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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1326

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
1.2 relating to public safety; enacting Local Community Rail Security Act of 2007;
1.3 providing for protection of railroad property from terrorism and other criminal
1.4 activities; providing civil penalties and remedies; amending Minnesota Statutes
1.5 2006, section 218.011, by adding a subdivision; proposing coding for new law in
1.6 Minnesota Statutes, chapter 218.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2006, section 218.011, is amended by adding a
1.9 subdivision to read:

1.10 Subd. 11a. **First responder.** "First responder" has the meaning given "emergency
1.11 response personnel" in section 299F.092, subdivision 4.

1.12 Sec. 2. [218.76] FINDINGS AND PURPOSE.

1.13 Subdivision 1. **Legislative findings.** The legislature finds:

1.14 (a) The safety and security of community facilities will be enhanced if common
1.15 carriers in the state provide first responders with adequate information about facilities
1.16 and safety plans.

1.17 (b) The threat of sabotage, terrorism, and other crimes to rail facilities that transport
1.18 hazardous materials is real and has been documented by countless studies at all levels
1.19 of government.

1.20 (c) Our state's first responders lack adequate knowledge of the facilities of common
1.21 carriers in the state and emergency plans for those facilities, if plans exist, that would
1.22 allow our first responders to react quickly and effectively to an emergency.

1.23 (d) Studies at all levels of government have demonstrated that the employees of
1.24 common carriers in the state, and others who work on the facilities of common carriers,

2.1 are untrained to prevent acts of sabotage, terrorism, or other criminal acts, are required
2.2 to engage in practices that heighten the risk of those acts, and lack the equipment to
2.3 respond to those acts if they should occur.

2.4 Subd. 2. **Purpose.** It is the purpose of sections 218.76 to 218.78 to:

2.5 (1) protect those who use community facilities from acts of sabotage, terrorism, or
2.6 other criminal acts directed at railroads in the state;

2.7 (2) provide first responders with information about the railroad facilities of common
2.8 carriers in the state, and the procedures of common carriers in the event of sabotage,
2.9 terrorism, or other criminal acts directed at the railroad facilities;

2.10 (3) ensure that common carrier employees have the proper training, communications
2.11 equipment, and procedures to prevent acts of sabotage, terrorism, or other criminal acts,
2.12 and to respond in the event of those acts;

2.13 (4) require that common carriers in the state have in place plans to respond to acts
2.14 of sabotage, terrorism, or other criminal acts, that common carriers communicate the
2.15 plans to first responders, and that common carriers observe practices that will minimize
2.16 the risk to community facilities.

2.17 **Sec. 3. ~~218.762~~ RISK ASSESSMENT.**

2.18 Not later than 180 days after the effective date of this section, every common
2.19 carrier in the state shall provide to local and state law enforcement personnel, emergency
2.20 personnel, transportation officials, and other first responders a risk assessment of all
2.21 railroads in the state. The risk assessment must describe:

2.22 (1) all railroad facilities and their functions;

2.23 (2) the types of cargo that move through those railroad facilities;

2.24 (3) any hazardous cargo that moves through those railroad facilities, including
2.25 approximate amounts of the cargo;

2.26 (4) any storage of hazardous cargo in railroad facilities;

2.27 (5) the distance from railroad facilities that transport or store hazardous cargo to
2.28 community facilities, such as schools, hospitals, nursing homes, and other sensitive
2.29 community facilities;

2.30 (6) a description of the practices of the common carrier that prevent acts of sabotage,
2.31 terrorism, and other criminal acts on railroads;

2.32 (7) all training programs that each common carrier requires for its employees;

2.33 (8) the emergency response procedures of the common carrier to deal with acts of
2.34 sabotage, terrorism, and other criminal acts;

3.1 (9) the procedures of the common carrier to communicate with local and state law
3.2 enforcement personnel, emergency personnel, transportation officials, and other first
3.3 responders in the event of acts of sabotage, terrorism, or other criminal acts.

3.4 Sec. 4. **[218.765] INFRASTRUCTURE PROTECTION FROM SABOTAGE**
3.5 **OR TERRORISM.**

3.6 Subdivision 1. **Program creation.** Not later than 360 days after the effective date
3.7 of this section, all common carriers must have in place a program to protect railroad
3.8 infrastructure in the state from acts of sabotage, terrorism, or other criminal acts, to be
3.9 known as an infrastructure protection program.

3.10 Subd. 2. **Security of critical infrastructure.** The infrastructure protection program
3.11 must provide specifically for the security of critical infrastructure. Critical infrastructure
3.12 includes all points of vulnerability of the railroad system that handle hazardous cargo,
3.13 such as bridges, tunnels, and signal systems. For critical infrastructure, the common
3.14 carrier shall:

3.15 (1) provide notice to state and local law enforcement personnel, emergency
3.16 personnel, transportation officials, and other first responders of the location, size, function,
3.17 and importance of the critical infrastructure;

3.18 (2) provide and describe methods of ensuring the protection of critical infrastructure
3.19 from acts of sabotage, terrorism, or other criminal acts, which must include at a minimum
3.20 24-hour surveillance, monitoring, and protection of such railroad facilities;

3.21 (3) provide training to personnel of the common carrier to ensure that the personnel
3.22 are trained and equipped to prevent acts of sabotage, terrorism, or other criminal acts,
3.23 and to respond in the event of those acts.

