

CHAPTER 431

An Act to amend and reenact §§ 46.2-2099.41 and 46.2-2099.42 of the Code of Virginia, relating to excursion trains; certification requirements; liability of railroad company.

[H 1229]

Approved March 11, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-2099.41 and 46.2-2099.42 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-2099.41. Certification requirements.

A. A person may apply to the Department for certification as an operator of an excursion train. The Department shall certify an applicant if the Department 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 tourist industry in the Commonwealth; ~~and~~
3. Is ~~primarily operated within the Counties of Buchanan, Campbell, or Washington.~~

B. An application for certification shall include:

1. The name and address of each person who owns an interest of at least 10 percent of the excursion train operation;
2. An address in ~~this~~ the Commonwealth where 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 that meets the requirements of subsection C of ~~this section.~~

C. The Department shall not certify to a person under subsection A unless the person files with the Department evidence of insurance providing coverage of liability resulting from injury to persons or damages to property in the amount of at least \$10 million for the operation of the train.

D. The Department shall not certify an applicant under subsection A ~~of this section~~ if the applicant or any other person owning interest in the excursion train also owns or operates a regularly scheduled passenger train service with interstate connection.

§ 46.2-2099.42. Assignment of liability.

A. The operator of an excursion train shall be liable for personal injury or wrongful death arising from the operation of such excursion train, including operations, maintenance, and signalization of the tracks and facilities upon which the excursion train operates.

B. Any county, city, or town may by resolution determine that the provision of excursion train services within the locality promotes tourism and furthers other public purposes. ~~Upon request of such locality, by resolution, any~~ Any railroad company that authorizes the operator of an excursion train to use its tracks and facilities for the purposes of this article shall not be liable for personal injury or wrongful death arising from the operation of such excursion train, including operations, maintenance, and signalization of the tracks and facilities upon which the excursion train operates.

C. The limitation of liability under subsection B does not apply if:

1. The injury or damages result from intentional misconduct, malice, or gross negligence of the railroad company; or
2. The operator of the excursion train was not operating in accordance with the definition of an excursion train under this chapter and the railroad company had otherwise authorized the operations that were inconsistent with this chapter.

D. Each passenger on the excursion train shall be deemed to have accepted and consented to the limitation of liability under this section. This agreement shall be governed by the laws of the Commonwealth as the place of performance notwithstanding any choice of law rules to the contrary.

E. The railroad company may charge reasonable amounts to the operator of the excursion train for the use of its tracks and facilities as determined by agreement between the railroad company and the operator.