

ASSEMBLY, No. 4460

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

SYNOPSIS

Provides certain requirements concerning railroad safety.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning railroad safety and supplementing Title 27 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 “Board” means the Board of Public Utilities.

10 “Branch line” means a secondary railroad track that branches off
11 from a main line.

12 “Commissioner” means the Commissioner of Transportation.

13 “Dangerous hazardous train” means any railroad locomotive
14 propelling a railroad tank car or connection of railroad tank cars
15 transporting 200,000 gallons or more of petroleum or petroleum
16 products or 20,000 gallons or more of hazardous substances other
17 than petroleum or petroleum products.

18 “Defects” include, but are not limited to, hot wheel bearings, hot
19 wheels, defective bearings that are detected through acoustics,
20 dragging equipment, excessive height or weight, shifted loads, low
21 hoses, rail temperature, and wheel conditions.

22 “Department” means the Department of Transportation.

23 “Emergency services provider” means a law enforcement
24 agency; emergency medical services unit; fire department;
25 emergency communications provider; hazardous material response
26 unit; volunteer fire department; duly incorporated fire or first aid
27 company; or volunteer emergency, ambulance, or rescue squad
28 association, organization, or company that provides emergency
29 services for a local unit.

30 “Hazardous substances” means any Class 1 explosives as
31 categorized in Division 1.1, 1.2, or 1.3, as such terms are defined in
32 49 C.F.R. s.173.50; any flammable gases as defined in 49 C.F.R.
33 s.173.115(a); any flammable liquids as defined in 49 C.F.R.
34 s.173.120(a); any hazardous material as designated by the Secretary
35 of Transportation as hazardous pursuant to 49 U.S.C. s.5103; any
36 high level radioactive waste and spent nuclear fuel with the same
37 meanings given to a “type B package” or a “fissile material
38 package” as defined in 49 C.F.R. s.173.403; any material poisonous
39 by inhalation or material toxic by inhalation as defined in 49 C.F.R.
40 s.171.8; and any environmentally sensitive chemicals which shall
41 include, but not be limited to:

- 42 a. AllylChloride;
- 43 b. Carbon Tetrachloride;
- 44 c. Chlorobenzene;
- 45 d. Chloroform;
- 46 e. O-Dichlorobenzene;
- 47 f. Dichloropropane (Propylene dichloride);
- 48 g. Dichloropropane/Dichloropropene mixture;
- 49 h. Dichloropropene;

- 1 i. Ethyl Chloride;
- 2 j. Ethylene Dibromide;
- 3 k. Ethylene Dibromide and Methyl Bromide mixtures;
- 4 l. Ethylene Dichloride;
- 5 m. Epichlorohydrin;
- 6 n. Methyl Chloroform (1,1,1 Trichloroethane);
- 7 o. Methylene Chloride (Dichloromethane);
- 8 p. Methylene Chloride/Chloroform mixture;
- 9 q. Perchloroethylene (Tetrachloroethylene);
- 10 r. Perchloroethylene/Trichloroethylene mixture; and
- 11 s. Trichloroethylene.

12 “Local unit” means any county or municipality, or a fire district,
13 or an agency or other instrumentality thereof, or a duly incorporated
14 volunteer fire, ambulance, first aid, emergency, or rescue company
15 or squad.

16 “Main line” means a Class I railroad, as documented in current
17 timetables filed by the Class I railroad with the Federal Railroad
18 Administration, over which 5,000,000 or more gross tons of
19 railroad traffic is transported annually. “Main line” includes
20 railroads used for regularly scheduled intercity or commuter rail
21 passenger service, or both.

22 “Major facility” shall have the same meaning as set forth in
23 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

24 “Owner” or “operator” means, with respect to any dangerous
25 hazardous train, any person owning the dangerous hazardous train
26 or operating it by lease, contract, or other form of agreement;
27 provided, however, that the owner or operator shall not mean a
28 person who operates a dangerous hazardous train only for the
29 purposes of positioning or moving railroad tank cars within the
30 confines of a major facility or a person whose interest in a
31 dangerous hazardous train solely involves the ownership or lease of
32 one or more railroad tank cars without operational authority.

33 “Petroleum” or “petroleum products” shall have the same
34 meaning as set forth in section 3 of P.L.1976, c.141 (C.58:10-
35 23.11b).

