

1 **A BILL**

2
3 *To provide for the security and safety of local communities and community facilities, to protect*
4 *local communities from practices that fail to secure rail facilities and equipment from the threat*
5 *of terrorism, and to ensure proper communication between the owners and operators of rail fa-*
6 *ilities and equipment with local and state first responders.*

7
8 *Be it enacted*

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10 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

11 (a) SHORT TITLE. – This Act may be cited as the “Local Community Rail Security Act of
12 2006.”

13 (b) TABLE OF CONTENTS. – The table of contents for this Act is as follows:

14 Section 1. Short Title.

15 Section 2. Findings and Purposes.

16 Section 3. Risk Assessment.

17 Section 4. Community Protection Plan .

18 Section 5. Worker Protection .

19 Section 6. Scope.

20
21 **SECTION 2. FINDINGS AND PURPOSES.**

22 (a)

23 (b)

1 **SECTION 3. RISK ASSESSMENT.**

2 Not later than 180 days after the enactment of this Act, every operator of rail facilities in the state
3 shall provide to the [*state emergency management agency*] and the Department of Transporta-
4 tion a risk assessment of all rail facilities in the state, which shall describe –

5 (a) all facilities and their functions;

6 (b) the types of cargo that have moved through such facilities within the preceding twelve
7 months, including the approximate quantities of hazardous materials and oil subject to
8 Chapter I of Title 49 of the Code of Federal Regulations;

9 (c) the extent to which hazardous materials and/or oil are stored in rail facilities, including
10 the location of such facilities and the approximate quantities of hazardous materials
11 and/or oil stored;

12 (d) the location of any rail facility through which hazardous materials and/or oil are trans-
13 ported or at which such cargo is stored that lies within a fifteen mile radius of a school,
14 hospital, nursing home, public utility, or public safety facility; and

15 (e) the rail operator’s current security plan, which shall include:

16 (1) a description of the practices of the rail operator designed to prevent acts of sabotage,
17 terrorism or other crimes on rail facilities;

18 (2) the training program the rail operator provides to its employees;

19 (3) the emergency response procedures of the rail operator in dealing with acts of sabo-
20 tage, terrorism or other crimes; and

21 (4) the procedures of the rail operator in communicating with local and state law en-
22 forcement personnel, emergency personnel, transportation officials, and other first re-
23 sponders in the event of acts of sabotage, terrorism or other crimes.

1 **SECTION 4. COMMUNITY PROTECTION PLAN.**

2 (a) Not later than 360 days after the date of enactment of this Act, all rail operators shall
3 have in place a Community Protection Plan designed to protect rail infrastructure and
4 traffic in the state from acts of sabotage, terrorism or other crimes.

5 (b) The Community Protection Plan shall provide specifically for the security of critical in-
6 frastructure, including all points of vulnerability of the rail system that handle hazardous
7 cargo and/or oil, including rights of way, yards, bridges, tunnels, and signal systems.

8 (c) With respect to rail infrastructure, generally, the Community Protection Plan shall –

9 (1) describe the rail operator’s methods for protecting critical infrastructure from acts of
10 sabotage, terrorism, or other crimes;

11 (2) describe the manner and substance of initial and recurrent training provided by the
12 rail operator to its employees to enable them to identify security threats and respond
13 appropriately to acts of sabotage, terrorism or other crimes;

14 (3) the emergency response procedures of the rail operator in dealing with acts of sabo-
15 tage, terrorism or other crimes; and

16 (4) the procedures of the rail operator in communicating with local and state law en-
17 forcement personnel, emergency personnel, transportation officials, and other first re-
18 sponders in the event of acts of sabotage, terrorism or other crimes.

19 (d) With respect to any rail facility through which hazardous materials and/or oil is trans-
20 ported or at which such cargo is stored that lies within a fifteen mile radius of a school,
21 hospital, nursing home, public utility, or public safety facility, the Community Protection
22 Plan shall also provide for –

- 1 (1) inspection on a regular basis by personnel trained to determine the condition of the
2 facility and its vulnerability to acts of sabotage, terrorism, of other crimes;
- 3 (2) storage of hazardous materials and/or oil only in secure facilities designed for such
4 storage, which shall not include rights of way;
- 5 (3) procedures to prevent leaving locomotive equipment running while unattended, and
6 leaving unattended locomotive equipment unlocked;
- 7 (4) methods by which the cabs of occupied locomotives may be secured against unau-
8 thorized entry; and
- 9 (5) security for all remote control devices to prevent access to such devices by unauthor-
10 ized personnel.

11 (e) Each rail operator in the state shall provide a copy of its Community Protection Plan to
12 the *[state emergency management agency]* and the Department of Transportation.

13 (f) The Department of Transportation shall review the Community Protection Plan and shall
14 have the authority to order a rail operator to improve, modify, or change its plan to com-
15 ply with the requirements of this Act. The Department shall have the authority to fine a
16 rail operator \$50,000 per day for failure to comply with its orders or this Act.

17 (g) The Community Protection Plan shall be updated by the rail operator at least once every
18 year, and the updated plan shall be submitted to the *[state emergency management*
19 *agency]* and the Department of Transportation.

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21 **SECTION 5. WORKER PROTECTION.**

22 No rail operator or any other person covered by this Act may discharge or in any way discrimi-
23 nate against an employee who reports a violation of this Act. An employee who alleges a viola-

1 tion of this Section may seek punitive damages of up to \$1,000,000 for said violation, in addition
2 to whatever other remedies may be available.

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4 **SECTION 6. SCOPE.**

5 (a) This Act shall apply to rail operators, contractors or subcontractors working on the facili-
6 ties of a rail operator, and any other individual or corporation performing work on rail
7 facilities in the state.

8 (b) All employees of rail operators, contractors or subcontractors, and other individuals or
9 corporations performing work on rail facilities in the state, shall receive the training pre-
10 scribed in Section 4 of this Act. In addition, employees of rail contractors or subcontrac-
11 tors, and other individuals or corporations performing work on rail facilities in the state,
12 shall be required to undergo the same background, skills and fitness for duty checks as
13 employees of the rail operator.

14 (c) If any provision of this Act is at any time determined to be in conflict with any law, such
15 provision will continue in effect only to the extent permitted by such law. If any provi-
16 sion of this Act is or becomes invalid or unenforceable, such invalidity or unenforceabil-
17 ity will not affect or impair any other term or provision of this Act.