

Union Calendar No. 188

106TH CONGRESS
1ST Session

H. R. 2681

[Report No. 106-313]

A BILL

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

SEPTEMBER 13, 1999

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

SEPTEMBER 13, 1999

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A BILL

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 1999”.

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 **“§ 1137. 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 ignated 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 **“§ 25101. Plans to address needs of families of pas-**
2 **sengers involved in rail passenger acci-**
3 **dents**

4 “(a) SUBMISSION OF PLANS.—Not later than 6
5 months after the date of the enactment of this section,
6 each rail passenger carrier shall submit to the Secretary
7 of Transportation and the Chairman of the National
8 Transportation Safety Board a plan for addressing the
9 needs of the families of passengers involved in any rail
10 passenger accident involving a train of the rail passenger
11 carrier and resulting in a major loss of life.

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

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

18 “(2) A process for notifying the families of the
19 passengers, before providing any public notice of the
20 names of the passengers, either by utilizing the serv-
21 ices of the organization designated for the accident
22 under section 1137(a)(2) of this title or the services
23 of other suitably trained individuals.

24 “(3) An assurance that the notice described in
25 paragraph (2) will be provided to the family of a
26 passenger as soon as the rail passenger carrier has

1 verified that the passenger was aboard the train
2 (whether or not the names of all of the passengers
3 have been verified) and, to the extent practicable, in
4 person.

5 “(4) An assurance that the rail passenger car-
6 rier will provide to the director of family support
7 services designated for the accident under section
8 1137(a)(1) of this title, and to the organization des-
9 ignated for the accident under section 1137(a)(2) of
10 this title, immediately upon request, a list (which is
11 based on the best available information at the time
12 of the request) of the names of the passengers
13 aboard the train (whether or not such names have
14 been verified), and will periodically update the list.
15 The plan shall include a procedure, with respect to
16 unreserved trains and passengers not holding res-
17 ervations on other trains, for the rail passenger car-
18 rier to use reasonable efforts to ascertain the names
19 of passengers aboard a train involved in an accident.

20 “(5) An assurance that the family of each pas-
21 senger will be consulted about the disposition of all
22 remains and personal effects of the passenger within
23 the control of the rail passenger carrier.

24 “(6) An assurance that if requested by the fam-
25 ily of a passenger, any possession of the passenger

1 within the control of the rail passenger carrier (re-
2 gardless of its condition) will be returned to the fam-
3 ily unless the possession is needed for the accident
4 investigation or any criminal investigation.

5 “(7) An assurance that any unclaimed posses-
6 sion of a passenger within the control of the rail
7 passenger carrier will be retained by the rail pas-
8 senger carrier for at least 18 months.

9 “(8) An assurance that the family of each pas-
10 senger or other person killed in the accident will be
11 consulted about construction by the rail passenger
12 carrier of any monument to the passengers, includ-
13 ing any inscription on the monument.

14 “(9) An assurance that the treatment of the
15 families of nonrevenue passengers will be the same
16 as the treatment of the families of revenue pas-
17 sengers.

18 “(10) An assurance that the rail passenger car-
19 rier will work with any organization designated
20 under section 1137(a)(2) of this title on an ongoing
21 basis to ensure that families of passengers receive an
22 appropriate level of services and assistance following
23 each accident.

24 “(11) An assurance that the rail passenger car-
25 rier will provide reasonable compensation to any or-

1 organization designated under section 1137(a)(2) of
2 this title for services provided by the organization.

3 “(12) An assurance that the rail passenger car-
4 rier will assist the family of a passenger in traveling
5 to the location of the accident and provide for the
6 physical care of the family while the family is stay-
7 ing at such location.

8 “(13) An assurance that the rail passenger car-
9 rier will commit sufficient resources to carry out the
10 plan.

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

15 “(15) An assurance that, upon request of the
16 family of a passenger, the rail passenger carrier will
17 inform the family of whether the passenger’s name
18 appeared on any preliminary passenger manifest for
19 the train involved in the accident.

20 “(c) LIMITATION ON LIABILITY.—A rail passenger
21 carrier shall not be liable for damages in any action
22 brought in a Federal or State court arising out of the per-
23 formance of the rail passenger carrier in preparing or pro-
24 viding a passenger list, or in providing information con-
25 cerning a train reservation, pursuant to a plan submitted

1 by the rail passenger carrier under subsection (b), unless
 2 such liability was caused by conduct of the rail passenger
 3 carrier which was grossly negligent or which constituted
 4 intentional misconduct.

5 “(d) DEFINITIONS.—In this section—

6 “(1) the terms ‘rail passenger accident’ and
 7 ‘rail passenger carrier’ have the meanings such
 8 terms have in section 1137 of this title; and

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

12 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—

13 Nothing in this section may be construed as limiting the
 14 actions that a rail passenger carrier may take, or the obli-
 15 gations that a rail passenger carrier may have, in pro-
 16 viding assistance to the families of passengers involved in
 17 a rail passenger accident.”.

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

“251. FAMILY ASSISTANCE 25101”.