



House of Representatives

General Assembly

File No. 275

February Session, 2000

Substitute House Bill No. 5733

House of Representatives, March 28, 2000

The Committee on Transportation reported through REP. COCCO of the 127th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Vandalism Of Railroad Property.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 (NEW) (a) As used in this section:

2 (1) "Bodily injury" means (A) a cut, abrasion, bruise, burn or
3 disfigurement; (B) physical pain; (C) illness; (D) impairment of the
4 function of a bodily member, organ or mental faculty; or (E) any other
5 injury to the body, no matter how temporary;

6 (2) "Railroad" means any form of nonhighway ground
7 transportation that runs on rails or electromagnetic guideways,
8 including (A) commuter or other short-haul railroad passenger service
9 in a metropolitan or suburban area; and (B) high-speed ground
10 transportation systems that connect metropolitan areas. "Railroad"
11 does not include rapid transit operations in an urban area that are not
12 connected to the general railroad system of transportation;

13 (3) "Railroad carrier" means a person or entity providing railroad
14 transportation;

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

25 (5) "Right-of-way" means the track or roadbed owned, leased or
26 operated by a railroad carrier that is located on either side of its tracks;

27 (6) "Serious bodily injury" means bodily injury that involves: (A) A
28 substantial risk of death; (B) extreme physical pain; (C) protracted and
29 obvious disfigurement; or (D) protracted loss or impairment of the
30 function of a bodily member, organ or mental faculty; and

31 (7) "Yard" means a system of parallel tracks, crossovers, and
32 switches where railroad cars are switched and made up into trains,
33 and where railroad cars, locomotives and other rolling stock are kept
34 when not in use or when awaiting repairs.

35 (b) (1) Any person who, with reckless disregard for railroad
36 property or the safety of another, commits any act that may cause
37 damage to railroad property or bodily injury to another including, but
38 not limited to: (A) Placing a small object, such as a coin, token, bottle
39 cap, bottle or can, on a railroad track or rail, or dropping or throwing
40 an object, such as an egg or water balloon, at a locomotive or train; (B)
41 taking, removing, defacing, altering, marking with graffiti or otherwise
42 vandalizing a railroad sign, placard, marker or any other railroad

43 equipment or tangible property; (C) throwing a rock, baseball or other
44 object at a locomotive, railroad car or train; (D) dropping a brick or
45 other object from a bridge or other overpass onto a railroad right-of-
46 way; (E) shooting a firearm or other weapon at a locomotive, railroad
47 car or train; (F) removing appurtenances from, damaging or otherwise
48 impairing the operation of any railroad signal system, including a train
49 control system, centralized dispatching system or highway railroad
50 grade crossing warning signal on a railroad owned, leased or operated
51 by any railroad carrier, without consent of the railroad carrier
52 involved; (G) interfering or tampering with or obstructing in any way,
53 any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert,
54 embankment, structure or appliance pertaining to or connected with
55 any railroad carrier, without consent of the railroad carrier involved;
56 or (H) taking, stealing, removing, changing, adding to, altering or in
57 any manner interfering with any journal bearing, brass, waste,
58 packing, triple valve, pressure cock, brake, air hose or any other part of
59 the operating mechanism of any locomotive, engine, tender, coach, car,
60 caboose or motor used or capable of being used by any railroad carrier
61 in this state, without consent of the railroad carrier, shall be guilty of
62 an offense.

63 (2) (A) If no railroad property damage results from such act, such
64 person shall be guilty of an infraction.

65 (B) If railroad property damage resulting from such act does not
66 exceed two hundred fifty dollars, such person shall be guilty of a class
67 B misdemeanor. Upon conviction of any such act, such person shall be
68 subject to the penalties set forth in sections 53a-36 and 53a-42 of the
69 general statutes.

70 (C) If railroad property damage resulting from such act exceeds two
71 hundred fifty dollars but does not exceed one thousand five hundred
72 dollars, such person shall be guilty of a class A misdemeanor. Upon
73 conviction of any such act, such person shall be subject to the penalties

74 set forth in sections 53a-36 and 53a-42 of the general statutes.

75 (D) If railroad property damage resulting from such act exceeds one
76 thousand five hundred dollars, such person shall be guilty of a class D
77 felony. Upon conviction of any such act, such person shall be subject to
78 the penalties set forth in sections 53a-35a and 53a-41 of the general
79 statutes.

80 (3) (A) If no bodily injury occurs to another as a result of any such
81 act, such person shall be guilty of an infraction.

82 (B) If bodily injury occurs to another as a result of any such act, such
83 person shall be guilty of a class A misdemeanor. Upon conviction of
84 any such act, such person shall be subject to the penalties set forth in
85 sections 53a-36 and 53a-42 of the general statutes.

86 (C) If serious bodily injury occurs to another as a result of any such
87 act, such person shall be guilty of a class D felony. Upon conviction of
88 any such act, such person shall be subject to the penalties set forth in
89 sections 53a-35a and 53a-41 of the general statutes.

