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Congress of the United States
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Washington, DC 20515-4329

COMMITTEE ON ENERGY AND COMMERCE

- SUBCOMMITTEE ON TELECOMMUNICATIONS AND THE INTERNET
- SUBCOMMITTEE ON HEALTH
- SUBCOMMITTEE ON ENVIRONMENT AND HAZARDOUS MATERIALS
- SUBCOMMITTEE ON COMMERCE, TRADE AND CONSUMER PROTECTION

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT**DEMOCRATIC SENIOR WHIP**

September 22, 2004

Say No to Remote Control
HAZMAT Trains in your District

Dear Colleague:

Aiming to cause grave human and economic injuries, terrorists attacked transportation targets at critical junctures to take advantage of available destructive power. On a plane full of jet fuel, the last line of defense is the pilots in the cockpit, so we armed pilots and hardened cockpit doors. Since neither security nor safety of remote control is conclusively established, I am introducing precautionary legislation to secure remote control trains and prohibit HAZMAT cargos.

HAZMAT transport requires security, even more so if the vehicle is unmanned, eliminating the last line of defense. While not widely known, remote control locomotives (RCLs) operate outside of rail yards hauling HAZMATs like chlorine and petrochemicals. Vulnerability to hijacking and/or sabotage increases without a human onboard presence when only a manual reset is required to take control. A security breach could be devastating to areas of dense population.

According to the Federal Railroad Administration's (FRA) May 2004 Interim Report Safety of Remote Control Locomotive Operations, RCLs outside of rail yards, including over public grade crossings, are the #1 concern. FRA's voluntary Safety Advisory for RCLs does not address security concerns or the "many obvious safety concerns" with main track RCL operations. Meanwhile, the technology is spreading. In late 2002, railroads were not using RCLs outside of rail yards, but by May 2003, several main track RCL operations were identified.

Some railroads are even installing camera systems to eliminate the need to for human monitors at public grade crossings during RCL operations. The burden of proof should be on railroads to show that unmanned, unattended HAZMAT railcars operating over public grade crossings are acceptably secure and safe, before operating HAZMAT RCLs.

Safety data for RCLs is preliminary (less than 18 months of data), but RCL potentially has a much wider impact than worker safety. There is no independent analysis of HAZMAT RCL security risks. Since HAZMAT RCLs are potentially much greater risks than manned HAZMAT trains, especially on main tracks and over public grade crossings, the FRA and railroads should demonstrate remote control HAZMAT trains are safe, *before* allowing them to freely operate.

If you are interested in cosponsoring legislation to prohibit HAZMAT RCLs, or to learn more, please contact me or, Andrew Wallace, at 5-1688 or andrew.wallace@mail.house.gov.

Sincerely,



Gene Green
Member of Congress

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.....
(Original Signature of Member)

108TH CONGRESS
2D SESSION

H. R. _____

ended up as
5119

To prohibit the use of remote control locomotives to carry hazardous materials, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on _____

A BILL

To prohibit the use of remote control locomotives to carry hazardous materials, 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. FINDINGS.**

4 The Congress finds the following:

5 (1) In issuing remote control railroad operation
6 guidelines in 2001, the Federal Railroad Adminis-
7 tration noted that its "first priority . . . is to ensure



1 that these operations pose no threat to railroad
2 workers or the general public”.

3 (2) The Nation’s freight rail system is relatively
4 open to outside access when compared to the avia-
5 tion system. Security is provided almost solely by
6 private railroad carriers, and terrorists could easily
7 gain access to a remote control locomotive or an op-
8 erator control unit and then operate a remote con-
9 trol transmitter controlling a remote control loco-
10 motive.

11 (3) Remote control locomotives carrying haz-
12 ardous materials in urban areas could be sabotaged
13 or remote control locomotives could be used to cause
14 intentional accidents with other trains, causing loss
15 of life, release of hazardous materials, and the dis-
16 ruption of interstate and international commerce.

17 (4) Therefore, the risk of terrorists hijacking
18 remote control locomotive operations is far too great
19 in situations where remote control locomotives are
20 carrying hazardous materials.

21 **SEC. 2. REMOTE CONTROL LOCOMOTIVE USE.**

22 (a) PROHIBITION.—No railroad carrier shall operate
23 or cause to be operated on the general system of railroad
24 transportation a remote control locomotive to carry haz-
25 ardous materials.



