

116TH CONGRESS
1ST SESSION

S. 2402

To enhance the safety of Class 3 flammable liquid transportation by rail,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2019

Mr. WYDEN introduced the following bill; which was read twice and referred
to the Committee on Commerce, Science, and Transportation

A BILL

To enhance the safety of Class 3 flammable liquid
transportation by rail, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Crude Oil Advance
5 Tracking Act” or “COAT Act”.

6 **SEC. 2. ADVANCE NOTIFICATION OF CLASS 3 FLAMMABLE**
7 **LIQUID TRANSPORTATION.**

8 (a) RAILROAD TANK CARS.—Section 20155 of title
9 49, United States Code, is amended by adding at the end
10 the following:

1 “(c) NOTIFICATION REQUIREMENT.—Any railroad
2 carrier transporting Class 3 flammable liquids in tank cars
3 shall notify all State and tribal emergency response com-
4 missions with jurisdiction along the path through which
5 such liquids will be transported of such transportation not
6 later than 24 hours after the shipment is tendered, includ-
7 ing—

8 “(1) the number of gallons of each Class 3
9 flammable liquid, identified by Standard Transpor-
10 tation Commodity Code or United Nations or North
11 American number;

12 “(2) the city and State from which the tank
13 cars departed and the date and time of such depart-
14 ture, in Coordinated Universal Time (UTC);

15 “(3) the city and State to which the tank cars
16 will arrive and the date and time of such anticipated
17 arrival, in Coordinated Universal time (UTC); and

18 “(4) the location, date, and time of all crew
19 changes between the location described in paragraph
20 (2) and the location described in paragraph (3).”.

21 (b) USE OF INFORMATION.—

22 (1) COMMODITY FLOW RISK REPORT.—The
23 Hazardous Materials Division of the Office of Rail-
24 road Safety of the Federal Railroad Administration
25 shall compile information submitted by the State

1 emergency response commissions and publicly pub-
 2 lish an annual report that identifies, for the most re-
 3 cent 12-month period—

4 (A) the total volume of Class 3 hazardous
 5 materials that passed through each State;

6 (B) the top 10 commodities, by volume,
 7 transported by rail in each State; and

8 (C) a list and associated volume of all
 9 spills or releases of Class 3 hazardous materials
 10 by rail in each State.

11 (2) EMERGENCY RESPONSE AGENCIES.—The
 12 Hazardous Materials Division and the Pipeline and
 13 Hazardous Materials Safety Administration shall
 14 share information received under section 20155(c) or
 15 60108(f) of title 49, United States Code, with Fed-
 16 eral, State, and local government emergency re-
 17 sponse agencies.

18 **SEC. 3. ADEQUATE INSURANCE FOR RAIL CARS CARRYING**

19 **CLASS 3 FLAMMABLE LIQUIDS.**

20 Section 20901 of title 49, United States Code, is
 21 amended by adding at the end the following:

22 “(c) FINANCIAL ASSURANCE REPORTS.—

23 “(1) IN GENERAL.—Any railroad carrier that
 24 transports Class 3 flammable liquids shall include,
 25 in each annual report, information regarding the

1 ability of the railroad carrier, through insurance
 2 payments or other assets, to pay all costs of cleaning
 3 up a reasonable, worst-case spill, which shall be cal-
 4 culated by multiplying the reasonable anticipated
 5 per-barrel cleanup costs by the reasonable worst case
 6 spill volume.

7 “(2) USE OF INFORMATION.—Information pro-
 8 vided pursuant to paragraph (1) may not be used by
 9 the Federal Railroad Administration or by any other
 10 Federal department or agency to economically regu-
 11 late or penalize a railroad.”.

12 **SEC. 4. HIGH HAZARD RAIL SHIPMENTS PREPAREDNESS**
 13 **TRAINING STANDARDS.**

14 (a) DEFINITIONS.—Section 5102 of title 49, United
 15 States Code, is amended—

16 (1) by redesignating paragraphs (2) through
 17 (14) as paragraphs (3) through (15), respectively;
 18 and

19 (2) by inserting after paragraph (1) the fol-
 20 lowing:

21 “(2) ‘flammable liquids or gases’ means—

22 “(A) any ‘flammable liquid’ (as defined in
 23 section 173.120 of title 49, Code of Federal
 24 Regulations); and

1 “(B) any ‘flammable gas (Division 2.1)’
 2 (as defined in section 173.115 of title 49, Code
 3 of Federal Regulations).”.

