

MINIATURE TRAINS

Senate Bill 1167 with House committee amendment

**Senate Bill 1168 as passed by the Senate
Sponsor: Sen. John J.H. Schwarz, M.D.**

First Analysis (12-2-98)

**Senate Committee: Economic Development,
International Trade and Regulatory
Affairs**

House Committee: Regulatory Affairs

THE APPARENT PROBLEM:

For decades, miniature train enthusiasts have been allowed to operate one-eighth scale trains powered by steam locomotives without government interference or regulation. Only one miniature train that operated in a Royal Oak park and that offered rides to the public had been licensed under a state law requiring that carnival rides be licensed. Reportedly, however, after someone complained that all miniature trains should be regulated, the commercial enforcement division of the Department of Consumer and Industry Services began notifying train hobbyists in the fall of 1997 that the trains would have to be licensed under the Carnival-Amusement Safety Act. The act prohibits rides from being given to anyone, including the owner's family members, without being licensed and carries penalties for a first offense of up to a month in jail and a \$500 fine. As a result, many miniature train hobbyists no longer felt they could offer rides to area children or school groups because of fear of violating state law.

Reportedly, the direct expense of meeting the licensing provisions, such as engineering and drawing requirements, and the cost of being insured as a carnival ride, are quite high and would most likely result in many of the miniature train owners being forced to quit the hobby. Meanwhile, the train enthusiasts do post an impeccable safety record (according to the Tri-State Locomotive Club, there have been no injuries caused by boiler accidents in over 24 years), which has led many to believe that state licensing and regulation is unnecessary. Earlier this year, an amendment was added to House Bill 5592, the appropriations bill for the Department of Consumer and Industry Services for fiscal year 1998-99, to prohibit the department from regulating the miniature trains under the Carnival-Amusement Safety Act. However, since the exemption from licensing will expire at the end of the fiscal year, legislation has

been proposed to permanently exempt hobby locomotives from licensure requirements and to clarify under which circumstances a miniature locomotive would have to have its boiler inspected.

THE CONTENT OF THE BILLS:

Senate Bills 1167 and 1168 would amend the Carnival-Amusement Safety Act of 1966 (MCL 408.652) and the Boiler Act of 1965 (MCL 408.751 et al.), respectively, to clarify state regulations regarding miniature trains, also known as hobby locomotives. The bills are tie-barred to each other. Specifically, the bills would do the following:

Senate Bill 1167 would amend the Carnival-Amusement Safety Act to exempt from regulation under the act a hobby locomotive operating on narrow gauge tracks less than 24 inches that was powered by steam, electricity, gas, or other fuel, regardless of whether it was operated on the owner's property. "Hobby" would be defined as an interest or activity that a person pursued without compensation in his or her leisure time.

Senate Bill 1168 would amend the Boiler Act to specify that the act would not apply to a miniature hobby locomotive that operated on narrow gauge tracks less than 24 inches in width. However, the Department of Consumer and Industry Services would have to annually inspect a miniature hobby locomotive that was operated in a public display or use. "Public display or use" would be defined as "display to or use by the general public but not the owner or owner's family."

The inspection would be done by a deputy or special inspector, or by a miniature hobby locomotive club that was approved by the department to carry out

inspections, and a copy of the inspection would have to be filed with the chief inspector and also given to the miniature train's owner. The department would also have to issue a certificate of inspection to the owner of any locomotive determined to be in compliance with any applicable rules governing miniature hobby locomotives. The inspection fee for an inspection by a deputy or special inspector would be set at \$15.

The bill would also require the promulgation of administrative rules that would include a procedure by which miniature locomotive clubs could be approved and authorized by the Board of Boiler Rules to perform inspections and certify boilers used in the miniature hobby locomotives.

BACKGROUND INFORMATION:

Legislation that is nearly identical to Senate Bills 1167 and 1168, House Bills 5890 and 5891, was passed by the House on September 24, 1998. The House bills are currently pending before the Senate Committee on Economic Development, International Trade and Regulatory Affairs.

FISCAL IMPLICATIONS:

With regard to nearly identical legislation (House Bills 5890 and 5891), the House Fiscal Agency reported that the amendment to the Carnival-Amusement Safety Act would have no fiscal impact on state or local government, and that the amendment to the Boiler Act would increase state inspection costs and fee revenues by similar amounts. (9-21-98)

ARGUMENTS:

For:

For years, miniature train hobbyists have been able to pursue their hobby free of government interference or regulation. Usually operated in owner's backyards, hobbyists also take part in club activities. Until last fall, when miniature train owners were notified that they would have to be licensed under the Carnival-Amusement Act, many train owners gave free rides to neighborhood children and school groups. Under fear of prosecution, most discontinued the practice. Under the carnival act, even giving a ride to your spouse or child would be against the law. Train owners' objections to being licensed were centered on the high costs related to complying with the act's provisions and in carrying insurance as a carnival ride. Most hobbyists could not afford to continue to operate their trains if forced to meet the act's requirements.

Since most miniature train hobbyists operate their trains purely as a hobby, and since they have a good safety record, many feel it is unnecessary to require licensure. An amendment to the Consumer and Industry Services budget bill gave a temporary exemption from licensure, but a permanent exemption for hobby locomotives should be put into statute. Senate Bill 1167 would provide an exemption for miniature locomotives powered by steam, gas, or electricity regardless of whether the train was operated on the owner's property, as long as it was a hobby, but would still allow for the regulation of commercial or otherwise non-hobby ventures.

For:

Though currently exempted from regulation under the Michigan Boiler Act, some clubs, such as the Tri-State Locomotive Club, have established boiler inspection and certification programs. According to the Tri-State Locomotive Club, no injuries from boiler accidents have occurred in the state for the past 24 years that the program has operated. Senate Bill 1168 would exempt miniature trains from regulation under the state Boiler Act. However, miniature trains operated in a public display or for public use would still have to be inspected and certified annually by a state inspector or a miniature train club that had been approved to do the boiler inspections and certifications. The bill would therefore reinforce safety standards for the public without overly encroaching on the private interests and activities of miniature train hobbyists.

POSITIONS:

The following took positions in support of nearly identical legislation (House Bills 5890 and 5891):

- The Department of Consumer and Industry Services (9-17-98)
- The Tri-State Locomotive Club (9-17-98)
- The Michigan Rail Road Clubs (9-17-98)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.