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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 3772

03/14/2018 Authored by Howe and Torkelson The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to transportation; providing for railroad oil and hazardous materials
1.3 emergency preparedness; amending Minnesota Statutes 2016, sections 13.6905,
1.4 by adding a subdivision; 13.7411, by adding a subdivision; 115E.042, subdivisions
1.5 2, 3, 4, 5, 6, by adding a subdivision; 219.015, subdivisions 1, 2; 299A.55, as
1.6 amended; proposing coding for new law in Minnesota Statutes, chapter 219.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 ARTICLE 1

1.9 LIFE SAFETY PREPAREDNESS AND RESPONSE

1.10 Section 1. Minnesota Statutes 2016, section 13.6905, is amended by adding a subdivision
1.11 to read:

1.12 Subd. 34. Oil and other hazardous substances transportation data. (a) Certain data
1.13 on oil and other hazardous substances transported by railroads are governed by section
1.14 219.925, subdivision 7.

1.15 (b) Certain data on oil and other hazardous substances transportation incident review
1.16 are governed by section 299A.55, subdivision 5.

1.17 Sec. 2. Minnesota Statutes 2016, section 115E.042, subdivision 2, is amended to read:

1.18 Subd. 2. Training. (a) Each railroad must offer training to each fire department and
1.19 each local organization for emergency management under section 12.25 having jurisdiction
1.20 along the route of unit trains. Initial training under this subdivision must be offered to each
1.21 fire department by June 30, 2016, and routes over which oil or other hazardous substances
1.22 are transported. Refresher training must be offered to each fire department and local

2.1 organization for emergency management at least once every three years thereafter after
 2.2 initial training under this subdivision.

2.3 ~~(b) The training must address the general hazards of oil and hazardous substances,~~
 2.4 ~~techniques to assess hazards to the environment and to the safety of responders and the~~
 2.5 ~~public, factors an incident commander must consider in determining whether to attempt to~~
 2.6 ~~suppress a fire or to evacuate the public and emergency responders from an area, and other~~
 2.7 ~~strategies for initial response by local emergency responders. The training must include~~
 2.8 ~~suggested protocol or practices for local responders to safely accomplish these tasks.~~

2.9 (b) The training must address methods to identify rail cars and hazardous substance
 2.10 contents, responder safety issues, rail response tactics, public evacuation considerations,
 2.11 environmental contamination response, railroad response personnel and resources
 2.12 coordination at an incident, and other protocols and practices for safe initial local response.

2.13 Sec. 3. Minnesota Statutes 2016, section 115E.042, subdivision 3, is amended to read:

2.14 Subd. 3. **Emergency response planning; coordination.** ~~Beginning June 30, 2015, (a)~~
 2.15 ~~Each railroad must communicate at least annually with each county or city relevant~~
 2.16 ~~emergency manager, safety representatives of railroad employees governed by the Railway~~
 2.17 ~~Labor Act, and a senior each relevant fire department officer of each fire department having~~
 2.18 ~~jurisdiction along the route of a unit train.~~ Communication under this subdivision is to:

2.19 (1) ensure coordination of emergency response activities between the railroad and local
 2.20 responders;

2.21 (2) assist emergency managers identify and assess local rail-specific threats, hazards,
 2.22 and risks; and

2.23 (3) assist railroads obtain information from emergency managers regarding specific local
 2.24 natural and technical hazards and threats in the local area that may impact rail operations
 2.25 or public safety.

2.26 (b) The coordination under paragraph (a), clauses (2) and (3), must include identification
 2.27 of increased risks and potential special responses due to high population concentration,
 2.28 critical local infrastructure, key facilities, significant venues, sensitive natural environments,
 2.29 and other factors identified by railroads, emergency managers, and fire departments.

2.30 (c) The commissioner of public safety must compile and make available to railroads a
 2.31 list of emergency managers and fire chiefs, which must include contact information.

3.1 Sec. 4. Minnesota Statutes 2016, section 115E.042, subdivision 4, is amended to read:

3.2 Subd. 4. **Response capabilities; time limits.** (a) Following confirmation of a discharge,
 3.3 a railroad must deliver and deploy sufficient equipment and trained personnel to (1) contain
 3.4 and recover discharged oil or hazardous substances and to, (2) protect the environment, and
 3.5 (3) assist local public safety officials.

