

108TH CONGRESS
2D SESSION

H. R. 4008

To increase the penalties for terrorism against mass transportation and railroads and provide law enforcement with the tools to combat and prevent attacks on mass transportation and railroads.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2004

Mr. SHAYS (for himself and Mr. RUPPERSBERGER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To increase the penalties for terrorism against mass transportation and railroads and provide law enforcement with the tools to combat and prevent attacks on mass transportation and railroads.

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 “Anti-Terrorism Protec-
5 tion of Mass Transportation and Railroad Carriers Act of
6 2004”.

1 **SEC. 2. ATTACKS AGAINST MASS TRANSPORTATION SYS-**
2 **TEMS AND RAILROAD CARRIERS.**

3 (a) IN GENERAL.—Chapter 97 of title 18, United
4 States Code, is amended by striking sections 1992 and
5 1993 and inserting the following:

6 **“§ 1992. Terrorist attacks and other acts of violence**
7 **against mass transportation systems on**
8 **land, on water, or through the air, and**
9 **against railroad carriers**

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

11 “(1) wrecks, derails, sets fire to, or disables a
12 mass transportation vehicle or ferry, or a train, loco-
13 motive, tender, motor unit, freight or passenger car,
14 or other on-track equipment used, operated, or em-
15 ployed by a railroad carrier;

16 “(2) places or causes to be placed any biological
17 agent or toxin, destructive substance, or destructive
18 device in, upon, or near a mass transportation vehi-
19 cle or ferry, or a train, locomotive, tender, motor
20 unit, freight or passenger car, or other on-track
21 equipment used, operated, or employed by a railroad
22 carrier, without previously obtaining the permission
23 of the mass transportation provider or railroad car-
24 rier, and with intent to endanger the safety of any
25 passenger or employee of such a provider or carrier,

1 or with a reckless disregard for the safety of human
2 life;

3 “(3) sets fire to, undermines, makes unwork-
4 able, unusable, or hazardous to work on or use, or
5 places or causes to be placed any biological agent or
6 toxin, destructive substance, or destructive device in,
7 upon, or near any—

8 “(A) garage, terminal, structure, track,
9 electromagnetic guideway, supply, or facility
10 used in the operation of, or in support of the
11 operation of, a mass transportation vehicle or
12 ferry, without previously obtaining the permis-
13 sion of the mass transportation provider, and
14 with intent to, or knowing or having reason to
15 know such activity would likely, derail, disable,
16 or wreck a mass transportation vehicle or ferry
17 used, operated, or employed by a mass trans-
18 portation provider; or

19 “(B) tunnel, bridge, viaduct, trestle, track,
20 electromagnetic guideway, signal, station, depot,
21 warehouse, terminal, or any other way, struc-
22 ture, property, or appurtenance used in the op-
23 eration of, or in support of the operation of, a
24 railroad carrier, without previously obtaining
25 the permission of the railroad carrier, and with

1 intent to, or knowing or having reason to know
2 such activity would likely, derail, disable, or
3 wreck a train, locomotive, tender, motor unit,
4 freight or passenger car, or other on-track
5 equipment used, operated, or employed by a
6 railroad carrier;

7 “(4) removes an appurtenance from, damages,
8 or otherwise impairs the operation of a mass trans-
9 portation signal or dispatching system or railroad
10 signal system, including a train control system, cen-
11 tralized dispatching system, or highway-railroad
12 grade crossing warning signal, without authorization
13 from the mass transportation provider or railroad
14 carrier;

15 “(5) interferes with, disables, or incapacitates
16 any dispatcher, driver, captain, locomotive engineer,
17 railroad conductor, or other person while the person
18 is employed in dispatching, operating, or maintain-
19 ing a mass transportation vehicle or ferry, or a
20 train, locomotive, tender, motor unit, freight or pas-
21 senger car, or other on-track equipment, with intent
22 to endanger the safety of any passenger or employee
23 of a mass transportation provider or railroad carrier,
24 or with a reckless disregard for the safety of human
25 life;

