

2007 SENATE BILL 152

April 19, 2007 – Introduced by Senators HANSEN, WIRCH, SCHULTZ, BRESKE, PLALE and LASSA, cosponsored by Representatives MOLEPSKE, HAHN, SHERIDAN, SINICKI, BIES, TRAVIS, BOYLE, TURNER, LOTHIAN and GRONEMUS. Referred to Committee on Commerce, Utilities and Rail.

1 **AN ACT** *to create* 19.36 (9m) and 195.283 of the statutes; **relating to:** rail
2 security and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill requires railroads to provide risk assessments to state and local law enforcement and emergency response agencies in areas through which the railroad travels that describes the facilities the railroad owns, the types of cargo including hazardous materials that the railroad transports, and the proximity of schools, hospitals, and other community facilities to railroads or facilities that transport or store hazardous materials. Railroads must additionally provide to state and local law enforcement and emergency response agencies plans to prevent, respond to, and report acts of sabotage, terrorism, or other crimes at the railroad's facilities.

This bill also requires railroads to develop and submit to law enforcement agencies and the Department of Transportation (DOT) plans to protect from sabotage, terrorism, or other crimes the railroad's hazardous cargo-handling critical infrastructure, which includes bridges, tunnels, and signal systems. The infrastructure protection must include training and equipping railroad personnel to detect and prevent acts of sabotage, terrorism, and other crimes and provide 24-hour surveillance and protection of critical infrastructure. The bill requires railroad facilities within 15 miles of schools, hospitals, and community facilities to schedule sabotage and terrorism vulnerability inspections, to have adequate security personnel, and to securely store hazardous materials. Such facilities must secure the cabs of locomotives, prohibit leaving locomotives running while unattended, place restrictions on the use of remote control locomotives, have adequate qualified

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personnel to operate trains, and to provide yearly security, safety, and anti-terrorism training to railroad personnel. Railroads must provide copies of their infrastructure protection plans to law enforcement agencies and to DOT and the department will review the plans and, if necessary, order changes.

This bill requires railroads to have sufficient communications systems in place to alert local and state law enforcement and emergency response agencies of sabotage, terrorism, or other crimes and to allow communication between railroad personnel regarding threat levels for the railroad industry.

The bill imposes fines of up to \$50,000 per day against railroads that fail to comply with the above requirements. A railroad that takes punitive action against any person, including an employee, who reports a violation of the requirements of this bill may be liable for up to \$1,000,000 in damages to that person.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 19.36 (9m) of the statutes is created to read:

2 **19.36 (9m)** RECORDS OF RAIL SAFETY ASSESSMENTS AND PROTOCOLS. Records
3 containing information regarding railroad safety assessment, emergency protocol,
4 or protection are not subject to the right of inspection or copying under s. 19.35 (1)
5 except as the department of transportation otherwise provides by rule.

6 **SECTION 2.** 195.283 of the statutes is created to read:

7 **195.283 Railroad safety and emergency procedures. (1) RISK**
8 ASSESSMENT. Not later than 180 days after the effective date of this subsection ...
9 [revisor inserts date], every railroad shall provide to state law enforcement and
10 emergency response agencies, local law enforcement and emergency response
11 agencies in each county, town, village, city, or municipality through which the
12 railroad travels, and the department, a written risk assessment that includes the
13 following information:

14 (a) A list of all facilities that the railroad owns, operates, manages, or controls
15 and the function of the facility.

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1 (b) The type of cargo, if any, that the railroad moves through each facility.

2 (c) A statement of whether the cargo moved through a facility is hazardous and,
3 if so, the approximate amount of hazardous cargo that moves through the facility
4 each year.

5 (d) The distance between each facility or railroad that transports or stores
6 hazardous cargo and a school, hospital, nursing home, or other vulnerable
7 community facility.

8 (e) A description of the railroad's practices that prevent or discourage acts of
9 sabotage, terrorism, or other crimes at its facilities.

