

PL 100-342, 1988 S 1539

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PL 100-342 (S 1539)
June 22, 1988

An Act to amend the Federal Railroad Safety Act of 1970 and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act "45 USC 421 note" may be cited as the "Rail Safety Improvement Act of 1988".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed \$40,649,000 for the fiscal year ending September 30, 1988, not to exceed \$41,868,470 for the fiscal year ending September 30, 1989, and not to exceed \$44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended."

SEC. 3. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

(a) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended -

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than \$250 nor more than \$10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed \$20,000 may be assessed.";

(3) in subsection (c) --

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations.";

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(C) by adding at the end the following new sentences: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated to the supervisor. Such individual shall have the right to document such protest."; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

(b) Within 30 days after the date of the enactment of this Act "45 USC 438 note" the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue interim rules, regulations, orders, or standards containing penalty schedules applicable to railroads and individuals reflecting the changes made by the amendments in subsection (a). The Secretary shall issue final rules, regulations, orders, or standards with respect to such penalty schedules within 6 months after such date of enactment.

