

1 **NATIONAL ECONOMIC CROSSROADS**
2 **TRANSPORTATION EFFICIENCY ACT OF 1997**

3 **PART II**

4
5 **A BILL**

6 To improve transportation safety, and for other purposes.

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

9 **SECTION. 2. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES**
10 **CODE; TABLE OF CONTENTS.**

11 (a) SHORT TITLE.--Titles IX through XIV of this Act may be cited as the
12 “Surface Transportation Safety Act of 1997”.

13 (b) AMENDMENT OF TITLE 49, UNITED STATES CODE.--Except as
14 otherwise expressly provided, whenever in titles IX through XIV an amendment
15 or repeal is expressed in terms of an amendment to, or a repeal of, a section or
16 other provision, the reference shall be considered to be made to a section or other
17 provision of title 49, United States Code.

18 (c) TABLE OF CONTENTS.--

19 Sec. 2. Short title; amendment of title 49, United States Code; table of contents.

20 Sec. 3. Awards.

21 **TITLE IX -- TRAFFIC SAFETY**

22 Sec. 9001. Amendment to title 23 (Primary Safety Belt Use)

23 Sec. 9002. Amendments to chapter 301 (Motor Vehicle Safety)

24 Sec. 9003. Amendments to chapter 323 (Consumer Information)

25 Sec. 9004. Amendment to chapter 329 (Automobile Fuel Economy)

26 Sec. 9005. Amendments to chapter 331 (Theft Prevention)

27 Sec. 9006. Titling and control of severely damaged passenger motor vehicles

1 **TITLE X -- HAZARDOUS MATERIALS REAUTHORIZATION**

- 2 Sec. 10001. Short title
- 3 Sec. 10002. Definitions
- 4 Sec. 10003. Handling criteria repeal
- 5 Sec. 10004. Training
- 6 Sec. 10005. Registration
- 7 Sec. 10006. Highway transportation of hazardous materials
- 8 Sec. 10007. Shipping paper retention
- 9 Sec. 10008. Training curriculum
- 10 Sec. 10009. Planning and training grants
- 11 Sec. 10010. Special permits and exclusions
- 12 Sec. 10011. Administration
- 13 Sec. 10012. Cooperative agreements
- 14 Sec. 10013. Enforcement
- 15 Sec. 10014. Penalties
- 16 Sec. 10015. Preemption
- 17 Sec. 10016. Judicial review
- 18 Sec. 10017. Authorization of appropriations

19 **TITLE XI -- UNDERGROUND DAMAGE PREVENTION**

- 20 Sec. 11001. Short title
- 21 Sec. 11002. Underground damage prevention
- 22 Sec. 11003. Technical amendment

23 **TITLE XII -- SANITARY FOOD TRANSPORTATION**

- 24 Sec. 12001. Short title
- 25 Sec. 12002. Findings
- 26 Sec. 12003. Health and Human Services responsibilities
- 27 Sec. 12004. DOT responsibilities

1 Sec. 12005. Effective date

2 **TITLE XIII -- RAIL AND MASS TRANSPORTATION ANTI-TERRORISM**

3 Sec. 13001. Short title

4 Sec. 13002. Purpose

5 Sec. 13003. "Wrecking trains" statute

6 Sec. 13004. Attacks against mass transportation

7 Sec. 13005. Investigative jurisdiction

8 **TITLE XIV -- RAIL AND MASS TRANSPORTATION SAFETY**

9 Sec. 14001. Safety considerations in grants or loans to commuter railroads

10 Sec. 14002. Accident and incident reporting

11 Sec. 14003. Vehicle weight limitations -- mass transportation buses

12 **SEC. 3. AWARDS.**

13 (a) Section 326 is amended by--

14 (1) adding the following after subsection (d):

15 "(e) For the purpose of executing the powers and duties of the
16 Department, and as a means to encourage safety improvements by
17 making special or periodic awards, the Secretary may provide for the
18 honorary recognition of individuals and organizations that significantly
19 contribute to programs, missions, or operations, including state and local
20 governments, transportation unions, and commercial and nonprofit
21 organizations, and pay for plaques, medals, trophies, badges, and similar
22 items to acknowledge the contribution, including reasonable expenses of
23 ceremony and presentation, using any appropriations or other funds
24 available to the Department and its agencies."; and

25 (2) in the catchline for the section, inserting "and awards" after
26 "Gifts".

27 (b) In item 326 of the analysis of chapter 3, strike--

1 "Gifts."
2 and substitute--

3 "Gifts and awards."

4 **TITLE IX -- TRAFFIC SAFETY**

5 **SEC. 9001. AMENDMENT TO TITLE 23, UNITED STATES CODE.**

6 Section 402 of title 23, United States Code, is amended by adding at the
7 end the following new subsection:

8 "(p) TRANSFER OF FUNDS AND PERFORMANCE OPTION: PRIMARY
9 SAFETY BELT USE.--

10 "(1) Transfer.--

11 "(A) Fiscal year 2002.--If, by the last day of fiscal year 2002, a State
12 has not enacted and had in continuous effect a primary enforcement safety
13 belt use law described in subsection (m), the Secretary shall transfer 1-1/2
14 percent of the funds apportioned to the State for fiscal year 2003 under
15 each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the
16 apportionment of the State under section 402 of this title. These
17 transferred funds may be used only for occupant protection programs.

18 "(B) Thereafter.--If, by the last day of any fiscal year beginning after
19 September 30, 2002, a State has not enacted and had in continuous effect a
20 primary enforcement safety belt use law described in subsection (m), the
21 Secretary shall transfer 3 percent of the funds apportioned to the State for
22 the succeeding fiscal year under each of paragraphs (1), (3), and (5)(B) of
23 section 104(b) of this title to the apportionment of the State under section
24 402 of this title. These transferred funds may be used only for occupant
25 protection programs.

1 "(2) Federal share.--The Federal share of the cost of any project carried out
2 under section 402 of this title with funds transferred to the apportionment of
3 section 402 shall be 100 percent.

4 "(3) Transfer of obligation authority.--If the Secretary transfers under this
5 subsection any funds to the apportionment of a State under section 402 of this
6 title for a fiscal year, the Secretary shall allocate an amount of obligation
7 authority distributed for such fiscal year to the State for Federal-aid highways
8 and highway construction programs for carrying out only projects under section
9 402, which is determined by multiplying--

10 "(A) the amount of funds transferred to the apportionment of
11 section 402 of the State under section 402 for such fiscal year, by

12 "(B) the ratio of the amount of obligation authority distributed for
13 such fiscal year to the State for its Federal-aid highways and highway
14 construction programs to the total of the sums apportioned to the State for
15 its Federal-aid highways and highway construction programs (excluding
16 sums not subject to any obligation limitation) for such fiscal year.

17 "(4) Limitation on applicability of highway safety obligations.--
18 Notwithstanding any other provision of law, no limitation on the total of
19 obligations for highway safety programs under section 402 of this title shall
20 apply to funds transferred under this subsection to the State apportionment of
21 section 402.

22 "(5) Performance option.--Paragraph (1) of this subsection shall not apply
23 to a State in a fiscal year beginning after September 30, 2002, if the Secretary
24 certifies before each such fiscal year that the State has a statewide safety belt use
25 rate of 85 percent or higher in both front outboard seating positions in all
26 passenger motor vehicles, as defined in subsection (m) of this section. The State
27 shall document its safety belt use rate by conducting an annual survey that

1 conforms to guidelines issued by the Secretary ensuring that measurements are
2 accurate and representative. The Secretary shall use this survey and may use
3 additional surveys or other relevant information as necessary in deciding
4 whether to certify that the State's safety belt use rate is 85 percent or higher.

5 "(6) Definition.--For the purposes of this subsection, the term 'safety belt'
6 means--

7 "(i) with respect to open-body passenger vehicles, including convertibles,
8 an occupant restraint system, consisting of a lap belt or a lap belt and a
9 detachable shoulder belt; and

10 "(ii) with respect to other passenger vehicles, an occupant restraint system
11 consisting of integrated lap shoulder belts."

12 **SEC. 9002. AMENDMENTS TO CHAPTER 301 (MOTOR VEHICLE SAFETY).**

13 (a) Section 30113(d) is amended by striking "only if the Secretary
14 determines the exemption is for not more than 2,500 vehicles" and inserting "for
15 the number of vehicles the Secretary determines is appropriate".

16 (b) Section 30118 is amended by striking the second sentence of subsection
17 (d).

18 (c) Section 30120(i)(1) is amended by inserting "(including retailers of
19 motor vehicle equipment)" after "dealer" the first time it appears.

20 (d) Section 30123 is amended by striking subsections (a), (b), and (c) and
21 by redesignating subsections (d), (e), and (f) as (a), (b), and (c), respectively.

22 (e) Section 30127(g)(1) is amended by striking "every 6 months" and
23 inserting "biennially".

24 (f) Chapter 301 is amended by adding at the end the following new
25 section:

26 **"Sec. 30148. International motor vehicle safety outreach**

1 "(a) ACTIVITIES.--The Secretary is authorized, in consultation with the
2 Secretaries of State and Commerce where appropriate, to engage in activities that
3 improve worldwide motor vehicle safety through appropriate activities. Such
4 activities may include--

5 "(1) promoting the adoption of international and national vehicle
6 standards that are harmonized with, functionally equivalent to, or
7 compatible with United States vehicle standards;

8 "(2) participating in efforts to foster an international acceptance of
9 globally harmonized and/or functionally equivalent or compatible motor
10 vehicle regulations and standards to otherwise improve international
11 highway and motor vehicle safety;

12 "(3) promoting international cooperative programs for conducting
13 research, development, demonstration projects, training, and other forms
14 of technology transfer and exchange, including safety conferences,
15 seminars, and/or expositions to enhance international motor vehicle
16 safety; and

17 "(4) providing technical assistance to other countries relating to
18 their adoption of United States vehicle regulations or standards
19 functionally equivalent to U.S. vehicle standards.

20 "(b) COOPERATION.--The Secretary may carry out the authority granted
21 by this section, in cooperation with appropriate United States government
22 agencies, any State or local agency, and any authority, association, institution,
23 corporation (profit or nonprofit), foreign government, multinational institution,
24 or any other organization or person.

25 "(c) CONSIDERATION.--When engaging in activities to improve
26 worldwide motor vehicle safety, the Secretary shall ensure that these activities

1 maintain or improve the level of safety of motor vehicles and motor vehicle
2 equipment sold in the United States."

3 **SEC. 9003. AMENDMENTS TO CHAPTER 323 (CONSUMER**
4 **INFORMATION).**

5 (a) Section 32302 is amended by striking subsection (c).

6 (b) Section 32303 is repealed.

