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3/11/98 Motion to R/c by Nelson & Schuman
3/17/98 Motion to R/c prevailed

FEB 27 1998

Place On Calendar

HOUSE FILE 2482
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 660)

Passed House, Date ^(p.597) 3/11/98 Passed Senate, Date ^(p.907) 3/25/98
Vote: Ayes 95 Nays 1 Vote: Ayes 47 Nays 1
Approved April 9, 1998
Passed 3-17-98
Vote 79-21

A BILL FOR

1 An Act relating to certain criminal acts committed on or against
2 the property of railway corporations and providing and
3 applying penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2482

1 Section 1. Section 716.7, subsection 2, Code 1997, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. Entering or remaining upon or in
4 railway property without lawful authority or without the
5 consent of the railway corporation which owns, leases, or
6 operates the railway property.

7 Sec. 2. Section 716.7, Code 1997, is amended by adding the
8 following new subsections:

9 NEW SUBSECTION. 5. For purposes of this section, "railway
10 property" means all tangible real and personal property owned,
11 leased, or operated by a railway corporation with the
12 exception of any administrative building or offices of the
13 railway corporation.

14 For purposes of this section, "railway corporation" means a
15 corporation, company, or person owning, leasing, or operating
16 any railroad in whole or in part within this state.

17 NEW SUBSECTION. 6. This section shall not apply to the
18 following persons:

19 a. Representatives of the state department of
20 transportation, the federal railroad administration, or the
21 national transportation safety board who enter or remain upon
22 or in railway property while engaged in the performance of
23 official duties.

24 b. Employees of a railway corporation who enter or remain
25 upon or in railway property while acting in the course of
26 employment.

27 c. Any person who is engaged in the operation of a lawful
28 business on railway station grounds or in the railway depot.

29 Sec. 2. NEW SECTION. 716.9 STOWAWAYS.

30 A person commits the serious misdemeanor offense of stowing
31 away, when, without lawful authority or the consent of a
32 railway corporation, the person does either of the following:

- 33 1. Rides on the outside of a train or train component.
34 2. Rides on the inside of a train or train component which
35 is not a passenger car.

- 1 Sec. 3. NEW SECTION. 716.10 RAILROAD VANDALISM
- 2 1. A person commits railroad vandalism when the person
- 3 does any of the following:
- 4 a. Shoots, fires, or otherwise discharges a firearm or
- 5 other device at a train or train component.
- 6 b. Launches, releases, propels, casts, or directs a
- 7 projectile, missile, or other device at a train or train
- 8 component.
- 9 c. Intentionally throws or drops an object on or onto a
- 10 train or train component.
- 11 d. Intentionally places or drops an object on or onto a
- 12 railroad track.
- 13 e. Without the consent of the railway corporation, takes,
- 14 removes, defaces, alters, or obscures any of the following:
- 15 (1) A railroad signal.
- 16 (2) A train control system.
- 17 (3) A train dispatching system.
- 18 (4) A warning signal.
- 19 (5) A highway-railroad grade crossing signal or gate.
- 20 (6) A railroad sign, placard, or marker.
- 21 f. Without the consent of the railway corporation, removes
- 22 parts or appurtenances from, damages, impairs, disables,
- 23 interferes with the operation of, or renders inoperable any of
- 24 the following:
- 25 (1) A railroad signal.
- 26 (2) A train control system.
- 27 (3) A train dispatching system.
- 28 (4) A warning signal.
- 29 (5) A highway-railroad grade crossing signal or gate.
- 30 (6) A railroad sign, placard, or marker.
- 31 g. Without the consent of the railway corporation, taking,
- 32 removing, disabling, tampering, changing, or altering a part
- 33 or component of any operating mechanism or safety device of
- 34 any train or train component.
- 35 h. Without the consent of the railway corporation, takes,

1 removes, tampers, changes, alters, or interferes with any of
2 the following:

- 3 (1) A railroad roadbed.
- 4 (2) A railroad rail.
- 5 (3) A railroad tie.
- 6 (4) A railroad frog.
- 7 (5) A railroad sleeper.
- 8 (6) A railroad switch.
- 9 (7) A railroad viaduct.
- 10 (8) A railroad bridge.
- 11 (9) A railroad trestle.
- 12 (10) A railroad culvert.
- 13 (11) A railroad embankment.
- 14 (12) Any other structure or appliance which pertains or is
15 appurtenant to a railroad.

16 2. a. A person commits railroad vandalism in the first
17 degree if the person intentionally commits railroad vandalism
18 which results in the death of any person. Railroad vandalism
19 in the first degree is a class "A" felony.

20 b. A person commits railroad vandalism in the second
21 degree if the person intentionally commits railroad vandalism
22 which results in serious injury to any person. Railroad
23 vandalism in the second degree is a class "B" felony.

