

A BILL

To amend [State Code], and for other purposes.

Be it enacted by [] legislature [State of] assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Vandalism Prevention Act".

SEC. 2. PURPOSE.

The purpose of this Act is to prevent acts of vandalism to railroad property which affect the health, safety, and welfare of the traveling public, the neighboring community, and railroad employees; to protect railroad property and freight in transportation by railroad; and otherwise to enhance the safety of transportation by railroad.

SEC. 3. AMENDMENTS TO VANDALISM LAWS.

Section [] of Chapter [], [State General Laws], is amended [to read as follows:] [by adding at the end thereof the following new section:]

“§[]. VANDALISM OF RAILROAD PROPERTY.

“(a) Reckless disregard for railroad property or the safety of another.

Whoever, with reckless disregard for railroad property or the safety of another, commits an act which may cause damage to railroad property or bodily injury to another by an act including, but not limited to--

“(1) placing a small object, such as a coin, token, bottle cap, bottle, or can, on a railroad track or rail or dropping or throwing an object, such as an egg or water balloon, at a locomotive or train;

“(2) taking, removing, defacing, altering, marking with graffiti, or otherwise vandalizing a railroad sign, placard, or marker;

“(3) throwing a rock, baseball, or other dangerous object at a locomotive, railroad car, or train;

“(4) dropping a brick or other dangerous object from a bridge or other overpass onto a railroad right-of-way;

“(5) shooting a firearm or other dangerous weapon at a locomotive, railroad car, or train;

“(6) removing appurtenances from, damaging, or otherwise impairing the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad owned, leased, or operated by any railroad carrier, without consent of the railroad carrier involved;

“(7) interfering or tampering with, or obstructing in any way, any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railroad carrier, without consent of the railroad carrier involved; or

“(8) taking, stealing, removing, changing, adding to, altering, or in any manner interfering with any journal bearing, brass, waste, packing, triple valve, pressure cock, brake, air hose, or any other part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable of being used by any railroad carrier in this State without consent of the railroad carrier--

shall be guilty of an offense. If railroad property damage does not exceed \$500 and no bodily injury occurs to another as a result of any of the aforesaid acts, the person shall be guilty of a misdemeanor. Upon conviction of such act, the person shall be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and to perform community service for not more than 120 hours, if community service is available in the jurisdiction where the offense was committed. If community service is not available in the jurisdiction where the offense was committed, the person shall be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and be fined not more than \$500, imprisoned for not more than six months, or both. If railroad property damage exceeds \$500 or bodily injury occurs to another as a result of any of the aforesaid acts, the person shall be guilty of a felony. Upon conviction of such act, the person may be subject to pay the railroad carrier involved for the cost to repair any railroad property damaged, and shall be fined not more than \$10,000, imprisoned for not more than ten years, or both. If serious bodily injury or death occurs to another as a result of any of the

aforesaid acts, the person shall be guilty of a felony. Upon conviction of such act, the person may be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and shall be fined not more than \$20,000, imprisoned for not more than 20 years, or both.

“(b) Intent to damage railroad property or to endanger the safety of another.

Whoever willfully damages or attempts to damage railroad property or willfully endangers or attempts to endanger the safety of another, by an act including, but not limited to--

“(1) taking, removing, defacing, altering, or otherwise vandalizing a railroad sign, placard, or marker;

“(2) throwing a rock, baseball, or other dangerous object at a locomotive, railroad car, or train;

“(3) dropping a brick or other dangerous object from a bridge or other overpass onto a railroad right-of-way;

“(4) shooting a firearm or other dangerous weapon at a locomotive, railroad car, or train;

“(5) removing appurtenances from, damaging, or otherwise impairing the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, on a railroad owned, leased, or operated by any railroad carrier, and without consent of the railroad carrier involved;

“(6) interfering or tampering with, or obstructing in any way, any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railroad carrier without consent of the railroad carrier involved; or

“(7) taking, stealing, removing, changing, adding to, altering, or in any manner interfering with any journal bearing, brass, waste, packing, triple valve, pressure cock, brake, air hose, or any other part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable

of being used by any railroad carrier in this State without consent of the railroad carrier--

shall be guilty of a felony. If railroad property damage does not exceed \$500 and no bodily injury occurs to another as a result of any of the aforesaid acts, upon conviction of such act, the person shall be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and shall be fined not more than \$10,000, imprisoned for not more than ten years, or both. If railroad property damage exceeds \$500 or bodily injury occurs to another as a result of any of the aforesaid acts, upon conviction of such act, the person may be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and shall be fined not more than \$20,000, imprisoned for not more than 20 years, or both. If serious bodily injury occurs to another as a result of any of the aforesaid acts, upon conviction of such act, the person may be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and shall be fined not more than \$25,000, imprisoned for any term of years or for life, or both. If death occurs to another as a result of any of the aforesaid acts in this subsection, upon conviction of such act, the person may be subject to pay the railroad carrier involved for the cost to repair any railroad property damaged, and shall be fined not more than \$100,000, imprisoned for any term of years or for life, or both.

“(c) **Theft of railroad freight.** Whoever, willfully and with intent to permanently deprive the owner thereof, takes or removes railroad freight from any freight car, including a boxcar, container, or flatbed, shall be guilty of a felony. Upon conviction of such act, the person shall be fined not more than \$5,000, imprisoned for not more than five years, or both.

“(d) **Receiving stolen railroad freight.** Whoever buys or receives any of the railroad freight described in subsection (c), having reason to know that such freight has been stolen, shall be guilty of a felony. Upon conviction of such act, the person shall be fined not more than \$5,000, imprisoned for not more than five years, or both.

“(e) **Definitions**-- For purposes of this section--

“(1) ‘bodily injury’ means--

“(i) a cut, abrasion, bruise, burn, or disfigurement;

“(ii) physical pain;

“(iii) illness;

“(iv) impairment of the function of a bodily member, organ, or mental faculty; or

“(v) any other injury to the body, no matter how temporary;

“(2) ‘railroad’ means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including--

“(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area; and

“(ii) high-speed ground transportation systems that connect metropolitan areas--

but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation;

“(3) ‘railroad carrier’ means a person providing railroad transportation;

“(4) ‘railroad property’ means all property owned, leased, or operated by a railroad carrier including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, railroad signal system, train control system, centralized dispatching system, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier including a train, locomotive, engine, railroad car, work equipment, rolling stock, or safety device. ‘Railroad property’ does not include administrative buildings, administrative offices, or administrative office equipment;

“(5) ‘right-of-way’ means the track or roadbed owned, leased, or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs;

“(6) ‘serious bodily injury’ means bodily injury which involves--

“(i) a substantial risk of death;

“(ii) extreme physical pain;

“(iii) protracted and obvious disfigurement; or

“(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

“(7) ‘yard’ means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock are kept when not in use or when awaiting repairs.”.