3.6 (b) Within 15 minutes after local emergency responders arrive on the scene of a rail
 3.7 incident involving oil or hazardous substances, a railroad must assist the incident commander
 3.8 to determine the nature of hazardous substances known to have been released and hazardous
 3.9 substances transported on the train by providing information that includes the chemical
 3.10 content of the hazardous substances, contact information for the shipper, and instructions
 3.11 for dealing with the release of the material. A railroad may provide information through the
 3.12 train orders on board the train, facsimile, or electronic transmission.

3.13 (c) Within one hour of confirmation of a discharge, a railroad must provide a qualified
 3.14 company employee representative to advise the incident commander, help assess the situation,
 3.15 initiate railroad response actions as needed, and provide advice and recommendations to
 3.16 the incident commander regarding the response. The employee representative may be made
 3.17 available by telephone, and must be authorized to deploy all necessary response resources
 3.18 of the railroad.

3.19 ~~(e)~~ (d) Within three hours of confirmation of a discharge, a railroad must be capable of
 3.20 delivering monitoring equipment and a trained operator to assist in protection of responder
 3.21 and public safety. A plan to ensure delivery of monitoring equipment and an operator to a
 3.22 discharge site must be provided each year to the commissioner of public safety.

3.23 ~~(d)~~ (e) Within three hours of confirmation of a discharge, a railroad must provide (1)
 3.24 qualified personnel at a discharge site to assess the discharge and to advise the incident
 3.25 commander, and (2) resources to assist the incident commander with ongoing public safety
 3.26 and scene stabilization.

3.27 ~~(e)~~ (f) A railroad must be capable of deploying containment boom from land across
 3.28 sewer outfalls, creeks, ditches, and other places where oil or hazardous substances may
 3.29 drain, in order to contain leaked material before it reaches those resources. The arrangement
 3.30 to provide containment boom and staff may be made by:

3.31 (1) training and caching equipment with local jurisdictions;

3.32 (2) training and caching equipment with a fire mutual-aid group;

3.33 (3) means of an industry cooperative or mutual-aid group;

4.1 (4) deployment of a contractor;

4.2 (5) deployment of a response organization under state contract; or

4.3 (6) other dependable means acceptable to the Pollution Control Agency.

4.4 ~~(f)~~ (g) Each arrangement under paragraph ~~(e)~~ (f) must be confirmed each year. Each
4.5 arrangement must be tested by drill at least once every five years.

4.6 ~~(g)~~ (h) Within eight hours of confirmation of a discharge, a railroad must be capable of
4.7 delivering and deploying containment boom, boats, oil recovery equipment, trained staff,
4.8 and all other materials needed to provide:

4.9 (1) on-site containment and recovery of a volume of oil equal to ten percent of the
4.10 calculated worst case discharge at any location along the route; and

4.11 (2) protection of listed sensitive areas and potable water intakes within one mile of a
4.12 discharge site and within eight hours of water travel time downstream in any river or stream
4.13 that the right-of-way intersects.

4.14 ~~(h)~~ (i) Within 60 hours of confirmation of a discharge, a railroad must be capable of
4.15 delivering and deploying additional containment boom, boats, oil recovery equipment,
4.16 trained staff, and all other materials needed to provide containment and recovery of a worst
4.17 case discharge and to protect listed sensitive areas and potable water intakes at any location
4.18 along the route.

4.19 **Sec. 5. [219.925] INCIDENT EMERGENCY RESPONSE; PREPAREDNESS AND**
4.20 **INFORMATION.**

4.21 Subdivision 1. **Definitions.** For purposes of this section, the following terms have the
4.22 meanings given them.

4.23 (a) "Emergency manager" means the director of a local organization for emergency
4.24 management under section 12.25.

4.25 (b) "Hazardous substance" means any material identified in the definition of hazardous
4.26 substance under (1) section 115B.02, subdivision 8, or (2) Code of Federal Regulations,
4.27 title 49, section 171.8.

