



LEE NERISON

96TH ASSEMBLY DISTRICT

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Serving Crawford, Monroe,

and Vernon Counties

Remarks of Representative Lee Nerison
on Assembly Bill 876
Assembly Committee on Criminal Justice and Public Safety
February 11, 2016

Chair Kleefisch and Committee Members:

Thank you for holding a hearing on Assembly Bill 876. This bill addresses a problem faced by hunters, anglers, trappers, and outdoor enthusiasts: it is currently illegal to cross a railroad track to access and enjoy our state's many public lands and waterways. It is a bi-partisan bill which has the support of conservation groups on both sides of the aisle.

The headline of a recent article, "Strict enforcement of trespass law by BNSF could put Wisconsin shoreline off limits" sums up the problem faced by my constituents and anyone who recreates along hundreds of miles of the Mississippi River. In order to reach many areas of the Mississippi, one must cross the railroad tracks; that action, unknown to most people, is illegal in Wisconsin and subject to a civil forfeiture.

Additionally, over 100 Department of Natural Resources properties are crossed by railroad tracks, effectively restricting access to public recreational areas throughout our state simply because one can't legally walk across the railroad tracks.

Until 2005 Act 179, it was not considered trespassing to directly walk across the tracks or right-of-way of any railroad. Assembly Bill 876 simply restores the law to what it was prior to 2005.

It is important to note this bill only allows a person to walk directly across a clear stretch of railroad track or railroad right-of-way. It would remain illegal to walk, loiter, or be upon the track; to cross through, around, over, or under any crossing gate or barrier; and to cross through, around, or climb over or under a railroad train or railroad track equipment.

Wisconsin has a rich tradition of outdoor recreation, reinforced by our state's constitutional guarantee of the right to hunt, fish, and trap. We are fortunate to have significant public properties for all to enjoy.

I have people come to my district from England to fly fish because they can't fish back home where a person has to be wealthy enough to own land. Think of the tourism dollars we lose if these folks realize it's no easier to fish here than it is back home. Think of the discouraging message we send successive generations of outdoor enthusiasts if they have to own land in order to develop their passion.

I appreciate your consideration of this bill which allows our constituents to freely enjoy our state's public recreational areas. We have the ability today to ensure that we encourage – not discourage – this tradition.



WISCONSIN WILDLIFE FEDERATION

1540 W. James Street, Columbus, WI 53925 • (920) 623-9975 • (800) 897-4161
www.wiwf.org

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920-623-9975
kim@wiwf.org

WWF Testimony in Support of AB 876

Chairman Kleefisch, Members of the Assembly Committee on Criminal Justice and Public Safety, thank you for the opportunity to testify today on behalf of the Wisconsin Wildlife Federation in strong support of Assembly Bill 876 which restores the right of hunters, anglers and trappers to directly cross railroad tracks for the purpose of hunting, fishing and trapping in Wisconsin. We would especially like to thank Representative Nerison for his introduction of AB 876. The Federation along with the La Crosse County Conservation Alliance has been working with Rep. Nerison for several months on this bill. The bill is very important to the 195 hunting, fishing and trapping clubs that are members of the Wisconsin Wildlife Federation.

The right of sportsmen and women to directly cross railroad tracks to pursue fish and game was removed by 2005 Wisconsin Act 179. I have attached the law before and after Act 179. This one line change was buried in a larger bill regulating railroads. There was no indication to legislators or hunters, anglers and trappers on the wide ranging implications of removing one line from the railroad statutes.

The significance of the change has become evident as a result of railroad enforcement of the trespass law on the railroad tracks that run along 230 miles of the Mississippi River. This has cut off thousands of hunters, anglers and trappers from traditional and safe direct crossings of the railroad tracks to hunt, fish and trap on the River. To any one's historical knowledge, there never has been an accident involving a hunter, angler and trapper crossing a railroad track in the State of Wisconsin.

Moreover, the Federation has been concerned about the full ramifications of the railroad trespass law throughout the state beyond the Mississippi River problem. So the Federation requested the Department of Natural Resources to compile a list of all DNR properties that have railroad tracks crossing their lands. I have attached the list sent to us by the DNR. There are 121 DNR properties that are bisected by railroad tracks including state wildlife areas, fishery areas, forests, natural areas, public accesses and state parks. It should also be noted that this does not include railroad crossings on Federal lands such as US Fish and Wildlife Service refuges and National Forests, county forest lands and scores of other public properties owned by local units of government.

Now let's look at the specific problems associated with hunting on DNR wildlife areas that have railroads crossing the property. Say you are deer hunting on such a property and shoot a deer. It takes off and runs a hundred yards but collapses on the other side of a railroad track.

Under current railroad trespass law you have to hike to the nearest public road and then hike back to where the deer lies. Attached is a map of the Navarino Wildlife Area. If you look at the area in the center of the property, I have noted a hunter on one side of the tracks and a dead deer on the other side of the tracks. Under current law, that hunter, in order to avoid violating the railroad trespass law, would have to make a minimum of a two mile hike to bag his or her deer which may have been only 50 yards away across the railroad track.

Another situation that can occur if you are pheasant hunting and your dog takes off across a railroad track. Once again you may have to hike out to the nearest road crossing and then hike back to retrieve your dog.

There is another serious problem caused by this law and that is that there are portions of DNR properties that are isolated from any lawful public access by railroad tracks. I have attached a map of the Swan Lake Wildlife Area in Columbia County. Towards the bottom I have circled an area of that wildlife area that is totally isolated from access by a railroad track and private property. Not only is the isolated area worthless for hunting, if your deer crosses the track it becomes very difficult if not impossible to retrieve it.

Here is another example of how the railroad trespass law adversely affects the public value of 121 DNR owned properties. Many of you have been to Devils Lake State Park. It is one of the two most popular Wisconsin state parks with over a million visitors each year. I have attached a map of that property. I have circled an area on the east shore of the lake in which a red line indicates a railroad line. Having visited that area scores of times, I am confident in saying that a minimum of 100,000 people a year cross that railroad track every year. I suspect that few of them understand that they are violating the railroad trespass law.

These are just some of the problems caused by the passage of 2005 Wisconsin Act 179. The Federation respectfully requests that you pass Assembly Bill 876. Please remember that there have been no reported accidents by hunters, anglers and trappers crossing railroad tracks in Wisconsin. Remember, to anyone's knowledge there has never been an accident involving a hunter, angler or trapper directly crossing a railroad track in Wisconsin

Submitted by George Meyer, Executive Director, Wisconsin Wildlife Federation
February 10, 2016

Recent History of Railroad Trespass Law

Wisconsin Statutes 2003

192.32 Trespassing on railroad.

(1) No person, other than a licensee, authorized newspaper reporter or person connected with or employed upon the railroad, may walk, loiter or be upon or along the track of any railroad. The provisions of this subsection shall not be construed to do any of the following:

(a) To interfere with the lawful use of a public highway by any person.

(b) To prevent any person from driving across any railroad from one part of that person's land to another part thereof.

(c) To prevent any person from walking directly across the tracks or right-of-way of any railroad.

(d) To interfere with the use of the right-of-way or track by any person in connection with, either directly or indirectly, the shipping, loading or unloading of freight, seeking employment, the investigation or securing of evidence with respect to any accident or wreck or in conducting or transacting any other business for or with the railroad.

(e) To interfere with the entry of any employee during or on account of labor disputes by employees.

192.32(2) (2) Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station.

2005 Act 179-----SECTION 29. 192.32 (1) (c) of the statutes is repealed

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List of DNR Properties Bisected by Railroad Tracks

ALLENTON WILDLIFE AREA
AMNICON FALLS STATE PARK
BEAVER BROOK WILDLIFE AREA
BEVERLY LAKE FISHERY AREA
BLACK EARTH CREEK FISHERY AREA
BLACK RIVER PUBLIC ACCESS
BLACK RIVER STATE FOREST
BOG BROOK WILDLIFE AREA
BOWLER STATION
BRILLION WILDLIFE AREA
BROWNTOWN-CADIZ SPRINGS STATE RECREATION AREA
BRULE RIVER STATE FOREST
BURLINGTON TO KANSASVILLE STATE TRAIL
C.D. (BUZZ) BESADNY FISH AND WILDLIFE AREA
CAPITOL SPRINGS CENTENNIAL STATE PARK AND RECREATION AREA
CASTLE MARSH FISHERY AREA
CENTRAL WISCONSIN GRASSLAND CONSERVATION AREA
CHEROKEE MARSH FISHERY AREA
CHIWAUKEE PRAIRIE-CAROL BEACH NATURAL AREA
COLLINS MARSH WILDLIFE AREA
COPPER FALLS STATE PARK
DARWIN ROAD FACILITY
DELLS OF THE WISCONSIN RIVER NATURAL AREA
DEVILS LAKE STATE PARK-IANSR
DOUGLAS COUNTY WILDLIFE AREA
DUNCAN CREEK FISHERY AREA
ELK CREEK FISHERY AREA
EVANSVILLE WILDLIFE AREA
EVERGREEN RIVER FISHERY AREA
EXTENSIVE WL HABITAT
F G WILSON STATE FOREST NURSERY
FOREST LEGACY PROGRAM
FOX RIVER PUBLIC ACCESS
GIFT LANDS
GLACIAL HABITAT RESTORATION
GLACIAL HERITAGE AREA RIVER-BASED CNSVN AREA - PUBLIC ACCESS

