

H.R. 2095, THE RAIL SAFETY IMPROVEMENT ACT OF 2008

DIVISION A – THE RAIL SAFETY IMPROVEMENT ACT OF 2008

H.R. 2095 reauthorizes the Federal Railroad Administration (“FRA”) and provides \$1.575 billion for our nation’s rail safety program over the period encompassing fiscal years 2009 through 2013. The authorization of the rail safety program expired a decade ago, in 1998.

The bill clarifies that the mission of the FRA is to ensure that safety is the highest priority; creates a new position of Chief Safety Officer; requires the Secretary of Transportation to develop a long-term strategy for improving rail safety, which must include an annual plan and schedule for, among other things, reducing the number and rates of accidents, injuries, and fatalities involving railroads; and requires annual reporting from the Secretary on the Department’s progress in implementing unmet statutory mandates and open safety recommendations by the Department of Transportation’s Inspector General and the National Transportation Safety Board (“NTSB”).

WORKER AND PUBLIC SAFETY

- ***Mandates Installation of Positive Train Control.*** Requires all Class I railroads and intercity passenger and commuter railroads to implement a positive train control system by December 31, 2015, on all main-line track where intercity passenger railroads and commuter railroads operate and where toxic-by-inhalation hazardous materials are transported. In addition, includes a grant program for the deployment of various positive train control technologies, electronically controlled pneumatic brakes, rail integrity inspection and warning systems, switch position indicators, remote control power switch technologies, track integrity circuit technology, and other technologies.
- ***Hours of Service Reform.*** Provides signal and train crews with additional rest; prohibits them from working in excess of 12 hours; extends hours-of-service standards to railroad contractors; limits limbo time; requires retrofitting or replacement of camp cars; and requires railroads to develop fatigue management plans through a mandatory risk reduction program.
- ***Rail Passenger Disaster Family Assistance.*** Directs the NTSB to establish a program to assist victims and their families involved in a passenger rail accident, modeled after a similar aviation disaster program.
- ***Locomotive Cab Safety.*** Requires the FRA to complete a study on the safety impact of the use of personal electronic devices by safety-related railroad employees during the performance of their duties. The study will also look at other elements of the locomotive cab environment that could harm the employee’s health and safety. Based upon the results of the study, the Secretary may establish regulations on the use of personal electronic devices in the locomotive cab.
- ***Training.*** Establishes minimum training standards for railroad workers; requires certification of conductors; and a study on certification of other classes and crafts of employees, including carmen and signal employees.
- ***Medical Attention.*** Prohibits railroads from denying, delaying, or interfering with the medical or first aid treatment of injured workers, and from disciplining those workers that request treatment. Also requires railroads to arrange for immediate transport of injured workers to the nearest appropriate hospital.
- ***Emergency Escape Breathing Apparatus.*** Provides emergency breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of unintentional release.

TRACK SAFETY

- ***Concrete Crossties.*** Directs the FRA to develop and implement regulations for all classes of track for concrete rail ties.
- ***Track Inspection Time.*** Requires the FRA to study track inspection procedures, including time intervals between inspection, repair priorities and methods, the speed of track inspection vehicles, and the territories inspectors must cover.

GRADE CROSSING SAFETY

- ***Toll-Free Number to Report Grade Crossing Problems.*** Requires the railroads to establish and maintain a toll-free telephone number for reporting malfunctions of grade crossing signals, gates, and other devices and disabled vehicles blocking railroad tracks.
- ***Sight Distance.*** Requires the FRA to develop model legislation to encourage States to adopt and enforce laws regarding overgrown vegetation, standing railroad equipment, and other obstructions at grade crossings, which can obstruct the view of approaching pedestrians and vehicles.
- ***Accident and Incident Reporting.*** Requires the FRA to conduct periodic audits of railroads to ensure they are reporting all accidents and incidents to the National Accident Database.
- ***National Crossing Inventory.*** Requires railroads to report information, including information about warning devices and signage, on grade crossings to enable the FRA to maintain an accurate inventory of such crossings.
- ***State Action Plan.*** Requires the Secretary to identify on an annual basis the top 10 States that have had the most grade crossing collisions, and to work with them to develop a State grade crossing action plan that identifies specific solutions for improving safety at grade crossings.
- ***Emergency Grade Crossing Improvements.*** Establishes a grant program to provide emergency grade crossing safety improvements at locations where there has been a grade crossing collision involving a school bus or multiple injuries or fatalities.