7 **SEC. 9004. AMENDMENT TO CHAPTER 329 (AUTOMOBILE FUEL**
8 **ECONOMY).**

9 Section 32907(a)(2) is amended to read as follows:

10 "(2) A manufacturer shall submit a report under paragraph (1) of this
11 subsection during the 30 days before the beginning of each model year."

12 **SEC. 9005. AMENDMENTS TO CHAPTER 331 (THEFT PREVENTION).**

13 (a) Section 33104(a)(6) is repealed.

14 (b) Section 33112 is repealed.

15 **SEC. 9006. TITLING AND CONTROL OF SEVERELY DAMAGED**
16 **PASSENGER MOTOR VEHICLES.**

17 (a) In general.--Part A of subtitle VI is amended by adding after chapter
18 305 the following new chapter:

19 "CHAPTER 307--TITLING AND CONTROL OF SEVERELY DAMAGED
20 PASSENGER MOTOR VEHICLES

21 "Sec.

22 "30701. Definitions.

23 "30702. Titling disclosure requirements on the transfer of passenger motor
24 vehicles; duplicate titles.

25 "30703. Requirements for a salvage title and a nonrepairable motor vehicle
26 certificate and their cancellation.

27 "30704. Requirements for titling rebuilt salvage passenger motor vehicles.

1 "30705. Inspection criteria for rebuilt salvage passenger motor vehicles.

2 "30706. Prohibited acts.

3 "30707. Penalties and enforcement.

4 "30708. Civil actions by private persons.

5 "30709. Relationship to State law.

6 **"Sec. 30701. Definitions**

7 "In this chapter--

8 "(1) 'flood motor vehicle' means a motor vehicle that has been submerged
9 in water to the point that rising water has reached over its door sill or has
10 entered its passenger or trunk compartment.

11 "(2) 'flood motor vehicle title' means a certificate of title issued by a State
12 to the owner of a flood motor vehicle.

13 "(3) 'junk motor vehicle' has the meaning given that term in section
14 30501(4) of this title.

15 "(4) 'leased motor vehicle' has the meaning given that term in section
16 32702(4) of this title.

17 "(5) 'motor vehicle' has the meaning given that term in section 32101(7) of
18 this title.

19 "(6) 'nonrepairable motor vehicle' means a motor vehicle that shall not be
20 titled due to--

21 "(A) inability to operate safely on streets, roads, and highways;

22 "(B) having no value except as a source of parts or scrap; or

23 "(C) having been irrevocably designated as a source of parts or
24 scrap by its owner.

25 "(7) 'nonrepairable motor vehicle certificate' means a certificate of title
26 that--

1 "(A) is issued by a State to the owner of a nonrepairable motor
2 vehicle; and

3 "(B) may only be used twice for the transfer of ownership.

4 "(8) 'rebuilt salvage motor vehicle' means a motor vehicle that--

5 "(A) was issued a salvage title;

6 "(B) has passed State inspections to ensure that it was rebuilt to
7 required standards;

8 "(C) was issued a State certificate indicating that it has passed State
9 inspections; and

10 "(D) has a permanent, easily identified brand stating 'Rebuilt
11 Salvage Motor Vehicle--Inspections Passed' fixed to the driver's door
12 jamb.

13 "(9) 'rebuilt salvage title' means a certificate of title issued by a State to the
14 owner of a rebuilt salvage motor vehicle.

15 "(10) 'salvage motor vehicle' means a motor vehicle that is--

16 "(A) wrecked, destroyed, or damaged, to the extent that the total
17 estimated cost of parts and labor to rebuild or reconstruct the motor
18 vehicle to its pre-accident condition and for legal operation on the roads
19 or highways exceeds 75 percent of the retail value of the motor vehicle
20 prior to its having been wrecked, destroyed, or damaged; or

21 "(B) acquired by an insurance carrier pursuant to a damage
22 settlement.

23 "(11) 'salvage title' means a certificate of title issued by a State to the owner
24 of a salvage motor vehicle.

25 "(12) 'severely damaged motor vehicle' means a motor vehicle that is
26 defined as 'salvage', 'nonrepairable', or 'flood'.

27 "(13) 'transfer' has the meaning given that term in section 32702(8).

1 **"Sec. 30702. Titling disclosure requirements on the transfer of passenger**
2 **motor vehicles; duplicate titles**

3 "(a)(1) When the ownership of a passenger motor vehicle is transferred,
4 the State in which the transfer takes place shall disclose, by conspicuously
5 marking on the certificate of title, from records readily accessible to it--

6 "(A) if the motor vehicle was previously issued a certificate of title
7 or a nonrepairable motor vehicle certificate that bore a word or symbol
8 signifying that the motor vehicle was 'junk', 'salvage', 'rebuilt salvage',
9 'nonrepairable', 'flood', or any other word or symbol signifying damage,
10 and

11 "(B) the State that first issued such a certificate of title.

12 "(2) The Secretary shall require, by rule, as soon as practicable after the
13 enactment of this chapter, the manner in which, and the date by which, a State
14 shall disclose on subsequent certificates of title, including a duplicate or
15 replacement, the information described in paragraph (a)(1), and the manner in
16 which such information shall be retained by a State, to ensure an orderly
17 transition to the National Motor Vehicle Title Information System established
18 under chapter 305 of this title.

19 "(b)(1) Before a duplicate or replacement certificate of title for a passenger
20 motor vehicle is issued, a State shall implement procedures that--

21 "(A) prohibit over-the-counter issuance of a duplicate or
22 replacement certificate of title to anyone other than the owner of the motor
23 vehicle; and

24 "(B) require the duplicate or replacement certificate of title to be
25 mailed to a requested address, when a power of attorney is exercised, and
26 a notification of this action sent to the owner of the motor vehicle.

1 "(2) When a duplicate or replacement certificate of title for a passenger
2 motor vehicle is issued, the State that issues it shall conspicuously mark it with
3 the word 'DUPLICATE' on its face.

4 "(3) The Secretary shall require, by rule, as soon as practicable after the
5 enactment of this chapter, the manner in which, and the date by which, a State
6 shall mark duplicate or replacement certificates of title for passenger motor
7 vehicles with the information described in this subsection, and the manner in
8 which such information shall be retained by a State, to ensure an orderly
9 transition to the National Motor Vehicle Title Information System established
10 under chapter 305 of this title.

11 **"Sec. 30703. Requirements for a salvage title and a nonrepairable motor**
12 **vehicle certificate and their cancellation**

13 "(a) INSURANCE CARRIER ACTIONS.--(1) When the ownership of a
14 severely damaged passenger motor vehicle is transferred to an insurance carrier,
15 pursuant to a damage settlement, and the damage to the motor vehicle requires
16 that it be titled either as a salvage motor vehicle or a nonrepairable motor
17 vehicle, the insurance carrier shall apply to the State in which the transfer takes
18 place, within 15 days of the date of the transfer (with all liens released), for a
19 salvage title or a nonrepairable motor vehicle certificate.

20 "(2) If the ownership of a severely damaged passenger motor vehicle is not
21 transferred to an insurance carrier, pursuant to a damage settlement, and the
22 damage to the motor vehicle requires that it be titled either as a salvage motor
23 vehicle or a nonrepairable motor vehicle, the insurance carrier shall provide
24 written notification to the owner: (i) of the owner's obligation to apply for a
25 salvage title or a nonrepairable motor vehicle certificate and also notify the
26 State's office for titling motor vehicles that a salvage title or a nonrepairable
27 motor vehicle certificate must be issued for the motor vehicle; or (ii) that the

1 insurance carrier will withhold any payment on the damage settlement until the
2 owner applies for a salvage title or a nonrepairable motor vehicle certificate.

3 "(b) OWNER ACTIONS.--When an insurance carrier is not involved in a
4 damage settlement regarding a passenger motor vehicle that is damaged
5 severely to the extent that it must be titled either as a salvage motor vehicle or a
6 nonrepairable motor vehicle, or a person becomes the owner of such a motor
7 vehicle, the owner shall, before the motor vehicle is repaired or its ownership is
8 further transferred, apply for a salvage title or a nonrepairable motor vehicle
9 certificate, no later than 30 days after the date of the damage or its transfer, as
10 appropriate.

11 "(c) LESSEE AND LESSOR ACTIONS.--(1) For a leased passenger motor
12 vehicle, the lessee shall give a written notification to the lessor when the motor
13 vehicle is severely damaged.

14 "(2) If the leased passenger motor vehicle has been severely damaged so
15 that it must be titled either as a salvage motor vehicle or a nonrepairable motor
16 vehicle, the lessor shall apply for a salvage title or nonrepairable motor vehicle
17 certificate within 15 days after receiving the lessee's notification of the damage.

18 "(d) SURRENDER AND CANCELLATION OF TITLES AND
19 NONREPAIRABLE MOTOR VEHICLE CERTIFICATES.--When a passenger
20 motor vehicle is destroyed by flattening, baling, shredding, or other means, no
21 later than 30 days after the date of its destruction the motor vehicle's owner shall
22 surrender its title or nonrepairable motor vehicle certificate to the State that
23 issued it for permanent cancellation.

24 "(e) REGULATIONS.--The Secretary of Transportation shall prescribe
25 regulations to implement this section as soon as practicable after the enactment
26 of this chapter.

27 **"Sec. 30704. Requirements for titling rebuilt salvage passenger motor vehicles**

1 "Under regulations prescribed by the Secretary of Transportation, a
2 passenger motor vehicle for which a salvage title has been issued may not be
3 licensed for used in a State unless the State issues a rebuilt salvage title for it,
4 indicating that--

5 "(1) the passenger motor vehicle has met State inspection standards
6 established in accordance with regulations prescribed by the Secretary, pursuant
7 to section 30705, and that a certificate of inspection that records this compliance
8 on its face has been issued to the motor vehicle's owner; and

9 "(2) the passenger motor vehicle's door jamb on the driver's side has
10 secured on it a permanent label, stating 'Rebuilt Salvage Motor Vehicle--
11 Inspections Passed', affixed by an inspection official of the State.

12 **"Sec. 30705. Inspection criteria for rebuilt salvage passenger motor vehicles**

13 "(a) ANTI-THEFT INSPECTION.--(1) The Secretary of Transportation
14 shall, as soon as practicable after the enactment of this chapter, establish
15 standards and procedures for the anti-theft inspection of rebuilt salvage
16 passenger motor vehicles by State inspection systems, including the training of
17 inspectors and equipment standards, to deter the use of stolen parts in the
18 rebuilding and repair of salvage motor vehicles.

19 "(2) The standards and procedures shall include requirements directing
20 that the passenger motor vehicle's owner submit--

21 "(A) the salvage title for the motor vehicle;

22 "(B) a declaration of the damages to the motor vehicle and the
23 replacement parts used in its repair, prior to its being repaired, as
24 evidenced by bills of sale, invoices, or, if such documents are not
25 available, other proofs of ownership; and

1 "(C) an affirmation that the information in paragraph (2)(B) is
2 complete and accurate and, to the owner's knowledge, no stolen parts
3 were used to rebuild and repair it.

