

.....
(Original Signature of Member)

108TH CONGRESS
2D SESSION

H. R. _____

To provide for the security of the United States railroad system.

IN THE HOUSE OF REPRESENTATIVES

Mr. OBERSTAR (for himself and [see attached list of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To provide for the security of the United States railroad system.

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.**

4 This Act may be cited as the “Protecting Railroad
5 Operators, Travelers, Employees, and Communities with
6 Transportation Security Act of 2004”.



1 **SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
2 **MENT.**

3 (a) IN GENERAL.—

4 (1) VULNERABILITY ASSESSMENT.—The Sec-
5 retary of Transportation, in consultation with the
6 Secretary of Homeland Security, shall complete a
7 vulnerability assessment of railroad transportation.

8 The assessment shall include—

9 (A) identification and evaluation of critical
10 assets and infrastructures to reduce the vulner-
11 ability of the railroad transportation system in
12 the event of an attack on any one target and
13 to ensure that our cities continue to function
14 should an attack occur;

15 (B) identification of threats to those assets
16 and infrastructures;

17 (C) identification of vulnerabilities that are
18 specific to the transportation of hazardous ma-
19 terials by railroad;

20 (D) identification of redundant and backup
21 systems required to ensure the continued oper-
22 ation of critical elements of the railroad system
23 in the event of an attack or other incident, in-
24 cluding disruption of commercial electric power
25 or communications networks; and



1 (E) identification of security weaknesses in
2 passenger and cargo security, transportation in-
3 frastructure, protection systems, procedural
4 policies, communications systems, employee
5 training, emergency response planning, and any
6 other area identified by the assessment.

7 (2) EXISTING PRIVATE AND PUBLIC SECTOR
8 EFFORTS.—The assessment may take into account
9 actions taken or planned by both public and private
10 entities to address identified security issues and as-
11 sess the effective integration of such actions.

12 (3) RECOMMENDATIONS.—Based on the assess-
13 ment conducted under paragraph (1), the Secretary
14 of Transportation, in consultation with the Secretary
15 of Homeland Security, shall develop prioritized rec-
16 ommendations for improving rail security, including
17 any recommendations the Secretary of Transpor-
18 tation has for—

19 (A) improving the security of rail tunnels,
20 rail bridges, rail switching and car storage
21 areas, other rail infrastructure and facilities, in-
22 formation systems, and other areas identified
23 by the Secretary of Transportation as posing
24 significant rail-related risks to public safety and
25 the movement of interstate commerce, taking



1 into account the impact that any proposed secu-
2 rity measure might have on the provision of rail
3 service;

4 (B) monitoring critical assets and infra-
5 structure;

6 (C) deploying equipment to detect explo-
7 sives and hazardous chemical, biological, and
8 radioactive substances, and any appropriate
9 countermeasures;

10 (D) training employees and emergency re-
11 sponders in terrorism prevention, passenger
12 evacuation, including tunnel evacuation, and re-
13 sponse activities;

14 (E) conducting public outreach campaigns
15 on passenger railroads;

16 (F) deploying surveillance equipment; and

17 (G) identifying the immediate and long-
18 term costs of measures that may be required to
19 address those risks.

20 (4) PLANS.—The report required by subsection
21 (c) shall include—

22 (A) a plan for the Federal Government to
23 provide increased security support at high or
24 severe threat levels of alert; and



1 (B) a plan for coordinating rail security
2 initiatives undertaken by the public and private
3 sectors.

4 (b) CONSULTATION; USE OF EXISTING RE-
5 SOURCES.—In carrying out the assessment required by
6 subsection (a), the Secretary of Transportation shall con-
7 sult with railroad carriers, nonprofit employee organiza-
8 tions that represent railroad workers, owners or lessors
9 of rail cars used to transport hazardous materials, ship-
10 pers of hazardous materials by rail, public safety officials
11 (including those within other Federal agencies), and other
12 relevant parties.

