



A bold voice for transportation workers

April 7, 2016

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Secretary Foxx:

As labor organizations representing transit workers throughout the country, we urge the Department of Transportation (DOT) and your Federal Transit Administration (FTA) to issue a rule to protect bus drivers and other transit operators from the physical assaults that are plaguing this industry. As you know, Section 3022 of the Fixing America's Surface Transportation (FAST) Act, builds upon FTA's authority to regulate the safety of public transportation and requires the agency to issue a rulemaking on transit operator assaults. We believe that given the gravity of the problem, the clear Congressional directive, and DOT's own engagement on this issue, that a rule to mitigate assaults should be finalized this calendar year.

For the last several years, an epidemic of workplace violence has fundamentally undermined the enterprise of providing public transportation throughout the nation. According to the FTA's National Transit Database, which does not even fully capture the true extent of incidents, approximately 135 transit operators are assaulted every year. These incidents not only pose severe physical and emotional problems for the members we represent but jeopardizes the safety of public transportation more broadly. When operators are assaulted, passengers can be put at risk when violence spreads into a vehicle. And when an assault occurs while a bus is in operation, the driver may lose control putting riders, other vehicles, and pedestrians in danger.

At present, there is no uniform or national standard for stopping transit operator assaults. While unions and some local transit agencies have diligently worked to address this problem – including through the collective bargaining process – these efforts are limited in the scope of protections provided and only cover a small number of agencies. Given that we have seen a dramatic uptick in assaults across the country, in cities, suburbs and even rural communities, it is clear that a national set of rules, as mandated by Congress, are urgently needed. We also reject the notion that basic safety issues like driver assault should be left to the collective bargain process, which inherently forces workers to give up something of value to achieve what should be an inherent right and leads to inconsistent and incremental solutions that subject too many workers to an unsafe working environment.

Transportation Trades Department, AFL-CIO

815 16th Street NW / 4th Floor / Washington DC 20006

Tel:202.628.9262 / Fax:202.628.0391 / www.ttd.org

Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



Fortunately, the FTA has been vested with the legal authority and congressional mandate to address transit operation assaults. In 2012, the MAP-21 gave the FTA broad legal authority to regulate and oversee transit safety nationwide, and the agency has subsequently moved forward with a series of rulemakings delineating its broad oversight of the industry. Building upon this authority, Section 3022 of the FAST Act requires the FTA to issue an NPRM on “protecting public transportation operators from the risk of assault.” While we understand that this section mandates an NPRM no later than 90 days after the publication of a broad report on public transportation safety, we believe the FTA has the authority to issue rulemaking before this report is issued. First, the 90 day review only sets the outer limits of when an NPRM is to be issued – it does not limit the FTA’s ability to move quickly to address this problem. In fact, the section’s “Saving Clause” specifically reserves for the agency the clear flexibility to issue the rule when they see fit, not necessarily at the conclusion of any study. Finally, the FTA’s general authority to regulate transit safety dating back to MAP-21 would allow the agency to issue rules on driver assaults absent any direct mandate.

We welcome further study, and believe it can serve future understanding of how to implement worker safety, but there should be a rulemaking to establish a safety regime in the interim. As organizations that confront the daily toll of this violence, we believe existing information, including that provided by the FTA, is clear and actionable. Waiting to conclude a lengthy study prior to beginning to move forward will push such a decisions to a future Administration and only serve to further delay timely, potentially life-saving intervention.

Given the clear legal authority, congressional mandate and daily evidence of dangers facing operators and the safe movement of public transport, we ask you to move forward with a rulemaking to mitigate driver assault. We look forward to working with you and are happy to provide further input and insight on this issue as you move forward with implementation of the FAST Act.

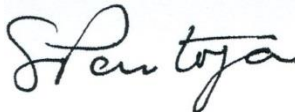
Sincerely,



Lawrence Hanley
International President
Amalgamated Transit Union



Lee Saunders
President
American Federation of State, County and
Municipal Employees



Sito Pantoja
General Vice President
International Association of Machinists and
Aerospace Workers



John Thacker
Conference President
National Conference of Firemen and
Oilers, SEIU



John Previsich
President
SMART-Transportation Division



Robert Scardelletti
National President
Transportation Communications Union/IAM



Edward Wytkind
President
Transportation Trades Department, AFL-CIO



Harry Lombardo
International President
Transport Workers Union of America