ENFORCEMENT

- ***Penalties for violations.*** Increases civil penalties for certain rail safety violations from \$10,000 to \$25,000. The minimum civil penalty remains \$500. For grossly negligent violations or a pattern of repeated violations, the maximum civil penalty is increased from \$20,000 under current law to not more than \$100,000. Also increases the maximum penalty for failing to file an accident or incident report from \$500 to \$2,500.
- ***Enforcement Transparency.*** Requires the FRA to provide an annual summary to the public of all railroad enforcement actions taken by the Secretary.
- ***Railroad Radio Monitoring.*** Authorizes the FRA to monitor certain railroad radio communications for the purpose of correcting safety problems and mitigating the likelihood of accidents or incidents.
- ***Inspector Staffing.*** Increases the number of Federal rail safety inspectors and supporting staff by 200.

OTHER SAFETY HIGHLIGHTS

- ***Bridge Safety.*** Requires the FRA to issue regulations requiring each track owner to develop and maintain an accurate inventory of its railroad bridges; determine, and update as appropriate, the safe capacity of each bridge; maintain the original design documents of each bridge, if available, and a documentation of all repairs, modifications, and inspections of each bridge; enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities; conduct regular comprehensive inspections of each bridge; and designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indication of potential structural problems.
- ***Solid Waste Processing Rail Facilities.*** Ensures that State governments are able to protect their citizens against environmental hazards, such as noxious fumes or leaks into groundwater, which could result from operation of a waste processing facility by a railroad.
- ***Tunnel Information.*** Requires railroads to maintain certain information related to structural inspections and maintenance activities for tunnels, and requires railroads to provide periodic briefings to the government of the local jurisdictions in which the tunnels are located, including updates whenever a repair or rehabilitation projects alters the methods of ingress and egress into and out of the tunnels.

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DIVISION B – THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008

H.R. 2095 reauthorizes Amtrak and provides a total of \$13.06 billion over five years to help bring the Northeast Corridor to a state-of-good-repair, and encourage the development of new and improved intercity passenger rail service through an 80-20 Federal/State matching grant program. It also provides \$1.5 billion for the planning and development of high-speed rail corridors.