4 (b) TRAINING STANDARDS.—Section 5115(b)(1) of
 5 title 49, United States Code, is amended—

6 (1) by redesignating subparagraphs (B) and
 7 (C) as subparagraphs (C) and (D), respectively; and
 8 (2) by inserting after subparagraph (A) the fol-
 9 lowing:

10 “(B) a recommended course of study and
 11 emergency supplies to train public sector em-
 12 ployees and contractors to respond to an acci-
 13 dent or incident involving trains transporting at
 14 least 20 tank cars of flammable liquids or
 15 gases;”.

16 **SEC. 5. HIGH HAZARD RAIL SHIPMENTS PREPAREDNESS**
 17 **GRANTS.**

18 Section 5116(a) of title 49, United States Code, is
 19 amended—

20 (1) in paragraph (1)—

21 (A) in subparagraph (B), by striking
 22 “and” at the end;

23 (B) in subparagraph (C), by striking the
 24 period at the end and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(D) to develop, improve, and carry out emer-
2 gency plans for communities through which railroads
3 transport a train or trains transporting flammable
4 liquids or gases.”; and

5 (2) in paragraph (3)—

6 (A) in the matter preceding subparagraph
7 (A), by striking “under paragraph (1) of this
8 subsection” and inserting “received to carry out
9 the purposes described in subparagraph (A) or
10 (B) of paragraph (1)”;

11 (B) in subparagraph (A), by striking
12 “and” at the end;

13 (C) in subparagraph (B), by striking the
14 period at the end and inserting “; and”; and

15 (D) by adding at the end the following:

16 “(C) the State or Indian tribe agrees to make
17 available—

18 “(i) at least 90 percent of the amount of
19 the grant received to carry out the purpose de-
20 scribed in paragraph (1)(D) in fiscal years
21 2020, 2021, and 2022 to local emergency plan-
22 ning committees established under section
23 301(c) of the Emergency Planning and Commu-
24 nity Right-To-Know Act of 1986 (42 U.S.C.

1 11001(c)) to develop emergency plans under
2 such Act; and

3 “(ii) at least 75 percent of the amount of
4 the grant received to carry out the purpose de-
5 scribed in paragraph (1)(D) in fiscal year 2023,
6 and in each subsequent fiscal year, to local
7 emergency planning committees established
8 under such section 301(c) to develop emergency
9 plans under such Act.”.

10 **SEC. 6. HIGH HAZARD RAIL SHIPMENTS TRAINING GRANTS.**

11 Section 5116 of title 49, United States Code, as
12 amended by section 5, is further amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1)(C), by inserting “, in-
15 cluding accidents or incidents involving trains
16 transporting at least 20 tank cars of flammable
17 liquids or gases” before the period at the end;

18 (B) in paragraph (2), by inserting “, in-
19 cluding flammable liquids or gases” before the
20 period at the end; and

21 (C) in paragraph (3)—

22 (i) in subparagraph (A), by striking
23 “and” at the end;

1 (ii) in subparagraph (B), by striking
 2 the period at the end, and inserting “;
 3 and”; and

4 (iii) by adding at the end the fol-
 5 lowing:

6 “(C) the State or Indian tribe agrees to make
 7 available—

8 “(i) at least 90 percent of the amount of
 9 the grant received to carry out the purpose de-
 10 scribed in subparagraph (B) in fiscal years
 11 2020, 2021, and 2022 to local emergency plan-
 12 ning committees established under section
 13 301(c) of the Emergency Planning and Commu-
 14 nity Right-To-Know Act of 1986 (42 U.S.C.
 15 1101(c)) to develop emergency plans under
 16 such Act; and

17 “(ii) at least 75 percent of the amount of
 18 the grant received to carry out the purpose de-
 19 scribed in paragraph (1)(C) in fiscal year 2023,
 20 and in each subsequent fiscal year, to local
 21 emergency planning committees established
 22 under such section 301(c) to develop emergency
 23 plans under such Act.”; and