1 “(6) commits an act, including the use of a
2 dangerous weapon, with the intent to cause death or
3 serious bodily injury to an employee or passenger of
4 a mass transportation provider or railroad carrier,
5 or any other person while any of the foregoing is on
6 the property of a mass transportation provider or
7 railroad carrier;

8 “(7) conveys or causes to be conveyed false in-
9 formation, knowing the information to be false, con-
10 cerning an attempt or alleged attempt that was
11 made, is being made, or is to be made, to do any
12 act which would be a crime prohibited by this sub-
13 section;

14 “(8) causes the release of a hazardous material
15 or a biological agent or toxin on the property of a
16 mass transportation provider or railroad carrier,
17 with the intent to endanger the safety of any person
18 or with a reckless disregard for the safety of human
19 life; or

20 “(9) attempts, threatens, or conspires to do any
21 of the acts described in paragraphs (1) through (8),
22 shall be fined under this title or imprisoned not
23 more than 20 years, or both, if the act is committed,
24 or, in the case of an attempt, threat, or conspiracy
25 to do an act enumerated in paragraphs (1) through

1 (8), it would be committed, on, against, or affecting
2 a mass transportation provider or railroad carrier
3 engaged in or affecting interstate or foreign com-
4 merce, or if that person travels or communicates
5 across a State line in order to commit an act enu-
6 merated in paragraphs (1) through (9), or trans-
7 ports materials across a State line in aid of the com-
8 mission of an act enumerated in paragraphs (1)
9 through (9).

10 “(b) AGGRAVATED OFFENSE.—Whoever commits an
11 offense under subsection (a) of this section in a cir-
12 cumstance in which—

13 “(1) the mass transportation vehicle or ferry, or
14 train, locomotive, tender, motor unit, freight or pas-
15 senger car, or other on-track equipment, was car-
16 rying a passenger at the time of the offense;

17 “(2) the mass transportation vehicle or ferry, or
18 train, locomotive, tender, motor unit, freight or pas-
19 senger car, or other on-track equipment, was car-
20 rying high-level radioactive waste or spent nuclear
21 fuel at the time of the offense;

22 “(3) the mass transportation vehicle or ferry, or
23 train, locomotive, tender, motor unit, freight or pas-
24 senger car, or other on-track equipment, was car-
25 rying a hazardous material listed in table 1 of sec-

1 tion 172.504 of title 49, Code of Federal Regula-
2 tions, at the time of the offense; or

3 “(4) the offense has resulted in the death of
4 any person, shall be guilty of an aggravated form of
5 the offense and shall be fined under this title or im-
6 prisoned for any term of years or life, or both; and,
7 in the case of a violation described in paragraph (2),
8 the term of imprisonment shall be not less than 30
9 years; and, in the case of a violation described in
10 paragraph (4), shall be subject to the death penalty
11 or to imprisonment for life.

12 “(c) CONSPIRACY.—A person who conspires to com-
13 mit any offense under this section shall be subject to the
14 same penalties (other than the penalty of death) as the
15 penalties prescribed for the offense, the commission of
16 which was the object of the conspiracy.

17 “(d) NONAPPLICABILITY.—Provisions of subsections
18 (a) and (c) of this section do not apply to the act of an
19 entity with respect to a destructive substance or destruc-
20 tive device that is also classified as a hazardous material
21 in commerce if the act—

22 “(1) complies with chapter 51 of title 49 and
23 regulations, exemptions, approvals, and orders
24 issued under that chapter; or

1 “(2) constitutes a violation of chapter 51 of
2 title 49 or a regulation or order issued under that
3 chapter, but not a criminal violation of that chapter,
4 regulation, or order.