4 "(3) The standards and procedures shall include requirements directing
5 that the State inspection system seize as contraband a passenger motor vehicle, a
6 major part, or a major replacement part, required to be marked in accordance
7 with chapter 331 of this title, but which has had its mark or vehicle identification
8 number illegally altered, defaced, or falsified, and cannot be identified as having
9 been obtained legally, as evidenced by bills of sale, invoices, or other ownership
10 documents.

11 "(4) The Secretary shall coordinate with the Attorney General in carrying
12 out the Secretary's duties under this subsection.

13 "(b) SAFETY INSPECTION.--The Secretary shall, as soon as practicable
14 after the enactment of this chapter, establish standards and procedures for the
15 safety inspection of rebuilt salvage passenger motor vehicles by State inspection
16 systems, including the training of inspectors and equipment standards, in order
17 to reduce death and injuries attributable to failure or inadequate performance of
18 rebuilt salvage passenger motor vehicle systems.

19 "(c) FEES.--State inspections established and operated pursuant to this
20 section shall be self-sufficient, paid for by user fees collected and retained by the
21 States.

22 **"Sec. 30706. Prohibited acts**

23 "A person may not--

24 "(1) with intent to defraud, alter a certificate of title, including a duplicate
25 or a replacement;

26 "(2) with intent to defraud, make or cause to be made any false statement
27 on an application for a certificate of title, including a duplicate or a replacement;

1 "(3) fail to apply, within the prescribed time and manner, for either a
2 salvage title or a nonrepairable motor vehicle certificate for a passenger motor
3 vehicle when such an application is required;

4 "(4) fail to provide any written notification when such written notification
5 is required;

6 "(5) fail to surrender a certificate of title or nonrepairable motor vehicle
7 certificate when such surrender is required;

8 "(6) alter, forge, or counterfeit a certificate of title, a certificate of inspection
9 recording compliance with a State's inspection criteria for a rebuilt salvage
10 passenger motor vehicle, or a State's permanent label, stating 'Rebuilt Salvage
11 Motor Vehicle--Inspections Passed';

12 "(7) falsify the results of, or provide false information in the course of, any
13 inspection conducted pursuant to section 30705;

14 "(8) operate or introduce into commerce a salvage motor vehicle or a
15 nonrepairable motor vehicle as a rebuilt salvage passenger motor vehicle;

16 "(9) conspire to violate this section or sections 30703, 30704, or 30705 of
17 this chapter; or

18 "(10) fail to comply with applicable regulations prescribed the Secretary in
19 carrying out this chapter.

20 **"Sec. 30707. Penalties and enforcement**

21 "(a) CIVIL PENALTY.--(1) A person that violates this chapter or a
22 regulation prescribed or an order issued under this chapter is liable to the United
23 States Government for a civil penalty of not more than \$2,000 for each violation.
24 A separate violation occurs for each motor vehicle involved. The maximum
25 penalty under this subsection for a related series of violations is \$100,000.

26 "(2) The Secretary of Transportation may impose a civil penalty under this
27 subsection. The Attorney General may bring a civil action to collect the penalty.

1 Before referring a penalty claim to the Attorney General, the Secretary may
2 compromise the amount of the penalty. Before compromising the amount of the
3 penalty, the Secretary shall give the person charged with a violation an
4 opportunity to establish that the violation did not occur.

5 "(3) In determining the amount of the penalty, the Secretary shall consider--

6 "(A) the nature, circumstances, extent, and gravity of the violation;

7 "(B) with respect to the violator, the degree of culpability, any history of
8 prior violations, the ability to pay, and any effect on the ability to continue doing
9 business; and

10 "(C) other matters that justice requires.

11 "(b) CRIMINAL PENALTY.--A person that knowingly and willfully
12 violates this chapter or a regulation prescribed or an order issued under this
13 chapter shall be fined under title 18, United States Code, imprisoned for not
14 more than 3 years, or both. If the person is a corporation, the penalties of this
15 subsection also apply to a director, officer, or individual agent of a corporation
16 who knowingly and willfully authorizes, orders, or performs an act in violation
17 of this chapter or a regulation prescribed or order issued under this chapter
18 without regard to penalties imposed on the corporation.

19 "(c) CIVIL ACTION BY ATTORNEY GENERAL.--The Attorney General
20 may bring a civil action to enjoin a violation of this chapter or a regulation
21 prescribed or an order issued under this chapter. The action may be brought in
22 the United States district court for the judicial district in which the violation
23 occurred or the defendant is found, resides, or does business. Process in the
24 action may be served in any other judicial district in which the defendant resides
25 or is found. A subpoena for a witness in the action may be served in any judicial
26 district.

1 "(d) CIVIL ACTIONS BY STATES.--(1) When a person violates this
2 chapter or a regulation prescribed or an order issued under this chapter, the chief
3 law enforcement officer of the State in which the violation occurs may bring a
4 civil action--

5 "(A) to enjoin the violation; or

6 "(B) to recover amounts for which the person is liable under this
7 section for each person on whose behalf the action is brought.

8 "(2) An action under this subsection may be brought in an appropriate
9 United States district court or in a State court of competent jurisdiction. The
10 action must be brought not later than 2 years after the claim accrues.

11 **"Sec. 30708. Civil actions by private persons**

12 "(a) VIOLATION AND AMOUNT OF DAMAGES.--A person that violates
13 this chapter or a regulation prescribed or an order issued under this chapter,
14 with intent to defraud, is liable for three times the actual damages or \$1,500,
15 whichever is greater.

16 "(b) CIVIL ACTIONS.--A person may bring a civil action to enforce a
17 claim under this section in an appropriate United States district court or in
18 another court of competent jurisdiction. The action must be brought not later
19 than 2 years after the claim accrues. The court shall award costs and a reasonable
20 attorney's fee to the person when a judgment is entered for that person.

21 **"Sec. 30709. Relationship to State law**

22 "Except to the extent that State law is inconsistent with this chapter and its
23 implementing regulations, this chapter does not--

24 "(1) set forth the form of a State certificate of title;

25 "(2) affect a State law on titling, recordkeeping, inspection, or titling
26 control procedures in connection with any passenger motor vehicle with intent to
27 defraud; or

1 "(3) exempt a person from complying with that law."

2 (b) Conforming and Technical Amendments.--

3 (1) Chapter 305 is amended by striking "automobile", "automobiles", and
4 "an automobile" wherever they appear and substituting in their place "passenger
5 motor vehicle", "passenger motor vehicles", and "a passenger motor vehicle" as
6 appropriate, including upper and lower case letters as appropriate.

7 (2) In section 30501, the matter before clause (1) is amended to read as
8 follows:

9 "In this chapter and in chapter 307--".

10 (3) Section 30501 is amended by--

11 (A) revising paragraph (1) to read as follows:

12 "(1) 'motor vehicle' means a vehicle driven or drawn by mechanical
13 power and manufactured primarily for use on public streets, roads, and
14 highways, but does not include a vehicle operated only on a rail line.";

15 (B) striking paragraph (7), renumbering paragraphs (6), (8), and (9)
16 as paragraphs (7), (10), and (11), and adding new paragraphs (6), (8), and
17 (9) to read as follows:

18 "(6) 'multipurpose passenger vehicle' means a passenger motor
19 vehicle constructed on a truck chassis or with special features for
20 occasional off-road operation."

21 "(8) 'passenger motor vehicle' means a motor vehicle with motive
22 power designed to carry not more than 12 people, but does not include a
23 motorcycle or a truck not designed primarily to carry its operator or
24 passengers, except that it includes a multipurpose passenger vehicle or
25 light duty truck when that vehicle or truck is rated at not more than 8,500
26 pounds gross vehicle weight."

27 "(9) 'salvage motor vehicle' means a motor vehicle that is--

1 "(A) wrecked, destroyed, or damaged, to the extent that the total
2 estimated cost of parts and labor to rebuild or reconstruct the motor
3 vehicle to its pre-accident condition and for legal operation on the roads
4 or highways exceeds 75 percent of the retail value of the motor vehicle
5 prior to its having been wrecked, destroyed, or damaged; or

6 "(B) acquired by an insurance carrier pursuant to a damage
7 settlement."

8 (4) In section 33101, the matter before clause (1) is amended to read as
9 follows:

10 "In this chapter, and in chapters 305 and 307--".

11 (5) The analysis for part A of subtitle VI is amended by inserting a new
12 chapter 307 as follows:

13 "307. TITLING AND CONTROL OF SEVERELY DAMAGED
14 PASSENGER MOTOR VEHICLES".

15 **TITLE X -- HAZARDOUS MATERIALS REAUTHORIZATION**

16 **SEC. 10001. SHORT TITLE.** This title may be cited as the "Hazardous Materials
17 Transportation Safety Reauthorization Act of 1997".

18 **SEC. 10002. DEFINITIONS.**

19 Section 5102 is amended--

20 (1) by revising paragraph (1) to read as follows:

21 "(1) 'commerce' means trade or transportation in the jurisdiction of the
22 United States--

23 "(A) between a place in a State and a place outside of the State;

24 "(B) that affects trade or transportation between a place in a State
25 and a place outside of the State; or

26 "(C) on a United States-registered aircraft.";

27 (2) by revising paragraph (3) to read as follows:

1 "(3) 'hazmat employee' means an individual who--
2 "(A) is--
3 "(i) employed by a hazmat employer,
4 "(ii) self-employed, or
5 "(iii) an owner-operator of a motor vehicle; and
6 "(B) during the course of employment--
7 "(i) loads, unloads, or handles hazardous material;
8 "(ii) manufactures, reconditions, or tests containers, drums, or
9 other packagings represented as qualified for use in transporting
10 hazardous material;
11 "(iii) performs any function pertaining to the offering of
12 hazardous material for transportation;
13 "(iv) is responsible for the safety of transporting hazardous
14 material; or
15 "(v) operates a vehicle used to transport hazardous material.";

16 (3) by revising paragraph (4) to read as follows:

17 "(4) 'hazmat employer' means a person who--
18 "(A) either--
19 "(i) is self-employed,
20 "(ii) is an owner-operator of a motor vehicle, or
21 "(iii) has at least one employee; and
22 "(B) performs a function, or uses at least one employee, in
23 connection
24 with--
25 "(i) transporting hazardous material in commerce;
26 "(ii) causing hazardous material to be transported in
27 commerce, or

1 "(iii) manufacturing, reconditioning, or testing containers,
2 drums, or other packagings represented as qualified for use in
3 transporting hazardous material.";

4 (4) by revising paragraph (7) to add after the word "title" the words "
5 except that a freight forwarder is included only if performing a function related to
6 highway transportation";

7 (5) by renumbering paragraphs (9) through (13) as paragraphs (12) through
8 (16);

9 (6) by adding the following after paragraph (8):

10 “(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor
11 vehicle, train, other vehicle, or a part of any of these, not be moved until specified
12 conditions have been met.