4.28 (c) "Incident commander" means the official who has responsibility under National
4.29 Incident Management System guidelines for all aspects of emergency response operations
4.30 at an incident scene, including directing and controlling resources.

4.31 (d) "Oil" has the meaning given in section 115E.01, subdivision 8.

5.1 (e) "Rail carrier" means a railroad company that is:

5.2 (1) defined as a common carrier under section 218.011, subdivision 10;

5.3 (2) classified by federal law or regulation as a Class I Railroad, Class I Rail Carrier,
5.4 Class II Railroad, Class II Carrier, Class III Railroad, or Class III Carrier; and

5.5 (3) operating in this state.

5.6 (f) "Relevant emergency manager" means an emergency manager having jurisdiction
5.7 along the routes over which oil or other hazardous substances are transported by a rail
5.8 carrier.

5.9 (g) "Relevant fire department officer" means a fire chief or other senior officer of a fire
5.10 department having jurisdiction along the routes over which oil or other hazardous substances
5.11 are transported by a rail carrier.

5.12 Subd. 2. **Emergency response planning; traffic review.** Within ten business days of
5.13 receiving a written request, a rail carrier must provide a traffic review to the commissioner
5.14 of public safety, a relevant emergency manager, or a relevant fire department officer. The
5.15 traffic review under this subdivision must include information on the types and volumes of
5.16 oil or other hazardous substances transported through the requester's jurisdiction during the
5.17 prior calendar year.

5.18 Subd. 3. **Emergency response planning; information sharing.** Upon written request,
5.19 a rail carrier must provide a briefing regarding prevention and response plans submitted
5.20 under section 115E.042, subdivision 6, to the commissioner of public safety, a relevant
5.21 emergency manager, or a relevant fire department officer.

5.22 Subd. 4. **Emergency response planning; railroad response capacity meetings.** (a)
5.23 Within 30 days of receiving a written request, a rail carrier must be available to meet with
5.24 the commissioner of public safety, a relevant emergency manager, or a relevant fire
5.25 department officer concerning emergency response planning and coordination.

5.26 (b) At a meeting held under this subdivision, a rail carrier must provide:

5.27 (1) a review of the rail carrier's emergency response planning and capability, including
5.28 railroad response timelines and resources to provide (i) technical advice and
5.29 recommendations, (ii) trained response personnel, (iii) specialized equipment, and (iv) any
5.30 other available resources to support an incident commander who conducts a public safety
5.31 emergency response under the National Incident Management System; and

6.1 (2) inventory information on emergency response involving oil or other hazardous
6.2 substance, consisting of:

6.3 (i) equipment owned by the rail carrier, including equipment type and location;

6.4 (ii) the rail carrier's response personnel, including contact information and location; and

6.5 (iii) resources available to the rail carrier through contractual agreements.

6.6 Subd. 5. **Real-time emergency response information.** (a) The commissioner of public
6.7 safety must, through the Minnesota Fusion Center, receive and disseminate emergency
6.8 response information required under section 7302 of the FAST Act of 2015, Public Law
6.9 114-94, and federal regulations adopted under that section.

6.10 (b) On and after July 1, 2018, all rail carriers subject to this section must collectively
6.11 provide to emergency responders in an Internet-based format the information regarding
6.12 transportation of oil or other hazardous substances that rail carriers provide through a wireless
6.13 communication device application.

6.14 Subd. 6. **Public safety emergency response exercises.** (a) Each rail carrier must conduct
6.15 one tabletop public safety emergency response exercise in each emergency management
6.16 region where the rail carrier transports oil or other hazardous substances. The exercises
6.17 must be conducted by July 1, 2019, and July 1 every two years thereafter.

6.18 (b) Each rail carrier must conduct one full-scale public safety emergency response
6.19 exercise in each emergency management region where the rail carrier transports oil or other
6.20 hazardous substances. The exercises must be conducted by July 1, 2020, and July 1 every
6.21 four years thereafter.