24 c. A person commits railroad vandalism in the third degree
25 if the person intentionally commits railroad vandalism which
26 results in bodily injury to any person or results in property
27 damage which costs ten thousand dollars or more to replace,
28 repair, or restore. Railroad vandalism in the third degree is
29 a class "C" felony.

30 d. A person commits railroad vandalism in the fourth
31 degree if the person intentionally commits railroad vandalism
32 which results in property damage which costs less than ten
33 thousand dollars but more than five hundred dollars to
34 replace, repair, or restore. Railroad vandalism in the fourth
35 degree is a class "D" felony.

1 e. A person commits railroad vandalism in the fifth degree
2 if the person intentionally commits railroad vandalism which
3 results in property damage which costs five hundred dollars or
4 less to replace, repair, or restore. Railroad vandalism in
5 the fifth degree is an aggravated misdemeanor.

6 3. For purposes of this section, "railway corporation"
7 means a corporation, company, or person owning, leasing, or
8 operating any railroad in whole or in part within the state.

9 For purposes of this section, "train component" means any
10 locomotive, engine, tender, railroad car, passenger car,
11 freight car, box car, tank car, hopper car, flatbed,
12 container, work equipment, rail-mounted equipment, or any
13 other railroad rolling stock.

14 For purposes of this section, "train" means a series of two
15 or more train components which are coupled together in a line.

16 EXPLANATION

17 This bill establishes three new criminal offenses relating
18 to criminal acts committed on or against the property owned,
19 leased, or operated by a railway corporation. The bill adds
20 to the criminal trespass statute the act of entering or
21 remaining upon or in railroad property without lawful
22 authority or the consent of the railway corporation which
23 owns, leases, or operates the railway property. The new
24 prohibition does not apply to federal and state railway
25 officials who are performing their official duties, to railway
26 corporation employees who are acting in the course of
27 employment, or to any person who is engaged in a lawful
28 business on railway station grounds or in the railway depot.
29 Persons who knowingly commit trespass commit a simple
30 misdemeanor. If injury to any person or damage with a value
31 of more than \$100 occurs or if the offense is committed with
32 the intent to commit a hate crime under Code section 729A.2,
33 the offense is punishable as a serious misdemeanor. If the
34 offense is committed with the intent to commit a hate crime
35 under Code section 729A.2, and injury to any person or damage

1 in an amount more than \$100 occurs, the offense is punishable
2 as an aggravated misdemeanor.

3 A new serious misdemeanor offense of stowing away is
4 created in the bill. A person commits the offense of stowing
5 away when, without lawful authority or the consent of the
6 railway corporation, the person rides on the outside of a
7 train or train component or rides on the inside of a train or
8 train component which is not a passenger car.

9 The bill also creates the new offense of railroad
10 vandalism. Railroad vandalism includes activities such as
11 discharging firearms or other devices at trains or train
12 components; launching, directing, or propelling various
13 objects or devices at trains, train components, or railroad
14 tracks; placing or dropping objects on trains, train
15 components, or railroad tracks; taking, removing, tampering,
16 changing, altering, or interfering with a railroad roadbed,
17 rail, tie, frog, sleeper, switch, viaduct, bridge, trestle,
18 culvert, embankment, or other structure or appliance which
19 pertains or is appurtenant to a railroad; or taking, defacing,
20 altering, obscuring, damaging, impairing, disabling, rendering
21 inoperable, or changing railroad signs, signals, gates,
22 various equipment, or equipment components. If the railroad
23 vandalism results in a death, the offense is punishable as a
24 class "A" felony. If the railroad vandalism results in
25 serious injury, the offense is punishable as a class "B"
26 felony. If the railroad vandalism results in bodily injury or
27 property damage which costs \$10,000 or more to replace,
28 repair, or restore, the offense is punishable as a class "C"
29 felony. If the railroad vandalism results in property damage
30 which costs less than \$10,000 but more than \$500 to replace,
31 repair, or restore, the offense is punishable as a class "D"
32 felony. If the railroad vandalism results in property damage
33 which costs \$500 or less to replace, repair, or restore, the
34 offense is punishable as an aggravated misdemeanor.

35 Class "A" felonies are punishable by life imprisonment.

1 Class "B" felonies are punishable by confinement for no more
 2 than 25 years. Class "C" felonies are punishable by
 3 confinement for no more than 10 years and a possible fine of
 4 at least \$500 but not more than \$10,000. Class "D" felonies
 5 are punishable by confinement for no more than 5 years and a
 6 possible fine of at least \$500 but not more than \$7,500. An
 7 aggravated misdemeanor is punishable by imprisonment not to
 8 exceed two years and a fine of at least \$500 but not more than
 9 \$5,000. A serious misdemeanor is punishable by a fine of at
 10 least \$250 but not more than \$1,500 and possible imprisonment
 11 not to exceed one year. A simple misdemeanor is punishable by
 12 either a fine of at least \$50 but not more than \$100 or
 13 imprisonment not to exceed 30 days.

