

credited to a revolving fund and remain available until expended. The Secretary may use such fees and rents for operation, maintenance, repair, or improvement of the Transportation Technology Center.

(g) **LEASES AND CONTRACTS.**—Notwithstanding section 1302 of title 40, the Secretary may lease to others or enter into contracts for terms of up to 20 years, for such consideration and subject to such terms and conditions as the Secretary determines to be in the best interests of the Government of the United States, for the operation, maintenance, repair, and improvement of the Transportation Technology Center.

(h) **PROPERTY AND CASUALTY LOSS INSURANCE.**—The Secretary may allow its lessees and contractors to purchase property and casualty loss insurance for its assets and activities at the Transportation Technology Center to mitigate the lessee's or contractor's risk associated with operating a facility.

(i) **ENERGY PROJECTS.**—Notwithstanding section 1341 of title 31, the Secretary may enter into contracts or agreements, or commit to obligations in connection with third-party contracts or agreements, including contingent liability for the purchase of electric power in connection with such contracts or agreements, for terms not to exceed 20 years, to enable the use of the land at the Transportation Technology Center for projects to produce energy from renewable sources.

(j) **RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.**—

(1) **CENTER OF EXCELLENCE.**—The Secretary shall award grants to establish and maintain a center of excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation.

(2) **ELIGIBILITY.**—An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of nonprofit institutions of higher education shall be eligible to receive a grant from the center established pursuant to paragraph (1).

(3) **SELECTION CRITERIA.**—In awarding a grant under this subsection, the Secretary shall—

(A) give preference to applicants with strong past performance related to rail research, education, and workforce development activities;

(B) consider the extent to which the applicant would involve public and private sector passenger and freight railroad operators; and

(C) consider the regional and national impacts of the applicant's proposal.

(4) **USE OF FUNDS.**—Grant funds awarded pursuant to this subsection shall be used for basic and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed, and freight rail transportation, to include advances in rolling stock, advanced positive train control, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency,

operational reliability, energy efficiency, and other advanced technologies.

(5) **FEDERAL SHARE.**—The Federal share of a grant awarded under this subsection shall be 50 percent of the cost of establishing and operating the center of excellence and related research activities carried out by the grant recipient.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 117-58, div. B, title II, §§22412, 22413, Nov. 15, 2021, 135 Stat. 743, 744.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
20108(a) .....	45:431(a) (1st sentence cl. (2)).	Oct. 16, 1970, Pub. L. 91-458, §§202(a) (1st sentence cl. (2)), 208(a) (1st sentence words before 3d comma and between 9th-14th commas), 84 Stat. 971, 974.
20108(b) .....	45:437(a) (1st sentence words before 3d comma and between 9th-14th commas). 45:437(d)(1) (1st sentence).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §208(d)(1) (1st sentence); added Oct. 10, 1980, Pub. L. 96-423, §6(b), 94 Stat. 1813.
20108(c) .....	45:444(a) (last sentence).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §214(a) (last sentence); added Oct. 10, 1980, Pub. L. 96-423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97-35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97-468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100-342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101-508, §10501(b), 104 Stat. 1388-400; restated Sept. 3, 1992, Pub. L. 102-365, §12, 106 Stat. 980.

In subsection (b), the words “To carry out this part, the Secretary may” are substituted for “In carrying out his functions under this subchapter, the Secretary is authorized to perform such acts including, but not limited to . . . as he deems necessary to carry out the provisions of this subchapter” and “In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 1655(e)(1), (e)(2), and (e)(6)(A) of title 49, Appendix, the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to” to eliminate unnecessary words.

#### Editorial Notes

##### AMENDMENTS

2021—Subsecs. (d) to (i). Pub. L. 117-58, §22412, added subsecs. (d) to (i).

Subsec. (j). Pub. L. 117-58, §22413, added subsec. (j).

#### § 20109. Employee protections

(a) **IN GENERAL.**—A railroad carrier engaged in interstate or foreign commerce, a contractor or a subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) to provide information, directly cause information to be provided, or otherwise di-

rectly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of Federal grants or other public funds intended to be used for railroad safety or security, if the information or assistance is provided to or an investigation stemming from the provided information is conducted by—

(A) a Federal, State, or local regulatory or law enforcement agency (including an office of the Inspector General under chapter 4 of title 5;<sup>1</sup>

(B) any Member of Congress, any committee of Congress, or the Government Accountability Office; or

(C) a person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct;

(2) to refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

(3) to file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

(4) to notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

(5) to cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

(6) to furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

(7) to accurately report hours on duty pursuant to chapter 211.

