

108TH CONGRESS  
1ST SESSION

# H. R. 874

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IN THE SENATE OF THE UNITED STATES

MAY 9, 2003

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To establish a program, coordinated by the National Transportation Safety Board, of assistance to families of passengers involved in rail passenger accidents.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rail Passenger Dis-  
3 aster Family Assistance Act of 2003”.

4 **SEC. 2. ASSISTANCE BY NATIONAL TRANSPORTATION SAFE-**  
5 **TY BOARD TO FAMILIES OF PASSENGERS IN-**  
6 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

7 (a) IN GENERAL.—Subchapter III of chapter 11 of  
8 title 49, United States Code, is amended by adding at the  
9 end the following:

10 **“§ 1138. Assistance to families of passengers involved**  
11 **in rail passenger accidents**

12 “(a) IN GENERAL.—As soon as practicable after  
13 being notified of a rail passenger accident within the  
14 United States involving a rail passenger carrier and result-  
15 ing in a major loss of life, the Chairman of the National  
16 Transportation Safety Board shall—

17 “(1) designate and publicize the name and  
18 phone number of a director of family support serv-  
19 ices who shall be an employee of the Board and shall  
20 be responsible for acting as a point of contact within  
21 the Federal Government for the families of pas-  
22 sengers involved in the accident and a liaison be-  
23 tween the rail passenger carrier and the families;  
24 and

25 “(2) designate an independent nonprofit organi-  
26 zation, with experience in disasters and posttrauma

1 communication with families, which shall have pri-  
2 mary responsibility for coordinating the emotional  
3 care and support of the families of passengers in-  
4 volved in the accident.

5 “(b) RESPONSIBILITIES OF THE BOARD.—The Board  
6 shall have primary Federal responsibility for—

7 “(1) facilitating the recovery and identification  
8 of fatally injured passengers involved in an accident  
9 described in subsection (a); and

10 “(2) communicating with the families of pas-  
11 sengers involved in the accident as to the roles of—

12 “(A) the organization designated for an ac-  
13 cident under subsection (a)(2);

14 “(B) Government agencies; and

15 “(C) the rail passenger carrier involved,  
16 with respect to the accident and the post-accident  
17 activities.

18 “(c) RESPONSIBILITIES OF DESIGNATED ORGANIZA-  
19 TION.—The organization designated for an accident under  
20 subsection (a)(2) shall have the following responsibilities  
21 with respect to the families of passengers involved in the  
22 accident:

23 “(1) To provide mental health and counseling  
24 services, in coordination with the disaster response  
25 team of the rail passenger carrier involved.

1           “(2) To take such actions as may be necessary  
2 to provide an environment in which the families may  
3 grieve in private.

4           “(3) To meet with the families who have trav-  
5 eled to the location of the accident, to contact the  
6 families unable to travel to such location, and to  
7 contact all affected families periodically thereafter  
8 until such time as the organization, in consultation  
9 with the director of family support services des-  
10 ignated for the accident under subsection (a)(1), de-  
11 termines that further assistance is no longer needed.

12           “(4) To arrange a suitable memorial service, in  
13 consultation with the families.

14           “(d) PASSENGER LISTS.—

15           “(1) REQUESTS FOR PASSENGER LISTS.—

16           “(A) REQUESTS BY DIRECTOR OF FAMILY  
17 SUPPORT SERVICES.—It shall be the responsi-  
18 bility of the director of family support services  
19 designated for an accident under subsection  
20 (a)(1) to request, as soon as practicable, from  
21 the rail passenger carrier involved in the acci-  
22 dent a list, which is based on the best available  
23 information at the time of the request, of the  
24 names of the passengers that were aboard the  
25 rail passenger carrier’s train involved in the ac-

1           ident. A rail passenger carrier shall use rea-  
2           sonable efforts, with respect to its unreserved  
3           trains, and passengers not holding reservations  
4           on its other trains, to ascertain the names of  
5           passengers aboard a train involved in an acci-  
6           dent.

7                   “(B) REQUESTS BY DESIGNATED ORGANI-  
8                   ZATION.—The organization designated for an  
9                   accident under subsection (a)(2) may request  
10                  from the rail passenger carrier involved in the  
11                  accident a list described in subparagraph (A).

12                  “(2) USE OF INFORMATION.—The director of  
13                  family support services and the organization may  
14                  not release to any person information on a list ob-  
15                  tained under paragraph (1) but may provide infor-  
16                  mation on the list about a passenger to the family  
17                  of the passenger to the extent that the director of  
18                  family support services or the organization considers  
19                  appropriate.

