

# Rail Safety Bill

*The Rail Safety Improvement Act of 2008, commonly referred to as the Rail Safety Bill, was signed into law last October. The new law is the most comprehensive rail safety legislation the industry has seen in more than three decades.*

## **Federal Railroad Administration**

The Act clarifies that the mission of the Federal Railroad Administration (FRA) is to ensure that safety is the highest priority. In recent years, the FRA has concentrated a significant amount of resources on efficiency and capacity. Language in the Act reestablishes that the FRA's primary duty is safety. The FRA will not undergo a name change. (An earlier version of the Rail Safety Bill suggested changing the FRA's name to Federal Railroad Safety Administration.)

The Act creates a new FRA position of Chief Safety Officer; requires the Secretary of Transportation (Secretary) to develop a long-term strategy for improving rail safety, which must include an annual plan and schedule for, among other things, reducing the number and rates of accidents, injuries, and fatalities involving railroads; and requires annual reporting from the Secretary on the progress in implementing unmet statutory mandates and open safety recommendations by the Department of Transportation's Inspector General and the National Transportation Safety Board.

The Act increases the number of FRA employees by 200 over five years; 50 in FY 2009, 50 in FY 2010, 50 in FY 2011, 25 in FY 2012, and 25 in FY 2013. However, while the FRA has been given the authority to hire

more people, Congress still needs to allocate funding for the new positions. In increasing the number of FRA employees, the Act provides that FRA focus on hiring employees specifically trained to conduct on-site railroad and highway-rail grade crossing accident investigations, implement the Railroad Safety Strategy, administer and implement the Railroad Safety Risk Reduction Program, and other specified functions.

## **How Does the New Law Affect Signalmen?**

The measure includes several significant provisions that will impact Signalmen in the near and distant future:

### **Hours of Service**

Changes to Hours of Service (HoS) regulations will have significant positive impact on Signal Department Employees. The new HoS regulations become effective on July 16, 2009.

### **General Hours of Service changes for Signal Employees**

Changes become effective July 16, 2009.

1. Railroad contractors are now covered by the HoS regulations.
2. The minimum time off duty increases from 8 hours to 10 consecutive hours during the previous 24-hour period.
3. The last hour of travel time spent returning from the final trouble call no longer counts toward an employee's required off-duty time.
4. The emergency provision that allows signal employees to work an additional 4 hours beyond the 12-hour maximum on duty time in a bona fide emergency remains; however, signal employees may not conduct routine repairs, maintenance, or inspections under the emergency provision.
5. A railroad, a contractor, or a subcontractor may not communicate with the signal employee during off-duty time of 10 consecutive hours except in an emergency.
6. The HoS provisions under this law are the exclusive law applicable to signal employees operating motor vehicles. Signal employees operating motor vehicles are not subject to other hours of service, duty, or rest regulations besides the FRA's.
7. HoS provisions for operating employees introduces

a 276-hour cap on the number of hours operating employees can work in a month. The signal employee provisions of the Act have no such cap.

Railroads will be required to train affected employees and supervisors on the HoS provisions, including training in the entry of hours of service data.

## **Positive Train Control (PTC)**

The Act requires each Class I railroad and each entity providing regularly scheduled intercity or commuter rail passenger transportation to submit for the Secretary's approval a plan for implementing a PTC system by December 31, 2015, governing operations (1) on its main line over which intercity rail passenger trains or commuter rail passenger trains service is regularly provided, (2) on its main line over which poison- or toxic-inhalation hazardous materials are transported, and (3) on such other tracks as the Secretary may prescribe by regulation or order.

### **PTC Core Functions**

1. Prevent train-to-train collisions
2. Speed enforcement
3. Prevent incursion into roadway workers' work zones
4. Prevent train movement over a switch not properly lined (switch monitoring)

Track circuits are not required to classify a system as a PTC system. However, a PTC system must prevent train movements over switches that are not properly lined.

Early PTC systems developed and deployed as overlays to existing signal systems or installed in areas without active train signal systems.

As PTC matures, we can expect to see a meshing of signal systems with PTC. Eventually, PTC may become the method of operation by which train movements are authorized and protected.

### **National Crossing Inventory**

The new law requires railroads to report information, including information about warning devices and signage on grade crossings to enable the FRA to maintain an accurate inventory.