3.24 Subd. 3. **Regular inspection.** The infrastructure protection program must include
3.25 inspection on a regular basis of all railroad facilities, including rights-of-way, yards, and
3.26 other facilities, that handle hazardous cargo that moves within 15 miles of community
3.27 facilities such as schools, hospitals, nursing homes, and other sensitive community
3.28 facilities, by personnel trained to determine the condition of the railroad facilities and the
3.29 vulnerability of the railroad facilities to acts of sabotage, terrorism, or other criminal acts.

3.30 Subd. 4. **Compliance; penalty.** (a) Each common carrier in the state shall provide
3.31 to local and state law enforcement personnel, emergency personnel, transportation
3.32 officials, and other first responders a copy of its infrastructure protection program.

3.33 (b) The commissioner of transportation shall review the infrastructure protection
3.34 program and may order a common carrier to improve, modify, or change its program to
3.35 comply with the requirements of sections 218.76 to 218.78. The common carrier is subject

4.1 to a fine of \$50,000 per day for failure to comply with sections 218.76 to 218.78, or
4.2 the orders of the commissioner.

4.3 Subd. 5. **Annual program update.** The infrastructure protection program must
4.4 be updated by the common carrier at least once every year, and the updated plan must
4.5 be submitted to local and state law enforcement personnel, emergency personnel,
4.6 transportation officials, and other first responders.

4.7 **Sec. 5. [218.768] COMMUNITY FACILITIES PROTECTION.**

4.8 Subdivision 1. **Requirements for protecting community facilities.** Common
4.9 carriers in the state shall observe the following requirements for all railroad facilities that
4.10 handle cargo that passes within 15 miles of a community facility:

4.11 (1) secure all railroad facilities that handle or store hazardous materials by providing
4.12 adequate security personnel;

4.13 (2) store hazardous materials only in secure railroad facilities designed for that
4.14 storage, which do not include rights-of-way;

4.15 (3) never leave locomotive equipment running while unattended, or leave any
4.16 locomotive equipment unlocked;

4.17 (4) have adequate personnel qualified to operate trains available to assist, replace, or
4.18 relieve train operators who need assistance;

4.19 (5) ensure that the cabs of occupied locomotives are secured against outsiders who
4.20 threaten an act of hijacking, sabotage, or terrorism;

4.21 (6) limit the use of remote control locomotives in yards to equipment not involving
4.22 hazardous materials;

4.23 (7) secure remote control devices to prevent access to these devices by unauthorized
4.24 personnel, including those intent on sabotage, terrorism, or other criminal acts;

4.25 (8) ensure that all employees connected with railroad facilities that transport
4.26 hazardous materials within 15 miles of a community facility receive training related to
4.27 security, shipment of hazardous materials, and terrorism prevention at least once every
4.28 12 months.

4.29 Subd. 2. **Penalty.** The commissioner of transportation may fine any common
4.30 carrier or any other person governed by this section up to \$50,000 per day for failure to
4.31 comply with this section.

4.32 **Sec. 6. [218.771] COMMUNICATIONS.**

4.33 (a) Each common carrier in the state shall provide communications capability to:

5.1 (1) alert local and state law enforcement personnel, emergency personnel,
 5.2 transportation officials, and other first responders in the event of sabotage, terrorism, or
 5.3 other criminal acts;

5.4 (2) provide bridge tenders on movable bridges the ability to alert local and state law
 5.5 enforcement personnel, emergency personnel, transportation officials, and other first
 5.6 responders in the event of sabotage, terrorism, or other criminal acts; and

5.7 (3) notify common carrier employees of the local or national threat level for the rail
 5.8 industry.

5.9 (b) Railroad radio communication does not satisfy the requirements of this section.

5.10 **Sec. 7. [218.774] COVERAGE.**

5.11 Sections 218.76 to 218.78 apply to common carriers, any contractors or
 5.12 subcontractors working on the railroad facilities of the common carriers, and any other
 5.13 individual or corporation performing work on railroad facilities in the state. All employees
 5.14 of railroad contractors or subcontractors, and any other individual or corporation
 5.15 performing work on railroad facilities in the state, must receive training adequate to
 5.16 make them as well trained as employees of a common carrier, and must be required to
 5.17 undergo the same background, skills, and fitness for duty checks as employees of the
 5.18 common carrier.

5.19 **Sec. 8. [218.777] PROHIBITION ON PUNITIVE ACTION.**

5.20 No common carrier or any other person covered by sections 218.76 to 218.78 may
 5.21 take punitive action of any kind against an employee who reports a violation of sections
 5.22 218.76 to 218.78. An employee subject to punitive action may seek damages in the
 5.23 amount of \$1,000,000 from any employer who takes punitive action, in addition to other
 5.24 remedies such as back pay, reinstatement, and other damages.

5.25 **Sec. 9. [218.78] APPLICATION.**

5.26 The provisions of sections 218.76 to 218.78 apply to common carriers, any
 5.27 contractors or subcontractors working on the railroad facilities of common carriers, and
 5.28 any other individual or corporation performing work on railroad facilities in the state.

5.29 **Sec. 10. SHORT TITLE.**

5.30 Sections 218.76 to 218.78 may be cited as the "Local Community Rail Security
 5.31 Act of 2007."