



November 30, 2010

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein:

On behalf of the American Public Transportation Association (APTA), I write to express our opposition to legislation you recently introduced regarding liability caps for railroads. If enacted, this legislation as it is now written would adversely affect the operation and expansion of commuter rail systems, without improving safety for commuter rail passengers. While laudable in its goal of attempting to protect Americans who use commuter rail service, it will have the unintended consequence of raising the cost of liability insurance that all commuter railroads must buy without recognizing the impact on the riders who will pay higher ticket costs or the taxpayers who finance commuter rail in America.

Congress dealt with this issue in the Amtrak Reform and Accountability Act of 1997 (ARAA, P.L. 105-134) by setting a liability cap of \$200 million per accident. Since enactment of that law and until the terrible crash in Chatsworth last year, no claims related to commuter rail operations have come close to the \$200 million cap, let alone a higher \$500 million liability limit. Commuter railroads assume responsibility for risks associated with their operations, which in turn requires every commuter rail agency to buy substantial amounts of liability insurance to pay for damages that may arise as a result of accident. Since many commuter railroads operate over shared freight rail tracks, they must also negotiate shared-use agreements with freight railroads, negotiations which could be greatly complicated by this legislation.

More than doubling the current cap would greatly increase the cost for insurance, if the insurance is available at all. Already, under current law, several commuter rail systems recently sought to renew liability coverage and were unable to obtain insurance in the domestic markets, forcing them to go overseas for coverage, where they paid more for less coverage. Difficulty in procuring liability insurance may also impede emerging high-speed and intercity passenger service, as increased liability limits will ultimately affect their operations. In short, increasing the existing \$200 million cap to \$500 million may prove to be cost prohibitive or even impossible (if underwriters refuse to provide coverage) for some commuter rail operators, discouraging the start up of new systems and jeopardizing existing service. The recent APTA Second Quarter 2010 Ridership report found that 13 out of 27 commuter rail systems reported ridership increases – highlighting the public's strong demand for this public transportation service. With such a great public need, we must work together to ensure that our commuter trains can continue to run and keep our country moving.

While the safety record for public transportation is one of the best within the transportation modes, every effort must be made to continually make these systems even safer. To prevent accidents in the future, commuter railroads are currently in the process of implementing sophisticated collision avoidance train control technologies as required under the Rail Safety Improvement Act (RSIA, P.L. 110-432).

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While we want to work with Congress as it develops legislation to ensure the safety of commuter rail operations, the hasty resolution of this complex issue is unlikely to serve the best interests of taxpayers or commuter rail riders. We urge Congress to carefully consider the best approach to ensure the safety of commuter rail passengers and other forms of passenger rail, and we hope that any solution balances the need to both ensure passenger safety and provide transportation choices.

Thank you for your time and attention to this matter. If you should have any questions, please have your staff contact Joni Zielinski of APTA's Government Affairs Department at (202) 496-4865 or email jzielinski@apta.com

Sincerely yours,

A handwritten signature in cursive script, appearing to read "William Millar".

William Millar
President

WM/tjj