

114TH CONGRESS  
2D SESSION

# H. R. 5786

To amend title 49, United States Code, to provide for a rail spill preparedness fund, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. DEFAZIO (for himself, Mr. WALDEN, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to provide for a rail spill preparedness fund, 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.**

4 This Act may be cited as the “Community Protection  
5 and Preparedness Act of 2016”.

6 **SEC. 2. RAIL SPILL PREPAREDNESS FUND.**

7 (a) IN GENERAL.—Chapter 51 of title 49, United  
8 States Code, is amended by inserting after section 5110  
9 the following:

1 **“§ 5111. Rail spill preparedness fund**

2       “(a) ESTABLISHMENT OF RAIL ACCOUNT.—There is  
3 established in the Oil Spill Liability Trust Fund a sepa-  
4 rate account to be known as the ‘Rail Account’ consisting  
5 of such amounts as may be appropriated, credited, depos-  
6 ited, or transferred to such account as provided in this  
7 section.

8       “(b) FEE FOR CERTAIN RAILROAD TANK CARS  
9 TRANSPORTING CLASS 3 FLAMMABLE LIQUIDS.—Not  
10 later than October 1, 2017, and annually thereafter, the  
11 Secretary shall impose a fee of \$1,500 for each DOT–111  
12 specification railroad tank car, including each CPC–1232  
13 tank car, used to transport Class 3 flammable liquids dur-  
14 ing the previous fiscal year that, at the time such tank  
15 car was used, did not meet the DOT–117, DOT–117P,  
16 or DOT–117R specifications in part 179 of title 49, Code  
17 of Federal Regulations. Such fee shall be—

18               “(1) paid by each person who causes such liq-  
19 uids to be transported by such a tank car in com-  
20 merce; and

21               “(2) imposed regardless of—

22                       “(A) train composition; or

23                       “(B) the phase-out schedule under section  
24 7304(b) of the FAST Act (49 U.S.C. 20155  
25 note).

1       “(c) LIMITATION.—A fee imposed pursuant to sub-  
2 section (b) may not be imposed on a railroad carrier that  
3 transports Class 3 flammable liquids.

4       “(d) MEANS OF COLLECTION.—The Secretary shall  
5 prescribe procedures to collect the fees described in sub-  
6 section (b). The Secretary may use a department, agency,  
7 or instrumentality of the United States Government or of  
8 a State or local government to collect the fee and may  
9 reimburse the department, agency, or instrumentality a  
10 reasonable amount for its services.

11       “(e) DEPOSITS.—Amounts equivalent to the fees col-  
12 lected pursuant to subsection (b) shall be deposited into  
13 the Rail Account.

14       “(f) EXPENDITURES.—Amounts deposited pursuant  
15 to subsection (e) shall be available to the Secretary, with-  
16 out need of further appropriation, only for the following  
17 purposes:

18               “(1) The payment of removal and remediation  
19 costs and other costs, expenses, claims, and damages  
20 related to an accident or incident involving the  
21 transportation of Class 3 flammable liquids by rail.

22               “(2) For the Secretary to make grants to  
23 States and Indian tribes to—

24                       “(A) to develop, improve, and carry out  
25 emergency plans under the Emergency Plan-

1           ning and Community Right-To-Know Act of  
2           1986 (42 U.S.C. 11001 et seq.) related to an  
3           accident or incident involving the transportation  
4           of Class 3 flammable liquids by rail, including  
5           ascertaining flow patterns of Class 3 flammable  
6           liquids on lands under the jurisdiction of a  
7           State or Indian tribe and lands of another State  
8           or Indian tribe;

9           “(B) to develop and train regional haz-  
10          ardous material emergency response teams to  
11          prepare for an accident or incident involving the  
12          transportation of Class 3 flammable liquids by  
13          rail;

14          “(C) to train public sector employees to re-  
15          spond to accidents and incidents involving the  
16          transportation of Class 3 flammable liquids by  
17          rail consistent with the requirements of section  
18          5116; and

19          “(D) for any other measures that the Sec-  
20          retary, in consultation with States and Indian  
21          tribes, determines necessary to assist such  
22          States and Indian tribes in preparing for acci-  
23          dents and incidents involving the transportation  
24          of Class 3 flammable liquids by rail.

