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H. R. 2178

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Read twice and referred to the Committee on Commerce, Science, and
Transportation

AN ACT

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, 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 AND REFERENCE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Hazardous Materials Transportation Act Amendments of
6 1993”.

7 (b) **REFERENCE.**—Whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Hazardous Materials Transportation Act.

3 **SEC. 2. REGISTRATION.**

4 Section 106(c) (49 U.S.C. App. 1805(c)) is amended
5 by adding at the end the following:

6 “(16) AUTHORITY OF SECRETARY TO WAIVE
7 MANDATORY FILING REQUIREMENT.—The Secretary
8 may waive the filing of a registration statement, or
9 the payment of a fee, required under this subsection,
10 or both, for any person not domiciled in the United
11 States who solely offers hazardous materials for
12 transportation to the United States from a place
13 outside the United States if the country of which
14 such person is a domiciliary does not require persons
15 domiciled in the United States who solely offer haz-
16 ardous materials for transportation to the foreign
17 country from places in the United States to file reg-
18 istration statements, or to pay fees, for making such
19 an offer.”.

20 **SEC. 3. TIME FOR SECRETARIAL ACTION.**

21 (a) SECTION 107.—Section 107(a) (49 U.S.C. App.
22 1806(a)) is amended by inserting at the end the following:
23 “The Secretary shall issue or renew the exemption for
24 which an application was filed or deny such issuance or
25 renewal within 180 days of the first day of the month fol-

1 lowing the date of the filing of such application or the
2 Secretary shall publish a statement in the Federal Reg-
3 ister of the reason why the Secretary's decision on the ex-
4 emption is delayed with an estimate of the additional time
5 necessary before the decision is made.”

6 (b) SECTION 112.—Section 112(c)(1) (49 U.S.C.
7 App. 1811(c)(1)) is amended by inserting after the second
8 sentence the following: “The Secretary shall issue a deci-
9 sion on an application for a determination within 180 days
10 of the date of the publication of the notice of having re-
11 ceived such application or the Secretary shall publish a
12 statement in the Federal Register of the reason why the
13 Secretary's decision on the application is delayed with an
14 estimate of the additional time necessary before the deci-
15 sion is made.”

16 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

17 Section 115(a) (49 U.S.C. App. 1812(a)) is amended
18 to read as follows:

19 “(a) IN GENERAL.—There is authorized to be appro-
20 priated for carrying out this title (other than sections 117,
21 117A, 118, and 121) not to exceed \$18,000,000 for fiscal
22 year 1994, \$18,540,000 for fiscal year 1995, \$19,100,000
23 for fiscal year 1996, and \$19,670,000 for fiscal year
24 1997.”.

1 **SEC. 5. TRAINING.**

2 (a) SUPPLEMENTAL PUBLIC SECTOR TRAINING
3 GRANTS.—Section 117A (49 U.S.C. App. 1815) is amend-
4 ed by adding at the end the following:

5 “(j) SUPPLEMENTAL TRAINING GRANTS.—

6 “(1) IN GENERAL.—In order to further the pur-
7 poses of subsection (b), relating to training public
8 sector employees to respond to accidents and inci-
9 dents involving hazardous materials, the Secretary
10 shall make grants to national nonprofit employee or-
11 ganizations engaged solely in fighting fires for the
12 purpose of training individuals with statutory re-
13 sponsibility to respond to hazardous materials acci-
14 dents and incidents.

15 “(2) USE OF FUNDS.—Funds granted to an or-
16 ganization under this subsection may be used—

17 “(A) to identify regions or locations in
18 which fire departments are in need of hazard-
19 ous materials training;

20 “(B) to prioritize such needs and develop
21 a means for evaluating specific training needs;

22 “(C) to train instructors to conduct haz-
23 ardous materials response training programs
24 and evaluate the efficacy of such training pro-
25 grams;

1 “(D) to purchase training equipment for
2 such training programs; and

3 “(E) to disseminate on a nationwide basis
4 the data developed, and the findings derived
5 from projects carried out, under this subsection.

