

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 759

Short Title: TTA Insurance.

(Public)

Sponsors: Senator Gulley.

Referred to: Judiciary I.

April 2, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE LIMITATIONS ON COMMUTER RAIL  
3 TRANSPORTATION LIABILITY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 26 of Chapter 160A of the General Statutes is amended  
6 by adding a new section to read:

7 **"§ 160A-626. Limitations on light rail transportation liabilities.**

8 (a) As used in this section:

9 (1) "Claim" means a claim, action, suit or request for damages made by  
10 any person against (i) the State or a railroad, or (ii) against an officer,  
11 employee, affiliate engaged in railroad operations, or agent of the State  
12 or a railroad;

13 (2) "Passengers by Rail" shall include the transportation of rail passengers  
14 by or on behalf of the State, including all services performed by a  
15 railroad pursuant to a contract with the State in connection with the  
16 transportation of rail passengers, and including, but not limited to, the  
17 operation of trains, the use of trackage and equipment, or the  
18 construction, reconstruction or maintenance of railroad equipment,  
19 tracks and any appurtenant facilities, or the provision of access rights  
20 over or adjacent to lines owned by the State or by any railroad, or  
21 otherwise occupied by any railroad pursuant to easement or license;

22 (3) "Railroad" shall include any person, railroad corporation or other legal  
23 entity that has entered into any contracts or operating agreements of  
24 any kind with the State respecting or otherwise authorizing such  
25 commuter rail service by or on behalf of the State over or adjacent to  
26 railroad facilities;

1           (4) The "State" includes the Department of Transportation, any railroad  
2           wholly owned by the State, and an Authority organized under this  
3           Article.

4           (b) The State may enter into contracts with railroads that allocate financial  
5           responsibility for claims against the railroads or the State in connection with any  
6           incident or accident of any kind related to the service of passengers by rail, on  
7           properties owned by the State or by railroads, and notwithstanding any other statutory,  
8           common law, public policy or other prohibition to same, and regardless of the nature of  
9           the conduct giving rise to such damages or liability.

10          (c) Agreements between the State and a railroad for the provision of services for  
11          passengers by rail shall provide that the State shall secure and maintain a liability  
12          insurance policy covering the liability of the State and the railroad for property damage,  
13          personal injury, bodily injury, and death arising out of or related to such passengers by  
14          rail service. Such policy shall name the State and the railroad as named insured, shall  
15          have policy limits of not less than fifty million dollars (\$50,000,000) per occurrence  
16          annually and fifty million dollars (\$50,000,000) in the aggregate annually, and shall be  
17          subject to a self-insured retention in an amount not less than five million dollars  
18          (\$5,000,000) to be secured by acceptable financial surety. The aggregate allowable  
19          awards to all persons against all defendants for all claims, including claims for punitive  
20          damages arising from a single incident, shall not exceed fifty million dollars  
21          (\$50,000,000). In no event shall the State or the railroad be liable in excess of the  
22          coverage limits of such insurance policy for any and all claims arising from a single  
23          incident, whether compensatory or punitive, for property damage, personal injury,  
24          bodily injury, and death arising out of or related to such agreement or services for  
25          passengers by rail."

26           **SECTION 2.** This act is effective when it becomes law.