90 (D) If death occurs to another as a result of any such act, such
91 person shall be guilty of manslaughter in the second degree.
92 Manslaughter in the second degree is a class C felony.

93 (c) (1) Any person who wilfully damages or attempts to damage
94 railroad property or wilfully endangers or attempts to endanger the
95 safety of another by any act, including, but not limited to: (A) Taking,
96 removing, defacing, altering or otherwise vandalizing a railroad sign,
97 placard, marker or any other railroad equipment or tangible property;
98 (B) throwing a rock, baseball or other object at a locomotive, railroad
99 car or train; (C) dropping a brick or other object from a bridge or other
100 overpass onto a railroad right-of-way; (D) shooting a firearm or other
101 weapon at a locomotive, railroad car or train; (E) removing
102 appurtenances from, damaging or otherwise impairing the operation

103 of any railroad signal system, including a train control system,
104 centralized dispatching system or highway railroad grade crossing
105 warning signal, on a railroad owned, leased or operated by any
106 railroad carrier, without consent of the railroad carrier involved; (F)
107 interfering or tampering with or obstructing in any way, any switch,
108 frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert,
109 embankment, structure or appliance pertaining to or connected with
110 any railroad carrier, without consent of the railroad carrier involved;
111 or (G) taking, stealing, removing, changing, adding to, altering or in
112 any manner interfering with any journal bearing, brass, waste,
113 packing, triple valve, pressure cock, brake, air hose or any other part of
114 the operating mechanism of any locomotive, engine, tender, coach, car,
115 caboose or motor car used or capable of being used by any railroad
116 carrier in this state, without consent of the railroad carrier, shall be
117 guilty of an offense.

118 (2) (A) If railroad property damage resulting from such act does not
119 exceed two hundred fifty dollars, such person shall be guilty of a class
120 A misdemeanor. Upon conviction of any such act, such person shall be
121 subject to the penalties set forth in sections 53a-36 and 53a-42 of the
122 general statutes.

123 (B) If railroad property damage resulting from such act exceeds two
124 hundred fifty dollars but does not exceed one thousand five hundred
125 dollars, such person shall be guilty of a class C felony. Upon conviction
126 of any such act, such person shall be subject to the penalties set forth in
127 sections 53a-35a and 53a-41 of the general statutes.

128 (C) If railroad property damage resulting from such act exceeds one
129 thousand five hundred dollars, such person shall be guilty of a class B
130 felony. Upon conviction of any such act, such person shall be subject to
131 the penalties set forth in sections 53a-35a and 53a-41 of the general
132 statutes.

133 (3) (A) If no bodily injury occurs to another as a result of any such

134 act, such person shall be guilty of a class A misdemeanor. Upon
135 conviction of any such act, such person shall be subject to the penalties
136 set forth in sections 53a-36 and 53a-42 of the general statutes.

137 (B) If bodily injury occurs to another as a result of any such act, such
138 person shall be guilty of a class C felony. Upon conviction of any such
139 act, such person shall be subject to the penalties set forth in sections
140 53a-35a and 53a-41 of the general statutes.

141 (C) If serious bodily injury occurs to another as a result of any such
142 act, such person shall be guilty of a class B felony. Upon conviction of
143 any such act, such person shall be subject to the penalties set forth in
144 sections 53a-35a and 53a-41 of the general statutes.

145 (D) If death occurs to another as a result of any such act, such
146 person shall be guilty of manslaughter in the first degree.
147 Manslaughter in the first degree is a class B felony.

148 (d) Any person who wilfully and with intent to permanently
149 deprive the owner thereof, takes or removes railroad freight from any
150 freight car, including a boxcar, container or flatbed, shall be guilty of a
151 class D felony. Upon conviction of any such act, such person shall be
152 subject to the penalties set forth in sections 53a-35a and 53a-41 of the
153 general statutes.

154 (e) Any person who buys or receives any of the railroad freight
155 described in subsection (d) of this section, having reason to know that
156 such freight has been stolen, shall be guilty of a class D felony. Upon
157 conviction of any such act, such person shall be subject to the penalties
158 set forth in sections 53a-35a and 53a-41 of the general statutes.

TRA Committee Vote: Yea 22 Nay 2 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Cost, Potential Revenue Gain

Affected Agencies: Various Criminal Justice Agencies

Municipal Impact: None

Explanation

State Impact:

This bill could result in a cost and revenue gain to the state by establishing various criminal penalties for vandalism of railroad property. These penalties are separated into two categories: (1) vandalism that was done with reckless disregard and (2) vandalism that was done willfully. Depending on the amount of damages or injuries that occurred, penalties can range from an infraction to a class C felony. The bill also makes it a class D felony for the willful taking of railroad freight or for receiving railroad freight which is known to be stolen. The extent to which the bill would result in additional prosecutions is unknown. However, it is anticipated that any increase in cases would not be significant and can be absorbed within the existing caseload and budgetary structures of the criminal justice system.