### **Toll-Free Number to Report Grade Crossing Problems**

The Act requires the railroads to establish and maintain

a toll-free telephone number for the public to report problems. On hearing a report of a malfunctioning safety device at a crossing or a disabled vehicle blocking the tracks, the railroad must immediately take appropriate action to warn trains and appropriate public safety officials.

Signage at each crossing must be posted with the toll-free telephone number, its purpose, and the National Crossing Inventory identification number assigned to the crossing. The Secretary may waive the requirement that the telephone service be toll-free for Class II and III carriers if the Secretary determines that it is cost-prohibitive.

### **Sight Distance at Passive Highway-Rail Grade Crossings**

The new law requires the Secretary, with the assistance of the FRA and the Federal Highway Administration, to develop model legislation which encourages states to enact and enforce laws that address sight obstructions at highway-rail grade crossings that are not equipped with active warnings systems. The model legislation will address overgrown vegetation, standing railroad equipment, and other obstructions.

### **Trespasser Prevention and Highway-Rail Grade Crossing Safety**

Within one year of enactment, and in consultation with affected parties, the Secretary will review and evaluate existing local, state, and federal laws about trespassing, vandalism, and violation of crossing signal warning devices. Furthermore, the Secretary shall develop and make available to states model prevention strategies and "enforcement laws" to address these issues.

### **Pedestrian Crossing Safety**

Within one year after enactment, the Secretary shall prepare guidance to railroads on ways to prevent pedestrian accidents at or near passenger train stations, including specified methods (e.g., fences) and other methods.

### **Crossing Safety — State Action Plans**

Within one year after enactment, the Secretary shall identify the 10 states that have had the most grade crossing collisions on average over the past three years and require those states to submit grade crossing safety plans that identify solutions for improving safety at highway-rail grade crossings.

## Railroad Safety Technology Grants

The Secretary of Transportation shall establish a grant program for the deployment of train control technologies, train control component technologies, processor-based technologies, electronically controlled pneumatic brakes, rail integrity inspection systems, rail integrity warning systems, switch position indicators and monitors, remote control power switch technologies, track integrity circuit technologies, and other new or novel railroad safety technology.

## Inspection and Audit Transparency

Each year, the Secretary shall produce a summary report of the railroad safety and hazardous materials compliance inspections and audits that federal or state inspectors conducted in the prior fiscal year. The first report is due on December 31, 2009; additionally, this report will be publicly available on the department's website.

## Civil Penalties Increase

The Act increases the ordinary and aggravated maximum civil penalty for a rail safety violation from \$16,000 to \$25,000; and from \$27,000 to \$100,000.

## Hazardous Materials Law Violations

New provisions give the Secretary authority to ban individual employees from performing safety-sensitive functions for violations of the hazardous materials transportation law.

## Railroad Radio Monitoring Authority

The FRA gains new authority to monitor and record railroad radio transmissions without notifying the railroad.

## Training

Within one year, the Secretary shall establish minimum training standards for each class and craft of safety-related railroad employees including contractors and subcontractors. The law requires the employer to qualify or otherwise document the proficiency of employees regarding their knowledge of, and ability to comply with federal

railroad safety laws and regulations, as well as railroad carrier rules and procedures. The training must qualify the employee to assess railroad compliance with federal standards, to identify defective conditions, and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries.

## Medical Attention

The Act prohibits railroads from denying, delaying, or interfering with the medical or first aid treatment of injured workers, and the railroads may not discipline, or threaten discipline for requesting medical or first aid treatment. (This provision does not prohibit the railroads from taking disciplinary action against employees for rule violations.) When requested by an injured employee, the railroads must arrange for immediate transportation to the nearest appropriate hospital for treatment.

## Employee Certification

Within 18 months after enactment of the Rail Safety Improvement Act, the Secretary must issue rules requiring certification of train conductors. Within six months after promulgating conductor certification rules, the Secretary must report to Congress about whether the certification of other specified crafts and classes of employees/contractors/subcontractors is necessary to reduce the number and rate of accidents and incidents or to improve railroad safety.

## Alcohol and Controlled Substance Testing

Non-federal alcohol and drug testing programs for employees covered by hours of service laws must use scientifically recognized methods. Except for probationary employees, employees have the right to challenge results in a hearing as provided under Section 3 of the Railway Labor Act.

Within two years, the Secretary shall complete a rule-making proceeding to produce regulations to cover all employees of railroad carriers and contractors or subcontractors to railroad carriers who perform maintenance-of-way activities. ■

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