



2.1 (c) Our state's first responders lack adequate knowledge of the facilities of common  
 2.2 carriers in the state and if emergency plans for those facilities exist, first responders lack  
 2.3 sufficient on-site familiarity to react quickly and effectively to an emergency.

2.4 (d) Studies have demonstrated that the employees of common carriers in the  
 2.5 state, and others who work on the facilities of common carriers lack sufficient training  
 2.6 to prevent acts of sabotage, terrorism, or other criminal acts, are required to engage in  
 2.7 practices that heighten the risk of those acts, and lack the equipment to respond to those  
 2.8 acts if they should occur.

2.9 Subd. 2. Purpose. It is the purpose of sections 218.76 to 218.783 to:

2.10 (1) protect those who use community facilities from acts of sabotage, terrorism, and  
 2.11 other criminal acts affecting railroads in the state;

2.12 (2) provide first responders with information about the railroad facilities of common  
 2.13 carriers in the state, and the procedures of common carriers in the event of sabotage,  
 2.14 terrorism, other criminal acts, or accidents affecting the railroad facilities;

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

2.18 (4) require that common carriers in the state have in place plans to respond to acts of  
 2.19 sabotage, terrorism, other criminal acts, or accidents, that common carriers communicate  
 2.20 the plans to first responders, and that common carriers observe practices that will minimize  
 2.21 the risk to community facilities.

2.22 **Sec. 4. [218.762] RISK ASSESSMENT.**

2.23 (a) Not later than 180 days after the effective date of this section, every common  
 2.24 carrier in the state shall provide to the highest ranking homeland security officer in  
 2.25 Minnesota and to the commissioner of transportation a risk assessment of all railroads  
 2.26 in the state. This information is confidential and is to be used for planning purposes  
 2.27 only. Such information may not be disseminated to the public. The commissioner of  
 2.28 transportation shall designate one officer in each county to serve as a railroad emergency  
 2.29 event coordinator. The commissioner may share with each county railroad emergency  
 2.30 event coordinator such information as the commissioner deems necessary for that  
 2.31 individual to assist in making the risk assessment. The railroad emergency event  
 2.32 coordinator shall hold such necessary information confidential and use it for planning  
 2.33 purposes only.

2.34 (b) The risk assessment must describe:

2.35 (1) all railroad facilities and their functions;

- 3.1           (2) any hazardous cargo that moves through those railroad facilities, including  
 3.2 approximate amounts of the cargo;
- 3.3           (3) any storage of hazardous cargo in railroad facilities;
- 3.4           (4) the distance from railroad facilities that transport or store hazardous cargo to  
 3.5 community facilities, such as schools, hospitals, nursing homes, and other sensitive  
 3.6 community facilities;
- 3.7           (5) a description of the practices of the common carrier that prevent acts of sabotage,  
 3.8 terrorism, other criminal acts, and accidents on railroads;
- 3.9           (6) all training programs that each common carrier requires for its employees;
- 3.10          (7) the emergency response procedures of the common carrier to deal with acts of  
 3.11 sabotage, terrorism, other criminal acts, and accidents; and
- 3.12          (8) the procedures of the common carrier to communicate with local and state law  
 3.13 enforcement personnel, emergency personnel, transportation officials, and other first  
 3.14 responders in the event of acts of sabotage, terrorism, other criminal acts, or accidents.

3.15          Sec. 5. **[218.765] INFRASTRUCTURE PROTECTION FROM SABOTAGE**  
 3.16 **OR TERRORISM.**

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

3.21          Subd. 2. **Security of critical infrastructure.** The infrastructure protection  
 3.22 program must provide specifically for the security of critical infrastructure. For critical  
 3.23 infrastructure, the common carrier shall:

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

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

3.30          (3) provide training to personnel of the common carrier to ensure its personnel are  
 3.31 trained and equipped to respond to acts of sabotage, terrorism, other criminal acts, or  
 3.32 accidents.

3.33          Subd. 3. **Regular inspection.** The infrastructure protection program must include  
 3.34 inspection on a regular basis of all railroad facilities, including rights-of-way, yards, and  
 3.35 other facilities, that handle hazardous cargo that moves within 15 miles of community

4.1 facilities such as schools, hospitals, nursing homes, and other sensitive community  
 4.2 facilities, by personnel certified by the commissioner of transportation as trained and  
 4.3 qualified to determine the condition of the railroad facilities and the vulnerability of the  
 4.4 railroad facilities to acts of sabotage, terrorism, other criminal acts, or accidents.

4.5 Subd. 4. **Compliance; penalty.** (a) Each common carrier in the state shall provide  
 4.6 to the highest ranking homeland security officer in Minnesota and to the commissioner of  
 4.7 transportation a copy of its infrastructure protection program.