13 (c) REPORT.—

14 (1) CONTENTS.—Not later than 180 days after
15 the date of enactment of this Act, the Secretary of
16 Transportation shall transmit to the Committee on
17 Commerce, Science, and Transportation of the Sen-
18 ate and the Committee on Transportation and Infra-
19 structure of the House of Representatives a report
20 containing the assessment and prioritized rec-
21 ommendations required by subsection (a) and an es-
22 timate of the cost to implement such recommenda-
23 tions.

24 (2) FORMAT.—The Secretary of Transportation
25 may submit the report in both classified and re-



1 dacted formats if the Secretary of Transportation
2 determines that such action is appropriate or nec-
3 essary.

4 (d) 2-YEAR UPDATES.—The Secretary of Transpor-
5 tation, in consultation with the Secretary of Homeland Se-
6 curity, shall update the assessment and recommendations
7 every 2 years and transmit a report, which may be sub-
8 mitted in both classified and redacted formats, to the
9 Committees named in subsection (c)(1), containing the up-
10 dated assessment and recommendations.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary of
13 Transportation \$5,000,000 for fiscal year 2005 for the
14 purpose of carrying out this section.

15 **SEC. 3. MEMORANDUM OF AGREEMENT.**

16 Not later than 60 days after the date of enactment
17 of this Act, the Secretary of Transportation and the Sec-
18 retary of Homeland Security shall execute a memorandum
19 of agreement governing the roles and responsibilities of
20 the Department of Transportation and the Department of
21 Homeland Security, respectively, in addressing railroad
22 transportation security matters, including the processes
23 the departments will follow to promote communications,
24 efficiency, and nonduplication of effort.



1 **SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY**
2 **PROGRAMS.**

3 (a) REQUIREMENT FOR STUDY.—Not later than one
4 year after the date of enactment of this Act, the Comp-
5 troller General shall complete a study of the rail passenger
6 transportation security programs that are carried out for
7 rail transportation systems in Japan, member nations of
8 the European Union, and other foreign countries.

9 (b) PURPOSE.—The purpose of the study shall be to
10 identify effective rail transportation security measures
11 that are in use in foreign rail transportation systems, in-
12 cluding innovative measures and screening procedures de-
13 termined effective.

14 (c) REPORT.—The Comptroller General shall submit
15 a report on the results of the study to the Committee on
16 Commerce, Science, and Transportation of the Senate and
17 the Committee on Transportation and Infrastructure of
18 the House of Representatives. The report shall include the
19 Comptroller General’s assessment regarding whether it is
20 feasible to implement within the United States any of the
21 same or similar security measures that are determined ef-
22 fective under the study.

23 **SEC. 5. RAIL POLICE OFFICERS.**

24 Section 28101 of title 49, United States Code, is
25 amended by striking “the rail carrier” each place it ap-
26 pears and inserting “any rail carrier”.



1 **SEC. 6. REVIEW OF RAIL REGULATIONS.**

2 The Inspector General of the Department of Trans-
3 portation shall review existing rail regulations of the De-
4 partment of Transportation for the purpose of identifying
5 areas in which those regulations need to be revised to im-
6 prove rail security. The Inspector General shall consult,
7 as the Inspector General considers appropriate, with offi-
8 cials of the Department of Homeland Security and other
9 Federal officials. Not later than 1 year after the date of
10 enactment of this Act, the Inspector General shall trans-
11 mit to the Committee on Commerce, Science, and Trans-
12 portation of the Senate and the Committee on Transpor-
13 tation and Infrastructure of the House of Representatives
14 a report on the review under this section, including rec-
15 ommendations for changes to the regulations reviewed and
16 any legislative changes required to improve railroad secu-
17 rity.