13 “(10) 'package' or 'outside package' means a packaging plus its contents.

14 “(11) 'packaging' means a receptacle and any other components or materials
15 necessary for the receptacle to perform its containment function in conformance
16 with the minimum packaging requirements established by the Secretary of
17 Transportation.”; and

18 (7) by revising paragraph (12)(A), as renumbered, to strike the words “or
19 transporting” and insert “, transporting”, and to insert after the word “enterprise”
20 the words “, or manufacturing, reconditioning, or testing containers, drums, or
21 other packagings represented as qualified for use in transporting hazardous
22 material”.

23 **SEC. 10003. HANDLING CRITERIA REPEAL.**

24 Title 49 is amended by striking and reserving section 5106 and the
25 reference to the section in the analysis of chapter 51.

26

1 **SEC. 10004. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.**

2 Section 5107(f)(2) is amended to strike the words "and sections 5106,
3 5108(a)-(g)(1) and (h), and" and insert the words "or sections 5108(c)-(g)(1) and
4 (h), or".

5 **SEC. 10005. REGISTRATION.**

6 Section 5108 is amended--

7 (1) by revising subsection (b)(1)(C) to read as follows:

8 "(C) each State in which the person carries out any of the activities.";

9 (2) by revising subsection (c) to read as follows:

10 "(c) FILING SCHEDULE.--Each person required to file a registration
11 statement under subsection (a) of this section shall file that statement annually in
12 accordance with regulations issued by the Secretary.";

13 (3) in subsection (f), by striking "552(f)" and inserting "552(b)"; and

14 (4) in subsection (g)(1), by striking "may" and inserting "shall".

15 **SEC. 10006. HIGHWAY TRANSPORTATION OF HAZARDOUS**
16 **MATERIALS.**

17 (a) MOTOR CARRIER SAFETY PERMITS.--Title 49 is amended by striking
18 and reserving section 5109.

19 (b) HAZARDOUS MATERIALS PILOT PROGRAM.--

20 (1) General.--The Secretary of Transportation shall implement a pilot
21 program to evaluate the use of automated carrier assessment programs for
22 carriers of certain hazardous materials.

23 (2) Hazardous materials covered.--The Secretary shall determine the
24 hazardous materials to be covered by the pilot program. The Secretary may limit
25 materials to--

26 (A) class 1.1, 1.2 or 1.3 explosives;

27 (B) liquefied natural gas;

1 (C) hazardous materials the Secretary designates as extremely toxic
2 by inhalation;

3 (D) a highway route controlled quantity of radioactive material, as
4 defined by the Secretary; or

5 (E) any other hazardous material designated by the Secretary under
6 section 5103(a) of this title.

7 (c) CONFORMING AMENDMENT.--The analysis for Chapter 51 of this
8 title is amended by striking the item relating to section 5109.

9 **SEC. 10007. SHIPPING PAPER RETENTION.**

10 Section 5110 is amended by revising the first sentence of subsection (e) to
11 read as follows:

12 “(e) RETENTION OF SHIPPING PAPERS.--After expiration of
13 the requirement in subsection (c) of this section, the person who provided the
14 shipping paper and the carrier required to maintain it under subsection (a) of this
15 section shall retain the paper or an electronic image thereof, for a period of 1 year
16 after the shipping paper was provided to the carrier, to be accessible through
17 their respective principal places of business.”.

18 **SEC. 10008. PUBLIC SECTOR TRAINING CURRICULUM.**

19 (a) The catchline for section 5115(a) is amended by striking
20 “DEVELOPMENT AND”.

21 (b) Section 5115(a) is amended by striking “Not later than November 16,
22 1992, in” and “develop and” in the first sentence, inserting the word “In” before
23 the word “coordination” in the first sentence, and deleting the second sentence.

24 (c) Section 5115(b) is amended by striking “developed” in the first sentence
25 and revising paragraphs (b)(1)(A) and (B) by inserting the words “or involving an
26 alternative fuel vehicle” after the word “material”.

1 (d) Section 5115(d) is amended by striking all after "national response team"
2 and before "the Secretary of Transportation", and substituting ";", and by striking
3 "uses" and substituting "use".

4 **SEC. 10009. PLANNING AND TRAINING GRANTS.**

5 Section 5116 is amended--

6 (1) by revising subsection (e) to strike the word "of" in the second sentence
7 and insert the words "received by";

8 (2) by revising subsection (f) to read as follows:

9 "(f) MONITORING AND TECHNICAL ASSISTANCE.--The Secretary of
10 Transportation shall monitor public sector emergency response planning and
11 training for an accident or incident involving hazardous material. Considering
12 the results of the monitoring, the Secretary shall provide technical assistance to a
13 State, political subdivision of a State, or Indian tribe for carrying out emergency
14 response training and planning for an accident or incident involving hazardous
15 material and shall coordinate the assistance using the existing coordinating
16 mechanisms of the National Response Team for Oil and Hazardous Substances
17 and, for radioactive material, the Federal Radiological Preparedness Coordinating
18 Committee."; and

19 (3) by adding a new subsection (l) to read as follows:

20 "(l) SMALL BUSINESSES.--The Secretary may authorize a State or Indian
21 tribe receiving a grant under this section to use up to 25 percent of the amount of
22 the grant to assist small businesses in complying with regulations issued under
23 this chapter."

24 **SEC. 10010. SPECIAL PERMITS AND EXCLUSIONS.**

25 (a) The heading of section 5117 is revised to read as follows:

26 "Sec. 5117. Special permits and exclusions".

1 (b) Section 5117 is amended by striking the word “exemption” each time it
2 appears and replacing it with the words “special permit”, and by inserting the
3 words "authorizing variances" after "special permit" the first time it appears.

4 (c) Section 5117(a)(2) is amended by striking "2" and inserting "4".

5 (d) In the analysis of chapter 51, the item designated "5117" is amended by
6 striking "Exemptions" and substituting "Special permits".

7 **SEC. 10011. ADMINISTRATION.**

8 Title 49 is amended by redesignating sections 5122(a) and (b) as sections
9 5122(f) and (g); redesignating sections 5121(a), (b), and (c) as sections 5122(a), (b),
10 and (c); and redesignating sections 5121(d) and (e) as sections 5121(a) and (b).

11 **SEC. 10012. COOPERATIVE AGREEMENTS.**

12 Section 5121 is further amended by adding a new subsection (c) to read as
13 follows:

14 “(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.--To carry out this
15 chapter, the Secretary may enter into grants, cooperative agreements, and other
16 transactions with a person, agency or instrumentality of the United States, a unit
17 of State or local government, an Indian tribe, a foreign government (in
18 coordination with the State Department), an educational institution, or other
19 entity to further the objectives of this chapter. The objectives of this chapter
20 include the conduct of research, development, demonstration, risk assessment,
21 emergency response planning and training activities.”.

22 **SEC. 10013. ENFORCEMENT.**

23 Section 5122 is further amended--

24 (1) in subsection (a), as redesignated, by inserting “inspect,” after the word
25 “may” in the first sentence, and revising the last sentence to read: “Except as
26 provided in subsection (e) of this section, the Secretary shall provide notice and
27 an opportunity for a hearing prior to issuing an order requiring compliance with

1 this chapter or a regulation, order, special permit, or approval issued under this
2 chapter.”; and

3 (2) by adding new subsections (d) and (e) to read as follows:

4 "(d) OTHER AUTHORITY.--During inspections and investigations, officers,
5 employees, or agents of the Secretary may--

6 "(1) open and examine the contents of a package offered for, or in,
7 transportation when--

8 "(A) the package is marked, labeled, certified, placarded, or otherwise
9 represented as containing a hazardous material, or

10 "(B) there is an objectively reasonable and articulable belief that the
11 package may contain a hazardous material;

12 "(2) take a sample, sufficient for analysis, of material marked or represented
13 as a hazardous material or for which there is an objectively reasonable and
14 articulable belief that the material may be a hazardous material, and analyze that
15 material;

16 "(3) when there is an objectively reasonable and articulable belief that an
17 imminent hazard may exist, prevent the further transportation of the material
18 until the hazardous qualities of that material have been determined; and

19 "(4) when safety might otherwise be compromised, authorize properly
20 qualified personnel to conduct the examination, sampling, or analysis of a
21 material.

22 "(e) EMERGENCY ORDERS.--(1) If, through testing, inspection,
23 investigation, or research carried out under this chapter, the Secretary decides
24 that an unsafe condition or practice, or a combination of them, causes an
25 emergency situation involving a hazard of death, personal injury, or significant
26 harm to the environment, the Secretary may immediately issue or impose

1 restrictions, prohibitions, recalls, or out-of-service orders, without notice or the
2 opportunity for a hearing, that may be necessary to abate the situation.

3 "(2) The Secretary's action under this subsection must be in a written order
4 describing the condition or practice, or combination of them, that causes the
5 emergency situation; stating the restrictions, prohibitions, recalls, or out-of-
6 service orders being issued or imposed; and prescribing standards and
7 procedures for obtaining relief from the order.

8 "(3) After taking action under this subsection, the Secretary shall provide an
9 opportunity for review of that action under section 554 of title 5.

10 "(4) If a petition for review is filed and the review is not completed by the
11 end of the 30-day period beginning on the date the petition was filed, the action
12 will cease to be effective at the end of that period unless the Secretary determines
13 in writing that the emergency situation still exists."

14 **SEC. 10014. PENALTIES.**

15 (a) Section 5123(a)(1) is amended by revising the first sentence to read as
16 follows: "A person that knowingly violates this chapter or a regulation, order,
17 special permit, or approval issued under this chapter is liable to the United States
18 Government for a civil penalty of at least \$250 but not more than \$27,500 for each
19 violation."

20 (b) Section 5123(c)(2) is amended to read as follows:

21 "(2) with respect to the violator, the degree of culpability, any good-faith
22 efforts to comply with the applicable requirements, any history of prior
23 violations, any economic benefit resulting from the violation, the ability to pay,
24 and any effect on the ability to continue to do business; and".

25 (c) Section 5124 is amended to read as follows:

26 **"Sec. 5124. Criminal penalty**

1 (a) GENERAL.-- A person knowingly violating section 5104(b) of this title
2 or willfully violating this chapter or a regulation, order, special permit, or
3 approval issued under this chapter, shall be fined under title 18, imprisoned for
4 not more than 5 years, or both.

5 (b) AGGRAVATED VIOLATIONS.-- A person knowingly violating section
6 5104(b) of this title or willfully violating this chapter or a regulation, order, special
7 permit, or approval issued under this chapter, and thereby causing the release of
8 a hazardous material, shall be fined under title 18, imprisoned for not more than
9 20 years, or both."