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**HOUSE FILE 2482
FISCAL NOTE**

The estimate for House File 2482 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2482 establishes three new criminal offenses relating to criminal acts committed against railroad property. The Bill makes it unlawful to trespass on railroad property. A trespass offense is punishable as a serious misdemeanor if an injury occurred or property damage occurred of more than \$100 or the act was committed with the intent to commit a hate crime. A trespass offense is punishable as an aggravated misdemeanor if the act was committed with the intent to commit a hate crime and an injury occurred or property damage occurred of more than \$100.

The Bill creates a new serious misdemeanor offense of stowing away when a person rides on a train or train component which is not a passenger car.

The Bill also creates a new offense for railroad vandalism. If the vandalism offense results in a death it is punishable as a Class A felony. If the offense results in serious injury it is punishable as a Class B felony. If the offense results in bodily injury or property damage of \$10,000 or more, the offense is punishable as a Class C felony. If the offense results in property damage which costs less than \$10,000 but more than \$500, it is punishable as a Class D felony. If the offense results in property damage of less than \$500, it is punishable as an aggravated misdemeanor.

CORRECTIONAL IMPACT

The impact of House File 2482 on the prison and jail population cannot be determined due to insufficient information. Currently, most offenses of this type are already crimes under current law. To the extent incidents occur which are covered under the proposed changes, an increase in the prison population would result. The proposed penalties exceed the penalties under current law.

In addition, there may be an increase in the jail population to the extent that stowing away and damage of railway property occurs and results in convictions.

FISCAL IMPACT

Due to insufficient information, the fiscal impact of HF 2482 cannot be determined.

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SOURCE

Department of Human Rights, Division of Criminal and Juvenile Justice Planning

(LSB 3786hv, DLR)

FILED MARCH 10, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2482

H-8272

1 Amend House File 2482 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 327F.21 RAILROAD TRAIN
5 CREWS.

6 1. As used in this section, unless the context
7 otherwise requires:

8 a. "Administrator" means the department's
9 administrator for rail and water, or the
10 administrator's designee.

11 b. "Certified railroad locomotive engineer" means
12 a person certified under 49 C.F.R. 240 as a train
13 service engineer, locomotive servicing engineer, or
14 student engineer.

15 c. "Department" means the state department of
16 transportation.

17 d. "Director" means the director of
18 transportation.

19 e. "Qualified railroad trainperson" means a person
20 who has successfully completed a railroad carrier's
21 training program and passed an examination on railroad
22 operation rules.

23 2. Any person operating or controlling a railroad
24 in this state shall not allow the operation of any
25 railroad train or locomotive in this state unless the
26 railroad train or locomotive has a crew of at least
27 two individuals. One of the individuals shall be a
28 certified railroad locomotive engineer. The other
29 individual shall be either a certified railroad
30 locomotive engineer or a qualified railroad
31 trainperson. A certified railroad locomotive engineer
32 shall operate the control locomotive at all times that
33 the railroad train or locomotive is in motion. The
34 other crew member may dismount the railroad train or
35 locomotive when necessary to perform switching
36 activities and other job-related duties. However,
37 this subsection shall not apply to the extent that it
38 is contrary to or inconsistent with a regulation or
39 order of the federal railroad administration.

40 3. The administrator may, pursuant to rules
41 adopted by the department, grant an exception to the
42 requirements of subsection 2 if the administrator
43 determines that the exception will not endanger the
44 life or property of any person.

45 4. A person who violates this section is, upon
46 conviction for a first offense, subject to a "schedule
47 one" penalty as provided under section 327C.5. A
48 person who violates this section is, upon conviction
49 for a second offense committed within three years of
50 the first offense, subject to a "schedule two" penalty

H-8272

H-8272

Page 2

1 as provided under section 327C.5. A person who
2 violates this section is, upon conviction for a third
3 or subsequent offense committed within three years of
4 the first offense, subject to a "schedule three"
5 penalty as provided under section 327C.5."

6 2. Title page, line 1, by inserting after the
7 words "relating to" the following: "railroad safety
8 by providing for a number of persons on a train crew
9 and".

By KOENIGS of Mitchell

H-8272 FILED MARCH 10, 1998

Not Hermone 3/11/98
(P.596)

H-8388

1 Amend House File 2482, as follows:
2 1. Page 1, line 6, by inserting after the word
3 "property." the following: "This paragraph does not
4 apply to passage over a railroad right-of-way, other
5 than a track, railroad roadbed, viaduct, bridge,
6 trestle, or railroad yard, by an unarmed person if the
7 person has not been notified or requested to abstain
8 from entering on to the right-of-way or to vacate the
9 right-of-way and the passage over the right-of-way
10 does not interfere with the operation of the
11 railroad."