18 **SEC. 7. FREIGHT AND PASSENGER RAIL SECURITY IM-**
19 **PROVEMENT PROGRAM.**

20 (a) SECURITY IMPROVEMENT GRANTS.—The Sec-
21 retary of Transportation is authorized to make grants to
22 railroad carriers, nonprofit employee organizations that
23 represent railroad workers or emergency responders, ship-
24 pers of hazardous materials by rail, owners of rail cars
25 used in the transportation of hazardous materials, univer-
26 sities, colleges, and research centers, and State and local



1 governments, for full or partial reimbursement of costs in-
2 curred in the conduct of activities to prevent or respond
3 to acts of terrorism, sabotage, or other railroad security
4 threats, including—

5 (1) perimeter protection systems, including ac-
6 cess control, installation of better lighting, fencing,
7 and barricades at railroad facilities;

8 (2) structural modification or replacement of
9 rail cars transporting high hazard materials to im-
10 prove their resistance to acts of terrorism;

11 (3) technologies for reduction of tank car vul-
12 nerability;

13 (4) security improvements to passenger railroad
14 stations, trains, and infrastructure;

15 (5) tunnel protection systems;

16 (6) passenger and employee evacuation tech-
17 nologies;

18 (7) inspection technologies, including verified
19 visual inspection technologies using hand-held read-
20 ers and discs;

21 (8) security and redundancy for critical commu-
22 nications, computer, and train control systems essen-
23 tial for secure railroad operations or to continue rail-
24 road operations after an attack impacting railroad
25 operations;



1 (9) train tracking and interoperable commu-
2 nications systems;

3 (10) explosive detection technology and devices;

4 (11) security of hazardous material transpor-
5 tation by rail;

6 (12) fire suppression and decontamination
7 equipment;

8 (13) surveillance equipment and round-the-clock
9 monitoring of critical infrastructure locations;

10 (14) additional police and security officers, in-
11 cluding canine units;

12 (15) accommodation of cargo or passenger
13 screening equipment;

14 (16) employee security awareness, prepared-
15 ness, and emergency response training;

16 (17) public security awareness campaigns for
17 passenger train operations; and

18 (18) other improvements recommended by the
19 report required by section 2, including infrastruc-
20 ture, facilities, and equipment upgrades.

21 (b) CONDITIONS.—The Secretary of Transportation
22 may not disburse funds to Amtrak under subsection (a)
23 unless Amtrak meets the conditions set forth in section
24 12(b).



1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of
3 Transportation \$500,000,000 for fiscal year 2005 to carry
4 out the purposes of this section. Amounts appropriated
5 pursuant to this subsection shall remain available until ex-
6 pended.

7 **SEC. 8. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

8 (a) LIFE-SAFETY NEEDS.—The Secretary of Trans-
9 portation is authorized to make grants to Amtrak for the
10 purpose of making fire and life-safety improvements to
11 tunnels on the Northeast Corridor in New York, New
12 York, Baltimore, Maryland, and Washington, District of
13 Columbia.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary of
16 Transportation for the purposes of carrying out subsection
17 (a) the following amounts:

18 (1) For the 6 New York tunnels to provide ven-
19 tilation, electrical, and fire safety technology up-
20 grades, emergency communication and lighting sys-
21 tems, and emergency access and egress for
22 passengers—

23 (A) \$100,000,000 for fiscal year 2005;

24 (B) \$100,000,000 for fiscal year 2006;

25 (C) \$100,000,000 for fiscal year 2007;



1 (D) \$100,000,000 for fiscal year 2008;

2 and

3 (E) \$100,000,000 for fiscal year 2009.

4 (2) For the Baltimore & Potomac Tunnel and
5 the Union tunnel, together, to provide adequate
6 drainage, ventilation, communication, lighting, and
7 passenger egress upgrades—

8 (A) \$10,000,000 for fiscal year 2005;

9 (B) \$10,000,000 for fiscal year 2006;

10 (C) \$10,000,000 for fiscal year 2007;

11 (D) \$10,000,000 for fiscal year 2008; and

12 (E) \$17,000,000 for fiscal year 2009.

13 (3) For the Washington, District of Columbia,
14 Union Station tunnels to improve ventilation, com-
15 munication, lighting, and passenger egress
16 upgrades—

17 (A) \$8,000,000 for fiscal year 2005;

18 (B) \$8,000,000 for fiscal year 2006;

19 (C) \$8,000,000 for fiscal year 2007;

20 (D) \$8,000,000 for fiscal year 2008; and

21 (E) \$8,000,000 for fiscal year 2009.

