

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2405
(Senators O'Connell, Nething, Wardner)
(Representatives Brandenburg, Pollert)

AN ACT to amend and reenact subsection 3 of section 49-16-01.1 of the North Dakota Century Code, relating to insurance requirements in leases between railroads and grain and potato warehouses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of law, a railroad may require that a state or federal licensed public grain warehouse or potato warehouse contracting for the use or occupancy of railroad right of way, or other adjoining property, provide the following:
 - a. Commercial general liability insurance of not more than two million dollars per occurrence and not more than four million dollars for multiple occurrences coverage for bodily injury, death, and property damage arising out of the use or occupancy of the property by the contracting party, including:
 - (1) ~~Damage~~ damage caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors;
 - (2) ~~An, and an~~ endorsement naming the railroad as an additional insured; ~~and~~
 - (3) ~~An endorsement under the Federal Employers Liability Act [45 U.S.C. et seq.] if the warehouse engages in the business of transporting goods from the warehouse by means of the railroad in an annual volume in excess of two hundred fifty loaded railroad cars.~~
 - b. Indemnification and defense of the railroad, its employees and agents for all bodily injury, death, environmental damage, and property damage claims and liability up to two million dollars per occurrence arising out of the use or occupancy of the property, including claims and liability caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors.
 - c. Indemnification and defense of the railroad, its employees and agents for all bodily injury, death, property damage, and environmental damage suffered by the lessee, licensee, or other contracting party, its employees, agents, and invitees, arising from the use or occupancy of the property, including claims and liability caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors unless caused solely by the acts or omission of the railroad that are willful, wanton, or grossly negligent.
 - d. Pollution legal liability insurance up to one million dollars, unless the lessee agrees to a greater amount, to cover liabilities arising from hazardous substances or bulk storage of petroleum products brought on the property, or released on or near the property, or violations of environmental laws, by the lessee, licensee, or other contracting party, its employees, agents, and invitees.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2405.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State