

Fact Sheet and Section by Section

Rail and Public Transportation Security Act of 2007

Summary

As Amended by the TS&IP Subcommittee on March 1, 2007

The “Rail and Public Transportation Security Act of 2007,” fulfills the recommendations made in *Detour Ahead: Critical Vulnerabilities in America’s Rail and Mass Transit Security Programs*, a report issued by Democrats on the Homeland Security Committee in June 2006. The bill takes the following steps to protect rail and public transportation systems:

Requires a National Rail and Public Transportation Security Plan

This national plan, which will be a supplement to the existing National Strategy for Transportation Security, will (1) clarify roles and responsibilities of federal, state, and local agencies in securing rail and public transportation systems; (2) strengthen intelligence sharing, (3) lay out plans for public outreach and education initiatives; (4) create a framework for resuming operations in the event of an attack; (5) include a strategy and timeline for research and development of new security technologies; (6) describe lessons learned from past attacks.

Requires Assignment of Providers of Covered Transportation to Risk-Based Tiers

This section requires the Secretary to assign each provider of covered transportation to a risk based tier. Two of the required tiers established by the secretary must be a high and medium risk tier.

Requires Rail and Public Transportation Systems to Submit Vulnerability Assessments and Security Plans to the Department of Homeland Security for Approval

Modeled after the vulnerability assessments and security plans that ports already have to submit under current law, these provisions will ensure that rail and public transportation systems adequately evaluate their risks and vulnerabilities and are taking steps to address any security weaknesses. The Secretary must approve or disapprove each vulnerability assessment and security plan for systems placed in high and medium-risk tiers. Vulnerability assessments and security plans must be reviewed and updated at least every five years.

Penalties

Gives the Secretary the authority to issue administrative, civil, and criminal penalties for violations.

Intelligence Sharing Plan

Requires the Department, in consultation with the Department of Transportation, to issue a rail and public transportation strategic information sharing plan to strengthen the intelligence updates provided to federal, state, and local agencies, and appropriate stakeholders.

Grant Programs

Authorizes \$600 million per a year for FY08-FY11 for a grant program dedicated to rail security. Authorizes a total of \$ 3.36 billion over fiscal years FY08-FY-11 for a grant program dedicated to public transportation security. Authorizes \$12 million for FY08 and \$25 million per year for FY09-FY11 for a grant program dedicated to over-the-road bus security. These grants will be given out based on priorities established by DHS.

Fire and Life Safety Improvements

Authorizes \$140 million in grants in FY 2008-2011 to Amtrak to improve tunnels in the Northeast corridor.

Training Programs

Requires rail and public transportation systems to train their employees on how to prevent, prepare for, and respond to a terrorist attack.

Exercise Programs

Establishes a Rail and Public Transportation Security Exercise Program to test the preparedness of rail and public transportation systems for a terrorist attack, including transportation at international land borders.

Research and Development

Authorizes \$200 million over the next 4 years for advanced research and development that will find solutions to the security threats faced by rail and public transportation systems.

Whistleblower Protections

Provides protections from retaliation for employees of DHS, DOT, and rail and public transportation employees who report security risks or violations.

Increase in Rail Security Inspectors

Requires that DHS increase the number of full time surface transportation inspectors to 600 by 2010. There are only 100 rail security inspectors at the present time.

National Domestic Preparedness Consortium

The National Domestic Preparedness Consortium (NDCP) is the principal vehicle through which the Department identifies, develops, tests, and delivers training to state and local emergency responders. One member of the consortium will focus on rail security.

National Transportation Security Center of Excellence

The section creates at least 1 but not more than 4 national transportation security centers of excellence at institutions of higher education. At least two of the consortium colleges and universities will be a minority serving institution, even if the lead college or university is a minority serving institution

Authorization of Visible Intermodal Protection Response Teams (VIPR)

Authorizes TSA VIPR program to provide teams of responders from transportation security inspectors, canine teams, and federal air marshals to provide surge capacity in the event of an attack to support local first responders.

TSA Personnel Limitations

Any statutory limitation on the number of Transportation Security Administration employees shall not apply to employees implementing this bill.