36 “Railroad” means any form of non-highway ground
37 transportation that runs on rails or electromagnetic guideways,
38 including commuter or other short-haul railroad passenger service
39 in a metropolitan or suburban area, commuter railroad service and
40 high speed ground transportation systems that connect metropolitan
41 areas, without regard to whether those systems use new
42 technologies not associated with traditional railroads. “Railroad”
43 does not include rapid transit operations in an urban area that are
44 not connected to the general railroad system of transportation.

45 “Short line” means an independent railroad company that
46 operates over a relatively short distance.

47 “Train” means one or more locomotives coupled with or without
48 cars, requiring an air brake test in accordance with either 49 C.F.R.
49 Part 232 or 49 C.F.R. Part 238, except during switching operations

1 or where the operation is that of classifying and assembling rail cars
2 within a railroad yard for the purpose of making or breaking up
3 trains. "Train" includes a single locomotive, multiple locomotives
4 coupled together, and one or more locomotives coupled with one or
5 more cars.

6 "Wayside detector system" means an electronic device or a
7 series of connected devices that scan passing trains, rolling stock,
8 on-track equipment, and their component equipment and parts for
9 defects.

10

11 2. a. The owner or operator of a dangerous hazardous train
12 shall require a minimum of two crew members on all dangerous
13 hazardous trains. The owner or operator of a dangerous hazardous
14 train shall further require that all dangerous hazardous trains clearly
15 display the name of the railroad company that owns the dangerous
16 hazardous train.

17 b. The owner or operator of a dangerous hazardous train shall
18 not be required to provide a minimum of two crew members on a
19 dangerous hazardous train if:

20 (1) the train is using a locomotive or a group of locomotives to
21 assist another train that has incurred mechanical failure or lacks the
22 power to traverse difficult terrain, including traveling to or from a
23 location where assistance is provided;

24 (2) the train is a tourist, scenic, historic, or excursion operation
25 that is not part of the general railroad system of transportation;

26 (3) the train is a locomotive not attached to railcars, is located
27 inside a rail yard, and is being moved between tracks in order to
28 keep the train organized and on schedule or is being moved to or
29 from a maintenance shop; or

30 (4) the owner or operator is exempted from the two-person crew
31 requirement by the Commissioner of Transportation due to having
32 not more than 15 employees and operating a train at a maximum
33 authorized speed of not more than 15 miles per hour.

34 c. Notwithstanding the exceptions listed in subsection b. of this
35 section, the owner or operator of a dangerous hazardous train shall
36 require a minimum of two crew members on a dangerous hazardous
37 train when the dangerous hazardous train is transporting:

38 (1) one or more loaded freight cars containing any material
39 poisonous by inhalation as defined in 49 C.F.R. s.171.8, including
40 anhydrous ammonia (UN1005) and ammonia solutions (UN 3318);
41 or

42 (2) 10 or more loaded freight cars or freight cars loaded with
43 bulk packaging as defined in 49 C.F.R. s.171.8 or intermodal
44 portable tanks containing any combination of these materials or any
45 Division 2.1 flammable gases as defined in 49 C.F.R. s.173.115(a),
46 Class 3 flammable liquids as defined in 49 C.F.R. s.173.120(a),
47 Class 1 explosives categorized in Division 1.1 or 1.2 as such terms
48 are defined in 49 C.F.R. s.173.50, or hazardous substances listed in
49 49 C.F.R. s.173.31(f)(2).

1 3. a. A railroad company, including a short line, operating
2 within this State on any main line or branch line shall not operate,
3 or permit to be operated, on any part of a main line or branch line,
4 any train which exceeds 8,500 feet in length.

5 b. Notwithstanding section 4 of P.L. , c. (C.) (pending
6 before the Legislature as this bill):

7 (1) a person or railroad violating any provision of this section
8 shall be liable for a civil penalty. Any civil penalty imposed may
9 be collected, and any costs incurred in connection therewith may be
10 recovered, in a summary proceeding pursuant to the "Penalty
11 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
12 The Superior Court shall have jurisdiction to enforce the "Penalty
13 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

14 (2) the amount of the civil penalty shall be at least \$500 but not
15 more than \$1,000 per foot exceeding the maximum train length
16 provided in subsection a. of this section; provided that, when a
17 grossly negligent violation or a pattern of repeated violations has
18 caused an imminent hazard of death or injury to individuals or has
19 caused death or injury, the amount of the civil penalty shall not be
20 more than \$250,000, regardless of the length of the train.

