



AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the safety of freight and passenger rail transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. 1626

To reauthorize Federal support for passenger rail programs, improve safety, streamline rail project delivery, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

- 1 At the end of title IV, insert the following:
- 2 **Subtitle C—Hazardous Materials**
- 3 **by Rail**
- 4 **SEC. 431. REAL-TIME EMERGENCY RESPONSE INFORMA-**
- 5 **TION.**
- 6 (a) IN GENERAL.—Not later than 1 year after the
- 7 date of enactment of this Act, the Secretary, in consulta-
- 8 tion with the Secretary of Homeland Security, shall pro-
- 9 mulgate regulations—
- 10 (1) to require a Class I railroad transporting
- 11 hazardous materials—

1 (A) to generate accurate, real-time, and
2 electronic train consist information, including—

3 (i) the identity, quantity, and location
4 of hazardous materials on a train;

5 (ii) the point of origin and destination
6 of the train;

7 (iii) any required emergency response
8 information or resources; and

9 (iv) an emergency response point of
10 contact designated by the Class I railroad;
11 and

12 (B) to enter into a memorandum of under-
13 standing with each applicable fusion center to
14 provide that fusion center with secure and con-
15 fidential access to the electronic train consist
16 information described in subparagraph (A) for
17 each train transporting hazardous materials in
18 that fusion center's jurisdiction;

19 (2) to require each applicable fusion center to
20 provide the electronic train consist information de-
21 scribed in paragraph (1)(A) to first responders,
22 emergency response officials, and law enforcement
23 personnel requesting such information following an
24 incident, accident, or public health or safety emer-

1 agency involving the rail transportation of hazardous
2 materials;

3 (3) to prohibit any Class I railroad, employee,
4 or agent from withholding, or causing to be withheld
5 the electronic train consist information described in
6 paragraph (1)(A) from first responders, emergency
7 response officials, and law enforcement personnel in
8 the event of an incident, accident, or public health
9 or safety emergency involving the rail transportation
10 of hazardous materials; and

11 (4) to establish security and confidentiality pro-
12 tections to prevent the release of the electronic train
13 consist information to unauthorized persons.

14 (b) DEFINITIONS.—In this section:

15 (1) APPLICABLE FUSION CENTER.—The term
16 “applicable fusion center” means a fusion center
17 with responsibility for a geographic area in which a
18 Class I railroad operates.

19 (2) CLASS I RAILROAD.—The term “Class I
20 railroad” has the meaning given the term in section
21 20102 of title 49, United States Code.

22 (3) FUSION CENTER.—The term “fusion cen-
23 ter” has the meaning given the term in section
24 124h(j) of title 6, United States Code.

1 (4) HAZARDOUS MATERIALS.—The term “haz-
2 ardous materials” means material designated as haz-
3 ardous by the Secretary of Transportation under
4 chapter 51 of the United States Code.

5 (5) TRAIN CONSIST.—The term “train consist”
6 includes, with regard to a specific train, the number
7 of rail cars and the commodity transported by each
8 rail car.

9 (c) SAVINGS CLAUSE.—

10 (1) Nothing in this section may be construed to
11 prohibit a Class I railroad from voluntarily entering
12 into a memorandum of understanding, as described
13 in subsection (a)(1)(B), with a State emergency re-
14 sponse commission or an entity representing or in-
15 cluding first responders, emergency response offi-
16 cials, and law enforcement personnel.

17 (2) Nothing in this section may be construed to
18 amend any requirement for a railroad to provide a
19 State Emergency Response Commission, for each
20 State in which it operates trains transporting
21 1,000,000 gallons or more of Bakken crude oil, noti-
22 fication regarding the expected movement of such
23 trains through the counties in the State.

1 **SEC. 432. THERMAL BLANKETS.**

2 (a) REQUIREMENTS.—Not later than 180 days after
3 the date of enactment of this Act, the Secretary shall pro-
4 mulgate such regulations as are necessary to require each
5 tank car built to meet the DOT-117 specification and each
6 non-jacketed tank car modified to meet the DOT-117R
7 specification to be equipped with a thermal blanket.