By NELSON of Marshall
WELTER of Jones

H-8388 FILED MARCH 12, 1998

adopted
3-17-98
(P. 175)

HOUSE FILE 2482

H-8167

1 Amend House File 2482 as follows:

2 1. Page 1, line 30, by striking the word
3 "serious" and inserting the following: "simple".

4 2. Page 3, line 19, by striking the word and
5 figure "'A" felony." and inserting the following:
6 "'B" felony. However, notwithstanding section 902.9,
7 subsection 1, the maximum sentence for a person
8 convicted under this section shall be a period of
9 confinement of not more than fifty years."

10 3. Page 3, line 27, by striking the words "ten
11 thousand dollars or more" and inserting the following:
12 "more than ten thousand dollars".

13 4. Page 3, line 32, by striking the words "less
14 than".

15 5. Page 3, by striking line 33 and inserting the
16 following: "thousand dollars or less but more than
17 one thousand dollars to".

18 6. Page 4, line 3, by striking the words "five
19 hundred dollars or" and inserting the following:
20 "more than five hundred dollars".

21 7. Page 4, line 4, by striking the word "less"
22 and inserting the following: "but does not exceed one
23 thousand dollars".

24 8. Page 4, by inserting after line 5, the
25 following:

26 "f. A person commits railroad vandalism in the
27 sixth degree if the person intentionally commits
28 railroad vandalism which results in property damage
29 which costs more than one hundred dollars but does not
30 exceed five hundred dollars to replace, repair, or
31 restore. Railroad vandalism in the sixth degree is a
32 serious misdemeanor.

33 g. A person commits railroad vandalism in the
34 seventh degree if the person intentionally commits
35 railroad vandalism which results in property damage
36 which costs one hundred dollars or less to replace,
37 repair, or restore. Railroad vandalism in the seventh
38 degree is a simple misdemeanor."

By LAMBERTI of Polk
NELSON of Marshall
WELTER of Jones

H-8167 FILED MARCH 3, 1998

Adapted 3/11/98

(p. 597)

5
5-3/18/98 Do Pass

HOUSE FILE 2482
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 660)

(As Amended and Passed by the House, March 17, 1998)

Passed House, Date _____ Passed Senate, ^(p.901) Date 3/25/98
Vote: Ayes _____ Nays _____ Vote: Ayes 47 Nays 1
Approved April 9, 1998

A BILL FOR

1 An Act relating to certain criminal acts committed on or against
2 the property of railway corporations and providing and
3 applying penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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New Language _____

Deleted Language *

1 Section 1. Section 716.7, subsection 2, Code 1997, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. Entering or remaining upon or in
4 railway property without lawful authority or without the
5 consent of the railway corporation which owns, leases, or
6 operates the railway property. This paragraph does not apply
7 to passage over a railroad right-of-way, other than a track,
8 railroad roadbed, viaduct, bridge, trestle, or railroad yard,
9 by an unarmed person if the person has not been notified or
10 requested to abstain from entering on to the right-of-way or
11 to vacate the right-of-way and the passage over the right-of-
12 way does not interfere with the operation of the railroad.

13 Sec. 2. Section 716.7, Code 1997, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 5. For purposes of this section, "railway
16 property" means all tangible real and personal property owned,
17 leased, or operated by a railway corporation with the
18 exception of any administrative building or offices of the
19 railway corporation.

20 For purposes of this section, "railway corporation" means a
21 corporation, company, or person owning, leasing, or operating
22 any railroad in whole or in part within this state.

23 NEW SUBSECTION. 6. This section shall not apply to the
24 following persons:

25 a. Representatives of the state department of
26 transportation, the federal railroad administration, or the
27 national transportation safety board who enter or remain upon
28 or in railway property while engaged in the performance of
29 official duties.

30 b. Employees of a railway corporation who enter or remain
31 upon or in railway property while acting in the course of
32 employment.

33 c. Any person who is engaged in the operation of a lawful
34 business on railway station grounds or in the railway depot.

35 Sec. 2. NEW SECTION. 716.9 STOWAWAYS.

1 A person commits the simple misdemeanor offense of stowing
2 away, when, without lawful authority or the consent of a
3 railway corporation, the person does either of the following:

- 4 1. Rides on the outside of a train or train component.
- 5 2. Rides on the inside of a train or train component which
6 is not a passenger car.

7 Sec. 3. NEW SECTION. 716.10 RAILROAD VANDALISM.

8 1. A person commits railroad vandalism when the person
9 does any of the following:

10 a. Shoots, fires, or otherwise discharges a firearm or
11 other device at a train or train component.

12 b. Launches, releases, propels, casts, or directs a
13 projectile, missile, or other device at a train or train
14 component.