4.8 (b) The commissioner of transportation shall review the infrastructure protection  
 4.9 program and may order a common carrier to improve, modify, or change its program to  
 4.10 comply with the requirements of sections 218.76 to 218.783. The common carrier is  
 4.11 subject to a fine of \$50,000 per day for failure to comply with sections 218.76 to 218.783,  
 4.12 or the orders of the commissioner. The commissioner may waive all or any portion of the  
 4.13 fine if the common carrier brings its plan into compliance with the commissioner's order  
 4.14 within 30 days of the issuance of the order. The commissioner may extend this 30-day  
 4.15 period if the common carrier has shown a good faith effort to timely comply with the  
 4.16 commissioner's order or if unforeseen circumstances beyond the common carrier's control  
 4.17 prevent timely compliance with the commissioner's order.

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

4.22 **Sec. 6. [218.768] COMMUNITY FACILITIES PROTECTION.**

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

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

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

4.30 (3) never leave any locomotive equipment unlocked;

4.31 (4) have sufficient personnel qualified to operate trains available to assist, replace, or  
 4.32 relieve train operators who need assistance;

4.33 (5) ensure that the cabs of occupied locomotives are secured against outsiders;

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

5.1 (7) secure remote control devices to prevent access to these devices by unauthorized  
5.2 personnel; and

5.3 (8) ensure that all employees connected with railroad facilities that transport  
5.4 hazardous materials within 15 miles of a community facility receive training related to  
5.5 security and shipment of hazardous materials at least once every 12 months.

5.6 Subd. 2. **Penalty.** The commissioner of transportation may fine any common carrier  
5.7 or any other person governed by this section up to \$50,000 per day for failure to comply  
5.8 with this section. The commissioner may waive all or any portion of this fine if the  
5.9 common carrier brings its plan into compliance with the commissioner's order within 30  
5.10 days of the issuance of the order. The commissioner may extend this 30-day period if the  
5.11 common carrier has shown a good faith effort to timely comply with the commissioner's  
5.12 order or if unforeseen circumstances beyond the common carrier's control prevent timely  
5.13 compliance with the commissioner's order.

5.14 **Sec. 7. [218.771] COMMUNICATIONS.**

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

5.16 (1) alert local and state law enforcement personnel, emergency personnel,  
5.17 transportation officials, and other first responders in the event of sabotage, terrorism, other  
5.18 criminal acts, or accidents; and

5.19 (2) provide bridge tenders on movable bridges the ability to alert local and state law  
5.20 enforcement personnel, emergency personnel, transportation officials, and other first  
5.21 responders in the event of sabotage, terrorism, other criminal acts, or accidents.

5.22 (b) Railroad radio communication does not satisfy the requirements of this section.  
5.23 The communication method must allow access to local emergency personnel and first  
5.24 responders.

5.25 **Sec. 8. [218.774] COVERAGE.**

5.26 Sections 218.76 to 218.783 apply to common carriers, any contractors or  
5.27 subcontractors working on the railroad facilities of the common carriers, and any other  
5.28 individual or corporation performing work on railroad facilities in the state. All employees  
5.29 of railroad contractors or subcontractors, and any other individual or corporation  
5.30 performing work on railroad facilities in the state, must receive training adequate to  
5.31 make them as well trained as employees of a common carrier, and must be required to  
5.32 undergo the same background, skills, and fitness for duty checks as employees of the  
5.33 common carrier.

6.1       Sec. 9. **[218.777] PROHIBITION ON PUNITIVE ACTION.**

6.2           (a) No common carrier or any other person covered by sections 218.76 to 218.783  
6.3 may take punitive action of any kind against an employee who reports a violation of  
6.4 sections 218.76 to 218.783. For having made a report under this chapter, the employee  
6.5 making the report may not:

6.6           (1) be dismissed;

6.7           (2) have salary increases or related employment benefits withheld;

6.8           (3) be transferred or reassigned;

6.9           (4) be denied a promotion the employee otherwise would have received; or

6.10          (5) be demoted,

6.11 by a common carrier or a contractor or a subcontractor of a common carrier.

6.12          (b) The commissioner of transportation shall investigate complaints of violation of  
6.13 this section. If a violation is found, the commissioner shall direct the offending common  
6.14 carrier or contractor or subcontractor of a common carrier to make the employee whole for  
6.15 any damage the employee may have suffered.

6.16          (c) In addition, an employee subject to punitive action may also seek civil damages  
6.17 in a court of competent jurisdiction from any employer who takes punitive action, in  
6.18 addition to other remedies such as back pay, reinstatement, and other damages.

6.19       Sec. 10. **[218.78] APPLICATION.**

6.20           The provisions of sections 218.76 to 218.783 apply to common carriers, any  
6.21 contractors or subcontractors working on the railroad facilities of common carriers, and  
6.22 any other individual or corporation performing work on railroad facilities in the state.

6.23       Sec. 11. **[218.783] RULEMAKING.**

6.24           The commissioner of transportation shall adopt rules to implement and administer  
6.25 sections 218.76 to 218.78.

6.26       Sec. 12. **APPROPRIATION.**

6.27           \$..... in fiscal year 2008 is appropriated from the general fund to the commissioner  
6.28 of transportation for the purposes of sections 1 to 11.

6.29       Sec. 13. **SHORT TITLE.**

6.30           Sections 218.76 to 218.783 may be cited as the "Local Community Rail Security  
6.31 Act of 2007."