(b) **HAZARDOUS SAFETY OR SECURITY CONDITIONS.**—(1) A railroad carrier engaged in interstate or foreign commerce, or an officer or employee of such a railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(A) reporting, in good faith, a hazardous safety or security condition;

(B) refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the

equipment, track, or structures are in a hazardous safety or security condition, if the conditions described in paragraph (2) exist.

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

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

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

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

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

(C) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only paragraph (1)(A) shall apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

(c) **PROMPT MEDICAL ATTENTION.**—

(1) **PROHIBITION.**—A railroad carrier or person covered under this section may 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 hospital where the employee can receive safe and appropriate medical care.

(2) **DISCIPLINE.**—A railroad carrier or person covered under this section may 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, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness for duty. For purposes of this paragraph, the term "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.

(d) **ENFORCEMENT ACTION.**—

(1) **IN GENERAL.**—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a), (b), or (c) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

<sup>1</sup> So in original. A closing parenthesis probably should precede the semicolon.

## (2) PROCEDURE.—

(A) IN GENERAL.—Any action under paragraph (1) shall be governed under the rules and procedures set forth in section 42121(b), including:

(i) BURDENS OF PROOF.—Any action brought under (d)(1)<sup>2</sup> shall be governed by the legal burdens of proof set forth in section 42121(b).

(ii) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the alleged violation of subsection (a), (b), or (c) of this section occurs.

(iii) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.<sup>3</sup>

(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and the person's employer.

(3) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(4) APPEALS.—Any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 42121(b),<sup>4</sup> may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 of title 5. The commencement of proceedings under this paragraph shall not, unless ordered by the court, operate as a stay of the order.

## (e) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (d) shall be entitled to all relief necessary to make the employee whole.

(2) DAMAGES.—Relief in an action under subsection (d) (including an action described in subsection (d)(3)) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) any backpay, with interest; and

(C) compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(3) POSSIBLE RELIEF.—Relief in any action under subsection (d) may include punitive damages in an amount not to exceed \$250,000.

(f) ELECTION OF REMEDIES.—An employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

(g) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(h) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

## (i) DISCLOSURE OF IDENTITY.—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

## (j) PROCESS FOR REPORTING SECURITY PROBLEMS TO THE DEPARTMENT OF HOMELAND SECURITY.—

(1) ESTABLISHMENT OF PROCESS.—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

(2) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3) STEPS TO ADDRESS PROBLEM.—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified.

<sup>2</sup> So in original. Probably should be preceded by "subsection".

<sup>3</sup> So in original. Probably should be preceded by "section".

<sup>4</sup> So in original. The comma probably should not appear.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 867; Pub. L. 110-53, title XV, §1521, Aug. 3, 2007, 121 Stat. 444; Pub. L. 110-432, div. A, title IV, §419, Oct. 16, 2008, 122 Stat. 4892; Pub. L. 117-286, §4(b)(98), Dec. 27, 2022, 136 Stat. 4353.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20109(a) .....	45:441(a).  45:441(e).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(a)-(c)(1), (d); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815. Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(e); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815; Sept. 3, 1992, Pub. L. 102-365, §5(b), 106 Stat. 975.
20109(b) .....	45:441(b).	
20109(c) .....	45:441(c)(1). 45:441(c)(2).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(c)(2); added Oct. 10, 1980, Pub. L. 96-423, §10, 94 Stat. 1815; restated June 22, 1988, Pub. L. 100-342, §5(a), 102 Stat. 627.
20109(d) .....	45:441(d).	
20109(e) .....	45:441(e). 45:441(f).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §212(f); added June 22, 1988, Pub. L. 100-342, §5(b), 102 Stat. 627.

In subsections (a) and (b), the words “railroad carrier” are substituted for “common carrier by railroad” because of the definition of “railroad carrier” in section 20102 of the revised title.