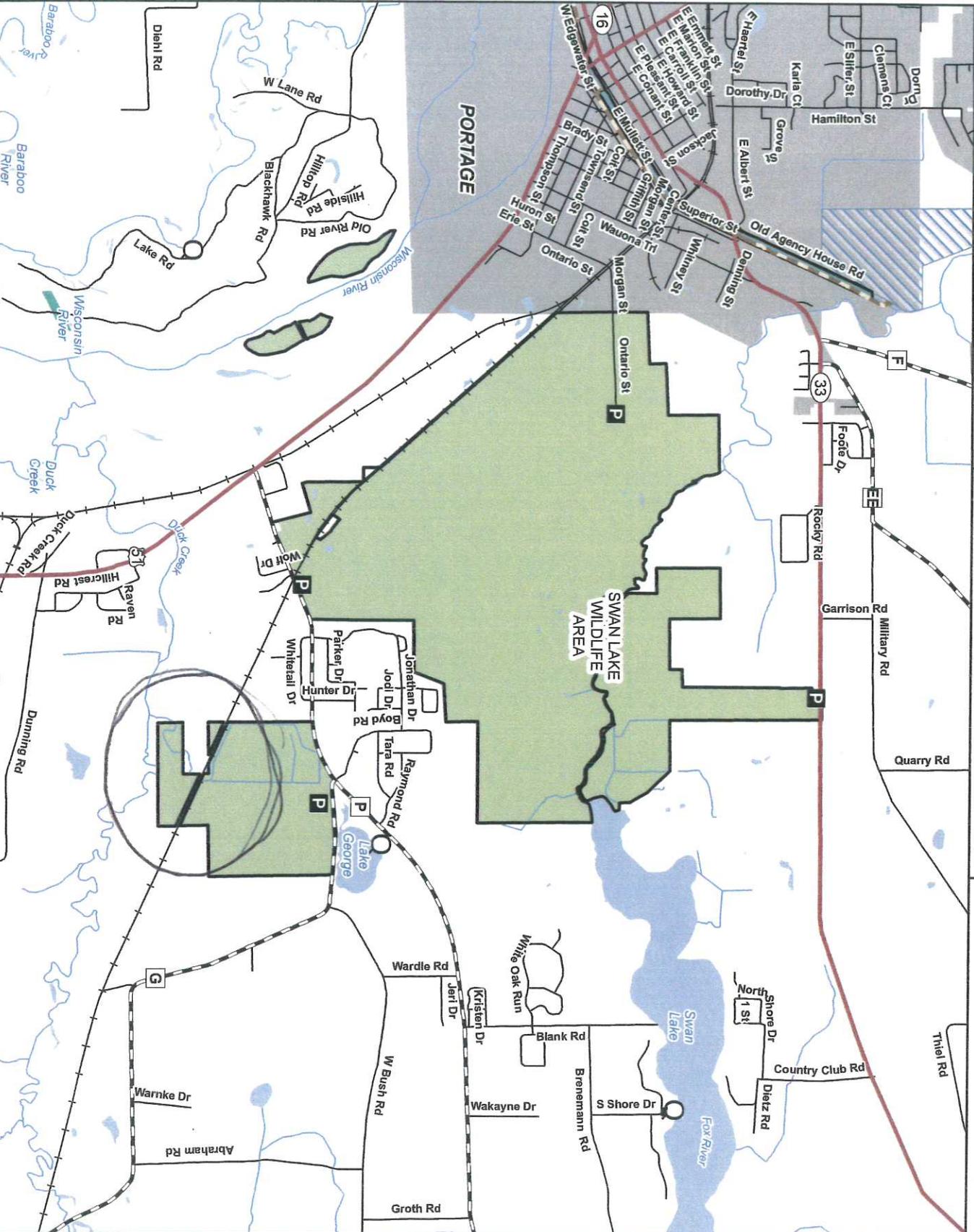
GORDONS BAY LANDING PUBLIC ACCESS
GREEN BAY WEST SHORES WILDLIFE AREA
HAVENWOODS FOREST PRESERVE AND NATURE CENTER
HAYWARD NURSERY
HERITAGE HILL STATE PARK
HONEY CREEK WILDLIFE AREA
HORICON WILDLIFE AREA
ICE AGE TRAIL
KETTLE MORaine STATE FOREST-SOUTHERN UNIT
KIEL MARSH WILDLIFE AREA
LA BUDDE CREEK FISHERY AREA
LACROSSE MARSH NATURAL RESOURCE
LAKE KEGONSA STATE PARK
LAKE PEPIN WILDLIFE AREA
LIMA MARSH - STORRS LAKE WILDLIFE AREA
LODI SPRING CREEK FISHERY AREA
LOWER WISCONSIN STATE RIVERWAY
LOWER WOLF RIVER BOTTOMLANDS NATURAL RESOURCE AREA
LUP GRANTS
MACK WILDLIFE AREA
MEAD WILDLIFE AREA
MENOMINEE RIVER STATE PARK & RECREATION AREA
MERRICK STATE PARK
MILL BLUFF STATE PARK-IANSR
NATURAL AREA - DEDICATION
NAVARINO WILDLIFE AREA
NELSON DEWEY STATE PARK
NEW AUBURN WILDLIFE AREA
NICOLET STATE TRAIL
NORTH BRANCH MILWAUKEE RIVER WILDLIFE AND FARM HERITAGE
AREA
NORTH COUNTRY NAT'L SCENIC TRAIL
OLYMPIC ICE RINK
PAUL OLSON WILDLIFE AREA
PERROT STATE PARK
PERSHING WILDLIFE AREA
PESHTIGO RIVER STATE FOREST
PIERCE CO ISLANDS WILDLIFE AREA
PIKE WILD RIVER
PINE ISLAND WILDLIFE AREA
RAT RIVER WILDLIFE AREA
REM-AREAS-MULLET RIVER
REM-BEAVER DAM LAKE
REM-ELK CREEK

REM-HAUER CREEK
REM-MISSISSIPPI RIVER PUBLIC ACC
REM-NAMEKAGON RIVER
REM-S BRANCH TREMPPEALEAU RIVER
REM-THORNAPPLE RIVER
RHINELANDER STATION
ROCKY ARBOR STATE PARK
ROWAN CREEK FISHERY AREA
RUSH CREEK NATURAL AREA
SANDHILL WILDLIFE AREA
SAUK PRAIRIE RECREATION AREA
SCATTERED FOREST LANDS
SCATTERED FOREST LANDS-ALL REGIONS
SCATTERED WILDLIFE
SHAW MARSH WILDLIFE AREA
ST CROIX ISLANDS WILDLIFE AREA
ST. LOUIS RIVER STREAM BANK AREA
STATEWIDE HABITAT AREAS
STATEWIDE NATURAL AREA
STATEWIDE PUBLIC ACCESS
STATEWIDE WILDLIFE HABITAT
STREAM BANK EASEMENT PROGRAM
STREAM BANK PROTECTION FEE PROGRAM
SWAN LAKE WILDLIFE AREA
TANK CREEK FISHERY AREA
THERESA WILDLIFE AREA
TIFFANY WILDLIFE AREA
TOMAHAWK HEADQUARTERS
TREMPEALEAU LAKES FISHERY AREA
TURTLE CREEK WILDLIFE AREA
UPPER FOX RIVER PUBLIC ACCESS
UPPER NEENAH FISHERY AREA
UPPER WAUBESA FISHERY AREA
UPPER WOLF RIVER FISHERY AREA
VERNON WILDLIFE AREA
WATERLOO - MUD LAKE WILDLIFE AREA
WAUSAUKEE STATION
WEIRGOR SPRINGS WILDLIFE AREA
WHALEN CREEK FISHERY AREA
WHITE RIVER WILDLIFE AREA-ASHLAND
WHITMAN DAM WILDLIFE AREA
WOLF RIVER FISHERY AREA
WYALUSING STATE PARK

SWAN LAKE WILDLIFE AREA
COLUMBIA COUNTY

PLEASE RESPECT LANDOWNERS' RIGHTS AND OBSERVE ALL PROPERTY POSTINGS
 See map legend for the activities allowed on the property or contact the DNR Service Center for more property information.

For more information:
 PROPERTY MANAGER
 C/O DNR
 N3344 STEBBINS RD
 POYNETTE, WI 53955-9708
 608-635-8123



- DNR Managed Land
- Open DNR Wildlife Land
- Other DNR Land
- Easement Use**
- Hunting and Fishing
- Fishing Only
- Hunting Only
- Open, No
- Hunting or Fishing
- Seasonally Closed
- Ice Age Trail
- State Trail
- Boat Access - Ramp
- Boat Access - Carry In
- Parking Area



The data shown on this map have been obtained from various sources, and are of varying age, reliability and resolution. This map is not intended to be used for navigation, nor is this map an authoritative source of information about legal land ownership or public access. Users of this map should confirm the ownership of land through other means in order to avoid trespassing. No warranty, expressed or implied, is made regarding accuracy, completeness, or legality of the information depicted on this map.

Wisconsin Department of Natural Resources

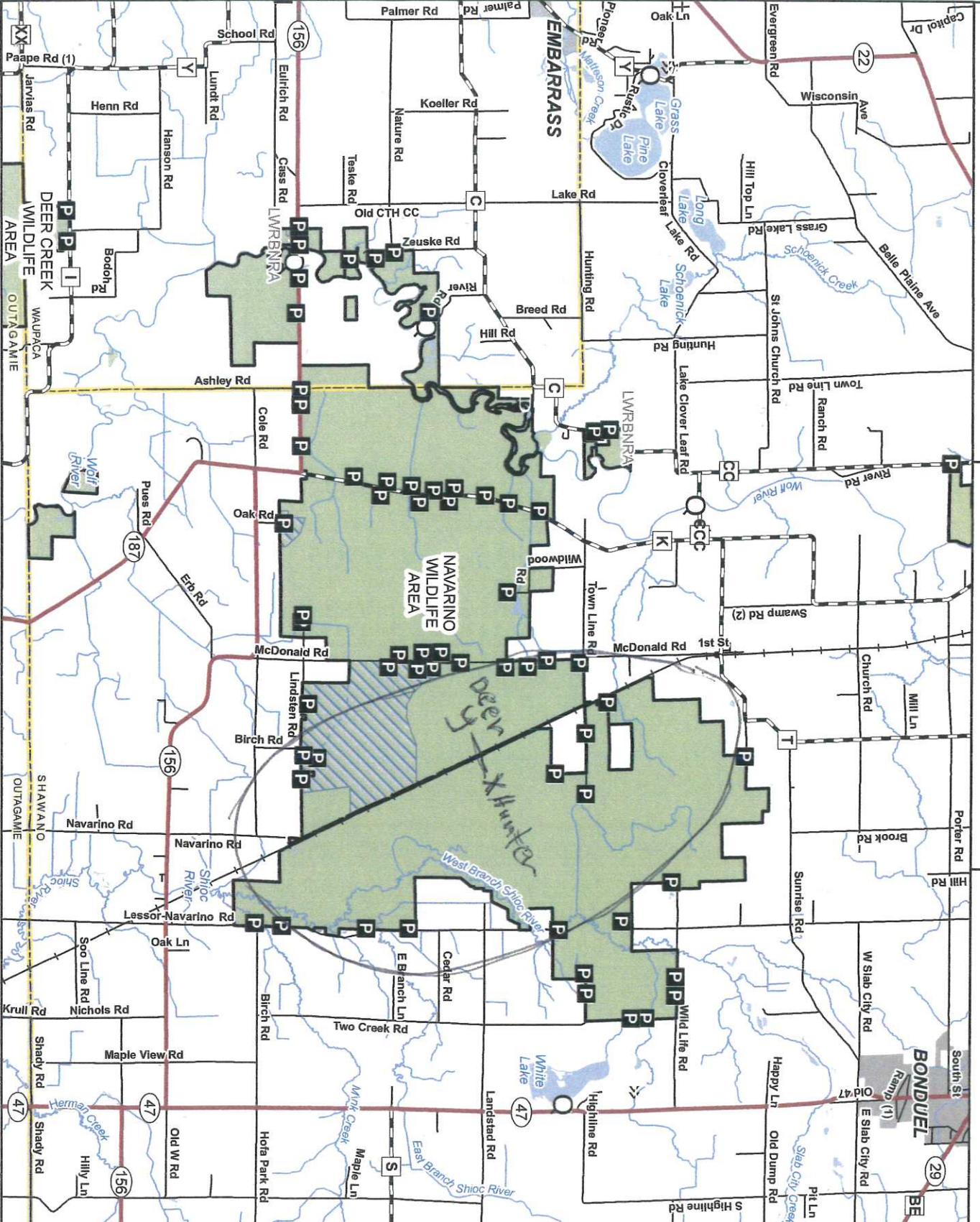


Featured property funded in part by Knowles-Nelson Stewardship Fund
 WMA-8630 kmh
 Last Revision Date: September 18, 2015
 dnr.wi.gov

