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SENATE BILL NO. 652

Offered January 18, 2006

A BILL to amend the Code of Virginia by adding a section numbered 56-446.1, relating to limitations on passenger rail transportation liability.

Patrons—Saslaw and Whipple

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-446.1 as follows:

§ 56-446.1. Limitations on passenger rail transportation liability.

A. As used in this section, unless the context requires otherwise:

"Authority" means an agency or political subdivision of the Commonwealth that is engaged in providing, directly or indirectly, rail transportation services to the general public.

"Claim" means a claim, action, suit, or request for damages, whether compensatory, punitive, or otherwise, made by any person against (i) an authority or a railroad, or (ii) against a member of an authority's governing body, or a director, officer, employee, affiliate engaged in railroad operations, or agent of an authority or a railroad.

"Passenger rail services" means the transportation of rail passengers by or on behalf of an authority and all services performed by a railroad pursuant to a contract with the authority in connection with the transportation of rail passengers, including, but not limited to, the operation of trains, the use of rights-of-way, trackage, public or private roadway and rail crossings, equipment, or station areas or appurtenant facilities; the design, construction, reconstruction, operation, or maintenance of rail-related equipment, tracks, and any appurtenant facilities; and the provision of access rights over or adjacent to lines owned by an authority or by a railroad, or otherwise occupied by an authority or a railroad, pursuant to charter, grant, deed, lease, easement, license, trackage rights, or other form of ownership or authorized use.

"Railroad" means a railroad company or railroad corporation that has entered into any contracts or operating agreements of any kind with an authority concerning passenger rail services.

B. An authority may contract with any railroad to allocate financial responsibility for claims against the railroad or the authority in connection with any incident or accident of any kind related to passenger rail services, which may include but not be limited to executing indemnity agreements, notwithstanding any other statutory, common law, public policy, or other prohibition against same, and regardless of the nature of the claim or the conduct giving rise to such claim.

C. The aggregate liability of the authority and the parties to the contract or contracts authorized by subsection B for all claims arising from a single incident or accident of any kind related to passenger rail services for property damage, personal injury, bodily injury, and death shall be limited to \$200 million per single incident or accident.

D. This section shall not affect the damages that may be recovered under the Federal Employers' Liability Act of 1908 (45 U.S.C. § 51 et seq.), as amended.

INTRODUCED

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