

118TH CONGRESS
1ST SESSION

H. R. 1633

To enhance safety requirements for trains transporting hazardous materials,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2023

Mr. JOHNSON of Ohio (for himself, Mrs. SYKES, Mr. MILLER of Ohio, Mr. LANDSMAN, Mr. BALDERSON, Ms. KAPTUR, Mr. CAREY, Mrs. BEATTY, Mr. JOYCE of Ohio, Ms. BROWN, and Mr. TURNER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To enhance safety requirements for trains transporting
hazardous materials, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Reducing Accidents In Locomotives Act” or the “RAIL
6 Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Defined term.

- Sec. 3. Recommendations for safety.
- Sec. 4. Rail car inspections.
- Sec. 5. Defect detectors.
- Sec. 6. Increasing maximum civil penalties for violations of rail safety regulations.
- Sec. 7. Safer tank cars.
- Sec. 8. Hazardous materials training for first responders.

1 **SEC. 2. DEFINED TERM.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Transportation.

4 **SEC. 3. RECOMMENDATIONS FOR SAFETY.**

5 (a) RULEMAKING.—Not later than 1 year after the
6 date on which the National Transportation Safety Board
7 issues the report on the East Palestine, Ohio crash, the
8 Secretary, in consultation with the Administrator of the
9 Federal Railroad Administration, shall issue regulations,
10 or modify existing regulations, based on such report estab-
11 lishing safety requirements, in accordance with subsection
12 (b), with which a rail carrier operating a train trans-
13 porting hazardous materials that is not subject to the re-
14 quirements for a high-hazard flammable train under sec-
15 tion 174.310 of title 49, Code of Federal Regulations,
16 shall comply with respect to the operation of each such
17 train and the maintenance of specification tank cars.

18 (b) REQUIREMENTS.—The regulations issued pursu-
19 ant to subsection (a) shall require rail carriers—

20 (1) to provide advance notification and informa-
21 tion regarding the transportation of hazardous mate-
22 rials described in subsection (a) to each State emer-

1 agency response commissioner, the tribal emergency
2 response commission, or any other State or tribal
3 agency responsible for receiving the information no-
4 tification for emergency response planning informa-
5 tion;

6 (2) to include, in the notification provided pur-
7 suant to paragraph (1), a written gas discharge plan
8 with respect to the applicable hazardous materials
9 being transported; and

10 (3) to reduce or eliminate blocked crossings re-
11 sulting from delays in train movements.

12 (c) **ADDITIONAL REQUIREMENTS.**—In developing the
13 regulations required under subsection (a), the Secretary
14 shall include requirements regarding—

15 (1) train length and weight;

16 (2) train consist;

17 (3) route analysis and selection;

18 (4) speed restrictions;

19 (5) track standards;

20 (6) track, bridge, and rail car maintenance;

21 (7) signaling and train control; and

22 (8) response plans.

23 **SEC. 4. RAIL CAR INSPECTIONS.**

24 (a) **RULEMAKING.**—

1 (1) INSPECTION REQUIREMENTS.—Not later
2 than 1 year after date of the enactment of this Act,
3 the Secretary shall review and update, as necessary,
4 applicable regulations under chapters I and II of
5 subtitle B of title 49, Code of Federal Regulations—

6 (A) to create minimum time requirements
7 that a qualified mechanical inspector must
8 spend when inspecting a rail car or locomotive;
9 and

10 (B) to ensure that all rail cars and loco-
11 motives in train consists that carry hazardous
12 materials are inspected by a qualified mechan-
13 ical inspector at intervals determined by the
14 Secretary.

15 (2) ABBREVIATED PRE-DEPARTURE INSPEC-
16 TION.—The Secretary shall immediately amend sec-
17 tion 215.13(c) of title 49, Code of Federal Regula-
18 tions (permitting an abbreviated pre-departure in-
19 spection procedure) with respect to rail cars in train
20 consists carrying hazardous materials.

21 (b) AUDITS.—

22 (1) IN GENERAL.—Not later than 60 days after
23 the date of the enactment of this Act, the Secretary
24 shall initiate audits of Federal rail car inspection
25 programs, subject to the requirements under part

1 215 of title 49, Code of Federal Regulations,
2 which—

3 (A) consider whether such programs are in
4 compliance with such part 215;

5 (B) assess the type and content of training
6 and performance metrics that such programs
7 provide rail car inspectors;

8 (C) determine whether such programs pro-
9 vide inspectors with adequate time to inspect
10 rail cars;

11 (D) determine whether such programs re-
12 flect the current operating practices of the rail-
13 road carrier; and

14 (E) ensure that such programs are not
15 overly reliant on train crews.

16 (2) AUDIT SCHEDULING.—The Secretary
17 shall—

18 (A) schedule the audits required under
19 paragraph (1) to ensure that—

20 (i) each Class I railroad is audited not
21 less frequently than once every 5 years;
22 and

23 (ii) a select number, as determined by
24 the Secretary, of Class II and Class III
25 railroads are audited annually; and

1 (B) conduct the audits described in sub-
2 paragraph (A)(ii) in accordance with—

3 (i) the Small Business Regulatory En-
4 forcement Fairness Act of 1996 (5 U.S.C.
5 601 note); and

6 (ii) appendix C of part 209 of title 49,
7 Code of Federal Regulations.