**LOWER WOLF RIVER BOTTOMLANDS NRA
NAVARINO WILDLIFE AREA
SHAWANO & WAUPACA CO.**

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For more information:
**PROPERTY MANAGER
C/O SHAWANO RANGER STATION
647 LAKELAND RD.
SHAWANO, WI 54166
715-526-4226**



- DNR Managed Land
- Open DNR Wildlife Land
- Other DNR Land
- Easement Use**
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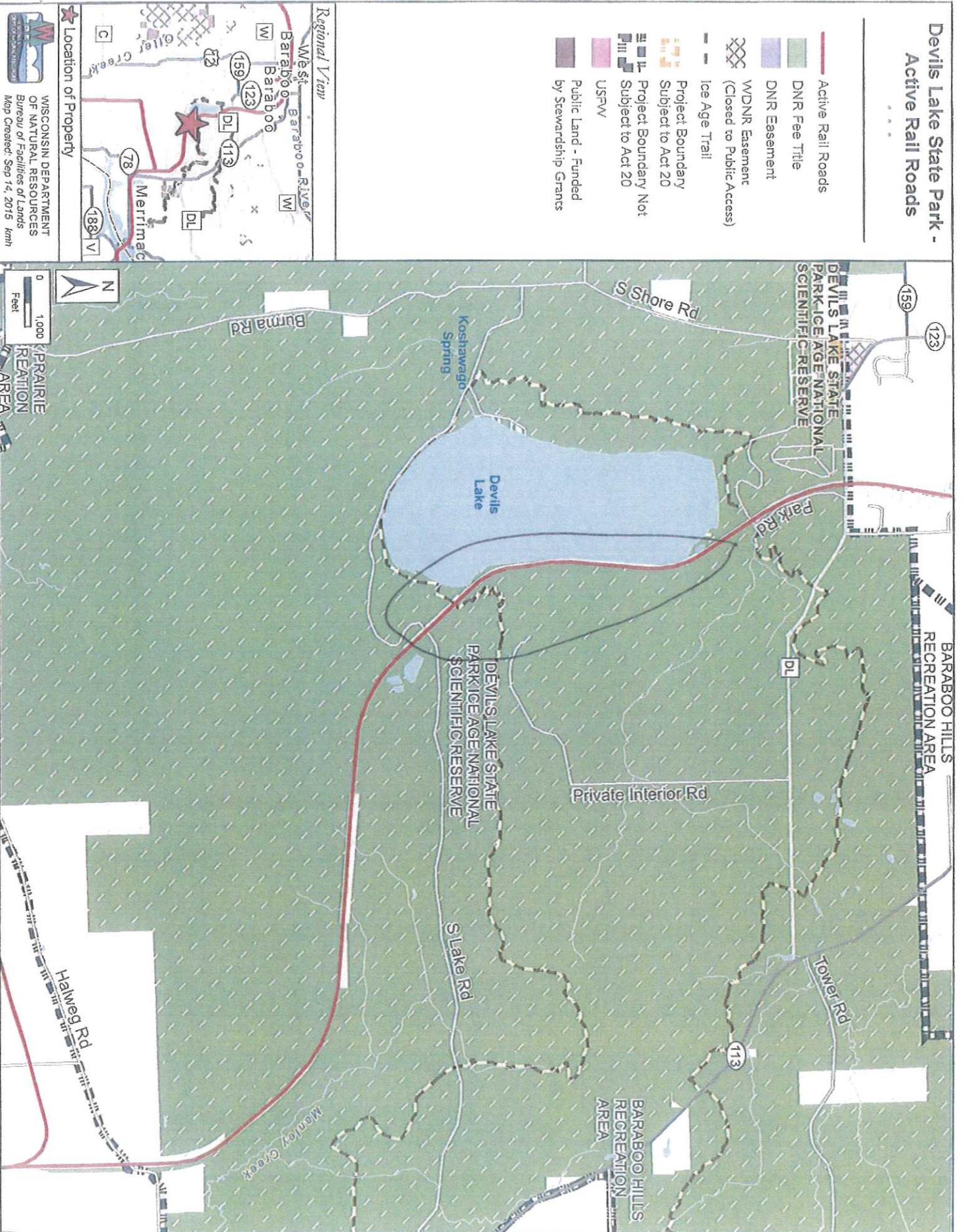
Wisconsin Department of Natural Resources



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WM-8110 1st
Last Revision Date: September 18, 2015
dnr.wi.gov

Devils Lake State Park - Active Rail Roads

-  Active Rail Roads
-  DNR Fee Title
-  DNR Easement
-  WDNR Easement (Closed to Public Access)
-  Ice Age Trail
-  Project Boundary Subject to Act 20
-  Project Boundary Not Subject to Act 20
-  USFWS
-  Public Land - Funded by Stewardship Grants



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Stay Off, Stay Away, Stay Alive

Walking or playing on railroad tracks or the right-of-way on either side of the tracks is trespassing. It is illegal and can be deadly.



FIND A SAFER PLACE

Railroad tracks, trestles, yards and equipment are private property. Never walk, jog, fish or hunt from railroad tracks. If you are found on this property, you can be arrested or fined.



CROSSBUCK SIGN

This sign tells you trains run at this location. Cross tracks at the crossbuck sign only, not anywhere along the tracks.



USE ONLY DESIGNATED CROSSINGS

The only legal and safe place to cross railroad tracks is at a designated public crossing with a crossbuck, flashing red lights or a gate. Crossing at any other location is illegal.



IF YOU SEE A TRAIN COMING, WAIT!

If you see flashing lights or a lowering gate, it means a train is approaching. Do not proceed until the gates go completely up and the lights go off. It is illegal to go around lowered gates.

Myths or Realities? Pedestrian Safety Around Tracks & Trains.

PROVIDED IN THE INTEREST OF SAFETY



Please help your family and friends make safe decisions around tracks and trains.

IF YOU SEE A PROBLEM AT A CROSSING

Report any problem - stalled vehicle on the tracks, damaged sign, obstructed view, signal malfunction - to the railroad immediately. Call the emergency notification number posted on or near the crossing, or notify local law enforcement.

SCHEDULE A PRESENTATION

It's FREE! Across the nation, certified Operation Lifesaver Presenters are available to speak to student drivers, professional truck and bus drivers, school bus operators, general motorists, law enforcement, emergency responders and community groups.

VOLUNTEER!

Would you like to help deliver Operation Lifesaver's safety message in your community? Find out about becoming trained as an Operation Lifesaver Presenter or Associate.

VISIT

Visit www.oli.org or call Operation Lifesaver, Inc., at 1-800-537-6224 to contact your State Coordinator.

1420 King Street, Suite 401
Alexandria, Virginia 22314-2750

TF 1-800-537-6224

PH 703-739-0308

FX 703-519-8267

W www.oli.org

HS709



**OPERATION
LIFESAVER®**



**OPERATION
LIFESAVER®**

How Well Can You Score for Safety?

Trains are part of everyday life. Don't be confused by people who tell you that rust on the tracks means they're out-of-use. They're made of steel—it rusts!

See if you can tell rusty myths from steely reality. Are you up to the challenge?

Answer these questions, true or false:



1. Walking on railroad tracks, or the rights-of-way on either side of them, is illegal.

TRUE. It can take a mile or more to stop a train. That's 18 football fields! Even if the locomotive engineer spots you ahead, he cannot swerve or stop the train in time to avoid a collision.



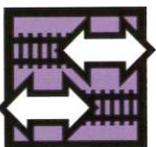
2. You will be safe if you do not walk between the rails.

FALSE. Trains overhang the tracks by at least 3 feet in both directions. Loose straps hanging from freight cars may extend much further.



3. It is safe to cross the tracks anywhere as long as you can see 1/4 mile in each direction.

FALSE. The only safe place to cross is at a designated public crossing with a crossbuck, flashing red lights or a



4. A locomotive is not always at the front of a train.

TRUE. Trains are sometimes pushed by locomotives instead of being pulled. Trains can move in either direction at any time—particularly commuter and light rail passenger trains.



5. It is safe to cross the tracks just as soon as the last car of a train passes the crossing.

FALSE. Your view of a second train might be blocked by the first. Wait after the first train passes until you can see clearly in both directions.



6. As a pedestrian, it is safe to ignore the flashing red lights at the crossing.

FALSE. Flashing red lights signal the approach of a train. Never walk past flashing lights or around lowered gates at a crossing. Wait until the lights have stopped flashing and the gate is up.



7. Trains are noisy. You will have plenty of time to step out of the train's path when you hear a train coming.

FALSE. Modern trains are quieter than ever, with no telltale "clickety-clack." An approaching train may be closer and moving faster than it appears.



8. Playing on rail equipment, tracks or railcars is forbidden.

TRUE. If you are in the rail yard or on railroad property uninvited, you are trespassing and subject to arrest and prosecution. Worse, you could lose your life.



9. Crossing tracks with a baby stroller, in a wheelchair, or on other narrow wheels requires caution and extra attention.

