

SECOND REGULAR SESSION

SENATE BILL NO. 1096

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 23, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5313S.011

AN ACT

To amend chapter 389, RSMo, by adding thereto six new sections relating to the 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 known as sections 389.1100, 389.1103, 389.1106, 389.1109, 389.1112, and 389.1115, to read as follows:

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

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

(1) All facilities and their functions;

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

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

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

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

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

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

(8) The emergency response procedures of the rail operator to

21 deal with acts of sabotage, terrorism, or other crimes;

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

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

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

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

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

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

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

28 4. (1) Each rail operator in this state shall provide to state and
29 local law enforcement personnel, emergency personnel, transportation
30 officials, and other first responders a copy of the rail operator's
31 infrastructure protection program.

32 (2) The department of transportation shall review the program

33 and may order a rail operator to improve, modify, or change its
34 program to comply with the requirements of sections 389.1100 to
35 389.1115. Any rail operator that fails to comply with an order of the
36 department under sections 389.1100 to 389.1115 shall be subject to a
37 fine of fifty thousand dollars for each day of such violation of a
38 department order.

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

389.1106. 1. Rail operators in this state shall comply with the
2 following requirements for all facilities that handle cargo that passes
3 within fifteen miles of a community facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

✓