

is based on source provisions that provide that the Federal Railroad Administration carries out the subsection. A cross-reference to this subsection has been included in 49:103 to preserve duties and powers under this subsection to the Administrator of the Federal Railroad Administration.

In subsection (c)(1), before clause (A), the words “and incidents” are added for consistency in this part.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-432 inserted at end “The Secretary may purchase items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to preventing trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.”

1996—Subsec. (c)(2). Pub. L. 104-287 substituted “Committee on Transportation and Infrastructure” for “Committee on Energy and Commerce”.

#### PEDESTRIAN CROSSING SAFETY

Pub. L. 110-432, div. A, title II, §201, Oct. 16, 2008, 122 Stat. 4868, provided that: “Not later than 1 year after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall provide guidance to railroads on strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including—

“(1) providing audible warning of approaching trains to the pedestrians at railroad passenger stations;

“(2) using signs, signals, or other visual devices to warn pedestrians of approaching trains;

“(3) installing infrastructure at pedestrian crossings to improve the safety of pedestrians crossing railroad tracks;

“(4) installing fences to prohibit access to railroad tracks; and

“(5) other strategies or methods as determined by the Secretary.”

[For definitions of “crossing”, “Secretary”, and “railroad”, as used in section 201 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

#### § 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier’s operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator’s license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual’s driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator’s license within the prior 5 years to provide information about the individual’s driving record to the individual’s employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual’s employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual’s motor vehicle operator’s license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 874.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20135(a) .....	45:431(i)(1).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(i); added June 22, 1988, Pub. L. 100-342, §§4(a), 7(b), 102 Stat. 625, 628; Sept. 3, 1992, Pub. L. 102-365, §2(1), 106 Stat. 972.
20135(b) .....	45:431(i)(2).	
20135(c)(1) ..	45:431(i)(4).	
20135(c)(2) ..	45:431(i)(6).	
20135(d) .....	45:431(i)(5).	
20135(e) .....	45:431(i)(3).	

In subsection (a), the words “within 12 months after June 22, 1988” are omitted as executed. The words “including any locomotive engineer” are omitted as surplus. The words “after one year after” are substituted for “after the expiration of 12 months following” to eliminate unnecessary words.

In subsection (b)(5), the word “requirements” is substituted for “terms” for consistency in this section.

In subsection (c)(1), the words “In establishing the program under this subsection” are omitted as surplus.

### § 20136. Automatic train control and related systems

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this section shall be maintained in the same way and place as the daily inspection report for the locomotive.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 875; Pub. L. 103-429, §6(19), Oct. 31, 1994, 108 Stat. 4379.)

## HISTORICAL AND REVISION NOTES

PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20136 .....	45:431(j).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(j); added June 22, 1988, Pub. L. 100-342, §9, 102 Stat. 628.

The words “Within 90 days after June 22, 1988” are omitted as expired.

PUB. L. 103-429

This amends 49:20136(2) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 875).

## AMENDMENTS

1994—Par. (2). Pub. L. 103-429 substituted “section” for “subsection”.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

## § 20137. Event recorders

(a) DEFINITION.—In this section, “event recorder” means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake op-

erations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 875.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20137 .....	45:431(m).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(m); added June 22, 1988, Pub. L. 100-342, §10, 102 Stat. 629.

In subsection (b), the words “Not later than December 22, 1989” are substituted for “within 18 months after June 22, 1988” for clarity. The words “may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued” are substituted for “may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued” to eliminate unnecessary words.

### § 20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 876.)