

# **Rail Shipper Fairness Act of 2020**

## **Section-by-Section**

### *Section 1: Short Title*

Title, Rail Shipper Fairness Act

### *Section 2: Improving Rail Service*

The section provides for “efficient and reliable” transportation based on shippers’ reasonable service requirements. Specifically, the bill allows the Surface Transportation Board (STB) to issue emergency service orders that cover shipments moving under contract. It also allows the STB to require reports, service plans, or other documents that cover shipments moving under contract. The bill increases the amount the STB can fine railroads for failing to comply with an STB order. The bill allows for equitable relief and damages for poor service.

### *Section 3: Improving Rail Competition*

This section clarifies that shippers may obtain rates to or from any interchange points of two or more carriers and expands competitive switching options in terminal areas. The bill removes the presumption that market dominance cannot exist when a shipper is served by two carriers and clarifies that effective competition only includes modes of transportation with existing infrastructure.

The section provides that the STB must grant competitive switching access up to 100 miles from a loading or unloading point if the STB finds it operationally feasible. The section revises the rail transportation policy of the United States to reflect the need to provide greater protection to the shipping public.

### *Section 4: Improving Reasonable Rate Standards*

The bill requires the STB to initiate rulemaking on a new benchmark-based rate reasonableness standard as an alternative to stand-alone cost.

This section suspends the collection of rate increases while a maximum reasonable rate case is pending or allows challenges up to two years in advance of the time that common carrier shipments are anticipated to begin. The section also eliminates the cross-subsidy tests for stand-alone cost cases. The section requires the use of a “market-based revenue divisions methodology” in stand-alone cost cases. If the railroad is revenue adequate, the burden of proof in stand-alone cost cases is shifted to the railroad.

### *Section 5: Protections from Unreasonable Practices*

This section requires fuel surcharges imposed by the rail carrier be directly accounted for by changes to the carrier’s actual fuel prices. The STB is authorized to require carriers to report actual fuel prices and a shipper may challenge fuel surcharges as an unreasonable practice when charges exceed the carrier’s fuel costs.

### *Section 6: Revenue Adequacy*

This bill removes the statutory revenue adequacy test. It also caps the railroad cost of equity for regulatory costing purposes at a reasonable level (the sum of the current annual yield on 10-year U.S. Treasury bond and the prospective market risk premium, which should not exceed 5 percent per year.

### *Section 7: GAO Study on Changes in Freight Railroad Operating and Scheduling Practices*

This section initiates a GAO report on industry-wide impacts of the Precision Scheduled Railroading model. It directs GAO to take a holistic look at the impacts on freight rail shippers, Amtrak, commuter railroads, railroad employees and other stakeholders and submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives summarizing the results of the study, including recommendations for addressing any negative impacts of precision scheduled railroading on freight shippers or passenger railroads.