

SHORT TITLE: Railroads; limiting liability of passenger excursion trains; codification; effective date; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 865

By: Gustafson

AS INTRODUCED

An Act relating to the economic development of tourism through the limitation of liability of passenger excursion trains; providing for insurance coverage; requiring notice of limited liability; providing limitations on excursion train operations; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 321 of Title 66, unless there is created a duplication in numbering, reads as follows:

A. An entity may apply to the Secretary of State for certification as an operator of an excursion train. The Secretary of State shall certify an applicant if the Secretary determines that the applicant will operate a passenger train that:

1. Is primarily used for tourism or public service; and
2. Leads to the promotion of the tourism industry in Oklahoma.

B. The Secretary of State may not certify an entity under subsection A of this section unless the entity files with the Secretary of State evidence of insurance providing coverage for liability resulting from injury to persons or damages to property in the amount of at least Five Million Dollars (\$5,000,000.00) for the operation of the train.

C. The Secretary of State may not certify an applicant under subsection A of this section if the applicant or any person that owns an interest in the applicant also owns or operates a regularly scheduled passenger train service with interstate connections.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 322 of Title 66, unless there is created a duplication in numbering, reads as follows:

A. An entity that is certified as an operator of an excursion train under Section 1 of this act and maintains insurance in the minimum amount required under subsection B of Section 1 of this act shall not be liable for injury or damages in the aggregate in excess of Five Million Dollars (\$5,000,000.00) resulting from a single occurrence.

B. The limitations of liability under subsection A of this section applies to the entity certified as an operator under Section 1 of this act, the owner of equipment used by the excursion train, the owner of track used by the excursion train and the host carrier.

C. The limitation of liability under subsection A of this section does not apply if:

1. The injury or damages result from intentional, malicious, or grossly negligent conduct; or

2. At the time of the injury or damages the operator of the excursion train:

a. failed to maintain insurance as required under subsection B of Section 1 of this act, or

b. failed to comply with Section 5 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 323 of Title 66, unless there is created a duplication in numbering, reads as follows:

An application made under Section 1 of this act must include:

1. The name and address of each person who owns an interest of at least ten percent (10%) in the entity or applicant;

2. An address in this state at which the excursion train is based;

3. An operations plan including the route to be used and a schedule of operations and stops along the route; and

4. Evidence of insurance in an amount that meets the requirements of subsection B of Section 1 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 324 of Title 66, unless there is created a duplication in numbering, reads as follows:

The operator of an excursion train that is certified under Section 1 of this act shall:

1. Issue each passenger a ticket with the following statement in 12-point boldface type: "THE OPERATOR OF THIS TRAIN IS NOT LIABLE FOR DAMAGES RESULTING FROM PERSONAL INJURY OR WRONGFUL DEATH IN AN AGGREGATE AMOUNT IN EXCESS OF FIVE MILLION DOLLARS (\$5,000,000.00)"; and

2. Post notice near a passenger boarding area containing the same statement required in paragraph 1 of this section in letters that are at least two inches high.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 325 of Title 66, unless there is created a duplication in numbering, reads as follows:

The operator of an excursion train that is certified under Section 1 of this act may not carry:

1. Freight, other than the personal luggage of the passengers or crew, or supplies and equipment necessary to serve the needs of the passengers and crew;

2. Passengers who are commuting to work; or

3. Passengers who are traveling to their final destination solely for business or commercial purposes.

SECTION 6. This act shall become effective November 1, 1996.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-1638

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