8 (b) DEFINITION OF THERMAL BLANKET.—In this
9 section, the term “thermal blanket” means an insulating
10 blanket that is applied between the outer surface of a tank
11 car tank and the inner surface of a tank car jacket and
12 that has thermal conductivity no greater than 2.65 Btu
13 per inch, per hour, per square foot, and per degree Fahr-
14 enheit at a temperature of 2000 degrees Fahrenheit, plus
15 or minus 100 degrees Fahrenheit.

16 (c) SAVINGS CLAUSE.—

17 (1) PRESSURE RELIEF DEVICES.—Nothing in
18 this section may be construed to affect or prohibit
19 any requirement to equip with appropriately sized
20 pressure relief devices a tank car built to meet the
21 DOT-117 specification or a non-jacketed tank car
22 modified to meet the DOT-117R specification.

23 (2) HARMONIZATION.—Nothing in this section
24 may be construed to require or allow the Secretary
25 to prescribe an implementation deadline or author-
26 ization end date for the requirement under sub-

1 section (a) that is earlier than the applicable imple-
2 mentation deadline or authorization end date for
3 other tank car modifications necessary to meet the
4 DOT-117R specification.

5 **SEC. 433. COMPREHENSIVE OIL SPILL RESPONSE PLANS.**

6 (a) REQUIREMENTS.—Not later than 120 days after
7 the date of enactment of this Act, the Secretary shall issue
8 a notice of proposed rulemaking to require each railroad
9 carrier transporting a Class 3 flammable liquid to main-
10 tain a comprehensive oil spill response plan.

11 (b) CONTENTS.—The regulations under subsection
12 (a) shall require each rail carrier described in that sub-
13 section—

14 (1) to include in the comprehensive oil spill re-
15 sponse plan procedures and resources for respond-
16 ing, to the maximum extent practicable, to a worst-
17 case discharge;

18 (2) to ensure the comprehensive oil spill re-
19 sponse plan is consistent with the National Contin-
20 gency Plan and each applicable Area Contingency
21 Plan;

22 (3) to include in the comprehensive oil spill re-
23 sponse plan appropriate notification and training
24 procedures;

1 (4) to review and update its comprehensive oil
2 spill response plan as appropriate; and

3 (5) to provide the comprehensive oil spill re-
4 sponse plan for acceptance by the Secretary.

5 (c) SAVINGS CLAUSE.—Nothing in the section may
6 be construed as prohibiting the Secretary from promul-
7 gating different comprehensive oil response plan standards
8 for Class I, Class II, and Class III railroads.

9 (d) DEFINITIONS.—In this section:

10 (1) AREA CONTINGENCY PLAN.—The term
11 “Area Contingency Plan” has the meaning given the
12 term in section 311(a) of the Federal Water Pollu-
13 tion Control Act (33 U.S.C. 1321(a)).

14 (2) CLASS 3 FLAMMABLE LIQUID.—The term
15 “Class 3 flammable liquid” has the meaning given
16 the term in section 173.120(a) of title 49, Code of
17 Federal Regulations.

18 (3) CLASS I RAILROAD, CLASS II RAILROAD,
19 AND CLASS III RAILROAD.—The terms “Class I rail-
20 road”, “Class II railroad” and “Class III railroad”
21 have the meanings given the terms in section 20102
22 of title 49, United States Code.

23 (4) NATIONAL CONTINGENCY PLAN.—The term
24 “National Contingency Plan” has the meaning given

1 the term in section 1001 of the Oil Pollution Act of
2 1990 (33 U.S.C. 2701).

3 (5) RAILROAD CARRIER.—The term “railroad
4 carrier” has the meaning given the term in section
5 20102 of title 49, United States Code.

