air brake inspections of such locomotives.

(b) Report- Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 611. CERTIFICATION OF CARMEN.

(a) Amendment- Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

Sec. 20164. Certification of carmen

(a) Regulations- Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the certification of carmen, including all employees performing mechanical inspections, brake system inspections, or maintenance on freight and passenger rail cars.

(b) Program Design- The program established under this section shall be designed by the Secretary of Transportation based on the requirements of parts 215, 221, 231, 232, and 238 of title 49 of the Code of Federal Regulations.'

(b) Table of Sections Amendment- The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

20164. Certification of carmen.'

SEC. 612. TRAIN CONTROL SYSTEMS DEPLOYMENT GRANTS.

(a) Grant Program- The Secretary of Transportation shall establish a grant program for the deployment of train control and component technologies, including--

(1) communications-based train control systems designed to prevent train movement authority violations, over-speed violations, and train collision accidents caused by noncompliance with authorities as well as to provide additional protections to roadway workers and protect against open switches in nonsignal territories;

(2) remote control power switch technology;

(3) switch point monitoring technology; and

(4) track integrity circuit technology.

(b) Grant Criteria-

(1) ELIGIBILITY- Grants shall be made under this section to eligible passenger and freight railroad carriers and State and local governments for projects described in subsection (a) that have a public benefit of improved safety or network efficiency.

(2) IMPLEMENTATION PLAN- An applicant for a grant made pursuant to this section shall file with the Secretary a train control implementation plan that shall describe the overall safety and efficiency benefits of installing systems described in subsection (a) and the stages for implementing such systems.

(3) CONSIDERATION- The Secretary shall give priority consideration to applications that benefit both passenger and freight safety and efficiency, or incentivize train control technology deployment on high-risk corridors such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate.

(c) Authorization of Appropriations- (1) There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2008 through 2011 to carry out this section.

(2) Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 613. INFRASTRUCTURE SAFETY INVESTMENT REPORTS.

Not later than February 15th of each year, each Class I railroad shall file a report with both the Federal Railroad Safety Administration and the Surface Transportation Board detailing, by State, the infrastructure investments and maintenance they have performed on their system, including but not limited to track, locomotives, railcars, and grade crossings, in the previous calendar year to ensure the safe movement of freight, and their plans for such investments and maintenance in the current calendar year. Such reports shall be publicly available, and any interested party may file comments about the reports, which also shall be made public.

SEC. 614. EMERGENCY GRADE CROSSING SAFETY IMPROVEMENTS.

(a) Establishment of Program- The Secretary of Transportation shall establish a grant program to provide for emergency grade crossing safety improvements, including the installation, repair, or improvement of--

- (1) railroad crossing signals, gates, and related technologies, including median barriers and four quadrant gates;
- (2) highway traffic signalization, including highway signals tied to railroad signal systems;
- (3) highway lighting and crossing approach signage;
- (4) roadway improvements, including railroad crossing panels and surfaces; and
- (5) related work to mitigate dangerous conditions.

(b) Grant Criteria-

(1) ELIGIBILITY- The Secretary may make grants to State and local governments under this section to provide emergency grade crossing safety improvements at a location where there has been a railroad grade crossing collision with a school bus, or collision involving three or more serious bodily injuries or fatalities.

(2) MAXIMUM AMOUNT- Grants awarded under paragraph (1) shall not

exceed \$250,000 per crossing.

(3) NO STATE OR LOCAL SHARE- The Secretary shall not require the contribution of a State or local share as a condition of the grant.

(c) Authorization of Appropriations- There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2008 through 2011 to carry out this section. Amounts made available under this subsection shall remain available until expended.

SEC. 615. LOCOMOTIVE HORN REQUIREMENT WAIVER.

Section 20153(c) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(3) The Secretary, in reviewing applications for waivers or exemptions, shall consider horn noise and the impact of such noise on the local community and the unique characteristics of the community.”.

SEC. 616. SAFETY INSPECTIONS IN MEXICO.

(a) In General- Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary of Transportation certifies that--

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States, including comparable enforcement procedures;

(2) the Mexican counterparts to the Federal Railroad Safety Administration are effectively enforcing such standards;

(3) the inspections are being performed by employees receiving comparable classroom and on the job training as is the norm in the United States;

(4) inspection records are maintained in both English and Spanish, and such records are available to the Federal Railroad Safety Administration for review; and

(5) the Federal Railroad Safety Administration is permitted to perform

onsite inspections for the purpose of ensuring compliance with the requirements of this subsection.

(b) Hazardous Material Inspections- Notwithstanding subsection (a), no hazardous material inspections performed in Mexico shall be treated as having satisfied the applicable United States rail safety laws and regulations.

