

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2289

To amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2004

Mr. SESSIONS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to combat terrorism against railroad carriers and mass transportation systems on land, on water, or through the air, and for other purposes.

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 2004”.

1 **SEC. 2. ATTACKS AGAINST RAILROAD CARRIERS AND MASS**  
2 **TRANSPORTATION SYSTEMS.**

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

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

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

12 “(1) wrecks, derails, sets fire to, or disables  
13 railroad on-track equipment or a mass transpor-  
14 tation vehicle;

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

20 “(A) places any biological agent or toxin,  
21 destructive substance, or destructive device in,  
22 upon, or near railroad on-track equipment or a  
23 mass transportation vehicle; or

24 “(B) releases a hazardous material or a bi-  
25 ological agent or toxin on or near the property

1 of a railroad carrier or mass transportation pro-  
2 vider;

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

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

17 “(B) garage, terminal, structure, track,  
18 electromagnetic guideway, supply, or facility  
19 used in the operation of, or in support of the  
20 operation of, a mass transportation vehicle,  
21 without previously obtaining the permission of  
22 the mass transportation provider, and with in-  
23 tent to, or knowing or having reason to know  
24 such activity would likely, derail, disable, or  
25 wreck a mass transportation vehicle used, oper-

1           ated, or employed by a mass transportation pro-  
2           vider;

3           “(4) removes an appurtenance from, damages,  
4           or otherwise impairs the operation of a railroad sig-  
5           nal system or mass transportation signal or dis-  
6           patching system, including a train control system,  
7           centralized dispatching system, or highway-railroad  
8           grade crossing warning signal, without authorization  
9           from the rail carrier or mass transportation pro-  
10          vider;

11          “(5) with intent to endanger the safety of any  
12          passenger or employee of a railroad carrier or mass  
13          transportation provider or with a reckless disregard  
14          for the safety of human life, interferes with, dis-  
15          ables, or incapacitates any dispatcher, driver, cap-  
16          tain, locomotive engineer, railroad conductor, or  
17          other person while the person is employed in dis-  
18          patching, operating, or maintaining railroad on-track  
19          equipment or a mass transportation vehicle;

20          “(6) engages in conduct, including the use of a  
21          dangerous weapon, with the intent to cause death or  
22          serious bodily injury to any person who is on the  
23          property of a railroad carrier or mass transportation  
24          provider that is used for railroad or mass transpor-  
25          tation purposes;

1           “(7) conveys false information, knowing the in-  
2           formation to be false, concerning an attempt or al-  
3           leged attempt that was made, is being made, or is  
4           to be made, to engage in a violation of this sub-  
5           section; or

6           “(8) attempts, threatens, or conspires to engage  
7           in any violation of any of paragraphs (1) through  
8           (8);

9 shall be fined under this title or imprisoned not more than  
10 20 years, or both.

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

14           “(1) the railroad on-track equipment or mass  
15           transportation vehicle was carrying a passenger or  
16           employee at the time of the offense;

17           “(2) the railroad on-track equipment or mass  
18           transportation vehicle was carrying high-level radio-  
19           active waste or spent nuclear fuel at the time of the  
20           offense;

21           “(3) the railroad on-track equipment or mass  
22           transportation vehicle was carrying a hazardous ma-  
23           terial at the time of the offense that—

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

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

9           “(4) the offense results in the death of any per-  
10          son;

11          shall be fined under this title or imprisoned for any term  
12          of years or life, or both. In the case of a violation described  
13          in paragraph (2), the term of imprisonment shall be not  
14          less than 30 years; and, in the case of a violation described  
15          in paragraph (4), the offender shall be fined under this  
16          title and imprisoned for life and be subject to the death  
17          penalty.

18          “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A  
19          circumstance referred to in subsection (a) is any of the  
20          following:

21                 “(1) Any of the conduct required for the offense  
22                 is, or, in the case of an attempt, threat, or con-  
23                 spiracy to engage in conduct, the conduct required  
24                 for the completed offense would be, engaged in, on,  
25                 against, or affecting a mass transportation provider

1 or railroad carrier engaged in or affecting interstate  
2 or foreign commerce.

3 “(2) Any person travels or communicates across  
4 a State line in order to commit the offense, or trans-  
5 ports materials across a State line in aid of the com-  
6 mission of the offense.

7 “(d) NONAPPLICABILITY.—Subsection (a) does not  
8 apply to the conduct with respect to a destructive sub-  
9 stance or destructive device that is also classified under  
10 chapter 51 of title 49 as a hazardous material in com-  
11 merce if the conduct—

12 “(1) complies with chapter 51 of title 49 and  
13 regulations, exemptions, approvals, and orders  
14 issued under that chapter, or

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

18 “(e) DEFINITIONS.—In this section—

19 “(1) the term ‘biological agent’ has the meaning  
20 given to that term in section 178(1);

21 “(2) the term ‘dangerous weapon’ means a  
22 weapon, device, instrument, material, or substance,  
23 animate or inanimate, that is used for, or is readily  
24 capable of, causing death or serious bodily injury, in-

1 including a pocket knife with a blade of less than 2½  
2 inches in length and a box cutter;

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

5 “(4) the term ‘destructive substance’ means an  
6 explosive substance, flammable material, infernal  
7 machine, or other chemical, mechanical, or radio-  
8 active device or material, or matter of a combustible,  
9 contaminative, corrosive, or explosive nature, except  
10 that the term ‘radioactive device’ does not include  
11 any radioactive device or material used solely for  
12 medical, industrial, research, or other peaceful pur-  
13 poses;

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

16 “(6) the term ‘high-level radioactive waste’ has  
17 the meaning given to that term in section 2(12) of  
18 the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
19 10101(12));

20 “(7) the term ‘mass transportation’ has the  
21 meaning given to that term in section 5302(a)(7) of  
22 title 49, except that the term includes school bus,  
23 charter, and sightseeing transportation;

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

4           “(9) the term ‘railroad on-track equipment’  
5 means a train, locomotive, tender, motor unit,  
6 freight or passenger car, or other on-track equip-  
7 ment used, operated, or employed by a railroad car-  
8 rier;

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

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

13           “(12) the term ‘serious bodily injury’ has the  
14 meaning given to that term in section 1365;

15           “(13) the term ‘spent nuclear fuel’ has the  
16 meaning given to that term in section 2(23) of the  
17 Nuclear Waste Policy Act of 1982 (42 U.S.C.  
18 10101(23));

19           “(14) the term ‘State’ has the meaning given to  
20 that term in section 2266;

21           “(15) the term ‘toxin’ has the meaning given to  
22 that term in section 178(2); and

23           “(16) the term ‘vehicle’ means any carriage or  
24 other contrivance used, or capable of being used, as

1 a means of transportation on land, on water, or  
 2 through the air.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) The table of sections at the beginning of  
 5 chapter 97 of title 18, United States Code, is  
 6 amended—

7 (A) by striking “**RAILROADS**” in the  
 8 chapter heading and inserting “**RAILROAD**  
 9 **CARRIERS AND MASS TRANSPOR-**  
 10 **TATION SYSTEMS ON LAND, ON**  
 11 **WATER, OR THROUGH THE AIR”;**

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

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

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

16 (2) The table of chapters at the beginning of  
 17 part I of title 18, United States Code, is amended  
 18 by striking the item relating to chapter 97 and in-  
 19 serting the following:

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

20 (3) Title 18, United States Code, is amended—

21 (A) in section 2332b(g)(5)(B)(i), by strik-  
 22 ing “1992 (relating to wrecking trains), 1993

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

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