



## **Higher financial liability cap sought for Chatsworth Metrolink crash victims**

**Republican Rep. Elton Gallegly asks for an increase from \$200 million to \$275 million and says Chatsworth crash victims may need more.**

By Rich Connell, Los Angeles Times

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In a last-ditch effort to get more money to victims of the 2008 Metrolink train disaster, a Ventura County congressman is trying to hike by tens of millions of dollars a federal limit on death and injury claims in passenger rail accidents.

Republican Rep. Elton Gallegly of Simi Valley has introduced legislation that would increase the liability cap from \$200 million to \$275 million for accidents like the head-on collision in Chatsworth that killed 25 and injured more than 130. The bill is a scaled-back version of a proposal that died last year; it would have retroactively boosted the cap to \$500 million.

"I'm still absolutely convinced this [\$275-million limit] is going to fall short of what the actual damages are," said Gallegly, whose district is home to many of the crash victims. As a legal tort reform backer and "one of the least likely guys around to be out defending trial lawyers," Gallegly said, he is trying to do the best he can "to right the wrongs here."

"We have a lot of folks who have been tragically harmed for the rest of their lives," he said.

The liability cap was adopted in 1997 to help keep passenger rail systems operating when faced with major lawsuits. Gallegly said his bill would raise the limit to account for inflation. The new limit would also apply solely to private entities whose gross negligence or willful misconduct "proximately caused" the accident.

In the Chatsworth crash, a private contract firm, Connex Railroad, employed a Metrolink engineer who investigators found was text messaging and ran a red light before colliding with a freight train.

The legislative push comes as a federal judge in Los Angeles has tentatively approved a \$200-million settlement offer in a collection of wrongful-death and injury lawsuits aimed at Metrolink, a public commuter agency, and Connex, a subsidiary of French conglomerate Veolia Environment. Hearings are expected over the next few months to divide the proposed settlement among about 150 injury victims and surviving relatives. The claimants hope the liability cap can be raised before the case is closed.

On Monday, Gallegly criticized Veolia officials for not agreeing to attend a closed-door meeting he has scheduled with victims on Thursday. "I think it's outrageous," he said, adding that the company has repeatedly expressed concern for crash victims.

"I think it truly shows insensitivity toward people who were harmed," Gallegly said. He added that the firm appears to be stalling until the settlement fund receives final approval from the court early next month.

In a statement, the company said representatives agreed to meet with Gallegly in early to mid-February. Since the crash, company officials "have worked nonstop" with Metrolink and the courts "to put aside litigation and provide to the victims and their families a prompt and fair financial recovery from this tragedy," the statement said. The \$200-million fund, it added, "is the largest financial recovery in the history of passenger rail."

Like Gallegly, the victims and their attorneys say that offer won't cover past and future medical bills and properly compensate children and spouses of those killed.

Moorpark resident Richard Myles, whose neck was broken in the crash, is part of a victims' group that has lobbied Congress to raise the cap.

Myles, a former Los Angeles city government manager who supervised hundreds of sanitation workers, was heading home, riding in the second Metrolink car behind the locomotive, when everything went blank.

"I took a bank of seats directly in front of me out," he said.

Laid up for months, he said, he had spinal fusion surgery and steel rods placed in his neck and had to leave his job. Pain continues, he said. "I will require future surgeries."

The victims' group sent lawmakers an emotional video featuring, among others, crash survivor Racheal Mofya, a foreign exchange student who had third-degree burns and a fractured skull and had to have part of her brain removed.

Connex/Veolia should pay most or all of the damages from the accident, Myles said. The firm, he added, is hiding behind the damages cap, intended to protect public rail agencies like Amtrak and Metrolink. "They're looking to limit their liability.... They have billions of dollars," he said. "The law is shielding Connex/Veolia when they are primarily" responsible.

He and Gallegly point to investigators' findings that Connex management had previously warned engineer Robert Sanchez about cellphone use while in a locomotive cab. Also, they note, a Connex conductor said he expressed concerns to a manager about Sanchez's possible cellphone use shortly before the crash. And records gathered after the crash indicated Sanchez had repeatedly sent text messages while scheduled to operate trains, Gallegly said. "The issue is when people are put on notice they have a potential problem and they ignore it," he said.

In the past, Veolia has said supervisors never observed Sanchez using a cellphone while at a train's controls.

Raising the cap would be an uphill battle, Gallegly said. The American Public Transportation Assn. strongly opposed last year's bill, saying it would drive up insurance costs and lead to reduced commuter rail service. An association spokeswoman said the group has not yet taken a position on Gallegly's new bill.

The congressman said he'll continue to press Veolia and colleagues on the issue. "The clock is ticking on this," he said.

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