6 (6) WORST-CASE DISCHARGE.—The term
7 “worst-case discharge” means a railroad carrier’s
8 calculation of its largest foreseeable discharge in the
9 event of an accident or incident.

10 **SEC. 434. HAZARDOUS MATERIALS BY RAIL LIABILITY**
11 **STUDY.**

12 (a) IN GENERAL.—Not later than 30 days after the
13 date of enactment of this Act, the Secretary shall initiate
14 a study on the levels and structure of insurance for a rail-
15 road carrier transporting hazardous materials.

16 (b) CONTENTS.—In conducting the study under sub-
17 section (a), the Secretary shall evaluate—

18 (1) the level and structure of insurance, includ-
19 ing self-insurance, available in the private market
20 against the full liability potential for damages aris-
21 ing from an accident or incident involving a train
22 transporting hazardous materials;

23 (2) the level and structure of insurance that
24 would be necessary and appropriate—

1 (A) to efficiently allocate risk and financial
2 responsibility for claims; and

3 (B) to ensure that a railroad carrier trans-
4 porting hazardous materials can continue to op-
5 erate despite the risk of an accident or incident;

6 (3) the potential applicability to trains trans-
7 porting hazardous materials of—

8 (A) a liability regime modeled after section
9 170 of the Atomic Energy Act of 1954, as
10 amended (42 U.S.C. 2210); and

11 (B) a liability regime modeled after sub-
12 title 2 of title XXI of the Public Health Service
13 Act (42 U.S.C. 300aa–10 et seq.).

14 (c) REPORT.—Not later than 1 year after the date
15 the study under subsection (a) is initiated, the Secretary
16 shall submit a report containing the results of the study
17 and recommendations for addressing liability issues with
18 rail transportation of hazardous materials to—

19 (1) the Committee on Commerce, Science, and
20 Transportation of the Senate; and

21 (2) the Committee on Transportation and In-
22 frastructure of the House of Representatives.

23 (d) DEFINITIONS.—In this section:

24 (1) HAZARDOUS MATERIAL.—The term “haz-
25 arduous material” means a substance or material the

1 Secretary designates under section 5103(a) of title
2 49, United States Code.

3 (2) RAILROAD CARRIER.—The term “railroad
4 carrier” has the meaning given the term in section
5 20102 of title 49, United States Code.

6 **SEC. 435. STUDY AND TESTING OF ELECTRONICALLY-CON-**
7 **TROLLED PNEUMATIC BRAKES.**

8 (a) GOVERNMENT ACCOUNTABILITY OFFICE
9 STUDY.—

10 (1) IN GENERAL.—The Government Account-
11 ability Office shall complete an independent evalua-
12 tion of ECP brake systems pilot program data and
13 the Department of Transportation’s research and
14 analysis on the effects of ECP brake systems.

15 (2) STUDY ELEMENTS.—In completing the
16 independent evaluation under paragraph (1), the
17 Government Accountability Office shall examine the
18 following issues related to ECP brake systems:

19 (A) Data and modeling results on safety
20 benefits relative to conventional brakes and to
21 other braking technologies or systems, such as
22 distributed power and 2-way end-of-train de-
23 vices.

1 (B) Data and modeling results on business
2 benefits, including the effects of dynamic brak-
3 ing.

4 (C) Data on costs, including up-front cap-
5 ital costs and on-going maintenance costs.

6 (D) Analysis of potential operational chal-
7 lenges, including the effects of potential loco-
8 motive and car segregation, technical reliability
9 issues, and network disruptions.

10 (E) Analysis of potential implementation
11 challenges, including installation time, positive
12 train control integration complexities, compo-
13 nent availability issues, and tank car shop capa-
14 bilities.

15 (F) Analysis of international experiences
16 with the use of advanced braking technologies.

17 (3) DEADLINE.—Not later than 2 years after
18 the date of enactment of this Act, the Government
19 Accountability Office shall transmit to the Com-
20 mittee on Commerce, Science, and Transportation of
21 the Senate and the Committee on Transportation
22 and Infrastructure of the House of Representatives
23 a report on the results of the independent evaluation
24 under paragraph (1).