6.22 (c) The rail carriers must give at least 180 days notice of intent to conduct an emergency
6.23 response exercise. The rail carriers must conduct the exercises in full coordination with the
6.24 commissioner of public safety and with any interested emergency managers and fire chiefs
6.25 having jurisdiction within the applicable emergency management region along the routes
6.26 over which oil or other hazardous substances are transported.

6.27 (d) Ninety days prior to the date of a public safety emergency response exercise scheduled
6.28 under paragraph (a) or (b), the rail carrier may cancel the exercise if none of the entities
6.29 identified in paragraph (c) have indicated an intent to attend. The date of a canceled exercise
6.30 establishes the date of the subsequent exercise required under paragraph (a) or (b).

6.31 (e) In an emergency management region where more than one rail carrier operates, the
6.32 rail carriers may conduct the exercises under paragraphs (a) and (b) jointly or may alternate
6.33 among rail carriers to conduct the exercise.

7.1 (f) To the extent feasible, the rail carriers must coordinate the exercises among each
 7.2 other and with exercises under section 115E.042, subdivision 5.

7.3 Subd. 7. **Transportation and response planning data.** (a) Any data provided under
 7.4 subdivisions 3 to 6 to an emergency manager, incident commander, emergency first
 7.5 responder, fire chief or senior officer of a fire department, or the commissioner of public
 7.6 safety are nonpublic data, as defined under section 13.02, subdivision 9.

7.7 (b) Any prevention and response plan data created under section 115E.042, subdivision
 7.8 6, that is in the possession of an emergency manager, incident commander, emergency first
 7.9 responder, or fire chief or senior officer of a fire department are nonpublic data, as defined
 7.10 under section 13.02, subdivision 9.

7.11 Sec. 6. Minnesota Statutes 2016, section 299A.55, as amended by Laws 2017, chapter 95,
 7.12 article 3, section 10, to read:

7.13 **299A.55 RAILROAD AND PIPELINE SAFETY INCIDENT PREPAREDNESS;**
 7.14 **OIL AND OTHER HAZARDOUS MATERIALS SUBSTANCES.**

7.15 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
 7.16 the meanings given them.

7.17 (b) ~~"Applicable rail carrier" means a railroad company that is subject to an assessment~~
 7.18 ~~under section 219.015, subdivision 2~~ "Emergency manager" has the meaning given in section
 7.19 219.925, subdivision 1.

7.20 (c) ~~"Hazardous substance" has the meaning given in section 115B.02, subdivision 8.~~
 7.21 219.925, subdivision 1.

7.22 (d) "Incident compelling a significant response" means an event involving rail carrier
 7.23 or pipeline company operations and a derailment, collision, discharge, or other similar
 7.24 activity resulting in applicable response actions performed by firefighters, peace officers,
 7.25 incident commanders, emergency managers, or emergency first responders. For purposes
 7.26 of this paragraph, "applicable response actions" consist of one or more of the following: a
 7.27 request for mutual aid or special response resources, establishment of an exclusion zone,
 7.28 an order for evacuation or shelter in place, or emergency notification to the general public.

7.29 (e) "Oil" has the meaning given in section 115E.01, subdivision 8.

7.30 ~~(e)~~ (f) "Pipeline company" means any individual, partnership, association, or public or
 7.31 private corporation who owns and operates pipeline facilities and is required to show specific
 7.32 preparedness under section 115E.03, subdivision 2.

8.1 (g) "Rail carrier" has the meaning given in section 219.925, subdivision 1.

8.2 Subd. 2. **Railroad and pipeline safety preparedness account.** (a) A railroad and pipeline
8.3 safety preparedness account is created in the special revenue fund. The account consists of
8.4 funds collected under subdivision 4 and funds donated, allotted, transferred, or otherwise
8.5 provided to the account.

8.6 (b) ~~\$104,000~~ Subject to availability of funds, \$300,000 is annually appropriated from
8.7 the railroad and pipeline safety preparedness account to the commissioner of the Pollution
8.8 Control Agency for environmental protection activities related to railroad discharge
8.9 preparedness under chapter 115E.

8.10 (c) \$600,000 in fiscal year 2018 and \$600,000 in fiscal year 2019 are appropriated from
8.11 the railroad and pipeline safety account to the commissioner of transportation for improving
8.12 safety at railroad grade crossings.

