

A Comparison of H.R. 2095 and S. 1889

Subject	H.R. 2095	S. 1889	Comments
Hours of Service	Train crews must have at least 10 consecutive hours' undisturbed rest before a duty tour and at least 24 consecutive hours' undisturbed rest in a 7-day consecutive work period. (Undisturbed rest means railroads cannot communicate with the employee, except in case of emergency).	Contains the same provisions, and also mandates a pilot project to ascertain the feasibility of a 10-hour call for duty, in lieu of 10 hours of undisturbed rest. In addition, it also mandates a pilot project to evaluate the impact on employees currently subject to unscheduled duty calls of defined or specific calling "windows."	The 10-hour rest period would result in unintended consequences for scheduled operations, such as yard/switching jobs and passenger/commuter service. The BLET has proposed that, instead of 10 hours undisturbed rest, employees be provided at least a 10-hour call for their next tour of duty. This would resolve the unintended consequences for scheduled operations and allow road freight employees an uninterrupted period to rest <i>before</i> working instead of <i>after</i> working, thereby eliminating fatigue problems created by unexpected calls to work. The BLET further proposes that the 24-hours-off-duty provision be amended to require that the off-duty time be given at the employee's home terminal.
Limbo Time	States that limbo time would be time on duty with the following caveats: (1) Limbo time resulting from emergency conditions set forth in the bill would not violate the law. (2) Limbo time from other causes would not violate the law within the following limits: (a) up to 40 hours per employee per month during the first year; (b) up to 30 hours per employee per month during the second year; and (c) up to 10 hours per employee per month thereafter. (3) Railroads must report all limbo time which results in total work time of more than 12 hours and an additional hour of rest will be provided for each hour worked in excess of 12.	In addition to the provisions contained in H.R. 2095, the Senate bill places a cap on non-emergency limbo time at 30 hours per employee per month. It also states that, within two years, the Secretary shall issue regulations prohibiting limbo time from being considered neither time on duty nor time off duty, unless the Secretary determines that a limited number of hours per month (less than 20 hours) will not be detrimental to the employee's safety or increase fatigue. Intends the FRA will initially refer the limbo time regulation to its Railroad Safety Advisory Committee (RSAC).	The limbo time issue is the most controversial issue in either bill and neither goes far enough to eliminate this problem. There is no "one size fits all" solution to resolve the problem. Limbo time should be considered as time on duty, except under the circumstances set forth in 49 USC Section 21102(a). In cases where there is a valid need for relief, the Secretary should be empowered to waive its provisions in response to a waiver petition that sets forth a specific agreement with the affected labor union(s) as to the relief requested and provides sufficient scientific evidence that a level of safety equivalent to the statute will be provided. Referring the issue to the RSAC committee is an arduous process that is unnecessary in reducing limbo time.
Whistleblower Protection	Strengthens existing whistleblower protections by outlawing threats and intimidation, as well preventing the discharge, discipline, or discrimination against railroad workers who report unsafe or hazardous conditions.	No whistleblower protections whatsoever.	Strong whistleblower protections are needed to stop the harassment and intimidation of employees who speak out about safety or security risks. Punishing railroaders who speak up and point out unsafe conditions will make them afraid to do so, thereby increasing the risk to public safety.
Craft Training and Certification	Mandates within 18 months, regulations will be established to require certification of conductors. Mechanical employees performing inspections, tests, or maintenance will also be required to become certified. The bill also requires that the Secretary establish minimum training standards for each craft and class of railroad employees, including requiring the railroads to submit their training and qualification programs to the FRA for approval. Additionally, the Secretary shall develop a minimum training curriculum, and ongoing training, testing, and measures to ensure that track inspection employees are qualified.	Requires the Secretary to issue a report, within one year, as to whether the certification of certain classes and crafts of railroad and/or contract workers is necessary to improve safety. The Secretary will be authorized to issue regulations requiring certification of any employees whose certification is deemed necessary to improve safety, and shall issue regulations requiring railroads, contractors, and subcontractors to develop training plans as the Secretary deems appropriate, which shall be reviewed and approved by the FRA	Train dispatchers, signalmen, conductors, and carmen are safety-sensitive crafts and certification should be mandated. As new train control and braking technologies continue to be implemented, the importance of well-trained and certified employees, as well as industry-wide standards are ever increasing.
Enforcement Transparency	Requires increased transparency of all FRA enforcement actions. The bill mandates that, by the end of this year, the FRA would be required to publish and make electronically available monthly reports summarizing all enforcement action taken. The report is to include detailed information of each alleged violation.	Requires the FRA to publish and make electronically available, by the end of next year, an annual report covering the prior fiscal year	Current procedures for tracking FRA enforcement actions are complicated and make it difficult to obtain timely information. The monthly public report mandated in H.R. 2095 is desperately needed. The annual report outlined in S. 1889 would provide a wealth of information in one place. Adopting both proposals would be the best possible scenario.