15 c. Intentionally throws or drops an object on or onto a
16 train or train component.

17 d. Intentionally places or drops an object on or onto a
18 railroad track.

19 e. Without the consent of the railway corporation, takes,
20 removes, defaces, alters, or obscures any of the following:

21 (1) A railroad signal.

22 (2) A train control system.

23 (3) A train dispatching system.

24 (4) A warning signal.

25 (5) A highway-railroad grade crossing signal or gate.

26 (6) A railroad sign, placard, or marker.

27 f. Without the consent of the railway corporation, removes
28 parts or appurtenances from, damages, impairs, disables,
29 interferes with the operation of, or renders inoperable any of
30 the following:

31 (1) A railroad signal.

32 (2) A train control system.

33 (3) A train dispatching system.

34 (4) A warning signal.

35 (5) A highway-railroad grade crossing signal or gate.

1 (6) A railroad sign, placard, or marker.

2 g. Without the consent of the railway corporation, taking,
3 removing, disabling, tampering, changing, or altering a part
4 or component of any operating mechanism or safety device of
5 any train or train component.

6 h. Without the consent of the railway corporation, takes,
7 removes, tampers, changes, alters, or interferes with any of
8 the following:

9 (1) A railroad roadbed.

10 (2) A railroad rail.

11 (3) A railroad tie.

12 (4) A railroad frog.

13 (5) A railroad sleeper.

14 (6) A railroad switch.

15 (7) A railroad viaduct.

16 (8) A railroad bridge.

17 (9) A railroad trestle.

18 (10) A railroad culvert.

19 (11) A railroad embankment.

20 (12) Any other structure or appliance which pertains or is
21 appurtenant to a railroad.

22 2. a. A person commits railroad vandalism in the first
23 degree if the person intentionally commits railroad vandalism
24 which results in the death of any person. Railroad vandalism
25 in the first degree is a class "B" felony. However,
26 notwithstanding section 902.9, subsection 1, the maximum
27 sentence for a person convicted under this section shall be a
28 period of confinement of not more than fifty years.

29 b. A person commits railroad vandalism in the second
30 degree if the person intentionally commits railroad vandalism
31 which results in serious injury to any person. Railroad
32 vandalism in the second degree is a class "B" felony.

33 c. A person commits railroad vandalism in the third degree
34 if the person intentionally commits railroad vandalism which
35 results in bodily injury to any person or results in property

1 damage which costs more than ten thousand dollars to replace,
2 repair, or restore. Railroad vandalism in the third degree is
3 a class "C" felony.

4 d. A person commits railroad vandalism in the fourth
5 degree if the person intentionally commits railroad vandalism
* 6 which results in property damage which costs ten thousand
7 dollars or less but more than one thousand dollars to replace,
8 repair, or restore. Railroad vandalism in the fourth degree
9 is a class "D" felony.

10 e. A person commits railroad vandalism in the fifth degree
11 if the person intentionally commits railroad vandalism which
12 results in property damage which costs more than five hundred
13 dollars but does not exceed one thousand dollars to replace,
14 repair, or restore. Railroad vandalism in the fifth degree is
15 an aggravated misdemeanor.

16 f. A person commits railroad vandalism in the sixth degree
17 if the person intentionally commits railroad vandalism which
18 results in property damage which costs more than one hundred
19 dollars but does not exceed five hundred dollars to replace,
20 repair, or restore. Railroad vandalism in the sixth degree is
21 a serious misdemeanor.

22 g. A person commits railroad vandalism in the seventh
23 degree if the person intentionally commits railroad vandalism
24 which results in property damage which costs one hundred
25 dollars or less to replace, repair, or restore. Railroad
26 vandalism in the seventh degree is a simple misdemeanor.

27 3. For purposes of this section, "railway corporation"
28 means a corporation, company, or person owning, leasing, or
29 operating any railroad in whole or in part within the state.

30 For purposes of this section, "train component" means any
31 locomotive, engine, tender, railroad car, passenger car,
32 freight car, box car, tank car, hopper car, flatbed,
33 container, work equipment, rail-mounted equipment, or any
34 other railroad rolling stock.

35 For purposes of this section, "train" means a series of two

1 or more train components which are coupled together in a line.

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HOUSE FILE 2482

S-5382

1 Amend House File 2482, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. ____ . NEW SECTION. 327F.21 RAILROAD TRAIN
6 CREWS.

7 1. As used in this section, unless the context
8 otherwise requires:

9 a. "Administrator" means the department's
10 administrator for rail and water, or the
11 administrator's designee.

12 b. "Certified railroad locomotive engineer" means
13 a person certified under 49 C.F.R. 240 as a train
14 service engineer, locomotive servicing engineer, or
15 student engineer.

16 c. "Department" means the state department of
17 transportation.

18 d. "Director" means the director of
19 transportation.