10 **SEC. 10015. PREEMPTION.**

11 Section 5125(b)(2) is amended by striking "after November 16, 1990" at the
12 end of the second sentence.

13 **SEC. 10016. JUDICIAL REVIEW.**

14 (a) Title 49 is amended by redesignating section 5127 as section 5128, and
15 by inserting after section 5126 the following new section:

16 **"Sec. 5127. Judicial review**

17 (a) FILING AND VENUE.--Except as provided in section 20114(c) of this
18 title, a person disclosing a substantial interest in a final order issued, under the
19 authority of section 5122 or 5123 of this title, by the Secretary of Transportation,
20 the Administrators of the Research and Special Programs Administration, the
21 Federal Aviation Administration, or the Federal Highway Administration, or the
22 Commandant of the United States Coast Guard ("modal Administrator"), with
23 respect to the duties and powers designated to be carried out by the Secretary
24 under this chapter, may apply for review in the United States Court of Appeals
25 for the District of Columbia or in the court of appeals for the United States for the
26 circuit in which the person resides or has its principal place of business. The
27 petition must be filed not more than 60 days after the order is issued. The court

1 may allow the petition to be filed after the 60th day only if there are reasonable
2 grounds for not filing by the 60th day.

3 "(b) JUDICIAL PROCEDURES.--When a petition is filed under subsection
4 (a) of this section, the clerk of the court immediately shall send a copy of the
5 petition to the Secretary or the modal Administrator, as appropriate. The
6 Secretary or the modal Administrator shall file with the court a record of any
7 proceeding in which the order was issued, as provided in section 2112 of title 28.

8 "(c) AUTHORITY OF COURT.--When the petition is sent to the Secretary or
9 the modal Administrator, the court has exclusive jurisdiction to affirm, amend,
10 modify, or set aside any part of the order and may order the Secretary or the
11 modal Administrator to conduct further proceedings. After reasonable notice to
12 the Secretary or the modal Administrator, the court may grant interim relief by
13 staying the order or taking other appropriate action when good cause for its
14 action exists. Findings of fact by the Secretary or the modal Administrator, if
15 supported by substantial evidence, are conclusive.

16 "(d) REQUIREMENT FOR PRIOR OBJECTION.--In reviewing a final order
17 under this section, the court may consider an objection to a final order of the
18 Secretary or the modal Administrator only if the objection was made in the course
19 of a proceeding or review conducted by the Secretary, the modal Administrator,
20 or an administrative law judge, or if there was a reasonable ground for not
21 making the objection in the proceeding.

22 "(e) SUPREME COURT REVIEW.--A decision by a court under this section
23 may be reviewed only by the Supreme Court under section 1254 of title 28, United
24 States Code."

25 (b) In the analysis of chapter 51, strike the item designated "5127" and
26 substitute the following:

27 "5127. Judicial review."

1 "5128. Authorization of appropriations."

2 **SEC. 10017. AUTHORIZATION OF APPROPRIATIONS.**

3 Section 5128, as redesignated, is amended--

4 (1) by striking subsection (e) and redesignating subsections (f) and (g) as
5 subsections (e) and (f);

6 (2) by revising subsection (a) to read as follows:

7 "(a) GENERAL.--Not more than \$15,492,000 may be appropriated to the
8 Secretary of Transportation for fiscal year 1998, and such sums as may be
9 necessary for fiscal years 1999, 2000, 2001, 2002, and 2003, to carry out this chapter
10 (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119).";

11 (3) by amending subsection (c) to read as follows:

12 "(c) TRAINING CURRICULUM.--Not more than \$200,000 is available to
13 the Secretary of Transportation from the account established under section 5116(i)
14 of this title for each of the fiscal years ending September 30, 1999-2003, to carry
15 out section 5115 of this title.";

16 (4) by amending subsection (d) to read as follows:

17 "(d) PLANNING AND TRAINING.--(1) Not more than \$2,444,000 is
18 available to the Secretary of Transportation from the account established under
19 section 5116(i) of this title for the fiscal year ending September 30, 1998, and such
20 sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(a) of
21 this title.

22 "(2) Not more than \$3,666,000 is available to the Secretary of Transportation
23 from the account established under section 5116(i) of this title for the fiscal year
24 ending September 30, 1998, and such sums as may be necessary for fiscal years
25 1999-2003, to carry out section 5116(b) of this title.

26 "(3) Not more than \$600,000 is available to the Secretary of Transportation
27 from the account established under section 5116(i) of this title for the fiscal year

1 ending September 30, 1998, and such sums as may be necessary for fiscal years
2 1999-2003, to carry out section 5116(f) of this title."; and

3 (5) by amending subsection (f), as redesignated, by striking "(c)-(e)" and
4 inserting "(c) and (d)".

5 **TITLE XI -- UNDERGROUND DAMAGE PREVENTION**

6 **SEC. 11001. SHORT TITLE.** This title may be cited as the "Underground
7 Damage Prevention Act of 1997".

8 **SEC. 11002. UNDERGROUND DAMAGE PREVENTION.**

9 (a) Subtitle VIII of title 49 is amended by adding a new chapter 602 to read
10 as follows:

11 "CHAPTER 602--UNDERGROUND DAMAGE PREVENTION

12 "Sec.

13 "60201. Definitions.

14 "60202. Nationwide toll-free telephone number system.

15 "60203. Elements of a State program.

16 "60204. Enforcement.

17 "60205. Grants to States.

18 "60206. Model program.

19 "60207. Department of Transportation role.

20 **"Sec. 60201. Definitions**

21 "In this chapter --

22 "(1) 'damage' means an impact or contact with an underground facility, its
23 appurtenances, or its protective coating, or weakening of the support for the
24 facility or protective housing, that requires repair.

25 "(2) 'excavation' means an operation in which earth, rock, or other material
26 in the ground is moved, removed, or otherwise displaced by means of any
27 mechanized tools or equipment, or any explosive, but does not include--

1 "(A) tilling of the soil for agricultural purposes to a depth of 18
2 inches or less and other common agricultural practices, as determined by
3 each State;

4 "(B) common lawn and garden activities, as determined by each
5 State; or

6 "(C) the digging of a grave in a cemetery.

7 "(3) 'excavator' means a person who conducts excavation.

8 "(4) 'facility operator' means a person who operates an underground
9 facility.

10 "(5) 'hazardous liquid' has the same meaning as in section 60101(a)(4) of
11 this title.

12 "(6) 'gas' has the same meaning as in section 60101(a)(2) of this title.

13 "(7) 'person' in addition to its meaning under section 1 of title 1, includes
14 any agency of Federal, State, or local government.

15 "(8) 'State' has the same meaning as in section 60101(a)(20) of this title.

16 "(9) 'State program' means the program of a State to establish or maintain a
17 comprehensive statewide one-call notification program to protect all
18 underground facilities from damage due to excavation that contains each element
19 described in section 60204 of this title.

20 "(10) 'underground facility' means an underground line, system, or
21 structure used for gathering, storing, transmitting, or distributing hazardous
22 liquids, gas, communication, electricity, water, steam, sewage, or other
23 commodities the Secretary of Transportation determines should be included
24 under the requirements of this Act, but does not include a portion of a line,
25 system, or structure only used to provide services or materials within real
26 property controlled by a person with an oil or gas mineral leasehold interest in
27 that property unless that portion is used for hazardous liquid or gas and is

1 located within an easement for a public road, a toll highway, bridge, or tunnel
2 (within the meaning of 23 U.S.C. 101(a) and 129(a)(2)) or within the boundaries of
3 a city, town, or village.

4 **"Sec. 60202. Nationwide toll-free telephone number system**

5 "The Secretary of Transportation shall, in consultation with the Federal
6 Communications Commission, facility operators, excavators, and one-call
7 notification system operators, consider the establishment of a nationwide toll-free
8 telephone number system to be used in State one-call notification programs.

9 **"Sec. 60203. Elements of a State program**

10 "(a) IN GENERAL.--A State program shall--

11 "(1) provide for a one-call notification system that--

12 "(A) applies to all excavators and to all facility operators;

13 "(B) operates in all areas of the State and does not duplicate the
14 geographical coverage of other one-call notification systems;

15 "(C) receives and records appropriate information from
16 excavators about intended excavations;

17 "(D) informs facility operators of any intended excavations that may
18 be in the vicinity of their underground facilities; and

19 "(E) informs excavators of the facility operators who will be notified
20 of the intended excavation;

21 "(2) provide for 24-hour coverage for emergency excavation, with the
22 manner and scope of coverage determined by the State;

23 "(3) employ mechanisms to ensure that excavators and the general public
24 are aware of the one-call telephone number and the requirements, sanctions, and
25 benefits of the State program;

26 "(4) inform excavators of State damage prevention procedures to be
27 followed when excavating;

1 "(5) require that an excavator contact the one-call notification system in
2 accordance with State specifications, which may vary depending on whether the
3 excavation is short-term, long-term, routine, continuous, or emergency;

4 "(6) require facility operators to locate and mark or otherwise identify their
5 facilities at an excavation site, in accordance with State specifications, which may
6 vary depending on whether the excavation is short-term, long-term, routine,
7 continuous, or emergency;

8 "(7) provide effective mechanisms for enforcement as described in section
9 60205 of this title; and

10 "(8) provide for a fair and appropriate schedule of fees to cover the costs of
11 providing for, maintaining, and operating the State program.

12 "(b) EXCEPTION.-- A State program need not require an excavator to
13 contact the one-call system if the excavation is undertaken on behalf of a person
14 with an oil or gas mineral leasehold interest in real property who also operates all
15 underground facilities on that property.

16 "(c) IMPLEMENTATION.-- A State program may be provided for through
17 the establishment of a new program, or through modification or improvement of
18 an existing program and may be implemented, in whole or in part, by a
19 nongovernmental organization, including a railroad or an airport authority.

20 **"Sec. 60204. Enforcement**

21 "(a) GENERAL. - Effective mechanisms for enforcement of a State program
22 shall be developed by the State. The State shall consider inclusion of the
23 following elements:

24 "(1) Enforcement against an excavator or facility operator who violates the
25 requirements of the State program.

26 "(2) Appropriate civil penalty sanctions administratively assessed.

1 "(3) Increased penalties if a violation is substantially the same as a prior
2 violation, or if a violation results in death, serious bodily harm, or actual damage
3 to property exceeding \$50,000, or in the release of more than 50 barrels of
4 hazardous liquid.

5 "(4) Criminal sanctions for a knowing and willful violation.

6 "(5) Lesser sanctions in case of a violation that is promptly reported by the
7 violator.

8 "(6) Equitable relief to compel compliance.