SEC. 617. SURFACE TRANSPORTATION BOARD JURISDICTION OVER SOLID WASTE FACILITIES.

Section 10501 of title 49, United States Code, is amended--

(1) by striking ` facilities,' in subsection (b)(2) and inserting ` facilities (except solid waste rail transfer facilities as defined in subsection (c)(3)(C)),'; and

(2) by adding at the end of subsection (c)(3) the following new subparagraph:

` (C) Nothing in this section preempts a State or local governmental authority from regulating solid waste rail transfer facilities. For purposes of this subparagraph, the term ` solid waste rail transfer facility' means the portion of any facility owned or operated by or on behalf of a rail carrier, at which occurs the--

` (i) collection, storage, or transfer, outside of original shipping containers;

` (ii) separation; or

` (iii) processing (including baling, crushing, compacting, and shredding),

of solid waste, as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).'

TITLE VII--RAIL PASSENGER DISASTER FAMILY ASSISTANCE

SEC. 701. SHORT TITLE.

This title may be cited as the ` Rail Passenger Disaster Family Assistance Act

of 2007'.

SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) In General- Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

Sec. 1139. Assistance to families of passengers involved in rail passenger accidents

(a) In General- As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall--

(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) Responsibilities of the Board- The Board shall have primary Federal responsibility for--

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

(2) communicating with the families of passengers involved in the accident as to the roles of--

(A) the organization designated for an accident under subsection (a)(2);

(B) Government agencies; and

^ (C) the rail passenger carrier involved,

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

^ (c) Responsibilities of Designated Organization- The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

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

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

^ (3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

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

^ (d) Passenger Lists-

^ (1) REQUESTS FOR PASSENGER LISTS-

^ (A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES- It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

` (B) REQUESTS BY DESIGNATED ORGANIZATION- The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

` (2) USE OF INFORMATION- The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

` (e) Continuing Responsibilities of the Board- In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident--

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

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

` (f) Use of Rail Passenger Carrier Resources- To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

` (g) Prohibited Actions-

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

` (2) UNSOLICITED COMMUNICATIONS- No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the

litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

^ (3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES- No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

^ (h) Definitions- In this section, the following definitions apply:

^ (1) RAIL PASSENGER ACCIDENT- The term `rail passenger accident' means any rail passenger disaster occurring in the provision of--

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

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

regardless of its cause or suspected cause.

^ (2) RAIL PASSENGER CARRIER- The term `rail passenger carrier' means a rail carrier providing--

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

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

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

` (3) PASSENGER- The term ` passenger' includes--

` (A) an employee of a rail passenger carrier aboard a train;

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

` (C) any other person injured or killed in the accident.

` (i) Limitation on Statutory Construction- Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

` (j) Relinquishment of Investigative Priority-

` (1) GENERAL RULE- This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

` (2) BOARD ASSISTANCE- If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.'

(b) Conforming Amendment- The table of sections for such chapter is amended by inserting after the item relating to section 1138 the following:

` 1139. Assistance 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.

(a) In General- Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

CHAPTER 251--FAMILY ASSISTANCE

Sec.

25101. Plans to address needs of families of passengers involved in rail passenger accidents.

Sec. 25101. Plans to address needs of families of passengers involved in rail passenger accidents

(a) Submission of Plans- Not later than 6 months after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

(b) Contents of Plans- A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

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

(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1139(a)(2) of this title or the services of other suitably trained individuals.

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

(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1139(a)(1) of this title, and to the organization designated for the accident under section 1139(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train

(whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

` (5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

` (6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

` (7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

` (8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

` (9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

` (10) An assurance that the rail passenger carrier will work with any organization designated under section 1139(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

` (11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1139(a)(2) of this title for services provided by the organization.

` (12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such

location.

` (13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

` (14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

` (15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

` (c) Limitation on Liability- A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

` (d) Definitions- In this section--

` (1) the terms `rail passenger accident' and `rail passenger carrier' have the meanings such terms have in section 1139 of this title; and

` (2) the term `passenger' means a person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

` (e) Limitation on Statutory Construction- Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.'

(b) Conforming Amendment- The table of chapters for subtitle V of title 49, United States Code, is amended by adding after the item relating to chapter 249 the following new item:

25101'.

SEC. 704. ESTABLISHMENT OF TASK FORCE.

(a) Establishment- The Secretary of Transportation, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers, and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of passenger rail carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) Model Plan and Recommendations- The task force established pursuant to subsection (a) shall develop--

(1) a model plan to assist passenger rail carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

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

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) Report- Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

Passed the House of Representatives October 17, 2007.

Attest:

LORRAINE C. MILLER,

Clerk.

END