20 e. "Qualified railroad trainperson" means a person
21 who has successfully completed a railroad carrier's
22 training program and passed an examination on railroad
23 operation rules.

24 2. Any person operating or controlling a railroad
25 in this state shall not allow the operation of any
26 railroad train or locomotive in this state unless the
27 railroad train or locomotive has a crew of at least
28 two individuals. One of the individuals shall be a
29 certified railroad locomotive engineer. The other
30 individual shall be either a certified railroad
31 locomotive engineer or a qualified railroad
32 trainperson. A certified railroad locomotive engineer
33 shall operate the control locomotive at all times that
34 the railroad train or locomotive is in motion. The
35 other crew member may dismount the railroad train or
36 locomotive when necessary to perform switching
37 activities and other job-related duties. However,
38 this subsection shall not apply to the extent that it
39 is contrary to or inconsistent with a regulation or
40 order of the federal railroad administration.

41 3. The administrator may, pursuant to rules
42 adopted by the department, grant an exception to the
43 requirements of subsection 2 if the administrator
44 determines that the exception will not endanger the
45 life or property of any person.

46 4. A person who violates this section is, upon
47 conviction for a first offense, subject to a "schedule
48 one" penalty as provided under section 327C.5. A
49 person who violates this section is, upon conviction
50 for a second offense committed within three years of

S-5382

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Page 2

1 the first offense, subject to a "schedule two" penalty
2 as provided under section 327C.5. A person who
3 violates this section is, upon conviction for a third
4 or subsequent offense committed within three years of
5 the first offense, subject to a "schedule three"
6 penalty as provided under section 327C.5."

7 2. Title page, line 1, by inserting after the
8 word "to" the following: "railroad safety and".

9 3. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-5382 FILED MARCH 25, 1998

RULED OUT OF ORDER

(P. 906)

Chair Nelson
Eddie
Huxer

HSB 660

TRANSPORTATION

SUC
SF/HF 2482

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON WELTER)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to certain criminal acts committed on or against
2 the property of railway corporations and providing and
3 applying penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 716.7, subsection 2, Code 1997, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. Entering or remaining upon or in
4 railway property without lawful authority or without the
5 consent of the railway corporation which owns, leases, or
6 operates the railway property.

7 Sec. 2. Section 716.7, Code 1997, is amended by adding the
8 following new subsections:

9 NEW SUBSECTION. 5. For purposes of this section, "railway
10 property" means all tangible real and personal property owned,
11 leased, or operated by a railway corporation with the
12 exception of any administrative building or offices of the
13 railway corporation.

14 For purposes of this section, "railway corporation" means a
15 corporation, company, or person owning, leasing, or operating
16 any railroad in whole or in part within this state.

17 NEW SUBSECTION. 6. This section shall not apply to the
18 following persons:

19 a. Representatives of the state department of
20 transportation, the federal railroad administration, or the
21 national transportation safety board who enter or remain upon
22 or in railway property while engaged in the performance of
23 official duties.

24 b. Employees of a railway corporation who enter or remain
25 upon or in railway property while acting in the course of
26 employment.

27 c. Any person who is engaged in the operation of a lawful
28 business on railway station grounds or in the railway depot.

29 Sec. 2. NEW SECTION. 716.9 STOWAWAYS.

30 A person commits the serious misdemeanor offense of stowing
31 away, when, without lawful authority or the consent of a
32 railway corporation, the person does either of the following:

- 33 1. Rides on the outside of a train or train component.
34 2. Rides on the inside of a train or train component which
35 is not a passenger car.

1 Sec. 3. NEW SECTION. 716.10 RAILROAD VANDALISM.

2 1. A person commits railroad vandalism when the person
3 does any of the following:

4 a. Shoots, fires, or otherwise discharges a firearm or
5 other device at a train or train component.

6 b. Launches, releases, propels, casts, or directs a
7 projectile, missile, or other device at a train or train
8 component.

9 c. Intentionally throws or drops an object on or onto a
10 train or train component.

11 d. Intentionally places or drops an object on or onto a
12 railroad track.

13 e. Without the consent of the railway corporation, takes,
14 removes, defaces, alters, or obscures any of the following:

15 (1) A railroad signal.

16 (2) A train control system.

17 (3) A train dispatching system.

18 (4) A warning signal.

19 (5) A highway-railroad grade crossing signal or gate.

20 (6) A railroad sign, placard, or marker.

21 f. Without the consent of the railway corporation, removes
22 parts or appurtenances from, damages, impairs, disables,
23 interferes with the operation of, or renders inoperable any of
24 the following:

25 (1) A railroad signal.

26 (2) A train control system.

27 (3) A train dispatching system.

28 (4) A warning signal.

29 (5) A highway-railroad grade crossing signal or gate.

30 (6) A railroad sign, placard, or marker.

