

106TH CONGRESS  
2D SESSION

# S. 3151

To provide for the abatement of noise and other adverse effects of idling train engines, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 3 (legislative day, SEPTEMBER 22), 2000

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide for the abatement of noise and other adverse effects of idling train engines, 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       Congress finds that—

5               (1) railroad activity has significantly increased  
6       in recent years;

7               (2) rail intermodal traffic has increased by 40  
8       percent over the last decade;

1           (3) more than 9,000,000 containers and trailers  
2           traveled the Nation's rails in 1999, up 3.1 percent  
3           from the previous year;

4           (4) the impact of increased railroad activity is  
5           having a negative impact on the quality of life of  
6           many communities throughout the United States;

7           (5) increased noise associated with railroad ac-  
8           tivities is a serious and growing concern of many  
9           local communities;

10          (6) current Federal laws fail to provide local  
11          communities with the authority to participate in rail-  
12          road activity in their community;

13          (7) Federal laws also fail to provide incentives  
14          to communities and railroads for noise abatement  
15          and other activities to address the concerns related  
16          to railroad activity; and

17          (8) railroad noise abatement technology is an  
18          emerging component of transportation research and  
19          should be given greater support by the Federal Gov-  
20          ernment.

21 **SEC. 2. STUDY OF ADVERSE EFFECTS OF IDLING TRAIN EN-**  
22 **GINES.**

23          (a) STUDY REQUIRED.—The Secretary of Transpor-  
24          tation shall provide under section 150303 of title 36,  
25          United States Code, for the National Academy of Sciences

1 to conduct a study on noise impacts of railroad operations,  
 2 including idling train engines on the quality of life of near-  
 3 by communities, the quality of the environment (including  
 4 consideration of air pollution), and safety, and to submit  
 5 a report on the study to the Secretary. The report shall  
 6 include recommendations for mitigation to combat rail  
 7 noise, standards for determining when noise mitigation is  
 8 required, needed changes in Federal law to give Federal,  
 9 State, and local governments flexibility in combating rail-  
 10 road noise, and possible funding mechanisms for financing  
 11 mitigation projects.

12 (b) REPORT.—Not later than one year after the date  
 13 of the enactment of this Act, the Secretary of Transpor-  
 14 tation shall transmit to Congress the report of the Na-  
 15 tional Academy of Sciences on the results of the study  
 16 under subsection (a).

17 **SEC. 3. CREDIT FOR PURCHASE AND INSTALLATION OF**  
 18 **SOUND BARRIERS FOR THE ABATEMENT OF**  
 19 **RAILROAD NOISE.**

20 (a) IN GENERAL.—Subpart B of part IV of sub-  
 21 chapter A of chapter 1 of the Internal Revenue Code of  
 22 1986 (relating to general business credits) is amended by  
 23 adding at the end the following:

1 **“SEC. 45D. CREDIT FOR PURCHASE AND INSTALLATION OF**  
 2 **SOUND BARRIERS AND THE IMPLEMENTA-**  
 3 **TION OF OTHER ACTIVITIES FOR THE ABATE-**  
 4 **MENT OF RAILROAD NOISE.**

5 “(a) IN GENERAL.—For purposes of section 38, in  
 6 the case of an eligible taxpayer, the amount of the railroad  
 7 noise abatement credit determined under this section for  
 8 any taxable year shall be the amount equal to 50 percent  
 9 of the eligible railroad noise abatement expenditures for  
 10 the taxable year.

11 “(b) ELIGIBLE TAXPAYER.—For purposes of this  
 12 section, the term ‘eligible taxpayer’ means any rail carrier  
 13 (including any railroad carrier, as defined in section  
 14 20102 of title 49, United States Code) that owns property  
 15 adjacent to railroad tracks.

16 “(c) ELIGIBLE RAILROAD NOISE ABATEMENT EX-  
 17 PENDITURES.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘eligible railroad  
 19 noise abatement expenditures’ means amounts paid  
 20 or incurred by an eligible taxpayer for the purposes  
 21 of installing sound barriers on property (owned by  
 22 the taxpayer) adjacent to railroad tracks (including  
 23 the costs of purchasing the sound barriers), and im-  
 24 plementing other activities, to abate for populations  
 25 in the vicinity of the operation of trains by that tax-  
 26 payer the noise of the trains to levels within stand-

ards prescribed by the Administrator of the Environmental Protection Agency that are in effect as of the date of enactment of this section, but only if the taxpayer consulted on the sound barriers or other noise abatement activities, in advance, with the officials of the government of each municipality or other political subdivision of a State in which the taxpayer installs the sound barriers or engages in the other sound abatement activities.

“(2) SOUND BARRIERS.—The term ‘sound barriers’ means any physical feature that abates the propagation of sound, including—

“(A) trees, shrubbery, or other botanic life,

or

“(B) a manmade structure.

“(3) EXPENDITURES MUST BE REASONABLE.—Amounts paid or incurred for the purposes described in paragraph (1) shall include only expenditures which are reasonable and shall not include expenditures which are unnecessary to accomplish such purposes.

“(d) DENIAL OF DOUBLE BENEFIT.—In the case of the amount of the credit determined under this section—

1 “(1) no deduction or credit shall be allowed for  
 2 such amount under any other provision of this chap-  
 3 ter, and

4 “(2) no increase in the adjusted basis of any  
 5 property shall result from such amount.”.

6 (b) INCLUSION IN GENERAL BUSINESS CREDIT.—

7 (1) IN GENERAL.—Section 38(b) of the Internal  
 8 Revenue Code of 1986 (relating to current year  
 9 business credit) is amended by striking “plus” at the  
 10 end of paragraph (11), by striking the period at the  
 11 end of paragraph (12) and inserting “, plus”, and  
 12 by adding at the end the following:

13 “(13) the railroad noise abatement credit deter-  
 14 mined under section 45D(a).”.