20                  “(e) CONTINUING RESPONSIBILITIES OF THE  
21                  BOARD.—In the course of its investigation of an accident  
22                  described in subsection (a), the Board shall, to the max-  
23                  imum extent practicable, ensure that the families of pas-  
24                  sengers involved in the accident—

1           “(1) are briefed, prior to any public briefing,  
2           about the accident and any other findings from the  
3           investigation; and

4           “(2) are individually informed of and allowed to  
5           attend any public hearings and meetings of the  
6           Board about the accident.

7           “(f) USE OF RAIL PASSENGER CARRIER RE-  
8 SOURCES.—To the extent practicable, the organization  
9 designated for an accident under subsection (a)(2) shall  
10 coordinate its activities with the rail passenger carrier in-  
11 volved in the accident to facilitate the reasonable use of  
12 the resources of the carrier.

13           “(g) PROHIBITED ACTIONS.—

14           “(1) ACTIONS TO IMPEDE THE BOARD.—No  
15 person (including a State or political subdivision)  
16 may impede the ability of the Board (including the  
17 director of family support services designated for an  
18 accident under subsection (a)(1)), or an organization  
19 designated for an accident under subsection (a)(2),  
20 to carry out its responsibilities under this section or  
21 the ability of the families of passengers involved in  
22 the accident to have contact with one another.

23           “(2) UNSOLICITED COMMUNICATIONS.—No un-  
24 solicited communication concerning a potential ac-  
25 tion for personal injury or wrongful death may be

1 made by an attorney (including any associate, agent,  
2 employee, or other representative of an attorney) or  
3 any potential party to the litigation to an individual  
4 (other than an employee of the rail passenger car-  
5 rier) injured in the accident, or to a relative of an  
6 individual involved in the accident, before the 45th  
7 day following the date of the accident.

8 “(3) PROHIBITION ON ACTIONS TO PREVENT  
9 MENTAL HEALTH AND COUNSELING SERVICES.—No  
10 State or political subdivision may prevent the em-  
11 ployees, agents, or volunteers of an organization des-  
12 igned for an accident under subsection (a)(2) from  
13 providing mental health and counseling services  
14 under subsection (c)(1) in the 30-day period begin-  
15 ning on the date of the accident. The director of  
16 family support services designated for the accident  
17 under subsection (a)(1) may extend such period for  
18 not to exceed an additional 30 days if the director  
19 determines that the extension is necessary to meet  
20 the needs of the families and if State and local au-  
21 thorities are notified of the determination.

22 “(h) DEFINITIONS.—In this section, the following  
23 definitions apply:

1           “(1) RAIL PASSENGER ACCIDENT.—The term  
2 ‘rail passenger accident’ means any rail passenger  
3 disaster occurring in the provision of—

4           “(A) interstate intercity rail passenger  
5 transportation (as such term is defined in sec-  
6 tion 24102); or

7           “(B) interstate or intrastate high-speed  
8 rail (as such term is defined in section 26105)  
9 transportation,  
10 regardless of its cause or suspected cause.

11           “(2) RAIL PASSENGER CARRIER.—The term  
12 ‘rail passenger carrier’ means a rail carrier pro-  
13 viding—

14           “(A) interstate intercity rail passenger  
15 transportation (as such term is defined in sec-  
16 tion 24102); or

17           “(B) interstate or intrastate high-speed  
18 rail (as such term is defined in section 26105)  
19 transportation,  
20 except that such term shall not include a tourist,  
21 historic, scenic, or excursion rail carrier.

22           “(3) PASSENGER.—The term ‘passenger’ in-  
23 cludes—

24           “(A) an employee of a rail passenger car-  
25 rier aboard a train;

1           “(B) any other person aboard the train  
2           without regard to whether the person paid for  
3           the transportation, occupied a seat, or held a  
4           reservation for the rail transportation; and

5           “(C) any other person injured or killed in  
6           the accident.

7           “(i) LIMITATION ON STATUTORY CONSTRUCTION.—  
8           Nothing in this section may be construed as limiting the  
9           actions that a rail passenger carrier may take, or the obli-  
10          gations that a rail passenger carrier may have, in pro-  
11          viding assistance to the families of passengers involved in  
12          a rail passenger accident.