Penalties

This section provides the Transportation Security Administration with general administrative, civil, and criminal penalty authority. TSA already possesses specific authority to enforce aviation security measures under 49 USC 46301, but lacks such authority in other modes of transportation.

Homeland Security Grants

All grants distributed for security-related purposes shall be administered on the basis of risk by the Secretary as the lead Federal official on transportation security.

Threat Assessment Screening

Implements a threat assessment screening program, including name-based checks against terrorist watch lists and immigration status check, for all employees of covered transportation.

Background Checks

Establishes guidelines for background checks, including a system of redress for employees who believe they have been wrongly fired based on the results of the background check.

Section by Section Summary
Rail and Public Transportation Security Act of 2007

**As amended by the Subcommittee on Transportation Security and
Infrastructure Protection**
March 1, 2007

Section 1 – Short Title and the Table of Contents

Section 2 – Definitions

This act defines several terms, but the most important to this legislation are the definitions of “appropriate stakeholders” and “covered transportation. This act defines the term “appropriate stakeholders” to mean, providers of covered transportation, organizations representatives of covered transportation, labor organizations, shippers of hazardous material, manufactures of rail and transit cars, state departments of transportation, public safety officials, and first responders. The term “covered transportation” means transportation provided by a railroad carrier, public transportation, and transportation provided by an over the road bus. The term “over the road bus” means a bus characterized by an elevated passenger deck over a baggage compartment.

Section 3 – National Strategy for Rail and Public Transportation Security –

This section requires the Secretary of the Department of Homeland Security (DHS), in consultation with the Secretary of the Department of Transportation (DOT), to develop a comprehensive modal plan for covered transportation entitled, “National Railroad and Public Transportation Security Plan.” The plan must:

- include a description of roles and responsibilities
- identify and address gaps and unnecessary overlap in the roles and responsibilities
- develop methodology to use expertise with DHS and DOT
- devise a plan for expediting security clearances and facilitate intelligence and information sharing
- describe past DHS and DOT reviews of terrorists attacks, including lessons learned, and future application of lessons learned
- include a strategy and timeline for DHS and DOT to research and develop new technology
- prescribe measurable goals and schedules
- include a framework for resuming operations after an act of terrorism
- describe current and future outreach
- produce a process for coordinating security strategies and plans between agencies

Section 4 – Assignment of Providers of Covered Transportation to Risk-Based Tiers-

This section requires the Secretary of Homeland Security to assign each rail and public transportation system to one of no fewer than three tiers. No later than 60 days after the date that the rail or public transportation system is assigned to a tier, the Secretary shall notify the rail or public transportation system of the tier to which the carrier or system is assigned. At least 2 tiers established under this section shall be tiers designated for high and medium-risk rail and public transportation systems.

Section 5 – Rail and Public Transportation Assessments and Plans –

This section requires the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, to issue regulations within one year of enactment to require the tiered rail and public transportation systems to complete vulnerability assessments and security plans. No later than 6 months after the date of issuance of the regulations, high and medium risk covered transportation providers are required to complete and submit vulnerability assessments and security plans to the Secretary of the Department of Homeland Security for review and approval. Not later than 12 months after the date of issuance of the regulations, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is required to approved or disapprove the security plans. In the meantime, providers must implement interim security measures. The regulations will require transportation providers not assigned to a high or medium risk tier to perform vulnerability assessment and implement security plans, rather than submit them to the Secretary for approval.

DHS in consultation with DOT will provide assistance to providers in conducting vulnerability assessments. These vulnerability assessment for a high or medium risk provided must include:

- identification and evaluation of critical asses and infrastructure
- identification of threats to infrastructure
- identification of security weaknesses
- identification of redundancies to ensure continued operation in the event of attack or other disruption

Providers conducting vulnerability assessments must incorporate threat information provided by DHS and other sources.

Security plans for providers in the high and medium risk categories must include:

- identification of a security coordinator
- security measures to address weaknesses
- plans for periodic drills and exercises
- list of needed capital and operational improvements
- evacuation and passenger communication plans
- steps to be taken with state and local law enforcement and emergency responders to coordinate response measures

- strategy and timeline for conducting training
- enhanced security measures to be taken when a period of heightened security is announced
- plans for redundant and backup systems to ensure the continues operation of critical elements of the system
- plans for locating railroad cars transporting hazardous materials
- other actions or procedures deemed appropriate by DHS

DHS will ensure that security plans are consistent with the National Strategy for Rail and Public Transportation Security.

