

A BILL

To authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2007, 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.

This Act may be cited as the "Federal Railroad Safety Improvement Act".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Amendment of title 49, United States Code.

Sec. 3. Table of contents.

TITLE I--RULEMAKING, INSPECTION, AND ENFORCEMENT AUTHORITY

Sec. 101. National crossing inventory.

Sec. 102. Transportation security.

Sec. 103. High-speed rail noise regulation.

Sec. 104. Railroad accident and incident reporting.

Sec. 105. Railroad radio monitoring authority.

Sec. 106. Technical amendments regarding enforcement by the Attorney General.

Sec. 107. Technical amendments to civil penalty provisions.

TITLE II--MISCELLANEOUS PROVISIONS

Sec. 201. Technical amendments to eliminate unnecessary provisions.

Sec. 202. Alternate names for chapters of subtitle V, part A.

Sec. 203. Authorization of appropriations.

TITLE I--RULEMAKING, INSPECTION, AND ENFORCEMENT AUTHORITY

SEC. 101. NATIONAL CROSSING INVENTORY.

(a) AMENDMENT.—Chapter 201 is amended by adding at the end the following new section:

“Sec. 20154. National crossing inventory

“(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act 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, 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 18 months after the date of enactment of the Federal Railroad Safety Improvement Act 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, 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 on or after the date of enactment of the Federal Railroad Safety Improvement Act, shall, not later than the date that is 18 months after the date of enactment of the 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.

“(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of this section, until such provision is superseded by a regulation issued under this section.

“(d) DEFINITIONS.—In this section—

“(1) ‘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 dedicated pedestrian pathway 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’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, or the Virgin Islands.”.

(b) TABLE OF SECTIONS AMENDMENT.--The table of sections for chapter 201 is amended by adding after the item relating to section 20153 the following new item:

“20154. National crossing inventory.”.

(c) AMENDMENT.--Section 130 of title 23, United States Code, is amended by inserting the following new subsection at the end:

“(k) NATIONAL CROSSING INVENTORY.--(1) Initial Reporting of Crossing Information.--Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, 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 18 months after the date of enactment of the Federal Railroad Safety Improvement Act 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, 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 section. The Secretary may enforce each provision of the Federal Railroad

Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of this subsection, until such provision is superseded by a regulation issued under this subsection.

“(4) Definitions.—In this subsection—

“(A) ‘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—

“(i) 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

“(ii) a dedicated pedestrian pathway 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.

“(B) ‘State’ includes the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.”.

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

(A) by striking the period at the end of the first sentence and substituting “or with section 20154.”; and

(B) in the second sentence, by inserting “or violating section 20154 of this title” between “chapter 201” and “is liable”.

(2) Section 21301(a)(2) is amended by inserting after the first sentence the following: “The Secretary shall subject a person to a civil penalty for a violation of section 20154 of this title.”.

SEC. 102. TRANSPORTATION SECURITY.

Section 20103(a) is amended to read as follows:

“(a) REGULATIONS AND ORDERS.--The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety, including security, supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

SEC. 103. HIGH-SPEED RAIL NOISE REGULATION.

(a) AMENDMENT.--Chapter 201, as amended by this Act, is further amended by adding a new section at the end as follows:

“Sec. 20155. High-speed rail noise regulation

“The Secretary of Transportation, with the concurrence of the Administrator of the Environmental Protection Agency, shall prescribe regulations specifying the maximum permissible sound energy emissions received along the right-of-way due to the passage of a high-speed train, including a magnetic levitation system, operating at speeds greater than 150 miles per hour. Railroad-related noise regulations prescribed under the Noise Control Act of 1972 (42 U.S.C. 4916(a)) shall govern noise emissions from the operation of high-speed rail systems and from locomotives, cars, and consists of locomotives and cars when operating at speeds equal to or less than 150 miles per hour.”.

(b) TABLE OF SECTIONS AMENDMENT.--The table of sections of chapter 201, as amended by this Act, is further amended by adding after new item 20154 the following new item:

“20155. High-speed rail noise regulation.”.

SEC. 104. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—On a periodic basis specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the specified period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.”.

SEC. 105. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following new subsections:

“(c) RAILROAD RADIO COMMUNICATIONS.--(1) 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 at reasonable times:

“(A) Intercepting a radio communication that is broadcast or transmitted over a frequency authorized for the use of one or more railroad carriers by the Federal Communications Commission, with or without making their presence known to the sender or other receivers of the communication and with or without obtaining the consent of the sender or other receivers of the communication.

"(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) 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, including, but not limited to, accident investigation.

"(3) (A) Subject to paragraph (F), information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except 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 sections 5122, 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 (3)(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) 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.

“(D) 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 paragraph 3(A).

“(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.

“(F) No information obtained by an activity authorized in paragraph (1)(A) that was undertaken solely for the purpose of accident investigation shall be introduced into evidence in any administrative or judicial proceeding in which civil or criminal penalties may be imposed.”.

“(4) Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18, United States Code, shall not apply to conduct authorized by and pursuant to this subsection.

“(d) DEFINITION.--In this section, ‘at reasonable times’ means at any time that the railroad carrier being inspected or investigated is performing its rail transportation business.”.

SEC. 106. TECHNICAL AMENDMENTS REGARDING ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) in paragraph (1), by inserting “this part, except for section 20109 of this title, or” before “a railroad safety regulation”;

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

(3) in paragraph (3), by inserting after “subpena” the following: “, request for production of documents or other tangible things, or request for testimony by deposition” and by striking “chapter” and substituting “part”.

SEC. 107. TECHNICAL AMENDMENTS TO CIVIL PENALTY PROVISIONS.