- ***Increases Capital and Operating Grants to Amtrak.*** H.R. 2095 authorizes \$5.315 billion (an average of \$1.063 billion per year) to Amtrak for capital grants and \$2.949 billion (an average of \$589.8 million per year) for operating grants. Past inconsistent Federal support has hampered Amtrak's ability to replace catenaries, passenger cars, bridges, ties, and other equipment necessary for Amtrak to provide service. These capital grants will help bring the Northeast Corridor to a state-of-good-repair, and allow Amtrak to procure new rolling stock, rehabilitate existing bridges, and make additional capital improvements on its entire network. In addition, the operating grants authorized under the bill will help Amtrak pay salaries, health costs, overtime pay, fuel costs, facilities, and train maintenance and operations. These operating grants will also ensure that Amtrak can meet its obligations under its recently negotiated labor contract.
- ***Develops State Passenger Corridors.*** In an effort to encourage the development of new and improved intercity passenger rail services, the bill creates a new State Capital Grant program for intercity passenger rail projects. The bill provides \$1.9 billion (\$380 million per year) for grants to States to pay for the capital costs of facilities and equipment necessary to provide new or improved intercity passenger rail. The Federal share of the grants is up to 80 percent. The Secretary of Transportation would award these grants on a competitive basis for projects based on economic performance, expected ridership, and other factors.
- ***Relieves Congestion.*** H.R. 2095 authorizes \$325 million (an average of \$65 million per year) out of the State Capital Grant program for "congestion grants" to Amtrak and the States for high-priority rail corridors to increase capacity along certain lines in order to reduce congestion and facilitate ridership growth.
- ***Provides Funding for High-Speed Rail Corridors.*** The bill authorizes \$1.5 billion (\$300 million per year) for grants to States and/or Amtrak to finance the construction and equipment for 11 authorized high-speed rail corridors. The Federal share of the grants is up to 80 percent. The Secretary of Transportation would award these grants on a competitive basis for projects based on economic performance, expected ridership, and other factors.
- ***Improves On-Time Performance.*** By law, Amtrak is given preference over freight traffic on lines outside the Northeast Corridor. However, many of Amtrak's service routes outside the Northeast Corridor suffer from poor service reliability and on-time performance. This performance prevents Amtrak from retaining and attracting new ridership, and increases Amtrak's operating costs. The Department of Transportation Inspector General recently reported that if Amtrak achieved an 85 percent on-time performance outside the Northeast Corridor in fiscal year 2006, it would have saved Amtrak \$136.6 million, or almost one-third of its operating budget. H.R. 2095 empowers the Surface Transportation Board ("STB") to investigate whether and to what extent delays or failures to achieve minimum on-time performance standards is the result of a host rail carrier. If the host rail carrier is found to be at fault, then the STB may award damages that would be used to improve service on the impacted route.
- ***Reduces Amtrak's Debt.*** Federal support of Amtrak was cut drastically in fiscal year 2000 and 2001, forcing Amtrak to assume a large amount of debt just to stay afloat. Amtrak has aggressively targeted this debt, paying down \$600 million from 2002 through 2007. H.R. 2095 helps Amtrak to take further steps to reduce its debt, authorizing \$1.404 billion (an average of \$280.8 million each year) for debt service through FY 2013. This funding will allow Amtrak to focus its resources on improving existing services and making additional capital and operational improvements.

- ***Establishes an RFP for High-Speed Rail Service.*** H.R. 2095 directs the Secretary of Transportation to issue a request for proposals for projects for the financing, design, construction, and operation of 11 federally-designated high speed rail corridors. Proposals would need to meet certain financial, labor, and planning criteria, as well as a detailed description to account for any impacts on existing passenger, commuter, and freight rail traffic to be considered. If the Secretary receives a qualifying proposal, she would be directed to form a Commission to study any proposals received. The Secretary would issue a report to the Congress on the Commission's findings and her recommendations for each of the corridors. Any further action on a proposal would need legislative approval by Congress.
- ***Resolves Disputes between Commuter and Freight Railroads.*** Currently, no Federal guidelines exist to mediate disputes between commuter rail providers and freight railroads over use of freight rail tracks or rights-of-way, nor is there a standard forum for negotiating commuter rail operating agreements. The bill establishes a forum at the STB to help complete stalled commuter rail negotiations, helping our rail network operate as efficiently as possible. This section is identical to a provision of H.R. 2701, the "Transportation Energy Security and Climate Change Mitigation Act of 2007", as ordered reported by the Committee on Transportation and Infrastructure on June 20, 2007.
- ***Provides Funding for Washington Metro System.*** The bill authorizes \$1.5 billion for fiscal years 2009 through 2019 for capital and preventive maintenance grants for the Washington Metropolitan Area Transit Authority ("WMATA"). These funds are not available until WMATA notifies the Secretary of Transportation that certain amendments to the Washington Metropolitan Area Transit Authority Compact have taken effect, including an amendment requiring that all payments by local signatory governments for WMATA for matching Federal funds authorized by this section are derived from dedicated funding sources. In addition, these funds may be used only for the maintenance and upkeep of the Washington Metro system and may not be used to increase the mileage of the rail system. The Federal share of the grants shall be for 50 percent of the net project cost of the project.