25 (b) EMERGENCY BRAKING APPLICATION TESTING.—

1 (1) IN GENERAL.—The Secretary of Transpor-
2 tation shall enter into an agreement with the
3 NCRRP Board—

4 (A) to complete testing of ECP brake sys-
5 tems during emergency braking application, in-
6 cluding more than 1 scenario involving the un-
7 coupling of a train with 70 or more DOT 117-
8 specification or DOT 117R-specification tank
9 cars; and

10 (B) to transmit, not later than 2 years
11 after the date of enactment of this Act, to the
12 Committee on Commerce, Science, and Trans-
13 portation of the Senate and the Committee on
14 Transportation and Infrastructure of the House
15 of Representatives a report on the results of the
16 testing.

17 (2) INDEPENDENT EXPERTS.—In completing
18 the testing under paragraph (1), the NCRRP Board
19 may contract with 1 or more engineering or rail ex-
20 perts, as appropriate, with relevant experience in
21 conducting railroad safety technology tests or similar
22 crash tests.

23 (3) TESTING FRAMEWORK.—In completing the
24 testing under paragraph (1), the NCRRP Board and
25 each contractor described in paragraph (2) shall en-

1 sure that the testing objectively, accurately, and reli-
2 ably measures the performance of ECP brake sys-
3 tems relative to other braking technologies or sys-
4 tems, such as distributed power and 2-way end-of-
5 train devices, including differences in—

6 (A) the number of cars derailed;

7 (B) the number of cars punctured;

8 (C) the measures of in-train forces; and

9 (D) the stopping distance.

10 (4) FUNDING.—The Secretary shall require, as
11 part of the agreement under paragraph (1), that the
12 NCRRP Board fund the testing required under this
13 section—

14 (A) using such sums made available under
15 section 24910 of title 49, United States Code;
16 and

17 (B) to the extent funding under subpara-
18 graph (A) is insufficient or unavailable to fund
19 the testing required under this section, using
20 such sums as are necessary from the amounts
21 appropriated to the Office of the Secretary.

22 (5) EQUIPMENT.—The NCRRP Board and
23 each contractor described in paragraph (2) may re-
24 ceive or use rolling stock, track, and other equip-
25 ment or infrastructure from a private entity for the

1 purposes of conducting the testing required under
2 this section.

3 (c) PHASED APPROACH.—

4 (1) PHASE 1.—Not later than 60 days after the
5 date of enactment of this Act, the Secretary shall re-
6 quire each new tank car built to meet the DOT-117
7 specification and each tank car modified to meet the
8 DOT-117R specification to have an ECP-ready con-
9 figuration if the DOT-117 or DOT-117R specifica-
10 tion tank car will be used in high-hazard flammable
11 unit train service.

12 (2) PHASE 2.—After the reports are trans-
13 mitted under subsections (a)(3) and (b)(1)(B), the
14 Secretary may initiate a rulemaking, if the Secretary
15 considers it necessary, to require each railroad car-
16 rier operating a high-hazard flammable unit train to
17 operate that train in ECP brake mode by 2021 or
18 2023, unless the train does not exceed a certain
19 maximum authorized speed as determined by the
20 Secretary in the rulemaking.

21 (d) CONFORMING AMENDMENT.—Not later than 60
22 days after the date of enactment of this Act, the Secretary
23 shall issue regulations to repeal the ECP brakes and ECP
24 brake mode requirements in sections 174.310(a)(3)(ii),
25 174.310(a)(3)(iii), 174.310(a)(5)(v), 179.102-10,

1 179.202-12(g), and 179.202-13(i) of title 49, Code of
2 Federal Regulations, and, except as provided in subsection
3 (c), any other regulation in effect on the date of enactment
4 of this Act requiring the installation of ECP brakes or
5 operation in ECP brake mode.