1       “(g) PUBLIC SECTOR TRAINING STANDARDS.—To  
2 the extent that a grant under subsection (f) is used to  
3 train emergency responders, the State or Indian tribe shall  
4 ensure that the emergency responders who receive training  
5 under the grant have the ability to protect nearby persons,  
6 property, and the environment from the effects of acci-  
7 dents or incidents involving the transportation of haz-  
8 ardous material in accordance with existing regulations or  
9 National Fire Protection Association standards for com-  
10 petence of responders to accidents and incidents involving  
11 hazardous materials, including the transportation of Class  
12 3 flammable liquids by rail.

13       “(h) NO EFFECT ON COMPLIANCE OR LIABILITY  
14 UNDER FEDERAL OR STATE LAW.—Nothing in this sec-  
15 tion may be construed to affect or limit the application  
16 of, obligation to comply with, or liability under any Fed-  
17 eral or State law.

18       “(i) DEFINITIONS.—

19               “(1) CLASS 3 FLAMMABLE LIQUID.—The term  
20 ‘Class 3 flammable liquid’ has the meaning given the  
21 term flammable liquid in section 173.120(a) of title  
22 49, Code of Federal Regulations.

23               “(2) RAILROAD CARRIER.—The term ‘railroad  
24 carrier’ has the meaning given such term in section  
25 20102.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
2 chapter 51 of title 49, United States Code, is amended  
3 by inserting after the item relating to section 5110 the  
4 following new item:

“5111. Rail spill preparedness fund.”.

5 **SEC. 3. INCREASED INSPECTIONS OF CERTAIN RAIL TRACK.**

6 (a) IN GENERAL.—Not later than 9 months after the  
7 date of enactment of this Act, the Secretary of Transpor-  
8 tation shall issue such regulations as are necessary to re-  
9 quire each Class I railroad carrier to inspect all track  
10 where an accident or incident involving the transportation  
11 of flammable liquids or material poisonous or toxic by in-  
12 halation by rail could affect a high consequence area, in  
13 accordance with a schedule prescribed by the Secretary.

14 (b) METHOD OF INSPECTION.—The inspections re-  
15 quired under subsection (a) shall be carried out—

16 (1) on foot; and

17 (2) periodically, by a gage restraint measure-  
18 ment system, as described in section 213.110 of title  
19 49, Code of Federal Regulations.

20 (c) REMEDIAL ACTION.—If the individual making an  
21 inspection required under subsection (a) finds a deviation  
22 from the requirements of part 213 of title 49, Code of  
23 Federal Regulations, the individual shall immediately ini-  
24 tiate remedial action.

1 (d) OTHER RAILROAD CARRIERS.—Nothing in this  
2 section shall be construed to restrict the discretion of the  
3 Secretary to require railroad carriers other than Class I  
4 railroad carriers to inspect track in accordance with this  
5 section. In exercising such discretion, the Secretary shall  
6 consider the risk to the public and to railroad employees  
7 associated with the operations of the railroad carrier and  
8 the transportation of flammable liquids or material poi-  
9 sonous or toxic by inhalation by rail.

10 (e) DEFINITIONS.—In this section:

11 (1) HIGH CONSEQUENCE AREA.—The term  
12 “high consequence area” means—

13 (A) a commercially navigable waterway,  
14 which means a waterway where a substantial  
15 likelihood of commercial navigation exists;

16 (B) a high population area, which means  
17 an urbanized area, as defined and delineated by  
18 the Census Bureau, that contains 50,000 or  
19 more people and has a population density of at  
20 least 1,000 people per square mile;

21 (C) an other populated area, which means  
22 a place, as defined and delineated by the Cen-  
23 sus Bureau, that contains a concentrated popu-  
24 lation, such as an incorporated or unincor-

1           porated city, town, village, or other designated  
2           residential or commercial area; or

3           (D) an unusually sensitive area, including  
4           a drinking water or ecological resource area  
5           that is unusually sensitive to environmental  
6           damage.

7           (2) MATERIAL POISONOUS OR TOXIC BY INHA-  
8           LATION.—The term “material poisonous or toxic by  
9           inhalation” has the meaning given the terms mate-  
10          rial poisonous by inhalation and material toxic by in-  
11          halation in section 171.8 of title 49, Code of Federal  
12          Regulations.

13          (3) OTHER DEFINITIONS.—The definitions con-  
14          tained in section 20102 of title 49, United States  
15          Code, shall apply to this section.

16 **SEC. 4. TRACK SAFETY SPECIALISTS.**

17          There are authorized to be appropriated such sums  
18          as may be necessary for the Administrator of the Federal  
19          Railroad Administration to hire a minimum of 2 addi-  
20          tional track safety specialists per region.

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