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**HOUSE BILL NO. 2305****FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by Delegate Wilkins  
on January 31, 1997)

(Patron Prior to Substitute—Delegate Wilkins)

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.

**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 steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and 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 passengers 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 ten 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. 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 railroad company which authorizes the operator of an excursion train to use its tracks and facilities for the purposes of this chapter 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 which were inconsistent with this chapter.

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

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

66       § 46.2-2316. Notice to passengers.

67       The operator of an excursion train shall:

68       1. Issue each passenger a ticket with the following statement in twelve point boldface type: "THE  
69 RAILROAD COMPANY WHICH OWNS THE TRACKS AND FACILITIES UPON WHICH THIS  
70 EXCURSION TRAIN OPERATES SHALL NOT BE LIABLE FOR PERSONAL INJURY OR WRONGFUL  
71 DEATH ARISING FROM THE OPERATION OF THE EXCURSION TRAIN, INCLUDING  
72 OPERATIONS, MAINTENANCE, AND SIGNALIZATION OF THE TRACKS AND FACILITIES."

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