6 (e) SAVINGS CLAUSE.—

7 (1) ECP BRAKE MODE.—Nothing in this sec-
8 tion may be construed as prohibiting or requiring a
9 railroad carrier from operating its trains in ECP
10 brake mode.

11 (2) HARMONIZATION.—Nothing in this section
12 may be construed to require or allow the Secretary
13 to prescribe an implementation deadline for the re-
14 quirement under subsection (c)(1) that is earlier
15 than the applicable implementation deadline for
16 other tank car modifications necessary to meet the
17 DOT-117R specification for tank cars that will be
18 used in high-hazard flammable unit train service.

19 (f) DEFINITIONS.—In this section:

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

1 (2) ECP.—The term “ECP” means electroni-
2 cally-controlled pneumatic when applied to a brake
3 or brakes.

4 (3) ECP BRAKE MODE.—The term “ECP brake
5 mode” includes any operation of a rail car or an en-
6 tire train using an ECP brake system.

7 (4) ECP BRAKE SYSTEM.—

8 (A) IN GENERAL.—The term “ECP brake
9 system” means a train power braking system
10 actuated by compressed air and controlled by
11 electronic signals from the locomotive or an
12 ECP-EOT to the cars in the consist for service
13 and emergency applications in which the brake
14 pipe is used to provide a constant supply of
15 compressed air to the reservoirs on each car but
16 does not convey braking signals to the car.

17 (B) INCLUSIONS.—The term “ECP brake
18 system” includes dual mode and stand-alone
19 ECP brake systems.

20 (5) ECP-READY CONFIGURATION.—The term
21 “ECP-ready configuration” means mounting brack-
22 ets and fixed conduit on the tank car to facilitate
23 the future application of additional ECP
24 componentry and required cables.

1 “(b) DEVICE STANDARDS.—Each inward- and out-
2 ward-facing image recording device shall—

3 “(1) have a minimum 12-hour continuous re-
4 cording capability;

5 “(2) have crash and fire protections for any in-
6 cab image recordings that are stored only within a
7 controlling locomotive cab or cab car operating com-
8 partment; and

9 “(3) have recordings accessible for review dur-
10 ing an accident investigation.

11 “(c) REVIEW.—The Secretary shall establish a proc-
12 ess to review and approve or disapprove an inward- or out-
13 ward-facing recording device for compliance with the
14 standards described in subsection (b).

15 “(d) USES.—A rail carrier that has installed an
16 inward- or outward-facing image recording device ap-
17 proved under subsection (c) may use recordings from that
18 inward- or outward-facing image recording device for the
19 following purposes:

20 “(1) Verifying that train crew actions are in ac-
21 cordance with applicable safety laws and the rail
22 carrier’s operating rules and procedures.

23 “(2) Assisting in an investigation into the cau-
24 sation of a reportable accident or incident.

1 “(3) Carrying out efficiency testing and system-
2 wide performance monitoring programs.

3 “(4) Documenting a criminal act or monitoring
4 unauthorized occupancy of the controlling locomotive
5 cab or car operating compartment.

6 “(e) VOLUNTARY IMPLEMENTATION.—

7 “(1) IN GENERAL.—Each rail carrier operating
8 freight rail service may implement any inward- or
9 outward-facing image recording devices approved
10 under subsection (c).

11 “(2) AUTHORIZED USES.—Notwithstanding any
12 other provision of law, each rail carrier may use re-
13 cordings from an inward- or outward-facing image
14 recording device approved under subsection (c) for
15 any of the purposes described in subsection (d).

16 “(f) DISCRETION.—

17 “(1) IN GENERAL.—The Secretary may—

18 “(A) require in-cab audio recording devices
19 for the purposes described in paragraphs (1)
20 through (4) of subsection (d); and

21 “(B) define in appropriate technical detail
22 the essential features of the devices required
23 under subparagraph (A).

