

111TH CONGRESS
2^D SESSION

H. R. 4714

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 through 2014, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2010

Mr. OBERSTAR (for himself, Mr. MICA, Mr. COSTELLO, Mr. PETRI, Mr. DEFAZIO, Ms. NORTON, and Mr. CUMMINGS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 through 2014, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Transportation Safety Board Reauthorization
6 Act of 2010”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Definitions.
- Sec. 4. General organization.
- Sec. 5. Administrative.
- Sec. 6. Recordings, transcripts, and investigations.
- Sec. 7. Training.
- Sec. 8. Reports and studies.
- Sec. 9. Authorization of appropriations.
- Sec. 10. Accident investigation authority.
- Sec. 11. Maritime casualty investigations.
- Sec. 12. Inspections and autopsies.
- Sec. 13. Discovery and use of cockpit and surface vehicle recordings and transcripts.
- Sec. 14. Family assistance.
- Sec. 15. Coast Guard notification.

1 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

2 Except as otherwise specifically provided, whenever in
 3 this Act an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion of law, the reference shall be considered to be made
 6 to a section or other provision of title 49, United States
 7 Code.

8 **SEC. 3. DEFINITIONS.**

9 Section 1101 is amended to read as follows:

10 **“§ 1101. Definitions**

11 “(a) ACCIDENT DEFINED.—In this chapter, the term
 12 ‘accident’—

13 “(1) means an event associated with the oper-
 14 ation of a vehicle, aircraft, or pipeline, which results
 15 in damage to or destruction of the vehicle, aircraft
 16 or pipeline, or which results in the death of or seri-
 17 ous injury to any person, regardless of whether the
 18 initiating event is accidental or otherwise; and

1 “(2) may include an incident that does not in-
 2 volve destruction or damage of a vehicle, aircraft, or
 3 pipeline, but affects transportation safety, as the
 4 Board prescribes by regulation.

5 “(b) APPLICABILITY OF DEFINITIONS IN OTHER
 6 LAWS.—The definitions contained in section 2101(17a) of
 7 title 46 and section 40102(a) of this title apply to this
 8 chapter.”.

9 **SEC. 4. GENERAL ORGANIZATION.**

10 The last sentence of section 1111(d) is amended by
 11 striking “absent” and inserting “unavailable”.

12 **SEC. 5. ADMINISTRATIVE.**

13 (a) ADDITIONAL POWERS.—

14 (1) AUTHORITY OF BOARD TO ENTER INTO
 15 CONTRACTS AND OTHER AGREEMENTS WITH NON-
 16 PROFIT ENTITIES.—Section 1113(b)(1)(H) is
 17 amended by inserting “and other agreements” after
 18 “contracts”.

19 (2) AUTHORITY OF BOARD TO ENTER INTO AND
 20 PERFORM CONTRACTS, AGREEMENTS, LEASES, OR
 21 OTHER TRANSACTIONS.—Section 1113(b)(1) is
 22 amended—

23 (A) by striking paragraph (1)(I) and in-
 24 serting the following:

1 “(I) negotiate, enter into, and perform con-
2 tracts, agreements, leases, or other transactions with
3 individuals, private entities, departments, agencies,
4 and instrumentalities of the Government, State and
5 local governments, and governments of foreign coun-
6 tries on such terms and conditions as the Chairman
7 of the Board considers appropriate to carry out the
8 functions of the Board and require that such entities
9 provide appropriate consideration for the reasonable
10 costs of any facilities, goods, services, or training
11 provided by the Board.”; and

12 (B) by adding at the end the following:

13 “(3) The Authority of the Board to enter into leases
14 shall be limited to the provision of special use space re-
15 lated to an accident investigation, or for general use space,
16 at an average annual rental cost of not more than
17 \$300,000 for any individual property.”.

18 (3) AUTHORITY OF OTHER FEDERAL AGEN-
19 CIES.—Section 1113(b)(2) is amended to read as
20 follows:

21 “(2) AUTHORITY OF OTHER FEDERAL AGEN-
22 CIES.—Notwithstanding any other provision of law,
23 the head of a Federal department, agency, or instru-
24 mentality may transfer to or receive from the Board,
25 with or without reimbursement, supplies, personnel,

1 services, and equipment (other than administrative
2 supplies and equipment).”.

3 (b) CRITERIA ON PUBLIC HEARINGS.—

4 (1) IN GENERAL.—Section 1113 is amended by
5 adding at the end the following:

6 “(i) PUBLIC HEARINGS.—

7 “(1) DEVELOPMENT OF CRITERIA.—The Board
8 shall establish by regulation criteria to be used by
9 the Board in determining, for each accident inves-
10 tigation and safety study undertaken by the Board,
11 whether or not the Board will hold a public hearing
12 on the investigation or study.