TRUE. Narrow wheels can get caught at crossings. If possible, walk - don't roll - across. If you are in a wheelchair, consider getting assistance. Always cross at a 90-degree angle.

Testimony on AB 876

Lee Fahrney
Wisconsin Conservation Congress

Good morning. I am Lee Fahrney, Public Relations Chair for the Wisconsin Conservation Congress. I'm speaking today on behalf of the 360 Conservation Congress delegates who voted unanimously at last year's state convention to support the legislation now before you. AB876 would restore access to public lands previously declared off limits by the perhaps well-intentioned but seriously flawed legislation that forbids them from crossing railroad tracks to hunt, fish, trap or enjoy other recreational pursuits.

Perhaps the most seriously affected area by this law occurs along the Mississippi River where access to some the best hunting, fishing and trapping areas in the state requires crossing the tracks. As a result of the restrictions wrought by this law, only boat landings or designated crossings are available, leaving vast areas inaccessible. An example of significant loss of access is the Black River Bottoms where hundreds of square miles of land that for many decades were traditionally open to recreation but are now inaccessible.

Also, the restrictions placed on access runs counter to efforts by the federal government to improve habitat along the Mississippi River. A multimillion dollar habitat improvement project near La Crosse offers improved shore fishing opportunities but is now negated by the current law.

One of the arguments heard by our delegates along the Mississippi corridor regards safety to the public. However, I recently heard from one of our long-time Congress delegates who has lived in La Crosse County for 40 years. He said the only deaths or injuries he is aware of are when people have been hit by trains while under the influence of alcohol or other drugs or in an attempt to commit suicide.

Another rationale we hear is that the railroad does not want to be held liable for any injuries or deaths incurred while crossing the tracks. But Wisconsin has one of the strongest hold harmless laws in the country such that if someone is injured or killed while on another's land with permission, the owner is not liable.

It remains clear that when this law was passed, the unintended consequence was to deny access to these public lands by thousands of Wisconsin citizens. It seems appropriate to rectify this situation and restore access that allows transportation to flow freely while keeping Wisconsin's sportsmen and women engaged in their favorite pastimes. It is time to reverse the loss of these outdoor opportunities and restore the rights of sportsmen and women to enjoy the great outdoors as they have for hundreds of years in Wisconsin.

Wisconsin Railroad Association

BNSF
CN
Canadian Pacific
WSOR/Watco

To: Assembly Committee on Criminal Justice and Public Safety

From: Peter Kammer

Date: 2/11/16

Re: Opposition to AB 876

Good morning Chairman Kleefisch and members of the committee. My name is Peter Kammer and I represent the Wisconsin Railroad Association. With me today are two members of the Railroad Association, Paul Nowicki from BNSF Railroad and Ken Lucht from Wisconsin & Southern Railroad.

We are here to testify in opposition to AB 876. I'll say a few words followed by my colleague and then we'd be happy to take any questions.

The language of AB 876 was rejected by the Governor in the most recent state budget debate. The Governor vetoed this language because it raised safety issues for the public. Safety is the primary reason, but not the only reason, we oppose this bill.

Trespassing along railroad rights-of-way is the leading cause of rail-related deaths in America. Nationally, more than 430 trespass fatalities and nearly as many injuries occur each year. The vast majority of these are preventable.

Railroad trespass fatalities are on the rise in Wisconsin and across the U.S. In 2014 trespass fatalities were at their highest level since 2003 in Wisconsin. Nationally death from pedestrian trespassing on railroads rose 21.8% in 2014 according to the Federal Railroad Administration.

To address this public safety issue Local, State, and Federal officials have invested time and money on programs to stop people from walking across railroad tracks outside of designated access points.

In Wisconsin the Walker Administration started Rail Safety Week (June 1-7, 2015). As part of that effort the Railroad Commissioner with the support of the DOT Secretary and local law enforcement held a weeklong public awareness campaign around the state to prevent pedestrian and trespass fatalities and fatalities at crossings.

Wisconsin Railroad Association

BNSF
CN
Canadian Pacific
WSOR/Watco

At the federal level, The Federal Railroad Administration (FRA) works in partnership with railroad industry and labor, state and local governments, and other organizations to sponsor, plan and conduct educational outreach efforts at schools, workplaces, and other venues, in order to raise awareness about the inherent dangers and consequences of trespassing.

The FRA does important work with *Operation Lifesaver* who I believe will testify here today.

Other federal agencies also track those who trespass on railroad right of ways. The Transportation Security Administration (TSA) and Department of Homeland Security (DHS) work in partnership with the rail industry to prevent and deter acts of terrorism using, or against the transportation system. In those efforts rail workers are required to report trespass incidents to the TSA which triggers an investigation.

Wisconsin is not unique in their railroad trespass law. Trespassing on private railroad property is illegal in 39 states. We believe rolling back our trespass law is a major step backwards when it comes to public safety.

While we understand the author has good intentions this change will impact the entire state, both rural and urban. It will allow people to cross single tracks and areas where there are multiple tracks with trains going in both directions. It will create additional liability for railroads when those trespassers get injured crossing the ballast, ties and embankments. It also creates opportunities for the many groups who protest crude by rail and other hazardous goods moved by rail.

Therefore the WI Railroad Association asks that you oppose AB 876.

Thank you.

<http://www.weau.com/home/headlines/Girl-dies-after-being-hit-by-train-312602031.html>

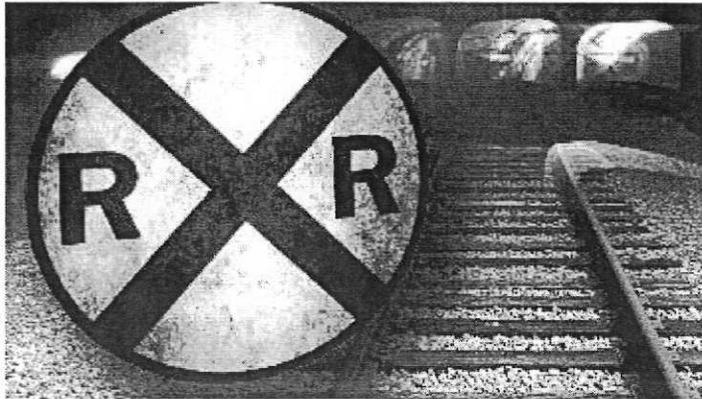
Teen killed in train accident identified

By: K.C. Brown, Nikki Junewicz Email

Updated: Wed 10:45 PM, Jul 08, 2015

By: K.C. Brown, Nikki Junewicz Email

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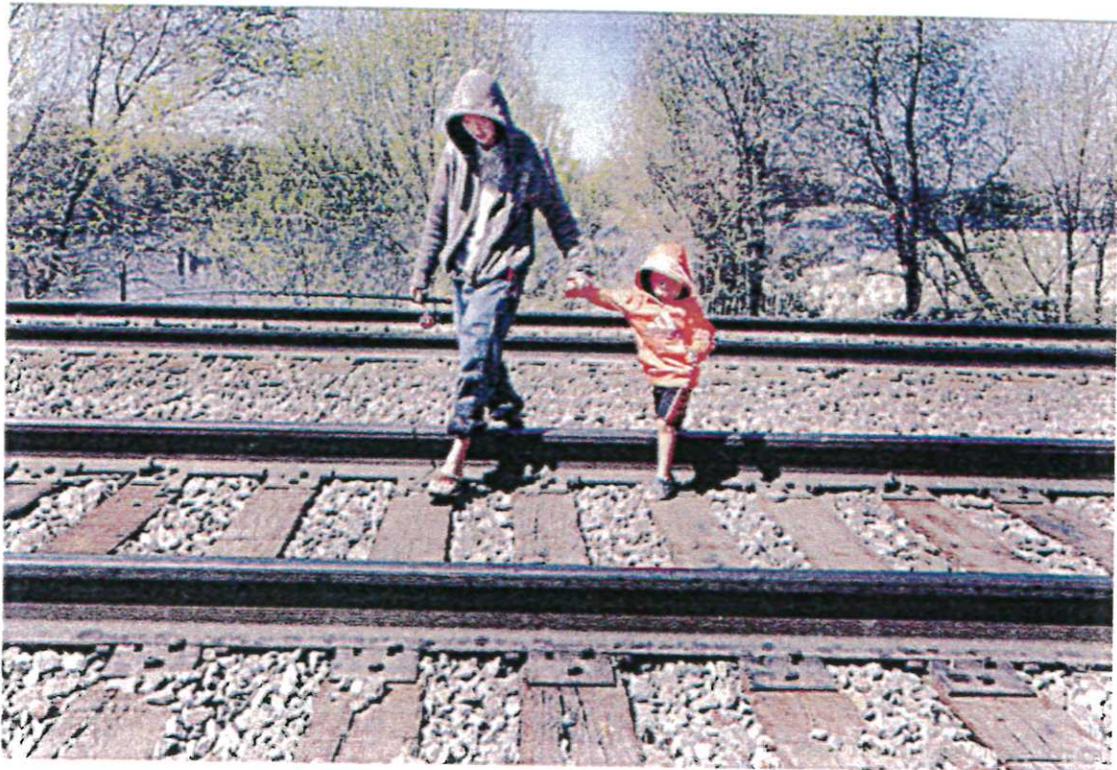
ALMA, Wis. (WEAU) -- Alma Police have identified the 18-year-old woman killed in a train accident as Ashley Symington.

It happened in Alma around 9 p.m. Tuesday. According to Alma police, she was with a group of teenagers while fishing near the tracks. A couple of the teenagers walked across the tracks toward the car. When they were walking back, the girl was on the tracks as the train came.

An ambulance took her to Alma High School to be airlifted, but she died before the helicopter arrived.

Crews investigating crash in Clark

<https://mail.google.com/mail/u/0/?ui=2&ik=ab8fad4517&view=pt&search=inbox&th=14e7...> 7/9/2015



Hmong Vue and his nephew Chance Lor, 3, cross railroad tracks near the spillway in Onalaska after fishing at the popular spot.

TRANSPORTATION DIVISION

To: Committee on Criminal Justice and Public Safety

From: Sheet Metal Air Rail and Transportation-Transportation Division (SMART-TD)

February 11, 2016

Re: AB 876

My name is Craig Peachy and I am a Federally Certified Trainman on the CN Railroad. I would like to thank this committee for the opportunity to testify on AB 876.

One of the most troubling safety problems for our members is trespass fatalities that arise from factors outside our member's control. Death from pedestrian trespassing on railroad tracks rose 21.8% across the U.S. in 2014 according to the Federal Railroad Administration Office of Safety and continues to rise.