6 “(3) USE OF TRAINING COURSES.—The Sec-
7 retary may only make a grant to an organization
8 under this subsection in a fiscal year if the organiza-
9 tion enters into an agreement with the Secretary to
10 use in such fiscal year—

11 “(A) a course or courses developed or iden-
12 tified under section 117A(g); or

13 “(B) other courses which the Secretary de-
14 termines are consistent with the objectives of
15 this subsection;

16 for training individuals with statutory responsibility
17 to respond to accidents and incidents involving haz-
18 ardous materials.

19 “(4) TERMS AND CONDITIONS.—The Secretary
20 may impose such additional terms and conditions on
21 grants to be made under this subsection as the Sec-
22 retary determines are necessary to protect the inter-
23 ests of the United States and to carry out the objec-
24 tives of this subsection.

1 “(k) REPORTS.—Not later than September 30, 1997,
2 the Secretary shall submit to Congress a report on the
3 allocation and uses of training grants authorized under
4 subsection (b) for fiscal years 1993 through fiscal year
5 1996 and grants authorized under subsection (j) and sec-
6 tion 118 for fiscal years 1995 and 1996. Such report shall
7 identify the ultimate recipients of training grants and in-
8 clude a detailed accounting of all grant expenditures by
9 grant recipients, the number of employees trained under
10 the grant programs, and an evaluation of the efficacy of
11 training programs carried out.”.

12 (b) FUNDING.—Section 117A(i)(2) (49 U.S.C. App.
13 1815(i)(2)) is amended—

14 (1) by inserting “(A) GENERAL PROGRAM.—”
15 before “There”;

16 (2) by indenting subparagraph (A), as so des-
17 ignated, and moving subparagraph (A) 2 ems to the
18 right; and

19 (3) by adding at the end the following new sub-
20 paragraph:

21 “(B) SUPPLEMENTAL PROGRAM.—

22 “(i) FROM FEES.—There shall be
23 available to the Secretary for carrying out
24 subsection (j), from amounts in the ac-
25 count established pursuant to subsection

1 (h), \$250,000 per fiscal year for each of
2 fiscal years 1995, 1996, 1997, and 1998.

3 “(ii) FROM GENERAL REVENUES.—In
4 addition to amounts made available under
5 clause (i), there is authorized to be appro-
6 priated to the Secretary for carrying out
7 subsection (j) \$1,000,000 per fiscal year
8 for each of fiscal years 1995, 1996, 1997,
9 and 1998.”.

10 (c) HAZMAT EMPLOYEE TRAINING PROGRAM.—Sec-
11 tion 118 (49 U.S.C. App. 1816) is amended—

12 (1) in subsection (a) by striking “may” and in-
13 sserting “shall, subject to the availability of funds
14 under subsection (d),”;

15 (2) in subsection (b) by striking “National” and
16 all that follows through “Labor” and inserting “Sec-
17 retary”;

18 (3) in subsection (c) by inserting “hazmat em-
19 ployee” after “nonprofit”; and

20 (4) by striking subsection (d) and inserting the
21 following:

22 “(d) FUNDING.—There is authorized to be appro-
23 priated to the Secretary to carry out this section
24 \$3,000,000 per fiscal year for each of fiscal years 1995,
25 1996, 1997, and 1998.”.

1 (d) CONFORMING AMENDMENTS.—Section 117A(h)
2 (49 U.S.C. App. 1815(h)) is amended—

3 (1) in paragraph (2)(H) by striking “and sec-
4 tion 118”;

5 (2) in paragraph (6)(B)(i) by striking “and sec-
6 tion 118”; and

7 (3) in paragraph (6)(B)(iii) by striking “and
8 section 118”.

9 **SEC. 6. COMPUTERIZED TELECOMMUNICATION DATA CEN-
10 TER PILOT PROJECTS.**

11 (a) GRANTS.—The Secretary of Transportation may
12 make grants to 1 or more persons, including a State or
13 local government or department, agency, or instrumental-
14 ity thereof, to carry out a pilot project to demonstrate the
15 feasibility of establishing and operating computerized tele-
16 communications emergency response information tech-
17 nologies that are used—

18 (1) to identify the contents of shipments of haz-
19 ardous materials transported by motor carriers;

20 (2) to permit retrieval of data on shipments of
21 hazardous materials transported by motor carriers;

22 (3) to link systems that identify, store, and
23 allow the retrieval of data for emergency response to
24 incidents and accidents involving transportation of
25 hazardous materials by motor carrier; and

1 (4) to provide information to facilitate re-
2 sponses to accidents and incidents involving hazard-
3 ous materials shipments by motor carriers either di-
4 rectly or through linkage with other systems.