DHS, by regulation, will establish security performance requirements for the security plans. These requirements will be somewhat flexible but stricter for higher tier providers.

This section also contains administrative, civil, and criminal penalty language specific to this act. Administrative penalties cannot be more than \$75,000, civil penalties are limited to \$50,000 per day in violation of this section, and criminal penalties are limited to a fine of not more than \$50,000 per day in violation and imprisonment for two years.

Vulnerability assessments and security plans conducted pursuant to this section may be built upon prior assessments and plans. The Secretary of the Department of Homeland Security may also endorse the existing vulnerability assessments and security plans if the Secretary of the Department of Homeland Security determines that these assessments and plans meet the requirements of this section. The bill also requires the railroad carriers and public transportation agencies to resubmit their vulnerability assessments and security plans for approval by the Secretary of the Department of Homeland Security on a continuous basis thereafter.

Section 6 – Strategic Information Sharing Plan –

This section requires the Secretary of the Department of Homeland Security to create a Strategic Information Sharing Plan to improve information sharing within the Administration and between the Administration and private and public sector stakeholders including State, local, and tribal authorities, and railroad carriers, public transportation agencies, and labor organizations. This plan must be developed and submitted to Congress no later than 90 days after enactment. This section also requires the Secretary of the Department of Homeland Security to conduct an annual survey of the satisfaction of the recipients of the products produced by the Department of Homeland Security transportation security intelligence analysts. Additionally, the Secretary of the Department of Homeland Security is required to disseminate information, to the greatest extent possible, at the unclassified level. If information must be disseminated at the classified level, then the Secretary of the Department of Homeland Security is required to assist the appropriate stakeholders in attaining security clearances.

Section 7 – Railroad Security Assistance–

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is responsible for establishing a grant

program for improving the security of railroad carriers, including AMTRAK. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement. Grantees under this section are required to submit semiannual report to the Secretaries of the Departments of Homeland Security and Transportation describing expenditures made pursuant to the grant. This section allows DHS to issue letters of intent to grant recipients. This section authorizes \$600,000,000 to be appropriated for grants for the fiscal years 2008-2011.

Section 8 – Public Transportation Security Assistance –

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of Transportation, is responsible for establishing a grant program for improving the security of public transportation systems. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement.¹ Grantees under this section are required to submit semiannual report to the Secretaries of the Departments of Homeland Security and Transportation describing expenditures made pursuant to the grant. This section authorizes appropriations for grants in the amounts of \$775,000,000 for FY08; \$825,000,000 for FY09; and \$880,000,000 for FY10 and FY11.

Section 9 – Over-the-Road Bus Security Assistance–

This section authorizes the Secretary of the Department of Homeland Security, in consultation with the Secretary of Transportation, to establish a grant program for improving the security of over-the-road bus systems. The bill specifies certain uses for the money. The bill also includes an 80%-20% matching requirement.² In order to receive a grant, over-the-road bus operators must submit a security plan to the Secretary of the Department of Homeland Security for review and approval. This section authorizes appropriations in the amounts of \$12,000,000 for FY08 and \$25,000,000 for FY09 through FY11.

Section 10 – Fire and Life Safety Improvements –

This section authorizes funds to be appropriated to the Secretary of the Department of Transportation, in coordination with the Secretary of the Department of Homeland Security, to make grants to Amtrak for the purpose of carrying out projects to make fire and life-safety improvements to Amtrak tunnels along the Northeast Corridor – 6 tunnels in New York City; the Baltimore & Potomac Tunnel; the Union Tunnel in Baltimore, Maryland; and the Union Station tunnels in Washington, D.C.

¹ This will be taken out for markup print

² This too

Section 11 – Security Training Program –

Under this section, the Secretary of the Department of Homeland Security, in consultation with the Secretary of the Department of Transportation, is required to develop a security training program within 90 days after enactment of this Act for railroad and public transportation employees. The guidance for these programs will be developed in consultation with law enforcement and terrorism experts, and labor and industry representatives. Not later than 60 days after the Secretary issues this guidance, the railroad carriers and public transportation agencies must develop a security training program and submit it to the Secretary for approval. The Secretary shall have 60 days to approve or disapprove this plan. Not later than 1 year after the Secretary approves the plan, all workers must have received security training.