8 (3) UPDATES TO INSPECTION PROGRAM.—If,
9 during an audit required under this subsection, the
10 auditor identifies a deficiency in a railroad’s inspec-
11 tion program, the railroad shall update the program
12 to eliminate such deficiency.

13 (4) CONSULTATION AND COOPERATION.—

14 (A) CONSULTATION.—In conducting any
15 audit required under this subsection, the Sec-
16 retary shall consult with the railroad being au-
17 dited and its employees, including any nonprofit
18 employee labor organization representing the
19 mechanical employees of the railroad.

20 (B) COOPERATION.—The railroad being
21 audited and its employees, including any non-
22 profit employee labor organization representing
23 mechanical employees, shall fully cooperate with
24 any audit conducted pursuant to this sub-
25 section—

1 (i) by providing any relevant docu-
2 ments requested; and

3 (ii) by making available any employees
4 for interview without undue delay or ob-
5 struction.

6 (C) FAILURE TO COOPERATE.—If the Sec-
7 retary determines that a railroad or any of its
8 employees, including any nonprofit employee
9 labor organization representing mechanical em-
10 ployees of the railroad is not fully cooperating
11 with an audit conducted pursuant to this sub-
12 section, the Secretary shall electronically notify
13 the Committee on Commerce, Science, and
14 Transportation of the Senate and the Com-
15 mittee on Transportation and Infrastructure of
16 the House of Representatives of such non-
17 cooperation.

18 (c) REVIEW OF REGULATIONS.—The Secretary shall
19 triennially determine whether any update to part 215 of
20 title 49, Code of Federal Regulations, is necessary to en-
21 sure the safety of rail cars transported by rail carriers.

22 (d) ANNUAL REPORT.—The Secretary shall publish
23 an annual report on the public website of the Federal Rail-
24 road Administration that—

1 (1) summarizes the findings of the prior year’s
2 audits;

3 (2) summarizes any updates made pursuant to
4 this section; and

5 (3) excludes any confidential business informa-
6 tion or sensitive security information.

7 (e) **RULE OF CONSTRUCTION.**—Nothing in this sec-
8 tion may be construed—

9 (1) to limit the deployment of pilot programs
10 for the installation, test, verification, and review of
11 automated rail and train inspection technologies; or

12 (2) to direct the Secretary to waive any existing
13 inspection requirements under chapter I or II of
14 subtitle B of title 49, Code of Federal Regulations,
15 as part of pilot programs.

16 **SEC. 5. DEFECT DETECTORS.**

17 (a) **RULEMAKING.**—Not later than 1 year after the
18 date of the enactment of this Act, the Secretary shall issue
19 regulations establishing requirements for the installation,
20 repair, testing, maintenance, and operation of wayside de-
21 fect detectors for each rail carrier operating a train consist
22 carrying hazardous materials.

23 (b) **REQUIREMENTS.**—The regulations issued pursu-
24 ant to subsection (a) shall include requirements regard-
25 ing—

1 (1) the frequency of the placement of wayside
2 defect detectors, including a requirement that all
3 Class I railroads install a hotbox detector along
4 every 10-mile segment of rail track over which trains
5 carrying hazardous materials operate;

6 (2) performance standards for such detectors;

7 (3) the maintenance and repair requirements
8 for such detectors;

9 (4) reporting data and maintenance records of
10 such detectors;

11 (5) appropriate steps the rail carrier must take
12 when receiving an alert of a defect or failure from
13 or regarding a wayside defect detector; and

14 (6) the use of hotbox detectors to prevent
15 derailments from wheel bearing failures, including—

16 (A) the temperatures, to be specified by
17 the Secretary, at which an alert from a hotbox
18 detector is triggered to warn of a potential
19 wheel bearing failure; and

20 (B) any actions that shall be taken by a
21 rail carrier upon receiving an alert from a hot-
22 box detector of a potential wheel bearing fail-
23 ure.

24 (c) DEFECT AND FAILURE IDENTIFICATION.—The
25 Secretary shall specify the categories of defects and fail-

1 ures that wayside defect detectors covered by regulations
2 issued pursuant to subsection (a) shall address, includ-
3 ing—

4 (1) axles;

5 (2) wheel bearings;

6 (3) brakes;

7 (4) signals;

8 (5) wheel impacts; and

9 (6) other defects or failures specified by the
10 Secretary.

11 (d) SAFETY PLACARDS.—

12 (1) IN GENERAL.—In issuing regulations under
13 subsection (a), the Secretary shall require that plac-
14 ards covered under section 172.519 of title 49, Code
15 of Federal Regulations, be able to withstand heat in
16 excess of 180 degrees.