An overlooked consequence of these gruesome incidents is the ripple effect on railroad workers, who become helpless participants in these deaths. Also, the police have the heartbreaking task of helping break the terrible news to loved ones. For our members involved in these fatalities, it happens quickly. More precisely, death on the railway occurs at the speed of a train hurtling down the track. What lasts far longer -- and for some, a lifetime -- is the lingering emotional effect of witnessing a fatality. For railroad workers, that horrifying sight is an inevitable part of the job. A stark chain of events takes place with each fatality. The engineer or conductor can be the last one to see someone alive. A conductor must then make the grim trip back down the track to confirm what happened.

Having personally witnessed four separate fatalities in my railroad career, I can testify that these fatalities are completely out of the train crew's control and these track deaths weigh heavily on the minds of employees. "There is just nothing train crews can do about it: It is a terrible tragedy when someone dies. But it affects a lot of other people, too. There's a serious emotional impact with just one incident, it is even more difficult to deal with a number of these situations. Witnessing these fatalities is a lot for people to handle. Engineers and conductors on railroads sometimes have walked away from the job. They decide, they can't handle this type of work anymore or just can't live with it, and it's unfortunate.

PAGE TWO

February 11, 2016

For years, state, local, labor and private groups have been working to address this public safety concern. In 2013-WISCONSIN ACT 219- relating to: pedestrians crossing railroad tracks and providing a penalty was signed into law and one example of those efforts.

The Federal Railroad Administration, the Wisconsin Office of the Commissioner of Railroads, the Wisconsin Department of Transportation, freight railroads, state and local law enforcement, and groups like Operation Life Saver invest heavily in public outreach to encourage Wisconsinites to make safe decisions around tracks and trains.

The WI Office of the Commissioner of Railroads has jurisdiction to approve public railroad crossings where needed and Administrative Rules that governs those procedures. Railroads can also enter into agreements to create private crossings. Taking away private property rights when solutions already exist is an inappropriate and extreme measure.

Train speeds and longer trains have increased across hundreds of railroad miles carrying more dangerous carloads. When a train crew is forced to apply the emergency brakes after hitting or avoid hitting pedestrians the slack action in the train could cause the train to derail, putting the public and our member's safety at risk.

Trespassing on private railroad property is illegal in 39 states and the District of Columbia. Despite these laws, trespass is the leading cause of rail-related deaths in America. These laws are in place because the railroad-operating environment is hazardous for our members and the general public. Many railroad-trespassing accidents are avoidable and preventable when individuals follow safe crossing guidelines, obey current laws and cross tracks ONLY at designated pedestrian or roadway crossings.

Railroad employees are required to report any person on railroad right of ways that is not wearing a railroad approved reflectorized safety vest. This requires law enforcement to investigate.

Repealing or relaxing Wisconsin's railroad trespass law will put the safety of Wisconsin citizens and our members at risk and is the wrong message to send. Any legislative effort to roll-back the current railroad trespass law will undermine all our ongoing safety efforts in Wisconsin and we urge the legislature to oppose AB 876.

Attachments:

[Reasons Pedestrians Get Hit By Trains](#)

[Railroad Trespass Fact Sheet](#)

[Railroad General Security Awareness Rules](#)

[Railroad Trespassing-Homeland Security](#)

[Rail Fan Tips and Security Advisory](#)

[Trespass Enforcement through Aviation-TEA](#)

[Preliminary Region 4 Highway-Rail Statistics](#)

Railroad Trespassing-AB 876

1. Will allow citizens (adults & children) to cross multiple tracks/yards.
2. The security of railroad property is a high priority. Employees are required to report all trespassers to Supervisors or local Police/Risk Management Offices. This can be an added expense to a police force and distraction of normal police duties.
3. As a general practice, railroad employees and authorized persons to be on railroads right of way wear reflectorized safety vest and hard hats. This is usually the ONLY way to identify if a person is a trespasser.

REASONS PEDESTRIANS GET HIT BY TRAINS

1. Trains can't stop quickly to avoid people or vehicles on the tracks.
2. An optical illusion makes it hard to determine a train's distance from you - and its speed.
3. The average train overhangs the track by at least three feet.
4. Railroad tracks, trestles, yards and rights-of-way are private property.
5. No tracks should be assumed to be abandoned or inactive.
6. People in your community mimic your behavior.
7. Trains can move in either direction at any time. Trains are sometimes pushed by locomotives instead of being pulled. This is especially true in commuter and light rail passenger service.
8. Modern trains are quieter than ever, with no telltale "clackety-clack." Also, an approaching train will always be closer and moving faster than you think.
9. Cross tracks ONLY at designated pedestrian or roadway crossings. Observe and obey all warning signs and signals.
10. Never walk down a train track; it's illegal and it's dangerous. By the time a locomotive engineer can see a trespasser or a vehicle on the tracks, it is too late. The train cannot stop quickly enough to avoid a collision.

Railroad Trespass Fact Sheet

Reject the Wisconsin Legislature's attempt to roll-back the railroad trespass law!

- **Allowing Railroad Trespass is Contrary to Governor Walker's Rail Safety Efforts:** Governor Scott Walker recently proclaimed June 1 to 7, 2015 as Rail Safety Week in Wisconsin. The proclamation emphasized the importance of preventing pedestrian/trespasser fatalities and highway/railroad grade crossing crashes. Wisconsin Railroad Commissioner Jeff Plale and Wisconsin Department of Transportation (WisDOT) Secretary Mark Gottlieb were joined by law enforcement officials, representatives from the Federal Rail Administration, employees and managers from Wisconsin railroads and community leaders in this weeklong public awareness effort around the state.
[WisDOT Wisconsin Rail Safety Week press release](#)
- **Allowing Railroad Trespass is Contrary to Federal Rail Safety Efforts:** The Federal Railroad Administration (FRA) works in partnership with railroad industry and labor, state and local governments, and other organizations to sponsor, plan and conduct educational outreach efforts at schools, workplaces, and other venues, in order to raise awareness about the inherent dangers and consequences of trespassing.
<https://www.fra.dot.gov/Page/PO617>
- **Allowing Trespass Undermines Homeland Security Efforts:** The Transportation Security Administration (TSA) and Department of Homeland Security (DHS) work in partnership with the rail industry to prevent and deter acts of terrorism using, or against the transportation system. Terrorists may use attacks to directly disrupt the freight rail transportation system or use the cargo transported by a railroad to carry out larger attacks against the American people. Railroad employees are trained to keep security of railroad property a high priority with particular attention to bridges, tunnels, fuel storage facilities, yards with high volumes of hazardous material shipments, dispatching centers, and communication and signal equipment. Allowing the public to trespass in these sensitive areas runs counter to current Homeland Security efforts. For more info see: <http://www.tsa.gov/stakeholders/freight-rail>
- **Trespass Fatalities on the Rise:** Railroad trespass fatalities are on the rise in Wisconsin and across the U.S. In 2014 trespass fatalities were at their highest level since 2003 in Wisconsin. Nationally death from pedestrian trespassing on railroads rose 21.8% in 2014 according to the Federal Railroad Administration.

- **Train/Trespasser Fatalities Outpace Train/Vehicle Fatalities:** According to the Federal Railroad Administration during the past decade, pedestrian fatalities, injuries and incidents with trains exceeded motor vehicle driver fatalities and injuries with trains. Trespassing along railroad rights-of-way is the leading cause of rail-related deaths in America. Nationally, more than 430 trespass fatalities and nearly as many injuries occur each year. The vast majority of these are preventable.
- **A Process Already Exists in WI for Public Access:** The Wisconsin Office of the Commissioner of Railroads has jurisdiction to approve public railroad crossings. Administrative rules (Wis. Admin. Code Chapter RR 1) govern the procedure. Railroads can also enter into agreements to create private crossings.
- **Railroad Trespass is Illegal in Most States:** Trespassing on private railroad property is illegal in 39 states and the District of Columbia. Offenders include: school students using the tracks as a shortcut; recreational users; homeless persons; persons using or selling drugs; suicide; and of significant concern are persons engaged in a homeland security threat.
- **Don't Open the Door to Economic Disruption:** Freight railroads serve nearly every industrial, wholesale, retail, and resource-based sector of the U.S. economy, and are responsible for transporting a majority of goods and commodities that Americans depend on daily. Since other sectors rely on railroads as a primary transportation provider, disruptions to the rail network from trespassers/protesters will have an adverse impact on the state and national economy. The latest effort by protesters to disrupt trains carrying crude oil is planned for Watertown, WI on July 11th.
https://actionnetwork.org/event_campaigns/stop-oil-trains-week-of-action-2015
- **Trespass Law Helps First Responders/Local Law Enforcement:** Whether they are preventing a fatality, serious injury, criminal activity or suicide, law enforcement and first responders rely on a clear no-trespass policy on railroad rights-of-way to improve public safety. They've worked closely with communities and groups like Operation Lifesaver over the years to educate the public and uphold the trespass law.



GENERAL SECURITY AWARENESS

GENERAL SECURITY AWARENESS

All employees must immediately report to their respective Operations Center or CN Police Communication Center, any security concern or incident, criminal activity, suspicious person(s), or any other possible security threats on or near CN property. You should also be alert for signs of theft or vandalism of critical safety devices.

CN Police Communication Center

1-800-465-9239

Employees having general inquiries regarding security matters on CN property are encouraged to call their respective Supervisor or local Police/Risk Management Office.

It is important that each employee be aware of their surroundings at all times, complying with rules, instructions, and conducting thorough job briefings.

Trespassers are not to be tolerated on CN property. There is no typical trespasser. They come in all ages. They may be taking a shortcut, walking a dog, or preparing to commit a crime. Be aware of those that appear to be lost, or look out of place, and not dressed like a railroader. Be especially aware of those people that ask questions about the railroad or its operations. Take notice of those that ask about times and routes of trains, movements involving hazardous material and military shipments, along with people who wish to know locations of offices, such as dispatch centers.

Do not take risks. Observe the trespasser from a safe distance, and warn the trespasser to leave CN property. Do not ignore a trespasser, nor accept their presence. Never physically remove a trespasser, or make physical contact with him or her. Be polite, but firm with your directive to leave the property. Do not argue with the trespasser. Local Police, or the CN Police Communication Center, must be called to report, and remove, any uncooperative or suspicious trespasser from CN property.