8.13 (d) Following the appropriation in paragraphs (b) and (c), the remaining money in the
8.14 account is annually appropriated to the commissioner of public safety for the purposes
8.15 specified in subdivision 3.

8.16 Subd. 3. **Allocation of funds.** (a) Subject to funding appropriated for this subdivision,
8.17 the commissioner shall provide funds for training and response preparedness related to (1)
8.18 derailments, discharge incidents, or spills involving trains carrying oil or other hazardous
8.19 substances, and (2) pipeline discharge incidents or spills involving oil or other hazardous
8.20 substances.

8.21 (b) The commissioner shall allocate available funds as follows:

8.22 (1) \$100,000 annually for emergency response teams; and

8.23 (2) the remaining amount to the Board of Firefighter Training and Education under
8.24 section 299N.02 and the Division of Homeland Security and Emergency Management.

8.25 (c) Prior to making allocations under paragraph (b), the commissioner shall consult with
8.26 the Fire Service Advisory Committee under section 299F.012, subdivision 2.

8.27 (d) The commissioner and the entities identified in paragraph (b), clause (2), shall
8.28 prioritize uses of funds based on:

8.29 (1) ~~firefighter~~ training needs for firefighters, emergency managers, incident commanders,
8.30 and emergency first responders;

8.31 (2) community risk from discharge incidents or spills;

8.32 (3) geographic balance; ~~and~~

9.1 (4) risks to the general public; and

9.2 (5) recommendations of the Fire Service Advisory Committee.

9.3 (e) The following are permissible uses of funds provided under this subdivision:

9.4 (1) training costs, which may include, but are not limited to, training curriculum, trainers,
9.5 trainee overtime salary, other personnel overtime salary, and tuition;

9.6 (2) costs of gear and equipment related to hazardous materials readiness, response, and
9.7 management, which may include, but are not limited to, original purchase, maintenance,
9.8 and replacement;

9.9 (3) supplies related to the uses under clauses (1) and (2); ~~and~~

9.10 (4) emergency preparedness planning and coordination;

9.11 (5) emergency response team costs;

9.12 (6) public safety emergency response exercises under section 219.925, subdivision 6;

9.13 (7) post-incident review and analysis under subdivision 5, based on costs incurred to
9.14 state agencies and local units of government; and

9.15 (8) public education and outreach, including but not limited to:

9.16 (i) informing and engaging the public regarding hazards of derailments and discharge
9.17 incidents;

9.18 (ii) assisting the development of evacuation readiness;

9.19 (iii) undertaking public information campaigns; and

9.20 (iv) providing accurate information to the media on likelihood and consequences of
9.21 derailments and discharge incidents.

9.22 (f) Notwithstanding paragraph (b), clause (2), from funds in the railroad and pipeline
9.23 safety preparedness account provided for the purposes under this subdivision, the
9.24 commissioner may retain a balance in the account for budgeting in subsequent fiscal years.

9.25 Subd. 4. **Assessments.** ~~(a) The commissioner of public safety shall annually assess~~
9.26 ~~\$2,500,000 to railroad and pipeline companies based on the formula specified in paragraph~~
9.27 ~~(b). The commissioner shall deposit funds collected under this subdivision in the railroad~~
9.28 ~~and pipeline safety account under subdivision 2.~~

9.29 ~~(b) The assessment for each railroad is 50 percent of the total annual assessment amount,~~
9.30 ~~divided in equal proportion between applicable rail carriers based on route miles operated~~

10.1 ~~in Minnesota. The assessment for each pipeline company is 50 percent of the total annual~~
 10.2 ~~assessment amount, divided in equal proportion between companies based on the yearly~~
 10.3 ~~aggregate gallons of oil and hazardous substance transported by pipeline in Minnesota.~~

10.4 ~~(c) The assessments under this subdivision expire July 1, 2017. The commissioner of~~
 10.5 ~~public safety must assess the rail carrier or pipeline company involved in an incident~~
 10.6 ~~compelling a significant response for all post-incident review and analysis costs incurred~~
 10.7 ~~by the state and local units of government under subdivision 5.~~