5 (b) SELECTION OF CARRIERS.—The pilot project to
6 be carried out under this section must involve 2 or more
7 motor carriers of property. One of the motor carriers se-
8 lected to participate in the project must be a carrier that
9 transports mostly hazardous materials. The other motor
10 carrier selected must be a regular-route common carrier
11 that specializes in transporting less than truck-load ship-
12 ments. The motor carriers selected may be engaged in
13 multimodal movements of hazardous materials with other
14 motor carriers, rail carriers, or water carriers.

15 (c) TERMS AND CONDITIONS.—The Secretary may
16 impose such terms and conditions on grants to be made
17 under this section as the Secretary determines are nec-
18 essary to protect the interests of the United States and
19 to carry out the objectives of this section.

20 (d) COORDINATION.—To the maximum extent prac-
21 ticable, the Secretary of Transportation shall coordinate
22 a pilot project to be carried out under this section with
23 any existing Federal, State, and local government projects
24 and private projects which are similar to the pilot project
25 to be carried out under this section. The Secretary may

1 require that a pilot project under this section be carried
2 out in conjunction with such similar Federal, State, and
3 local government projects and private projects.

4 (e) FEDERAL SHARE.—The Federal share of the cost
5 of a pilot project carried out under this section shall be
6 100 percent, unless the grantee selected to carry out such
7 project agrees to a lower Federal share.

8 (f) REPORT.—Not later than December 31, 1997, the
9 Secretary of Transportation shall transmit to Congress a
10 report on the results of pilot projects carried out under
11 this section.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$1,000,000 for each of fiscal years 1995 and 1996. Such
15 sums shall remain available until expended.

16 **SEC. 7. STUDY OF HAZARDOUS MATERIALS TRANSPOR-**
17 **TATION BY MOTOR CARRIERS NEAR FED-**
18 **ERAL PRISONS.**

19 (a) STUDY.—The Secretary of Transportation shall
20 conduct a study to determine the safety considerations of
21 transporting hazardous materials by motor carriers in
22 close proximity to Federal prisons, particularly those hous-
23 ing maximum security prisoners. Such study shall include
24 an evaluation of the ability of such facilities and the des-
25 ignated local planning agencies to safely evacuate such

1 prisoners in the event of an emergency and any special
2 training, equipment, or personnel that would be required
3 by such facility and the designated local emergency plan-
4 ning agencies to carry out such evacuation. Such study
5 shall not apply to or address issues concerning rail trans-
6 portation of hazardous materials.

7 (b) REPORT.—Not later than 1 year after the date
8 of the enactment of this Act, the Secretary of Transpor-
9 tation shall transmit to Congress a report on the results
10 of the study conducted under this section, along with the
11 Secretary’s recommendations for any legislative or regu-
12 latory changes to enhance the safety regarding the trans-
13 portation of hazardous materials by motor carriers near
14 Federal prisons.

15 **SEC. 8. USE OF FIBRE DRUM PACKAGING.**

16 (a) INITIATION OF RULEMAKING PROCEEDING.—Not
17 later than the 60th day following the date of the enact-
18 ment of this Act, the Secretary of Transportation shall
19 initiate a rulemaking proceeding to determine whether the
20 requirements of section 105(a) of the Hazardous Materials
21 Transportation Act as they pertain to openhead fiber
22 drum packaging can be met for the domestic transpor-
23 tation of liquid hazardous materials (with respect to those
24 classifications of liquid hazardous materials transported
25 by such drums pursuant to regulations in effect on Sep-

1 tember 30, 1991) with standards other than the perform-
2 ance oriented packaging standards adopted under docket
3 number HM-181 contained in part 178 of title 49, Code
4 of Federal Regulations.

5 (b) ISSUANCE OF STANDARDS.—If the Secretary of
6 Transportation determines, as a result of the rulemaking
7 proceeding initiated under subsection (a), that a packag-
8 ing standard other than the performance oriented packag-
9 ing standards referred to in subsection (a) will provide an
10 equal or greater level of safety for the domestic transpor-
11 tation of liquid hazardous materials than would be pro-
12 vided if such performance oriented packaging standards
13 were in effect, the Secretary shall issue regulations which
14 implement such other standard and which take effect be-
15 fore October 1, 1996.

