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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

# H. R. _____

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

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IN THE HOUSE OF REPRESENTATIVES

Mr. DELUZIO introduced the following bill; which was referred to the Committee on _____

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# A BILL

To enhance safety requirements for trains transporting hazardous materials, 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 ''Railway Safety Act of 2023''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Defined term.
Sec. 3. Safety requirements for trains transporting hazardous materials.
Sec. 4. Rail car inspections.

Sec. 5. Defect detectors.
Sec. 6. Safe Freight Act of 2023.
Sec. 7. Increasing maximum civil penalties for violations of rail safety regulations.
Sec. 8. Safer tank cars.
Sec. 9. Hazardous materials training for first responders.
Sec. 10. Consolidated rail infrastructure and safety improvements.
Sec. 11. Tank car research and development.

**SEC. 2. DEFINED TERM.**

In this Act, the term ''Secretary'' means the Secretary of Transportation.

**SEC. 3. SAFETY REQUIREMENTS FOR TRAINS TRANSPORTING HAZARDOUS MATERIALS.**

(a) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations, or modify existing regulations, establishing safety requirements, in accordance with subsection (b), with which a shipper or rail carrier operating a train transporting hazardous materials that is not subject to the requirements for a high-hazard flammable train under section 174.310 of title 49, Code of Federal Regulations, shall comply with respect to the operation of each such train and the maintenance of specification tank cars.

(b) REQUIREMENTS.—The regulations issued pursuant to subsection (a) shall require shippers and rail carriers—

(1) to provide advance notification and information regarding the transportation of hazardous materials described in subsection (a) to each State emer-

gency response commissioner, Tribal emergency response commission, or any other State or Tribal agency responsible for receiving the information notification for emergency response planning information;

(2) to include, in the notification provided pursuant to paragraph (1), a written gas discharge plan with respect to the applicable hazardous materials being transported; and

(3) to reduce or eliminate blocked crossings resulting from delays in train movements.

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

(1) train length and weight;

(2) train consist;

(3) route analysis and selection;

(4) speed restrictions;

(5) track standards;

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

(7) signaling and train control;

(8) response plans; and

(9) any other requirements that the Secretary determines are necessary.

(d) HIGH-HAZARD FLAMMABLE TRAINS.—The Secretary may modify the safety requirements for trains subject to section 174.310 of title 49, Code of Federal Regulations, to satisfy, in whole or in part, the rulemaking required under subsection (a).

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

(a) RULEMAKING.—

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

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

(B) to ensure that all rail cars and locomotives in train consists that carry hazardous materials are inspected by a qualified mechanical inspector at intervals determined by the Secretary.

(2) ABBREVIATED PRE-DEPARTURE INSPECTION.—The Secretary shall immediately amend section 215.13(c) of title 49, Code of Federal Regulations (permitting an abbreviated pre-departure in-

spection procedure) with respect to rail cars in train consists carrying hazardous materials.

(b) AUDITS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate audits of Federal rail car inspection programs, subject to the requirements under part 215 of title 49, Code of Federal Regulations, which—

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

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

(C) determine whether such programs provide inspectors with adequate time to inspect rail cars;

(D) determine whether such programs reflect the current operating practices of the railroad carrier; and

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

(2) AUDIT SCHEDULING.—The Secretary shall—

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

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

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

(B) conduct the audits described in subparagraph (A)(ii) in accordance with—

(i) the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note); and

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

(3) UPDATES TO INSPECTION PROGRAM.—If, during an audit required under this subsection, the auditor identifies a deficiency in a railroad's inspection program, the railroad shall update the program to eliminate such deficiency.

(4) CONSULTATION AND COOPERATION.—

(A) CONSULTATION.—In conducting any audit required under this subsection, the Secretary shall consult with the railroad being audited and its employees, including any nonprofit

employee labor organization representing the mechanical employees of the railroad.