21
22 4. Except as provided in section 3 of P.L. , c. (C.)
23 (pending before the Legislature as this bill), the provisions of
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 shall not apply to the owner or operator of a Class III carrier, as
26 defined by the Surface Transportation Board pursuant to 49 C.F.R.
27 Part 1201 1-1, that operates within a single municipality on not
28 more than 25 total track miles and is engaged in switching or
29 terminal railroad services. Nothing contained herein shall be
30 construed to exempt a major facility from the provisions of the
31 "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-
32 23.11 et seq.).

33
34 5. The owner or operator of each privately owned railroad shall
35 submit a copy of the most recent bridge inspection report generated
36 pursuant to the federal "Fixing America's Surface Transportation
37 Act," Pub.L.114-94 for every bridge in this State owned by the
38 railroad, or upon which the railroad is located, to the Commissioner
39 of Transportation, the Governor and, pursuant to section 2 of
40 P.L.1991, c.164 (C.52:14-19.1), the Legislature.

41
42 6. a. The Board of Public Utilities in conjunction with the New
43 Jersey Department of Transportation shall work with each railroad
44 company that operates a train in the State to ensure that wayside
45 detector systems are installed and are operating along railroad
46 tracks on which the railroad company operates and to ensure that
47 such systems meet all of the following standards:

48 (1) the wayside detector systems are properly installed,
49 maintained, repaired, and operational in accordance with the latest

1 guidelines issued by the United States Department of
2 Transportation, the Federal Railroad Administration, and the
3 Association of American Railroads;

4 (2) any expired, non-working, or outdated wayside detector
5 system or component parts of a system are removed and replaced
6 with new parts or an entirely new system that reflects the current
7 best practices and standards of the industry;

8 (3) the railroad company has defined, written standards and
9 training for its employees pertaining to wayside detector system
10 defect alerts, the course of action that employees are required to
11 take to respond to an alert, and appropriate monitoring and
12 responses by the company if employees fail to take the required
13 course of action; and

14 (4) the distance between wayside detector systems is appropriate
15 when accounting for the natural terrain surrounding the railroad
16 track on which the railroad operates and the safety of the trains,
17 rolling stock, on-track equipment, operators, passengers, and
18 persons and property in the vicinity of the railroad track so that if
19 defects are detected, operators have sufficient time to:

20 (a) respond to the alerts projected by the wayside detector
21 system;

22 (b) stop the train, rolling stock, or on-track equipment, if
23 necessary; and

24 (c) make all necessary repairs or, if repair is impossible at the
25 location, to remove the component parts or equipment that is
26 defective.

27 b. If a railroad company refuses to work or otherwise cooperate
28 with the board and the department in good faith in accordance with
29 this section, the board and the department shall investigate the
30 railroad company's safety practices and standards. The board and
31 the department shall determine whether the company appears to be
32 in compliance with federal railroad safety standards, as defined in
33 49 C.F.R. Part 209.

34 c. If the board and the department determine that a railroad
35 company does not appear to be in compliance with the applicable
36 federal standards pursuant to subsection b. of this section, the board
37 and the department shall:

38 (1) make a report to the Federal Railroad Administration within
39 60 days of making the determination pursuant to subsection b. of
40 this section. The report shall detail the results of the investigation
41 and recommend that the administration take enforcement action
42 against the railroad company in accordance with its authority for the
43 safety violations discovered through the investigation; and

44 (2) send a copy of the report to the Governor and, pursuant to
45 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

46
47 7. All non-profit labor organizations representing a class or
48 craft of employees of rail carriers or rail carrier contractor officials
49 shall be permitted to enter onto railroad property to assist in

1 inspecting for safety hazards and shall be permitted to identify
2 alleged safety hazards, including any potential violation of a State
3 regulation or a Federal Railroad Administration regulation.

4
5 8. The New Jersey Department of Transportation shall assist
6 non-profit labor organizations representing a class or craft of
7 employees of rail carriers or rail carrier contractors and local
8 emergency services providers to apply for federal infrastructure
9 safety grants, including grants available under the Consolidated
10 Rail Infrastructure Safety Improvements (CRISI) Program pursuant
11 to 49 U.S.C. s.22907 and any “Inflation Reduction Act of 2022,”
12 Pub.L.117-169 program that may provide funding for these
13 applicants.

