

## Mythbusters

## The Truth About Amtrak's Legal Right to Preference

The leading cause of delay to Amtrak passengers is “freight train interference” – when an Amtrak train, traveling on freight railroad tracks, is delayed by slower freight trains. For nearly 50 years, Federal law has required that passengers be given preference over freight, but some freight railroads ignore the law, and passengers suffer as a result, missing family milestones and time spent with loved ones, important business meetings, and travel connections.

*We know how to fix this: allow Amtrak to bring an action in federal court to enforce the law and protect passengers.*

**Myth** “Amtrak already has the highest priority of all trains on freight rail lines.”

**Truth** **Freight trains represent the largest cause of delay to passengers.**

- Freight trains caused *more than 1 million minutes of delay* to Amtrak passengers in 2019 – equivalent to two years of waiting while railroads dispatched freight trains first.
- Passengers are often forced to endure hours of delay, following a single freight train for hundreds of miles.
- Just take a look at some recent Customer On-Time Performance figures from May 2021:

Route	On-Time Performance	Route	On-Time Performance
<i>Crescent</i> (New York-New Orleans)	33%	<i>Empire Builder</i> (Chicago-Seattle/Portland)	43%
<i>Silver Star</i> (New York-Miami)	18%	<i>Southwest Chief</i> (Chicago-Los Angeles)	27%
<i>Capitol Limited</i> (Chicago-Washington, DC)	34%	<i>Sunset Limited</i> (New Orleans-Los Angeles)	21%

**Myth** “Amtrak trains are delayed only when freight traffic volumes are high.”

**Truth** **There is no correlation between on-time performance and freight rail volumes.**

- Data proves that on-time performance is not correlated with freight rail volumes, which decreased over 10% from 2006 to 2019 even as Amtrak on-time performance worsened.
- The truth is that when freight railroad leadership decides to dispatch Amtrak trains according to the law, on-time performance has improved, literally overnight.
- During those times, there was no evidence of negative impacts to the fluidity of America's rail network, on which Amtrak trains account for only about 4% of train-miles.

**Myth** “Preference enforcement creates an inconsistent patchwork of law.”

**Truth** **Preference is already the law!**

- Preference has been the law for nearly 50 years. The problem is that only the Department of Justice can enforce it, which it has done only once, in 1979.
- Freight railroads can obtain an exception to providing preference if they demonstrate preference would “materially lessen the quality of freight service provided to shippers” – but no railroad has ever sought an exception.

**Myth** “Amtrak already has options for legal recourse to enforce its right of preference.”

**Truth** **AAR has systematically tried to eliminate Amtrak's options for preference enforcement.**

- The Association of American Railroads spent nearly a decade and millions of dollars thwarting Congress' efforts to establish metrics and minimum standards for intercity passenger rail service, and the STB's efforts to define an acceptable level of on-time performance, and will continue to fight enforcement of Amtrak's preference rights.
- The statutory preference requirement exists independently of the contracts with host railroads: the word “preference” does not even appear in the contracts.

**Haven't passengers waited long enough?**

**Support the Rail Passenger Fairness Act: S.1500 and H.R.2937**