

## **49 USC 1139 : Assistance to families of passengers involved in rail passenger accidents**

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### **From Title 49-TRANSPORTATION**

SUBTITLE II-OTHER GOVERNMENT AGENCIES  
CHAPTER 11-NATIONAL TRANSPORTATION SAFETY BOARD  
SUBCHAPTER III-AUTHORITY

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## **§1139. Assistance to families of passengers involved in rail passenger accidents**

(a) IN GENERAL.-As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency, the Chairman of the National Transportation Safety Board shall-

(1) designate and publicize the name and telephone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and post-trauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

(b) RESPONSIBILITIES OF THE BOARD.-The Board shall have primary Federal responsibility for-

(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

(2) communicating with the families of passengers involved in the accident as to the roles, with respect to the accident and the post-accident activities, of-

(A) the organization designated for an accident under subsection (a)(2);

(B) Government agencies; and

(C) the rail passenger carrier involved.

(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.-The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

(4) To arrange a suitable memorial service, in consultation with the families.

(d) PASSENGER LISTS.-

(1) REQUESTS FOR PASSENGER LISTS.-

(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.-It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

(B) REQUESTS BY DESIGNATED ORGANIZATION.-The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

(2) USE OF INFORMATION.-Except as provided in subsection (k), the director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

(e) CONTINUING RESPONSIBILITIES OF THE BOARD.-In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident-

- (1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and
- (2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

(f) USE OF RAIL PASSENGER CARRIER RESOURCES.-To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

(g) PROHIBITED ACTIONS.-

(1) ACTIONS TO IMPEDE THE BOARD.-No person (including a State or political subdivision thereof) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

(2) UNSOLICITED COMMUNICATIONS.-No unsolicited communication concerning a potential action or settlement offer for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation, including the railroad carrier or rail passenger carrier, to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.-No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

(h) DEFINITIONS.-In this section:

(1) RAIL PASSENGER ACCIDENT.-The term "rail passenger accident" means any rail passenger disaster that-

- (A) results in any loss of life;
- (B) the National Transportation Safety Board will serve as the lead investigative agency for; and
- (C) occurs in the provision of-
  - (i) interstate intercity rail passenger transportation (as such term is defined in section 24102); or
  - (ii) high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause.

(2) RAIL PASSENGER CARRIER.-The term "rail passenger carrier" means a rail carrier providing-

- (A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or
- (B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term does not include a tourist, historic, scenic, or excursion rail carrier.

(3) PASSENGER.-The term "passenger" includes-

- (A) an employee of a rail passenger carrier aboard a train;
- (B) any other person aboard the train without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the rail transportation; and
- (C) any other person injured or killed in a rail passenger accident, as determined appropriate by the Board.

(i) LIMITATION ON STATUTORY CONSTRUCTION.-Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.-

(1) GENERAL RULE.-This section (other than subsection (g)) shall not apply to a rail passenger accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

(2) BOARD ASSISTANCE.-If this section does not apply to a rail passenger accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

(k) SAVINGS CLAUSE.-Nothing in this section shall be construed to abridge the authority of the Board or the Secretary of Transportation to investigate the causes or circumstances of any rail accident, including development of information regarding the nature of injuries sustained and the manner in which they were sustained for the purposes of determining compliance with existing laws and regulations or for identifying means of preventing similar injuries in the future, or both.

(Added Pub. L. 110-432, div. A, title V, §501(a), Oct. 16, 2008, 122 Stat. 4894 ; amended Pub. L. 114-94, div. A, title XI, §11316(a), Dec. 4, 2015, 129 Stat. 1676 ; Pub. L. 115-254, div. C, §1109(d), Oct. 5, 2018, 132 Stat. 3435 .)

## AMENDMENTS

**2018-**Subsec. (a). Pub. L. 115-254, §1109(d)(1), substituted "resulting in any loss of life, and for which the National Transportation Safety Board will serve as the lead investigative agency" for "resulting in a major loss of life" in introductory provisions.

Subsec. (h)(1). Pub. L. 115-254, §1109(d)(2), amended par. (1) generally. Prior to amendment, text read as follows: "The term 'rail passenger accident' means any rail passenger disaster resulting in a major loss of life occurring in the provision of-

"(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

"(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation, regardless of its cause or suspected cause."

**2015-**Subsec. (a)(1). Pub. L. 114-94, §11316(a)(1), substituted "telephone number" for "phone number".

Subsec. (a)(2). Pub. L. 114-94, §11316(a)(2), substituted "post-trauma communication with families" for "post trauma communication with families".

Subsec. (j). Pub. L. 114-94, §11316(a)(3), substituted "rail passenger accident" for "railroad passenger accident" in pars. (1) and (2).

## EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

## ESTABLISHMENT OF TASK FORCE

Pub. L. 110-432, div. A, title V, §503, Oct. 16, 2008, 122 Stat. 4899 , provided that:

"(a) ESTABLISHMENT.-The Secretary [of Transportation], in cooperation with the National Transportation Safety Board, organizations potentially designated under section **1139**(a)(2) of title **49**, United States Code, rail passenger carriers (as defined in section **1139**(h)(2) of title **49**, United States Code), and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of rail passenger carrier employees, and representatives of such other entities as the Secretary considers appropriate.

"(b) MODEL PLAN AND RECOMMENDATIONS.-The task force established pursuant to subsection (a) shall develop-

"(1) a model plan to assist rail passenger carriers in responding to passenger rail accidents;

"(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

"(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

"(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

"(c) REPORT.-Not later than 1 year after the date of the enactment of this Act [Oct. 16, 2008], the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation containing the model plan and recommendations developed by the task force under subsection (b)."