

# AN ACT

DISCUSSION DRAFT

To amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to railroad Hours of Service employees.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Railroad Hours of Service Employees Technical Corrections Act”.

## **SEC. 2. LEAVE REQUIREMENT FOR RAILROAD HOURS OF SERVICE EMPLOYEES.**

(a) INCLUSION OF RAILROAD HOURS OF SERVICE EMPLOYEES.—Section 101(2) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)) is amended by adding at the end the following:

“(E) RAILROAD HOURS OF SERVICE EMPLOYEES.—

“(i) DETERMINATION.—For purposes of determining whether a railroad employee who is subject to the Hours of Service laws set forth at 49 U.S.C. Chapter 211 meets the hours of service requirement specified in subparagraph (A)(ii), the employee will be considered to meet the requirement if—

“(I) the employee has worked or been paid for not less than 60 percent of the applicable total guarantee, or the equivalent, for the previous 12-month period, for or by the employer with respect to whom leave is requested under section 102; and

“(II) the employee has worked or been paid for not less than 504 hours (not counting personal commute time or time spent on vacation leave or medical or sick leave) during the previous 12-month period, for or by that employer.

“(ii) FILE.—Each employer of an employee described in clause (i) shall maintain on file with the Secretary (in accordance with such regulations as the Secretary may prescribe) containing information specifying the applicable guarantee with respect to each category of employee to which such guarantee applies.

“(iii) DEFINITION.—In this subparagraph, the term ‘applicable guarantee’ means—

“(I) for an employee described in clause (i) other than an employee on reserve status, the minimum number of hours for which

Formatted: Default, Left, Indent: Left: 0", First line: 0", Line spacing: single

Formatted: Font: (Default) NBOIE L+ New Century Schlbk, 12 pt, Not Bold, Not Small caps

Deleted: monthly

Deleted: monthly

Deleted: monthly

an employer has agreed to schedule such employee for any given period; and

Deleted: month

“(II) for an employee described in clause (i) who is on reserve status, the number of hours for which an employer has agreed to pay such employee on reserve status for any given period, as established in the applicable collective bargaining agreement or, if none exists, in the employer’s policies.”.

Deleted: month

(b) CALCULATION OF LEAVE FOR RAILROAD HOURS OF SERVICE EMPLOYEES.— Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

“(5) CALCULATION OF LEAVE FOR RAILROAD HOURS OF SERVICE EMPLOYEES.— The Secretary may provide, by regulation, a method for calculating the leave described in paragraph (1) with respect to employees described in section 101(2)(E).”.

Formatted: Default, Left, Indent: Left: 0", First line: 0", Line spacing: single

Staff draft 3-22-10

Formatted: Font: (Default) NBOIE L+ New Century Schlbk, 12 pt