13 “(2) FACTORS.—In developing the criteria, the
14 Board shall give priority consideration to the fol-
15 lowing factors:

16 “(A) Whether the accident has caused sig-
17 nificant loss of life.

18 “(B) Whether the accident has caused sig-
19 nificant property damage.

20 “(C) Whether the accident may involve a
21 national transportation safety issue.

22 “(D) Whether a public hearing may pro-
23 vide needed information to the Board.

1 “(E) Whether a public hearing may offer
2 an opportunity to educate the public on a safety
3 issue.

4 “(F) Whether a public hearing may in-
5 crease both the transparency of the Board’s in-
6 vestigative process and public confidence that
7 such process is comprehensive, accurate, and
8 unbiased.

9 “(G) Whether a public hearing is likely to
10 significantly delay the conclusion of an inves-
11 tigation and whether the possible adverse ef-
12 fects of the delay on safety outweigh the bene-
13 fits of a public hearing.”.

14 (2) ANNUAL REPORT.—Section 1117 is amend-
15 ed—

16 (A) by striking “and” at the end of para-
17 graph (5);

18 (B) by striking the period at the end of
19 paragraph (6) and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(7) an analysis of the Board’s implementation
22 of the criteria established pursuant to section
23 1113(i) during the prior calendar year, including an
24 explanation of any instance in which the Board did
25 not hold a public hearing for an investigation of an

1 accident that has caused significant loss of life or
2 property damage or that may involve a national
3 transportation safety issue.”.

4 **SEC. 6. RECORDINGS, TRANSCRIPTS, AND INVESTIGATIONS.**

5 (a) VESSEL RECORDINGS AND TRANSCRIPTS.—Sec-
6 tion 1114 is amended—

7 (1) in subsection (a)(1) by striking “and (f)”
8 and inserting “(e), and (g)”;

9 (2) in subsection (d)(1) by striking “or vessel”;

10 (3) by redesignating subsections (e) and (f) as
11 subsections (f) and (g), respectively; and

12 (4) by inserting after subsection (d) the fol-
13 lowing:

14 “(e) VESSEL RECORDINGS AND TRANSCRIPTS.—

15 “(1) CONFIDENTIALITY OF RECORDINGS AND
16 TRANSCRIPTS.—The Board may not disclose publicly
17 any part of a vessel’s voice or video recorder record-
18 ing or transcript of oral communications by or
19 among the crew, pilots, or docking masters of a ves-
20 sel, vessel traffic services, or other vessels, or be-
21 tween the vessel’s crew and company communication
22 centers, related to an accident investigated by the
23 Board. However, the Board shall make public any
24 part of a transcript or any written depiction of vis-

1 ual information that the Board decides is relevant to
2 the accident—

3 “(A) if the Board holds a public hearing
4 on the accident, at the time of the hearing; or

5 “(B) if the Board does not hold a public
6 hearing, at the time a majority of the other fac-
7 tual reports on the accident are placed in the
8 public docket.

9 “(2) REFERENCES TO INFORMATION IN MAKING
10 SAFETY RECOMMENDATIONS.—This subsection does
11 not prevent the Board from referring at any time to
12 voice or video recorder information in making safety
13 recommendations.”.

14 (b) PARTY REPRESENTATIVES TO NTSB INVESTIGA-
15 TIONS.—

16 (1) IN GENERAL.—Section 1114 is further
17 amended by adding at the end the following:

18 “(h) PARTY REPRESENTATIVES TO NTSB INVES-
19 TIGATIONS.—

20 “(1) PROHIBITION ON DISCLOSURE OF INFOR-
21 MATION.—A party representative to an accident in-
22 vestigation of the Board is prohibited from dis-
23 closing, orally or in written form, investigative infor-
24 mation, as defined by the Board, to anyone who is

1 not an employee of the Board or who is not a party
2 representative to such investigation, except—

3 “(A) as provided in paragraph (2); or

4 “(B) at the conclusion of the fact finding
5 stage of an investigation, which the investi-
6 gator-in-charge shall announce by formal post-
7 ing of a notice in the publicly available inves-
8 tigation docket.