The security of railroad property is a high priority. Particular attention should be given to bridges, tunnels, fuel storage facilities, yards with high volume of hazardous material shipments, dispatching centers, communication & signal equipment.

Ensure that locomotives and trains are secured. Check to ensure switches are locked, where required, and properly lined. Pay close attention to derails, and lock all company vehicles when not in use. Lock down your computer when not in use, and never share your User I.D., and password.

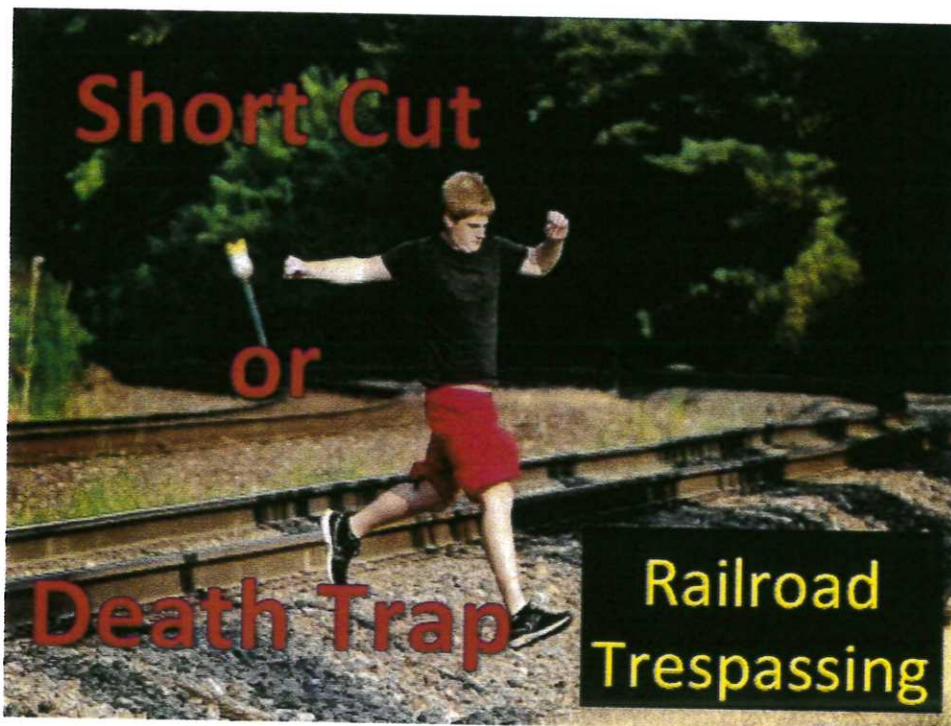
Protect your company equipment. Lock up all materials. Increase your scrutiny of railcars, looking for unusual items mounted on, or under, cars. Report unusual conditions to your supervisor.

Always check credentials if you see an unfamiliar face, particularly from those who claim to work for a government agency.

If there are any questions, notify your supervisor, local Police/Risk Management Office, or

CN Police Communication Center at 1-800-465-9239.

Railroad Trespassing—Homeland Security



Per the Federal Railroad Administration (FRA)—an average of 500 people are killed in railroad-trespasser incidents each year. Between 2005 and 2010, there were approximately 2,800 trespasser fatalities.

Rail trespassers are most often pedestrians walking across or along railroad tracks as a shortcut. The railroad industry identifies these people as trespassers as they are on railroad property illegally.

In just the Washington DC, Maryland, Virginia area 107 people have been killed or injured in the last 3 years

This problem effect all areas of the country—The FRA Trespassers map can be used to search by lat and long (GPS) as well as region/state/county.

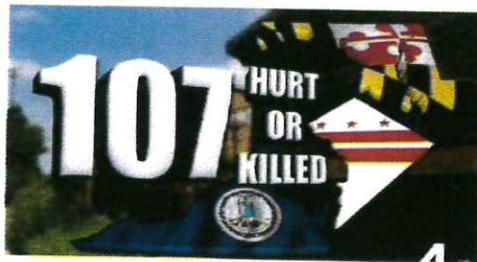
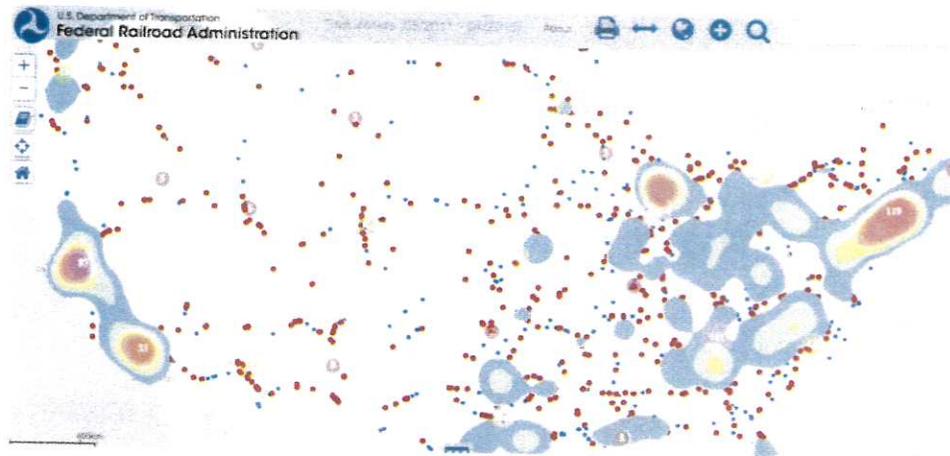


Image from NBC4



In 2014 California ranked the highest with 145 total trespassing events—93 resulting in deaths and 52 in injuries. (According to Operation Lifesaver)

A study commissioned by the FRA shows that rail trespassers who die are, on average, White males who are possibly intoxicated, with a mean age of 38, and with low socioeconomic status. This study analyzed medical examiner data from 2005 to 2010 to build a demographic data set on trespassers.

Stopping / Preventing

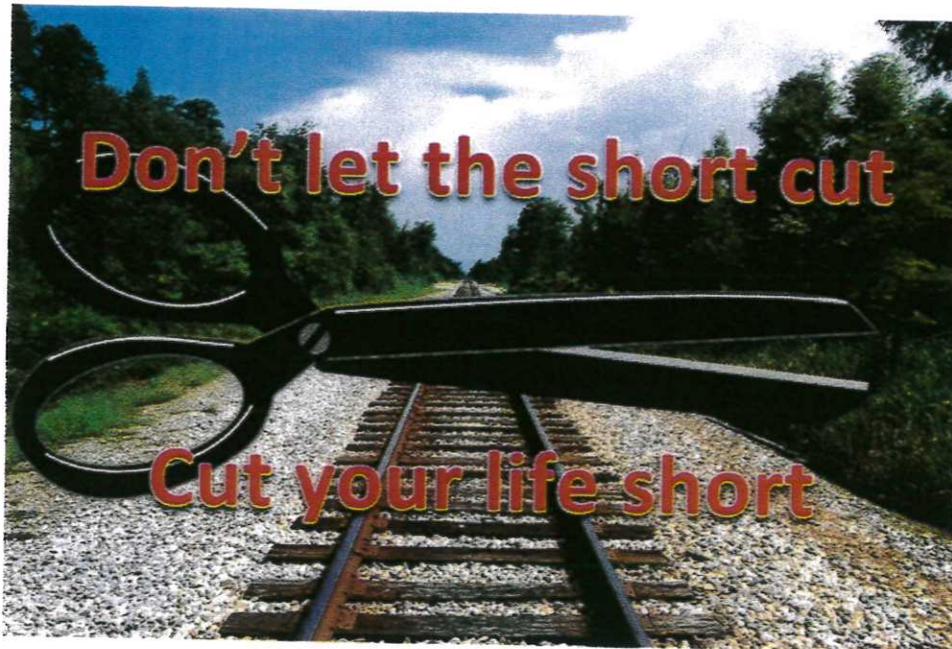
The FRA and the railroads perform an enormous amount of outreach as part of prevention and education campaigns combined with engineering and enforcement

Engineering—Improving barriers and building overpasses.

Education—School-based education, public service announcements, signs, and pamphlets.

Enforcement—Patrols, fines, and legislative efforts

So if you live near railroad tracks—If you have family that does—Do you / Do they take a short cut across or along the tracks.



Brought to you by Everyday Security

RAIL FAN TIPS AND SECURITY ADVISORY

Rail fans display a great interest in the overall operation of trains and locomotives. They enjoy taking pictures, making videos or just watching railroad operations. However, such recreational activities and hobbies often occur near vital infrastructure and pose significant security concerns. Today, the rail fan's first responsibility must be safety and security.

In the aftermath of September 11, 2001, the rules of behavior for rail enthusiasts have changed. A new Transportation Security Administration (TSA) has been created to protect the nation's transportation system and its infrastructure in order to ensure the free movement of people and commerce throughout North America. TSA is working closely with the U.S. Department of Transportation, the Association of American Railroads, Operation Lifesaver, railroad police and local law enforcement to protect the nation's rail transportation system.

TSA and its partners urge rail fans to adhere to the following guidelines:

- Do not trespass on railroad property or rights-of-way – it is illegal and dangerous, and will be viewed by law enforcement as a security risk. Remember, railroad property may extend 200 feet on either side of the tracks.
- Do not enter private property without permission.
- Avoid taking pictures of military trains and equipment.
- Never walk out on a railroad bridge or trestle.
- Stay out of railroad tunnels.
- Do not climb on railroad property such as signal bridges, cabinets or other structures.
- Never climb on or crawl under railroad cars or equipment.
- Only take photographs or view trains from public locations.
- When taking pictures from public railroad crossings, stay at least 15 feet away from the nearest rail. This rule applies for staged "photo run-bys" as well.
- Obey all highway-rail grade crossing signs and signals.
- Cooperate fully with railroad police or other law enforcement officers when contacted.
- If suspicious activities are noted, report it to railroad or local law enforcement officers. **DO NOT TAKE ANY FURTHER ACTION!**

By following these guidelines, rail fans can enjoy their hobby and help maintain the security of our nation's rail transportation system.

more tips on other side

Set an Example for Rail Safety and Security!

Nearly 1,000 people die each year because they do not understand railroads. They underestimate the power of trains and the dangers around the rails. Operation Lifesaver, a non-profit, national public education program for rail safety asks you to "walk the talk" when it comes to safe behavior around tracks and trains.

People, especially children, learn more from what you DO than what you SAY, especially when they know you are a rail fan.

