

107TH CONGRESS
1ST SESSION

S. 1528

To improve the safety and security of rail transportation.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10, 2001

Mr. MCCAIN (for himself and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve the safety and security of rail transportation.

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.**

4 This Act may be cited as the “Rail Transportation
5 Safety and Security Act”.

6 **SEC. 2. PASSENGER RAIL SAFETY AND SECURITY ASSIST-** 7 **ANCE.**

8 (a) IN GENERAL.—To improve the safety and secu-
9 rity of rail transportation provided by Amtrak, the Sec-
10 retary of Transportation may, through appropriate fund-
11 ing documents, procedures, and arrangements (including

1 contracts, loans, grants, and cooperative agreements)
2 make available—

3 (1) \$515,000,000 for systemwide security up-
4 grades, including hiring and training additional po-
5 lice officers, canine-assisted security units, and sur-
6 veillance equipment; and

7 (2) \$998,000,000 to be used to complete New
8 York tunnel life safety projects and rehabilitate tun-
9 nels in Washington, D.C., and Baltimore, Maryland.

10 (b) PLAN REQUIRED.—The Secretary may not make
11 such amounts available to Amtrak for obligation or ex-
12 penditure under subsection (a)—

13 (1) for implementing systemwide security up-
14 grades until Amtrak has submitted to the Secretary,
15 and the Secretary has approved, a plan for such up-
16 grades;

17 (2) for completing the tunnel life safety and re-
18 habilitation projects until Amtrak has submitted to
19 the Secretary, and the Secretary has approved, an
20 engineering and financial plan for such projects; and

21 (3) Amtrak has submitted to the Secretary such
22 additional information as the Secretary may require
23 in order to ensure full accountability for the obliga-
24 tion or expenditure of amounts made available to
25 Amtrak for such purposes.

1 (c) ASSESSMENT BY DOT INSPECTOR GENERAL.—

2 The Inspector General of the Department of Transpor-
 3 tation shall, as part of the Department’s annual assess-
 4 ment of Amtrak’s financial status and capital funding re-
 5 quirements, review the obligation and expenditure of funds
 6 under each such funding document, procedure, or arrange-
 7 ment to ensure that the expenditure and obligation of
 8 those funds are consistent with the purposes for which
 9 they are provided under this Act.

10 (d) REPORT ON OVERLAP.—Within 60 days after the
 11 date of enactment of this Act, the Inspector General of
 12 the Department of Transportation shall transmit a report
 13 to the Senate Committee on Commerce, Science, and
 14 Transportation and the House of Representatives Com-
 15 mittee on Transportation and Infrastructure that identi-
 16 fies any overlap between—

17 (1) capital projects for which funds are pro-
 18 vided under such funding documents, procedures, or
 19 arrangements; and

20 (2) capital projects included in Amtrak’s 20-
 21 year capital plan.

22 **SEC. 3. RAIL POLICE OFFICERS.**

23 Section 28101 of title 49, United States Code, is
 24 amended by striking “the rail carrier” each place it ap-
 25 pears and inserting “any rail carrier”.

1 **SEC. 4. TERRORIST ATTACKS AGAINST RAILROADS.**

2 (a) IN GENERAL.—Section 1992 of title 18, United
3 States Code, is amended to read as follows:

4 **“§ 1992. Terrorist attacks against railroads**

5 “(a) GENERAL PROHIBITIONS.—Whoever willfully—

6 “(1) wrecks, derails, sets fire to, or disables any
7 train, locomotive, motor unit, or freight or passenger
8 car used, operated, or employed by a railroad car-
9 rier;

10 “(2) brings, carries, possesses, places or causes
11 to be placed any destructive substance, or destruc-
12 tive device in, upon, or near any train, locomotive,
13 motor unit, or freight or passenger car used, oper-
14 ated, or employed by a railroad carrier, without pre-
15 viously obtaining the permission of the carrier, and
16 with intent to endanger the safety of any passenger
17 or employee of the carrier, or with a reckless dis-
18 regard for the safety of human life;

19 “(3) sets fire to, or places any destructive sub-
20 stance, or destructive device in, upon or near, or un-
21 dermines any tunnel, bridge, viaduct, trestle, track,
22 signal, station, depot, warehouse, terminal, or any
23 other way, structure, property, or appurtenance used
24 in the operation of, or in support of the operation
25 of, a railroad carrier, or otherwise makes any such
26 tunnel, bridge, viaduct, trestle, track, station, depot,

1 warehouse, terminal, or any other way, structure,
2 property, or appurtenance unworkable or unusable
3 or hazardous to work or use, knowing or having rea-
4 son to know such activity would likely derail, disable,
5 or wreck a train, locomotive, motor unit, or freight
6 or passenger car used, operated, or employed by a
7 railroad carrier;