31 g. Without the consent of the railway corporation, taking,
32 removing, disabling, tampering, changing, or altering a part
33 or component of any operating mechanism or safety device of
34 any train or train component.

35 2. a. A person commits railroad vandalism in the first

1 degree if the person intentionally commits railroad vandalism which results in the death of any person. Railroad vandalism in the first degree is a class "A" felony.

b. A person commits railroad vandalism in the second degree if the person intentionally commits railroad vandalism which results in serious injury to any person. Railroad vandalism in the second degree is a class "B" felony.

c. A person commits railroad vandalism in the third degree if the person intentionally commits railroad vandalism which results in bodily injury to any person or results in property damage which costs ten thousand dollars or more to replace, repair, or restore. Railroad vandalism in the third degree is a class "C" felony.

d. A person commits railroad vandalism in the fourth degree if the person intentionally commits railroad vandalism which results in property damage which costs less than ten thousand dollars but more than five hundred dollars to replace, repair, or restore. Railroad vandalism in the fourth degree is a class "D" felony.

e. A person commits railroad vandalism in the fifth degree if the person intentionally commits railroad vandalism which results in property damage which costs five hundred dollars or less to replace, repair, or restore. Railroad vandalism in the fifth degree is an aggravated misdemeanor.

3. For purposes of this section, "railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within the state.

For purposes of this section, "train component" means any locomotive, engine, tender, railroad car, passenger car, freight car, box car, tank car, hopper car, flatbed, container, work equipment, rail-mounted equipment, or any other railroad rolling stock.

For purposes of this section, "train" means a series of two or more train components which are coupled together in a line.

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EXPLANATION

1 This bill establishes three new criminal offenses relating
2 to criminal acts committed on or against the property owned,
3 leased, or operated by a railway corporation. The bill adds
4 to the criminal trespass statute the act of entering or
5 remaining upon or in railroad property without lawful
6 authority or the consent of the railway corporation which
7 owns, leases, or operates the railway property. The new
8 prohibition does not apply to federal and state railway
9 officials who are performing their official duties, to railway
10 corporation employees who are acting in the course of
11 employment, or to any person who is engaged in a lawful
12 business on railway station grounds or in the railway depot.
13 Persons who knowingly commit trespass commit a simple
14 misdemeanor. If injury to any person or damage with a value
15 of more than \$100 occurs or if the offense is committed with
16 the intent to commit a hate crime under Code section 729A.2,
17 the offense is punishable as a serious misdemeanor. If the
18 offense is committed with the intent to commit a hate crime
19 under Code section 729A.2, and injury to any person or damage
20 in an amount more than \$100 occurs, the offense is punishable
21 as an aggravated misdemeanor.

22 A new serious misdemeanor offense of stowing away is
23 created in the bill. A person commits the offense of stowing
24 away when, without lawful authority or the consent of the
25 railway corporation, the person rides on the outside of a
26 train or train component or rides on the inside of a train or
27 train component which is not a passenger car.

28 The bill also creates the new offense of railroad
29 vandalism. Railroad vandalism includes activities such as
30 discharging firearms or other devices at trains or train
31 components; launching, directing, or propelling various
32 objects or devices at trains, train components, or railroad
33 tracks; placing or dropping objects on trains, train
34 components, or railroad tracks; or taking, defacing, altering,
35 obscuring, damaging, impairing, disabling, rendering

1 inoperable, or changing railroad signs, signals, gates,
2 various equipment, or equipment components. If the railroad
3 vandalism results in a death, the offense is punishable as a
4 class "A" felony. If the railroad vandalism results in
5 serious injury, the offense is punishable as a class "B"
6 felony. If the railroad vandalism results in bodily injury or
7 property damage which costs \$10,000 or more to replace,
8 repair, or restore, the offense is punishable as a class "C"
9 felony. If the railroad vandalism results in property damage
10 which costs less than \$10,000 but more than \$500 to replace,
11 repair, or restore, the offense is punishable as a class "D"
12 felony. If the railroad vandalism results in property damage
13 which costs \$500 or less to replace, repair, or restore, the
14 offense is punishable as an aggravated misdemeanor.

15 Class "A" felonies are punishable by life imprisonment.
16 Class "B" felonies are punishable by confinement for no more
17 than 25 years. Class "C" felonies are punishable by
18 confinement for no more than 10 years and a possible fine of
19 at least \$500 but not more than \$10,000. Class "D" felonies
20 are punishable by confinement for no more than 5 years and a
21 possible fine of at least \$500 but not more than \$7,500. An
22 aggravated misdemeanor is punishable by imprisonment not to
23 exceed two years and a fine of at least \$500 but not more than
24 \$5,000. A serious misdemeanor is punishable by a fine of at
25 least \$250 but not more than \$1,500 and possible imprisonment
26 not to exceed one year. A simple misdemeanor is punishable by
27 either a fine of at least \$50 but not more than \$100 or
28 imprisonment not to exceed 30 days.