5 “(e) DEFINITIONS.—In this section—

6 “(1) the term ‘biological agent’ has the meaning
7 given to that term in section 178(1) of this title;

8 “(2) the term ‘dangerous weapon’ means a
9 weapon, device, instrument, material, or substance,
10 animate or inanimate, that is used for, or is readily
11 capable of, causing death or serious bodily injury, in-
12 cluding a pocket knife with a blade of less than 2½
13 inches in length and a box cutter;

14 “(3) the term ‘destructive device’ has the mean-
15 ing given to that term in section 921(a)(4) of this
16 title;

17 “(4) the term ‘destructive substance’ means an
18 explosive substance, flammable material, infernal
19 machine, or other chemical, mechanical, or radio-
20 active device or material, or matter of a combustible,
21 contaminative, corrosive, or explosive nature, except
22 that the term ‘radioactive device’ does not include
23 any radioactive device or material used solely for
24 medical, industrial, research, or other peaceful pur-
25 poses;

1 “(5) the term ‘hazardous material’ has the
2 meaning given to that term in chapter 51 of title 49;

3 “(6) the term ‘high-level radioactive waste’ has
4 the meaning given to that term in section 2(12) of
5 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
6 10101(12));

7 “(7) the term ‘mass transportation’ has the
8 meaning given to that term in section 5302(a)(7) of
9 title 49, United States Code, except that the term
10 shall include school bus, charter, and sightseeing
11 transportation;

12 “(8) the term ‘on-track equipment’ means a
13 carriage or other contrivance that runs on rails or
14 electromagnetic guideways;

15 “(9) the term ‘railroad’ has the meaning given
16 to that term in chapter 201 of title 49;

17 “(10) the term ‘railroad carrier’ has the mean-
18 ing given to that term in chapter 201 of title 49;

19 “(11) the term ‘serious bodily injury’ has the
20 meaning given to that term in section 1365 of this
21 title;

22 “(12) the term ‘spent nuclear fuel’ has the
23 meaning given to that term in section 2(23) of the
24 Nuclear Waste Policy Act of 1982 (42 U.S.C.
25 10101(23));

1 “(13) the term ‘State’ has the meaning given to
2 that term in section 2266 of this title;

3 “(14) the term ‘toxin’ has the meaning given to
4 that term in section 178(2) of this title; and

5 “(15) the term ‘vehicle’ means any carriage or
6 other contrivance used, or capable of being used, as
7 a means of transportation on land, on water, or
8 through the air.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) CHAPTER.—The chapter analysis for chap-
11 ter 97 of title 18, United States Code, is amended—

12 (A) by striking “**RAILROADS**” in the
13 chapter heading and inserting “**MASS**
14 **TRANSPORTATION SYSTEMS ON**
15 **LAND, ON WATER, OR THROUGH**
16 **THE AIR, AND RAILROAD CAR-**
17 **RIERS**”;

18 (B) by striking the items relating to sec-
19 tions 1992 and 1993; and

20 (C) by inserting after the item relating to
21 section 1991 the following:

“1992. Terrorist attacks and other acts of violence against mass transportation
systems on land, on water, or through the air, and against rail-
road carriers.”.

22 (2) PART.—The chapter analysis for part I of
23 title 18, United States Code, is amended by striking

1 the item relating to chapter 97 and inserting the fol-
 2 lowing:

“97. Mass transportation systems on land, on water, or through the air,
 and railroad carriers 1991”.

3 (3) CONFORMING AMENDMENTS.—The fol-
 4 lowing sections of title 18, United States Code, are
 5 amended as follows:

6 (A) Section 2332b(g)(5)(B)(i) is amended
 7 by striking “1992 (relating to wrecking trains),
 8 1993 (relating to terrorist attacks and other
 9 acts of violence against mass transportation
 10 systems),” and inserting “1992 (relating to ter-
 11 rorist attacks and other acts of violence against
 12 railroad carriers and mass transportation sys-
 13 tems on land, on water, or through the air),”.

14 (B) Section 2339A is amended by striking
 15 “1993,”.

16 (C) Section 2516(1)(c) is amended by
 17 striking “1992 (relating to wrecking trains),”
 18 and inserting “1992 (relating to terrorist at-
 19 tacks and other acts of violence against railroad
 20 carriers and mass transportation systems on
 21 land, on water, or through the air),”.

