

SECOND REGULAR SESSION

SENATE BILL NO. 1091

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY, DAYS, BARNITZ, ENGLER AND McKENNA.

Read 1st time February 6, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

3983S.03I

AN ACT

To amend chapter 389, RSMo, by adding thereto one new section relating to providing certain counseling services to railroad employees, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 389, RSMo, is amended by adding thereto one new section, to be known as section 389.985, to read as follows:

389.985. 1. Every railroad corporation and railway company shall provide or make available to every member of a railroad operating crew involved in an accident on its railway or right of way, which results in loss of life or serious bodily injury, counseling services or other critical incident stress debriefing services within forty-eight hours; provided that the engineer or other operating crew member involved in the accident shall be relieved from duty at the site of the accident with full compensation for all wages he or she would have earned had he or she continued on their scheduled or assigned trip or tour of duty. The engineer or other operating crew member involved in the accident shall be allowed the option at their sole discretion to remain off duty for up to seventy-two hours after they are relieved from duty.

2. The railroad corporation, railway company, or authorized agent thereof, shall immediately notify all crew members involved in such incidents of their rights conferred by this section to exercise said option and not in anyway harass, coerce, intimidate, or in any other manner whatsoever try to convince or force any crew member to not exercise that option. Any railroad corporation or railway company or its agents that punishes or in any way or manner whatsoever

21 disciplines any employee for exercising their option to remain off duty
22 under this section shall be subject to a penalty or forfeiture of not less
23 that five hundred dollars nor more than two thousand dollars for each
24 offense. The department may recover such a penalty or forfeiture from
25 such corporation or company under the same terms and conditions as
26 provided in section 389.998.

27 3. As used in this section, the term "serious bodily injury" shall
28 mean bodily injury that creates a substantial risk of death or that
29 causes serious disfigurement or protracted loss or impairment of the
30 function of any part of the body.

31 4. A railroad corporation or railroad company shall be exempt
32 from the provisions of this section if such corporation or company has
33 an arrangement or a collective bargaining agreement in place which
34 provides for critical incident stress debriefing services for railroad
35 operating crews that are equivalent to the services required by this
36 section. Any question of or challenge to the equivalency of the critical
37 incident stress debriefing program shall be directed to the director of
38 the department of transportation.

39 5. The highways and transportation commission shall promulgate
40 rules and regulations necessary for the implementation and
41 enforcement of the provisions of this section. Any rule or portion of a
42 rule, as that term is defined in section 536.010, RSMo, that is created
43 under the authority delegated in this section shall become effective
44 only if it complies with and is subject to all of the provisions of chapter
45 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
46 chapter 536, RSMo, are nonseverable and if any of the powers vested
47 with the general assembly pursuant to chapter 536, RSMo, to review, to
48 delay the effective date, or to disapprove and annul a rule are
49 subsequently held unconstitutional, then the grant of rulemaking
50 authority and any rule proposed or adopted after August 28, 2008, shall
51 be invalid and void.

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