9 "(7) Procedures for issuing a citation of violation at the site and time of the
10 violation.

11 "(b) STATE ENFORCEMENT.-- Nothing in this section limits a State in
12 developing any mechanism for enforcement that the State finds effective.

13 **"Sec. 60205. Grants to States**

14 "(a) AUTHORITY.-- The Secretary of Transportation may make grants to
15 States or to operators of one-call notification systems to plan for, establish, or
16 implement a State program. For the purposes of making these grants, there is
17 available to the Secretary until expended from amounts collected under section
18 60301 of this title, \$1,000,000 for fiscal year 1998, and such sums as may be
19 necessary for fiscal years 1999 and 2000, to the extent provided in appropriations
20 Acts.

21 "(b) CRITERIA.-- Grants under this section may be used to--

22 "(1) evaluate a State's damage prevention needs and to plan for
23 establishment of a qualified State program;

24 "(2) improve communications systems linking one-call notification systems;

25 "(3) improve location capabilities, including training personnel and
26 developing and using location technology;

27 "(4) improve record retention and recording capabilities;

1 "(5) enhance public information and education campaigns, including
2 promotional activities;

3 "(6) develop enhanced enforcement mechanisms; and

4 "(7) otherwise further the purposes of this chapter.

5 "(c) ALTERNATE FORM OF STATE PROGRAM.-- The Secretary may
6 make a grant under subsection (a) to a State that establishes or maintains a
7 comprehensive statewide one-call notification program to protect all
8 underground facilities from damage due to excavation that does not meet the
9 requirements for a State program if the Secretary determines that the program is
10 at least as protective of public safety and the environment as a program that has
11 the elements described in section 60203 of this title.

12 "(d) PROGRESS REPORTS.-- As a condition of receipt of a grant under this
13 section, a State or an operator of a one-call notification system shall report to the
14 Secretary on progress made in implementing this chapter. The Secretary shall
15 prescribe the form and contents of the report, including available data on use of
16 the one-call notification system and excavation damage.

17 **"Sec. 60206. Model program**

18 "(a) DEVELOPMENT OF MODEL PROGRAM.-- Within 1 year after the
19 date of enactment of this chapter, the Secretary of Transportation, in consultation
20 with facility operators, excavators, one-call notification system operators, and
21 interested government agencies, including State and local governments, shall
22 develop and make available to States a model State one-call notification program.
23 The Secretary may amend the model program from time to time.

24 "(b) ELEMENTS OF MODEL PROGRAM.-- The model program developed
25 under subsection (a) shall include all elements of a State program described in
26 section 60203 of this chapter. In addition, the Secretary shall consider
27 incorporating the following elements into the model program:

1 "(1) specific information that a one-call notification system must receive
2 and record from excavators;

3 "(2) length of time one-call records must be retained;

4 "(3) recommended practices on distributing information on damage
5 prevention to excavators;

6 "(4) a requirement that an excavator contact the one-call notification system
7 at least two (2) business days, and not more than ten (10) business days, before
8 excavation begins;

9 "(5) alternative notification procedures for excavation activities conducted
10 as part of ongoing operations within specific geographic locations over an
11 extended period of time;

12 "(6) guidelines for incorporating into a one-call notification system
13 alternative notification and marking systems in special circumstances such as
14 within railroad rights-of-way or at airports;

15 "(7) specific reference to standards for identifying underground facilities
16 developed by the American Public Works Association Uniform Color Code for
17 Utilities and the American National Standards Institute;

18 "(8) a requirement that a facility operator mark underground facilities at
19 the site of an intended excavation within two (2) business days after notification;

20 "(9) a provision for notification of excavators if no underground facilities
21 are located at the excavation site;

22 "(10) procedures for excavators and facility operators when the location of
23 underground facilities is unknown;

24 "(11) practices to improve underground facility location capabilities;

25 "(12) recommended procedures for emergency circumstances; and

26 "(13) revocation of the license or permit to do business of any excavator
27 determined to be a habitual violator of the requirements of the State program.

1 "(14) recommended procedures for protecting underground facilities from
2 intentional damage as a result of the line being marked or located and from
3 security breaches.

4 "(c) WORKSHOPS.-- The Secretary shall conduct workshops with facility
5 operators, excavators, one-call notification system operators, and interested
6 government agencies, including State and local governments, in order to
7 develop, amend, and promote the model program, and to provide an opportunity
8 to share information among such parties.

9 "(d) PUBLIC EDUCATION.-- The Secretary shall work with facility
10 operators, excavators, one-call notification systems operators, and interested
11 government agencies, including State and local governments, to develop public
12 service announcements and other educational materials and programs to be
13 broadcast or published to educate the public about one-call notification systems.

14 **"Sec. 60207. Department of Transportation role**

15 "The Secretary of Transportation shall coordinate the implementation of
16 this chapter with the implementation of chapter 601 of this title. An activity
17 conducted by the Secretary under this chapter shall be deemed an activity related
18 to gas or hazardous liquid under chapter 601 of this title."

19 (b) The analysis of subtitle VIII is amended by adding a new item,
20 "CHAPTER 602--UNDERGROUND DAMAGE PREVENTION".

21 **SEC. 11003. TECHNICAL AMENDMENT.**

22 Title 49 is amended by striking and reserving section 60114, and striking
23 the item for section 60114 in the analysis of chapter 601.

24 **TITLE XII -- SANITARY FOOD TRANSPORTATION**

25 **SEC. 12001. SHORT TITLE.** This title may be cited as the "Sanitary Food
26 Transportation Act of 1997."

27 **SEC. 12002. FINDINGS.**

1 Congress finds that--

2 (1) the Department of Transportation, the Department of Agriculture, and
3 the Food and Drug Administration in the Department of Health and Human
4 Services have consulted about how best to ensure that food is not adulterated as a
5 result of the conditions under which it is transported. As a result of these
6 consultations, the agencies have confirmed that steps to ensure the safety of food
7 are more efficient if taken by the agencies directly charged with the responsibility
8 for food safety;

9 (2) the Secretary of Agriculture has ample authority under the Federal Meat
10 Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21
11 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.), to
12 inspect and regulate continuously the transportation of meat, poultry, and eggs in
13 commerce for use in human food, has exercised the statutory authority in a
14 diligent manner so as to prevent the transportation of unwholesome or
15 adulterated meat, poultry, and egg products in commerce, and does not need
16 additional enforcement authority to regulate the transportation of meat, poultry,
17 and egg products in commerce;

18 (3) certain statutory changes are necessary to provide the Secretary of
19 Health and Human Services with the authority necessary to ensure that food,
20 other than that regulated by the Secretary of Agriculture, will not be rendered
21 adulterated in transportation;

22 (4) the appropriate role for the Secretary of Transportation is to provide
23 assistance concerning the transportation aspects of food safety; and

24 (5) therefore, amendment of chapter 57 of title 49, United States Code, and
25 the transfer of certain authorities to the Secretary of Health and Human Services,
26 is appropriate.

1 **SEC. 12003. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND**
2 **HUMAN SERVICES.**

3 (a) Unsanitary Transport Deemed Adulteration.--Section 402 of the Federal
4 Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end
5 the following new subsection:

6 "(h) If it is transported under conditions that are not in compliance with the
7 sanitary transportation practices prescribed by the Secretary under section 414."

8 (b) Sanitary Transportation Requirements.-- Chapter IV of the Federal
9 Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the
10 end the following new section:

11 **"Sec. 414. Sanitary transportation of food**

12 "(a) SANITARY TRANSPORTATION PRACTICES.-- The Secretary shall
13 establish by regulation sanitary transportation practices which shippers, carriers,
14 receivers, and other persons engaged in the transportation of food shall be
15 required to follow to ensure that the food is not transported under conditions that
16 may render it adulterated, including such practices as the Secretary may find
17 appropriate relating to--

18 "(1) sanitation;

19 "(2) packaging, isolation, and other protective measures;

20 "(3) limitations on the use of vehicles;

21 "(4) information to be disclosed--

22 "(A) to a carrier by a person arranging for the transport of food, and

23 "(B) to a manufacturer or other persons arranging for the transport

24 of

25 food by a carrier or other person furnishing a tank or bulk vehicle for the
26 transport of food; and

27 "(5) recordkeeping.

1 "(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.--The Secretary,
2 by publication in the Federal Register, may establish and periodically amend--

3 "(1) a list of nonfood products that the Secretary determines may, if
4 shipped in a tank or bulk vehicle, render adulterated food transported
5 subsequently in such vehicle; and

6 "(2) a list of nonfood products that the Secretary determines may, if
7 shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render
8 adulterated food transported simultaneously or subsequently in such vehicle.

9 "(c) WAIVER AUTHORITY.--(1) In General.--The Secretary may waive all
10 or part of this section, or any requirement under this section, with respect to any
11 class of persons, of vehicles, of food, or of nonfood products, if the Secretary
12 determines that such waiver--

13 "(A) will not result in the transportation of food under conditions
14 that would be unsafe for human or animal health; and

15 "(B) will not be contrary to the public interest or this Act.

16 "(2) Publication.--The Secretary shall publish in the Federal Register any
17 waiver and the reasons for the waiver.

18 "(d) PREEMPTION.--(1) In General.--No State or political subdivision of a
19 State may directly or indirectly establish or continue in effect, as to any food in
20 interstate commerce, any authority or requirement concerning that transportation
21 of food that is not identical to the requirement of this section.

22 "(2) Effective Date.--The provisions of this subsection apply only with
23 respect to transportation occurring on or after the effective date of regulations
24 prescribed under subsection (a).

25 "(e) ASSISTANCE OF OTHER AGENCIES.--The Secretary of
26 Transportation, the Secretary of Agriculture, the Administrator of the
27 Environmental Protection Agency, and the heads of other Federal agencies, as

1 appropriate, shall provide assistance upon request, to the extent resources are
2 available, to the Secretary of Health and Human Services for the purposes of
3 carrying out this section.

4 "(f) DEFINITIONS. For purposes of the section--

5 "(1) The term 'transportation' means any movement of property in
6 commerce by motor vehicle or rail vehicle.

7 "(2) The term 'tank or bulk vehicle' includes any vehicle in which food is
8 shipped in bulk and in which the food comes directly into contact with the
9 vehicle, including tank trucks, hopper trucks, rail tank cars, hopper cars, cargo
10 tanks, portable tanks, freight containers, or hopper bins."

11 (c) Inspection of Transportation Records.-- (1) Requirement.--Chapter VII of
12 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by
13 inserting after section 703 the following new section:

14 **"Sec. 703A. Food transportation records**

15 "Shippers, carriers by motor vehicle or rail vehicle, and other persons
16 subject to section 414 shall, upon request of an officer or employee duly
17 designated by the Secretary, permit such officer or employee, at reasonable times,
18 to have access to and to copy all records that the Secretary requires them to make
19 or retain under section 414(a)(5) of this Act."