- Remember, most people do not understand that walking or playing on railroad property is trespassing; It is illegal. It can be deadly. Moreover, law enforcement considers it a serious security risk.
- If you're a railroad photographer, give the crew a break! They have seen too much tragedy and too many close calls already. Please photograph trains from public property only.
- For your own safety, please stand back at least 15 feet from the nearest rail when filming at a public railroad crossing.
- You know not to walk across a railroad trestle or into a railroad tunnel. The danger is too great. If your photographs suggest otherwise, you are leading other people into harm's way. Think about it.
- Resist the temptation to walk down the middle of railroad tracks, even at a rail museum where trains are not moving. Impressionable children may be tempted to copy your behavior on the railroad tracks near home.
- What is your message when you pose small children on railroad tracks or equipment for family photos? Are you misleading them to believe it is OK to climb on railcars parked on a siding in your community?
- Would you like to help deliver Operation Lifesaver's safety messages to driver education students, school bus drivers, professional truckers or others in your community? Volunteer to become a trained Operation Lifesaver Presenter today!

For more information or to volunteer: Visit the Operation Lifesaver, Inc. (OLI) website at www.oli.org, and click on "Contact Us", or call 1-800-537-6224.

Look, Listen and Live!

OPERATION LIFESAVER, INC.
1420 King Street, Suite 401
Alexandria, VA 22314-2750
1-800-537-6224 703-739-0308
Fax: 703-519-8267
www.oli.org



TEA

TRESPASS ENFORCEMENT through AVIATION ON RAILROAD RIGHTS-OF-WAY (SAFETY & HOMELAND SECURITY)

PROBLEM IDENTIFICATION

Ohio Operation Lifesaver, a public safety education organization noted during the past decade, pedestrian fatalities, injuries and incidents with trains exceed motor vehicle driver fatalities and injuries with trains. Being on railroad property other than approved public crossings or expressed permission is criminal trespassing. Offenders include: school students using the tracks as a shortcut, recreational users, hunters, fishermen, and homeless persons, persons using or selling drugs, suicide and of significant concern persons engaged in a homeland security threat.

Fatalities and life threatening injuries have occurred by attempting to cross through or under rail cars, trapped on trestles or in tunnels on the approach of a train, high voltage and propane gas locations, stone ballast and other hazards associated with railroad equipment. Persons who pose a homeland security threat are also aware of the many resources associated with the rail transportation system.

Trespass enforcement is difficult because, location may not be accessible, offenders left scene prior to arrival, railroad police geographically too far to respond, and other calls for law enforcement service preclude responding.

CREATIVE ENFORCEMENT CONCEPT

The Ohio State Highway Patrol when weather is flyable dispatches aircraft to a variety of Ohio locations piloted by a Trooper. Some of the larger metropolitan law enforcement agencies also routinely utilize aircraft. In the course of flying, these law enforcement pilots fly over many railroad tracks. From the air, pilots have a unique opportunity to observe trespassers using the railroad rights-of-way. The concept is Observe, Report & Respond. The pilot observes the trespasser, and then communicates via radio with the appropriate law enforcement jurisdiction. The key element to the concept is the availability of the law enforcement jurisdiction to respond. Upon response to the offender's locations, law enforcement officers based on their policies and procedures may elect to arrest, cite or eject the offenders.

IDENTIFYING TRESPASSERS

For aerial surveillance, as a general practice, railroad employees and authorized persons to be on the railroad rights-of-way wear hard hats and/or reflective safety vests. If these items are missing, then it's likely the persons are trespassing. Pilots can easily determine if persons are wearing reflective vests and or hard hats.

SOUND PUBLIC POLICY/COST EFFECTIVENESS

First and foremost, no added expenditures to aviation pilots to initiate communications to law enforcement jurisdictions. The affected law enforcement jurisdiction responds if available to an actual incident is in progress. That response falls in the purview of responsible use of tax dollars and police resources. The responding officers not only may be preventing a fatality, serious injury or suicide, but equally important in today's climate a potential homeland security threat. Implementing this Observe, Report and Response policy is sound public policy for the Citizens we serve.

**PRELIMINARY
REGION 4 HIGHWAY-RAIL STATISTICS**

		January – November 2015 (Preliminary)										January – November 2014 (Preliminary)					
State	Hwy Rail Collisions		Hwy Rail Fatalities		Hwy Rail Injuries		Trespass Fatality	Trespass Injuries	Hwy Rail Collisions		Hwy Rail Fatalities		Hwy Rail Injuries		Trespass Fatality	Trespass Injuries	
	Pub	Pvt	Pub	Pvt	Pub	Pvt			Pub	Pvt	Pub	Pvt	Pub	Pvt			
<i>Illinois</i>	106	18	19	0	66	4	19	17	99	21	18	2	42	6	26	19	
<i>Indiana</i>	112	3	11	0	37	0	13	13	108	4	10	0	47	2	9	11	
<i>Mich.</i>	48	2	3	0	10	0	3	2	65	8	10	2	24	1	3	2	
<i>Minn.</i>	30	5	4	0	18	0	1	4	48	8	7	0	24	1	4	5	
<i>Wisc.</i>	26	1	1	0	9	0	9	3	45	4	8	1	15	1	4	2	
R. 4 Total	322	29	38	0	140	4	45	39	365	45	53	5	152	11	46	39	
Nation Total	1631	267	190	27	820	81	475	374	1792	293	213	25	684	114	449	390	

Source: Region 4 Federal Railroad Administration

PRELIMINARY
Region 4 HIGHWAY-RAIL Statistics - Type of Vehicle at Public and Private Crossings
(January - November)

STATE	AUTO-MOBILE	PICK-UP TRUCK	TRUCK TRAILER	TRUCK	PED	VAN	OTHER MOTOR	OTHER	MOTOR CYCLE	BUS	SCHOOL BUS	TOTAL	% Change
ILLINOIS													
Jan-Nov 2015	44	11	23	4	21	6	11	3	1	0	0	124	3.33%
Jan-Nov 2014	60	8	15	6	13	5	7	6	0	0	0	120	
INDIANA													
Jan-Nov 2015	60	14	13	9	6	3	6	3	1	0	0	115	2.68%
Jan-Nov 2014	67	11	12	5	4	4	3	6	0	0	0	112	
MICHIGAN													
Jan-Nov 2015	27	7	3	5	3	3	1	1	0	0	0	50	-31.51%
Jan-Nov 2014	32	10	7	6	7	4	4	2	1	0	0	73	
MINNESOTA													
Jan-Nov 2015	10	4	10	3	2	0	5	1	0	0	0	35	-37.50%
Jan-Nov 2014	26	4	10	3	3	4	6	0	0	0	0	56	
WISCONSIN													
Jan-Nov 2015	17	2	2	3	1	0	2	0	0	0	0	27	-44.90%
Jan-Nov 2014	23	7	3	7	6	0	2	1	0	0	0	49	
REGION 4 TOTALS													
Jan-Nov 2015	158	38	51	24	33	12	25	8	2	0	0	351	-14.39%
Jan-Nov 2014	208	40	47	27	33	17	22	15	1	0	0	410	
NATIONAL TOTALS													
Jan-Nov 2015	853	237	298	134	145	59	106	55	8	2	1	1898	-8.97%
Jan-Nov 2014	942	253	356	163	146	58	98	60	8	1	0	2085	

REGION - 4
JANUARY - NOVEMBER
2015 - 2014
COMPARISION

States	Hwy/Rail Collisions		Hwy/Rail Fatalities		Hwy/Rail Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
Illinois								
2014	99	21	18	2	42	6	26	19
2015	106	18	19	0	66	4	19	17
% Change	7.07%	-14.29%	5.56%	-100.00%	57.14%	-33.33%	-26.92%	-10.53%

Indiana	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	108	4	10	0	47	2	9	11
2015	112	3	11	0	37	0	13	13
& Change	3.70%	-25.00%	10.00%	0.00%	-21.28%	-100.00%	44.44%	18.18%

Michigan	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	65	8	10	2	24	1	3	2
2015	48	2	3	0	10	0	3	2
% Change	-26.15%	-75.00%	-70.00%	-100.00%	-58.33%	-100.00%	0.00%	0.00%

Minnesota	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	48	8	7	0	24	1	4	5
2015	30	5	4	0	18	0	1	4
% change	-37.50%	-37.50%	-42.86%	0.00%	-25.00%	-100.00%	-75.00%	-20.00%

Wisconsin	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	45	4	8	1	15	1	4	2
2015	26	1	1	0	9	0	9	3
% Change	-42.22%	-75.00%	-87.50%	-100.00%	-40.00%	-100.00%	125.00%	50.00%

R-4 Total	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	365	45	53	5	152	11	46	39
2015	322	29	38	0	140	4	45	39
% Change	-11.78%	-35.56%	-28.30%	-100.00%	-7.89%	-63.64%	-2.17%	0.00%

National Total	Collisions		Fatalities		Injuries		Trespass	
	Public	Private	Public	Private	Public	Private	Fatality	Injuries
2014	1,792	293	213	25	684	114	449	390
2015	1,631	267	190	27	820	81	475	374
% Change	-8.98%	-8.87%	-10.80%	8.00%	19.88%	-28.95%	5.79%	-4.10%

To: Committee on Criminal Justice and Public Safety

From: Larry Markow, Vice Chairman, Wisconsin Operation Lifesaver

February 11, 2016

Re: AB 876

My name is Larry Markow and I am the Vice Chairman of Wisconsin Operation Lifesaver. I would like to thank this committee for the opportunity to testify on AB 876.

Operation Lifesaver is a public rail safety education program where I am an authorized volunteer. I give railroad safety presentations to Drivers Ed classes, Firemen, Police Officers, Bus drivers, kids from Kindergarten through High school and the general public. As a retired law enforcement officer with 25 years of service and a recently retired railroad conductor of 15 years with the Union Pacific Railroad, I find it necessary to express my opposition to AB 876.

Operation Lifesaver was established to end collisions, deaths and injuries at highway-rail grade crossings and on railroad rights-of-way. A good portion of the presentations are directed to prevent pedestrian and trespass injuries and fatalities. We have noted a reduction of car vs. train collisions through the efforts of the Operation Lifesaver program, but the number of pedestrian and trespasser incidents have unfortunately risen.

Operation Lifesaver's message provided in pamphlets, videos, power point and public media regarding trespassing, states that it is dangerous and illegal. The language in this bill essentially negates our safety message, which says: "Stay Off! Stay Away! Stay Alive!". AB 876 will allow persons to cross railroad tracks at random locations which is in direct conflict with all our educational material.