16 (c) COMPLETION OF RULEMAKING PROCEEDING.—
17 The rulemaking proceeding initiated under subsection (a)
18 shall be completed before October 1, 1995.

19 (d) LIMITATIONS.—

20 (1) LIMITATION ON APPLICABILITY.—The pro-
21 visions of subsections (a), (b), and (c) shall not
22 apply to packaging for those hazardous materials
23 regulated by the Department of Transportation as
24 poisonous by inhalation under the Hazardous Mate-
25 rials Transportation Act.

1 (2) LIMITATION OF STATUTORY CONSTRUC-
2 TION.—Nothing in this section shall be construed to
3 prohibit the Secretary of Transportation from issu-
4 ing or enforcing regulations for the international
5 transportation of hazardous materials.

6 **SEC. 9. BUY AMERICA.**

7 (a) COMPLIANCE WITH BUY AMERICAN ACT.—None
8 of the funds made available under this Act may be ex-
9 pended in violation of sections 2 through 4 of the Act of
10 March 3, 1933 (41 U.S.C. 10a–10c; popularly known as
11 the “Buy American Act”), which are applicable to those
12 funds.

13 (b) SENSE OF CONGRESS; REQUIREMENT REGARD-
14 ING NOTICE.—

15 (1) PURCHASE OF AMERICAN-MADE EQUIPMENT
16 AND PRODUCTS.—In the case of any equipment or
17 products that may be authorized to be purchased
18 with financial assistance provided under this Act, it
19 is the sense of Congress that entities receiving such
20 assistance should, in expending such assistance, pur-
21 chase only American-made equipment and products.

22 (2) NOTICE TO RECIPIENTS OF ASSISTANCE.—
23 In providing financial assistance under this Act, the
24 Secretary of Transportation shall provide to each re-

1 recipient of the assistance a notice describing the
2 statement made in paragraph (1) by Congress.

3 (c) PROHIBITION OF CONTRACTS.—If it has been fi-
4 nally determined by a court or Federal agency that any
5 person intentionally affixed a label bearing a “Made In
6 America” inscription, or any inscription with the same
7 meaning, to any product sold in or shipped to the United
8 States that is not made in the United States, such person
9 shall be ineligible to receive any contract or subcontract
10 made with funds provided pursuant to this Act, pursuant
11 to the debarment, suspension, and ineligibility procedures
12 described in sections 9.400 through 9.409 of title 48, Code
13 of Federal Regulations.

14 (d) RECIPROCITY.—

15 (1) GENERAL RULE.—Except as provided in
16 paragraph (2), no contract or subcontract may be
17 made with funds authorized under this Act to a
18 company organized under the laws of a foreign coun-
19 try unless the Secretary of Transportation finds that
20 such country affords comparable opportunities to
21 companies organized under laws of the United
22 States.

23 (2) EXCEPTIONS.—

24 (A) WAIVER AUTHORITY.—The Secretary
25 of Transportation may waive the provisions of

1 paragraph (1) if the products or services re-
2 quired are not reasonably available from compa-
3 nies organized under the laws of the United
4 States. Any such waiver shall be reported to
5 Congress.

6 (B) LIMITATION ON APPLICABILITY.—
7 Paragraph (1) shall not apply to the extent that
8 to do so would violate the General Agreement
9 on Tariffs and Trade or any other international
10 agreement to which the United States is a
11 party.

12 **SEC. 10. TECHNICAL AMENDMENTS.**

13 (a) PACKAGING.—

14 (1) Sections 103(5)(B), 103(6)(A)(iii), and
15 109(c) (49 U.S.C. App. 1802(5)(B), 1802(6)(A)(iii),
16 1808(c)) are each amended by striking “packages”
17 and inserting “packaging”.

18 (2) Sections 105(a)(3), 105(a)(4)(B)(v),
19 110(a)(1), and 120 (49 U.S.C. App. 1804(a)(3),
20 1804(a)(4)(B)(v), 1809(a)(1), 1818) are each
21 amended by striking “a package or container” and
22 inserting “packaging and a container”.

23 (3) Section 106(c)(1)(B) (49 U.S.C. App.
24 1805(c)(1)(B)) is amended by striking “a bulk pack-

