

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1152

Introduced by Connealy, 16

Read first time January 17, 2006

Committee:

A BILL

- 1 FOR AN ACT relating to railroads; to adopt the Local Community Rail
- 2 Security Act; and to provide severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. This act shall be known and may be cited as
2 the Local Community Rail Security Act.

3 Sec. 2. The Legislature finds that:

4 (1) The safety and security of community structures will
5 be enhanced if rail operators in this state provide emergency
6 response providers with adequate information about facilities and
7 safety plans;

8 (2) The threat of sabotage, terrorism, and other
9 crimes to railroads and rail facilities which transport hazardous
10 materials is real and has been documented by countless studies at
11 all levels of government;

12 (3) Our state's emergency response providers need
13 adequate knowledge of the rail facilities in this state and
14 emergency plans for those facilities which, if such plans exist,
15 would allow our emergency response providers to react quickly and
16 effectively to an emergency; and

17 (4) Studies at all levels of government have demonstrated
18 that rail employees in this state and others who work on the rail
19 facilities (a) are required to engage in practices which heighten
20 the risk of sabotage, terrorism, or other crimes, and (b) lack the
21 equipment to respond to such acts if they should occur.

22 Sec. 3. It is the purpose of the Local Community Rail
23 Security Act to:

24 (1) Protect those who use community structures from acts
25 of sabotage, terrorism, or other crimes directed at rail facilities

1 in this state;

2 (2) Provide emergency response providers with information
3 about the rail facilities in this state and the procedures of rail
4 operators in the event of sabotage, terrorism, or other crimes to
5 those facilities;

6 (3) Ensure that rail employees have the proper training,
7 communications equipment, and procedures to prevent or respond to
8 acts of sabotage, terrorism, or other crimes; and

9 (4) Require that rail operators in this state (a) have in
10 place plans to prevent or respond to acts of sabotage, terrorism,
11 or other crimes, (b) communicate such plans to emergency response
12 providers, and (c) observe practices which will minimize the risk
13 to community structures.

14 Sec. 4. For purposes of the Local Community Rail Security
15 Act, the following definitions apply:

16 (1) Emergency response providers means federal, state,
17 and local emergency public safety, law enforcement, transportation,
18 emergency response, and emergency medical personnel, including
19 hospital emergency facilities and related personnel, agencies, and
20 authorities; and

21 (2) Facilities has the same meaning as in section
22 74-1405.03.

23 Sec. 5. No later than one hundred eighty days after the
24 effective date of this act, every rail operator in this state shall
25 provide to emergency response providers a risk assessment of all

1 facilities in this state. The risk assessment shall describe:

2 (1) All rail facilities and their functions;

3 (2) The types of cargo that move through such facilities;

4 (3) Any hazardous cargo that moves through such
5 facilities, including approximate amounts of such cargo;

6 (4) Any storage of such hazardous cargo in such
7 facilities;

8 (5) The distance from such facilities that transport or
9 store hazardous cargo to community structures such as schools,
10 hospitals, or nursing homes;

11 (6) A description of the practices of the rail operator
12 that prevent acts of sabotage, terrorism, or other crimes on
13 facilities;

14 (7) All training programs that the rail operators require
15 for their employees;

16 (8) The emergency response procedures of the rail
17 operator to deal with acts of sabotage, terrorism, or other crimes;
18 and

19 (9) The procedures of the rail operator to communicate
20 with emergency response providers in the event of acts of sabotage,
21 terrorism, or other crimes.

22 Sec. 6. (1) No later than three hundred sixty days after
23 the effective date of this act, all rail operators shall have in
24 place a program to protect rail infrastructure in this state from
25 acts of sabotage, terrorism, or other crimes, which shall be called

1 an infrastructure protection program.

2 (2) The infrastructure protection program shall provide
3 specifically for the security of critical infrastructure. Critical
4 infrastructure shall include all points of vulnerability of the
5 rail system which handle hazardous cargo such as bridges, tunnels,
6 and signal systems. For critical infrastructure, the rail operator
7 shall:

8 (a) Provide notice to emergency response providers of
9 the location, size, function, and importance of the critical
10 infrastructure;

11 (b) Provide and describe methods of ensuring the
12 protection of critical infrastructure from acts of sabotage,
13 terrorism, or other crimes; and

14 (c) Provide training to rail employees to ensure that
15 rail employees are trained and equipped to prevent or respond to
16 acts of sabotage, terrorism, or other crimes.

17 (3) The infrastructure protection program shall include
18 inspection of all rail facilities, including rights-of-way, yards,
19 and other facilities that handle hazardous cargo that moves within
20 fifteen miles of a community structure such as a school, hospital,
21 or nursing home on a regular basis by rail employees trained to
22 determine the condition of the facilities and the vulnerability of
23 such facilities to acts of sabotage, terrorism, or other crimes.

24 (4)(a) Each rail operator in the state shall provide
25 to emergency response providers a copy of its infrastructure

1 protection program to the Public Service Commission and emergency
2 response providers.

3 (b) The Public Service Commission shall review the
4 infrastructure protection program and shall have the authority
5 to order a rail operator to improve, modify, or change its program
6 to comply with the requirements of the Local Community Rail
7 Security Act. The commission shall have the authority to fine the
8 rail operator fifty thousand dollars per day for failure to comply
9 with its orders or the act.

10 (5) The infrastructure protection program shall be
11 updated by the rail operator at least once each year and the
12 updated plan submitted to the Public Service Commission and
13 emergency response providers.

14 Sec. 7. Each rail operator in the state must provide
15 communications capability (1) to alert emergency response providers
16 in the event of sabotage, terrorism, or other crimes, (2) to
17 provide bridge tenders on moveable bridges the ability to alert
18 emergency response providers in the event of sabotage, terrorism,
19 or other crimes, and (3) to notify other rail operators in the
20 state of any development concerning the local or national threat
21 level for the rail industry.

22 Sec. 8. No rail operator or any other person covered by
23 the Local Community Rail Security Act shall take punitive action of
24 any kind against any employee who reports violations of the act. An
25 employee subject to such punitive action may seek damages from any

1 employer who takes such action in addition to other remedies such
2 as backpay, reinstatement, and other damages.

3 Sec. 9. The Local Community Rail Security Act shall apply
4 to the rail operator, any contractors or subcontractors working on
5 rail facilities of the rail operator, and any other individual or
6 corporation performing work on rail facilities in this state.

7 Sec. 10. If any section in this act or any part of any
8 section is declared invalid or unconstitutional, the declaration
9 shall not affect the validity or constitutionality of the remaining
10 portions.