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HOUSE FILE 2482

AN ACT

RELATING TO CERTAIN CRIMINAL ACTS COMMITTED ON OR AGAINST THE
PROPERTY OF RAILWAY CORPORATIONS AND PROVIDING AND APPLYING
PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 716.7, subsection 2, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering on to the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

Sec. 2. Section 716.7, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 5. For purposes of this section, "railway property" means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.

For purposes of this section, "railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.

NEW SUBSECTION. 6. This section shall not apply to the following persons:

a. Representatives of the state department of transportation, the federal railroad administration, or the

national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.

b. Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

c. Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.

Sec. 3. NEW SECTION. 716.9 STOWAWAYS.

A person commits the simple misdemeanor offense of stowing away, when, without lawful authority or the consent of a railway corporation, the person does either of the following:

1. Rides on the outside of a train or train component.
2. Rides on the inside of a train or train component which is not a passenger car.

Sec. 4. NEW SECTION. 716.10 RAILROAD VANDALISM.

1. A person commits railroad vandalism when the person does any of the following:

- a. Shoots, fires, or otherwise discharges a firearm or other device at a train or train component.
- b. Launches, releases, propels, casts, or directs a projectile, missile, or other device at a train or train component.
- c. Intentionally throws or drops an object on or onto a train or train component.
- d. Intentionally places or drops an object on or onto a railroad track.
- e. Without the consent of the railway corporation, takes, removes, defaces, alters, or obscures any of the following:
 - (1) A railroad signal.
 - (2) A train control system.
 - (3) A train dispatching system.
 - (4) A warning signal.
 - (5) A highway-railroad grade crossing signal or gate.
 - (6) A railroad sign, placard, or marker.

f. Without the consent of the railway corporation, removes parts or appurtenances from, damages, impairs, disables, interferes with the operation of, or renders inoperable any of the following:

- (1) A railroad signal.
- (2) A train control system.
- (3) A train dispatching system.
- (4) A warning signal.
- (5) A highway-railroad grade crossing signal or gate.
- (6) A railroad sign, placard, or marker.

g. Without the consent of the railway corporation, taking, removing, disabling, tampering, changing, or altering a part or component of any operating mechanism or safety device of any train or train component.

h. Without the consent of the railway corporation, takes, removes, tampers, changes, alters, or interferes with any of the following:

- (1) A railroad roadbed.
- (2) A railroad rail.
- (3) A railroad tie.
- (4) A railroad frog.
- (5) A railroad sleeper.
- (6) A railroad switch.
- (7) A railroad viaduct.
- (8) A railroad bridge.
- (9) A railroad trestle.
- (10) A railroad culvert.
- (11) A railroad embankment.

(12) Any other structure or appliance which pertains or is appurtenant to a railroad.

2. a. A person commits railroad vandalism in the first degree if the person intentionally commits railroad vandalism which results in the death of any person. Railroad vandalism in the first degree is a class "B" felony. However, notwithstanding section 902.9, subsection 1, the maximum

sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

b. A person commits railroad vandalism in the second degree if the person intentionally commits railroad vandalism which results in serious injury to any person. Railroad vandalism in the second degree is a class "B" felony.

c. A person commits railroad vandalism in the third degree if the person intentionally commits railroad vandalism which results in bodily injury to any person or results in property damage which costs more than ten thousand dollars to replace, repair, or restore. Railroad vandalism in the third degree is a class "C" felony.

d. A person commits railroad vandalism in the fourth degree if the person intentionally commits railroad vandalism which results in property damage which costs ten thousand dollars or less but more than one thousand dollars to replace, repair, or restore. Railroad vandalism in the fourth degree is a class "D" felony.

e. A person commits railroad vandalism in the fifth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than five hundred dollars but does not exceed one thousand dollars to replace, repair, or restore. Railroad vandalism in the fifth degree is an aggravated misdemeanor.

f. A person commits railroad vandalism in the sixth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than one hundred dollars but does not exceed five hundred dollars to replace, repair, or restore. Railroad vandalism in the sixth degree is a serious misdemeanor.

g. A person commits railroad vandalism in the seventh degree if the person intentionally commits railroad vandalism which results in property damage which costs one hundred dollars or less to replace, repair, or restore. Railroad vandalism in the seventh degree is a simple misdemeanor.

3. For purposes of this section, "railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within the state.

For purposes of this section, "train component" means any locomotive, engine, tender, railroad car, passenger car, freight car, box car, tank car, hopper car, flatbed, container, work equipment, rail-mounted equipment, or any other railroad rolling stock.

For purposes of this section, "train" means a series of two or more train components which are coupled together in a line.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2482, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 9, 1998

TERRY E. BRANSTAD
Governor