15 (2) TRANSITION RULE.—Section 39(d) of such  
 16 Code (relating to transitional rules) is amended by  
 17 adding at the end the following:

18 “(9) NO CARRYBACK OF SECTION 45D CREDIT  
 19 BEFORE ENACTMENT.—No portion of the unused  
 20 business credit for any taxable year which is attrib-  
 21 utable to the railroad noise abatement credit deter-  
 22 mined under section 45D may be carried back to a  
 23 taxable year ending before the date of the enactment  
 24 of section 45D.”.

1 (c) CONFORMING AMENDMENT.—The table of sec-  
 2 tions for subpart D of part IV of subchapter A of chapter  
 3 1 of the Internal Revenue Code of 1986 is amended by  
 4 adding at the end the following new item:

“Sec. 45D. Credit for purchase and installation of sound barriers  
 for the abatement of railroad noise.”.

5 (d) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to taxable years beginning after  
 7 December 31, 2000.

8 **SEC. 4. RAILROAD NOISE ABATEMENT ACTIVITIES.**

9 The first sentence of section 130(a) of title 23,  
 10 United States Code, is amended by inserting “and the en-  
 11 tire cost of activities for the abatement of the noise of  
 12 trains (as defined by the Secretary), including construc-  
 13 tion of sound barriers on public lands or on private prop-  
 14 erty with the consent of the property owner,”.

15 **SEC. 5. RAILROAD NOISE ABATEMENT RESEARCH.**

16 Section 20108(a) of title 49, United States Code, is  
 17 amended by inserting before the period at the end the fol-  
 18 lowing: “and research and development on technologies for  
 19 the abatement of railroad noise”.

20 **SEC. 6. CONSOLIDATIONS, MERGERS, AND ACQUISITION OF**  
 21 **CONTROL.**

22 Section 11324 of title 49, United States Code, is  
 23 amended—

1           (1) in subsection (a), by inserting “and the  
2           chief executive of any city” after “chief executive of  
3           each State”; and

4           (2) in subsection (b)—

5                 (A) by striking “and” at the end of para-  
6                 graph (4);

7                 (B) by striking the period at the end of  
8                 paragraph (5) and inserting a semicolon; and

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

10                “(6) the safety and environmental effects of the  
11                proposed transaction, which shall include thorough  
12                consideration of a traffic study and environmental  
13                impact statement, as well as complete consideration  
14                of any appropriate safety studies;

15                “(7) a federalism impact assessment that ad-  
16                dresses the preemptive impact of, and associated  
17                costs incurred by State and local governments as a  
18                result of, such proposed transaction; and

19                “(8) all mitigation and impact costs attributed  
20                to the transaction, and the extent to which existing  
21                local standards will be compromised or lessened if  
22                the transaction is approved.



1 **SEC. 7. IMPACT OF RAIL CARRIER ACTIONS ON LOCAL-**  
 2 **ITIES.**

3 (a) NOTIFICATION OF POTENTIAL IMPACTS ON LO-  
 4 CALITIES.—

5 (1) REQUIREMENT.—Before taking an action  
 6 described in paragraph (2), a rail carrier shall trans-  
 7 mit a notification of the planned action to the fol-  
 8 lowing:

9 (A) AFFECTED STATES.—To the chief ex-  
 10 ecutive of each State in which the action is to  
 11 planned to be taken.

12 (B) AFFECTED COMMUNITIES.—To the  
 13 chief executive of each municipality or other po-  
 14 litical subdivision of a State in which, or adja-  
 15 cent to which, the action is to planned to be  
 16 taken.

17 (2) ACTIONS INCREASING NOISE.—The require-  
 18 ment for advance notification in paragraph (1) ap-  
 19 plies to the following actions:

20 (A) RAIL ACTIVATION OR EXPANSION.—A  
 21 rail activation or expansion.

22 (B) RAIL YARD ACTIVATION OR EXPAN-  
 23 SION.—A rail yard activation or expansion.

24 (C) INCREASED RAIL TRAFFIC.—An in-  
 25 crease of rail traffic.

1 (D) OTHER INCREASES IN NOISE OF RAIL  
 2 TRAFFIC.—Any action that increases the noise  
 3 of rail traffic.

4 (E) LAND ACQUISITIONS.—A land acqui-  
 5 sition.

6 (F) OTHER.—The initiation of any other  
 7 new or newly modified rail carrier operation to  
 8 which the Secretary of Transportation applies  
 9 the notification requirement under this sub-  
 10 section in regulations prescribed by the Sec-  
 11 retary.

12 (b) OPPORTUNITY FOR PUBLIC COMMENT.—

13 (1) COMMENT PERIOD.—The Secretary of  
 14 Transportation shall promulgate regulations that  
 15 provide localities with a right to submit to the Sec-  
 16 retary public comments on the commencement of an  
 17 activity for which a notification is required under  
 18 subsection (a). The period for the submission of  
 19 comments shall be not less than 30 days prior to the  
 20 commencement of the activity.

21 (2) APPEALS.—The Secretary shall also provide  
 22 localities with the opportunity to appeal to the Sec-  
 23 retary for a final determination of any action that  
 24 may be taken within the Department of Transpor-  
 25 tation on the activity.

1           (3) SUSPENSION OF ACTION PENDING COM-  
2           MENT AND APPEAL.—A rail carrier may not initiate  
3           any action to which subsection (a) applies during the  
4           period provided under paragraph (1) for public com-  
5           ment on the action nor during a period for which an  
6           appeal of the action is pending under paragraph (2).

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