

SECOND REGULAR SESSION

HOUSE BILL NO. 1789

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ZWEIFEL (Sponsor), MEADOWS AND YAEGER (Co-sponsors).

Read 1st time February 15 , 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5080L.01I

AN ACT

To amend chapter 389, RSMo, by adding thereto six new sections relating to local community rail security act of 2006, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 389, RSMo, is amended by adding thereto six new sections, to be
2 known as sections 389.1100, 389.1103, 389.1106, 389.1109, 389.1112, and 389.1115, to read
3 as follows:

389.1100. 1. Sections 389.1100 to 389.1115 shall be known and may be cited as the
2 **"Local Community Rail Security Act of 2006".**

3 **2. By July 1, 2007, every operator of rail facilities in this state shall provide to state**
4 **and local law enforcement personnel, emergency personnel, transportation officials, and**
5 **other first responders a risk assessment of all rail facilities in this state. The risk**
6 **assessment shall describe the following:**

7 **(1) All facilities and their functions;**

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

9 **(3) Any hazardous cargo that moves through such facilities, including approximate**
10 **amounts of such cargo;**

11 **(4) Any storage of such hazardous cargo in rail facilities;**

12 **(5) The distance from rail facilities that transport or store hazardous cargo to**
13 **community facilities, such as schools, hospitals, nursing homes, and other sensitive**
14 **community facilities;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

17 (7) All training programs that the rail operators require for its employees;

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

20 (9) The procedures of the rail operator to communicate with state and local law
21 enforcement personnel, emergency personnel, transportation officials, and other first
22 responders in the event of acts of sabotage, terrorism, or other crimes.

 389.1103. 1. By September 1, 2007, all rail operators shall have in place a
2 "Infrastructure Protection Program" to protect rail infrastructure in this state from acts
3 of sabotage, terrorism, or other crimes.

4 2. The program shall specifically provide for the security of critical infrastructure,
5 which includes all points of vulnerability of the rail system that handle cargo, such as
6 bridges, tunnels, and signal systems. For critical infrastructure, the rail operator shall:

7 (1) Provide notice to state and local law enforcement, emergency personnel,
8 transportation officials, and other first responders of the location, size, function, and
9 importance of the critical infrastructure;

10 (2) Provide and describe methods of ensuring the protection of critical
11 infrastructure from acts of sabotage, terrorism, or other crimes, including at a minimum
12 twenty-four-hour surveillance, monitoring, and protection of such facilities;

13 (3) Provide training of personnel of the rail operator to ensure that such personnel
14 are trained and equipped to prevent acts of sabotage, terrorism, or other crimes, and to
15 respond in the event of such acts.

16 3. The infrastructure protection program shall include inspection of all rail
17 facilities, including rights-of-way, yards, and other facilities, that handle hazardous cargo
18 that moves within fifteen miles of community facilities, such as schools, hospitals, nursing
19 homes, and other sensitive community facilities, on a regular basis by personnel trained
20 to determine the condition of the rail facilities and the vulnerability of the rail facilities to
21 acts of sabotage, terrorism, or other crimes.

22 4. (1) Each rail operator in this state shall provide to state and local law
23 enforcement personnel, emergency personnel, transportation officials, and other first
24 responders a copy of the rail operator's infrastructure protection program.

25 (2) The department of transportation shall review the program and may order a
26 rail operator to improve, modify, or change its program to comply with the requirements
27 of sections 389.1100 to 389.1115. Any rail operator that fails to comply with an order of

28 the department under sections 389.1100 to 389.1115 shall be subject to a fine of fifty
29 thousand dollars for each day of such violation of a department order.

30 5. The program shall be updated at least once a year and the updated plan shall be
31 submitted to state and local law enforcement personnel, emergency personnel,
32 transportation officials, and other first responders.

389.1106. Rail operators in this state shall comply with the following requirements
2 for all facilities that handle cargo that passes within fifteen miles of a community facility:

3 (1) Secure all facilities that handle or store hazardous materials by providing
4 adequate security personnel;

5 (2) Store hazardous materials only in secure facilities designed for such storage,
6 which shall not include rights-of-way;

7 (3) Prohibit locomotive equipment from running while unattended or leaving
8 locomotive equipment unlocked;

9 (4) Have adequate personnel qualified to operate trains available to assist, replace,
10 or relieve train operators who need such assistance;

11 (5) Ensure that the cabs of unoccupied locomotives are secured against threats of
12 hijack, sabotage, or terrorism;

13 (6) Limit the use of remote control locomotive in yards to equipment not involving
14 hazardous materials;

15 (7) Secure remote control devices to prevent access to such devices by unauthorized
16 personnel, including persons intent on acts of sabotage, terrorism, or other crimes;

17 (8) Ensure that all employees connected with rail facilities that transport hazardous
18 materials within fifteen miles of a community facility receive training related to security,
19 shipment of hazardous materials, and terrorism prevention at least once every twelve
20 months.

21 2. Any person who fails to comply with this section shall be subject to a department
22 fine of up to fifty thousand dollars a day for each day of such violation.

389.1109. 1. Each rail operator in this state shall provide communications
2 capability:

3 (1) To alert state and local law enforcement personnel, emergency personnel,
4 transportation officials, and other first responders in the event of sabotage, terrorism, or
5 other crimes. A railroad radio shall not satisfy the requirements of this section;

6 (2) To provide bridge tenders on moveable bridges the ability to alert state and
7 local law enforcement, emergency personnel, transportation officials, and other first
8 responders in the event of sabotage, terrorism, or other crimes;

9 (3) To notify rail workers of the national and local threat level for the rail industry.

2 **389.1112. Sections 389.1100 to 389.1115 shall apply to all rail operators, any**
3 **contractors or subcontractors working on the facilities of the rail operator, and any other**
4 **person or entity performing work on rail facilities in this state. All employees of rail**
5 **operator contractors and subcontractors and any other person or entity performing work**
6 **on rail facilities in this state shall receive training adequate to make such persons and**
7 **entities as well trained as employees of the rail operator, and shall be required to undergo**
 the same background, skills, and fitness-for-duty checks as employees of the rail operator.

2 **389.1115. No rail operator or any other person covered under sections 389.1100 to**
3 **389.1115 shall take punitive action of any kind against an employee who reports a violation**
4 **of sections 389.1100 to 389.1115. An employee subject to such punitive action may seek**
5 **damages in the amount of one million dollars from any employer who takes such action,**
6 **in addition to any other remedies available to such employee, such as back pay,**
 reinstatement, and other damages.

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