

**Calendar No. 643**115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 2861****[Report No. 115–356]**

To prosecute, as a Federal crime, the assault or intimidation of a passenger train crew member to the same extent as such actions against aircraft crew members are prosecuted.

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**IN THE SENATE OF THE UNITED STATES**

MAY 16, 2018

Ms. DUCKWORTH (for herself and Mr. HOEVEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 14, 2018

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To prosecute, as a Federal crime, the assault or intimidation of a passenger train crew member to the same extent as such actions against aircraft crew members are prosecuted.

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 “Passenger Rail Crew  
3 Protection Parity Act”.

4 **SEC. 2. INTERFERENCE WITH PASSENGER TRAIN CREW**  
5 **MEMBERS.**

6 (a) **IN GENERAL.**—Chapter 281 of title 49, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing:

9 **“§ 28104. Interference with passenger train crew**  
10 **members**

11 **“(a) OFFENSE.**—It shall be unlawful for any person,  
12 while on a passenger train—

13 **“(1)** to assault or intimidate a crew member,  
14 and thereby interfere with the performance of the  
15 duties of a crew member or lessen the ability of a  
16 crew member to perform those duties; or

17 **“(2)** to attempt or conspire to perform an act  
18 described in paragraph (1).

19 **“(b) PENALTIES.**—A person who violates subsection  
20 (a)—

21 **“(1)** shall be fined under title 18, imprisoned  
22 for not more than 20 years, or both; and

23 **“(2)** if a dangerous weapon is used in assault-  
24 ing or intimidating the crew member, shall be im-  
25 prisoned for any term of years or for life.



1           “(1) *CREW MEMBER.*—*The term ‘crew member’*  
 2           *means a person, other than a passenger, who is a*  
 3           *service employee assigned to duty on an in-service*  
 4           *passenger train.*

5           “(2) *DANGEROUS WEAPON.*—

6           “(A) *IN GENERAL.*—*The term ‘dangerous*  
 7           *weapon’ means a weapon, device, instrument,*  
 8           *material, or animate or inanimate substance*  
 9           *that is used for, or is readily capable of, causing*  
 10           *death or serious bodily injury.*

11           “(B) *INCLUSION.*—*The term ‘dangerous*  
 12           *weapon’ includes—*

13                   “(i) *a pocket knife with a blade that is*  
 14                   *less than 2½ inches in length; and*

15                   “(ii) *a box cutter.*

16           “(3) *PASSENGER TRAIN.*—*The term ‘passenger*  
 17           *train’ means a passenger train in intercity rail pas-*  
 18           *senger transportation (as defined in section 24102).*

19           “(4) *SERIOUS BODILY INJURY.*—*The term ‘seri-*  
 20           *ous bodily injury’ means a bodily injury that in-*  
 21           *volves—*

22                   “(A) *a substantial risk of death;*

23                   “(B) *extreme physical pain;*

24                   “(C) *protracted and obvious disfigurement;*

25                   *or*

1                   “(D) *protracted loss or impairment of the*  
2                   *function of—*

3                   “(i) *a bodily member;*

4                   “(ii) *an organ; or*

5                   “(iii) *a mental facility.*

6                   “(5) *SERVICE EMPLOYEE.—The term ‘service em-*  
7                   *ployee’ includes—*

8                   “(A) *an engineer;*

9                   “(B) *a conductor;*

10                  “(C) *onboard personnel; and*

11                  “(D) *an employee performing, or respon-*  
12                  *sible for, a safety-sensitive function.*

13                  “(b) *OFFENSE.—It shall be unlawful for any person*  
14                  *onboard a passenger train in operation, or on a platform*  
15                  *servicing a passenger train in operation—*

16                  “(1) *to assault a crew member and thereby inter-*  
17                  *fere with the performance of the duties of a crew*  
18                  *member or lessen the ability of a crew member to per-*  
19                  *form those duties; or*

20                  “(2) *to attempt or conspire to perform an act de-*  
21                  *scribed in paragraph (1).*

22                  “(c) *PENALTIES.—A person who violates subsection*  
23                  *(b)—*

24                  “(1) *shall be fined under title 18 or imprisoned*  
25                  *for not more than 8 years, or both; and*

1           “(2) if a dangerous weapon is used in assaulting  
2           the crew member, shall be imprisoned for not more  
3           than 20 years.”.

4           (2) *TECHNICAL AMENDMENT.*—The table of sec-  
5           tions for chapter 281 of title 49, United States Code,  
6           is amended by adding at the end the following:

“§ 28104. *Interference with passenger train crew members.*”.

7           (b) *SENSE OF CONGRESS REGARDING ASSAULT PRE-*  
8           *VENTION AND RESPONSE TRAINING.*—

9           (1) *DEFINITION OF RAIL PASSENGER CARRIER.*—  
10          In this subsection, the term “rail passenger carrier”  
11          means a rail carrier providing intercity rail pas-  
12          senger transportation (as defined in section 24102 of  
13          title 49, United States Code).

14          (2) *SENSE OF CONGRESS.*—It is the sense of  
15          Congress that each rail passenger carrier should—

16                 (A) develop and implement—

17                         (i) training regarding—

18                                 (I) assault prevention and re-  
19                                 sponse; and

20                                 (II) deescalating hostile situa-  
21                                 tions; and

22                         (ii) protocols regarding—

23                                 (I) dealing with hostile situations;

24                                 and

25                                 (II) reporting of incidents;

1           (B) offer the training and protocols de-  
2           scribed in subparagraph (A) to the appropriate  
3           personnel; and

4           (C) publish in the terms of transportation  
5           of the rail passenger carrier a notice describing  
6           the offense of interference with passenger crew  
7           members under section 28104 of title 49, United  
8           States Code (as added by subsection (a)(1)).

9           (c) *GAO REPORT ON COMMUTER RAIL ASSAULTS.*—

10           (1) *IN GENERAL.*—Not later than 1 year after  
11           the date of enactment of this Act, the Comptroller  
12           General of the United States shall—

13           (A) review the number of assaults on rail  
14           crew members operating or assisting with com-  
15           muter rail passenger transportation (as defined  
16           in section 24102 of title 49, United States Code)  
17           at each of the 10 largest commuter rail carriers,  
18           as determined by annual ridership, in the  
19           United States; and

20           (B) submit to the Committee on Commerce,  
21           Science, and Transportation of the Senate and  
22           the Committee on Transportation and Infra-  
23           structure of the House of Representatives a re-  
24           port that describes the review under subpara-  
25           graph (A), including recommendations, if any.

1           (2) *CONTENTS.*—*The report under paragraph*  
2 *(1)(B) shall include—*

3                   (A) *a description of the number and types*  
4 *of assaults on rail crew members described in*  
5 *paragraph (1)(A), based on available data;*

6                   (B) *a description of other available details*  
7 *regarding assaults on rail crew members de-*  
8 *scribed in paragraph (1)(A), such as—*

9                           (i) *the function of involved crew mem-*  
10 *bers;*

11                           (ii) *the locations of the incidents (such*  
12 *as on a train or platform); and*

13                           (iii) *the circumstances surrounding the*  
14 *assaults;*

15                   (C) *a description of the outcome of assault*  
16 *incidents, such as the number of prosecutions of*  
17 *assaults, based on available data; and*

18                   (D) *an identification of any challenges in*  
19 *reporting those assault incidents.*



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