9 “(2) EXCEPTION.—If the investigator-in-charge
10 determines that a disclosure of information related
11 to an accident investigation is necessary to prevent
12 additional accidents, to address a perceived safety
13 deficiency, or to assist in the conduct of the inves-
14 tigation, the investigator-in-charge may at any time
15 authorize in writing a party representative to dis-
16 close such information under conditions approved by
17 the investigator-in-charge. Such conditions shall en-
18 sure that, until the posting of a formal notice de-
19 scribed in paragraph (1)(B), or until the information
20 disclosed pursuant to this paragraph becomes pub-
21 licly available by any other means, neither the entity
22 represented by the party representative nor any
23 other person may use such information in prepara-
24 tion for the prosecution of any claim or defense in
25 litigation in connection with the accident being in-

1 vestigated or to make or deny any insurance claim
2 in connection with such accident.

3 “(3) COMPLIANCE.—The Board shall require
4 any individual who is a party representative to an
5 investigation of the Board to sign a party agreement
6 that includes language informing the individual of
7 the prohibition in paragraph (1).

8 “(4) REPRESENTATIVES OF FEDERAL AGEN-
9 CIES.—Paragraph (3) shall not apply to an indi-
10 vidual who is a representative of the Secretary of
11 Transportation, the Secretary of the department in
12 which the Coast Guard is operating, or any other
13 Federal department, agency, or instrumentality par-
14 ticipating in the investigation and deemed by the
15 Board to be performing a law enforcement or similar
16 function.

17 “(5) PARTY REPRESENTATIVE DEFINED.—In
18 this subsection, the term ‘party representative’
19 means an individual representing a party to an in-
20 vestigation pursuant to section 831.11 of title 49,
21 Code of Federal Regulations, as in effect on the date
22 of enactment of this subsection.”.

23 (2) CIVIL PENALTY.—Section 1151 is amend-
24 ed—

1 (A) in the section heading by striking
2 “**Aviation enforcement**” and inserting
3 “**Enforcement**”; and

4 (B) by inserting “1114(h),” before
5 “1132,” in each of subsections (a), (b)(1), and
6 (c).

7 (3) CONFORMING AMENDMENT.—The analysis
8 for chapter 11 is amended by striking the item relat-
9 ing to section 1151 and inserting the following:

“1151. Enforcement.”.

10 (c) GAO STUDY OF PARTY PROCESS.—

11 (1) IN GENERAL.—The Comptroller General
12 shall conduct a study on the use of party representa-
13 tives in investigations conducted by the National
14 Transportation Safety Board.

15 (2) CONTENTS.—In conducting the study, the
16 Comptroller General shall examine, at a minimum—

17 (A) whether the composition of the party
18 representatives should be broadened to include
19 on-going representatives from other entities
20 that could provide independent, technically
21 qualified representatives to a Board investiga-
22 tion;

23 (B) whether the participation of party rep-
24 resentatives in a Board investigation results in
25 any unfair advantages for the entities rep-

1 resented by the party representatives while the
2 Board is conducting the investigation;

3 (C) whether the use of party representa-
4 tives leads to bias in the outcome of a Board
5 investigation; and

6 (D) whether Board investigations would be
7 compromised in any way absent the participa-
8 tion and expertise of party representatives.

9 (3) REPORT TO CONGRESS.—Not later than 18
10 months after the date of enactment of this Act, the
11 Comptroller General shall submit to the Committee
12 on Transportation and Infrastructure of the House
13 of Representatives and the Committee on Commerce,
14 Science, and Transportation of the Senate a report
15 on the results of the study conducted under this sub-
16 section, including any recommendations for improve-
17 ments in the Board’s use of the party representative
18 process.

19 **SEC. 7. TRAINING.**

20 Section 1115(d) is amended—

21 (1) by inserting “theory and techniques and on
22 transportation safety methods to advance Board
23 safety recommendations” before the period at the
24 end of the first sentence;

1 (2) by inserting “or who influence the course of
2 transportation safety through support or adoption of
3 Board safety recommendations” before the period at
4 the end of the second sentence; and

5 (3) by inserting “under section 1118(e)(2)” be-
6 fore the period at the end of the third sentence.

7 **SEC. 8. REPORTS AND STUDIES.**

8 (a) **STUDIES AND INVESTIGATIONS.**—Section
9 1116(b) is amended—

10 (1) in paragraph (1) by striking “carry out”
11 and inserting “conduct”; and

12 (2) by striking paragraph (3) and inserting the
13 following:

14 “(3) prescribe requirements for persons report-
15 ing accidents, as defined in section 1101(a), that
16 may be investigated by the Board under this chap-
17 ter;”.

18 (b) **EVALUATION AND AUDIT.**—Section 1138(a) is
19 amended by striking “conducted at least annually, but
20 may be”.

