

**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION**  
**FACT SHEET**  
**H.R. 2, THE INVEST IN AMERICA ACT**  
**MOBILITY ON DEMAND AND AUTONOMOUS VEHICLE PROVISIONS**  
*June 19, 2020*

On June 17-18, 2020, the House Committee on Transportation and Infrastructure (T&I Committee) marked up and approved H.R. 2, the “INVEST in America Act”. **Although APTA strongly supports H.R. 2, we have serious concerns with two provisions that address one of our top priorities: mobility innovation. Section 2203 (Mobility Innovation) and section 2603 (Innovation Workforce Standards) place restrictions on the incorporation of mobility on demand and automated vehicle services that would negatively affect public transit agencies’ capabilities to be flexible and deploy new and innovative services.**

During consideration of the bill, the T&I Committee adopted several changes to the provisions. The T&I Committee also considered other amendments to these provisions that were not adopted. This Fact Sheet summarizes the provisions as approved by the T&I Committee.

**Section 2203 Mobility Innovation**

**Section 2203 of the bill is considerably different from APTA's Mobility and Innovation proposal and could seriously inhibit mobility innovation in the transit industry.**

Section 2203 permits public transit agencies to use 49 U.S.C. §§ 5307, 5310, and 5311 formula funding for mobility on demand (MOD) services and mobility as a service (MAAS). Although the federal share for these projects is 80 percent, that federal share is reduced by 25 percent if the recipient uses a third-party contract to perform a MOD service. In addition, the federal share is also reduced by 25 percent if the project involves an eligible use that uses a vehicle that is not a zero-emission vehicle. The requirements of §§ 5307, 5310, and 5311 apply to the use of formula funds for these services. Covered recipients include a state or local government entity, private non-profit organization, or tribe that operates a public transportation service, or is a recipient or subrecipient of formula funds.

**Secretary Guidance and Waiver Authority**

The Secretary of Transportation is required to publish guidance describing eligible activities that are demonstrated to increase transit ridership and be complementary to fixed route transit service. The guidance must also address eligible activities that demonstrate substantial improvements in environmental metrics; congestion; Americans with Disabilities Act (ADA) compliance; low-income access to essential services; service outside of transit operating hours, provided that those hours are not reduced; new low-density service relative to the higher-density urban areas of an agency’s service area, and rural service. Finally, the guidance must ensure that all costs associated with fare collection modernization shall be considered eligible expenses subject to the applicable federal share and include direction on how agencies shall provide unbanked and underbanked users with opportunities to benefit from MAAS platforms.

Under the provision, the Secretary has very limited authority to waive requirements, and can do so only if it is determined that the project will not undermine labor standards, will increase employment opportunities, and is in the public interest. The Secretary may not otherwise waive labor, drug and alcohol testing, Buy America (with limited exception)<sup>1</sup>, the definition of public transportation, or chapter 53 requirements that establish a maximum federal share for operating costs.

### **Prohibitions on Funding and Revenue Vehicle Miles**

Section 2203 includes a prohibition on the use of funds for any service considered a taxi service or deadhead vehicle miles. In addition, funds may not be used for single passenger vehicle miles (in a passenger motor vehicle that carries less than nine passengers), unless the trip meets the definition of public transportation and begins or completes a fixed route public transportation trip. In addition, the provision includes restrictions on the accounting of recipient revenue vehicle miles, allowing the miles taken by one passenger of a covered recipient to be included in National Transportation Database calculations, but not the vehicle revenue miles calculation for purposes of 49 U.S.C. § 5336 (apportionment calculations). The prohibitions on funding and recipient revenue vehicle miles does not apply to activities carried out pursuant to ADA requirements.

### **Negotiated Rulemaking on Open Data Standards**

The provision also requires the Secretary to convene a negotiated rulemaking committee to develop open data standards and an application programming interface to carry out the mobility innovation section. The provision also includes a prohibition on for profit activity such that data received by an entity cannot be sold, leased, or otherwise used to generate profit, except for direct provision of related MOD and MAAS programs.

### **Section 2603 Innovative Workforce Standards**

Section 2603 of the bill prohibits the use of federal transit funds for automated vehicles providing public transportation unless the public transit agency certifies to the Secretary that the deployment does not duplicate, eliminate, or reduce the frequency of existing public transportation service and the Secretary receives, approves, and publishes from the transit agency a workforce development plan. A workforce development plan is required when the service, combined with any other automated vehicle providing public transportation or MOD service, exceeds by more than 0.5 percent the recipient's total transit passenger miles traveled. In addition, if a transit agency proposes to deploy a MOD service, it must certify that the service meets the criteria of section 2203, as noted above, as well as the workforce development plan requirements.

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<sup>1</sup> The provision allows the Secretary to waive the Buy America requirements only with respect to a passenger vehicle owned by an individual and domestically manufactured passenger motor vehicles not owned by an individual for three years after the date of enactment of this Act.

The workforce development plan must include: a description of services offered by existing modes of public transportation in the area affected by the proposed automated or MOD service, including jobs and functions of jobs; a forecast of the number of jobs provided by existing modes and projected job losses or jobs that would substantially change and the number of jobs proposed to be created by the automated vehicle or MOD service over a five-year period; identified gaps in skills needed to operate and maintain the proposed services; a comprehensive plan to transition or retrain workers affected by the proposed service; and an estimated budget to transition, train or retrain the workforce over a five-year period.

Finally, a transit agency is required to issue a notice to employees of potential job loss due to the new services not later than 60 days before issuing a request for proposals for the service. The notice must include a description of the impact of the automated vehicle or MOD service proposed on employee positions, including a description of which employment positions would be affected and whether any new positions will be created.