1 (b) PENALTY.—(1) A railroad carrier that knowingly
2 violates this section or a rule issued under this section is
3 liable to the United States Government for a civil penalty
4 of at least \$5,000 but not more than \$50,000 for each
5 violation. A railroad carrier acts knowingly when—

6 (A) the railroad carrier has actual knowledge of
7 the facts giving rise to the violation; or

8 (B) a reasonable railroad carrier acting in the
9 circumstances and exercising reasonable care would
10 have that knowledge.

11 (2) A separate violation occurs for each day the viola-
12 tion continues.

13 **SEC. 3. REMOTE CONTROL TRANSMITTER SECURITY.**

14 (a) IN GENERAL.—Not later than 180 days after the
15 date of enactment of this Act, the Secretary of Transpor-
16 tation shall issue a rule requiring that—

17 (1) railroad carriers inventory and maintain a
18 continuous accounting of remote control transmit-
19 ters;

20 (2) such transmitters be assigned only to per-
21 sonnel with proper identification and authorization
22 to use such devices; and

23 (3) such transmitters be kept in a secure loca-
24 tion (under lock and key) when not in use.



1 (b) PENALTY.—A railroad carrier that violates the
2 rule issued under subsection (a) shall be liable to the
3 United States Government for a civil penalty of at least
4 \$5,000 for each occurrence.

5 **SEC. 4. REMOTE CONTROL LOCOMOTIVE SECURITY.**

6 (a) IN GENERAL.—Not later than 180 days after the
7 date of enactment of this Act, the Secretary of Transpor-
8 tation shall issue a rule requiring that the manual oper-
9 ational control area of any remote control locomotive be
10 kept under lock and key when such locomotive is operated
11 without personnel of the railroad carrier present.

12 (b) PENALTY.—A railroad carrier that violates the
13 rule issued under subsection (a) shall be liable to the
14 United States Government for a civil penalty of at least
15 \$5,000 for each occurrence.

16 **SEC. 5. CIVIL PENALTIES.**

17 (a) HEARING REQUIREMENT.—The Secretary of
18 Transportation may find that a railroad carrier has vio-
19 lated this Act only after notice and an opportunity for a
20 hearing. The Secretary shall impose a civil penalty under
21 this Act by giving the railroad carrier written notice of
22 the amount of the penalty.

23 (b) PENALTY CONSIDERATION.—In determining the
24 amount of a civil penalty under this Act, the Secretary
25 shall consider—



1 (1) the nature, circumstances, extent, and grav-
2 ity of the violation;

3 (2) with respect to the violator, the degree of
4 culpability, any history of prior violations, the ability
5 to pay, and any effect on the ability to continue to
6 do business; and

7 (3) other matters that justice requires.

8 (c) CIVIL ACTIONS TO COLLECT.—The Attorney
9 General may bring a civil action in an appropriate district
10 court of the United States to collect a civil penalty under
11 this Act.

12 **SEC. 6. CRIMINAL PENALTY.**

13 (a) IN GENERAL.—A railroad carrier knowingly vio-
14 lating this Act shall be fined under title 18, United States
15 Code, imprisoned for not more than 5 years, or both; ex-
16 cept that the maximum amount of imprisonment shall be
17 10 years in any case in which the violation involves the
18 release of a hazardous material that results in death or
19 bodily injury to any person.

20 (b) KNOWING VIOLATIONS.—For purposes of this
21 section—

22 (1) a railroad carrier acts knowingly when—

23 (A) the railroad carrier has actual knowl-
24 edge of the facts giving rise to the violation; or



1 (B) a reasonable railroad carrier acting in
2 the circumstances and exercising reasonable
3 care would have that knowledge; and

4 (2) knowledge of the existence of a statutory
5 provision, or a regulation or a requirement issued by
6 the Secretary of Transportation, is not an element
7 of an offense under this Act.

8 **SEC. 7. DEFINITIONS.**

9 For purposes of this Act—

10 (1) the term “hazardous material” has the
11 meaning given that term in section 5102(2) of title
12 49, United States Code;

13 (2) the term “railroad carrier” has the meaning
14 given that term in section 20102 of title 49, United
15 States Code;

16 (3) the term “remote control locomotive” means
17 a locomotive which, through use of a radio trans-
18 mitter and receiver system, can be operated by a
19 person not physically located at the controls within
20 the confines of the locomotive cab, but does not in-
21 clude a locomotive that is remotely controlled from
22 the lead locomotive of the same train; and

23 (4) the term “remote control transmitter”
24 means the transmitter component of a remote con-
25 trol locomotive system.