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

1 “(k) FEDERAL SHARE OF COSTS FOR HIGH HAZARD
 2 TRAIN GRANTS.—The Federal share of each grant award-
 3 ed under subsection (a), for the purposes described in
 4 paragraph (1)(D) of such subsection, shall be—

5 “(1) 100 percent of the eligible costs incurred
 6 by the State or Indian tribe in fiscal years 2020,
 7 2021, and 2022; and

8 “(2) 80 percent of the eligible costs incurred by
 9 the State or Indian tribe in fiscal year 2023 and
 10 each subsequent fiscal year.”.

11 **SEC. 7. TRACK RELOCATION AND RAILROAD INSPECTION**
 12 **SAFETY GRANTS.**

13 (a) DEFINED TERM.—In this section, the term
 14 “flammable liquids or gases” means—

15 (1) any “flammable liquid” (as defined in sec-
 16 tion 173.120 of title 49, Code of Federal Regula-
 17 tions); and

18 (2) any “flammable gas (Division 2.1)” (as de-
 19 fined in section 173.115 of title 49, Code of Federal
 20 Regulations).

21 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
 22 of Transportation shall carry out a grant program to pro-
 23 vide financial assistance for local projects, activities, and
 24 personnel that mitigate the impacts of, and public health

1 or environmental risks associated with, the transport of
2 flammable liquids or gases by rail.

3 (c) ELIGIBILITY.—A State or political subdivision of
4 a State is eligible to receive a grant under this section,
5 to the extent the project or activity is consistent with the
6 goals under subsection (b), for—

7 (1) projects eligible for assistance under section
8 20154 of title 49, United States Code; or

9 (2) State rail safety participation under section
10 20105 of title 49, United States Code.

11 (d) PROJECT SELECTION CRITERIA.—In determining
12 whether to award a grant to an eligible recipient under
13 this section, the Secretary shall consider—

14 (1) the volume of flammable liquids or gases
15 being transported by rail through a relevant State or
16 community; and

17 (2) the extent to which the project or activity
18 will mitigate risk factors associated with rail trans-
19 portation of flammable liquids or gases, including re-
20 ducing risks to—

21 (A) public safety;

22 (B) the environment; and

23 (C) public or private property.

24 (e) NON-FEDERAL SHARE.—

1 (1) MAXIMUM FEDERAL SHARE.—Notwith-
2 standing the limitation set forth in section 20105(e)
3 of title 49, United States Code, the Federal share of
4 project costs under this section may be up to 90 per-
5 cent.

6 (2) METHOD OF PAYMENT.—The non-Federal
7 share of project costs under this section may be paid
8 in cash or in kind from a grantee or a private entity
9 involved with the project.

10 (f) AGREEMENTS.—As a condition of awarding any
11 grant under this section for a project that uses rights-of-
12 way owned by a railroad, the Secretary shall require that
13 a written agreement exist between the applicant and the
14 railroad regarding such use.

15 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) HIGH HAZARD RAIL SHIPMENTS PREPAREDNESS
17 AND TRAINING GRANTS.—

18 (1) IN GENERAL.—There is authorized to be
19 appropriated \$15,000,000 in each of the fiscal years
20 2020, 2021, and 2022 for grants authorized under
21 section 5116(a) of title 49, United States Code, for
22 the purposes described in paragraph (1)(D) of such
23 subsection.

24 (2) AVAILABILITY.—Of the amounts appro-
25 priated pursuant to paragraph (1)—

1 (A) the amounts appropriated for fiscal
2 year 2020 shall remain available until Sep-
3 tember 30, 2021; and

4 (B) the amounts appropriated for fiscal
5 year 2021 shall remain available until Sep-
6 tember 30, 2022.

7 (b) TRACK RELOCATION AND RAILROAD INSPECTION
8 SAFETY GRANTS.—There is authorized to be appropriated
9 \$25,000,000 in each of the fiscal years 2020, 2021, 2022,
10 and 2023 for grants authorized under section 7.

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