



February 1, 2017

To: Senate Committee on Judiciary
From: R.E. "Tuck" Duncan, Executive Director, Kansas Public Transit Association
RE: Senate Bill SB 41, Creating the crimes of assault of a public transportation employee and battery against a public transportation employee

The Kansas Public Transit Association supports SB41.

Missouri enacted a provision in its law that defines "Any employee of a mass transit system, including any employee of public bus or light rail companies, while in the performance of his or her job duties;"¹ as a *special victim* such that "The offense of assault in the first degree is a class B felony unless in the course thereof the person inflicts serious physical injury on the victim, or if the victim of such assault is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class A felony." (L. 1977 S.B. 60, A.L. 1983 S.B. 276, A.L. 1984 S.B. 448 § A, A.L. 2014 S.B. 491) Effective 1-01-17²

Please find herewith an article from the Kansas City Star that describes some of the issues associated with transit employee assaults. A number of video news reports can be viewed at: <http://www.twulocal100.org/news/100/827>

In August, 2016 the *Lawrence Journal World* reported: **Man arrested after frightening a Lawrence city bus driver, police say**, Posted by Conrad Swanson, August 5, 2016 at 1:05 p.m.

You ever have those morning drives to work where everything is great? Maybe your favorite song was on the radio or the traffic was just right? If you use public transportation, maybe your favorite seat was left open and everybody was friendly? Well, an incident on a Lawrence city bus on Thursday morning was nothing like that at all. [Passenger name omitted], 48, ..., was arrested Thursday morning on suspicion of aggravated assault. Around 8:30 a.m. Thursday, [passenger] got onto a city bus at a stop near 23rd and Louisiana streets, said Lawrence Police Officer Drew Fennelly. At the time he and the bus driver were the only two in the vehicle. As he boarded, the driver noticed [passenger] appeared to "be in an agitated state," Fennelly said. He paced the aisle while yelling and asking the driver questions. Soon [passenger] picked up a metal tool left on the bus, sat next to the driver and continued to yell at him, Fennelly said. The driver was afraid he was about to be hit with the tool. [Passenger] then departed the bus in the 2000 block of West 31st Street, Fennelly said. Afraid he would harm another driver or bus rider, the driver called police and [passenger] was arrested.

To assist in discouraging this unwarranted activity we respectfully ask for your favorable support of SB 41. *Thank you.*

¹ Chapter 565, Offenses Against the Person, Section 565.002.1

² Chapter 565, Offenses Against the Person, Section 565.050.1

Attacks on bus drivers appear on the rise, fueling safety concerns

<http://www.kansascity.com/2012/11/10/3911136/bus-drivers-behind-the-wheel-and.html#storylink=cpy>

BY MIKE HENDRICKS

The Kansas City Star

Maybe you saw the surveillance video on TV or You Tube. A Kansas City bus operator goes about his business behind the wheel when suddenly he's coldcocked. Some punk, angry that he and his buddies got booted for not paying their fares, left the driver dazed and bloody.

Three weeks later, it happens again. On yet another bus to yet another Metro driver. This time the driver gets a fat lip when a passenger smacks him in the mouth after a dispute about a transfer.

"It seems like it's gotten worse," says Donna Reynolds, who drove buses for the Kansas City ATA for nearly a decade, but transferred to the maintenance shop a couple of years ago after an attack left her injured physically and emotionally.

After the latest assault, the Kansas City Area Transportation Authority was quick to say that physical attacks on drivers like those last month are "rare." But they are far from uncommon here or nationally, according to the union representing the ATA's 450 drivers.

Every few days, a transit worker somewhere in the United States is attacked. Those are just the incidents that get reported. Many other instances of abuse don't become matters of record, the Amalgamated Transit Union says. Fearing they'll be accused by management of provoking an incident, the union says, drivers shrug off the less serious run-ins.

No matter when or where they clock in, the men and women who run our mass transit systems are at risk of being verbally abused, spit upon, splashed with hot coffee or becoming the victims of cold-blooded murder.

Last summer, a Los Angeles driver was shot dead by a lone passenger who pulled a

shotgun from a suitcase. A year ago, a driver in New Jersey was stabbed seven times.

"There are a ton of horror stories out there," says Jonathan P. Walker, president of ATU Local 1287, who during his 39 years at the ATA can remember drivers being robbed back in the days when they made change. Today they don't handle cash.

