



Statement of the Amalgamated Transit Union (ATU) Locals 689 and 1300

SB208 - Criminal Law - Assault of a Public Transportation Service Provider - Penalties

January 10th, 2022

TO: The Honorable William C. Smith Jr. and Members of the Judicial Proceedings Committee
FROM: Brian Wivell, Political & Communications Director, ATU Local 689

Thank you for the opportunity to testify today on behalf of the Amalgamated Transit Union (ATU), the largest labor organization representing transit workers in the United States and Canada. Founded in 1892, the ATU today is comprised of more than 180,000 members in 267 local unions spread across 46 states and nine provinces, including the workers at the Maryland Transit Administration (MTA), ATU Local 1300, employees of the Washington Metropolitan Area Transit Authority (WMATA), Local 689, as well as workers at private transit companies throughout the state (Local 1764). Composed of bus drivers, light rail and subway operators, maintenance and clerical personnel, and other transit, intercity, and municipal employees, the ATU works to promote transit issues and fights for the interests of its hard-working members.

ATU fully supports Senate Bill 208, which would add certain public facing transit workers to a list of protected professions, one that includes law enforcement officers, firefighters, and emergency medical workers. Assaults on these categories of workers would result in stronger penalties, hopefully serving as a deterrent to these heinous attacks. We strongly urge the General Assembly to pass this legislation as soon as possible.

A Dangerous Job

Due to the nature of their employment, which includes handling money, dealing with complaints, working alone, working late, and enforcing regulations, transit employees are vulnerable to horrific criminal acts. Bus drivers frequently travel in unsafe neighborhoods, dealing with people who do not want to pay fares and children who hurl rocks and snowballs at their vehicles. And they are confronting all of this while trying to safely steer their vehicles through traffic.

WMATA's own data shows a concerning rise in attacks on transit workers in just the last year.

Assaults on WMATA Transit Workers in Maryland		
Employee Type	2020	2021
Bus Operator	12	26
Train Operator	0	6
Station Manager	4	5

Source: WMATA's Government Relations Department. Only includes assaults that have been reported to them.

Current Law is Not Sufficient

The current law dealing with this issue (which only applies to MTA and not WMATA or any other properties) states that it is illegal to obstruct, hinder, interfere with, or otherwise disrupt or disturb the operation or operator of a transit vehicle or railroad passenger car. Unfortunately, the penalty is only a misdemeanor subject to a fine of not more than \$1000 for each offense. This is of course not enough to deter anyone from interfering with an operator. The potential prison term set forth under SB 208 could send a strong message that transit workers and the people who rely on us to get to their destination are deserving of protection.

Transit Workers Should be Treated Differently

The most common argument that we hear in the states in opposition to enhanced penalties in these cases is that laws that make it more of a crime to harm some people as compared to others are undemocratic. However, in most states, legislators have come to understand that when transit workers, especially those individuals who operate vehicles, are assaulted in the course of performing their duties, the safety of every individual on board the vehicle is placed in immediate jeopardy. In addition, other cars, pedestrians, and bicyclists are put at risk when bus drivers are distracted for any reason, especially when they become the victim of a senseless assault or battery.

District of Columbia Increased Penalties in 2008

In response to a dramatic increase in incidents in which WMATA employees have been attacked in the course of performing their duties, the District of Columbia in 2008 passed legislation providing for enhanced penalties for offenses committed against transit operators and Metrorail station managers. The bill (attached) provides for up to one and one-half times the maximum term of imprisonment otherwise authorized by the offense, or one and one-half times the maximum fine, or both. The bill also requires WMATA to put up signs on buses and in rail stations notifying the public about the existence of enhanced penalties.

It makes little sense for a person riding on a Metro bus originating in Washington, D.C. crossing into Prince George's County or Montgomery County to face steeper penalties on the District side. Maryland should protect its citizens in a similar fashion.

Conclusion

ATU commends the administration for the introduction of this critical legislation. This bill, which is long overdue, is unfortunately necessary in today's violent world. The hard-working men and women at MTA, WMATA, and the other public and private transit operations here in Maryland and the millions of customers we serve on a daily basis deserve to be protected from senseless criminal acts that can result in the serious injury or death of transit workers and other innocent bystanders on our streets. It is time to take the necessary steps to protect the public at large.

State Laws Providing for Specific Penalties in Connection with Interfering with Transit and School Bus Employees