10.8 Subd. 5. **Post-incident review and analysis; report; data.** (a) After an incident
 10.9 compelling a significant response, or upon request of a fire chief or emergency manager
 10.10 after an incident, the commissioner must ensure a post-incident review and analysis is
 10.11 performed in a timely manner. The review and analysis must be performed under an
 10.12 agreement with an entity having relevant knowledge and experience that is fully independent
 10.13 of the state, any local units of government involved in the incident, rail carriers, and pipeline
 10.14 companies. The entity must be approved by all parties participating in the review.

10.15 (b) The review and analysis process must include an after-action review and must
 10.16 evaluate, at a minimum, processes occurring during the incident for emergency assessment,
 10.17 hazard operations, population protection, and incident management. The review and analysis
 10.18 must be designed to minimize duplication of topics and issues addressed in any federal
 10.19 review of the incident.

10.20 (c) By March 15 following any calendar year in which one or more post-incident reviews
 10.21 and analyses are performed, the commissioner must prepare a report that, at a minimum,
 10.22 includes a summary of the incidents and identifies findings, lessons learned, and process
 10.23 changes. Upon request, the commissioner must make the report available to fire chiefs and
 10.24 emergency managers.

10.25 (d) Except for the report under paragraph (c), any data under this subdivision are
 10.26 nonpublic data, as defined under section 13.02, subdivision 9.

10.27 **Sec. 7. REVISOR'S INSTRUCTION.**

10.28 The revisor of statutes shall renumber Minnesota Statutes, section 115E.042, subdivision
 10.29 2, as Minnesota Statutes, section 219.925, subdivision 3, and Minnesota Statutes, section
 10.30 115E.042, subdivision 3, as Minnesota Statutes, section 219.925, subdivision 4. The revisor
 10.31 shall correct any cross-references made necessary by the renumbering under this section.

11.1 Sec. 8. **EFFECTIVE DATE.**

11.2 This article is effective the day following final enactment.

11.3 **ARTICLE 2**

11.4 **ENVIRONMENTAL PREPAREDNESS AND RESPONSE**

11.5 Section 1. Minnesota Statutes 2016, section 13.7411, is amended by adding a subdivision
11.6 to read:

11.7 Subd. 10. **Prevention and response plans.** Certain data on prevention and response
11.8 plans are governed by section 115E.042, subdivision 7.

11.9 Sec. 2. Minnesota Statutes 2016, section 115E.042, subdivision 5, is amended to read:

11.10 Subd. 5. ~~Railroad drills~~ **Environmental response exercises.** (a) Each railroad must
11.11 conduct ~~at least one~~ oil containment, recovery, and sensitive area protection ~~drill~~ exercises
11.12 as follows: (1) at least one tabletop exercise every year; and (2) at least one full-scale exercise
11.13 every three years. Each exercise must be at a location and, date, time, and in the manner
11.14 chosen by the Pollution Control Agency; and attended by safety representatives of railroad
11.15 employees governed by the Railway Labor Act.

11.16 (b) To the extent feasible, the commissioner of the Pollution Control Agency must
11.17 coordinate each exercise with exercises required by federal agencies.

11.18 Sec. 3. Minnesota Statutes 2016, section 115E.042, subdivision 6, is amended to read:

11.19 Subd. 6. **Prevention and response plans; requirements, submission.** (a) ~~By June 30,~~
11.20 ~~2015,~~ A railroad shall submit the prevention and response plan ~~required under section~~
11.21 ~~115E.04, as necessary to comply with the requirements of this section,~~ to the commissioner
11.22 of the Pollution Control Agency on a form designated by the commissioner.

11.23 (b) ~~By June 30 of~~ Every third year following a plan submission under this subdivision,
11.24 or sooner as provided under section 115E.04, subdivision 2, a railroad must update and
11.25 resubmit the prevention and response plan to the commissioner.

11.26 Sec. 4. Minnesota Statutes 2016, section 115E.042, is amended by adding a subdivision
11.27 to read:

11.28 Subd. 7. **Prevention and response plan data.** A prevention and response plan provided
11.29 under this section is nonpublic data, as defined under section 13.02, subdivision 9.

