

118TH CONGRESS
1ST SESSION

H. R. 5871

To enhance safety requirements for trains, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2023

Ms. STANSBURY (for herself, Mr. NORCROSS, Ms. BUDZINSKI, Mr. ESPAILLAT, Ms. SALINAS, Mr. KEATING, Ms. LEE of California, Mr. MORELLE, Mr. SCHIFF, Ms. SCHAKOWSKY, Mr. CÁRDENAS, Mr. MAGAZINER, Ms. PETTERSEN, Ms. MCCOLLUM, Ms. TITUS, Mr. KRISHNAMOORTHY, Mr. CARSON, Ms. NORTON, Ms. TLAIB, Ms. OCASIO-CORTEZ, Mr. POCAN, Mr. DESAULNIER, Mr. MOSKOWITZ, Ms. PRESSLEY, Ms. SÁNCHEZ, Ms. GARCIA of Texas, Ms. ESCOBAR, Ms. DELAURO, Mr. TAKANO, Ms. LOIS FRANKEL of Florida, Ms. CARAVEO, Ms. OMAR, Mrs. DINGELL, Mr. LYNCH, Ms. BONAMICI, and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance safety requirements for trains, 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 “Rail Worker and Community Safety Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Freight train crew size safety standards.
- Sec. 4. Safety regulations for train operations.
- Sec. 5. Yardmasters hours of service.
- Sec. 6. Hazardous safety or security conditions.
- Sec. 7. Excepted track and hazardous materials.
- Sec. 8. Track inspection requirements.
- Sec. 9. Train approach warning.
- Sec. 10. Certification of signal employees.
- Sec. 11. Wayside detections technology.
- Sec. 12. Certification of train dispatchers.
- Sec. 13. Equipment inspections.
- Sec. 14. Inspections.
- Sec. 15. Rail safety inspections GS classification adjustment.
- Sec. 16. Minimum amount of federal rail safety inspectors.
- Sec. 17. Additional funding for rail safety inspectors.
- Sec. 18. Planning and training grants nonprofit eligibility.
- Sec. 19. Confidential close call reporting systems.
- Sec. 20. Earned paid sick time.

3 **SEC. 2. DEFINITIONS.**

4 In this Act, the following definitions apply:

5 (1) RAILROAD.—The term “railroad” has the
6 meaning given that term in section 10102 of title
7 49, United States Code.

8 (2) RAIL CARRIER.—The term “rail carrier”
9 has the meaning given the term in section 10102 of
10 title 49, United States Code.

11 (3) SECRETARY.—Except as provided in section
12 20, the term “Secretary” means the Secretary of
13 Transportation.

14 **SEC. 3. FREIGHT TRAIN CREW SIZE SAFETY STANDARDS.**

15 (a) SHORT TITLE.—This section may be cited as the
16 “Safe Freight Act of 2023”.

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

4 **“§ 20154. Freight train crew size safety standards**

5 “(a) MINIMUM CREW SIZE.—No freight train may be
6 operated without a 2-person crew consisting of at least 1
7 appropriately qualified and certified conductor and 1 ap-
8 propriately qualified and certified locomotive engineer.

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

12 “(1) train operations on track that is not a
13 main line track;

14 “(2) a freight train operated—

15 “(A) by a railroad carrier that has fewer
16 than 400,000 total employee work hours annu-
17 ally and less than \$40,000,000 annual revenue
18 (adjusted for inflation, as calculated by the Sur-
19 face Transportation Board Railroad Inflation
20 Adjusted Index and Deflator Factor Table);

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

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

1 “(3) locomotives performing assistance to a
2 train that has incurred mechanical failure or lacks
3 the power to traverse difficult terrain, including
4 traveling to or from the location where assistance is
5 provided;

6 “(4) locomotives that—

7 “(A) are not attached to any equipment or
8 are attached only to a caboose; and

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

11 “(5) train operations staffed with fewer than a
12 2-person crew at least 1 year before the date of en-
13 actment of this section, if the Secretary of Transpor-
14 tation determines that such operations achieve an
15 equivalent level of safety as would result from com-
16 pliance with the requirement under subsection (a).

17 “(c) TRAINS INELIGIBLE FOR EXCEPTION.—The ex-
18 ceptions under subsection (b) may not be applied to—

19 “(1) a train transporting 1 or more loaded cars
20 carrying high-level radioactive waste, spent nuclear
21 fuel, or material toxic by inhalation (as defined in
22 section 171.8 of title 49, Code of Federal Regula-
23 tions);

24 “(2) a train transporting—

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

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

7 “(3) a train with a total length exceeding 7,500
8 feet.

9 “(d) STATUTORY CONSTRUCTION.—Nothing in this
10 section shall be construed to supersede or preempt any
11 provision of State or local law that provides for minimum
12 crew requirements in excess of the 2-person crew require-
13 ments established under this section.”.

14 (c) CLERICAL AMENDMENT.—The analysis for sub-
15 chapter II of chapter 201 of title 49, United States Code,
16 is amended by inserting after the item relating to section
17 20153 the following:

 “20154. Freight train crew size safety standards.”.

18 **SEC. 4. SAFETY REGULATIONS FOR TRAIN OPERATIONS.**

19 (a) RULEMAKING.—Not later than 1 year after the
20 date of the enactment of this Act, the Secretary of Trans-
21 portation shall issue regulations, or modify existing regu-
22 lations, establishing safety requirements, in accordance
23 with subsection (b), with which a shipper or rail carrier
24 operating a train transporting hazardous materials that
25 is not subject to the requirements for a high-hazard flam-

1 mable train under section 174.310 of title 49, Code of
2 Federal Regulations, shall comply with respect to the op-
3 eration of each such train and the maintenance of speci-
4 fication tank cars.

5 (b) REQUIREMENTS.—The regulations issued pursu-
6 ant to subsection (a) shall require shippers and rail car-
7 riers—

8 (1) to provide advance notification and informa-
9 tion regarding the transportation of hazardous mate-
10 rials described in subsection (a) to each State emer-
11 gency response commissioner, the Tribal Emergency
12 Response Commission, or any other State or Tribal
13 agency responsible for receiving the information no-
14 tification for emergency response planning informa-
15 tion;

16 (2) to include, in the notification provided pur-
17 suant to paragraph (1), a written gas discharge plan
18 with respect to the applicable hazardous materials
19 being transported; and

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

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

25 (1) train length and weight;

- 1 (2) train consist;
- 2 (3) minimum buffer zones between where crew
- 3 are present on the train and cars with hazardous
- 4 materials;
- 5 (4) route analysis and selection;
- 6 (5) speed restrictions;
- 7 (6) track standards;
- 8 (7) track, bridge, and rail car maintenance;
- 9 (8) signaling and train control;
- 10 (9) response plans; and
- 11 (10) any other requirements that the Secretary
- 12 determines are necessary.

13 (d) ADDITIONAL RULEMAKING.—Not later than 2
14 years after the date of the enactment of this Act, the Sec-
15 retary shall issue regulations, or modify existing regula-
16 tions, establishing safety requirements for rail carriers op-
17 erating trains that pose a potential safety risk that include
18 requirements regarding—

- 19 (1) train length and weight;
- 20 (2) train consist;
- 21 (3) the ability for train crews to communicate
- 22 with each other and other rail employees;
- 23 (4) signaling and train control;
- 24 (5) response plans; and

1 (6) any other requirements that the Secretary
2 determines necessary.

3 (e) HIGH-HAZARD FLAMMABLE TRAINS.—Not later
4 than 1 year after the date of the enactment of this Act,
5 the Secretary shall modify the safety requirements for
6 trains subject to section 174.310 of title 49, Code of Fed-
7 eral Regulations, to satisfy, in whole or in part, the rule-
8 making required under subsection (a).

9 **SEC. 5. YARDMASTERS HOURS OF SERVICE.**

10 (a) LIMITATIONS ON DUTY HOURS OF YARDMASTER
11 EMPLOYEES.—Section 21103 of title 49, United States
12 Code, is amended—

13 (1) in the section heading by inserting “**and**
14 **yardmaster employees**” after “**train em-**
15 **ployees**”;

16 (2) by inserting “or yardmaster employee” after
17 “train employee” each place it appears; and

18 (3) in subsection (e) by inserting “or
19 yardmaster employee’s” after “During a train em-
20 ployee’s”.

21 (b) DEFINITIONS.—Section 21101 of title 49, United
22 States Code, is amended—

23 (1) in paragraph (3) by inserting “a yardmaster
24 employee,” after “dispatching service employee,”;
25 and

1 (2) by adding at the end the following:

2 “(6) ‘yardmaster employee’ means an individual
3 responsible for supervising and coordinating the con-
4 trol of trains and engines operating within a rail
5 yard.”.

6 (c) CONFORMING AMENDMENT.—The analysis for
7 chapter 211 of title 49, United States Code, is amended
8 by striking the item relating to section 21103 and insert-
9 ing the following:

“21103. Limitations on duty hours of train employees and yardmaster employ-
ees.”.

10 **SEC. 6. HAZARDOUS SAFETY OR SECURITY CONDITIONS.**

11 (a) IN GENERAL.—Section 20109(b) of title 49,
12 United States Code, is amended by adding at the end the
13 following:

14 “(4) A refusal to work described in paragraph (1)(B)
15 may be an action by an individual employee, a group of
16 employees, or a collective bargaining representative on be-
17 half of affected employees.”.

18 (b) ENFORCEMENT.—Section 20109(d)(1) of title 49,
19 United States Code, is amended by inserting “, or a collec-
20 tive bargaining representative acting on behalf of affected
21 employees,” after “An employee”.

22 **SEC. 7. EXCEPTED TRACK AND HAZARDOUS MATERIALS.**

23 (a) MOVEMENTS ON EXCEPTED TRACK.—Not more
24 than 1 year after the date of enactment of this Act, the

1 Secretary of Transportation shall update part 213.4(e) of
2 title 49, Code of Federal Regulations, to make it clear that
3 no railcar required to be placarded by the Federal Rail-
4 road Administration's hazardous materials regulations
5 shall be transported by a railroad on any segment of track
6 defined by the Federal Railroad Administration as ex-
7 cepted track.

8 (b) NO WAIVERS.—The Secretary may not waive or
9 fail to enforce this limitation under any circumstances.

10 **SEC. 8. TRACK INSPECTION REQUIREMENTS.**

11 (a) TRACK INSPECTION REQUIREMENTS.—Not more
12 than 1 year after the date of enactment of this Act, the
13 Secretary of Transportation shall update subpart F and
14 subpart G, part 213 of title 49, Code of Federal Regula-
15 tions, by requiring that a qualifying Track Geometry
16 Measurement System (in this section referred to as
17 “TGMS”) operate over the following track classifications
18 at the following frequencies:

19 (1) For operations at a qualified cant defi-
20 ciency, Eu, of more than 5 inches on track Classes
21 1 through 5, at least 4 times per calendar year with
22 not less than 43 days between TGMS inspections.

23 (2) For track Class 1, operating more than 15
24 million gross tons (MGT) on an annual basis, at

1 least once per calendar year with not less than 170
2 days between TGMS inspections.

3 (3) For track Class 2—

4 (A) less than 15 MGT annually, at least
5 once per calendar year with not less than 170
6 days between TGMS inspections; and

7 (B) more than 15 MGT annually, at least
8 twice per calendar year with not less than 120
9 days between TGMS inspections.

10 (4) For track Class 3—

11 (A) less than 15 MGT annually, at least
12 twice per calendar year with not less than 120
13 days between TGMS inspections; and

14 (B) more than 15 MGT annually, at least
15 3 times per calendar year with not less than 90
16 days between TGMS inspections.

17 (5) For track Class 4—

18 (A) less than 15 MGT annually, at least 3
19 times per calendar year with not less than 90
20 days between TGMS inspections; and

21 (B) more than 15 MGT annually, at least
22 4 times per calendar year with not less than 43
23 days between TGMS inspections.

1 (6) For track Class 5, at least 4 times per cal-
2 endar year with not less than 43 days between
3 TGMS inspections.

4 (7) For track Classes 6 and 7, at least twice
5 within any 120-day period with not less than 25
6 days between TGMS inspections.

7 (8) For track Class 8, at least twice within any
8 60-day period with not less than 12 days between
9 TGMS inspections.

10 (9) For track Class 9, at least twice within any
11 30-day period with not less than 6 days between
12 TGMS inspections.

13 (10) For crossovers where the track speed is
14 more than 30 miles per hour, at least twice per cal-
15 endar year with not less than 120 days between
16 TGMS inspections.

17 (b) APPLICABLE REQUIREMENTS.—The Secretary
18 shall ensure that any requirements under subpart F and
19 subpart G, part 213 of title 49, Code of Federal Regula-
20 tion, including part 213.333, that are triggered by the
21 amendments made in subsection (a) are applied to the ap-
22 plicable track Class.

23 (c) MODIFYING REGULATIONS.—The Secretary is au-
24 thorized to modify or issue such regulations as necessary
25 to carry out this section.

1 **SEC. 9. TRAIN APPROACH WARNING.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Secretary of Transportation shall promul-
4 gate or update such regulations as are necessary to require
5 that all railroads provide warning equipment to railroad
6 watchmen and lookouts for roadway workers that—

7 (1) include whistles, air horns, white disks or
8 red flags, or lanterns; and

9 (2) may only include the use of a verbal warn-
10 ing if a single worker receiving such warning is with-
11 in arms reach of the individual issuing such warn-
12 ing.

13 **SEC. 10. CERTIFICATION OF SIGNAL EMPLOYEES.**

14 (a) IN GENERAL.—Subchapter II of chapter 201 of
15 title 49, United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 20172. Certification of signal employees**

18 “(a) CERTIFICATION PROGRAM.—Not later than 12
19 months after the date of enactment of the Rail Worker
20 and Community Safety Act, the Secretary of Transpor-
21 tation shall promulgate regulations to establish a program
22 requiring the certification of signal installation, repair,
23 maintenance, and testing employees.

24 “(b) UPDATED PLANS.—In promulgating such regu-
25 lations, the Secretary shall require that railroad carriers,
26 contractors, and subcontractors submit, not later than 180

1 days after such regulations are finalized, updated training
 2 and qualification plans pursuant to section 20162, that
 3 take into account the regulations the Secretary issues
 4 under subsection (a) for signal installation, repair, mainte-
 5 nance, and testing employees.

6 “(c) MEANINGFUL CONSULTATION.—Any railroad
 7 carrier, contractor, or subcontractor required to submit an
 8 updated plan under subsection (b) shall consult with, em-
 9 ploy good faith, and use its best efforts to reach agreement
 10 with any nonprofit employee labor organization for em-
 11 ployees covered by this section in the formation of said
 12 plan before submitting it to the Secretary for approval.

13 “(d) AUTHORITY TO DEFINE TERM.—The Secretary
 14 shall have the authority to promulgate regulations regard-
 15 ing what the terms ‘consult’, ‘employ good faith’, and ‘use
 16 its best efforts to reach agreement with’ mean and any
 17 necessary associated requirements for the purposes of car-
 18 rying out subsection (c).”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-
 20 ysis for chapter 201 is amended by adding at the end the
 21 following:

“20172. Certification of signal employees.”.

22 **SEC. 11. WAYSIDE DETECTIONS TECHNOLOGY.**

23 (a) WAYSIDE DETECTION TECHNOLOGIES DE-
 24 FINED.—Section 20102 of title 49, United States Code,
 25 is amended by adding at the end the following:

1 “(5) ‘wayside detection technologies’ means—

2 “(A) any devices and equipment situated
3 within the rail system that can detect and com-
4 municate a potential or known safety condition;
5 and

6 “(B) the equipment, apparatuses, includ-
7 ing onboard or wayside, or associated appur-
8 tenances to technology necessary to ensure all
9 defects outside of the prescribed values for the
10 equipment will be appropriately identified and
11 transmitted to the operating crew of a train be-
12 fore a failure occurs.”.

13 (b) IN GENERAL.—Subchapter II of chapter 201 of
14 title 49, United States Code, is further amended by adding
15 at the end the following new section:

16 **“§ 20173. Wayside detection technologies**

17 “(a) RULEMAKING.—Not later than 2 years after the
18 date of the enactment of the Rail Worker and Community
19 Safety Act, the Secretary shall issue regulations estab-
20 lishing requirements for the installation, repair, testing,
21 maintenance, and operation of wayside detection tech-
22 nologies.

23 “(b) SPECIFIC TECHNOLOGIES.—The Secretary shall
24 issue regulations under subsection (a) for categories of
25 wayside detection technologies, including—

1 “(1) hotbox detectors;

2 “(2) dragging equipment detectors;

3 “(3) wheel issues detection devices (e.g. Load
4 Impact, High Heat);

5 “(4) slide detection devices (e.g. Rock Slide,
6 Earth Slide);

7 “(5) train height and width detection devices;

8 “(6) element detection devices (e.g. High
9 Water, Flood, Wind, and Fire detection); and

10 “(7) other wayside detection technologies as de-
11 termined by the Secretary.

12 “(c) SEPARATE REGULATIONS.—The Secretary may
13 issue separate regulations for each category listed in sub-
14 section (b) as necessary.

15 “(d) REQUIREMENTS.—The regulations issued pur-
16 suant to subsection (a) shall include requirements regard-
17 ing—

18 “(1) the frequency of the placement of wayside
19 detection technologies;

20 “(2) performance standards for such detection
21 technologies;

22 “(3) the installation, maintenance, repair and
23 testing requirements for such detection technologies;

24 “(4) reporting and monitoring data and mainte-
25 nance records of such detection technologies;

1 “(5) appropriate steps the rail carrier must
2 take when receiving an alert of a defect, failure, or
3 a likely failure based on trending data, from or re-
4 garding such detection technologies; and

5 “(6) any other requirement the Secretary con-
6 siders necessary.”.

7 (c) CONFORMING AMENDMENT.—The analysis for
8 subchapter II of chapter 201 is further amended by add-
9 ing at the end the following:

 “20173. Wayside detection technologies.”.

10 **SEC. 12. CERTIFICATION OF TRAIN DISPATCHERS.**

11 (a) IN GENERAL.—Subchapter II of chapter 201 of
12 title 49, United States Code, is further amended by adding
13 at the end the following new section:

14 **“§ 20174. Certification of train dispatchers**

15 “(a) CERTIFICATION PROGRAM.—Not later than 12
16 months after the date of enactment of the Rail Worker
17 and Community Safety Act, the Secretary of Transpor-
18 tation shall prescribe regulations to establish a program
19 requiring the certification of dispatching service employ-
20 ees, as defined by section 21101.

21 “(b) UPDATED PLANS.—In promulgating such regu-
22 lations, the Secretary shall require that railroad carriers,
23 contractors, and subcontractors submit, not later than 180
24 days after such regulations are finalized, updated training
25 and qualification plans pursuant to section 20162, that

1 take into account the regulations the Secretary issues
2 under subsection (a) for dispatching service employees.

3 “(c) MEANINGFUL CONSULTATION.—Subject to sub-
4 section (d), any railroad carrier, contractor, or subcon-
5 tractor required to submit an updated plan under sub-
6 section (b) shall submit, as part of a request the Secretary
7 for approval, evidence of an agreement with any nonprofit
8 employee labor organization for employees covered by this
9 section in the formation of said plan, to the extent the
10 covered employees are represented by a nonprofit em-
11 ployee labor organization.

12 “(d) STATEMENT.—If the railroad carrier, con-
13 tractor, or subcontractor, and its directly affected employ-
14 ees, including any nonprofit employee labor organization
15 representing a class or craft of directly affected employees,
16 cannot reach consensus on the proposed contents of the
17 plan, then directly affected employees and such organiza-
18 tion may file a statement with the Secretary explaining
19 their views on the plan on which consensus was not
20 reached. The Secretary shall consider such views during
21 review and approval of the plan.”.

22 (b) CLERICAL AMENDMENT.—The analysis for sub-
23 chapter II of chapter 201 is further amended by adding
24 at the end the following:

“20174. Certification of train dispatchers.”.

1 **SEC. 13. EQUIPMENT INSPECTIONS.**

2 Not later than 12 months after the date of enactment
3 of this Act, the Secretary of Transportation shall issue
4 such regulations as are necessary to—

5 (1) prohibit any train from being moved out of
6 a switchyard before all required brake inspections of
7 locomotives and rail cars have been completed;

8 (2) allow only the Qualified Mechanical Inspec-
9 tor assigned to inspect a locomotive or rail car to
10 sign off on the Form FRA F6180–49A (commonly
11 known as the “blue card”) for locomotive inspections
12 or the satisfactory Class I brake inspection or end
13 of train device form relating to such locomotive or
14 rail car related to rail car inspections; and

15 (3) ensure that any inspection conducted under
16 part 215 of title 49, Code of Federal Regulations,
17 utilizing inspection technologies, including artificial
18 intelligence or camera-based systems, require
19 verification or validation by a Qualified Mechanical
20 Inspector.

21 **SEC. 14. INSPECTIONS.**

22 (a) TIME AVAILABLE FOR INSPECTION.—

23 (1) IN GENERAL.—Subchapter II of chapter
24 201 of title 49, United States Code, is further
25 amended by adding at the end the following:

1 **“§ 20175. Time available for inspection**

2 “No railroad may limit the time required for an em-
3 ployee to complete a railcar, locomotive, or brake inspec-
4 tion to ensure that each railcar, locomotive, and brake sys-
5 tem complies with safety laws and regulations.”.

6 (2) CLERICAL AMENDMENT.—The analysis for
7 subchapter II of chapter 201 of title 49, United
8 States Code, is further amended by adding at the
9 end the following:

“20175. Time available for inspection.”.

10 (b) PRE-DEPARTURE RAILCAR INSPECTIONS.—Not
11 later than 120 days after the date of the enactment of
12 this Act, the Secretary shall amend the pre-departure in-
13 spection requirements for Class I railroads under part 215
14 of title 49, Code of Federal Regulations—

15 (1) to ensure that after initial consultation with
16 the Administrator of the Federal Railroad Adminis-
17 tration, and after each 6 subsequent annual con-
18 sultation, each railroad identifies inspection locations
19 and, at such locations, has inspectors designated
20 under such part 215 available for the purpose of in-
21 specting freight cars;

22 (2) to ensure that all freight cars are inspected
23 by an inspector designated under such part 215 at
24 a designated inspection location in the direction of
25 travel as soon as practicable; and

1 (3) to require each railroad that operates rail-
2 road freight cars to which such part 215 applies to
3 designate persons qualified to inspect railroad
4 freight rail cars, subject to any existing collective
5 bargaining agreement, for compliance and deter-
6 minations required under such part.

7 (c) QUALIFIED LOCOMOTIVE INSPECTIONS.—Not
8 later than 1 year after the date of the enactment of this
9 Act, the Secretary shall review and amend, as necessary,
10 regulations under chapters 229 and 243 of title 49, Code
11 of Federal Regulations—

12 (1) to ensure appropriate training qualifications
13 and proficiency of employees, including qualified me-
14 chanical inspectors, performing locomotive inspec-
15 tions; and

16 (2) for locomotives in service on a Class I rail-
17 road, to require a daily inspection to be performed
18 by a qualified mechanical inspector at least once
19 every 7 days under section 229.23(b)(2) of title 49,
20 Code of Federal Regulations.

21 (d) 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 railcar, locomotive,
25 and train brake system inspection compliance with

1 chapter II of subtitle B of title 49, Code of Federal
2 Regulations. In carrying out such audits, the Sec-
3 retary shall—

4 (A) consider whether the railroad has in
5 place procedures necessary for railcar, loco-
6 motive, and train brake system inspection com-
7 pliance under such chapter;

8 (B) assess the type, content, and adequacy
9 of training and performance metrics the rail-
10 road provides employees who perform railcar,
11 locomotive, and train brake system inspections,
12 including the qualifications specified for such
13 employees;

14 (C) determine whether the railroad has
15 practices that would interfere with an employ-
16 ee's responsibility to perform an inspection
17 safely;

18 (D) determine whether railcars, loco-
19 motives, and train brake systems are inspected
20 on the railroad's network in accordance with
21 such chapter;

22 (E) involve proper communication of iden-
23 tified defects to railroad personnel and make
24 appropriate use of remedial action reports to
25 verify that repairs are made;

1 (F) determine whether managers coerce
2 employees to sign off on any documents
3 verifying an inspection or repair of a railcar, lo-
4 comotive, or train brake system;

5 (G) determine whether the railroad's in-
6 spection procedures reflect the current oper-
7 ating practices of the rail carrier; and

8 (H) ensure that railroad inspection proce-
9 dures only provide for the use of persons per-
10 mitted to perform each relevant inspection
11 under such chapter.

12 (2) AUDIT SCHEDULING.—The Secretary
13 shall—

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

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

19 (ii) a limited number, as determined
20 by the Secretary, of Class II and Class III
21 railroads are audited annually, except that
22 no audit of a tourist, scenic, historic, or ex-
23 cursion operation may be required under
24 this subsection; 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 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 AND
9 PROCEDURES.—If, during an audit required under
10 this subsection, the auditor identifies a deficiency in
11 a railroad’s procedures or practices necessary to en-
12 sure compliance with chapter II of subtitle B of title
13 49, Code of Federal Regulations, the railroad shall
14 eliminate such deficiency, after first being provided
15 the opportunity to address whether such a deficiency
16 exists.

17 (4) CONSULTATION AND COOPERATION.—

18 (A) CONSULTATION.—In conducting an
19 audit required under this subsection, the Sec-
20 retary shall consult with the railroad being au-
21 dited and the employees of such railroad, in-
22 cluding any nonprofit employee labor organiza-
23 tion representing the employees of the railroad
24 that conduct railcar, locomotive, or train brake
25 system inspections.

1 (B) COOPERATION.—The railroad being
2 audited and the employees of such railroad, in-
3 cluding any nonprofit employee labor organiza-
4 tion representing mechanical employees, shall
5 fully cooperate with any audit conducted pursu-
6 ant to this subsection—

7 (i) by providing any relevant docu-
8 ments requested; and

9 (ii) by making available any employees
10 for interview without undue delay or ob-
11 struction.

12 (C) FAILURE TO COOPERATE.—If the Sec-
13 retary determines that a railroad or any of the
14 employees of such railroad, including any non-
15 profit employee labor organization representing
16 mechanical employees of the railroad is not
17 fully cooperating with an audit conducted pur-
18 suant to this subsection, the Secretary shall
19 electronically notify the Committee on Com-
20 merce, Science, and Transportation of the Sen-
21 ate and the Committee on Transportation and
22 Infrastructure of the House of Representatives
23 of the failure to fully cooperate with such audit.

24 (e) REVIEW OF REGULATIONS.—Not later than 5
25 years after the date of the enactment of this Act, and peri-

1 odically thereafter, the Secretary shall determine whether
2 any update to chapters I and II of subtitle B of title 49,
3 Code of Federal Regulations, is necessary to ensure the
4 adequacy of railcar, locomotive, and train brake system
5 inspections.

6 (f) ANNUAL REPORT.—The Secretary shall publish
7 an annual report on the public website of the Federal Rail-
8 road Administration that—

9 (1) summarizes the findings of the audits con-
10 ducted pursuant to subsection (d) during the most
11 recently concluded fiscal year;

12 (2) summarizes any updates made to chapter I
13 or II of subtitle B of title 49, Code of Federal Regu-
14 lations, pursuant to this section; and

15 (3) excludes any confidential business informa-
16 tion or sensitive security information.

17 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion may be construed—

19 (1) to provide the Secretary with any authority
20 to interpret, revise, alter, or apply a collectively bar-
21 gained agreement, nor any authority over collective
22 bargaining, collectively bargained agreements, or any
23 aspect of the Railway Labor Act (45 U.S.C. 151 et
24 24 seq.);

1 (2) to alter the terms or interpretations of ex-
2 isting collective bargaining agreements; or

3 (3) to abridge any procedural rights or rem-
4 edies provided under a collectively bargained agree-
5 ment.

6 **SEC. 15. RAIL SAFETY INSPECTIONS GS CLASSIFICATION**

7 **ADJUSTMENT.**

8 (a) **GS CLASSIFICATION ADJUSTMENT.**—Subsection
9 (b) of Section 5109 of Title 5, United States Code is
10 amended by—

11 (1) In paragraph (1), striking “GS–12” and in-
12 serting “GS–13”; and

13 (2) In paragraph (2), striking “GS–13” and in-
14 serting “GS–14”.

15 (b) **OFFICE OF PERSONNEL MANAGEMENT COR-**
16 **RESPONDING ACTIONS.**—Not later than 180 days after
17 the date of enactment of this Act, the Director of the Of-
18 fice of Personnel Management shall update the Railroad
19 Safety Series, GS–2121, TS–37 dated November 1979, to
20 reflect the amendment made in subsection (a).

21 (c) **SECRETARY OF TRANSPORTATION COR-**
22 **RESPONDING ACTIONS.**—Not later than 180 days after
23 the date of enactment of this Act, the Secretary of Trans-
24 portation shall update the Railroad Safety Inspector and

1 Railroad Safety Specialist General Schedule grades, to re-
2 flect the amendment made in subsection (a).

3 **SEC. 16. MINIMUM AMOUNT OF FEDERAL RAIL SAFETY IN-**
4 **SPECTORS.**

5 (a) IN GENERAL.—Subchapter II of chapter 201 of
6 title 49, United States Code, is further amended by adding
7 at the end the following:

8 **“§ 20176. Rail safety inspectors**

9 “(a) MINIMUM RAIL INSPECTOR LEVEL.—The Office
10 of Safety of the Federal Railroad Administration shall
11 have not less than 425 railroad safety inspectors, as de-
12 scribed in section 5109(b)(1) of title 5.

13 “(b) BREAKDOWN.—Of the railroad safety inspectors
14 required under subsection (a), there shall be at least—

15 “(1) 80 that are hazardous materials experts;

16 “(2) 80 that are track experts;

17 “(3) 80 that are motive power and equipment
18 experts;

19 “(4) 80 that are signals and train control ex-
20 perts;

21 “(5) 80 that are operating practice experts; and

22 “(6) 25 that are rail grade crossing experts.

23 “(c) REPORT TO CONGRESS.—If at the end of a fiscal
24 year, the Office of Safety of the Federal Railroad Adminis-
25 tration has not met the goal established in subsection (a),

1 the Secretary shall not later than 90 days after the last
2 day of such fiscal year, submit to the Committee on Com-
3 merce, Science, and Transportation of the United States
4 Senate, and the Committee on Transportation and Infra-
5 structure of the United States House of Representatives
6 a report that—

7 “(1) explains why the goal was not met;

8 “(2) establishes an action plan to meet such
9 goal; and

10 “(3) describes any additional funding or legisla-
11 tion from Congress necessary to meet such goal.”.

12 (b) CONFORMING AMENDMENT.—The chapter anal-
13 ysis for chapter 201 is further amended by adding at the
14 end the following:

“20176. Rail safety inspectors.”.

15 **SEC. 17. ADDITIONAL FUNDING FOR RAIL SAFETY INSPEC-**
16 **TORS.**

17 Section 20117 of title 49, United States Code is
18 amended by adding at the end the following:

19 “(f) RAILROAD SAFETY INSPECTORS.—

20 “(1) In addition to amounts otherwise author-
21 ized by law, there is authorized to be appropriated
22 \$12,000,000 for each of the fiscal years 2024
23 through 2028 to hire railroad safety inspectors, as
24 described in section 5109(b)(1) of title 5.

1 “(2) In addition to amounts otherwise author-
2 ized by law, there is authorized to be appropriated
3 \$10,500,000 for each of the fiscal years 2024
4 through 2028 to increase the pay of existing such
5 railroad safety inspectors to not less than a GS–13
6 level.

7 “(3) With the amounts made available pursuant
8 to paragraph (1), the Secretary shall hire railroad
9 safety inspectors in the following manner, except
10 that the Secretary shall strive to keep the propor-
11 tionality listed below if the amount made availability
12 is less than what is authorized in paragraph (1):

13 “(A) 14 that are hazardous materials ex-
14 perts.

15 “(B) 14 that are track experts.

16 “(C) 14 that are motive power and equip-
17 ment experts.

18 “(D) 14 that are signals and train control
19 experts.

20 “(E) 14 that are operating practice ex-
21 perts.

22 “(F) 5 that are rail grade crossing ex-
23 perts.”.

1 **SEC. 18. PLANNING AND TRAINING GRANTS NONPROFIT**
2 **ELIGIBILITY.**

3 Section 5116 of title 49, United States Code, is
4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1) by striking “States
7 and Indian tribes” and inserting “States, In-
8 dian tribes, and nonprofit organizations”;

9 (B) in paragraph (2) by striking “State or
10 Indian tribe” and inserting “State, Indian
11 tribe, or nonprofit organization”;

12 (C) in paragraph (3) by striking “State or
13 Indian tribe” and inserting “State, Indian
14 tribe, or nonprofit organization”;

15 (D) by redesignating paragraphs (5) and
16 (6) as paragraphs (6) and (7), respectively;

17 (E) by inserting after paragraph (4) the
18 following:

19 “(5) A nonprofit organization referred to in
20 subsection (a) is a nonprofit organization that—

21 “(A) represents first responders or public
22 officials responsible for coordinating disaster re-
23 sponse; and

24 “(B) is able to provide direct or web-based
25 training to individuals responsible for respond-

1 ing to accidents and incidents involving haz-
2 ardous materials.”;

3 (F) in paragraph (6), as so redesignated—

4 (i) in subparagraph (B) by striking
5 “political subdivision, or Indian tribe” and
6 inserting “political subdivision, Indian
7 tribe, or nonprofit organization”; and

8 (ii) in subparagraph (C) by striking
9 “State or Indian tribe” and inserting
10 “State, Indian tribe, or nonprofit organiza-
11 tion” each place it appears; and

12 (G) in paragraph (7), as so redesignated—

13 (i) by striking “States and Indian
14 tribes” and inserting “States, Indian
15 tribes, and nonprofit organizations”; and

16 (ii) in subparagraph (E), by striking
17 “State or Indian tribe” and inserting
18 “State, Indian tribe, or nonprofit organiza-
19 tion”.

20 (2) in subsection (c), by striking “State or In-
21 dian tribe” and inserting “State, Indian tribe, or
22 nonprofit organization”; and

23 (3) in subsection (d)—

1 (A) by striking “State or Indian tribe” and
2 inserting “State, Indian tribe, or nonprofit or-
3 ganization”; and

4 (B) by striking “State or tribe” and insert-
5 ing “State, Indian tribe, or nonprofit organiza-
6 tion”; and

7 (4) in subsection (e), by striking “political sub-
8 division of a State, or Indian tribe” and inserting
9 “political subdivision of a State, Indian tribe, or
10 nonprofit organization”.

11 **SEC. 19. CONFIDENTIAL CLOSE CALL REPORTING SYSTEMS.**

12 (a) IN GENERAL.—Subchapter II of chapter 201 of
13 title 49, United States Code, is further amended by adding
14 at the end the following:

15 **“§ 20177. Confidential close call reporting systems**

16 “(a) RULEMAKING.—Not later than 1 year after the
17 date of the enactment of this section, the Secretary shall
18 issue regulations that require an applicable railroad car-
19 rier shall follow in establishing a confidential close call re-
20 porting system program (in this section referred to as the
21 ‘Program’). The Secretary may use any information and
22 experience gathered through research and pilot programs
23 on confidential close call reporting systems in developing
24 regulations under this subsection, including continuing the
25 use of third parties for the collection of close call reports

1 and distribution of close call data. The Secretary shall en-
2 sure that an applicable railroad carrier’s employees receive
3 protection under the Program from any related Federal
4 Railroad Administration enforcement actions.

5 “(b) PROGRAM DEVELOPMENT AND OVERSIGHT.—

6 “(1) IN GENERAL.—Not later than 180 days
7 after the date on which the regulations under sub-
8 section (a) are issued, an applicable railroad carrier
9 shall develop and submit a proposed Program to the
10 Secretary for review and approval.

11 “(2) CONTENTS.—The proposal submitted by a
12 railroad carrier under paragraph (1) shall—

13 “(A) describe the core principles and val-
14 ues of its proposed Program;

15 “(B) explain the rights, roles, and respon-
16 sibilities of Program stakeholders;

17 “(C) identify concerns and interests; and

18 “(D) describe how the Program will oper-
19 ate.

20 “(3) REVIEW.—

21 “(A) IN GENERAL.—The Secretary shall
22 review and approve or disapprove each proposed
23 Program within a reasonable amount of time. If
24 a proposed Program is not approved, the Sec-
25 retary shall notify the applicable railroad car-

1 rier in writing of the specific areas in which the
2 proposed Program is deficient. The applicable
3 railroad carrier shall correct all deficiencies
4 within a reasonable period of time following re-
5 ceipt of written notice from the Secretary.

6 “(B) UPDATES.—An applicable railroad
7 carrier shall update the Program as needed and
8 obtain the Secretary’s approval prior to making
9 any major changes to such Program.

10 “(C) ANNUAL REVIEWS.—The Secretary
11 shall conduct an annual review to ensure that
12 each applicable railroad carrier is in compliance
13 with the approved Program of the carrier.

14 “(c) ESTABLISHMENT.—Not later than 2 years after
15 the date of the enactment of this section, each applicable
16 railroad carrier shall establish a confidential close call re-
17 porting system pursuant to the rulemaking under sub-
18 section (a).

19 “(d) PROGRAM ELEMENTS.—Under the Program
20 each applicable railroad carrier shall—

21 “(1) provide a safe environment for its employ-
22 ees to report unsafe events and conditions;

23 “(2) for unsafe events and conditions reported
24 within the scope of a confidential close call reporting

1 system, ensure that the employees of the carrier are
2 protected from railroad carrier discipline;

3 “(3) use information collected through the con-
4 fidential close call reporting system to develop and
5 implement targeted corrective actions, as appro-
6 priate; and

7 “(4) use information collected by the system to
8 supplement inspection data in identifying safety
9 issues and emerging risks before such issues or risks
10 develop into accidents.

11 “(e) CONSENSUS.—

12 “(1) IN GENERAL.—Each applicable railroad
13 carrier shall consult with, employ good faith with,
14 and use best efforts to reach agreement with all of
15 its directly affected employees, including any non-
16 profit employee labor organization representing a
17 class or craft of directly affected employees of the
18 applicable railroad carrier, on the development and
19 implementation of the proposed Program.

20 “(2) STATEMENTS.—If an applicable railroad
21 carrier and the directly affected employees of such
22 carrier, including any nonprofit employee labor orga-
23 nization representing a class or craft of directly af-
24 fected employees of the applicable railroad carrier,
25 cannot reach consensus on the development and im-

1 plementation of the proposed Program, then directly
2 affected employees and such organization may file a
3 statement with the Secretary explaining the views of
4 such employees on the proposed Program on which
5 consensus was not reached. The Secretary shall con-
6 sider such views during review of the proposed Pro-
7 gram under subsection (b)(3)(A).

8 “(f) VOLUNTARY PROGRAM ESTABLISHMENT.—Any
9 railroad carrier that is not an applicable railroad carrier
10 may voluntarily establish a Program under this section.
11 This section, and any regulations promulgated under this
12 section, shall apply to a Program that is voluntarily estab-
13 lished.

14 “(g) USE OF DATA.—The Secretary may use the con-
15 fidential close call reporting data when—

16 “(1) implementing or updating the Federal
17 Railroad Administration’s National Inspection Plan;

18 “(2) performing focused inspections; or

19 “(3) developing agency rulemakings and guid-
20 ance, as appropriate.

21 “(h) DEFINITION OF APPLICABLE RAILROAD CAR-
22 RIER.—In this section, the term ‘applicable railroad car-
23 rier’ means a railroad carrier that—

24 “(1) is a Class I railroad;

1 “(2) has inadequate safety performance, as de-
2 termined by the Secretary; or

3 “(3) provides intercity rail passenger or com-
4 muter rail passenger transportation.

5 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the Secretary such
7 sums as may be necessary—

8 “(1) to implement this section; and

9 “(2) to support the nationwide implementation
10 of confidential close call reporting system programs,
11 as the Secretary determines appropriate.”.

12 (b) CLERICAL AMENDMENT.—The analysis for chap-
13 ter 201 of title 49, United States Code, is further amend-
14 ed by adding at the end the following:

 “20177. Confidential close call reporting systems.”.

15 **SEC. 20. EARNED PAID SICK TIME.**

16 (a) EARNING OF PAID SICK TIME.—

17 (1) IN GENERAL.—A rail carrier shall provide
18 each rail carrier employee employed by the rail car-
19 rier not less than 1 hour of earned paid sick time
20 for every 30 hours worked, to be used as described
21 in this section. A rail carrier shall not be required
22 to permit a rail carrier employee to earn, under this
23 section, more than 56 hours of paid sick time in a
24 year, unless the rail carrier chooses to set a higher
25 limit.

1 (2) EXEMPT EMPLOYEES.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), for purposes of this section,
4 a rail carrier employee who is exempt from
5 overtime requirements under section 13(a)(1) of
6 the Fair Labor Standards Act of 1938 (29
7 U.S.C. 213(a)(1)) shall be deemed to work 40
8 hours in each workweek.

9 (B) SHORTER NORMAL WORKWEEK.—If
10 the normal workweek of such a rail carrier em-
11 ployee is less than 40 hours, the rail carrier em-
12 ployee shall earn paid sick time based upon that
13 normal workweek.

14 (3) DATES FOR BEGINNING TO EARN PAID SICK
15 TIME AND USE.—Except as provided in the second
16 sentence of paragraph (7), a rail carrier employee
17 shall begin to earn paid sick time under this section
18 at the commencement of their employment. Except
19 as provided in such sentence, a rail carrier employee
20 shall be entitled to use the earned paid sick time be-
21 ginning on the 60th calendar day following com-
22 mencement of the rail carrier employee's employ-
23 ment. After that 60th calendar day, the rail carrier
24 employee may use the paid sick time as the time is
25 earned. A rail carrier may, at the discretion of the

1 rail carrier, loan paid sick time to a rail carrier em-
2 ployee for use by such rail carrier employee in ad-
3 vance of the rail carrier employee earning such sick
4 time as provided in this subsection and may permit
5 use before the 60th day of employment.

6 (4) CARRYOVER.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraph (B), paid sick time earned under
9 this section shall carry over from 1 year to the
10 next.

11 (B) CONSTRUCTION.—This section shall
12 not be construed to require a rail carrier to per-
13 mit a rail carrier employee to earn more than
14 56 hours of earned paid sick time in a calendar
15 year.

16 (5) RAIL CARRIERS WITH EXISTING POLI-
17 CIES.—Any rail carrier with a paid leave policy who
18 makes available an amount of paid leave that is suf-
19 ficient to meet the requirements of this section and
20 that may be used for the same purposes and under
21 the same conditions and procedures as the purposes,
22 conditions, and procedures described in this section
23 shall not be required to permit a rail carrier em-
24 ployee to earn additional paid sick time under this
25 section.

1 (6) CONSTRUCTION.—Nothing in this section
2 shall be construed as requiring financial or other re-
3 imbursement to a rail carrier employee from a rail
4 carrier upon the rail carrier employee’s termination,
5 resignation, retirement, or other separation from
6 employment for earned paid sick time that has not
7 been used.

8 (7) REINSTATEMENT.—If a rail carrier em-
9 ployee is separated from employment with a rail car-
10 rier and is rehired, within 12 months after that sep-
11 aration, by the same rail carrier, the rail carrier
12 shall reinstate the rail carrier employee’s previously
13 earned paid sick time. The rail carrier employee
14 shall be entitled to use the earned paid sick time and
15 earn additional paid sick time at the recommence-
16 ment of employment with the rail carrier.

17 (8) PROHIBITION.—A rail carrier may not re-
18 quire, as a condition of providing paid sick time
19 under this section, that the rail carrier employee in-
20 volved search for or find a replacement to cover the
21 hours during which the rail carrier employee is using
22 paid sick time.

23 (b) USES.—Paid sick time earned under subsection
24 (a) may be used by a rail carrier employee for any of the
25 following:

1 (1) An absence resulting from a physical or
2 mental illness, injury, or medical condition of the
3 rail carrier employee.

4 (2) An absence resulting from obtaining profes-
5 sional medical diagnosis or care, or preventive med-
6 ical care, for the rail carrier employee.

7 (3) An absence for the purpose of caring for a
8 child, a parent, a spouse, a domestic partner, or any
9 other individual related by blood or affinity whose
10 close association with the rail carrier employee is the
11 equivalent of a family relationship who—

12 (A) has any of the conditions or needs for
13 diagnosis or care described in paragraph (1) or
14 (2);

15 (B) is required to attend—

16 (i) in the case of someone who is a
17 child, a school meeting; or

18 (ii) a meeting at a place where the
19 child, parent, spouse, domestic partner, or
20 such other individual is receiving care ne-
21 cessitated by a health condition or dis-
22 ability of the child, parent, spouse, domes-
23 tic partner, or such other individual;

24 (C) is in need of care and is typically cared
25 for by an individual who is unable to provide

1 care because the individual has any of condi-
2 tions or needs for diagnosis or care described in
3 paragraph (1) or (2); or

4 (D) is otherwise in need of care.

5 (4) An absence resulting from domestic vio-
6 lence, sexual assault, or stalking, if the time is to—

7 (A) seek medical attention for the rail car-
8 rier employee or the rail carrier employee's
9 child, parent, spouse, domestic partner, or an
10 individual related to the rail carrier employee as
11 described in paragraph (3), to recover from
12 physical or psychological injury or disability
13 caused by domestic violence, sexual assault, or
14 stalking;

15 (B) obtain or assist a child, a parent, a
16 spouse, a domestic partner, or any other indi-
17 vidual related by blood or affinity whose close
18 association with the rail carrier employee is the
19 equivalent of a family relationship in obtaining
20 services from a victim services organization;

21 (C) obtain or assist a child, a parent, a
22 spouse, a domestic partner, or any other indi-
23 vidual related by blood or affinity whose close
24 association with the rail carrier employee is the

1 equivalent of a family relationship in obtaining
2 psychological or other counseling;

3 (D) seek relocation; or

4 (E) take legal action, including preparing
5 for or participating in any civil or criminal legal
6 proceeding related to or resulting from domestic
7 violence, sexual assault, or stalking.

8 (c) SCHEDULING.—A rail carrier employee shall
9 make a reasonable effort to schedule a period of paid sick
10 time under this section in a manner that does not unduly
11 disrupt the operations of the rail carrier.

12 (d) PROCEDURES.—

13 (1) IN GENERAL.—Paid sick time shall be pro-
14 vided upon the oral or written request of a rail car-
15 rier employee. Such request shall—

16 (A) include the expected duration of the
17 period of such time; and

18 (B)(i) in a case in which the need for such
19 period of time is foreseeable at least 7 days in
20 advance of such period, be provided at least 7
21 days in advance of such period; or

22 (ii) otherwise, be provided as soon as prac-
23 ticable after the rail carrier employee is aware
24 of the need for such period.

25 (2) CERTIFICATION IN GENERAL.—

1 (A) PROVISION.—

2 (i) IN GENERAL.—Subject to subpara-
3 graph (C), a rail carrier may require that
4 a request for paid sick time under this sec-
5 tion for a purpose described in paragraph
6 (1), (2), or (3) of subsection (b) be sup-
7 ported by a certification issued by the
8 health care provider of the rail carrier em-
9 ployee or of an individual described in sub-
10 section (b)(3), as appropriate, if the period
11 of such time covers more than 3 consecu-
12 tive workdays.

13 (ii) TIMELINESS.—The rail carrier
14 employee shall provide a copy of such cer-
15 tification to the rail carrier in a timely
16 manner not later than 30 days after the
17 first day of the period of time. The rail
18 carrier shall not delay the commencement
19 of the period of time on the basis that the
20 rail carrier has not yet received the certifi-
21 cation.

22 (B) SUFFICIENT CERTIFICATION.—A cer-
23 tification provided under subparagraph (A)
24 shall be sufficient if it states—

1 (i) the date on which the period of
2 time will be needed;

3 (ii) the probable duration of the pe-
4 riod of time; and

5 (iii)(I) for purposes of paid sick time
6 under subsection (b)(1), a statement that
7 absence from work is medically necessary;

8 (II) for purposes of such time under
9 subsection (b)(2), the dates on which test-
10 ing for a medical diagnosis or care is ex-
11 pected to be given and the duration of such
12 testing or care; and

13 (III) for purposes of such time under
14 subsection (b)(3), in the case of time to
15 care for someone who is not a child, a
16 statement that care is needed for an indi-
17 vidual described in such subsection, and an
18 estimate of the amount of time that such
19 care is needed for such individual.

20 (C) REGULATIONS.—Regulations pre-
21 scribed under subsection (j) shall specify the
22 manner in which a rail carrier employee who
23 does not have health insurance shall provide a
24 certification for purposes of this paragraph.

1 (D) CONFIDENTIALITY AND NONDISCLO-
2 SURE.—

3 (i) PROTECTED HEALTH INFORMA-
4 TION.—Nothing in this section shall be
5 construed to require a health care provider
6 to disclose information in violation of sec-
7 tion 1177 of the Social Security Act (42
8 U.S.C. 1320d–6) or the privacy regulations
9 promulgated pursuant to section 264(c) of
10 the Health Insurance Portability and Ac-
11 countability Act of 1996 (42 U.S.C.
12 1320d–2 note).

13 (ii) HEALTH INFORMATION
14 RECORDS.—If a rail carrier possesses
15 health information about a rail carrier em-
16 ployee or a rail carrier employee’s child,
17 parent, spouse, domestic partner, or an in-
18 dividual related to the rail carrier employee
19 as described in subsection (b)(3), such in-
20 formation shall—

21 (I) be maintained on a separate
22 form and in a separate file from other
23 personnel information;

24 (II) be treated as a confidential
25 medical record; and

1 (III) not be disclosed except to
2 the affected rail carrier employee or
3 with the permission of the affected
4 rail carrier employee.

5 (3) CERTIFICATION IN THE CASE OF DOMESTIC
6 VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

7 (A) IN GENERAL.—A rail carrier may re-
8 quire that a request for paid sick time under
9 this section for a purpose described in sub-
10 section (b)(4) be supported by a form of docu-
11 mentation described in subparagraph (B) if the
12 period of such time covers more than 3 consecu-
13 tive workdays.

14 (B) FORM OF DOCUMENTATION.—A form
15 of documentation described in this subpara-
16 graph is any one of the following:

17 (i) A police report indicating that the
18 rail carrier employee, or an individual de-
19 scribed in subsection (b)(4)(A) with re-
20 spect to the rail carrier employee, was a
21 victim of domestic violence, sexual assault,
22 or stalking.

23 (ii) A court order protecting or sepa-
24 rating the rail carrier employee, or a such
25 an individual with respect to the rail car-

1 rier employee, from the perpetrator of an
2 act of domestic violence, sexual assault, or
3 stalking, or other evidence from the court
4 or prosecuting attorney that the rail car-
5 rier employee, or an individual described in
6 subsection (b)(4)(A) with respect to the
7 rail carrier employee, has appeared in
8 court or is scheduled to appear in court in
9 a proceeding related to domestic violence,
10 sexual assault, or stalking.

11 (iii) Other documentation signed by a
12 rail carrier employee or volunteer working
13 for a victim services organization, an attor-
14 ney, a police officer, a medical professional,
15 a social worker, an antiviolence counselor,
16 or a member of the clergy, affirming that
17 the rail carrier employee, or an individual
18 described in subsection (b)(4)(A) with re-
19 spect to the rail carrier employee, is a vic-
20 tim of domestic violence, sexual assault, or
21 stalking.

22 (C) REQUIREMENTS.—The requirements of
23 paragraph (2) shall apply to certifications
24 under this paragraph, except that—

1 (i) subparagraph (B)(iii) of such para-
2 graph shall not apply;

3 (ii) the certification shall state the
4 reason that the leave is required with the
5 facts to be disclosed limited to the min-
6 imum necessary to establish a need for the
7 rail carrier employee to be absent from
8 work, and the rail carrier employee shall
9 not be required to explain the details of the
10 domestic violence, sexual assault, or stalk-
11 ing involved; and

12 (iii) with respect to confidentiality
13 under subparagraph (D) of such para-
14 graph, any information provided to the rail
15 carrier under this paragraph shall be con-
16 fidential, except to the extent that any dis-
17 closure of such information is—

18 (I) requested or consented to in
19 writing by the rail carrier employee;
20 or

21 (II) otherwise required by appli-
22 cable Federal or State law.

23 (D) SPECIFICATION OF DOCUMENTA-
24 TION.—A rail carrier may not specify which of
25 the forms of documentation described in clause

1 (i), (ii), or (iii) of subparagraph (B) is required
2 to be provided in order to satisfy the require-
3 ment under subparagraph (A).

4 (e) PROHIBITED ACTS.—

5 (1) INTERFERENCE WITH RIGHTS.—

6 (A) EXERCISE OF RIGHTS.—It shall be un-
7 lawful for any rail carrier to interfere with, re-
8 strain, or deny the exercise of, or the attempt
9 to exercise, any right provided under this sec-
10 tion, including—

11 (i) discharging or discriminating
12 against (including retaliating against) any
13 individual, including a job applicant, for
14 exercising, or attempting to exercise, any
15 right provided under this section;

16 (ii) using the taking of paid sick time
17 under this section as a negative factor in
18 an employment action, such as hiring, pro-
19 motion, reducing hours or number of
20 shifts, or a disciplinary action; or

21 (iii) counting the paid sick time under
22 a no-fault attendance policy or any other
23 absence-control policy.

24 (B) DISCRIMINATION.—It shall be unlaw-
25 ful for any rail carrier to discharge or in any

1 other manner discriminate against (including
2 retaliating against) any individual, including a
3 job applicant, for opposing any practice made
4 unlawful by this section.

5 (2) INTERFERENCE WITH PROCEEDINGS OR IN-
6 QUIRIES.—It shall be unlawful for any person to dis-
7 charge or in any other manner discriminate against
8 (including retaliating against) any individual, includ-
9 ing a job applicant, because such individual—

10 (A) has filed an action, or has instituted or
11 caused to be instituted any proceeding, under
12 or related to this section;

13 (B) has given, or is about to give, any in-
14 formation in connection with any inquiry or
15 proceeding relating to any right provided under
16 this section; or

17 (C) has testified, or is about to testify, in
18 any inquiry or proceeding relating to any right
19 provided under this section.

20 (3) CONSTRUCTION.—Nothing in this section
21 shall be construed to state or imply that the scope
22 of the activities prohibited by section 105 of the
23 Family and Medical Leave Act of 1993 (29 U.S.C.
24 2615) is less than the scope of the activities prohib-
25 ited by this section.

1 (f) ENFORCEMENT AUTHORITY.—

2 (1) IN GENERAL.—

3 (A) INVESTIGATIVE AUTHORITY.—

4 (i) IN GENERAL.—To ensure compli-
5 ance with the provisions of this section, or
6 any regulation or order issued under this
7 section, the Secretary shall have, subject to
8 clause (iii), the investigative authority pro-
9 vided under section 11(a) of the Fair
10 Labor Standards Act of 1938 (29 U.S.C.
11 211(a)), with respect to rail carriers, rail
12 carrier employees, and other individuals af-
13 fected by a rail carrier.

14 (ii) OBLIGATION TO KEEP AND PRE-
15 SERVE RECORDS.—A rail carrier shall
16 make, keep, and preserve records per-
17 taining to compliance with this section in
18 accordance with section 11(c) of the Fair
19 Labor Standards Act of 1938 (29 U.S.C.
20 211(c)) and in accordance with regulations
21 prescribed by the Secretary.

22 (iii) REQUIRED SUBMISSIONS GEN-
23 ERALLY LIMITED TO AN ANNUAL BASIS.—
24 The Secretary shall not require, under the
25 authority of this paragraph, a rail carrier

1 to submit to the Secretary any books or
2 records more than once during any 12-
3 month period, unless the Secretary has
4 reasonable cause to believe there may exist
5 a violation of this section or any regulation
6 or order issued pursuant to this section, or
7 is investigating a charge pursuant to sub-
8 paragraph (C).

9 (iv) SUBPOENA AUTHORITY.—For the
10 purposes of any investigation provided for
11 in this paragraph, the Secretary shall have
12 the subpoena authority provided for under
13 section 9 of the Fair Labor Standards Act
14 of 1938 (29 U.S.C. 209).

15 (B) CIVIL ACTION BY EMPLOYEES OR INDI-
16 VIDUALS.—

17 (i) RIGHT OF ACTION.—An action to
18 recover the damages or equitable relief pre-
19 scribed in clause (ii) may be maintained
20 against any rail carrier in any Federal or
21 State court of competent jurisdiction by a
22 rail carrier employee or individual or a rep-
23 resentative for and on behalf of—

24 (I) the rail carrier employee or
25 individual; or

1 (II) the rail carrier employee or
2 individual and others similarly situ-
3 ated.

4 (ii) LIABILITY.—Any rail carrier who
5 violates subsection (e) (including a viola-
6 tion relating to rights provided under sub-
7 section (d)) shall be liable to any rail car-
8 rier employee or individual affected—

9 (I) for damages equal to—

10 (aa) the amount of—

11 (AA) any wages, salary,
12 employment benefits, or
13 other compensation denied
14 or lost by reason of the vio-
15 lation; or

16 (BB) in a case in which
17 wages, salary, employment
18 benefits, or other compensa-
19 tion have not been denied or
20 lost, any actual monetary
21 losses sustained as a direct
22 result of the violation up to
23 a sum equal to 56 hours of
24 wages or salary for the rail

1 carrier employee or indi-
2 vidual;

3 (bb) the interest on the
4 amount described in item (aa)
5 calculated at the prevailing rate;
6 and

7 (cc) an additional amount as
8 liquidated damages; and

9 (II) for such equitable relief as
10 may be appropriate, including employ-
11 ment, reinstatement, and promotion.

12 (iii) FEES AND COSTS.—The court in
13 an action under this paragraph shall, in
14 addition to any judgment awarded to the
15 plaintiff, allow a reasonable attorney's fee,
16 reasonable expert witness fees, and other
17 costs of the action to be paid by the de-
18 fendant.

19 (C) ACTION BY THE SECRETARY.—

20 (i) ADMINISTRATIVE ACTION.—The
21 Secretary shall receive, investigate, and at-
22 tempt to resolve complaints of violations of
23 subsection (e) (including a violation relat-
24 ing to rights provided under subsection
25 (d)) in the same manner that the Sec-

1 retary receives, investigates, and attempts
2 to resolve complaints of violations of sec-
3 tions 6 and 7 of the Fair Labor Standards
4 Act of 1938 (29 U.S.C. 206 and 207).

5 (ii) CIVIL ACTION.—The Secretary
6 may bring an action in any court of com-
7 petent jurisdiction to recover the damages
8 described in subparagraph (B)(ii)(I).

9 (iii) SUMS RECOVERED.—Any sums
10 recovered by the Secretary pursuant to
11 clause (ii) shall be held in a special deposit
12 account and shall be paid, on order of the
13 Secretary, directly to each rail carrier em-
14 ployee or individual affected. Any such
15 sums not paid to a rail carrier employee or
16 individual affected because of inability to
17 do so within a period of 3 years shall be
18 deposited into the Treasury of the United
19 States as miscellaneous receipts.

20 (D) LIMITATION.—

21 (i) IN GENERAL.—Except as provided
22 in clause (ii), an action may be brought
23 under subparagraph (B), (C), or (E) not
24 later than 2 years after the date of the last

1 event constituting the alleged violation for
2 which the action is brought.

3 (ii) WILLFUL VIOLATION.—In the
4 case of an action brought for a willful vio-
5 lation of subsection (e) (including a willful
6 violation relating to rights provided under
7 subsection (d)), such action may be
8 brought not later than 3 years after of the
9 last event constituting the alleged violation
10 for which such action is brought.

11 (iii) COMMENCEMENT.—In deter-
12 mining when an action is commenced
13 under subparagraph (B), (C), or (E) for
14 the purposes of this paragraph, it shall be
15 considered to be commenced on the date
16 when the complaint is filed.

17 (E) ACTION FOR INJUNCTION BY SEC-
18 RETARY.—The district courts of the United
19 States shall have jurisdiction, for cause shown,
20 in an action brought by the Secretary—

21 (i) to restrain violations of subsection
22 (e) (including a violation relating to rights
23 provided under subsection (a)), including
24 the restraint of any withholding of pay-
25 ment of wages, salary, employment bene-

1 fits, or other compensation, plus interest,
2 found by the court to be due to rail carrier
3 employees or individuals eligible under this
4 section; or

5 (ii) to award such other equitable re-
6 lief as may be appropriate, including em-
7 ployment, reinstatement, and promotion.

8 (F) SOLICITOR OF LABOR.—The Solicitor
9 of Labor may appear for and represent the Sec-
10 retary on any litigation brought under subpara-
11 graph (C) or (E).

12 (g) EFFECT ON OTHER LAWS.—

13 (1) FEDERAL AND STATE ANTIDISCRIMINATION
14 LAWS.—Nothing in this section shall be construed to
15 modify or affect any Federal or State law prohib-
16 iting discrimination on the basis of race, religion,
17 color, national origin, sex, age, disability, sexual ori-
18 entation, gender identity, marital status, familial
19 status, or any other protected status.

20 (2) STATE AND LOCAL LAWS.—Nothing in this
21 section shall be construed to supersede (including
22 preempting) any provision of any State or local law
23 that provides greater paid sick time or leave rights
24 (including greater amounts of paid sick time or leave
25 or greater coverage of those eligible for paid sick

1 time or leave) than the rights established under this
2 section.

3 (h) EFFECT ON EXISTING EMPLOYMENT BENE-
4 FITS.—

5 (1) MORE PROTECTIVE.—Nothing in this sec-
6 tion shall be construed to diminish the obligation of
7 a rail carrier to comply with any contract, collective
8 bargaining agreement, or any employment benefit
9 program or plan that provides greater paid sick
10 leave or other leave rights to rail carrier employees
11 or individuals than the rights established under this
12 section.

13 (2) LESS PROTECTIVE.—The rights established
14 for rail carrier employees under this section shall not
15 be diminished by any contract, collective bargaining
16 agreement, or any employment benefit program or
17 plan.

18 (i) ENCOURAGEMENT OF MORE GENEROUS LEAVE
19 POLICIES.—Nothing in this section shall be construed to
20 discourage rail carriers from adopting or retaining leave
21 policies more generous than policies that comply with the
22 requirements of this section.

23 (j) REGULATIONS.—Not later than 180 days after
24 the date of enactment of this section, the Secretary shall

1 prescribe such regulations as are necessary to carry out
2 this section with respect to rail carrier employees.

3 (k) EFFECTIVE DATES.—

4 (1) EFFECTIVE DATE.—This section shall take
5 effect 6 months after the date of issuance of regula-
6 tions under subsection (j).

7 (2) COLLECTIVE BARGAINING AGREEMENTS.—

8 In the case of a collective bargaining agreement in
9 effect on the effective date prescribed by paragraph
10 (1), this section shall take effect on the earlier of—

11 (A) the date of the termination of such
12 agreement;

13 (B) the date of any amendment, made on
14 or after such effective date, to such agreement;
15 or

16 (C) the date that occurs 18 months after
17 the date of issuance of regulations under sub-
18 section (j).

19 (l) DEFINITIONS.—In this section, the following defi-
20 nitions apply:

21 (1) CHILD.—The term “child” means a biologi-
22 cal, foster, or adopted child, a stepchild, a child of
23 a domestic partner, a legal ward, or a child of a per-
24 son standing in loco parentis.

1 (2) COMMERCE.—The terms “commerce” and
2 “industry or activity affecting commerce” mean any
3 activity, business, or industry in commerce or in
4 which a labor dispute would hinder or obstruct com-
5 merce or the free flow of commerce, and include
6 “commerce” and any “industry affecting com-
7 merce”, as defined in paragraphs (1) and (3) of sec-
8 tion 501 of the Labor Management Relations Act,
9 1947 (29 U.S.C. 142 (1) and (3)).

10 (3) DOMESTIC PARTNER.—

11 (A) IN GENERAL.—The term “domestic
12 partner”, with respect to an individual, means
13 another individual with whom the individual is
14 in a committed relationship.

15 (B) COMMITTED RELATIONSHIP DE-
16 FINED.—The term “committed relationship”
17 means a relationship between 2 individuals,
18 each at least 18 years of age, in which each in-
19 dividual is the other individual’s sole domestic
20 partner and both individuals share responsi-
21 bility for a significant measure of each other’s
22 common welfare. The term includes any such
23 relationship between 2 individuals, including in-
24 dividuals of the same sex, that is granted legal
25 recognition by a State or political subdivision of

1 a State as a marriage or analogous relationship,
2 including a civil union or domestic partnership.

3 (4) DOMESTIC VIOLENCE.—The term “domestic
4 violence” has the meaning given the term in section
5 40002(a) of the Violence Against Women Act of
6 1994 (34 U.S.C. 12291(a)), except that the ref-
7 erence in such section to the term “jurisdiction re-
8 ceiving grant funding” shall be deemed to mean the
9 jurisdiction in which the victim lives or the jurisdic-
10 tion in which the rail carrier involved is located.
11 Such term also includes “dating violence”, as that
12 term is defined in such section.

13 (5) EMPLOYEE.—The term “employee” means
14 an individual who is an employee, as defined in sec-
15 tion 3(e) of the Fair Labor Standards Act of 1938
16 (29 U.S.C. 203(e)).

17 (6) EMPLOYMENT BENEFITS.—The term “em-
18 ployment benefits” means all benefits provided or
19 made available to rail carrier employees by a rail
20 carrier, including group life insurance, health insur-
21 ance, disability insurance, sick leave, annual leave,
22 educational benefits, and pensions, regardless of
23 whether such benefits are provided by a practice or
24 written policy of a rail carrier or through an “em-
25 ployee benefit plan”, as defined in section 3(3) of

1 the Employee Retirement Income Security Act of
2 1974 (29 U.S.C. 1002(3)).

3 (7) HEALTH CARE PROVIDER.—The term
4 “health care provider” means a provider who—

5 (A) is—

6 (i) a doctor of medicine or osteopathy
7 who is authorized to practice medicine or
8 surgery (as appropriate) by the State in
9 which the doctor practices; or

10 (ii) any other person determined by
11 the Secretary to be capable of providing
12 health care services; and

13 (B) is not employed by a rail carrier for
14 whom the provider issues certification under
15 this section.

16 (8) PAID SICK TIME.—The term “paid sick
17 time” means an increment of compensated leave
18 that—

19 (A) can be earned by a rail carrier em-
20 ployee for use during an absence from employ-
21 ment for any of the reasons described in para-
22 graphs (1) through (4) of section 20(b); and

23 (B) is compensated at a rate that is not
24 less than the regular rate of pay of the rail car-
25 rier employee.

1 (9) PARENT.—The term “parent” means a bio-
2 logical, foster, or adoptive parent of a rail carrier
3 employee, a stepparent of a rail carrier employee,
4 parent-in-law, parent of a domestic partner, or a
5 legal guardian or other person who stood in loco
6 parentis to a rail carrier employee when the rail car-
7 rier employee was a child.

8 (10) RAIL CARRIER EMPLOYEE.—The term
9 “rail carrier employee” means an employee of a rail
10 carrier who performs work that has been tradition-
11 ally performed by employees in a railroad industry
12 craft or class recognized under the paragraph des-
13 ignated “Ninth” of section 2 of the Railway Labor
14 Act (45 U.S.C. 152), including any employee who
15 performs—

16 (A) work with respect to the movement of
17 trains;

18 (B) maintenance of way work;

19 (C) signal work;

20 (D) work for purposes of the inspection,
21 maintenance, repair, or cleaning of locomotives,
22 rail maintenance facilities, rail-related equip-
23 ment, or rail cars;

24 (E) dispatching work;

1 (F) work with respect to controlling the
2 movement of equipment within a rail yard; or

3 (G) rail clerical or communications work.

4 (11) SECRETARY.—The term “Secretary”
5 means the Secretary of Labor.

6 (12) SEXUAL ASSAULT.—The term “sexual as-
7 sault” has the meaning given the term in section
8 40002(a) of the Violence Against Women Act of
9 1994 (34 U.S.C. 12291(a)).

10 (13) SPOUSE.—The term “spouse”, with re-
11 spect to a rail carrier employee, has the meaning
12 given such term by the marriage laws of the State
13 in which the marriage was celebrated.

14 (14) STALKING.—The term “stalking” has the
15 meaning given the term in section 40002(a) of the
16 Violence Against Women Act of 1994 (34 U.S.C.
17 12291(a)).

18 (15) STATE.—The term “State” has the mean-
19 ing given the term in section 3 of the Fair Labor
20 Standards Act of 1938 (29 U.S.C. 203).

21 (16) VICTIM SERVICES ORGANIZATION.—The
22 term “victim services organization” means a non-
23 profit, nongovernmental organization that provides
24 assistance to victims of domestic violence, sexual as-
25 sault, or stalking or advocates for such victims, in-

1 cluding a rape crisis center, an organization carrying
2 out a domestic violence, sexual assault, or stalking
3 prevention or treatment program, an organization
4 operating a shelter or providing counseling services,
5 or a legal services organization or other organization
6 providing assistance through the legal process.

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