14
15 9. a. The Department of Transportation shall adopt rules and
16 regulations pursuant to the “Administrative Procedure Act,”
17 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of
18 sections 2 through 5 and sections 7 and 8 of this act within 18
19 months after the effective date of this act.

20 b. The Board of Public Utilities in conjunction with the
21 Department of Transportation shall adopt rules and regulations
22 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
23 (C.52:14B-1 et seq.), to effectuate the purposes of section 6 of this
24 act within 18 months after the effective date of this act.

25
26 10. If any provision of P.L. , c. (C.) (pending before the
27 Legislature as this bill) or its application to any person or
28 circumstance is held invalid, the invalidity shall not affect any other
29 provision or application of P.L. , c. (C.) (pending before
30 the Legislature as this bill) which can be given effect without the
31 invalid provision or application, and to this end the provisions of
32 P.L. , c. (C.) (pending before the Legislature as this bill)
33 are severable.

34
35 11. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill provides certain requirements concerning railroad
41 safety.

42 Under the bill, the owner or operator of a dangerous hazardous
43 train is to require at least a two-person crew on all dangerous
44 hazardous trains. The owner or operator of a dangerous hazardous
45 train is to further require that all dangerous hazardous trains clearly
46 display the name of the railroad company that owns the dangerous
47 hazardous train. The bill provides for certain exceptions to the two-
48 person crew requirement, including: when a train is performing
49 helper service; when a train is a tourist, scenic, historic, or

1 excursion operation that is not part of the general railroad system of
2 transportation; when a train is a locomotive that is not attached to
3 railcars, is located inside a rail yard, and is being moved between
4 tracks or moved to or from a maintenance shop; and when the
5 owner or operator has been exempted from the two-person crew
6 requirement by the Commissioner of Transportation. However, the
7 bill specifies that the two-person crew requirement is mandatory
8 when a train is transporting one or more loaded freight cars
9 containing any material poisonous by inhalation or transporting 10
10 or more loaded freight cars or freight cars loaded with bulk
11 packages or containing certain hazardous materials.

12 The bill also prohibits a railroad company, including a short line,
13 from operating any train that exceeds 8,500 feet in length on any
14 main line or branch line within the State. Any person or railroad
15 company that violates this maximum length is liable for a civil
16 penalty of at least \$500 but not more than \$1,000 per foot exceeding
17 the maximum train length allowed under the bill. The maximum
18 penalty allowed is \$250,000 in instances of gross negligence or a
19 pattern of repeated violations that cause an imminent hazard of
20 death or injury or that have caused death or injury, regardless of
21 train length.

22 The owner or operator of a privately owned railroad is required
23 to submit a copy of federally required bridge inspection reports to
24 the Commissioner of Transportation, the Governor, and the
25 Legislature.

26 Under the bill, the Board of Public Utilities (board), in
27 conjunction with Department of Transportation (DOT), is required
28 to work with each railroad company that operates in the State to
29 ensure that wayside detector systems are installed and are operating
30 along railroad tracks on which the railroad company operates and to
31 ensure that such systems meet certain standards. If a railroad
32 company refuses to work or otherwise cooperate with the board and
33 the DOT in good faith, the board and the DOT are required to
34 investigate the railroad company's safety practices and standards to
35 determine whether the company appears to be in compliance with
36 federal railroad safety standards. If the railroad company does not
37 appear to be in compliance, the board and the DOT are then
38 required to make a report to the Federal Railroad Administration
39 (administration), within 60 days after this determination, detailing
40 the results of the investigation and recommending that the
41 administration take enforcement action against the railroad
42 company. The bill requires the board and the DOT to send a copy of
43 the report to the Governor and Legislature.

44 The bill requires that all non-profit labor organizations
45 representing a class or craft of employees of rail carriers or rail
46 carrier contractor officials (non-profit labor organizations) be
47 permitted onto railroad property to assist in inspecting for safety
48 hazards and are permitted to identify any alleged safety hazards.

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1 Finally, the bill requires the DOT to work with non-profit labor
2 organizations and local emergency response service providers to
3 apply for federal grants.

4 With the exception of the maximum length provisions of the bill,
5 this bill does not apply to certain Class III carriers as defined by the
6 Surface Transportation Board.