20 (2) Conforming Amendment.--Section 703 of the Act (21 U.S.C. 373) is
21 amended in the second proviso by inserting ", unless otherwise explicitly
22 provided," after "That".

23 (d) Prohibited Acts.--(1) Records Inspection.--Section 301(c) of the Federal
24 Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended--

25 (A) by striking "or 703" and inserting ", 703, or 703A"; and

26 (B) by inserting "414," before "505(i)".

1 (2) Unsafe Food Transportation.--Section 301 of the Act (21 U.S.C. 331) is
2 further amended--

3 (A) by redesignating subsection (u) as subsection (v); and

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

5 "(w) The failure, by a shipper, carrier, receiver, or any other person
6 engaged in the transportation of food, to comply with the sanitary transportation
7 practices prescribed by the Secretary under section 414."

8 **SEC. 12004. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.**

9 Chapter 57 of title 49, relating to sanitary food transportation, is revised to
10 read as follows:

11 "CHAPTER 57--SANITARY FOOD TRANSPORTATION

12 "Sec.

13 "5701. Findings.

14 "5702. Food transportation safety inspections.

15 **"Sec. 5701. Findings**

16 "Congress finds that--

17 "(1) the United States public is entitled to receive food and other
18 consumer products that are not made unsafe because of certain
19 transportation practices;

20 "(2) the United States public is threatened by the transportation of
21 products potentially harmful to consumers in motor vehicles and rail
22 vehicles that are used to transport food and other consumer products; and

23 "(3) the risks to consumers by those transportation practices are
24 unnecessary and those practices must be ended.

25 **"Sec. 5702. Food transportation safety inspections**

26 "(a) INSPECTION PROCEDURES.--(1) The Secretary of Transportation, in
27 consultation with the Secretaries of Health and Human Services and Agriculture,

1 shall establish procedures to be used in performing transportation safety
2 inspections for the purpose of identifying suspected incidents of contamination or
3 adulteration of food that may violate regulations issued under section 414 of title
4 21, United States Code, and shall train personnel of the Department of
5 Transportation in the appropriate use of such procedures.

6 "(2) The procedures established under paragraph (1) of this subsection shall
7 apply, at a minimum, to the Department of Transportation personnel who
8 perform commercial motor vehicle and railroad safety inspections.

9 "(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN
10 SERVICES AND AGRICULTURE.--The Secretary of Transportation shall
11 promptly notify the Secretary of Health and Human Services or the Secretary of
12 Agriculture, as applicable, of any instances of potential food contamination or
13 adulteration of a food identified during transportation safety inspections.

14 "(c) USE OF STATE EMPLOYEES.--The means by which the Secretary of
15 Transportation carries out subsection (b) of this section may include inspections
16 conducted by State employees using funds authorized to be appropriated under
17 sections 31102 through 31104 of this title."

18 **SEC. 12005. EFFECTIVE DATE OF THE ACT.**

19 Unless otherwise specified, the provisions of this title are effective October
20 1, 1997.

21 **TITLE XIII -- RAIL AND MASS TRANSPORTATION ANTI-TERRORISM**

22 **SEC. 13001. SHORT TITLE.**

23 This title may be cited as the "Transportation Anti-Terrorism Act of 1997."

24 **SEC. 13002. PURPOSE.**

25 The purpose of this title is to protect the passengers and employees of
26 railroad carriers and mass transportation systems and the movement of freight by
27 railroad from terrorist attacks.

1 **SEC. 13003. AMENDMENTS TO THE “WRECKING TRAINS” STATUTE.**

2 (a) Section 1992 of title 18, United States Code, is amended to read as
3 follows:

4 **“Sec. 1992. Terrorist attacks against railroads.**

5 “(a) GENERAL PROHIBITIONS.-- Whoever willfully--

6 “(1) wrecks, derails, sets fire to, or disables any train,
7 locomotive, motor unit, or freight or passenger car used, operated,
8 or employed by a railroad carrier;

9 “(2) brings, carries, possesses, places or causes to be placed
10 any destructive substance, or destructive device in, upon, or near
11 any train, locomotive, motor unit, or freight or passenger car used,
12 operated, or employed by a railroad carrier, without previously
13 obtaining the permission of the carrier, and with intent to endanger
14 the safety of any passenger or employee of the carrier, or with a
15 reckless disregard for the safety of human life;

16 “(3) sets fire to, or places any destructive substance, or
17 destructive device in, upon or near, or undermines any tunnel,
18 bridge, viaduct, trestle, track, signal, station, depot, warehouse,
19 terminal, or any other way, structure, property, or appurtenance
20 used in the operation of, or in support of the operation of, a railroad
21 carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle,
22 track, station, depot, warehouse, terminal, or any other way,
23 structure, property, or appurtenance unworkable or unusable or
24 hazardous to work or use, knowing or having reason to know such
25 activity would likely derail, disable, or wreck a train, locomotive,
26 motor unit, or freight or passenger car used, operated, or employed
27 by a railroad carrier;

1 “(4) removes appurtenances from, damages, or otherwise
2 impairs the operation of any railroad signal system, including a
3 train control system, centralized dispatching system, or highway-
4 railroad grade crossing warning signal on a railroad line used,
5 operated, or employed by a railroad carrier;

6 “(5) interferes with, disables or incapacitates any locomotive
7 engineer, conductor, or other person while they are operating or
8 maintaining a train, locomotive, motor unit, or freight or passenger
9 car used, operated, or employed by a railroad carrier, with intent to
10 endanger the safety of any passenger or employee of the carrier, or
11 with a reckless disregard for the safety of human life;

12 “(6) commits an act intended to cause death or serious bodily
13 injury to an employee or passenger of a railroad carrier while on the
14 property of the carrier;

15 “(7) causes the release of a hazardous material being
16 transported by a rail freight car, with the intent to endanger the
17 safety of any person, or with a reckless disregard for the safety of
18 human life;

19 “(8) conveys or causes to be conveyed false information,
20 knowing the information to be false, concerning an attempt or
21 alleged attempt being made or to be made, to do any act which
22 would be a crime prohibited by this subsection; or

23 “(9) attempts, threatens, or conspires to do any of the
24 aforesaid acts--

25 shall be fined under this title or imprisoned not more than twenty years, or
26 both, if such act is committed, or in the case of a threat or conspiracy such
27 act would be committed, within the United States on, against, or affecting a

1 railroad carrier engaged in or affecting interstate or foreign commerce, or if
2 in the course of committing such acts, that person travels or communicates
3 across a State line in order to commit such acts, or transports materials
4 across a State line in aid of the commission of such acts; Provided
5 however, that whoever is convicted of any crime prohibited by this
6 subsection shall be:

7 “(A) imprisoned for not less than thirty years or for life if the
8 railroad train involved carried high-level radioactive waste or spent
9 nuclear fuel at the time of the offense;

10 “(B) imprisoned for life if the railroad train involved was
11 carrying passengers at the time of the offense; and

12 “(C) imprisoned for life or sentenced to death if the offense
13 has resulted in the death of any person.

14 “(b) PROHIBITIONS ON THE USE OF FIREARMS AND
15 DANGEROUS WEAPONS.-- (1) Except as provided in paragraph (4),
16 whoever knowingly possesses or causes to be present any firearm or other
17 dangerous weapon on board a passenger train of a railroad carrier, or
18 attempts to do so, shall be fined under this title or imprisoned not more
19 than one year, or both, if such act is committed on a railroad carrier that is
20 engaged in or affecting interstate or foreign commerce, or if in the course of
21 committing such act, that person travels or communicates across a State
22 line in order to commit such act, or transports materials across a State line
23 in aid of the commission of such act.

24 “(2) Whoever, with intent that a firearm or other dangerous weapon
25 be used in the commission of a crime, knowingly possesses or causes to be
26 present such firearm or dangerous weapon on board a passenger train or
27 in a passenger terminal facility of a railroad carrier, or attempts to do so,

1 shall be fined under this title or imprisoned not more than five years, or
2 both, if such act is committed on a railroad carrier that is engaged in or
3 affecting interstate or foreign commerce, or if in the course of committing
4 such act, that person travels or communicates across a State line in order to
5 commit such act, or transports materials across a State line in aid of the
6 commission of such act.

7 “(3) A person who kills or attempts to kill a person in the course of a
8 violation of paragraphs (1) or (2), or in the course of an attack on a
9 passenger train or a passenger terminal facility of a railroad carrier
10 involving the use of a firearm or other dangerous weapon, shall be
11 punished as provided in sections 1111, 1112, and 1113 of this title.

12 “(4) Paragraph (1) shall not apply to:

13 “(A) the possession of a firearm or other dangerous weapon
14 by an officer, agent, or employee of the United States, a State, or a
15 political subdivision thereof, while engaged in the lawful
16 performance of official duties, who is authorized by law to engage
17 in the transportation of people accused or convicted of crimes, or
18 supervise the prevention, detection, investigation, or prosecution of
19 any violation of law;

20 “(B) the possession of a firearm or other dangerous weapon
21 by an officer, agent, or employee of the United States, a State, or a
22 political subdivision thereof, while off duty, if such possession is
23 authorized by law;

24 “(C) the possession of a firearm or other dangerous weapon
25 by a Federal official or a member of the Armed Forces if such
26 possession is authorized by law; or

1 “(D) an individual transporting a firearm on board a railroad
2 passenger train (except a loaded firearm) in baggage not accessible
3 to any passenger on board the train, if the railroad carrier was
4 informed of the presence of the weapon prior to the firearm being
5 placed on board the train.

6 “(c) PROHIBITION AGAINST PROPELLING OBJECTS.-- Whoever
7 willfully or recklessly throws, shoots, or propels a rock, stone, brick, or
8 piece of iron, steel, or other metal or any deadly or dangerous object or
9 destructive substance at any locomotive or car of a train, knowing or
10 having reason to know such activity would likely cause personal injury,
11 shall be fined under this title or imprisoned for not more than five years, or
12 both, if such act is committed on or against a railroad carrier engaged in or
13 affecting interstate or foreign commerce, or if in the course of committing
14 such act, that person travels or communicates across a State line in order to
15 commit such act, or transports materials across a State line in aid of the
16 commission of such act. Whoever is convicted of any crime prohibited by
17 this subsection shall also be subject to imprisonment for not more than
18 twenty years if the offense has resulted in the death of any person.

