

## **A BILL**

To provide for the security and safety of local communities and local community facilities, to protect local communities from transportation practices that fail to secure rail facilities and equipment from the threat of terrorism, and to ensure proper communication between the owners and operators of rail facilities and equipment with local and state first responders.

*Be it enacted .....*

### **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

- (a) SHORT TITLE. – This Act may be cited as the “Local Community Rail Security Act of 2006.”
- (b) TABLE OF CONTENTS. -- The table of contents for this Act is as follows:
  - Section 1. Short Title
  - Section 2
  - Section 3
  - Section 4

### **SECTION 2. FINDINGS AND PURPOSES**

- (a)
- (b)

### **SECTION 3. RISK ASSESSMENT**

- (a) Not later than 180 days after the enactment of this Act, every operator of rail facilities in the state shall provide to local and state law enforcement personnel, emergency personnel, transportation officials and other first responders a risk assessment of all rail facilities in the state. The risk assessment shall describe –
  - (1) all facilities and their functions;
  - (2) the types of cargo that move through such facilities,
  - (3) any hazardous cargo that moves through such facilities, including approximate amounts of such cargo,
  - (4) any storage of such hazardous cargo in rail facilities,
  - (5) the distance from rail facilities that transport or store hazardous cargo to community facilities such as schools, hospitals, nursing homes and other sensitive community facilities;
  - (6) a description of the practices of the rail operator that prevent acts of sabotage, terrorism or other crimes on rail facilities;
  - (7) all training programs that the rail operators requires for its employees;
  - (8) the emergency response procedures of the rail operator to deal with acts of sabotage, terrorism or other crimes;
  - (9) the procedures of the rail operator to communicate with local and state law enforcement personnel, emergency personnel, transportation officials, and other first responders in the event of acts of sabotage, terrorism or other crimes.

**SECTION 4. INFRASTRUCTURE PROTECTION FROM ACTS OF SABOTAGE OR TERRORISM.**

- (a) Not later than 360 days after the date of enactment of this Act, all rail operators shall have in place a program to protect rail infrastructure in the state from acts of sabotage, terrorism or other crimes, which shall be called an infrastructure protection program.
- (b) The infrastructure protection program shall provide specifically for the security of critical infrastructure. Critical infrastructure shall include all points of vulnerability of the rail system which handle hazardous cargo, such as bridges, tunnels, and signal systems. For critical infrastructure, the railroad operator shall --
  - (1) provide notice to state and local law enforcement personnel, emergency personnel, transportation officials, and other first responders of the location, size, function, and importance of the critical infrastructure;
  - (2) provide and describe methods of ensuring the protection of critical infrastructure from acts of sabotage, terrorism, or other crimes, which methods shall include at a minimum twenty four hour surveillance, monitoring and protection of such facilities;
  - (3) provide training to personnel of the railroad operator to ensure that the railroad personnel are trained and equipped to prevent acts of sabotage, terrorism or other crimes, and to respond in the event of such acts.
- (c) The infrastructure protection program shall include inspection of all rail facilities, including rights of way, yards, and other facilities, that handle hazardous cargo that moves within v miles of community facilities such as schools, hospitals, nursing homes and other sensitive community facilities, on a regular basis by personnel trained to determine the condition of the rail facilities and the vulnerability of the rail facilities to acts of sabotage, terrorism, of other crimes.
- (d)
  - (1) Each rail operator in the state shall provide to local and state law enforcement personnel, emergency personnel, transportation officials and other first responders a copy of its infrastructure protection program.
  - (2) The Department of Transportation shall review the infrastructure protection program and shall have the authority to order a rail operator to improve, modify, or change its program to comply with the requirements of this Act. The Department shall have the authority to fine the rail operator \$50,000 per day for failure to comply with its orders or this Act.
- (e) The infrastructure protection program shall be updated by the rail operator at least once every year, and the updated plan submitted to local and state law enforcement personnel, emergency personnel, transportation officials and other first responders.

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**SECTION 5. COMMUNITY FACILITIES PROTECTION**

- (a) Rail operators in the state shall observe the following requirements for all facilities that handle cargo that passes within fifteen miles of a community facility –
  - (1) secure all facilities that handle or store hazardous materials by providing adequate security personnel;
  - (2) store hazardous materials only in secure facilities designed for such storage, which shall not include rights of way;
  - (3) never leave locomotive equipment running while unattended, or leave any **unattended** locomotive equipment unlocked;

- (4) have adequate personnel qualified to operate trains available to assist, replace, or relieve train operators who need such assistance;
- (5) ensure that the cabs of occupied locomotives **can be** secured against outsiders who threaten hijack, sabotage or terrorism;
- (6) limit the use of remote control locomotives to equipment not involving hazardous materials;
- (7) secure remote control devices to prevent access to such devices by unauthorized personnel, including those intent on acts of sabotage, terrorism or other crimes;
- (8) ensure that all employees connected with rail facilities that transport hazardous materials within fifteen miles of a community facility receive training related to security, shipment of hazardous materials, and terrorism prevention at least once every twelve months.

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(b) The Department of Transportation shall have the authority to fine any rail operator or any other person covered by this section up to \$50,000 per day for failure to comply with this section.

**SECTION 6. COMMUNICATIONS**

- (a) Each rail operator in the state must provide communications capability
  - (1) to alert local and state law enforcement personnel, emergency personnel, transportation officials and other first responders in the event of sabotage, terrorism or other crimes, and railroad radio will not satisfy the requirements of this section;
  - (2) to provide bridge tenders on moveable bridges the ability to alert local and state law enforcement personnel, emergency personnel, transportation officials and other first responders in the event of sabotage, terrorism or other crimes.
  - (3) To notify rail workers of the local or national threat level for the rail industry.

**SECTION 7. COVERAGE**

This Act shall apply to rail operators, any contractors or subcontractors working on the facilities of the rail operator, and any other individual or corporation performing work on rail facilities in the state. All employees of railroad contractors or subcontractors, and any other individual or corporation performing work on rail facilities in the state shall receive training adequate to make them as well trained as employees of a rail operator, and shall be required to undergo the same background, skills and fitness for duty checks as employees of the rail operator.

**SECTION 8. PROHIBITION ON PUNITIVE ACTION**

No rail operator or any other person covered by this Act may take punitive action of any kind against an employee who reports violations of this Act. An employee subject to such punitive action may seek damages in the amount of **up to** \$1,000,000 from any employer who takes such action, in addition to other remedies such as back pay, reinstatement, and other damages.

**SECTION 9. APPLICATION.**

The provisions of this Act shall apply to the rail operator, any contractors or subcontractors working on the facilities of the rail operator, and any other individual or corporation performing work on rail facilities in the state.

**SECTION 10. SEVERABILITY**

**If any provision of this Act is at any time determined to be in conflict with any law, such provision will continue in effect only to the extent permitted by law. If any provision of this Act is or becomes invalid or unenforceable, such invalidity or unenforceability will not affect or impair any other term or provision of this Act.**