OLR Bill Analysis

sHB 5733

AN ACT CONCERNING VANDALISM OF RAILROAD PROPERTY.**SUMMARY:**

This bill defines certain acts as vandalism of railroad property and gives them graduated criminal penalties based on the amount of property damage or the severity of bodily injury that results. The acts range from putting small objects on the tracks or throwing things at a locomotive or train to damaging or tampering with railroad property such as switches, track beds, or signal systems. Willful attempts to damage railroad property or endanger someone's safety result in higher penalties than acts resulting from someone's reckless disregard for railroad property or another's safety.

The bill covers acts of vandalism to virtually all types of property that a railroad might own, lease, or operate, but excludes administrative buildings, offices, and office equipment. It applies to any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including commuter or other short haul passenger services and high speed systems, but it does not cover rapid transit operations in urban areas not connected to the general railroad transportation system.

The bill also makes it a class D felony to willfully (1) take or remove freight from a rail car with intent to permanently deprive the owner of it and (2) buy or receive any such freight having reason to know that it was stolen.

EFFECTIVE DATE: October 1, 2000

FURTHER EXPLANATION***Acts of Vandalism Defined***

Acting With Reckless Disregard. A person's actions would come

under the bill's provisions when, with reckless disregard for railroad property or someone else's safety, he commits an act that may cause bodily injury or railroad property damage. These acts specifically include:

1. placing small objects such as coins, tokens, cans, or bottle caps on the track, 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, marker, or other equipment or tangible property;
3. throwing a rock, baseball, or other object at a locomotive, rail car, or train;
4. dropping a brick or other object from a bridge or overpass onto a rail right-of-way;
5. shooting a firearm or other weapon at a locomotive, rail car, or train;
6. tampering with, damaging, or impairing a railroad signal system, including train control or dispatching systems and warning signal systems at highway grade crossings;
7. interfering or tampering with or obstructing switches, rails, roadbed, trestles, culverts, or other types of structures or appliances without the railroad's permission; and
8. stealing, removing, changing, altering, or interfering with various types of equipment associated with the operating mechanisms of a locomotive, rail car, or motor that can be used by a rail carrier, without its permission.

Acting Willfully. The bill establishes a second, higher set of penalties for a similar range of acts when someone willfully (1) damages or attempts to damage railroad property or (2) endangers or attempts to endanger another's safety. The specified acts are identical to those above except for the exclusion of placing small objects on tracks or

throwing small objects at trains and for marking signs, placards, equipment, or property with graffiti.

Penalty Classifications for Acts of Vandalism

The bill sets a range of classifications for acts of vandalism based on the amount of injury or property damage that results. It defines “bodily injury” to include cuts, bruises, burns, abrasions, disfigurement, physical pain, illness, impairment of a body member, organ or mental faculty, and any other injury, no matter how temporary. It defines a “serious bodily injury” as one resulting in a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a body member, organ, or mental faculty.

Crime classifications are as follows:

<i>If Act Results In:</i>	<i>With Reckless Disregard</i>	<i>Willfully</i>
No Property Damage	Infraction	-----
Damage up to \$250	Class B Misdemeanor	Class A Misdemeanor
Damage up to \$1,500	Class A Misdemeanor	Class C Felony
Damage over \$1,500	Class D Felony	Class B Felony
No Bodily Injury	Infraction	Class A Misdemeanor
Bodily Injury	Class A Misdemeanor	Class C Felony
Serious Bodily Injury	Class D Felony	Class B Felony
Death	Manslaughter 2 nd Deg (Class C Felony)	Manslaughter 1 st Deg (Class B Felony)

BACKGROUND

Penalties for Different Classes of Crimes

The penalties established by law for the classes of crimes covered by the bill are:

<u>Crime Classification</u>	<u>Imprisonment</u>	<u>Fine</u>
Class B Felony	1 to 20 years	up to \$15,000
Class C Felony	1 to 10 years	up to \$10,000
Class D Felony	1 to 5 years	up to \$5,000
Class A Misdemeanor	up to 1 year	up to \$2,000
Class B Misdemeanor	up to 6 months	up to \$1,000

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus additional fees, surcharges, and costs. Some infractions increase when committed in designated construction, utility work, and school zones. This means some violators could have to pay \$361, although most have to pay less than that and many pay less than \$100. An infraction is not a crime; thus, violators do not have criminal records and can pay the fine by mail without making a court appearance.

Related Bill

sHB 5798, reported favorably by the Transportation Committee, increases the penalty for trespassing on a railroad carrier’s property from an infraction to a misdemeanor and makes it a class B misdemeanor to ride on the outside of a train or inside a rail car without legal authority or the consent of the carrier.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute
Yea 22 Nay 2