

Calendar No. 92

109TH CONGRESS
1ST SESSION**S. 629**

To amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2005

Mr. SESSIONS (for himself, Mr. KYL, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 25, 2005

Reported by Mr. SPECTER, with amendments

[Omit the parts struck through and insert the parts printed in italic]

A BILL

To amend chapter 97 of title 18, United States Code, relating to protecting against attacks on railroads and other mass transportation systems.

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 “Railroad Carriers and
5 Mass Transportation Protection Act of 2005”.

1 **SEC. 2. ATTACKS AGAINST RAILROAD CARRIERS, PAS-**
 2 **SENGER VESSELS, AND MASS TRANSPOR-**
 3 **TATION SYSTEMS.**

4 (a) IN GENERAL.—Chapter 97 of title 18, United
 5 States Code, is amended by striking sections 1992 and
 6 1993 and inserting the following:

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

11 “(a) GENERAL PROHIBITIONS.—Whoever, in a cir-
 12 cumstance described in subsection (c), knowingly—

13 “(1) wrecks, derails, sets fire to, or disables
 14 railroad on-track equipment, a passenger vessel, or
 15 a mass transportation vehicle;

16 “(2) with intent to endanger the safety of any
 17 passenger or employee of a railroad carrier, pas-
 18 senger vessel, or mass transportation provider, or
 19 with a reckless disregard for the safety of human
 20 life, and without previously obtaining the permission
 21 of the railroad carrier, mass transportation provider,
 22 or owner of the passenger vessel—

23 “(A) places any biological agent or toxin,
 24 destructive substance, or destructive device in,
 25 upon, or near railroad on-track equipment, a

1 passenger vessel, or a mass transportation vehi-
2 cle; or

3 “(B) releases a hazardous material or a bi-
4 ological agent or toxin on or near the property
5 of a railroad carrier, owner of a passenger ves-
6 sel, or mass transportation provider;

7 “(3) sets fire to, undermines, makes unwork-
8 able, unusable, or hazardous to work on or use, or
9 places any biological agent or toxin, destructive sub-
10 stance, or destructive device in, upon, or near any—

11 “(A) tunnel, bridge, viaduct, trestle, track,
12 electromagnetic guideway, signal, station, depot,
13 warehouse, terminal, or any other way, struc-
14 ture, property, or appurtenance used in the op-
15 eration of, or in support of the operation of, a
16 railroad carrier, without previously obtaining
17 the permission of the railroad carrier, and with
18 intent to, or knowing or having reason to know
19 such activity would likely, derail, disable, or
20 wreck railroad on-track equipment; *or*

21 “(B) garage, terminal, structure, track,
22 electromagnetic guideway, supply, or facility
23 used in the operation of, or in support of the
24 operation of, a mass transportation vehicle,
25 without previously obtaining the permission of

1 the mass transportation provider, and with in-
2 tent to, or knowing or having reason to know
3 such activity would likely, derail, disable, or
4 wreck a mass transportation vehicle used, oper-
5 ated, or employed by a mass transportation pro-
6 vider; or

7 “(C) structure, supply, or facility used in
8 the operation of, or in the support of the oper-
9 ation of, a passenger vessel, without previously
10 obtaining the permission of the owner of the
11 passenger vessel, and with intent to, or knowing
12 or having reason to know that such activity
13 would likely disable or wreck a passenger vessel;

14 “(4) removes an appurtenance from, damages,
15 or otherwise impairs the operation of a railroad sig-
16 nal system or mass transportation signal or dis-
17 patching system, including a train control system,
18 centralized dispatching system, or highway-railroad
19 grade crossing warning signal, without authorization
20 from the rail carrier or mass transportation pro-
21 vider;

22 “(5) with intent to endanger the safety of any
23 passenger or employee of a railroad carrier, owner of
24 a passenger vessel, or mass transportation provider
25 or with a reckless disregard for the safety of human

1 life, interferes with, disables, or incapacitates any
 2 dispatcher, driver, captain, locomotive engineer, rail-
 3 road conductor, or other person while the person is
 4 employed in dispatching, operating, or maintaining
 5 railroad on-track equipment, a passenger vessel, or
 6 a mass transportation vehicle;