(B) COOPERATION.—The railroad being audited and its employees, including any nonprofit employee labor organization representing mechanical employees, shall fully cooperate with any audit conducted pursuant to this subsection—

(i) by providing any relevant documents requested; and

(ii) by making available any employees for interview without undue delay or obstruction.

(C) FAILURE TO COOPERATE.—If the Secretary determines that a railroad or any of its employees, including any nonprofit employee labor organization representing mechanical employees of the railroad is not fully cooperating with an audit conducted pursuant to this subsection, the Secretary shall electronically notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such noncooperation.

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

(d) ANNUAL REPORT.—The Secretary shall publish an annual report on the public website of the Federal Railroad Administration that—

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

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

(3) excludes any confidential business information or sensitive security information.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed—

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

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

**SEC. 5. DEFECT DETECTORS.**

(a) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue

regulations establishing requirements for the installation, repair, testing, maintenance, and operation of wayside defect detectors for each rail carrier operating a train consist carrying hazardous materials.

(b) REQUIREMENTS.—The regulations issued pursuant to subsection (a) shall include requirements regarding—

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

(2) performance standards for such detectors;

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

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

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

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

(A) the temperatures, to be specified by the Secretary, at which an alert from a hotbox

detector is triggered to warn of a potential wheel bearing failure; and

(B) any actions that shall be taken by a rail carrier upon receiving an alert from a hot-box detector of a potential wheel bearing failure.

(c) DEFECT AND FAILURE IDENTIFICATION.—The Secretary shall specify the categories of defects and failures that wayside defect detectors covered by regulations issued pursuant to subsection (a) shall address, including—

(1) axles;

(2) wheel bearings;

(3) brakes;

(4) signals;

(5) wheel impacts; and

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

**SEC. 6. SAFE FREIGHT ACT OF 2023.**

(a) SHORT TITLE.—This section may be cited as the ''Safe Freight Act of 2023''.

(b) FREIGHT TRAIN CREW SIZE.—Subchapter II of chapter 201 of title 49, United States Code, is amended by inserting after section 20153 the following:

**"§ 20154. Freight train crew size safety standards**

''(a) MINIMUM CREW SIZE.—No freight train may be operated without a 2-person crew consisting of at least 1 appropriately qualified and certified conductor and 1 appropriately qualified and certified locomotive engineer.

''(b) EXCEPTIONS.—Except as provided in subsection (c), the requirement under subsection (a) shall not apply with respect to—

''(1) train operations on track that is not a main line track;

''(2) a freight train operated—

''(A) by a railroad carrier that has fewer than 400,000 total employee work hours annually and less than $40,000,000 annual revenue (adjusted for inflation, as calculated by the Surface Transportation Board Railroad Inflation-Adjusted Index and Deflator Factor Table);

''(B) at a speed of not more than 25 miles per hour; and

''(C) on a track with an average track grade of less than 2 percent for any segment of track that is at least 2 continuous miles;

''(3) locomotives performing assistance to a train that has incurred mechanical failure or lacks the power to traverse difficult terrain, including

traveling to or from the location where assistance is provided;

''(4) locomotives that—

''(A) are not attached to any equipment or are attached only to a caboose; and

''(B) do not travel farther than 30 miles from the point of origin of such locomotive; and

''(5) train operations staffed with fewer than a 2-person crew at least 1 year before the date of enactment of this section, if the Secretary determines that such operations achieve an equivalent level of safety as would result from compliance with the requirement under subsection (a).

''(c) TRAINS INELIGIBLE FOR EXCEPTION.—The exceptions under subsection (b) may not be applied to—

''(1) a train transporting 1 or more loaded cars carrying material toxic by inhalation (as defined in section 171.8 of title 49, Code of Federal Regulations);

''(2) a train transporting—

''(A) 20 or more loaded tank cars of a Class 2 material or a Class 3 flammable liquid in a continuous block; or

''(B) 35 or more loaded tank cars of a Class 2 material or a Class 3 flammable liquid throughout the train consist; or

''(3) a train with a total length of at least 7,500 feet.