21 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

22 (a) **IN GENERAL.**—Section 1118(a) is amended to
23 read as follows:

24 “(a) **IN GENERAL.**—There is authorized to be appro-
25 priated for the purposes of this chapter—

1 “(1) \$117,368,000 for fiscal year 2011;
2 “(2) \$120,258,000 for fiscal year 2012;
3 “(3) \$122,187,000 for fiscal year 2013; and
4 “(4) \$124,158,000 for fiscal year 2014.
5 Such sums shall remain available until expended.”.

6 (b) FEES, REFUNDS, REIMBURSEMENTS, AND AD-
7 VANCES.—Section 1118(c) is amended—

8 (1) by striking the subsection heading and in-
9 serting the following: “FEES, REFUNDS, REIM-
10 BURSEMENTS, AND ADVANCES”;

11 (2) in paragraph (1)—

12 (A) by striking “and reimbursements” and
13 inserting “reimbursements, and advances”; and

14 (B) by striking “services” and inserting
15 “activities, services, and facilities”;

16 (3) in paragraph (2)—

17 (A) in the matter preceding subparagraph

18 (A) by striking “or reimbursement” and insert-
19 ing “reimbursement, or advance”; and

20 (B) in each of subparagraphs (A) and (B)
21 by striking “activities” and all that follows be-
22 fore the semicolon and inserting “activities,
23 services, or facilities for which the fee, refund,
24 reimbursement, or advance is associated”;

1 (4) by redesignating paragraph (3) as para-
2 graph (4);

3 (5) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) ANNUAL RECORD OF COLLECTIONS.—The
6 Board shall maintain an annual record of collections
7 received under paragraph (2).”; and

8 (6) in paragraph (4) (as redesignated by para-
9 graph (4) of this subsection) by inserting “or ad-
10 vance” after “fee”.

11 **SEC. 10. ACCIDENT INVESTIGATION AUTHORITY.**

12 (a) IN GENERAL.—Section 1131(a)(1) is amended—

13 (1) in the matter preceding subparagraph (A)
14 by striking “cause or probable cause” and inserting
15 “causes or probable causes”;

16 (2) in subparagraph (C) by striking “a fatality
17 or substantial property damage” and inserting “a
18 fatality (other than a fatality involving a trespasser)
19 or substantial property damage”;

20 (3) in subparagraph (E) by striking “and” at
21 the end;

22 (4) in subparagraph (F) by striking the period
23 at the end and inserting a semicolon; and

24 (5) by adding at the end the following:

1 “(G) an accident in response to an international
2 request and delegation under appropriate inter-
3 national conventions, coordinated through the De-
4 partment of State and accepted by the Board; and

5 “(H) each accident involving a commercial
6 space launch vehicle.”.

7 (b) AUTHORITIES OF OTHER AGENCIES.—The sec-
8 ond sentence of section 1131(a)(3) is amended by insert-
9 ing “or relevant to” after “developed about”.

10 (c) ACCIDENTS NOT INVOLVING GOVERNMENT MIS-
11 FEASANCE OR NONFEASANCE.—Section 1131(c) is
12 amended by adding at the end the following:

13 “(3) AUTHORITY OF BOARD REPRESENTA-
14 TIVE.—In the case of a delegation of authority
15 under paragraph (1), the Secretary, or a person des-
16 ignated by the Secretary, shall have the authority of
17 the Board, on display of appropriate credentials and
18 written notice of inspection authority, to enter prop-
19 erty where the aircraft accident has occurred or
20 wreckage from the accident is located and to gather
21 evidence in support of a Board investigation, in ac-
22 cordance with rules the Board may prescribe.”.

23 (d) INCIDENT INVESTIGATIONS.—Section 1131 is
24 amended by adding at the end the following:

25 “(f) INCIDENT INVESTIGATIONS.—

1 “(1) MEMORANDUM OF UNDERSTANDING.—Not
2 later than 90 days after the issuance of final regula-
3 tions under section 1101(a)(2), the Chairman of the
4 Board shall seek to enter into a memorandum of un-
5 derstanding with the Secretary of Transportation
6 and the head of each modal administration of the
7 Department of Transportation that sets forth—

8 “(A) an understanding of the conditions
9 under which the Board will conduct an incident
10 investigation that involves the applicable mode
11 of transportation; and

12 “(B) the roles and responsibilities of the
13 parties to the memorandum when the Board is
14 conducting an incident investigation.