10 (f) The emergency response procedures the railroad has in place to deal with
11 acts of sabotage, terrorism, or other crimes at its facilities.

12 (g) The procedures the railroad has in place to communicate with local, state,
13 and federal law enforcement and emergency response agencies and the department
14 in the event of acts of sabotage, terrorism, or other crimes at its facilities.

15 **(2) PROTECTION OF RAILROAD INFRASTRUCTURE FROM ACTS OF SABOTAGE, TERRORISM,**
16 **OR OTHER CRIMES.** (a) Not later than 360 days after the effective date of this subsection
17 [revisor inserts date], every railroad shall have in place an infrastructure
18 protection protocol to protect the railroad and its facilities from acts of sabotage,
19 terrorism, or other crimes. The railroad shall update its infrastructure protection
20 protocol annually.

21 (b) The infrastructure protection protocol shall provide specifically for the
22 security of critical infrastructure. Critical infrastructure includes all points of
23 vulnerability of a railroad that handles hazardous cargo, including bridges, tunnels,
24 and signal systems. The infrastructure protection protocol shall provide specifically
25 for the security of critical infrastructure. The railroad shall do all of the following:

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1 1. Provide a list of all critical infrastructure, including the location, size,
2 function, and importance of the critical infrastructure, to state and local law
3 enforcement and emergency agencies, and the department.

4 2. Describe the railroad's methods of securing the critical infrastructure
5 against acts of sabotage, terrorism, or other crimes.

6 (c) The infrastructure protection protocol shall include, at a minimum:

7 1. Providing training and equipment to railroad personnel to detect and
8 prevent acts of sabotage, terrorism, or other crimes.

9 2. Twenty-four hour surveillance and protection of critical infrastructure.

10 3. For railroad facilities, including rights of way, yards, and other facilities that
11 handle hazardous cargo and that are located or travel within 15 miles of community
12 facilities such as schools, hospitals, nursing homes, or other sensitive community
13 facilities, all of the following:

14 a. A schedule of inspection to assess the condition of the facilities and the
15 facilities' vulnerability to acts of sabotage, terrorism, or other crimes.

16 b. Adequate security personnel.

17 c. Hazardous material storage in secure facilities designed to store hazardous
18 materials that are not located on a right of way.

19 d. A prohibition against leaving any locomotive equipment running while
20 unattended or leaving unattended locomotive equipment unlocked.

21 e. Adequate personnel who are qualified to operate a train available to assist,
22 replace, or relieve a train operator who needs assistance, replacement, or relief while
23 operating a train.

24 f. Securing a cab of a locomotive against hijack, sabotage, terrorism, or other
25 crimes.

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1 g. A prohibition against using remote control locomotive equipment to control
2 a railroad facility involving hazardous materials.

3 h. Securing remote control equipment and ensuring that access to remote
4 control equipment is available only to railroad personnel or others authorized by the
5 railroad to have access to the equipment.

6 i. A training program, provided a minimum of every 12 months, for all
7 personnel involved in transporting hazardous materials that provides instruction
8 related to security, safety, and anti-terrorism efforts.

9 (d) Each railroad shall provide a written copy of its infrastructure protection
10 protocol, and every update thereof, to local and state law enforcement and emergency
11 agencies, and to the department.

12 (e) Upon receiving each railroad's infrastructure protection protocol or an
13 update of the protocol, the department shall review the infrastructure protection
14 protocol and may order a railroad to improve, modify, or change its protocol to comply
15 with the requirements of this section.

16 **(3) COMMUNICATIONS.** Every railroad shall have the ability to do all of the
17 following:

18 (a) Alert local and state law enforcement and emergency agencies and the
19 department in the event of sabotage, terrorism, or other crimes. Railroad radio does
20 not satisfy the requirements of this paragraph.

21 (b) Provide bridge tenders on moveable bridges the ability to alert local and
22 state law enforcement and emergency agencies and the department in the event of
23 sabotage, terrorism, or other crimes.

24 (c) Notify railroad personnel of the local or national threat level for the rail
25 industry.