12.1 Sec. 5. **EFFECTIVE DATE.**12.2 This article is effective the day following final enactment.12.3 **ARTICLE 3**12.4 **RAILROAD INSPECTIONS**

12.5 Section 1. Minnesota Statutes 2016, section 219.015, subdivision 1, is amended to read:

12.6 Subdivision 1. **Positions established; duties.** (a) The commissioner of transportation
 12.7 shall establish ~~three~~ four state rail safety ~~inspector positions in the Office of Freight and~~
 12.8 ~~Commercial Vehicle Operations of the Minnesota Department of Transportation. On or~~
 12.9 ~~after July 1, 2015, the commissioner may establish a fourth state rail safety inspector position~~
 12.10 ~~following consultation with railroad companies~~ inspection program positions. The
 12.11 commissioner shall apply to and enter into agreements with the Federal Railroad
 12.12 Administration (FRA) of the United States Department of Transportation to participate in
 12.13 the federal State Rail Safety Participation Program for training and certification of an
 12.14 inspector under authority of United States Code, title 49, sections 20103, 20105, 20106,
 12.15 and 20113, and Code of Federal Regulations, title 49, part 212.

12.16 (b) A state rail safety inspector ~~shall~~ may inspect mainline track, secondary track, and
 12.17 yard and industry track; inspect railroad right-of-way, including adjacent or intersecting
 12.18 drainage, culverts, bridges, overhead structures, and traffic and other public crossings;
 12.19 inspect yards and physical plants; review and enforce safety requirements; review
 12.20 maintenance and repair records; and review railroad security measures.

12.21 (c) A state rail safety inspector may perform, but is not limited to, the duties described
 12.22 in the federal State Rail Safety Participation Program. An inspector may train, be certified,
 12.23 and participate in any of the federal State Rail Safety Participation Program disciplines,
 12.24 including: track, signal and train control, motive power and equipment, operating practices
 12.25 compliance, hazardous materials, and highway-rail grade crossings.

12.26 (d) To the extent delegated by the Federal Railroad Administration and authorized by
 12.27 the commissioner, an inspector may issue citations for violations of this chapter, or to ensure
 12.28 railroad employee and public safety and welfare.

12.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.30 Sec. 2. Minnesota Statutes 2016, section 219.015, subdivision 2, is amended to read:

12.31 Subd. 2. **Railroad company assessment; account; appropriation.** (a) As provided in
 12.32 this subdivision, the commissioner shall annually assess railroad companies that are (1)

13.1 defined as common carriers under section 218.011; (2) classified by federal law or regulation
 13.2 as Class I Railroads, Class I Rail Carriers, Class II Railroads, or Class II Carriers; and (3)
 13.3 operating in this state.

13.4 (b) The assessment must be ~~by a division of~~ calculated to allocate state rail safety
 13.5 ~~inspector~~ inspection program costs ~~in equal proportion between~~ proportionally among
 13.6 carriers based on route miles operated in Minnesota, ~~assessed in equal amounts for 365 days~~
 13.7 ~~of the calendar year~~ at the time of assessment. The commissioner ~~shall assess~~ must include
 13.8 in the assessment calculation (1) all program or additional position start-up or
 13.9 ~~re-establishment costs;~~ (2) all related costs of initiating the state rail safety inspector
 13.10 inspection program, including but not limited to inspection, administration, supervision,
 13.11 travel, equipment, and training; and (3) costs of ongoing state rail inspector duties.

13.12 (c) The assessments collected under this subdivision must be deposited in a ~~special~~
 13.13 ~~account in the special revenue fund, to be known as the~~ state rail safety inspection account,
 13.14 which is established in the special revenue fund. The account consists of funds provided by
 13.15 this subdivision and any other money donated, allotted, transferred, or otherwise provided
 13.16 to the account. Money in the account is appropriated to the commissioner for the
 13.17 establishment and ongoing responsibilities of the state rail safety ~~inspector~~ inspection
 13.18 program.

13.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
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