

**SENATE, No. 3389**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JUNE 6, 2024

**Sponsored by:**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**SYNOPSIS**

Provides certain requirements concerning railroad safety.

**CURRENT VERSION OF TEXT**

As introduced.



S3389 DIEGNAN

2

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;

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

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

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

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

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

34 “Petroleum” or “petroleum products” shall have the same  
35 meaning as set forth in section 3 of P.L.1976, c.141 (C.58:10-  
36 23.11b).

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

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

48 “Train” means one or more locomotives coupled with or without

1 cars, requiring an air brake test in accordance with either 49 C.F.R.  
2 Part 232 or 49 C.F.R. Part 238, except during switching operations  
3 or where the operation is that of classifying and assembling rail cars  
4 within a railroad yard for the purpose of making or breaking up  
5 trains. "Train" includes a single locomotive, multiple locomotives  
6 coupled together, and one or more locomotives coupled with one or  
7 more cars.

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

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

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

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

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

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

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

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

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

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

1 are defined in 49 C.F.R. s.173.50, or hazardous substances listed in  
2 49 C.F.R. s.173.31(f)(2).

3

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

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

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

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

24

25 4. Except as provided in section 3 of P.L. , c. (C. )  
26 (pending before the Legislature as this bill), the provisions of  
27 P.L. , c. (C. ) (pending before the Legislature as this bill)  
28 shall not apply to the owner or operator of a Class III carrier, as  
29 defined by the Surface Transportation Board pursuant to 49 C.F.R.  
30 Part 1201 1-1, that operates within a single municipality on not  
31 more than 25 total track miles and is engaged in switching or  
32 terminal railroad services. Nothing contained herein shall be  
33 construed to exempt a major facility from the provisions of the  
34 "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-  
35 23.11 et seq.).

36

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

44

45 6. a. The Board of Public Utilities in conjunction with the New  
46 Jersey Department of Transportation shall work with each railroad  
47 company that operates a train in the State to ensure that wayside  
48 detector systems are installed and are operating along railroad

1 tracks on which the railroad company operates and to ensure that  
2 such systems meet all of the following standards:

3 (1) the wayside detector systems are properly installed,  
4 maintained, repaired, and operational in accordance with the latest  
5 guidelines issued by the United States Department of  
6 Transportation, the Federal Railroad Administration, and the  
7 Association of American Railroads;

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

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

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

24 (a) respond to the alerts projected by the wayside detector  
25 system;

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

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

31 b. If a railroad company refuses to work or otherwise cooperate  
32 with the board and the department in good faith in accordance with  
33 this section, the board and the department shall investigate the  
34 railroad company's safety practices and standards. The board and  
35 the department shall determine whether the company appears to be  
36 in compliance with federal railroad safety standards, as defined in  
37 49 C.F.R. Part 209.

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

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

48 (2) send a copy of the report to the Governor and, pursuant to

1 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

2

3 7. All non-profit labor organizations representing a class or  
4 craft of employees of rail carriers or rail carrier contractor officials  
5 shall be permitted to enter onto railroad property to assist in  
6 inspecting for safety hazards and shall be permitted to identify  
7 alleged safety hazards, including any potential violation of a State  
8 regulation or a Federal Railroad Administration regulation.

9

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

19

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

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

30

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

39

40 11. This act shall take effect immediately.

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42

43

STATEMENT

44

45 This bill provides certain requirements concerning railroad  
46 safety.

47 Under the bill, the owner or operator of a dangerous hazardous  
48 train is to require at least a two-person crew on all dangerous  
49 hazardous trains. The owner or operator of a dangerous hazardous

1 train is to further require that all dangerous hazardous trains clearly  
2 display the name of the railroad company that owns the dangerous  
3 hazardous train. The bill provides for certain exceptions to the two-  
4 person crew requirement, including: when a train is performing  
5 helper service; when a train is a tourist, scenic, historic, or  
6 excursion operation that is not part of the general railroad system of  
7 transportation; when a train is a locomotive that is not attached to  
8 railcars, is located inside a rail yard, and is being moved between  
9 tracks or moved to or from a maintenance shop; and when the  
10 owner or operator has been exempted from the two-person crew  
11 requirement by the Commissioner of Transportation. However, the  
12 bill specifies that the two-person crew requirement is mandatory  
13 when a train is transporting one or more loaded freight cars  
14 containing any material poisonous by inhalation or transporting 10  
15 or more loaded freight cars or freight cars loaded with bulk  
16 packages or containing certain hazardous materials.

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

27 The owner or operator of a privately owned railroad is required  
28 to submit a copy of federally required bridge inspection reports to  
29 the Commissioner of Transportation, the Governor, and the  
30 Legislature.

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



**S3389 DIEGNAN**

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

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

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