

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike “1 day” and insert “2 days”.

MOTION TO REFER WITH AMENDMENT NO. 2752

Mr. MCCONNELL. I move to refer the House message on H.R. 1314 to the Committee on Finance with instructions to report back forthwith with an amendment numbered 2752.

The PRESIDING OFFICER. The clerk will report the motion.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] moves to refer the House amendment to the Senate amendment to H.R. 1314 to the Committee on Finance with instructions to report back forthwith with an amendment numbered 2752.

The amendment is as follows:

At the end add the following:

“This Act shall take effect 3 days after the date of enactment.”

Mr. MCCONNELL. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2753

Mr. MCCONNELL. I have an amendment to the instructions.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] proposes an amendment numbered 2753 to the instructions of the motion to refer.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike “3 days” and insert “4 days”.

Mr. MCCONNELL. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2754 TO AMENDMENT NO. 2753

Mr. MCCONNELL. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] proposes an amendment numbered 2754 to amendment No. 2753.

The amendment is as follows:

Strike “4” and insert “5”.

## MORNING BUSINESS

### POSITIVE TRAIN CONTROL

Mrs. FEINSTEIN. Mr. President, I wish to speak about the unfortunate extension of the deadline for the implementation of positive train control, or PTC.

As one of the authors of the Rail Safety Improvement Act of 2008—which established the PTC mandate—I stand here committed to ensuring that PTC is installed on all our Nation’s railways as soon as possible.

Current law states railroads must fully install PTC by the end of this year. For a variety of reasons, we all know this is not feasible for all railroads. But we can’t let this drag on indefinitely.

It’s a matter of public safety. We must get this done.

The focus of the current debate has been on why an extension of the mandate is necessary, but I would like to take a step back and remind my colleagues why the mandate itself is necessary.

On September 12, 2008, the inattentive conductor of a Metrolink train—a commuter railroad in the Los Angeles area—missed a red light and entered a stretch of single track going the wrong way.

The train collided with a Union Pacific freight train, which completely demolished the first commuter car. The accident killed 25 and injured more than 100.

This was an absolute tragedy for my State and the country.

What is even more tragic: It was 100 percent preventable. Had PTC been installed, we would have avoided this tragedy.

The National Transportation Safety Board has been recommending the installation of PTC since an accident in Connecticut in 1969.

This technology is lifesaving. It prevents train-to-train collisions and overspeed derailments and other rail dangers.

PTC could have saved 25 lives in Chatsworth. In fact, PTC could have saved at least 288 lives and prevented more than 6,500 injuries in accidents across 36 States since 1969.

In 2008, at long last, Congress passed a law requiring PTC implementation by the end of 2015, giving railroads 7 years to comply.

It is extremely disappointing that most railroads will not meet this deadline.

It didn’t have to be this way.

The passenger railroads in California took this legal and moral imperative seriously. They committed resources.

In fact, Metrolink will be the first system in the Nation to fully implement positive train control when the Federal Railroad Administration gives its final certification by the end of this year.

The Bay Area is also well ahead of the curve. Caltrain will begin operating PTC on its line between Gilroy and San Francisco by the end of the year, with final certification expected early next year.

These stories show that it can be done on time.

But the sad fact is few railroads will meet the 2015 deadline as mandated by law.

Yes, there were some unanticipated challenges and procedural hurdles that have contributed to the delay.

But more devastating were legal challenges from the industry and railroads failing to commit the necessary resources.

So here we are today, debating an extension.

Let me be very clear: the PTC extension provision the House sent over is flawed.

In my view, we need to be forcing railroads to implement this as soon as possible, and the House proposal fails to do that.

Instead, it gives all railroads a blanket extension until 2018, even those that would be done well before then.

The Secretary of Transportation can take enforcement actions against railroads that miss certain annual milestones between now and 2018, but the railroads themselves get to establish those milestones in the first place.

After the 3-year blanket extension, railroads can request an additional 2-year extension, so long as a railroad is about halfway complete with implementation.

That means they will have until 2020—12 years after Congress first mandated the technology and 50 years since the National Transportation Safety Board began calling for it.

This is effectively a 5-year extension, precisely what railroads have been lobbying for.

There are better options available.

In fact, we anticipated the need for an extension years ago and worked to find reasonable compromises.

First, in 2012, we tried to modify the mandate.

I supported a provision that passed the Senate in that year’s transportation reauthorization bill.

It would have kept the deadline in 2015, but allowed the administration to grant up to three 1-year extensions to railroads on a case-by-case basis only when necessary and where railroads were working diligently.

But the railroads wanted 5 years, and the provision was dropped from the final bill.

Then earlier this year, debate began anew.

The Commerce Committee approved a bill that would provide railroads with a blanket extension of 5 to 7 years.

I thought that was reckless and unnecessarily long.

Together with several of my colleagues, we reintroduced separate legislation along the lines of the provision that passed the Senate in 2012.

This started negotiations that led to the two different provisions now included in the House and Senate transportation reauthorization bills.

These provisions are each much improved from a blanket 5- to 7-year extension, but both remain flawed.

In my view, it would be fair and reasonable for the remaining policy differences between these two provisions to be resolved during conference.

I hope the conference would lead to a policy that takes the best parts of both approaches and would be packaged as part of a bill that provided sufficient resources for the commuter railroads to comply with the mandate. We should let that process play out.

We should not rush to pass bad policy on this 3-week extension.

I now want to take a moment to describe something that has disturbed me throughout this entire process.

That is the aggressive stance of the railroad industry.

As we have seen in public, railroads have threatened to stop service for rail passengers around Christmas and stop transporting certain chemicals before that.

