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**SENATE BILL NO. 652****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice  
on February 13, 2006)

(Patron Prior to Substitute— Senator Saslaw)

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

**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 a political subdivision of the Commonwealth that is comprised of two transportation commissions of the Commonwealth collectively engaged in providing, directly or indirectly, passenger 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 rail passenger 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 arising from or in connection with the transportation of rail passengers.*

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

*B. An authority may contract with any railroad to allocate financial responsibility for claims against the railroad or the authority arising from or in connection with any incident or accident of any kind related to passenger rail services, or on behalf of any rail passengers, 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 any applicable railroad for all claims of rail passengers 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 \$250 million.*

*D. The limitation on aggregate liability provided in this section shall be modified each year, beginning in January 2011, and continuing in each January thereafter, by adjusting the amount of the limitation by a percentage equal to the percentage change in the medical care component of the Consumer Price Index, as published by the Bureau of Labor Statistics, over that component published for the previous December.*

*E. 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.*

*F. This section shall not affect the damages that may be recovered if it can be shown that the accident or injury occurred as a result of gross negligence, willful or wanton conduct, or criminal conduct on the part of the railroad.*

*F. The Virginia Division of Risk Management shall be designated to examine the history of claims made and amounts recovered against the Virginia Railway Express arising from or in connection with the provision of passenger rail service in the Commonwealth, and to provide a complete review of those findings to the General Assembly by November 30, 2008, to determine if level of liability coverage should be adjusted to reflect market standards and claims history.*