No one has been killed in the line of duty in recent years, but broken noses and lacerations can be part of the job. Beyond the danger such attacks pose to individual bus drivers, there's a larger public safety concern.

Incidents like last month's assaults represent a threat to passengers, pedestrians and other motorists on the road. "A 27,000 pound projectile out of control could create a lot of damage," Kansas City ATA transportation director Bob Kohler says. "This," Walker says, "is a catastrophe waiting to happen."

Getting worse? After three decades of driving buses in New York City, Larry Hanley sees a clear correlation between economic conditions and the risks to bus drivers.

"When the economy gets bad, assaults go up," says Hanley, international president of the Amalgamated Transit Union in Washington, D.C.

The recent downturn has been especially troublesome. Not only did the recession hit people most dependent on public transportation harder than more affluent Americans — transit customers in many cities are having to contend with fare increases and reduced schedules from mass transit systems that have also taken a budget hit.

Some 85 percent of city transit systems have raised fares or reduced services, Kansas City among them, ATU spokesman David Roscow says.

Riders waiting extra long at bus stops take out their frustrations on the people who collect those higher fares, the bus drivers.

National statistics are hard to come by. But in some jurisdictions have seen large increases in bus violence. New York City saw a 30 percent increase this year, while attacks on Philadelphia transit workers doubled in 2011, Roscow says.

The Kansas City ATA reports no such spike, and the Police Department doesn't keep statistics on crimes against Metro bus drivers. However, the bus system says security is a prime concern. Since the 1990s, the Metro has hired off-duty police to patrol bus stops and ride some buses. Cameras were later added.

Yet those and other efforts to improve safety for drivers, their passengers and the general public have met with mixed results. Police can't be on every bus. Security cameras help identify perpetrators of attacks, but don't eliminate the threats. Police arrested suspects in both punching incidents.

Some transit systems have installed plastic shields around drivers. Miami-Dade Transit in Florida has had them for years. Last month, New Jersey Transit decided to spend \$1.8 million to outfit 820 of its buses with the Plexiglas enclosures.

They are effective in reducing assaults. But there's a downside besides the expense. Many drivers are reluctant to operate vehicles retrofitted with shields. Too confining, they say. The shields keep them from chatting with regulars and keeping a lid on what's going on in the back of the bus.

On the westbound 106 Quindaro bus one afternoon last week, the driver leaned back to gently scold a couple of men smelling of beer to watch their language when their storytelling got a bit loud and blue.

And when departing passengers thanked him for the lift, he tapped the bill of his cap and said "thanks for riding the Metro."

A shielded-off cockpit would isolate drivers from that human contact and replace it with a more claustrophobic experience. "Most bus operators didn't want to be in that plastic bubble," Kohler says in explaining why Kansas City gave up on installing the shields after testing them.

Stiffer penalties: Another avenue under consideration: tougher laws governing crimes against transit workers. ...

Thirty states have some kind of statute that give crimes against those workers special status. For instance, the penalty for assaulting a transportation worker in California is a \$2,000 fine, one year in jail or both. Causing serious bodily injury to a transit worker in Pennsylvania is a first-degree felony.

Kansas has no laws specific to crimes against transit workers. ... Because of that and growing concerns about employee safety, Kansas City's ATA, the local union and their counterparts in St. Louis have been lobbying for a law that would make assaults against transit workers a felony in Missouri. A couple of years ago, it passed both houses of the legislature, but Gov. Jay Nixon vetoed it over concerns about a wording error.

Since then, it's failed to get as much support, and last session its chances of passing were damaged when new language would have given utility workers the same protections.

"We're wondering what it's going to take to get this done," Walker says. "Is it going to take a catastrophe?"

For now, drivers will have to depend entirely on their training and wits. During their initial instruction and biannual refresher course, drivers are taught that they are in charge of collecting fares and enforcing order on their buses.

But when there's the potential for conflict, they should let it go and notify the main base of problems. "We don't encourage our bus operators to force anyone to leave," Kohler says. Reynolds says life in the driver's seat can be complicated.

Many riders are polite and pleasant. But some have emotional problems. Others are high, drunk or have an attitude.

"Drivers are just people," she says. "You can only take so much abuse."