22 (c) AVAILABILITY OF APPROPRIATED FUNDS.—

23 Amounts appropriated pursuant to this section shall re-
24 main available until expended.



1 **SEC. 9. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

2 (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-
3 MENT PROGRAM.—The Secretary of Transportation, in
4 consultation with the Secretary of Homeland Security,
5 shall carry out a research and development program for
6 the purpose of improving railroad security that may in-
7 clude research and development projects to—

8 (1) reduce the vulnerability of passenger trains,
9 stations, and equipment to explosives and hazardous
10 chemical, biological, and radioactive substances;

11 (2) test new emergency response techniques and
12 technologies;

13 (3) develop improved freight technologies,
14 including—

15 (A) technologies for sealing rail cars;

16 (B) automatic inspection of rail cars;

17 (C) communication-based train controls;

18 and

19 (D) emergency response training;

20 (4) test wayside detectors that can detect tam-
21 pering with railroad equipment;

22 (5) support enhanced security for the transpor-
23 tation of hazardous materials by rail, including—

24 (A) technologies to detect a breach in a
25 tank car and transmit information about the in-
26 tegrity of tank cars to the train crew;



1 (B) research to improve tank car integrity,
2 with a focus on tank cars that carry high haz-
3 ard materials; and

4 (C) techniques to transfer hazardous mate-
5 rials from rail cars that are damaged or other-
6 wise represent an unreasonable risk to human
7 life or public safety; and

8 (6) other projects recommended in the report
9 required by section 2.

10 (b) COORDINATION WITH OTHER RESEARCH INITIA-
11 TIVES.—The Secretary of Transportation shall ensure
12 that the research and development program authorized by
13 this section is coordinated with other research and devel-
14 opment initiatives at the Department of Transportation
15 and other Federal agencies.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary of
18 Transportation \$50,000,000 in each of fiscal years 2005
19 and 2006 to carry out the purposes of this section.
20 Amounts appropriated pursuant to this subsection shall
21 remain available until expended.

22 **SEC. 10. RAIL WORKER SECURITY TRAINING PROGRAM.**

23 (a) IN GENERAL.—Not later than 60 days after the
24 date of enactment of this Act, the Secretary of Transpor-
25 tation, in consultation with appropriate law enforcement,



1 security, and terrorism experts, representatives of railroad
2 carriers, and nonprofit employee organizations that rep-
3 resent rail workers, shall develop and issue detailed guid-
4 ance for a rail worker security training program to pre-
5 pare front-line workers for potential threat conditions.

6 (b) PROGRAM ELEMENTS.—The guidance developed
7 under subsection (a) shall require such a program to in-
8 clude, at a minimum, elements that address the following:

9 (1) Determination of the seriousness of any oc-
10 currence.

11 (2) Crew communication and coordination.

12 (3) Appropriate responses to defend oneself.

13 (4) Use of protective devices.

14 (5) Evacuation procedures.

15 (6) Psychology of terrorists to cope with hi-
16 jacker behavior and passenger responses.

17 (7) Live situational training exercises regarding
18 various threat conditions, including tunnel evacu-
19 ation procedures.

20 (8) Any other subject the Secretary considers
21 appropriate.

22 (c) RAILROAD CARRIER PROGRAMS.—Not later than
23 60 days after the Secretary issues guidance under sub-
24 section (a) in final form, each railroad carrier shall develop
25 a rail worker security training program in accordance with



1 that guidance and submit it to the Secretary for approval.
2 Not later than 30 days after receiving a railroad carrier's
3 program under this subsection, the Secretary shall review
4 the program and approve it or require the railroad carrier
5 to make any revisions the Secretary considers necessary
6 for the program to meet the guidance requirements.

7 (d) TRAINING.—Not later than 180 days after the
8 Secretary approves the training program developed by a
9 railroad carrier under this section, the railroad carrier
10 shall complete the training of all front-line workers in ac-
11 cordance with that program.

