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Opinion Committee

RQ818

February 26, 1996

FILE #	ML-38661-96
I.D. #	38661

The Honorable Dan Morales  
Attorney General of Texas  
P.O. Box 12548  
Austin, TX 78711-2548

Dear General Morales: *Dan*

During the 74th Session of the Texas Legislature, House Bill 1208 (now Art. 9030 RCS) was adopted to limit the liability of excursion train operators, the owner of the trackage used by the excursion train, the host carrier and the owner of the equipment. Class I rail companies were providing a barrier to the operation of excursion trains by requiring these operators to carry \$25 million per occurrence in liability insurance coverage to operate on their Class I trackage. Class I rail carriers have the right to deny, limit, and place conditions on access to their trackage for other rail carriers and operators. Therefore, the legislature found it necessary to limit the liability of excursion train operators, the owner of the trackage used by the excursion train, the host carrier and the owner of the equipment to a more reasonable sum of \$5 million per occurrence. Without this limitation on their liability, excursion train operators can not afford to provide an excursion service at a reasonable rate to the public.

Since HB 1208 became effective Union Pacific Rail Corporation has expressed doubts as to the constitutionality of this legislation, and has continued to require excursion train operators to carry \$25 million per occurrence in liability coverage.

I respectfully request an Attorney General's Opinion regarding Section 2(a) and 2(b) of Article 9030, Texas Civil Statutes with particular emphasis on the authority of the legislature to limit liability and extend such limited liability to the named parties.

Specifically, "may the legislature by virtue of Art. 9030 RCS limit the liability for a specific class and does this limitation extend to all named participants?"



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Your early response to this request will be appreciated. If there is further information your office requires, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script that reads "Clyde".

Clyde Alexander

cc: Rep. John Cook