



Written by [Bruce Walker](#) on February 14, 2012

## Congress Considers Federal Regulation of Mass Transit

In the aftermath of the Washington Metro's deadliest crash over two years ago, Congress is considering federal regulation to make mass transit systems safer nationwide. According to the Washington Post: This week two bills that address safety are expected to go before the House and Senate for debate. One of the proposals would give the Federal Transit Administration oversight and the authority to set standards.



Senator Barbara Mikulski (D-Md. above left.), who has introduced similar legislation in the past, commented, "We have federal safety standards for planes, trains and automobiles. It's shocking we don't have them for the 7 million Americans who rely on metro systems every day."

The *Post* notes that unlike the heavily regulated airline, railroad, and trucking industries, not all commuter systems are under federal guidelines:

Commuter rail systems such as MARC and Virginia Railway Express [in the Washington, D.C. area] are subject to federal regulations, but subways, light-rail systems and streetcars are excluded under a law passed more than 45 years ago.

That leaves 47 rail agencies that set their own rules and procedures. Often there are few — if any — state regulations and only minimal oversight from independent authorities that have no enforcement power.

According to the *Post*, the transit safety measures may stand a better chance of approval this time because they are tied to reauthorization bills for federal highways and transit spending.

Senator Mikulski is seeking to remove a 1964 provision in federal law prohibiting federal oversight of transit agencies across the country. Though these systems may not be subject to federal regulations, they do come under state and municipal guidelines. So where particular transit systems around the nation are facing safety problems, cities or states in which they operate have the power to increase oversight. The cause of safety problems varies from system to system just as highway conditions vary from region to region.

The U.S. Department of Transportation data does not indicate a real crisis nationally. The Transit Safety and Security Statistics and Analysis from 1998 to 2007 shows that the total number of incidents has actually declined from 60,094 in 1998 to 23,935 in 2007. This analysis includes seven different sub-categories: "Automated Gateway," "Commuter Rail," "Demand Response," "Heavy Rail" (which is also called Rapid Transit), "Light Rail" (Streetcar), "Motor Bus," and "Van Pool."

Heavy rail incidents declined steadily each year from 1998 to 2005 and since have risen gradually (but



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the number of incidents is still lower than a decade ago); meanwhile, light rail's safety incidents have been remarkably stable, peaking in 2000 and remaining in the range of 1,000 per year. Commuter rail — urban mass transit not included in light rail or heavy rail — had 2,410 incidents in 1998. It rose the next year to 2,499 but then dropped gradually to a low of 1,575 incidents in 2006.

The number of fatalities connected with mass transit has increased in the last few years for which data is available, but this was after reaching a low level of 104 in 2005, a sharp drop from the fatality levels in 1998-2001. Significantly, commuter rail fatalities, which peaked at 67 in 1998, had dropped to only seven in 2002; heavy rail fatalities, which were 18 in 2002, rose to a high of 30 in 2005, but then dropped to only seven in 2005.

So if the Department of Transportation data show anything, it is that over recent history the mass transit systems which are not regulated by the federal government have become safer, not more dangerous.

The issue of federal regulation of these transit systems is not new. In 2010, there was another such attempt, foiled by Senator Tom Coburn (R-Okla.). One of the questions presented to federal regulators at the time was why a new layer of federal oversight was needed for metropolitan transits when their currently-unregulated systems were safer than those under control of the Department of Transportation. As was noted two years ago, urban rail systems are among the safest methods of transportation in America.

The costs for safety failure in metropolitan transit systems are high. The political fallout puts the problems at the feet of local and state elected officials with the authority to insure or to expand safety measures; furthermore, observers have noted that these officials are much more vulnerable than Congressmen, Senators, or federal regulatory agencies. The perception of failure in a metropolitan transit system can make the area look less attractive to businesses, and also, passengers will seek alternative methods of travel if these mass transit systems are not working. Finally, the damage caused by accidents as well as the liability issues for transit systems (and the cost of insurance for those which perform poorly) create firm incentives to institute safety practices at the state or local level.

Critics have argued that metro transit safety does not require federal oversight. Local and state government accountability and market forces have provided a proven and responsive mechanism to address these safety problems.



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