Section 12 – Security Exercises –

The Secretary of the Department of Homeland Security, working with the Secretary of the Department of Transportation, is required to establish an exercise program for the purposes of testing and evaluating the ability of railroad carriers and public transportation agencies to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism. Railroad carriers and public transportation agencies shall be tested and evaluated, along with federal, state and local agencies, and non governmental emergency response providers. This will include covered transportation at or near the international land borders of the U.S.

Section 13 – Security Research and Development –

This section requires the Secretary of the Department of Homeland Security to establish a research and development program for rail and public transportation security. The Secretary of the Department of Homeland Security is required to ensure that DHS activities are coordinated with those undertaken by the National Academy of Sciences, the Department of Transportation, and private laboratories. In implementing this program, the Secretary is required to consult with the Department of Homeland Security Chief Privacy Officer and the Officer for Civil Rights and Civil Liberties. The Chief Privacy Officer shall be required to conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section.

Section 14 – Whistleblower Protections –

This section provides whistleblower protections for employees of the Department of Homeland Security and Department of Transportation, contractor or subcontractors of those two agencies, and employees of providers of covered transportation.

Section 15 – Increase in Surface Transportation Security Inspectors (STSI) –

This section increases the current number of STSIs. By 2010, under this Act there should be at least 600 STSIs (there are approximately 100 STSIs now). Additionally, this section mandates certain requirements in order to be hired as an STSI. The Secretary of the Department of Homeland Security, in coordination with the Secretary of the Department of Transportation, is required to develop a standard operating procedure clearly defining the relationship between the

Department of Homeland Security STSI and the Department of Transportation safety and security inspectors; state, local, and tribal law enforcement officials; and railroad carrier police officers.

Section 16- National Domestic Preparedness Consortium-

This section establishes the National Domestic Preparedness Consortium within the Department of Homeland Security. This consortium will identify, develop, test, and deliver training to state and local emergency providers. This consortium consists of several universities and institutions contributing to different areas of domestic preparedness. This section also adds the Transportation Technology Center in Pueblo, Colorado, a unique rail training facility, to the consortium.

Section 17- Authorization of Visible Intermodal Protection Response Teams-

This section authorizes TSA to develop Visible Intermodal Protection Response (VIPR) Teams, which are designed to augment security for any mode of transportation at any location within the U.S. This builds upon the VIPR program which has already been tested by TSA. The secretary has the discretion to determine, consistent with ongoing security threats, when a VIPR team should be deployed and for how long in coordination with local law enforcement.

Section 18 – National Transportation Security Center of Excellence –

The section requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation, to create at least one national transportation security center of excellence at an institution of higher education to assist in carrying out research and development and to develop and provide professional training. At least two of the consortium colleges and universities associated with this center of excellence will be a minority serving institution.

Section 19 – TSA Personnel Limitations –

Any statutory limitation on the number of Transportation Security Administration employees shall not apply to employees implementing this bill.

Section 20- Homeland Security Grants-

This section establishes that DHS shall administer all grants on the basis of risk, as the lead agency on transportation security.

Section 21- Threat Assessment Screening-

This section requires that within 180 days, a name-based check for all employees of covered transportation will be conducted against terrorist watch lists and immigration status lists. A similar name-based check was conducted on port workers by DHS last year.

Section 22- Background Checks for Covered Individuals-

This section provides a redress process for employees who are fired as a result of a background check performed in order to satisfy any rules, regulations, directives, or other guidance issued by DHS. This redress process shall include a waiver process that will allow a dismissed employee to demonstrate that he is not a security risk. It will also include an appeals process. This section also establishes offenses that may not be used to dismiss an employee as a security threat.

Section 23 – Penalties –

This section provides the Transportation Security Administration with general administrative, civil, and criminal penalty authority. TSA already possesses specific authority to enforce aviation security measures under 49 USC 46301, but lacks such authority in other modes of transportation.