In subsection (a)(1), the words “under or” are omitted as surplus.

In subsection (b)(1)(B), before subclause (i), the words “the hazardous condition is of such a nature that” are omitted as surplus. The word “individual” is substituted for “person” as being more appropriate. In subclause (ii), the words “resort to” are omitted as surplus.

In subsection (b)(1)(C), the words “his apprehension of” are omitted as surplus.

In subsection (b)(2), the words “by a carrier . . . transported by railroad” are substituted for “by a railroad . . . transported by such railroad” for consistency in the revised title.

Subsection (d) is substituted for 45:441(d) for clarity and to eliminate unnecessary words.

Subsection (e)(2) is substituted for 45:441(f)(2) to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

2022—Subsec. (a)(1)(A). Pub. L. 117-286 substituted “chapter 4 of title 5;” for “the Inspector General Act of 1978 (5 U.S.C. App.; Public Law 95-452);”.

2008—Subsec. (c). Pub. L. 110-432, §419(a)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 110-432, §419(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 110-432, §419(b)(1)(A), substituted “(a), (b), or (c)” for “(a) or (b)”.

Subsec. (d)(2)(A)(i). Pub. L. 110-432, §419(b)(1)(B), substituted “(d)(1)” for “(c)(1)”.

Subsec. (d)(2)(A)(ii). Pub. L. 110-432, §419(b)(1)(C), substituted “(a), (b), or (c)” for “(a) or (b)”.

Subsec. (e). Pub. L. 110-432, §419(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 110-432, §419(b)(2)(A), substituted “(d)” for “(c)”.

Subsec. (e)(2). Pub. L. 110-432, §419(b)(2)(B), (C), substituted “(d)” for “(c)” and “(d)(3)” for “(c)(3)” in introductory provisions.

Subsec. (e)(3). Pub. L. 110-432, §419(b)(2)(D), substituted “(d)” for “(c)”.

Subsecs. (f) to (j). Pub. L. 110-432, §419(a)(1), redesignated subsecs. (e) to (i) as (f) to (j), respectively.

2007—Pub. L. 110-53 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to prohibition against discharge or discrimination for filing of complaints or testifying, prohibition against discharge or discrimination for refusal to work because of hazardous conditions, dispute resolution, election of remedies, and nondisclosure of identity of employee who had provided information regarding a violation.

Statutory Notes and Related Subsidiaries

CRITICAL INCIDENT STRESS PLANS

Pub. L. 117-58, div. B, title II, §22424, Nov. 15, 2021, 135 Stat. 752, provided that: “The Secretary [of Transportation] shall amend part 272 of title 49, Code of Federal Regulations, to the extent necessary to ensure that—

“(1) the coverage of a critical incident stress plan under section 272.7 of such part includes employees of commuter railroads and intercity passenger railroads (as such terms are defined in section 272.9 of such part), including employees who directly interact with passengers; and

“(2) an assault against an employee requiring medical attention is included in the definition of critical incident under section 272.9 of such part.”

Pub. L. 110-432, div. A, title IV, §410, Oct. 16, 2008, 122 Stat. 4887, provided that:

“(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, as appropriate, shall require each Class I railroad carrier, each intercity passenger railroad carrier, and each commuter railroad carrier to develop and submit for approval to the Secretary a critical incident stress plan that provides for debriefing, counseling, guidance, and other appropriate support services to be offered to an employee affected by a critical incident.

“(b) PLAN REQUIREMENTS.—Each such plan shall include provisions for—

“(1) relieving an employee who was involved in a critical incident of his or her duties for the balance of the duty tour, following any actions necessary for the safety of persons and contemporaneous documentation of the incident;

“(2) upon the employee’s request, relieving an employee who witnessed a critical incident of his or her duties following any actions necessary for the safety of persons and contemporaneous documentation of the incident; and

“(3) providing such leave from normal duties as may be necessary and reasonable to receive preventive services, treatment, or both, related to the incident.

“(c) SECRETARY TO DEFINE WHAT CONSTITUTES A CRITICAL INCIDENT.—Within 30 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall initiate a rulemaking proceeding to define the term ‘critical incident’ for the purposes of this section.”

[For definitions of “railroad carrier” and “Secretary”, as used in section 410 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

§20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements