

114TH CONGRESS
1ST SESSION

S. 1006

To incentivize early adoption of positive train control, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 16, 2015

Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. BLUMENTHAL, Mr. SCHUMER, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To incentivize early adoption of positive train control, 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 “Positive Train Control Safety Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Implementation deadline.
- Sec. 3. Transparency.
- Sec. 4. Positive train control on high-hazard flammable trains.
- Sec. 5. Coordination of spectrum.
- Sec. 6. Confidential close call reporting systems.

Sec. 7. Commuter rail track inspections.

Sec. 8. Positive train control at grade crossings effectiveness study.

Sec. 9. Redundant signal protection.

1 **SEC. 2. IMPLEMENTATION DEADLINE.**

2 Section 20157 of title 49, United States Code, is
3 amended—

4 (1) by redesignating subsections (h) and (i) as
5 subsections (i) and (j), respectively; and

6 (2) by inserting after subsection (g) the fol-
7 lowing:

8 “(h) EXTENSION.—

9 “(1) IN GENERAL.—After transmitting the re-
10 port under subsection (d), the Secretary may extend
11 the implementation deadline, in 1-year increments,
12 upon application, if the Secretary—

13 “(A) determines that—

14 “(i) full implementation will likely be
15 infeasible due to circumstances beyond the
16 control of the applicant, including funding
17 availability, spectrum acquisition, resource
18 and technology availability, and interoper-
19 ability standards;

20 “(ii) the applicant has demonstrated
21 good faith in its positive train control im-
22 plementation; and

23 “(iii) the applicant has presented a re-
24 vised positive train control implementation

1 plan indicating how it will fully implement
2 positive train control as soon as feasible,
3 and not later than December 31, 2018;
4 and

5 “(B) has taken into consideration—

6 “(i) whether the affected areas of
7 track have been identified as areas of
8 greater risk to the public and railroad em-
9 ployees in the applicant’s positive train
10 control implementation plan under section
11 236.1011(a)(4) of title 49, Code of Federal
12 Regulations; and

13 “(ii) the risk of operational failure to
14 the affected service areas and the appli-
15 cant.

16 “(2) APPLICATION REVIEW.—Not later than
17 120 days after the Secretary receives an application
18 under paragraph (1), the Secretary review and ap-
19 prove or disapprove the application.

20 “(3) MAXIMUM EXTENSION.—The Secretary
21 may extend the implementation deadline for an ap-
22 plicant whose application is under review, but may
23 not extend the implementation deadline beyond June
24 30, 2016.”.

1 **SEC. 3. TRANSPARENCY.**

2 Section 20157(a) of title 49, United States Code, as
3 amended by section 2, is further amended by adding at
4 the end the following:

5 “(3) PROGRESS REPORTS.—

6 “(A) IN GENERAL.—Beginning 6 months
7 after the date of the enactment of the Positive
8 Train Control Safety Act, and annually there-
9 after until its positive train control system is
10 certified by the Secretary under subsection (h),
11 each Class I railroad carrier, and each entity
12 providing regularly scheduled intercity or com-
13 muter rail passenger transportation, required to
14 submit a plan under paragraph (1) shall submit
15 a progress report to the Secretary on the status
16 of the plan.

17 “(B) CONTENTS.—Each progress report
18 submitted under subparagraph (A) shall in-
19 clude—

20 “(i) a section describing—

21 “(I) the total number of positive
22 train control components required;

23 “(II) the number of such compo-
24 nents that have been installed,
25 equipped, or deployed;

1 “(III) the number of components
2 that remain to be installed, equipped,
3 or deployed; and

4 “(IV) an estimated completion
5 date for full positive train control sys-
6 tem completion;

7 “(ii) a section summarizing—

8 “(I) the number of employees re-
9 quiring training under section
10 236.1041 of title 49, Code of Federal
11 Regulations; and

12 “(II) the status of such training
13 activities; and

14 “(iii) a section summarizing the re-
15 maining challenges to full positive train
16 control system implementation, including—

17 “(I) testing issues;

18 “(II) interoperability challenges;

19 and

20 “(III) certification challenges.

21 “(C) DEFINED TERM.—In this paragraph,
22 the term ‘component’ means a locomotive appa-
23 ratus, a wayside interface unit, switches in non-
24 signal positive train control territory, a base

1 station radio, a wayside radio, or a locomotive
2 radio.

3 “(D) PUBLIC AVAILABILITY.—Not later
4 than 30 days after receiving a progress report
5 under this paragraph, the Secretary shall make
6 the report available on the website of the Fed-
7 eral Railroad Administration.”.

8 **SEC. 4. POSITIVE TRAIN CONTROL ON HIGH-HAZARD FLAM-**
9 **MABLE TRAINS.**

10 Section 20157(a)(1) of title 49, United States Code,
11 as amended by this Act, is further amended—

12 (1) by striking “Not later than 18 months after
13 the date of enactment of the Rail Safety Improve-
14 ment Act of 2008, each” and inserting “Each”;

15 (2) in subparagraph (B)—

16 (A) by striking “parts” and inserting “sec-
17 tions”; and

18 (B) by striking “transported; and” and in-
19 serting “transported on or after December 31,
20 2015;”;

21 (3) by redesignating subparagraph (C) as sub-
22 paragraph (D); and

23 (4) by inserting after subparagraph (B), the
24 following:

1 “(C) its main line over which 20 or more
2 tank cars loaded with petroleum crude oil, eth-
3 anol, or other Class 3 material (as described in
4 section 172.101 of title 49, Code of Federal
5 Regulations) are transported; and”.

6 **SEC. 5. COORDINATION OF SPECTRUM.**

7 (a) COORDINATION OF SPECTRUM.—Subchapter II of
8 chapter 201 of title 49, United States Code, is amended
9 by adding at the end the following:

10 **“§ 20168. Electromagnetic spectrum**

11 “Not later than 120 days after the date of the enact-
12 ment of the Positive Train Control Safety Act, the Sec-
13 retary of Transportation, in coordination with the Chair-
14 man of the Federal Communications Commission, shall
15 assess spectrum needs and availability for implementing
16 positive train control systems (as defined in section
17 20157(j)). In carrying out this section, the Secretary and
18 the Chairman may consult with external stakeholders.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 for chapter 201 of title 49, United States Code, is amend-
21 ed by inserting after the item relating to section 20167
22 the following:

“20168. Electromagnetic spectrum.”.

1 **SEC. 6. CONFIDENTIAL CLOSE CALL REPORTING SYSTEMS.**

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

5 **“§ 20169. Confidential close call reporting systems**

6 “(a) RULEMAKING.—Not later than 1 year after the
7 date of the enactment of the Positive Train Control Safety
8 Act, the Secretary shall promulgate regulations setting
9 forth the requirements that an applicable railroad carrier
10 shall follow in establishing a confidential close call report-
11 ing system program. The Secretary may use any informa-
12 tion and experience gathered through research and pilot
13 programs on confidential close call reporting systems in
14 developing regulations under this subsection, including
15 continuing the use of third parties for the collection of
16 close call reports and distribution of close call data. The
17 Secretary shall ensure that an applicable railroad carrier’s
18 employees receive protection under its program from any
19 related Federal Railroad Administration enforcement ac-
20 tions.

21 “(b) PROGRAM DEVELOPMENT AND OVERSIGHT.—

22 “(1) IN GENERAL.—Not later than 180 days
23 after the date on which final regulations are promul-
24 gated under subsection (a), an applicable railroad
25 carrier shall develop and submit a proposed con-

1 confidential close call reporting system program to the
2 Secretary for review and approval.

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

5 “(A) describe the core principles and val-
6 ues of its proposed program;

7 “(B) explain the rights, roles, and respon-
8 sibilities of program stakeholders;

9 “(C) identify concerns and interests; and

10 “(D) describe how the program will oper-
11 ate.

12 “(3) REVIEW.—

13 “(A) IN GENERAL.—The Secretary shall
14 review and approve or disapprove each proposed
15 program within a reasonable amount of time. If
16 a proposed program is not approved, the Sec-
17 retary shall notify the applicable railroad car-
18 rier in writing of the specific areas in which the
19 proposed program is deficient. The applicable
20 railroad carrier shall correct all deficiencies
21 within a reasonable period of time following re-
22 ceipt of written notice from the Secretary.

23 “(B) UPDATES.—An applicable railroad
24 carrier shall update its program as needed and

1 obtain the Secretary's approval prior to making
2 any major changes to its program.

3 “(C) ANNUAL REVIEWS.—The Secretary
4 shall conduct an annual review to ensure that
5 each applicable railroad carrier is in compliance
6 with its approved program.

7 “(c) IN GENERAL.—Not later than 2 years after the
8 date of the enactment of the Positive Train Control Safety
9 Act, each applicable railroad carrier shall establish a con-
10 fidential close call reporting system.

11 “(d) PROGRAM ELEMENTS.—Each applicable rail-
12 road carrier shall—

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

15 “(2) for unsafe events and conditions reported
16 within the scope of a confidential close call reporting
17 system, ensure that its employees are protected from
18 railroad carrier discipline;

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

23 “(4) use information collected by the system to
24 supplement inspection data in identifying safety

1 issues and emerging risks before they develop into
2 accidents.

3 “(e) CONSENSUS.—

4 “(1) IN GENERAL.—Each applicable railroad
5 carrier shall consult with, employ good faith with,
6 and use its best efforts to reach agreement with all
7 of its directly affected employees, including any non-
8 profit employee labor organization representing a
9 class or craft of directly affected employees of the
10 applicable railroad carrier, on the development and
11 implementation of the proposed program.

12 “(2) STATEMENTS.—If an applicable railroad
13 carrier and its directly affected employees, including
14 any nonprofit employee labor organization rep-
15 resenting a class or craft of directly affected employ-
16 ees of the applicable railroad carrier, cannot reach
17 consensus on the development and implementation of
18 the proposed program, then directly affected employ-
19 ees and such organization may file a statement with
20 the Secretary explaining their views on the proposed
21 program on which consensus was not reached. The
22 Secretary shall consider such views during review of
23 the proposed program under subsection (b)(3)(A).

24 “(f) VOLUNTARY PROGRAM ESTABLISHMENT.—Any
25 railroad carrier that is not an applicable railroad carrier

1 may voluntarily establish a program under this section.
2 This section, and any regulations promulgated under this
3 section, shall apply to a program that is voluntarily estab-
4 lished.

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

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

9 “(2) performing focused inspections; or

10 “(3) developing agency rulemakings and guid-
11 ance, as appropriate.

12 “(h) DEFINED TERM.—In this section, the term ‘ap-
13 plicable railroad carrier’ means a railroad carrier that—

14 “(1) is a Class I railroad;

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

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

19 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary such
21 sums as may be necessary—

22 “(1) to implement this section; and

23 “(2) to support the nationwide implementation
24 of confidential close call reporting system programs,
25 as the Secretary determines appropriate.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 201 of title 49, United States Code, as amend-
 3 ed by section 7(b), is further amended by adding at the
 4 end the following:

“20169. Confidential close call reporting systems.”.

5 **SEC. 7. COMMUTER RAIL TRACK INSPECTIONS.**

6 (a) IN GENERAL.—Subchapter II of chapter 201 of
 7 title 49, United States Code, as amended by sections 6
 8 and 7, is further amended by adding at the end the fol-
 9 lowing:

10 **“§ 20170. Commuter rail track inspections**

11 “(a) IN GENERAL.—When performing a required in-
 12 spection under subpart F of part 213 of title 49, Code
 13 of Federal Regulations, a railroad carrier providing com-
 14 muter rail passenger transportation on high density com-
 15 muter railroad lines (as described in section 213.233(b)(3)
 16 of title 49, Code of Federal Regulations) shall—

17 “(1) at least once each 2 weeks—

18 “(A) traverse each main line by vehicle; or

19 “(B) inspect each main line on foot; and

20 “(2) at least once each month, traverse and in-
 21 spect each siding by vehicle or by foot.

22 “(b) CONSTRUCTION.—Nothing in this section may
 23 be construed to limit the authority of the Secretary to pro-
 24 mulgate regulations or issue orders under any other law.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 for chapter 201 of title 49, United States Code, as amend-
 3 ed by sections 6 and 7, is further amended by adding at
 4 the end the following:

“20170. Commuter rail track inspections.”.

5 **SEC. 8. POSITIVE TRAIN CONTROL AT GRADE CROSSINGS**
 6 **EFFECTIVENESS STUDY.**

7 (a) IN GENERAL.—The Secretary of Transportation,
 8 in consultation with the Administrator of the Federal Rail-
 9 road Administration, shall conduct a study of the effective-
 10 ness of positive train control and related technologies on
 11 reducing collisions at highway-rail grade crossings.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 13 are authorized to be appropriated such sums as may be
 14 necessary to conduct the study described in subsection (a).

15 **SEC. 9. REDUNDANT SIGNAL PROTECTION.**

16 Not later than 1 year after the date of the enactment
 17 of the Positive Train Control Safety Act, the Secretary
 18 of Transportation shall promulgate such regulations as the
 19 Secretary considers necessary to require that on-track
 20 safety programs, as described in subpart C of part 214
 21 of title 49, Code of Federal Regulations, whenever prac-
 22 ticable and consistent with other safety requirements and
 23 operational considerations, include requiring implementa-
 24 tion of redundant signal protection, such as shunting, for

- 1 maintenance-of-way work crews who depend on a train
- 2 dispatcher to provide signal protection.

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