19 “(d) DEFINITIONS.-- In this section--

20 “(1) 'dangerous device' has the meaning given to that term in
21 section 921(a)(4) of this title;

22 “(2) 'dangerous weapon' has the meaning given to that term
23 in section 930 of this title;

24 “(3) 'destructive substance' has the meaning given to that
25 term in section 31 of this title, except that (A) the term 'radioactive
26 device' does not include any radioactive device or material used
27 solely for medical, industrial, research, or other peaceful purposes,

1 and (B) 'destructive substance' includes any radioactive device or
2 material that can be used to cause a harm listed in subsection (a) and
3 that is not in use solely for medical, industrial, research, or other
4 peaceful purposes;

5 "(4) 'firearm' has the meaning given to that term in section
6 921 of this title;

7 "(5) 'hazardous material' has the meaning given to that term
8 in section 5102(2) of title 49, United States Code;

9 "(6) 'high-level radioactive waste' has the meaning given to
10 that term in section 10101(12) of title 42, United States Code;

11 "(7) 'railroad' has the meaning given to that term in section
12 20102(1) of title 49, United States Code;

13 "(8) 'railroad carrier' has the meaning given to that term in
14 section 20102(2) of title 49, United States Code;

15 "(9) 'serious bodily injury' has the meaning given to that term
16 in section 1365 of this title;

17 "(10) 'spent nuclear fuel' has the meaning given to that term
18 in section 10101(23) of title 42, United States Code; and

19 "(11) 'State' has the meaning given to that term in section
20 2266 of this title."

21 (b) In the analysis of chapter 97 of title 18, United States Code, item "1992"
22 is amended to read:

23 "1992. Terrorist attacks against railroads."

24 **SEC. 13004. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.**

25 (a) Chapter 97 of title 18, United States Code, is amended by adding at the
26 end thereof the following new section:

27 **"Sec. 1994. Terrorist attacks against mass transportation**

1 “(a) GENERAL PROHIBITIONS.-- Whoever willfully--

2 “(1) wrecks, derails, sets fire to, or disables a mass
3 transportation vehicle or vessel;

4 “(2) places or causes to be placed any destructive substance
5 in, upon, or near a mass transportation vehicle or vessel, without
6 previously obtaining the permission of the mass transportation
7 provider, and with intent to endanger the safety of any passenger or
8 employee of the mass transportation provider, or with a reckless
9 disregard for the safety of human life;

10 “(3) sets fire to, or places any destructive substance in, upon,
11 or near any garage, terminal, structure, supply, or facility used in
12 the operation of, or in support of the operation of, a mass
13 transportation vehicle, knowing or having reason to know such
14 activity would likely derail, disable, or wreck a mass transportation
15 vehicle used, operated, or employed by a mass transportation
16 provider;

17 “(4) removes appurtenances from, damages, or otherwise
18 impairs the operation of a mass transportation signal system,
19 including a train control system, centralized dispatching system, or
20 rail grade-crossing warning signal;

21 “(5) interferes with, disables or incapacitates any driver or
22 person while they are employed in operating or maintaining a mass
23 transportation vehicle or vessel, with intent to endanger the safety
24 of any passenger or employee of the mass transportation provider,
25 or with a reckless disregard for the safety of human life;

1 “(6) commits an act intended to cause death or serious bodily
2 injury to an employee or passenger of a mass transportation
3 provider on the property of a mass transportation provider;

4 “(7) conveys or causes to be conveyed false information,
5 knowing the information to be false, concerning an attempt or
6 alleged attempt being made or to be made, to do any act which
7 would be a crime prohibited by this subsection; or

8 “(8) attempts, threatens, or conspires to do any of the
9 aforesaid acts--

10 shall be fined under this title or imprisoned not more than twenty years, or
11 both, if such act is committed, or in the case of a threat or conspiracy such
12 act would be committed, within the United States on, against, or affecting a
13 mass transportation provider engaged in or affecting interstate or foreign
14 commerce, or if in the course of committing such act, that person travels or
15 communicates across a State line in order to commit such act, or transports
16 materials across a State line in aid of the commission of such act. Whoever
17 is convicted of a crime prohibited by this section shall also be subject to
18 imprisonment for life if the mass transportation vehicle or vessel was
19 carrying a passenger at the time of the offense, and imprisonment for life
20 or sentenced to death if the offense has resulted in the death of any person.

21 “(b) PROHIBITIONS ON THE USE OF FIREARMS AND
22 DANGEROUS WEAPONS.-- (1) Except as provided in paragraph (4),
23 whoever knowingly possesses or causes to be present any firearm or other
24 dangerous weapon on board a mass transportation vehicle or vessel, or
25 attempts to do so, shall be fined under this title or imprisoned not more
26 than one year, or both, if such act is committed on a mass transportation
27 provider engaged in or affecting interstate or foreign commerce, or if in the

1 course of committing such act, that person travels or communicates across
2 a State line in order to commit such act, or transports materials across a
3 State line in aid of the commission of such act.

4 “(2) Whoever, with intent that a firearm or other dangerous weapon
5 be used in the commission of a crime, knowingly possesses or causes to be
6 present such firearm or dangerous weapon on board a mass transportation
7 vehicle or vessel, or in a mass transportation passenger terminal facility, or
8 attempts to do so, shall be fined under this title, or imprisoned not more
9 than five years, or both, if such act is committed on a mass transportation
10 provider engaged in or affecting interstate or foreign commerce, or if in the
11 course of committing such act, that person travels or communicates across
12 a State line in order to commit such act, or transports materials across a
13 State line in aid of the commission of such act.

14 “(3) A person who kills or attempts to kill a person in the course of a
15 violation of paragraphs (1) or (2), or in the course of an attack on a mass
16 transportation vehicle or vessel, or a mass transportation passenger
17 terminal facility involving the use of a firearm or other dangerous weapon,
18 shall be punished as provided in sections 1111, 1112, and 1113 of this title.

19 “(4) Paragraph (1) shall not apply to:

20 “(A) the possession of a firearm or other dangerous weapon
21 by an officer, agent, or employee of the United States, a State, or a
22 political subdivision thereof, while engaged in the lawful
23 performance of official duties, who is authorized by law to engage
24 in the transportation of people accused or convicted of crimes, or
25 supervise the prevention, detection, investigation, or prosecution of
26 any violation of law;

1 “(B) the possession of a firearm or other dangerous weapon
2 by an officer, agent, or employee of the United States, a State, or a
3 political subdivision thereof, while off duty, if such possession is
4 authorized by law;

5 “(C) the possession of a firearm or other dangerous weapon
6 by a Federal official or a member of the Armed Forces if such
7 possession is authorized by law; or

8 “(D) an individual transporting a firearm on board a mass
9 transportation vehicle or vessel (except a loaded firearm) in baggage
10 not accessible to any passenger on board the vehicle or vessel, if the
11 mass transportation provider was informed of the presence of the
12 weapon prior to the firearm being placed on board the vehicle or
13 vessel.

14 “(c) PROHIBITION AGAINST PROPELLING OBJECTS.-- Whoever
15 willfully or recklessly throws, shoots, or propels a rock, stone, brick, or
16 piece of iron, steel, or other metal or any deadly or dangerous object or
17 destructive substance at any mass transportation vehicle or vessel,
18 knowing or having reason to know such activity would likely cause
19 personal injury, shall be fined under this title or imprisoned for not more
20 than five years, or both, if such act is committed on or against a mass
21 transportation provider engaged in or substantially affecting interstate or
22 foreign commerce, or if in the course of committing such acts, that person
23 travels or communicates across a State line in order to commit such acts, or
24 transports materials across a State line in aid of the commission of such
25 acts. Whoever is convicted of any crime prohibited by this subsection shall
26 also be subject to imprisonment for not more than twenty years if the
27 offense has resulted in the death of any person.

1 “(d) DEFINITIONS.-- In this section--

2 “(1) 'dangerous device' has the meaning given to that term in
3 section 921(a)(4) of this title;

4 “(2) 'dangerous weapon' has the meaning given to that term
5 in section 930 of this title;

6 “(3) 'destructive substance' has the meaning given to that
7 term in section 31 of this title, except that (A) the term 'radioactive
8 device' does not include any radioactive device or material used
9 solely for medical, industrial, research, or other peaceful purposes,
10 and (B) 'destructive substance' includes any radioactive device or
11 material that can be used to cause a harm listed in subsection (a) and
12 that is not in use solely for medical, industrial, research, or other
13 peaceful purposes;

14 “(4) 'firearm' has the meaning given to that term in section
15 921 of this title;

16 “(5) 'mass transportation' has the meaning given to that term
17 in section 5302(a)(7) of title 49, United States Code, except that the
18 term shall include schoolbus, charter, and sightseeing
19 transportation;

20 “(6) 'serious bodily injury' has the meaning given to that term
21 in section 1365 of this title; and

22 “(7) 'State' has the meaning given to that term in section 2266
23 of this title.”.

24 (b) The analysis of chapter 97 of title 18, United States Code, is amended by
25 adding at the end thereof:

26 “1994. Terrorist attacks against mass transportation.”.

27 **SEC. 13005. INVESTIGATIVE JURISDICTION.**

1 The Federal Bureau of Investigation shall lead the investigation of all
2 offenses under this title. The Federal Bureau of Investigation shall cooperate with
3 the National Transportation Safety Board and with the Department of
4 Transportation in safety investigations by these agencies, and with the Treasury
5 Department's Bureau of Alcohol, Tobacco and Firearms concerning an
6 investigation regarding the possession of firearms and explosives.

7 **TITLE XIV -- RAIL AND MASS TRANSPORTATION SAFETY**

8 **SEC. 14001. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO**
9 **COMMUTER RAILROADS.**

10 Section 5329 is amended by adding at the end the following new
11 subsection:

12 "(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.-- In making
13 a grant or loan under this chapter that concerns a railroad subject to the
14 Secretary's railroad safety jurisdiction under section 20102 of this title, the
15 Federal Transit Administrator shall consult with the Federal Railroad
16 Administrator concerning relevant safety issues. The Secretary may use
17 appropriate authority under this chapter, including the authority to prescribe
18 particular terms or covenants under section 5334 of this title, to address any
19 safety issues identified in the project supported by the loan or grant."

20 **SEC. 14002. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

21 Section 20901(a) of title 49 is amended to read as follows:

22 "(a) GENERAL REQUIREMENTS. -- On a periodic basis as specified by the
23 Secretary of Transportation, a railroad carrier shall file a report with the Secretary
24 on all accidents and incidents resulting in injury or death to an individual or
25 damage to equipment or a roadbed arising from the carrier's operations during
26 that period. The report shall state the nature, cause, and circumstances of each
27 reported accident or incident. If a railroad carrier assigns human error as a cause,

1 the report shall include, at the option of each employee whose error is alleged, a
2 statement by the employee explaining any factors the employee alleges
3 contributed to the accident or incident.".

4 **SEC. 14003. VEHICLE WEIGHT LIMITATIONS -- MASS**
5 **TRANSPORTATION BUSES.**

6 Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act
7 of 1991, as amended (23 U.S.C. 127 note), is amended by striking "the date on
8 which" and all that follows through "1995" and substituting "January 1, 2003."
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