8 “(4) removes appurtenances from, damages, or
9 otherwise impairs the operation of any railroad sig-
10 nal system, including a train control system, central-
11 ized dispatching system, or highway-railroad grade
12 crossing warning signal on a railroad line used, op-
13 erated, or employed by a railroad carrier;

14 “(5) interferes with, disables, or incapacitates
15 any locomotive engineer, conductor, or other person
16 while they are operating or maintaining a train, lo-
17 comotive, motor unit, or freight or passenger car
18 used, operated, or employed by a railroad carrier,
19 with intent to endanger the safety of any passenger
20 or employee of the carrier, or with a reckless dis-
21 regard for the safety of human life;

22 “(6) commits an act intended to cause death or
23 serious bodily injury to an employee or passenger of
24 a railroad carrier while on the property of the car-
25 rier;

1 “(7) causes the release of a hazardous material
2 being transported by a rail freight car, with the in-
3 tent to endanger the safety of any person, or with
4 a reckless disregard for the safety of human life;

5 “(8) conveys or causes to be conveyed false in-
6 formation, knowing the information to be false, con-
7 cerning an attempt or alleged attempt being made or
8 to be made, to do any act that would be a crime pro-
9 hibited by this subsection; or

10 “(9) attempts, threatens, or conspires to do any
11 of the aforesaid acts, shall be fined under this title
12 or imprisoned not more than 20 years, or both, if
13 such act is committed, or in the case of a threat or
14 conspiracy such act would be committed, within the
15 United States on, against, or affecting a railroad
16 carrier engaged in or affecting interstate or foreign
17 commerce, or if in the course of committing such
18 acts, that person travels or communicates across a
19 State line in order to commit such acts, or trans-
20 ports materials across a State line in aid of the com-
21 mission of such acts; except that whoever is con-
22 victed of any crime prohibited by this subsection
23 shall be—

24 “(A) imprisoned for not less than 30 years
25 or for life if the railroad train involved carried

1 high-level radioactive waste or spent nuclear
2 fuel at the time of the offense;

3 “(B) imprisoned for life if the railroad
4 train involved was carrying passengers at the
5 time of the offense; and

6 “(C) imprisoned for life or sentenced to
7 death if the offense has resulted in the death of
8 any person.

9 “(b) PROHIBITIONS ON THE USE OF FIREARMS AND
10 DANGEROUS WEAPONS.—

11 “(1) Except as provided in paragraph (4), who-
12 ever knowingly possesses or causes to be present any
13 firearm or other dangerous weapon on board a pas-
14 senger train of a railroad carrier, or attempts to do
15 so, shall be fined under this title or imprisoned not
16 more than 1 year, or both, if such act is committed
17 on a railroad carrier that is engaged in or affecting
18 interstate or foreign commerce, or if in the course
19 of committing such act, that person travels or com-
20 municates across a State line in order to commit
21 such act, or transports materials across a State line
22 in aid of the commission of such act.

23 “(2) Whoever, with intent that a firearm or
24 other dangerous weapon be used in the commission
25 of a crime, knowingly possesses or causes to be

1 present such firearm or dangerous weapon on board
2 a passenger train or in a passenger terminal facility
3 of a railroad carrier, or attempts to do so, shall be
4 fined under this title or imprisoned not more than
5 5 years, or both, if such act is committed on a rail-
6 road carrier that is engaged in or affecting inter-
7 state or foreign commerce, or if in the course of
8 committing such act, that person travels or commu-
9 nicates across a State line in order to commit such
10 act, or transports materials across a State line in
11 aid of the commission of such act.

12 “(3) A person who kills or attempts to kill a
13 person in the course of a violation of paragraphs (1)
14 or (2), or in the course of an attack on a passenger
15 train or a passenger terminal facility of a railroad
16 carrier involving the use of a firearm or other dan-
17 gerous weapon, shall be punished as provided in sec-
18 tions 1111, 1112, and 1113.

