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SENATE

{ REPORT  
{ 107-166

TO CLARIFY THE DEFINITION OF "VEHICLE" FOR PURPOSES OF CRIMINAL PENALTIES RELATING TO TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS

—————  
JUNE 20, 2002.—Ordered to be printed  
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Mr. LEAHY, from the Committee on the Judiciary,  
submitted the following

**R E P O R T**

[To accompany S. 2621]

To provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

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I. PURPOSE

The purpose of S. 2621 is to clarify the definition of "vehicle" for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.

II. LEGISLATIVE HISTORY

On June 20, 2002, the Judiciary Committee met in executive session and considered S. 2621, a bill introduced by Senator Leahy on June 13, 2002, and co-sponsored by Senators Biden, Hatch, and Schumer, to clarify that an airplane is a "vehicle" for purposes of terrorist and other violent acts against mass transportation sys-

tems. A reporting quorum being present, the bill was approved by voice vote and ordered favorably reported to the Senate.

### III. DISCUSSION

On June 11, 2002, a U.S. District Judge in Boston dismissed one of the nine charges against Richard Reid stemming from his alleged attempt to detonate an explosive device in his shoe while onboard an international flight from Paris to Miami on December 22, 2001. The dismissed count charged defendant Reid with violating section 1993 of title 18, United States Code, by attempting to “wreck, set fire to, and disable a mass transportation vehicle.”

Section 1993 is a new criminal law that was added, as section 801, to the USA PATRIOT Act to punish terrorist attacks and other acts of violence against, inter alia, a “mass transportation” vehicle or ferry, or against a passenger or employee of a mass transportation provider. A similar provision was originally part of S. 2783, the “21st Century Law Enforcement and Public Safety Act,” introduced by Senator Leahy in the 106th Congress in June, 2000 at the request of the Clinton Administration.

The district court rejected defendant Reid’s arguments to dismiss the section 1993 charge on grounds that (1) the penalty provision does not apply to an “attempt,” and (2) an airplane is not engaged in “mass transportation.” “Mass transportation” is defined in section 1993 by reference to the “the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter and sightseeing transportation.”

Section 5302(a)(7), in turn, provides the following definition: “mass transportation” means “transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter or sightseeing transportation.” The court explained that “commercial aircraft transport large numbers of people every day” and that the definition of “mass transportation” “when read in an ordinary or natural way, encompasses aircraft of the kind at issue here.” *U.S. v. Reid*, (CR No. 02–10013, slip op. 10, 12 (D. MA, June 11, 2002).

Defendant Reid also argued that the section 1993 charge should be dismissed because an airplane is not a “vehicle.” The court agreed, citing the fact that the term “vehicle” is not defined in section 1993 and that the Dictionary Act, 1 U.S.C. §4, narrowly defines “vehicle” to include “every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation *on land*.” *Id.* at 14. (emphasis in original opinion).

Notwithstanding common parlance that the term “vehicle” encompasses aircraft, the district court relied, e.g., *McReynolds v. Municipal Court*, 207 N.W. 792 (Iowa, 1973) on the narrow definition in the Dictionary Act to conclude that an aircraft is not a “vehicle” within the meaning of section 1993.

The new section 1993 was intended to provide broad federal criminal jurisdiction over terrorist and violent acts against all mass transportation systems, including bus services, airplanes, railroads and other forms of transportation available for public carriage. The more inclusive definition would also cover cruise ships. Unfortunately terrorist attacks against Americans is not a new threat. In 1985, four terrorists brutally attacked the Achillo Lauro Cruise

Ship. The wheelchair-bound Leon Klinghoffer, a stroke victim, was shot once in the head and once in the back by the terrorists who then pushed him over the side of the ship into the Mediterranean.

The bill the Committee reports today would add a definition of “vehicle” to section 1993 and clarify the breadth of the meaning of this term both in common parlance and under this new criminal law to protect mass transportation systems. Specifically, the bill would define this term to mean “any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air.”

#### IV. VOTE OF THE COMMITTEE

The Senate Committee on the Judiciary, with a quorum present met on Thursday, June, 20, 2002 to consider the “bill to provide a definition of vehicle for purposes of criminal penalties relating to terrorist attacks and other acts of violence against mass transportation systems.” The Committee considered S. 2621 and approved the bill, by voice vote, with no objection noted, and ordered the bill to be reported favorably to the Senate, with a recommendation that the bill do pass.

#### V. SECTION-BY-SECTION ANALYSIS

Section 1. Definition. Amends Section 1993(c) of title 18, United States Code to define the term “vehicle” as “any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.”

#### VI. COST ESTIMATE

Due to time constraints, the Congressional Budget Office estimate was not included in the report. When received by the Committee, it will appear in the Congressional Record at a later time.

#### VII. REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b)(1), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that S. 2621 will not have significant regulatory impact.

#### VIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## UNITED STATES CODE

\* \* \* \* \*

**TITLE 18—CRIMES AND CRIMINAL  
PROCEDURE**

**PART I—CRIMES**

**CHAPTER 97—RAILROADS**

\* \* \* \* \*

**§ 1993. Terrorist attacks and other acts of violence against  
mass transportation systems**

\* \* \* \* \*

(c) DEFINITIONS.—In this section—

(1) the term “biological agent” has the meaning given to that term in section 178(1) of this title;

(2) the term “dangerous weapon” has the meaning given to that term in section 930 of this title;

(3) the term “destructive device” has the meaning given to that term in section 921(a)(4) of this title;

(4) the term “destructive substance” has the meaning given to that term in section 31 of this title;

(5) the term “mass transportation” has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

(6) the term “serious bodily injury” has the meaning given to that term in section 1365 of this title;

(7) the term “State” has the meaning given to that term in section 2266 of this title; **[and]**

(8) the term “toxin” has the meaning given to that term in section 178(2) of this title~~].~~; *and*

(9) *the term “vehicle” means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water, or through the air.*