13          “(j) RELINQUISHMENT OF INVESTIGATIVE PRI-  
14          ORITY.—

15                 “(1) GENERAL RULE.—This section (other than  
16                 subsection (g)) shall not apply to a railroad accident  
17                 if the Board has relinquished investigative priority  
18                 under section 1131(a)(2)(B) and the Federal agency  
19                 to which the Board relinquished investigative pri-  
20                 ority is willing and able to provide assistance to the  
21                 victims and families of the passengers involved in  
22                 the accident.

23                 “(2) BOARD ASSISTANCE.—If this section does  
24                 not apply to a railroad accident because the Board  
25                 has relinquished investigative priority with respect to

1 the accident, the Board shall assist, to the maximum  
 2 extent possible, the agency to which the Board has  
 3 relinquished investigative priority in assisting fami-  
 4 lies with respect to the accident.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-  
 6 tions for such chapter is amended by inserting after the  
 7 item relating to section 1137 the following:

“1138. Assistance to families of passengers involved in rail passenger acci-  
 dents.”.

8 **SEC. 3. RAIL PASSENGER CARRIER PLANS TO ADDRESS**  
 9 **NEEDS OF FAMILIES OF PASSENGERS IN-**  
 10 **VOLVED IN RAIL PASSENGER ACCIDENTS.**

11 (a) IN GENERAL.—Part C of subtitle V of title 49,  
 12 United States Code, is amended by adding at the end the  
 13 following new chapter:

14 **“CHAPTER 251—FAMILY ASSISTANCE**

“Sec.

“25101. Plans to address needs of families of passengers involved in rail pas-  
 senger accidents.

15 **“§25101. Plans to address needs of families of pas-**  
 16 **sengers involved in rail passenger acci-**  
 17 **dents**

18 “(a) SUBMISSION OF PLANS.—Not later than 6  
 19 months after the date of the enactment of this section,  
 20 each rail passenger carrier shall submit to the Secretary  
 21 of Transportation and the Chairman of the National  
 22 Transportation Safety Board a plan for addressing the

1 needs of the families of passengers involved in any rail  
2 passenger accident involving a train of the rail passenger  
3 carrier and resulting in a major loss of life.

4 “(b) CONTENTS OF PLANS.—A plan to be submitted  
5 by a rail passenger carrier under subsection (a) shall in-  
6 clude, at a minimum, the following:

7 “(1) A plan for publicizing a reliable, toll-free  
8 telephone number, and for providing staff, to handle  
9 calls from the families of the passengers.

10 “(2) A process for notifying the families of the  
11 passengers, before providing any public notice of the  
12 names of the passengers, either by utilizing the serv-  
13 ices of the organization designated for the accident  
14 under section 1138(a)(2) of this title or the services  
15 of other suitably trained individuals.

16 “(3) An assurance that the notice described in  
17 paragraph (2) will be provided to the family of a  
18 passenger as soon as the rail passenger carrier has  
19 verified that the passenger was aboard the train  
20 (whether or not the names of all of the passengers  
21 have been verified) and, to the extent practicable, in  
22 person.

23 “(4) An assurance that the rail passenger car-  
24 rier will provide to the director of family support  
25 services designated for the accident under section

1 1138(a)(1) of this title, and to the organization des-  
2 igned for the accident under section 1138(a)(2) of  
3 this title, immediately upon request, a list (which is  
4 based on the best available information at the time  
5 of the request) of the names of the passengers  
6 aboard the train (whether or not such names have  
7 been verified), and will periodically update the list.  
8 The plan shall include a procedure, with respect to  
9 unreserved trains and passengers not holding res-  
10 ervations on other trains, for the rail passenger car-  
11 rier to use reasonable efforts to ascertain the names  
12 of passengers aboard a train involved in an accident.

13 “(5) An assurance that the family of each pas-  
14 senger will be consulted about the disposition of all  
15 remains and personal effects of the passenger within  
16 the control of the rail passenger carrier.

17 “(6) An assurance that if requested by the fam-  
18 ily of a passenger, any possession of the passenger  
19 within the control of the rail passenger carrier (re-  
20 gardless of its condition) will be returned to the fam-  
21 ily unless the possession is needed for the accident  
22 investigation or any criminal investigation.

23 “(7) An assurance that any unclaimed posses-  
24 sion of a passenger within the control of the rail

1 passenger carrier will be retained by the rail pas-  
2 senger carrier for at least 18 months.