12 (e) UPDATES.—The Secretary shall update the train-
13 ing guidance issued under subsection (a) from time to
14 time to reflect new or different security threats, and re-
15 quire railroad carriers to revise their programs accordingly
16 and provide additional training to their front-line workers.

17 **SEC. 11. WHISTLEBLOWER PROTECTION.**

18 (a) IN GENERAL.—No employee or other person may
19 be harassed, prosecuted, held liable, or discriminated
20 against in any way—

21 (1) because that person—

22 (A) has commenced or caused to be com-
23 menced, or is about to commence;

24 (B) has testified or is about to testify at;

25 or



1 (C) has assisted or participated in, or is
2 about to assist or participate in any manner in,
3 a proceeding or any other action to enhance public
4 transportation security; or

5 (2) because that person has refused to violate
6 or assist in the violation of any law, rule, or regula-
7 tion related to public transportation security.

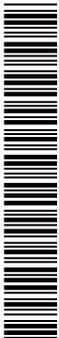
8 (b) APPLICATION OF SARBANES-OXLEY ACT OF 2002
9 AMENDMENTS.—

10 (1) CIVIL ACTION TO PROTECT AGAINST RETAL-
11 IATION IN FRAUD CASES.—Section 1514A of title
12 18, United States Code, shall apply to subsection (a)
13 of this section as if—

14 (A) an act or refusal to act described in
15 subsection (a) were described in such section
16 1514A; and

17 (B) a violation of subsection (a) were a
18 violation of such section 1514A(a).

19 (2) RETALIATING AGAINST A WITNESS, VICTIM,
20 OR INFORMANT.—Section 1513(e) of title 18, United
21 States Code, shall apply to a violation of subsection
22 (a) of this section as if the violation of subsection
23 (a) were a violation of such section 1513.



1 **SEC. 12. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

2 (a) IN GENERAL.—The Secretary of Transportation
3 is authorized to make grants to Amtrak for—

4 (1) tunnel protection systems;

5 (2) perimeter protection systems;

6 (3) redundant critical operations control sys-
7 tems;

8 (4) chemical, biological, radiological, or explo-
9 sive detection systems;

10 (5) surveillance equipment;

11 (6) communications equipment;

12 (7) emergency response equipment;

13 (8) fire suppression and decontamination equip-
14 ment;

15 (9) global positioning or automated vehicle loca-
16 tor type system equipment;

17 (10) training of front-line workers and other
18 first responders;

19 (11) evacuation improvements; and

20 (12) other capital safety improvements.

21 (b) CONDITIONS.—The Secretary of Transportation
22 may not disburse funds to Amtrak under subsection (a)
23 unless the projects are contained in a systemwide security
24 plan approved by the Secretary, in consultation with the
25 Secretary of Homeland Security. The plan shall include



1 appropriate measures to address security awareness,
2 emergency response, and passenger evacuation training.

3 (c) AVAILABILITY OF FUNDS.—There are authorized
4 to be appropriated to the Secretary of Transportation
5 \$65,000,000 for fiscal year 2005 for the purposes of car-
6 rying out this section. Amounts appropriated pursuant to
7 this subsection shall remain available until expended.

8 **SEC. 13. PUBLIC AWARENESS.**

9 Not later than 90 days after the date of enactment
10 of this Act, the Secretary of Transportation, in consulta-
11 tion with the Secretary of Homeland Security, shall de-
12 velop a national plan for public outreach and awareness.
13 Such plan shall be designed to increase awareness of
14 measures that the general public, railroad passengers, and
15 railroad employees can take to increase railroad system
16 security. Such plan shall also provide outreach to railroad
17 carriers and their employees to improve their awareness
18 of available technologies, ongoing research and develop-
19 ment efforts, and available Federal funding sources to im-
20 prove railroad security. Not later than 9 months after the
21 date of enactment of this Act, the Secretary of Transpor-
22 tation shall implement the plan developed under this sec-
23 tion.