15 “(2) UPDATES AND RENEWALS.—Each memo-
16 randum of understanding required under paragraph
17 (1) shall be updated and renewed not less than once
18 every 5 years, unless parties to the memorandum
19 agree that updating the memorandum is unneces-
20 sary.

21 “(3) BOARD AUTHORITY.—Nothing in this
22 paragraph negates the authority of the Board to in-
23 vestigate an incident.

1 “(4) INCIDENT DEFINED.—In this subsection,
2 the term ‘incident’ means an incident described in
3 regulations issued under section 1101(a)(2).”.

4 **SEC. 11. MARITIME CASUALTY INVESTIGATIONS.**

5 (a) IN GENERAL.—Chapter 11 is amended by insert-
6 ing after section 1132 the following:

7 **“§ 1132a. Maritime casualty investigations**

8 “(a) DELEGATION OF AUTHORITY TO COAST
9 GUARD.—

10 “(1) IN GENERAL.—In an investigation of a
11 major marine casualty under section 1131(a)(1)(E),
12 the Board, with the consent of the Secretary of the
13 department in which the Coast Guard is operating,
14 may delegate to the Commandant of the Coast
15 Guard full authority to obtain the facts of the cas-
16 ualty. In the case of such a delegation, the Com-
17 mandant, acting through the Commandant’s on-
18 scene representative, shall have the full authority of
19 the Board.

20 “(2) REQUIRED TRAINING, EXPERIENCE, AND
21 QUALIFICATIONS.—The Board may not make a dele-
22 gation under paragraph (1) unless the Board deter-
23 mines that the Commandant’s on-scene representa-
24 tives have sufficient training, experience, and quali-
25 fications in investigation, marine casualty recon-

1 struction, evidence collection and preservation,
2 human factors, and documentation to act in accord-
3 ance with the best investigation practices of Federal
4 and non-Federal entities.

5 “(b) NOTIFICATION AND REPORTING.—The Board
6 and the Secretary shall jointly prescribe regulations gov-
7 erning the notification and reporting of marine casualties
8 to the Board.

9 “(c) PARTICIPATION OF COMMANDANT IN MARINE
10 INVESTIGATIONS.—The Board shall provide for the par-
11 ticipation of the Commandant of the Coast Guard in an
12 investigation by the Board of a major marine casualty
13 under section 1131(a)(1)(E) if such participation is nec-
14 essary to carry out the duties and powers of the Com-
15 mandant, except that the Commandant may not partici-
16 pate in establishing the probable cause of the marine cas-
17 ualty (other than as provided section 1131(b)).”.

18 (b) CONFORMING AMENDMENT.—The analysis for
19 chapter 11 is amended by inserting after the item relating
20 to section 1132 the following:

“Sec. 1132a. Maritime casualty investigations.”.

21 **SEC. 12. INSPECTIONS AND AUTOPSIES.**

22 Section 1134(a) is amended in the matter preceding
23 paragraph (1)—

24 (1) by striking “officer or employee” and in-
25 serting “officer, employee, or Federal designee”; and

1 (2) by inserting “in the conduct of any accident
2 investigation or study” after “National Transportation
3 Safety Board”.

4 **SEC. 13. DISCOVERY AND USE OF COCKPIT AND SURFACE**
5 **VEHICLE RECORDINGS AND TRANSCRIPTS.**

6 Section 1154(a)(1)(A) is amended by striking “;
7 and” and inserting “; or”.

8 **SEC. 14. FAMILY ASSISTANCE.**

9 (a) FAMILY ASSISTANCE IN COMMERCIAL AVIATION
10 ACCIDENTS.—Section 41113(b)(7) is amended by insert-
11 ing before the period at the end the following: “, and that
12 at least 60 days before the planned destruction of any un-
13 claimed possession of a passenger a reasonable attempt
14 will be made to notify the family of the passenger”.

15 (b) FAMILY ASSISTANCE IN COMMERCIAL AVIATION
16 ACCIDENTS INVOLVING FOREIGN CARRIERS.—Section
17 41313(c)(7) is amended by inserting before the period at
18 the end the following: “, and that at least 60 days before
19 the planned destruction of any unclaimed possession of a
20 passenger a reasonable attempt will be made to notify the
21 family of the passenger”.

22 **SEC. 15. COAST GUARD NOTIFICATION.**

23 Not later than 6 months after the date of enactment
24 of this Act, the National Transportation Safety Board and
25 the Secretary of the department in which the Coast Guard

1 is operating shall issue regulations to provide the Board
2 prompt notification through the Coast Guard of all marine
3 accidents of potential investigative interest to the Board.

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