7 “(6) engages in conduct, including the use of a
 8 dangerous weapon, with the intent to cause death or
 9 serious bodily injury to any person who is on the
 10 property of a railroad carrier, owner of a passenger
 11 vessel, or mass transportation provider that is used
 12 for railroad or mass transportation purposes;

13 “(7) conveys false information, knowing the in-
 14 formation to be false, concerning an attempt or al-
 15 leged attempt that was made, is being made, or is
 16 to be made, to engage in a violation of this sub-
 17 section; or

18 “(8) attempts, threatens, or conspires to engage
 19 in any violation of any of paragraphs (1) through
 20 (7), ~~shall be fined~~

21 *shall be fined* under this title, imprisoned not more than
 22 20 years, or both.

23 ~~“(b) AGGRAVATED OFFENSE.—Whoever commits an~~
 24 ~~offense under subsection (a) in a circumstance in which—~~

1 “(1) the railroad on-track equipment, passenger
2 vessel, or mass transportation vehicle was carrying a
3 passenger or employee at the time of the offense;

4 “(2) the railroad on-track equipment, passenger
5 vessel, or mass transportation vehicle was carrying
6 high-level radioactive waste or spent nuclear fuel at
7 the time of the offense;

8 “(3) the railroad on-track equipment, passenger
9 vessel, or mass transportation vehicle was carrying a
10 hazardous material at the time of the offense that—

11 “(A) was required to be placarded under
12 subpart F of part 172 of title 49, Code of Fed-
13 eral Regulations; and

14 “(B) is identified as class number 3, 4, 5,
15 6.1, or 8 and packing group I or packing group
16 H, or class number 1, 2, or 7 under the haz-
17 ardous materials table of section 172.101 of
18 title 49, Code of Federal Regulations; or

19 “(4) the offense results in the death of any per-
20 son; shall be fined under this title, imprisoned for
21 any term of years or life, or both. The term of im-
22 prisonment for a violation described in paragraph
23 (2) shall be not less than 30 years. In the case of
24 a violation described in paragraph (4), the offender

1 shall be fined under this title and imprisoned for life
 2 and be subject to the death penalty.

3 “(b) *AGGRAVATED OFFENSE.—(1) Whoever com-*
 4 *mits an offense under subsection (a) in a cir-*
 5 *cumstance in which—*

6 “(A) *the railroad on-track equipment, passenger*
 7 *vessel, or mass transportation vehicle was carrying a*
 8 *passenger or employee at the time of the offense;*

9 “(B) *the railroad on-track equipment, passenger*
 10 *vessel, or mass transportation vehicle was carrying*
 11 *high-level radioactive waste or spent nuclear fuel at*
 12 *the time of the offense;*

13 “(C) *the railroad on-track equipment, passenger*
 14 *vessel, or mass transportation vehicle was carrying a*
 15 *hazardous material at the time of the offense that—*

16 “(i) *was required to be placarded under*
 17 *subpart F of part 172 of title 49, Code of Federal*
 18 *Regulations; and*

19 “(ii) *is identified as class number 3, 4, 5,*
 20 *6.1, or 8 and packing group I or packing group*
 21 *II, or class number 1, 2, or 7 under the haz-*
 22 *ardous materials table of section 172.101 of title*
 23 *49, Code of Federal Regulations; or*

24 “(D) *the offense results in the death of any per-*
 25 *son,*

1 *shall be fined under this title, imprisoned for any*
 2 *term of years or life, or both.*

3 “(2) *The term of imprisonment for a violation de-*
 4 *scribed in paragraph (1)(B) shall be not less than 30 years.*

5 “(3) *In the case of a violation described in paragraph*
 6 *(1)(D), the offender shall be fined under this title and im-*
 7 *prisoned for a term of years up to life or sentenced to death,*
 8 *in accordance with section 3591 of title 18, United States*
 9 *Code.*

10 “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A
 11 circumstance described in this subsection is any of the fol-
 12 lowing:

13 “(1) Any of the conduct required for the offense
 14 is, or, in the case of an attempt, threat, or con-
 15 spiracy to engage in conduct, the conduct required
 16 for the completed offense would be, engaged in, on,
 17 against, or affecting a mass transportation provider,
 18 owner of a passenger vessel, or railroad carrier en-
 19 gaged in or affecting interstate or foreign commerce.

