

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2095) TO AMEND TITLE 49, UNITED STATES CODE, TO PREVENT RAILROAD FATALITIES, INJURIES, AND HAZARDOUS MATERIALS RELEASES, TO AUTHORIZE THE FEDERAL RAILROAD SAFETY ADMINISTRATION, AND FOR OTHER PURPOSES

OCTOBER 10, 2007.—Referred to the House Calendar and ordered to be printed

Ms. MATSUI, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 724]

The Committee on Rules, having had under consideration House Resolution 724, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2095, the “Federal Railroad Safety Improvement Act of 2007,” under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The resolution waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the committee amendment except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The resolution makes in order only those amendments printed in this report. Amendments so printed may be offered only in the order printed in the report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The

resolution waives all points of order against such amendments except those arising under clause 9 or 10 of rule XXI.

The resolution provides one motion to recommit H.R. 2095 with or without instructions. Finally, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against the bill and its consideration (except for those arising under clause 9 or 10 of rule XXI), the Committee is not aware of any points of order against the bill or its consideration. The waivers of all points of order against the bill and its consideration (except those arising under clause 9 or 10 of rule XXI) are prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 345

Date: October 10, 2007.

Measure: H.R. 2095.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Price, Tom (GA), #5, which prohibits regulations which would impose a cost on any non-Federal entity from being issued under the bill unless the Secretary certifies that the requirements would materially and substantially benefit rail safety.

Results: Defeated 3–8.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee Record Vote No. 346

Date: October 10, 2007.

Measure: H.R. 2095.

Motion by: Mr. Diaz-Balart.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Price, Tom (GA), #4, which prevents authorization of appropriations made by the bill that result in costs to the Federal Government from being effective except to the extent that the bill provides for offsetting decreases in spending of the Federal Government, such that the net effect of the bill does not either increase the Federal deficit or reduce the Federal surplus.

Results: Defeated 3–8.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Welch—Nay; Castor—Nay; Arcuri—Nay; Dreier—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Oberstar (MN): The amendment requires the Federal Railroad Safety Administration to issue regulations requiring owners of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The amendment also strikes Sections 301, 610, and 616 of the reported bill because these sections were enacted in Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007." The amendment would also require the Secretary to consider additional criteria regarding communities when reviewing applications for a waiver or exemption from sounding locomotive horns at highway-rail grade crossings. (10 minutes)

2. Napolitano (CA): The amendment prohibits mechanical and brake inspections performed in Mexico of rail cars entering the United States from satisfying U.S. rail safety laws unless inspection standards, enforcement standards, and worker training are certified to meet those of the United States. It prohibits hazardous material inspections performed in Mexico from satisfying applicable U.S. rail safety laws and regulations. (10 minutes)

3. Pallone (NJ)/Murphy, Patrick (PA): The amendment allows state and local authorities to regulate solid waste management facilities. This amendment would state that the Surface Transportation Board does not have exclusive authority to preempt state and local regulation of solid waste management facilities, as defined in the amendment. (10 minutes)

4. Rohrabacher (CA): This amendment authorizes funds to the Secretary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OBERSTAR OF MINNESOTA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 27, line 19, through page 34, line 14, amend title III to read as follows (and amend the table of contents accordingly):

TITLE III—BRIDGE SAFETY

SEC. 301. RAILROAD BRIDGE SAFETY ASSURANCE.

Not later than 12 months after the date of enactment of this Act, the Federal Railroad Safety Administration shall implement regulations requiring owners of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The regulations shall, at a minimum—

- (1) require each track owner to—

(A) develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(B) ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

(C) maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

(D) develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

(E) conduct regular comprehensive inspections of each bridge, at least once per year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

(F) ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

(G) ensure that an engineer who is competent in the field of railroad bridge engineering—

(i) is responsible for the development of all inspection procedures;

(ii) reviews all inspection reports; and

(iii) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

(H) designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems;

(2) instruct Administration bridge inspectors to obtain copies of the most recent bridge management programs and procedures of each railroad within the inspector's areas of responsibility, and require that inspectors use those programs when conducting bridge inspections; and

(3) establish a program to review bridge inspection and maintenance data from railroads and Administration bridge inspectors periodically.

Page 73, line 22, through page 77, line 16, redesignate sections 611 through 615 as sections 610 through 614, respectively (and amend the table of contents accordingly).

Page 79, line 1, through page 80, line 7, strike section 616 (and amend the table of contents accordingly).

Page 80, after line 7, insert the following new section (and amend the table of contents accordingly):

SEC. 615. LOCOMOTIVE HORN REQUIREMENT WAIVER.

Section 20153(c) of title 49, United States Code, is amended by adding at the end the following new paragraph:

“(3) The Secretary, in reviewing applications for waivers or exemptions, shall consider horn noise and the impact of such noise on the local community and the unique characteristics of the community.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NAPOLITANO OF CALIFORNIA, OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of title VI, add the following new section (and amend the table of contents accordingly):

SEC. 617. SAFETY INSPECTIONS IN MEXICO.

(a) IN GENERAL.—Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary of Transportation certifies that—

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States, including comparable enforcement procedures;

(2) the Mexican counterparts to the Federal Railroad Safety Administration are effectively enforcing such standards;

(3) the inspections are being performed by employees receiving comparable classroom and on the job training as is the norm in the United States;

(4) inspection records are maintained in both English and Spanish, and such records are available to the Federal Railroad Safety Administration for review; and

(5) the Federal Railroad Safety Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this subsection.

(b) HAZARDOUS MATERIAL INSPECTIONS.—Notwithstanding subsection (a), no hazardous material inspections performed in Mexico shall be treated as having satisfied the applicable United States rail safety laws and regulations.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PALLONE OF NEW JERSEY, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 80, after line 7, insert the following new section (and amend the table of contents accordingly):

SEC. 617. SURFACE TRANSPORTATION BOARD JURISDICTION OVER SOLID WASTE FACILITIES.

Section 10501 of title 49, United States Code, is amended—

(1) by striking “facilities,” in subsection (b)(2) and inserting “facilities (except solid waste rail transfer facilities as defined in subsection (c)(3)(C)),”; and

(2) by adding at the end of subsection (c)(3) the following new subparagraph:

“(C) Nothing in this section preempts a State or local governmental authority from regulating solid waste rail transfer facilities. For purposes of this subparagraph, the term ‘solid waste rail transfer facility’ means the portion of any facility owned or operated by or on behalf of a rail carrier, at which occurs the—

“(i) collection, storage, or transfer, outside of original shipping containers;

“(ii) separation; or

“(iii) processing (including baling, crushing, compacting, and shredding),

of solid waste, as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROHR-
ABACHER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

Page 12, line 16, insert the following new paragraph before the close quotation mark:

“(5) There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2011 such sums as may be necessary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas.”.