[118H9961]

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

# H. R. _____

To permit Amtrak to bring civil actions in Federal district court to enforce the right set forth in section 24308(c) of title 49, United States Code, which gives intercity and commuter rail passenger transportation preference over freight transportation in using a rail line, junction, or crossing, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. DELUZIO introduced the following bill; which was referred to the Committee on _____

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# A BILL

To permit Amtrak to bring civil actions in Federal district court to enforce the right set forth in section 24308(c) of title 49, United States Code, which gives intercity and commuter rail passenger transportation preference over freight transportation in using a rail line, junction, or crossing, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Rail Passenger Fairness Act''.

**SEC. 2. FINDINGS.**

(1) Congress created Amtrak under the Rail Passenger Service Act of 1970 (Public Law 91–158).

(2) Amtrak began serving customers on May 1, 1971, taking over the operation of most intercity passenger trains that private, freight railroads were previously required to operate. In exchange for assuming these passenger rail operations, Amtrak was given access to the national rail network.

(3) In return for relief from the obligation to provide intercity passenger service, railroads over which Amtrak operated (referred to in this section as ''host railroads'') were expected to give Amtrak passenger trains preference over freight trains when using the national rail network.

(4) In 1973, Congress passed the Amtrak Improvement Act of 1973 (Public Law 93–146), which gives intercity and commuter rail passenger transportation preference over freight transportation in using a rail line, junction, or crossing. This right, which is now codified as section 24308(c) of title 49, United States Code, states, ''Except in an emer-

gency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Board orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Board for relief. If the Board, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Board shall establish the rights of the carrier and Amtrak on reasonable terms.''.

(5) Many host railroads have ignored the law referred to in paragraph (4) by refusing to give passenger rail the priority to which it is statutorily entitled and giving freight transportation the higher priority. As a result, Amtrak's on time performance on most host railroads is poor, has declined between 2014 through 2019, and continues to decline.

(6) According to Amtrak, 6,500,000 customers on State-supported and long-distance trains arrived at their destination late during fiscal year 2019. Nearly 70 percent of these delays were caused by host railroads, amounting to a total of 3,200,000

minutes. The largest cause of these delays was freight train interference, which accounted for more than 1,000,000 minutes of delay for Amtrak passengers, or approximately 2 years, because host railroads chose to give freight trains priority.

(7) Poor on-time performance wastes taxpayer dollars. According to a 2019 report by Amtrak's Office of Inspector General, a 5 percent improvement of on-time performance on all Amtrak routes would result in $12,100,000 in cost savings to Amtrak in the first year. If on-time performance on long-distance routes reached 75 percent for a year, Amtrak would realize an estimated $41,900,000 in operating cost savings, with a one-time savings of $336,000,000 due to a reduction in equipment replacement needs.

(8) Historical data suggests that on-time performance on host railroads is driven by the existence of an effective means to enforce Amtrak's preference rights:

(A) Two months after the date of the enactment of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432), which included provisions for the enforcement of these preference rights, was

enacted, the on-time performance of long-distance trains improved from 56 percent to 77 percent and class I freight train interference delays across all routes declined by 40 percent.

(B) One year after such date of enactment, freight train interference delays had declined by 54 percent and the on-time performance of long-distance trains reached 85 percent.

(C) In 2014, after some of the provisions in the Passenger Rail Investment and Improvement Act of 2008 related to enforcement of preference were ruled unconstitutional by a D.C. Circuit Court, long-distance train on-time performance declined from 72 percent to 50 percent, and freight train interference delays increased 59 percent.

(D) The last time long-distance trains achieved an on-time rate of more than 80 percent in a given month was February 2012.

(9) As a result of violations of Amtrak's right to preference, Amtrak has been consistently unable on host railroad networks to meet its congressionally mandated mission and goals, which are codified in section 24101 of title 49, United States Code (relat-

ing to providing on-time and trip-time competitive service to its passengers).

(10) Amtrak does not have an effective mechanism to enforce its statutory preference right in order to fulfill its mission and goals. Only the Attorney General can bring a civil action for equitable relief in a district court of the United States to enforce Amtrak's preference rights.

(11) In Amtrak's entire history, the only enforcement action initiated by the Attorney General was against the Southern Pacific Transportation Company in 1979.

(12) Congress supports continued authority for the Attorney General to initiate an action, but Amtrak should also be entitled to bring a civil action before a Federal district court to enforce its statutory preference rights.

**SEC. 3. AUTHORIZE AMTRAK TO BRING A CIVIL ACTION TO ENFORCE IT PREFERENCE RIGHTS.**

(a) IN GENERAL.—Section 24308(c) of title 49, United States Code, is amended, by adding at the end the following: ''Notwithstanding sections 24103(a) and 24308(f), Amtrak shall have the right to bring an action for equitable or other relief in the United States District

Court for the District of Columbia to enforce the preference rights granted under this subsection.''.

(b) CONFORMING AMENDMENT.—Section 24103 of title 49, United States Code, is amended by inserting ''and section 24308(c)'' before '', only the Attorney General''.