''(d) WAIVER.—A railroad carrier may seek a waiver of the requirements under this section in accordance with section 20103(d).''.

(c) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20153 the following:

''20154. Freight train crew size safety standards.''.

**SEC. 7. INCREASING MAXIMUM CIVIL PENALTIES FOR VIOLATIONS OF RAIL SAFETY REGULATIONS.**

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

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''$75,000'' and inserting ''the greater of 0.5 percent of the person's annual income or annual operating income, as applicable, or $750,000''; and

(2) in paragraph (2), by striking ''$175,000'' and inserting ''the greater of 1 percent of the per-

son's annual income or annual operating income, as applicable, or $1,750,000''.

(b) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) of title 49, United States Code, is amended—

(1) by striking ''$25,000'' and inserting ''the greater of 0.5 percent of the person's annual income or annual operating income, as applicable, or $250,000''; and

(2) by striking ''$100,000'' and inserting ''the greater of 1 percent of the person's annual income or annual operating income, as applicable, or $1,000,000''.

(c) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''203–209'' each place it appears and inserting ''203 through 209''; and

(2) in paragraph (2)—

(A) by striking ''$25,000'' and inserting ''the greater of 0.5 percent of the person's annual income or annual operating income, as applicable, or $250,000''; and

(B) by striking ''$100,000'' and inserting ''the greater of 1 percent of the person's annual income or annual operating income, as applicable, or $1,000,000''.

(d) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) of title 49, United States Code, is amended—

(1) by striking ''$25,000'' and inserting ''the greater of 0.5 percent of the person's annual income or annual operating income, as applicable, or $250,000''; and

(2) by striking ''$100,000'' and inserting ''the greater of 1 percent of the person's annual income or annual operating income, as applicable, or $1,000,000''.

**SEC. 8. SAFER TANK CARS.**

(a) PHASE-OUT SCHEDULE.—Notwithstanding section 7304 of the FAST Act (49 U.S.C. 20155 note), beginning on May 1, 2025, a rail carrier may not use DOT–111 specification railroad tank cars that do not comply with DOT–117, DOT–117P, or DOT–117R specification requirements, as in effect on the date of enactment of this Act, to transport Class 3 flammable liquids regardless of the composition of the train consist.

(b) CONFORMING REGULATORY AMENDMENTS.—

(1) IN GENERAL.—The Secretary—

(A) shall immediately remove or revise the date-specific deadlines in any applicable regulations or orders to the extent necessary to conform with the requirement under subsection (a); and

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

(2) RULE OF CONSTRUCTION.—Except as required under paragraph (1), nothing in this section may be construed to require the Secretary to issue regulations to implement this section.

**SEC. 9. HAZARDOUS MATERIALS TRAINING FOR FIRST RESPONDERS.**

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

''(4) ADDITIONAL FEE FOR CLASS I RAIL CARRIERS.—In addition to the fees collected pursuant to paragraphs (1) and (2), the Secretary shall establish and annually impose and collect from each Class I rail carrier a fee in an amount equal to $1,000,000.''.

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

(1) in paragraph (1)(A), by striking ''liquids'' and inserting ''materials''; and

(2) in paragraph (3), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—To carry out the grant program established pursuant to paragraph (1),the Secretary may expend, during each fiscal year—

''(i) the amounts collected pursuant to section 5108(g)(4); and

''(ii) any amounts recovered during such fiscal year from grants awarded under this section during a prior fiscal year.''.

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

**SEC. 10. CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS.**

(a) IN GENERAL.—Section 22907(c) of title 49, United States Code, is amended by adding at the end the following:

''(17) The research, development, or implementation of wayside defect detectors to better prevent the derailment of trains transporting hazardous materials.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 22907(c)(17) of title 49, United States Code (as added by subsection (a)), $22,000,000.

**SEC. 11. TANK CAR RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall carry out research to develop stronger, safer tank cars and valves for tank cars and other tank car safety features.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.