1 **SEC. 14. PASSENGER, BAGGAGE, AND CARGO SCREENING.**

2 (a) REQUIREMENT FOR STUDY AND REPORT.—The
3 Secretary of Transportation, in consultation with the Sec-
4 retary of Homeland Security, shall—

5 (1) analyze the cost and feasibility of requiring
6 security screening for passengers, baggage, and
7 cargo on passenger trains; and

8 (2) report the results of the study, together
9 with any recommendations that the Secretary of
10 Transportation may have for implementing a rail se-
11 curity screening program to the Committee on Com-
12 merce, Science, and Transportation of the Senate
13 and the Committee on Transportation and Infra-
14 structure of the House of Representatives not later
15 than 1 year after the date of enactment of this Act.

16 (b) PILOT PROGRAM.—As part of the study under
17 subsection (a), the Secretary of Transportation, in con-
18 sultation with the Secretary of Homeland Security, shall
19 complete a pilot program of random security screening of
20 passengers and baggage at passenger rail stations served
21 by Amtrak selected by the Secretary of Transportation,
22 in consultation with the Secretary of Homeland Security.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary of
25 Transportation to carry out this section \$5,000,000 for
26 fiscal year 2005.



1 **SEC. 15. EMERGENCY RESPONDER TRAINING STANDARDS.**

2 Section 5115(b) of title 49, United States Code, is
3 amended—

4 (1) by striking “and” at the end of paragraph
5 (1)(C);

6 (2) by striking the period at the end of para-
7 graph (2) and inserting “; and”; and

8 (3) by adding at the end the following new
9 paragraph:

10 “(3) shall include standards for the training of
11 persons responsible for responding to emergency sit-
12 uations occurring during the removal and transpor-
13 tation of hazardous materials and high hazard mate-
14 rials (as defined in section 17(2) of the Protecting
15 Railroad Operators, Travelers, Employees, and Com-
16 munities with Transportation Security Act of 2004)
17 to ensure their ability to protect nearby persons,
18 property, or the environment from the effects of ac-
19 cidents involving hazardous materials.”.

20 **SEC. 16. INFORMATION FOR FIRST RESPONDERS.**

21 (a) AMENDMENTS.—Chapter 51 of title 49, United
22 States Code, is amended—

23 (1) in section 5111—

24 (A) by inserting “(a) AIR BRAKE EQUIP-
25 MENT.—” before “A rail tank car”; and



1 (B) by adding at the end the following new
2 subsection:

3 “(b) INFORMATION FOR FIRST RESPONDERS.—

4 “(1) PROHIBITION.—No rail tank car con-
5 taining hazardous materials may be transported or
6 stored on rail tracks that are part of or connected
7 to the general system of railroad transportation un-
8 less information identifying the tank car, the haz-
9 ardous materials within such tank car, and response
10 guidance is immediately available to local first re-
11 sponders in each location where the tank car may be
12 located. Such information shall be provided through
13 the Operation Respond Institute’s technology or
14 similar technology. Each day in which a tank car is
15 transported or stored in violation of this paragraph
16 shall constitute a separate violation.

17 “(2) EXCEPTION.—The Secretary of Transpor-
18 tation may provide an exception to the prohibition
19 under paragraph (1) if no data base exists through
20 which the requirement can be met.”; and

21 (2) in section 5124, by adding at the end the
22 following: “This section shall not apply to a violation
23 of subsection (b) of section 5111 or a regulation pre-
24 scribed or order issued under such subsection.”.



1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect 90 days after the date of
3 enactment of this Act.

4 **SEC. 17. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “front-line workers” means secu-
7 rity personnel, dispatchers, train operators, other
8 onboard employees, maintenance and support per-
9 sonnel, bridge tenders, and other appropriate em-
10 ployees of railroad carriers;

11 (2) the term “high hazard materials” means
12 poison inhalation hazard materials, Class 2.3 gases,
13 Class 6.1 materials, Class 7 radioactive materials,
14 and anhydrous ammonia; and

15 (3) the terms “railroad” and “railroad carrier”
16 have the meaning given those terms in section
17 20102 of title 49, United States Code.