20 “(2) Any person who travels or communicates
 21 across a State line in order to commit the offense,
 22 or transports materials across a State line in aid of
 23 the commission of the offense.

24 “(d) NONAPPLICABILITY.—Subsection (a) does not
 25 apply to the conduct with respect to a destructive sub-

1 stance or destructive device that is also classified under
 2 chapter 51 of title 49 as a hazardous material in com-
 3 merce if the conduct—

4 “(1) complies with chapter 51 of title 49 and
 5 regulations, exemptions, approvals, and orders
 6 issued under that chapter; or

7 “(2) constitutes a violation, other than a crimi-
 8 nal violation, of chapter 51 of title 49 or a regula-
 9 tion or order issued under that chapter.

10 “(e) DEFINITIONS.—In this section—

11 “(1) the term ‘biological agent’ has the meaning
 12 given the term in section 178(1);

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

19 “(3) the term ‘destructive device’ has the mean-
 20 ing given the term in section 921(a)(4);

21 “(4) the term ‘destructive substance’ means an
 22 explosive substance, flammable material, infernal
 23 machine, or other chemical, mechanical, or radio-
 24 active device or material, or matter of a combustible,
 25 contaminative, corrosive, or explosive nature, except

1 that the term ‘radioactive device’ does not include
2 any radioactive device or material used solely for
3 medical, industrial, research, or other peaceful pur-
4 poses;

5 “(5) the term ‘hazardous material’ has the
6 meaning given the term in section 5102(2) of title
7 49;

8 “(6) the term ‘high-level radioactive waste’ has
9 the meaning given the term in section 2(12) of the
10 Nuclear Waste Policy Act of 1982 (42 U.S.C.
11 10101(12));

12 “(7) the term ‘mass transportation’ has the
13 meaning given the term in section 5302(a)(7) of title
14 49, except that the term includes school bus, char-
15 ter, and sightseeing transportation;

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

19 “(9) the term ‘passenger vessel’ has the mean-
20 ing given the term in section 2101(22) of title 46,
21 United States Code, and includes a small passenger
22 vessel (as defined under section 2101(35) of that
23 title);

24 “(10) the term ‘railroad on-track equipment’
25 means a train, locomotive, tender, motor unit,

1 freight or passenger car, or other on-track equip-
 2 ment used, operated, or employed by a railroad car-
 3 rier;

4 “(11) the term ‘railroad’ has the meaning given
 5 the term in section 20102(1) of title 49;

6 “(12) the term ‘railroad carrier’ has the mean-
 7 ing given the term in section 20102(2) of title 49;

8 “(13) the term ‘serious bodily injury’ has the
 9 meaning given the term in section 1365(h)(3);

10 “(14) the term ‘spent nuclear fuel’ has the
 11 meaning given the term in section 2(23) of the Nu-
 12 clear Waste Policy Act of 1982 (42 U.S.C.
 13 10101(23));

14 “(15) the term ‘State’ has the meaning given
 15 the term in section 2266(8);

16 “(16) the term ‘toxin’ has the meaning given
 17 the term in section 178(2); and

18 “(17) the term ‘vehicle’ means any carriage or
 19 other contrivance used, or capable of being used, as
 20 a means of transportation on land, on water, or
 21 through the air.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) TABLE OF SECTIONS.—The table of sections
 24 at the beginning of chapter 97 of title 18, United
 25 States Code, is amended—

(A) by striking “**RAILROADS**” in the chapter heading and inserting “**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**”;

(B) by striking the items relating to sections 1992 and 1993; and

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

“1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air.”.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

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

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking “1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),” and inserting “1992 (relating to terrorist attacks and other acts of violence against railroad

1 carriers and against mass transportation sys-
2 tems on land, on water, or through the air),”;
3 (B) in section 2339A, by striking “1993,”;
4 and
5 (C) in section 2516(1)(c) by striking
6 “1992 (relating to wrecking trains),” and in-
7 serting “1992 (relating to terrorist attacks and
8 other acts of violence against railroad carriers
9 and against mass transportation systems on
10 land, on water, or through the air),”.

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