This change will open a Pandora's box about teaching children the safe and legal places to cross tracks. It will allow them to cross tracks at any location regardless of their safety.

As an example children would be allowed to walk directly across railroad yards as a short cut to school or other daily activities. Theoretically, they would be allowed to walk directly under stopped railcars such as, tank cars and covered hoppers, standing on any track, since it would no longer be considered trespassing. Also consider the tripping hazards of people carrying bikes and baby strollers across the tracks.

How will we teach adults and children to be safe around railroad tracks if they can legally cross the tracks at any unauthorized and potentially unsafe locations? Our safety efforts would be greatly impaired and this could result in an even greater increase of pedestrian and trespass fatalities.

Changing the Wisconsin railroad trespass law will jeopardize the safety of the citizens of Wisconsin and negatively affect Wisconsin Operation Lifesavers efforts. We urge the legislature to oppose AB 876.

Menu » 2013 » Related Documents » Acts » 2013 Wisconsin Act 219

Date of enactment: **April 8, 2014**

2013 Assembly Bill 799 Date of publication*: **April 9, 2014**

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

2013 WISCONSIN ACT 219

AN ACT *to amend* 346.49 (2m) (a), 346.49 (2m) (am), 346.49 (2m) (b), 346.49 (2r) (a), 346.49 (2r) (b) and 346.495 (1) (a); and *to create* 192.29 (6), 346.445 and 346.49 (2m) (c) of the statutes; **relating to:** pedestrians crossing railroad tracks and penalties for violations relating to railroad crossings and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1G. 192.29 (6) of the statutes is created to read:

192.29 (6) CONTACT INFORMATION AT PRIVATE CROSSINGS. A railroad company shall make a notice containing a telephone number at which a person may contact the company available to private landowners at each private traveled grade crossing at the request of the private landowner. The notice shall be large enough to be visible from the crossing.

SECTION 1M. 346.445 of the statutes is created to read:

346.445 Limitations on pedestrians crossing railroad tracks. (1) No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(2) No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(3) No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

SECTION 2. 346.49 (2m) (a) of the statutes is amended to read:

346.49 (2m) (a) Unless otherwise provided in par. (b), any person violating s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction within 3 years.

SECTION 3. 346.49 (2m) (am) of the statutes is amended to read:

346.49 (2m) (am) Any person violating s. 346.45 shall forfeit not less than \$60 nor more than \$600 for the first offense and not less than \$180 nor more than \$1,800 for the 2nd or subsequent conviction within 3 years.

SECTION 4. 346.49 (2m) (b) of the statutes is amended to read:

346.49 **(2m)** (b) Any operator of a bicycle or electric personal assistive mobility device violating s. 346.44 may be required to forfeit not less than \$100 nor more than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within 3 years.

SECTION 5. 346.49 (2m) (c) of the statutes is created to read:

346.49 **(2m)** (c) Any person violating s. 346.445 may be required to forfeit not less than \$100 nor more than \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within 3 years.

SECTION 6. 346.49 (2r) (a) of the statutes is amended to read:

346.49 **(2r)** (a) A vehicle owner or other person found liable under s. 346.452 with respect to a violation of s. 346.44 may be required to forfeit not more than \$1,000 for the first offense and not more than \$3,000 for the 2nd or subsequent conviction within 3 years, except that, if the vehicle involved in the violation was a bicycle, the bicycle owner or other person may be required to forfeit not less than \$100 nor more than \$40 \$250 for the first offense and not less than \$225 nor more than \$750 for the 2nd or subsequent conviction within 3 years.

SECTION 7. 346.49 (2r) (b) of the statutes is amended to read:

346.49 **(2r)** (b) A vehicle owner or other person found liable under s. 346.452 with respect to a violation of s. 346.45 shall forfeit not less than \$60 nor more than \$600 for the first conviction and not less than \$180 nor more than \$1,800 for the 2nd or subsequent conviction within 3 years.

SECTION 9. 346.495 (1) (a) of the statutes is amended to read:

346.495 **(1)** (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a), (am), ~~(b)~~, or (c) for a violation of s. 346.44, 346.445, 346.45, or 346.46 (3), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.

SECTION 10. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 3rd month beginning after publication.

Testimony given by Jim Barbian, Prairie du Chien WI
February 11, 2016

I am a member of the Wisconsin Conservation Congress Mississippi River Advisory Committee. We as a committee unanimously voted to support the right to directly cross railroad tracks for recreational purposes.

As a delegate of the Wisconsin Conservation Congress for Crawford County, everyone I have discussed this with stated that they support the right of the public to directly cross rail road property/tracks for recreational purposes.

LA CROSSE COUNTY CONSERVATION ALLIANCE

PO BOX 933

La Crosse, WI 54602-0933

The la Crosse County Conservation Alliance (LCCA) represents over 25 conservation organizations from La Crosse County.

The LCCA strongly supports restoring the legal right to directly cross a railroad right-of-way, and therefore, strongly supports AB 876. For decades hunters, anglers, trappers and other users have gained legal access to pursue outdoor recreation on the public lands and waters of the Mississippi River floodplain. Both local residents and tourists have for decades safely and legally crossed the over 200 miles of railroad tracks along the River to pursue such activities as hunting, fishing, trapping, boating, swimming, hiking, bird watching, cross country skiing, and other traditional outdoor recreational activities. Our local tourism economy is in large part based on the public having broad access to the Mississippi River.

Tens of thousands of federal, state and local dollars have been spent over the last 50 years to provide public parking and walkways to cross the railroad tracks for access to the River. One of our member organizations, The Lake Onalaska Protection and Rehabilitation District, conducted a survey of lake and river users to identify and prioritize user issues and concerns. The number one concern identified was public access to the lake and river. In the opinion of the LCCA, public access to the public domain is one of the most important natural resource issues we face along the Mississippi River. Enactment of AB 876 will enhance and restore the rights of the public to access the Mississippi River and its backwaters such as Lake Onalaska. We feel that such an action is a clear exercise of the public trust responsibilities of the Wisconsin Legislature.

Thank you for considering our opinion on this important matter.

Prepared By: Marc Schultz, Chair
February 11, 2016

UNION PACIFIC RAILROAD
101 N. Wacker Dr. Suite 1910
Chicago, Illinois 60606

Liisa Lawson Stark Assistant Vice President - Public Affairs

P 312 777 2002
F 312 777 2020

February 8, 2016

To: Members of the Wisconsin Legislature

Re: **Protect Public Safety: Oppose Assembly Bill 876 and Preserve Wisconsin's Railroad Trespass Law**

Roll-back of Railroad Trespass Law Undermines Safety

Union Pacific Railroad opposes any change to current law which would undermine safety and put the public at risk. As such, we respectfully request that you vote against Assembly Bill 876 when it is heard in the Assembly Criminal Justice and Public Safety Committee.

Safety is Union Pacific's highest priority. In fact, Union Pacific and all railroads have dramatically improved safety over the last three decades. However, trespass-related fatalities have increased. According to the Federal Railroad Administration's Office of Safety, death from pedestrian trespassing on railroad tracks rose 21.8 percent across the U.S. in 2014

To put this in perspective, a person or vehicle is hit by a train about every three hours in the United States. Between 2010 and 2015, Union Pacific alone experienced eight trespasser injuries and 10 trespasser fatalities on Union Pacific property in the state of Wisconsin. Repealing or relaxing this statute could bring unintended consequences of increasing rail trespassing incidents, and is regressive to positive rail safety efforts taken to date.

The Federal Railroad Administration, the Wisconsin Office of the Commissioner of Railroads, the Wisconsin Department of Transportation, freight railroads, state and local law enforcement, and groups like Operation Lifesaver invest heavily in public outreach to encourage Wisconsinites to make safe decisions around tracks and trains.

Wisconsin has a Process for Providing Public Access Across Railroad Tracks

The Wisconsin Office of the Commissioner of Railroads has jurisdiction to approve public railroad crossings. Administrative rules (Wis. Admin. Code Chapter RR 1) govern this procedure. Railroads can also enter into agreements to create private crossings. Taking away private property rights when a process for crossing railroad tracks already exists is an inappropriate and extreme measure which undermines safety.

Trespass is the Leading Cause of Rail-related Deaths in America

Repealing or relaxing Wisconsin's railroad trespass law will put the safety of Wisconsin citizens at risk. Union Pacific urges the Legislature to oppose all efforts to repeal Wisconsin's railroad trespass law and help keep the public and our employees safe.

Sincerely,



Liisa Lawson Stark
Assistant Vice President – Public Affairs





**DuPage Railroad
Safety Council**

Attention: Wisconsin Legislature
Re: Wisconsin's Railroad Trespass Law
From: DuPage Railroad Safety Council

Dear Public Servants,

The DuPage Railroad Safety Council is a grassroots organization in your neighboring State (Illinois). Our mission is to "Eliminate deaths and injuries at railroad crossings and along railways". Government officials, educators, police officers, private citizens, and a variety of other concerned citizens have gathered monthly for over twenty-one years in order to achieve our mission. Although we have witnessed great improvements in railroad crossing deaths and injuries, we have not been able to say the same for trespassing incidents.

We are calling on you to be our "Partners in Safety" today. Please help us reduce trespassing deaths and injuries. Several of our members (including myself) have experienced the tragedy of losing a family member to death on the train tracks. It is our deepest hope that we will see a day when no family has to endure the tragedy of hearing that a loved-one died while attempting to cross railroad tracks. Railroad engineers are victims - as are we - whenever they have to witness tragedy on the railroad tracks. This is one of many reasons why railroad companies are very concerned about railroad safety as well.

It has come to our attention that the Wisconsin Legislature is considering a bill which would roll back the Railroad Trespass Law in Wisconsin. Please do not allow this to happen! Not only is it wrong to allow people to trespass on private property (in this case, the railroad tracks); more importantly, it is exceedingly dangerous. When people are hunting or fishing, many tend to drink alcohol. (These are relaxing activities, after all). It is well-known that alcohol can cloud the decision-making process. This further adds to the danger of allowing trespassing on the tracks.

As public servants, we know that you want to protect your constituents. The railroad trespass law, as it currently exists, helps you protect those you serve and those you love. Thank you for giving your generous time to protect the citizens of Wisconsin and those of us who have come to enjoy your beautiful State.

Sincerely,

Lanny F. Wilson, MD (Chairman)
DuPage Railroad Safety Council

Lanny F. Wilson, M.D.
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