1 **SEC. 3. INCLUSION OF TERRORISM CRIMES AS SURVEIL-**
2 **LANCE PREDICATES.**

3 (a) AUTHORIZATION FOR INTERRUPTION.—Section
4 2516 of title 18, United States Code, is amended—

5 (1) in subsection (1)—

6 (A) in paragraph (c)—

7 (i) by inserting before “section 1992
8 (relating to wrecking trains)” the fol-
9 lowing: “section 37 (relating to violence at
10 international airports), section 930(c) (re-
11 lating to attack on Federal facility with
12 firearm), section 956 (conspiracy to harm
13 persons or property overseas),”; and

14 (ii) by inserting before “a felony viola-
15 tion of section 1028” the following: “sec-
16 tion 1993 (relating to mass transportation
17 systems),”.

18 (B) in paragraph (q), by striking all that
19 follows the first semicolon;

20 (C) by redesignating paragraph (r) as
21 paragraph (s); and

22 (D) by inserting after paragraph (q) the
23 following:

24 “(r) an offense listed in section 2332b(g)(5)(B), an
25 offense involved in or related to domestic or international

1 terrorism as defined in section 2331, or a criminal viola-
2 tion of section 2332d; or”; and

3 (2) in subsection (2), by inserting “an offense
4 listed in section 2332b(g)(5)(B), an offense involved
5 in or related to domestic or international terrorism
6 as defined in section 2331, or” after “the commis-
7 sion of”.

8 (b) PROCEDURE FOR INTERRUPTION.—Section
9 2518(7)(a) of title 18, United States Code, is amended—

10 (1) by redesignating subparagraphs (ii) and (iii)
11 as subparagraphs (iii) and (iv) respectively; and

12 (2) by inserting after subparagraph (i) the fol-
13 lowing:

14 “(ii) an offense listed in section
15 2332b(g)(5)(B), an offense involved in or
16 related to domestic or international ter-
17 rorism as defined in section 2331, or an
18 attempt or conspiracy to commit such an
19 offense,”.

20 (c) PEN REGISTER.—Section 3125(a)(1) of title 18,
21 United States Code, is amended—

22 (1) in subparagraph (A), by striking “or” at
23 the end;

24 (2) by redesignating subparagraph (B) as sub-
25 paragraph (D); and

1 (3) by inserting after subparagraph (A) the fol-
2 lowing:

3 “(B) an offense listed in section
4 2332b(g)(5)(B), or an offense involved in or re-
5 lated to domestic or international terrorism as
6 defined in section 2331, or an attempt or con-
7 spiracy to commit such an offense;

8 “(C) conspiratorial activities threatening
9 the national security interest; or”.

10 (d) DEFINITIONS.—Section 3127(2)(A) of title 18,
11 United States Code, is amended to read as follows:

12 “(A) any district court of the United
13 States (including a magistrate judge of such a
14 court) or any United States court of appeals
15 that—

16 “(i) has jurisdiction over the offense
17 being investigated;

18 “(ii) is in or for a district in which the
19 provider of wire or electronic communica-
20 tion service is located; or

21 “(iii) is in or for a district in which a
22 landlord, custodian, or other person subject
23 to section 3124(a) or (b) is located; or”.

1 (e) ACTS OF TERRORISM.—Section 2332b(g)(5)(A)
2 of title 18, United States Code, is amended to read as
3 follows:

4 “(A) appears by its nature or context to be
5 intended—

6 “(i) to intimidate or coerce a civilian
7 population;

8 “(ii) to influence the policy of a gov-
9 ernment by intimidation or coercion; or

10 “(iii) to affect the conduct of a gov-
11 ernment by mass destruction, assassina-
12 tion, or kidnaping; and”.

13 (f) INTERNATIONAL TERRORISM.—Paragraphs
14 (1)(B) and (5)(B) of section 2331 of title 18, United
15 States Code, are each amended by inserting “by their na-
16 ture or context” after “appear”.

○