(a) CHAPTER 201 GENERAL VIOLATIONS.—Section 21301(a)(2), as amended by this Act, is further amended by inserting after “\$10,000” and after “\$20,000” the following: “or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410, 28 U.S.C. 2461 note)”.

(b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLATIONS AND CHAPTER 203-209 VIOLATIONS.—(1) Section 21302(a)(2) is amended by inserting after “\$10,000” and after “\$20,000” the following: “or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410, 28 U.S.C. 2461 note)”.

(2) Section 21302, as amended by this Act, is further amended by adding new subsections (c) and (d) at the end, to read as follows:

“(c) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

(c) CHAPTER 211 VIOLATIONS.—(1) Section 21303(a)(2) is amended by inserting after “\$10,000” and after “\$20,000” the following: “or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410, 28 U.S.C. 2461 note)”.

(2) Section 21303, as amended by this Act, is further amended by adding new subsections (d) and (e) at the end, to read as follows:

“(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“(e) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. TECHNICAL AMENDMENTS TO ELIMINATE UNNECESSARY PROVISIONS.

(a) AMENDMENTS.—Chapter 201, as amended by this Act, is further amended by striking--

(1) the second sentence of section 20103(f);

(2) section 20145;

(3) section 20146; and

(4) section 20150.

(b) TABLE OF SECTIONS AMENDMENTS.--The table of sections for chapter 201, as amended by this Act, is further amended by striking and reserving the items for the following sections: 20145, 20146, and 20150.

SEC. 202. ALTERNATE NAMES FOR CHAPTERS OF SUBTITLE V, PART A.

(a) AMENDMENT.--Section 20101 is amended by--

(1) revising the section heading to read as follows:

“Sec. 20101. Purpose and title of chapter”;

(2) designating the text of the section as subsection (a) and adding a subsection heading “PURPOSE.--”; and

(3) adding at the end of the section the following new subsection:

“(b) TITLE OF CHAPTER.--This chapter may be cited as the ‘Federal Railroad Safety Act’.”.

(b) AMENDMENT.--Section 20301 is amended by--

(1) revising the section heading to read as follows:

“Sec. 20301. Definition; nonapplication; and titles of provisions in chapter”; and

(2) adding at the end of the section the following new subsection:

“(c) TITLES OF PROVISIONS IN CHAPTER.--Sections 20301-20304 and 20306 of this chapter may be cited as the ‘Safety Appliance Act’. Section 20305 may be cited as the ‘Mail Car Inspection Act’.”.

(c) AMENDMENT.--Section 20501 is amended by--

(1) revising the section heading to read as follows:

“Sec. 20501. Definition; title of chapter”;

(2) designating the text of the section as subsection (a) and adding the subsection heading “DEFINITION.–”; and

(3) adding at the end of the section the following new subsection:

“(b) TITLE OF CHAPTER.–This chapter may be cited as the ‘Signal Inspection Act’.”.

(d) AMENDMENT.--Section 20701 is amended by–

(1) revising the section heading to read:

“Sec. 20701. Requirements for use; title of chapter”;

(2) designating the text of the section as subsection (a) and adding the subsection heading “REQUIREMENTS FOR USE.–”; and

(3) adding at the end of the section the following new subsection:

“(c) TITLE OF CHAPTER.–This chapter may be cited as the ‘Locomotive Inspection Act’.”.

(e) AMENDMENT.--Section 20901, as amended by this Act, is further amended by–

(1) revising the section heading to read as follows:

“Sec. 20901. Reports; title of chapter”; and

(2) adding at the end of the section the following new subsection:

“(c) TITLE OF CHAPTER.--This chapter may be cited as the ‘Accident Reports Act’.”.

(f) AMENDMENT.--Section 21101 is amended by–

(1) revising the section heading to read as follows:

“Sec. 21101. Definitions; title of chapter”;

(2) designating the text of the section as subsection (a) and adding the subsection heading “DEFINITIONS.–”; and

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

“(b) TITLE OF CHAPTER.--This chapter may be cited as the ‘Hours of Service Act’.”.

(g) AMENDMENT.--Section 21301, as amended by this Act, is further amended by–

(1) revising the section heading to read as follows:

“**Sec. 21301. Chapter 201 general violations; title of chapter**”; and

(2) adding at the end of the section the following new subsection:

“(d) TITLE OF CHAPTER.--This chapter may be cited as ‘Penalties for Railroad Safety Violations’.”.

(h) TABLES OF SECTIONS AMENDMENTS.–(1) The table of sections for chapter 201, as amended by this Act, is further amended by striking the existing item for section 20101 and substituting:

“20101. Purpose and title of chapter.”.

(2) The tables of sections for chapters 203-213, respectively, are amended by respectively–

(A) striking the existing item for section 20301 and substituting:

“20301. Definition; nonapplication; and titles of provisions in chapter.”;

(B) striking the existing item for section 20501 and substituting:

“20501. Definition; title of chapter.”;

(C) striking the existing item for section 20701 and substituting:

“20701. Requirements for use; title of chapter.”;

(D) striking the existing item for section 20901 and substituting:

“20901. Reports; title of chapter.”;

(E) striking the existing item for section 21101 and substituting:

“21101. Definitions; title of chapter.”; and

(F) striking the existing item for section 21301 and substituting:

“21301. Chapter 201 general violations; title of chapter.”.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) is amended–

(a) in subsection (a)(1), by striking “chapter” and substituting “part and to carry out chapter 51 of this title in all modes of transportation but with particular emphasis on the transportation or shipment of hazardous materials by railroad” and by striking subparagraphs (A) through (F);

(b) by striking subsection (a)(2); and

(c) by redesignating subsection (a)(1) as subsection (a), and inserting the following at the end:

“(1) \$166,200,000 for the fiscal year ending September 30, 2004.

“(2) Such sums as may be necessary for fiscal years 2005 through 2007.”.