

EMPLOYER STATUS DETERMINATION

Napa Valley Wine Train, Inc.

This is the determination of the Railroad Retirement Board concerning the status of the Napa Valley Wine Train, Inc. (the Wine Train) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

The Wine Train, which was established in 1987, operates a recreational excursion train that provides a sightseeing and dining service in Napa Valley, California. The Wine Train is affiliated with the Napa Valley Railroad Company (Napa), an employer under the Acts (BA No. 2759).

Section 1(a)(1) of the RRA defines the term "employer" to include:

(i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49.¹ (Emphasis supplied.)

Section 1 of the RUIA contains the same definition.

Subchapter I of chapter 105 of Title 49 provides in pertinent part that the Interstate Commerce Commission has jurisdiction over transportation by rail carrier, but does not have jurisdiction over:

the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State . . . [49 U.S.C. §10501(b)(1)].

Because the Wine Train operates a recreational excursion service entirely within one state, it is not subject to the jurisdiction of the Interstate Commerce Commission and does not fall within the definition of a carrier employer under the RRA and the RUIA. The Board, therefore, finds that the Napa Valley Wine Train is not an employer under the RRA and the RUIA, and that service for that carrier is not covered under the Acts.

Glen L. Bower

V. M. Speakman, Jr.

¹See Cheney Railroad Company, Inc. v. Railroad Retirement Board, No. 93-1621, In the United States Court of Appeals for the District of Columbia, March 24, 1995, slip opinion at pp. 6-7.

Jerome F. Kever

CCCook:SABartholow:MPDadabo:mpd:ik
NAP21627.cov C. 997-95