State	Section	Provision	Penalty
CA	Cal Pen Code 190.25	Murder of a transportation worker.	Life without parole.
CA	Cal Pen Code 212.5	Robbery of a transportation worker.	First degree robbery.
CA	Cal Pen Code 241.3	Assault of transportation worker or passenger.	\$2,000 fine, 1 year in jail, or both.
CA	Cal Pen Code 243.3	Battery of transportation worker or passenger.	\$10,000 fine or 1 year in jail, or both. If injury occurs, up to 3 years prison.
CA	Cal Pen Code 245.2	Assault with deadly weapon on transportation worker.	Up to 5 years prison.
CO	C.R.S. 32-9-160	Wrongfully interfering with any RTD employee in the proper discharge of his duties.	Misdemeanor. Fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than ninety days, or both.
DC	§22-3751 et seq.	Enhanced penalties for offenses committed against transit operators and Metrorail station managers.	Up to one and ½ times the maximum term of imprisonment otherwise authorized by the offense, or one and ½ times the maximum fine, or both.
DC	§22-1309	Notice of enhanced penalties.	Requires WMATA to post signs regarding the enhanced penalties on all buses trains, and at or near Metrorail station kiosks.
FL	Fla Stat 784.07	Assault of transit employee.	1 st degree misdemeanor.
FL	Fla Stat 784.07	Battery of transit employee.	3 rd degree felony.
FL	Fla Stat 784.07	Aggravated assault of transit employee.	2 nd degree felony.
FL	Fla Stat 784.07	Aggravated battery of transit employee.	1 st degree felony.
GA	OCGA 16-5-20	Simple assault committed in a transit vehicle or station.	Misdemeanor of a “high & aggravated nature.”
GA	OCGA 16-5-21	Aggravated assault committed in a	3 to 20 years in prison.

		transit vehicle or station.	
GA	OCGA 16-5-23	Simple battery committed in a transit vehicle or station.	Misdemeanor of a “high & aggravated nature.”
GA	OCGA 16-5-23.1	Battery committed in a transit vehicle or station.	Misdemeanor of a “high & aggravated nature.”
GA	OCGA 16-5-24	Aggravated battery committed in a transit vehicle or station.	5 to 20 years in prison.
HI	HRS 711-1112	Interference with operator of public transit vehicle.	Class ‘C’ felony.
ID	ID Code 18-1522	Disruption or interference with school bus driver.	Misdemeanor.
IL	625 ILCS 50/1	Requires a <u>notice</u> to be prominently displayed in each vehicle used for the transportation of the public for hire which must substantially state the following: “Any person who assaults or harms an individual whom he knows to be a driver, operator, employee or passenger of a transportation facility or system engaged in the business of transportation for hire and who is then performing in such capacity or using such public transportation as a passenger, if such individual is assaulted, commits a Class ‘A’ misdemeanor, or if such individual is harmed, commits a Class 3 felony.	N/A
IL	720 ILCS 5/12-2	Aggravated assault on a driver, operator, employee, or passenger of any transportation facility or system engaged in the business of transportation of the public for hire.	Class ‘A’ misdemeanor.
IL	720 ILCS 5/12-4	Aggravated battery (intentionally or knowingly causing great bodily harm) to a driver, operator, employee, or passenger of any transportation facility or system engaged in the business of	Class 3 felony.

		transportation of the public for hire.	
LA	R.S. 14:34.5.1	Battery of bus operator or cable car operator while that person is on duty in course and scope of his or her employment.	Fine not more than \$500 and prison for not less than forty-eight hours nor more than six months without benefit of probation, parole, or suspension of sentence.
MA	Mass Ann Laws Ch.265, Sect 13 D	Assault & battery on certain public officers & employees (including bus, trackless trolley, rail, or rapid transit motorman, operator, gateman, guard or collector).	90 days to 2½ years prison or fine of \$500 to \$5000.
MD	Md. Transportation Code Ann. § 7-705 (b) (8)	Prohibited Acts: Obstruct, hinder, or interfere with the operation or operator of a transit vehicle or railroad passenger car or a person engaged in official duties as a station agent, conductor, or station attendant.	Misdemeanor subject to a fine of not more than \$1,000, imprisonment not exceeding 90 days, or both.
MN	Minn Stat 609.855	Unlawful interference with transit operator.	Up to 3 years in prison or \$5000 fine, or both if violation was accompanied by force or violence or a communication of a threat of force or violence. If no force or violence or threat of force or violence, up to 90 days in jail or fine not to exceed \$700.
MO	578.305 R.S. Mo	Assault with intent to commit bus hijacking (intimidation, threat, assault or battery toward any driver, attendant or guard of a bus so as to interfere with the performance of duties by such person).	Class ‘C’ felony. Class ‘A’ felony if a dangerous weapon is employed.
MO	578.305 R.S. Mo	Bus hijacking (seizure or exercise of control, by force or violence, or threat of force or violence, of any bus).	Class ‘B’ felony.
NC	G.S. 14-33(c)(7)	Assault on a public transit operator, including a public employee or a private contractor	Class A1 Misdemeanor.

