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HOUSE BILL NO. 2305

Offered January 17, 1997

A *BILL to amend the Code of Virginia by adding in Title 46.2 a chapter numbered 23.1, consisting of sections numbered 46.2-2313 through 46.2-2316, relating to excursion trains.*

Patrons—Wilkins, Deeds and Landes

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 46.2 a chapter numbered 23.1, consisting of sections numbered 46.2-2313 through 46.2-2316, as follows:

*CHAPTER 23.1.**EXCURSION TRAINS.**§ 46.2-2313. Definitions.*

When used in this chapter, unless expressly stated otherwise:

"Certificate" means a certificate of operation issued by the Department to an operator of an excursion train.

"Department" means the Department of Motor Vehicles.

"Excursion train" means any train that does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passenger and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

§ 46.2-2314. 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;*
- 2. Leads to the promotion of the tourist industry in the Commonwealth; and*
- 3. Is primarily operated within a county having a population between 50,000 and 55,000 people.*

B. An application for certification shall include :

- 1. The name and address of each person who owns an interest of at least ten percent of the excursion train operation;*
- 2. An address in this 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.*

C. The Department shall not certify 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 five million dollars for the operation of the train.

D. The Department shall not certify an applicant under subsection A 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.

§ 46.2-2315. Limitation of liability.

A. Any person that is certified as an operator of an excursion train and maintains insurance in the minimum amount stated in § 46.2-2314 is not liable for injury or damages over five million dollars resulting from a single occurrence.

B. The limitation of liability under subsection A applies to the person certified as an operator under required § 46.2-2314, the owner of the 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 does not apply if:

- 1. The injury or damages result from intentional misconduct, malice, or gross negligence; or*
- 2. At the time of the injury or damages the operator of the excursion train:*
 - a. Failed to maintain insurance coverage as required under § 46.2-2314; or*
 - b. Was not operating in accordance with the definition of an excursion train.*

§ 46.2-2316. Notice to passengers.

The operator of an excursion train shall:

- 1. Issue each passenger a ticket with the following statement in twelve point boldface type: "THE OPERATOR OF THIS EXCURSION TRAIN IS NOT LIABLE FOR PERSONAL INJURY OR*

INTRODUCED

HB2305

60 *WRONGFUL DEATH IN AN AMOUNT IN EXCESS OF \$5,000,000.*

61 *2. Post notice near any passenger boarding area containing the same statement contained in*
62 *subdivision 1, in letters that are at least two inches high.*