24 “(2) EXEMPTIONS.—The Secretary may exempt
25 any rail passenger carrier or any part of a rail pas-

1 senger carrier's operations from the requirements
2 under subsection (a) if the Secretary determines
3 that the rail passenger carrier has implemented an
4 alternative technology or practice that provides an
5 equivalent or greater safety benefit or is better suit-
6 ed to the risks of the operation.

7 “(g) TAMPERING.—A rail carrier may take appro-
8 priate enforcement or administrative action against any
9 employee that tampers with or disables an audio or
10 inward- or outward-facing image recording device installed
11 by the rail carrier.

12 “(h) PRESERVATION OF DATA.—Each rail passenger
13 carrier subject to the requirements of subsection (a) shall
14 preserve recording device data for 1 year after the date
15 of a reportable accident or incident.

16 “(i) INFORMATION PROTECTIONS.—

17 “(1) SECTION 552(B)(3) OF TITLE 5 EXEMP-
18 TION.—An in-cab audio or image recording, and any
19 part thereof, that the Secretary obtains as part of
20 an accident or incident investigated by the Depart-
21 ment of Transportation shall be exempt from disclo-
22 sure under section 552(b)(3) of title 5.

23 “(2) RESTRICTIONS ON DISCLOSURE.—The
24 Secretary may allow an audio or image recordings
25 derived from an audio or inward- or outward-facing

1 image recording device to receive any of the informa-
2 tion and legal protections available to any report,
3 survey, schedule, list, or data compiled or collected
4 as part of the Department of Transportation rail-
5 road safety risk reduction program if—

6 “(A) the recording is derived from—

7 “(i) an audio or inward- or outward-
8 facing image recording device that was im-
9 plemented pursuant to its railroad safety
10 risk reduction program under section
11 20156; and

12 “(ii) an inward- or outward-facing
13 image recording device that was approved
14 under subsection (c); or

15 “(B) an audio recording device that is
16 compliant with the requirements under sub-
17 section (f)(1).

18 “(j) SAVINGS CLAUSE.—Nothing in this section may
19 be construed as requiring a rail carrier to cease or restrict
20 operations upon a technical failure of an inward- or out-
21 ward-facing image recording device. Such rail carrier shall
22 repair or replace the failed inward- or outward-facing
23 image recording device as soon as practicable.”

1 (b) CONFORMING AMENDMENT.—The table of con-
2 tents for subchapter II of chapter 201 is amended by add-
3 ing at the end the following:

“20168. Installation of audio and image recording devices.”.

4 **SEC. 437. RAIL PASSENGER TRANSPORTATION LIABILITY.**

5 (a) LIMITATIONS.—Section 28103(a) is amended—

6 (1) in paragraph (2), by striking
7 “\$200,000,000” and inserting “\$295,000,000, ex-
8 cept as provided in paragraph (3).”; and

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

10 “(3) The liability cap under paragraph (2) shall
11 be adjusted every 10 years by the Secretary of
12 Transportation to reflect changes in the Consumer
13 Price Index-All Urban Consumers.

14 “(4) The Federal Government shall have no fi-
15 nancial responsibility for any claims described in
16 paragraph (2).”.

17 (b) DEFINITION OF RAIL PASSENGER TRANSPOR-
18 TATION.—Section 28103(c) is amended—

19 (1) in the heading, by striking “DEFINITION.—
20 ” and inserting “DEFINITIONS.—”;

21 (2) by redesignating paragraphs (2) and (3) as
22 paragraphs (3) and (4), respectively; and

23 (3) by inserting after paragraph (1), the fol-
24 lowing:

1 “(2) the term ‘rail passenger transportation’ in-
2 cludes commuter rail passenger transportation (as
3 defined in section 24102);”.

4 (c) PROHIBITION.—No Federal funds may be appro-
5 priated for the purpose of paying for the portion of an
6 insurance premium attributable to the increase in allow-
7 able awards under the amendments made by subsection
8 (a).

9 (d) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall be effective for any passenger rail acci-
11 dent or incident occurring on or after May 12, 2015.