3 “(8) An assurance that the family of each pas-  
4 senger or other person killed in the accident will be  
5 consulted about construction by the rail passenger  
6 carrier of any monument to the passengers, includ-  
7 ing any inscription on the monument.

8 “(9) An assurance that the treatment of the  
9 families of nonrevenue passengers will be the same  
10 as the treatment of the families of revenue pas-  
11 sengers.

12 “(10) An assurance that the rail passenger car-  
13 rier will work with any organization designated  
14 under section 1138(a)(2) of this title on an ongoing  
15 basis to ensure that families of passengers receive an  
16 appropriate level of services and assistance following  
17 each accident.

18 “(11) An assurance that the rail passenger car-  
19 rier will provide reasonable compensation to any or-  
20 ganization designated under section 1138(a)(2) of  
21 this title for services provided by the organization.

22 “(12) An assurance that the rail passenger car-  
23 rier will assist the family of a passenger in traveling  
24 to the location of the accident and provide for the

1 physical care of the family while the family is stay-  
2 ing at such location.

3 “(13) An assurance that the rail passenger car-  
4 rier will commit sufficient resources to carry out the  
5 plan.

6 “(14) An assurance that the rail passenger car-  
7 rier will provide adequate training to the employees  
8 and agents of the carrier to meet the needs of sur-  
9 vivors and family members following an accident.

10 “(15) An assurance that, upon request of the  
11 family of a passenger, the rail passenger carrier will  
12 inform the family of whether the passenger’s name  
13 appeared on any preliminary passenger manifest for  
14 the train involved in the accident.

15 “(c) LIMITATION ON LIABILITY.—A rail passenger  
16 carrier shall not be liable for damages in any action  
17 brought in a Federal or State court arising out of the per-  
18 formance of the rail passenger carrier in preparing or pro-  
19 viding a passenger list, or in providing information con-  
20 cerning a train reservation, pursuant to a plan submitted  
21 by the rail passenger carrier under subsection (b), unless  
22 such liability was caused by conduct of the rail passenger  
23 carrier which was grossly negligent or which constituted  
24 intentional misconduct.

25 “(d) DEFINITIONS.—In this section—

1           “(1) the terms ‘rail passenger accident’ and  
2           ‘rail passenger carrier’ have the meanings such  
3           terms have in section 1138 of this title; and

4           “(2) the term ‘passenger’ means a person  
5           aboard a rail passenger carrier’s train that is in-  
6           volved in a rail passenger accident.

7           “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
8           Nothing in this section may be construed as limiting the  
9           actions that a rail passenger carrier may take, or the obli-  
10          gations that a rail passenger carrier may have, in pro-  
11          viding assistance to the families of passengers involved in  
12          a rail passenger accident.”.

13          (b) CONFORMING AMENDMENT.—The table of chap-  
14          ters for subtitle V of title 49, United States Code, is  
15          amended by adding after the item relating to chapter 249  
16          the following new item:

          “251. FAMILY ASSISTANCE ..... 25101”.

17          **SEC. 4. ESTABLISHMENT OF TASK FORCE.**

18          (a) ESTABLISHMENT.—The Secretary of Transpor-  
19          tation, in cooperation with the National Transportation  
20          Safety Board, organizations potentially designated under  
21          section 1138(a)(2) of title 49, United States Code, rail  
22          passenger carriers, and families which have been involved  
23          in rail accidents, shall establish a task force consisting of  
24          representatives of such entities and families, representa-  
25          tives of passenger rail carrier employees, and representa-

1 tives of such other entities as the Secretary considers ap-  
2 propriate.

3 (b) MODEL PLAN AND RECOMMENDATIONS.—The  
4 task force established pursuant to subsection (a) shall de-  
5 velop—

6 (1) a model plan to assist passenger rail car-  
7 riers in responding to passenger rail accidents;

8 (2) recommendations on methods to improve  
9 the timeliness of the notification provided by pas-  
10 senger rail carriers to the families of passengers in-  
11 volved in a passenger rail accident;

12 (3) recommendations on methods to ensure that  
13 the families of passengers involved in a passenger  
14 rail accident who are not citizens of the United  
15 States receive appropriate assistance; and

16 (4) recommendations on methods to ensure that  
17 emergency services personnel have as immediate and  
18 accurate a count of the number of passengers on-  
19 board the train as possible.

20 (c) REPORT.—Not later than 1 year after the date  
21 of the enactment of this Act, the Secretary shall transmit  
22 to Congress a report containing the model plan and rec-