		employed as a transit operator, when the operator is discharging or attempting to discharge his or her duties.	
NV	Nev Rev Stat Ann 193.161	Felony committed on a school bus while bus operator engaged in official duties.	Imprisonment for a term equal to & in addition to term prescribed by statute for that crime.
NV	Nev Rev Stat Ann 200.030	Murder of the first degree. Among other types of murder, it includes murder committed on a school bus while the bus operator was engaged in official duties.	Class 'A' felony.
NV	Nev Rev Stat Ann 200.471	Assault on a transit operator.	Gross misdemeanor. If assault is made with a deadly weapon, or the present ability to use a deadly weapon, upgraded to a 'B' felony (1-6 years prison or up to \$5000 fine, or both).
NV	Nev Rev Stat Ann 200.481	Battery of transit operator who sustains substantial bodily harm.	Class 'B' felony (minimum 2-10 years prison or up to \$10,000 fine, or both). No substantial bodily harm needed if deadly weapon used. Gross misdemeanor if no substantial bodily harm & no deadly weapon.
NM	NM Stat Ann 30-7-12	Seizure or exercising control of a bus by force or violence or by threat of force or violence.	3 rd degree felony.
NM	NM Stat Ann 30-7-12	Intimidating, threatening, or assaulting any driver of a bus with intent of seizing or exercising control of bus.	4 th degree felony.
NJ	NJ Stat 2C:12-1	Simple assault upon any operator of a motorbus or any employee of a rail passenger service, or school bus driver.	Upgraded to 3 rd degree aggravated assault if victim suffers bodily injury. 4 th degree aggravated assault if no injury.
NY	NY Penal Law 120.05, sub. 11	Assault on train operator, ticket inspector, conductor, bus operator or station agent while such	2 nd degree assault.

		employee is performing an assigned duty on, or directly related to, the operation of a train or bus.	
OH	ORC Ann. 2903.13	Assault of a school bus driver.	5 th degree felony.
OK	21 Okl St. 1903	Using force or violence or threat of force or violence to seize or exercise control over a bus.	Felony (up to 20 years prison or \$20,000 fine, or both. Intent to seize control of bus by intimidation, threat, or assault punishable by 'A' felony (up to 10 years prison or \$5,000 fine, or both. For either offense, the more severe penalty applies if deadly weapon is used.
OR	ORS 163.165	Assault in the third degree (including the causing of physical injury to the operator of a public transit vehicle while the operator is in control of or operating the vehicle).	Class C felony.
PA	18 Pa.C.S. § 2702	Intentionally, knowingly or recklessly causing serious bodily injury to an employee of an agency, company or other entity engaged in public transportation, while in the performance of duty.	Felony of the first degree.
RI	RI Gen Laws 11-5-5	Assault of public officials (including Rhode Island Public Transit Authority bus drivers).	Felony punishable by up to 3 years prison or \$1,500 fine, or both.
SC	SC Code Ann 16-3-612	Student committing assault & battery against school personnel (including bus drivers).	Misdemeanor punishable by up to 1 year in prison or up to \$1,000 fine, or both.
SC	SC Code Ann 58-23-1830	Obstructing, hindering, interference with, or otherwise disrupting or disturbing the operation or operator of a public transportation vehicle.	Misdemeanor. First offense: Up to 30 days jail or \$200 fine. Second offense: Up to 60 days jail, or \$500 fine, or both. Third or subsequent offense: Up to 90 days jail or \$1,000 fine, or both.

SC	SC Code Ann 59-67-245	Interference with operation of a school bus (includes threats to driver).	Misdemeanor (\$100 fine or 30 days jail).
UT	UT Code Ann 76-10-1504	Assault with intent to commit bus hijacking (intimidation, threat, assault or battery toward any driver, attendant or guard of a bus so as to interfere with the performance of duties by such person).	2 nd degree felony. 1 st degree felony if dangerous weapon used.
UT	UT Code Ann 76-10-1504	Bus hijacking (seizure or exercise of control, by force or violence, or threat of force or violence, of any bus).	1 st degree felony.
WA	Rev Code Wash (ARCW) 7.48.140	Interference with the provision or use of public transportation services, or obstructing or impeding a municipal transit driver, operator, or supervisor in performance of duties.	Public nuisance.
WA	Rev Code Wash (ARCW) 9.66.010	Interference with municipal transit vehicle or station.	Public nuisance.
WA	Rev Code Wash (ARCW) 9.91.025	Unlawful bus conduct (includes intentional obstruction of municipal transit vehicles or interference with provision of public transportation services.	Misdemeanor.
WA	Rev Code Wash (ARCW) 9A.36.031	Assault upon a person employed as a transit operator or driver, immediate supervisor, mechanic, or security officer. Includes public or private transit company or a contracted transit service provider. Also includes assault on a school bus driver or mechanic employed by a school district transportation service.	3 rd degree assault (Class 'C' felony).
WI	Wis Stat 940.20	Battery to public transit vehicle operator, driver, or passenger.(Occurring on the vehicle, if offender forces victim to leave vehicle, or if victim is prevented from gaining access to the vehicle).	Class 'E' felony.

WV	W. Va. Code § 61-2-10b	Assault, battery, unlawful assault, or malicious assault on an employee of a mass transportation system acting in his or her official capacity.	Jail time ranges from 24 hours to 15 years, depending on severity and number of violations.
WV	W. Va. Code § 61-2-16a	Malicious assault; unlawful assault; battery and recidivism of battery; assault on a driver, conductor, motorman, captain, pilot or other person in charge of any vehicle used for public conveyance.	Up to 15 year in prison.