17 (2) UPDATE BASED ON RECOMMENDATIONS.—

18 The Secretary may, upon recommendation from the
19 National Transportation Safety Board, issue such
20 regulations as are necessary to increase the heat
21 threshold described in paragraph (1).

1 **SEC. 6. INCREASING MAXIMUM CIVIL PENALTIES FOR VIO-**
2 **LATIONS OF RAIL SAFETY REGULATIONS.**

3 (a) CIVIL PENALTIES RELATED TO TRANSPORTING
4 HAZARDOUS MATERIALS.—Section 5123(a) of title 49,
5 United States Code, is amended—

6 (1) in paragraph (1), in the matter preceding
7 subparagraph (A), by striking “\$75,000” and insert-
8 ing “the greater of 0.5 percent of the person’s an-
9 nual income or annual operating income or
10 \$750,000”; and

11 (2) in paragraph (2), by striking “\$175,000”
12 and inserting “the greater of 1 percent of the per-
13 son’s annual income or annual operating income or
14 \$1,750,000”.

15 (b) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-
16 tion 21301(a)(2) of title 49, United States Code, is
17 amended—

18 (1) by striking “\$25,000.” and inserting “the
19 greater of 0.5 percent of the person’s annual income
20 or annual operating income or \$250,000”; and

21 (2) by striking “\$100,000.” and inserting “the
22 greater of 1 percent of the person’s annual income
23 or annual operating income or \$1,000,000”.

24 (c) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-
25 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
26 209.—Section 21302(a) is amended—

1 (1) in paragraph (1), by striking “203–209”
2 each place it appears and inserting “203 through
3 209”; and

4 (2) in paragraph (2)—

5 (A) by striking “\$25,000” and inserting
6 “the greater of 0.5 percent of the person’s an-
7 nual income or annual operating income or
8 \$250,000”; and

9 (B) by striking “\$100,000” and inserting
10 “the greater of 1 percent of the person’s annual
11 income or annual operating income or
12 \$1,000,000”.

13 (d) VIOLATIONS OF CHAPTER 211.—Section
14 21303(a)(2) is amended—

15 (1) by striking “\$25,000.” and inserting “the
16 greater of 0.5 percent of the person’s annual income
17 or annual operating income or \$250,000”; and

18 (2) by striking “\$100,000.” and inserting “the
19 greater of 1 percent of the person’s annual income
20 or annual operating income or \$1,000,000”.

21 **SEC. 7. SAFER TANK CARS.**

22 (a) PHASE-OUT SCHEDULE.—Beginning on May 1,
23 2028, a rail carrier may not use DOT–111 specification
24 railroad tank cars that do not comply with DOT–117,
25 DOT–117P, or DOT–117R specification requirements, as

1 in effect on the date of enactment of this Act, to transport
2 Class 3 flammable liquids regardless of the composition
3 of the train consist.

4 (b) CONFORMING REGULATORY AMENDMENTS.—

5 (1) IN GENERAL.—The Secretary—

6 (A) shall immediately remove or revise the
7 date-specific deadlines in any applicable regula-
8 tions or orders to the extent necessary to con-
9 form with the requirement under subsection (a);
10 and

11 (B) may not enforce any date-specific
12 deadlines or requirements that are inconsistent
13 with the requirement under subsection (a).

14 (2) RULE OF CONSTRUCTION.—Except as re-
15 quired under paragraph (1), nothing in this section
16 may be construed to require the Secretary to issue
17 regulations to implement this section.

18 **SEC. 8. HAZARDOUS MATERIALS TRAINING FOR FIRST RE-**
19 **SPONDERS.**

20 (a) ANNUAL REGISTRATION FEE.—Section 5108(g)
21 of title 49, United States Code, is amended by adding at
22 the end the following:

23 “(4) ADDITIONAL FEE FOR CLASS I RAIL CAR-
24 RIERS.—In addition to the fees collected pursuant to
25 paragraphs (1) and (2), the Secretary shall establish

1 and annually impose and collect from each Class I
2 rail carrier a fee in an amount equal to
3 \$1,000,000.”.

4 (b) ASSISTANCE FOR LOCAL EMERGENCY RESPONSE
5 TRAINING.—Section 5116(j)(1)(A) of title 49, United
6 States Code, is amended—

7 (1) by striking “liquids” and inserting “mate-
8 rials”; and

9 (2) in paragraph (3), by amending subpara-
10 graph (A) to read as follows:

11 “(A) IN GENERAL.—To carry out the
12 grant program established pursuant to para-
13 graph (1), the Secretary may expend, during
14 each fiscal year—

15 “(i) the amounts collected pursuant to
16 section 5108(g)(4); and

17 “(ii) any amounts recovered during
18 such fiscal year from grants awarded
19 under this section during a prior fiscal
20 year.”.

21 (c) SUPPLEMENTAL TRAINING GRANTS.—Section
22 5128(b)(4) of title 49, United States Code is amended by
23 striking “\$2,000,000” and inserting “\$4,000,000”.

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