19 “(4) Paragraph (1) shall not apply to—

20 “(A) the possession of a firearm or other
21 dangerous weapon by an officer, agent, or em-
22 ployee of the United States, a State, or a polit-
23 ical subdivision thereof, while engaged in the
24 lawful performance of official duties, who is au-
25 thorized by law to engage in the transportation

1 of people accused or convicted of crimes, or su-
2 pervise the prevention, detection, investigation,
3 or prosecution of any violation of law;

4 “(B) the possession of a firearm or other
5 dangerous weapon by an officer, agent, or em-
6 ployee of the United States, a State, or a polit-
7 ical subdivision thereof, while off duty, if such
8 possession is authorized by law;

9 “(C) the possession of a firearm or other
10 dangerous weapon by a Federal official or a
11 member of the Armed Forces if such possession
12 is authorized by law;

13 “(D) the possession of a firearm or other
14 dangerous weapon by a railroad police officer
15 employed by a rail carrier and certified or com-
16 missioned as a police officer under the laws of
17 a State, whether on or off duty; or

18 “(E) an individual transporting a firearm
19 on board a railroad passenger train (except a
20 loaded firearm) in baggage not accessible to any
21 passenger on board the train, if the railroad
22 carrier was informed of the presence of the
23 weapon prior to the firearm being placed on
24 board the train.

1 “(c) PROHIBITION AGAINST PROPELLING OB-
2 JECTS.—Whoever willfully or recklessly throws, shoots, or
3 propels a rock, stone, brick, or piece of iron, steel, or other
4 metal or any deadly or dangerous object or destructive
5 substance at any locomotive or car of a train, knowing
6 or having reason to know such activity would likely cause
7 personal injury, shall be fined under this title or impris-
8 oned for not more than 5 years, or both, if such act is
9 committed on or against a railroad carrier engaged in or
10 affecting interstate or foreign commerce, or if in the
11 course of committing such act, that person travels or com-
12 municates across a State line in order to commit such act,
13 or transports materials across a State line in aid of the
14 commission of such act. Whoever is convicted of any crime
15 prohibited by this subsection shall also be subject to im-
16 prisonment for not more than 20 years if the offense has
17 resulted in the death of any person.

18 “(d) DEFINITIONS.—In this section:

19 “(1) DANGEROUS DEVICE.—The term ‘dan-
20 gerous device’ has the meaning given that term in
21 section 921(a)(4) of this title.

22 “(2) DANGEROUS WEAPON.—The term ‘dan-
23 gerous weapon’ has the meaning given that term in
24 section 930 of this title.

1 “(3) DESTRUCTIVE SUBSTANCE.—The term
2 ‘destructive substance’ has the meaning given that
3 term in section 31 of this title, except that (A) the
4 term ‘radioactive device’ does not include any radio-
5 active device or material used solely for medical, in-
6 dustrial, research, or other peaceful purposes, and
7 (B) ‘destructive substance’ includes any radioactive
8 device or material that can be used to cause a harm
9 listed in subsection (a) and that is not in use solely
10 for medical, industrial, research, or other peaceful
11 purposes.

12 “(4) FIREARM.—The term ‘firearm’ has the
13 meaning given that term in section 921 of this title.

14 “(5) HAZARDOUS MATERIAL.—The term ‘haz-
15 ardous material’ has the meaning given that term in
16 section 5102(2) of title 49, United States Code.

17 “(6) HIGH-LEVEL RADIOACTIVE WASTE.—The
18 term ‘high-level radioactive waste’ has the meaning
19 given that term in section 10101(12) of title 42,
20 United States Code.

21 “(7) RAILROAD.—The term ‘railroad’ has the
22 meaning given that term in section 20102(1) of title
23 49, United States Code.

1 “(8) RAILROAD CARRIER.—The term ‘railroad
2 carrier’ has the meaning given that term in section
3 20102(2) of title 49, United States Code.

4 “(9) SERIOUS BODILY INJURY.—The term ‘seri-
5 ous bodily injury’ has the meaning given that term
6 in section 1365 of this title.

7 “(10) SPENT NUCLEAR FUEL.—The term
8 ‘spent nuclear fuel’ has the meaning given that term
9 in section 10101(23) of title 42, United States Code.

10 “(11) STATE.—The term ‘State’ has the mean-
11 ing given that term in section 2266 of this title.”.

12 (b) CLERICAL AMENDMENT.—The chapter analysis
13 for chapter 97 of title 18, United States Code, is amended
14 by striking the item relating to section 1992 and inserting
15 the following:

 “1992. Terrorist attacks against railroads.”.

16 **SEC. 5. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
17 **MENT.**

18 The Secretary of Transportation shall, in consulta-
19 tion with the rail industry and public safety officials, as-
20 sess the security risks associated with rail transportation
21 and develop recommendations for target-hardening those
22 areas identified as posing significant risk to public safety.
23 The Secretary shall transmit a report to the Congress
24 within 90 days after the date of enactment of this Act
25 setting forth the assessment, together with any proposals

1 to provide Federal assistance to aid in the protection
2 against deliberate acts of crime or terrorists acts toward
3 rail employees, rail passengers, rail shipments, or rail
4 property. The Secretary may submit the report in both
5 classified and redacted formats if the Secretary deter-
6 mines that such action is appropriate or necessary.

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