Union Pacific's demand letter was the most explicit, acknowledging that "this will cause significant economic disruption for our country," but that it "is in the best interest of our employees and shareholders."

The railroads claim that the fines that will be charged next year by the Federal Railroad Administration would be so draconian that they would be unable to continue operating as railroads.

It is very difficult to believe the government would fine railroads to such an extreme. The government's goal is simply to compel the fastest possible implementation of PTC.

The railroads also say that in the event of a PTC-preventable accident, they would be liable for excessive damages. But as we all know, there is a liability cap for passenger accidents.

And for hazardous materials accidents, the railroads have been shipping chlorine and ammonia for decades. It is offensive that only when a railroad could face full liability for an accident that they find operation without PTC to be unacceptably dangerous.

The railroads' overtly political threats of economic calamity are not constructive. They serve only to create a hysterical atmosphere that prevents meaningful negotiations.

It is entirely inappropriate that the railroad industry would make hostages of America's passenger rail services and chemical shippers in order to secure their favored legislative outcome.

What we are discussing today is a bad proposal. We should be prioritizing public safety. But this House-passed provision does not.

The proper place for this debate is in the long-term transportation reauthorization bill.

It is very unfortunate that this has been attached to a must-pass short term extension of the highway trust fund.

Ms. STABENOW. Mr. President, today's extension of the deadline to fully implement positive train control technology is deeply disappointing. Passing this extension means that our rail system failed to make good on its original deadline, despite having nearly 7 years to do so.

There are many reasons for the failure to meet this deadline, and the re-

sponsibility for this failure is widely shared. The critical bottom line, however, is that positive train control saves lives. And we were tragically reminded of that fact again last May, when the derailment of a speeding train near Philadelphia killed eight passengers, including a wonderful Michigan native, Rachel Jacobs, and injured 200 others. Had positive train control been in place on this section of track, it could have prevented this terrible tragedy.

I understand that today's extension includes concrete milestones, new progress reports, and stronger oversight by the Department of Transportation to ensure positive train control is a reality sooner rather than later. This needs to be a top priority for all of those responsible for getting this done. This extension should not be seen as an excuse to slow progress. We cannot allow any further delays on installing this essential, lifesaving technology.

Mr. BOOKER. Mr. President, as the Senate votes today on a short-term extension of the highway trust fund and an extension of the deadline for positive train control, I rise to discuss the importance of transportation safety and the need for vigorous oversight as both passenger and freight railroads strive to implement this life-saving technology.

Congress passed legislation 7 years ago that gave our Nation's rail carriers until December 31 of this year to fully deploy and implement positive train control, or PTC, on all rail lines that carry passengers or toxic substances. Some railroads have made the investments necessary to make significant progress in meeting this deadline, and others have been slower for a number of reasons, ranging from the costs to the complexity of the technology.

The necessity of quickly implementing PTC took on a renewed urgency in May of this year when Amtrak train 188 derailed in Philadelphia, taking the lives of eight passengers and injuring hundreds more. PTC could have prevented this accident, and I am grateful the Federal Railroad Administration took swift action with Amtrak to improve safety in certain high-risk sections of the Northeast corridor. But more must be done across the country and as soon as possible.

In recent months, with a deadline looming, Members on both sides of the aisle have heard from railroads as well as downstream producers, shippers, and manufacturers who rely on transporting goods by rail. All stakeholders seem to recognize the importance of using new technology to make our railroads safer. What has not had equal consensus is how long it should take for this new technology to be installed and utilized. Recent legislative proposals, including in the Senate-passed DRIVE Act, would have created enforcement loopholes that weaken the tools of Federal safety regulators.

The bipartisan PTC language considered today closes these loopholes and

sets a new implementation deadline of December 31, 2018. Railroads will be required to set up implementation plans with clear benchmarks and timelines that will be enforceable by the Department of Transportation.

In what I hope will be very rare cases in which railroads may need an extension beyond that deadline, a limited period, not to exceed 24 months in total, may be applied should the railroad meet strict criteria. These criteria include having PTC already implemented in the majority of its territories, acquisition of all needed spectrum for implementation, installation of all necessary hardware components, completion of employee trainings, and any additional criteria established by the Secretary.

While railroads and commuter authorities face an immense challenge in implementing PTC, now and always, we must place the safety of our citizens above the fear of difficulties incurred by necessary technological change.

As Congress extends the deadline for this lifesaving technology, we must also extend our oversight and commit to meticulous and thorough review of the ongoing implementation process. We should confirm outstanding nominees, including the nominee for FRA Administrator, who has direct oversight responsibilities over PTC. Congress must also invest more in our Nation's infrastructure and enable railroads to access grants and various funding sources to help implement this technology, as well as other critical safety and state-of-good-repair needs. We should remain diligent in ensuring that critical benchmarks and good-faith efforts to install the technology are being made by industry and, if necessary, take actions to ensure compliance.

I urge my colleagues to stand with me in calling for reasonable and commonsense conditions as we work to ensure every train hauling people and toxic materials in this Nation can operate as safely as possible with new technology.

#### REGULATING ELECTRONIC CIGARETTES

Mrs. BOXER. Mr. President, it has now been more than 6 years since Congress gave the FDA authority to regulate the tobacco industry, and it is absolutely outrageous that we are still waiting for a final rule that would protect our children from e-cigarettes.

What has happened while we wait? E-cigarette use among middle and high school students tripled last year compared to the year before. That means that as many as 2.5 million children are now experimenting with these dangerous products.

While we are finally making progress in reducing traditional cigarette smoking among young people, the soaring