

STATE OF NEW YORK

9406

IN SENATE

May 15, 2024

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law, in relation to requiring the department of transportation to promulgate rules and regulations for the installation of heat safety gauges on freight rail tracks; and to amend the railroad law, in relation to requiring the installation of positive train control systems on all freight rail trains operating in the state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 14 of the transportation law is amended by adding a
2 new subdivision 37 to read as follows:
3 37. (a) To promulgate rules and regulations requiring every freight

4 railroad corporation incorporated pursuant to the
5 provisions of section
6 five of the railroad law to install heat safety
7 gauges or hot bearing
8 detectors on all freight rail tracks within the
9 state operated by such
10 corporation in accordance with national best
11 practices, but in incre-
12 ments of no greater than fifteen miles. Provided,
13 additionally, that
14 such gauges or detectors shall be installed in
15 locations before a route
16 serves major urbanized areas. Such rules and
17 regulations shall also
18 prescribe a process for immediately notifying the
19 commissioner and the
20 federal railroad administration if such a gauge or
21 detector indicates
22 that temperature differences between bearings
23 on the same axle are
24 greater than or equal to one hundred fifteen
25 degrees fahrenheit.

15 (b) Within one year of the effective date of
16 this subdivision, the
17 department shall conduct a study on the
18 benefits of installing heat
19 safety gauges or hot bearing detectors at closer
20 intervals in more popu-
21 lated areas, and shall update the rules and
22 regulations promulgated
23 pursuant to this subdivision based upon the results
24 of such study.

20 § 2. The railroad law is amended by adding a new
21 section 77-d to read
22 as follows:

22 § 77-d. Positive train control systems. (a) No
23 freight train shall be
24 operated within the state without a properly
25 functioning positive train
26 control system. The commissioner shall promulgate
27 all rules and regu-
28 lations necessary for the implementation of this
29 section.

26 (b) Whenever the commissioner of
transportation shall cause to be
27 personally served upon any railroad corporation
controlling any tunnel

EXPLANATION--Matter in italics (underscored) is new; matter in brackets

[-] is old law to be omitted.

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S. 9406

2

1 or part of a tunnel or track in this state for the
purpose of transport-
2 ing or delivering freight for compensation,
by delivering a copy
3 personally to the president, general manager or
any director of such
4 corporation of a notice or order of said
commissioner of transportation,
5 stating and specifying the deficiencies or
failures causing such rail-
6 road corporation to be operating a freight train
without a properly
7 functioning positive train control system, said
corporation shall, with-
8 in ten days from and after the service of such
notice or order as afore-
9 said, cause said infrastructure or right of way so
used by it as afore-
10 said to function properly, in the manner and by the
means and use of the
11 mechanical apparatus and appliances specified and
pointed out in said
12 notice or order.
13 (c) After the expiration of ten days from the
service of such order
14 or notice specified in this section, as therein
directed, if such corpo-
15 ration shall not have fully complied with such
notice or order, the
16 commissioner of transportation may commence an
action or special

17 proceeding hereunder, or under the
18 transportation law, in the supreme
19 court for a judgment to compel such corporation
20 or corporations so
21 neglecting or refusing to obey and comply with
22 said order or notice to
23 comply with and obey said notice or order, and
24 said court shall have
25 full power and authority to hear and determine
26 such matter, and after
27 giving the corporation or corporations proceeded
28 against an opportunity
29 to be heard in its or their defense, to
30 compel such corporation or
31 corporations so proceeded against to obey such
32 order or notice, and
33 forthwith comply with and carry out the
34 provisions and requirements
35 therein contained.
36 (d) Every corporation violating any of the
37 provisions of this section
38 shall be guilty of a misdemeanor and may be
39 indicted therefor, and may
40 be compelled to appear and plead to an
41 indictment therefor in the
42 person of its president, secretary, treasurer or
43 any director thereof,
44 and a bench warrant may issue out of any competent
45 court to compel such
46 attendance and pleading, and, upon conviction
47 thereof, such corporations
48 shall be punished by a fine of one thousand
49 dollars, and an additional
50 fine of five hundred dollars a day for each and
51 every day or part of a
52 day after thirty days from the due service of said
53 notice or order that
54 said corporation shall refuse or neglect to obey
55 and carry out the
56 requirements and provisions of the same, and duly
57 sentenced to pay the
58 same.

39 § 3. This act shall take effect immediately;
provided, however, that

40 section two of this act shall take effect one
year after it shall have
41 become a law. Provided, further, that this act
shall be deemed repealed
42 if any federal agency determines in writing that
this act would render
43 New York state ineligible for the receipt of
federal funds or any court
44 of competent jurisdiction finally determines that
this act would render
45 New York state out of compliance with federal law
or regulation; and
46 provided that the commissioner of transportation
shall notify the legis-
47 lative bill drafting commission upon such
determination in order that
48 the commission may maintain an accurate and timely
effective data base
49 of the official text of the laws of the state of
New York in furtherance
50 of effectuating the provisions of section 44 of
the legislative law and
51 section 70-b of the public officers law.
Effective immediately, the
52 addition, amendment and/or repeal of any rule or
regulation necessary
53 for the implementation of this act on its effective
date are authorized
54 to be made and completed on or before such
effective date.