S T A T E O F N E W Y O R K

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I N S E N A T E

April 29, 2016

Introduced by Sen. MURPHY -- (at request of the Department of Transportation) -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the highway law, in relation to railroad bridge inspections

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 236 of the highway law, as amended by chapter 455 of the laws of 1998, is amended to read as follows:

S 236. Program of railroad bridge inspection. 1. Program establishment. Notwithstanding any other provision of law to the contrary, the commissioner is authorized and directed to establish, implement and exercise oversight over a program of railroad bridge inspection IN CONFORMITY WITH 49 USC S 20101 OR AS HEREAFTER AMENDED, THE "RAIL SAFETY IMPROVEMENT ACT OF 2008" AS PROMULGATED BY 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED, by all railroads as defined herein which shall apply to all railroad bridges whether publicly or privately owned.

2. Bridge inventory. [(a)] Each railroad shall provide to the commissioner an inventory of every railroad bridge either owned or used by such railroad whether exclusively or with another railroad or railroads[. Each such inventory shall contain a statement as to the ownership of all railroad bridges listed thereon and, if not owned by the filing railroad, such railroad shall state the circumstances under which it is operating over such railroad bridges. With regard to bridges owned or maintained by the filing railroad, such inventory may be in the format currently maintained by each railroad provided the inventory identifies: (i) the owner of the railroad if different from the railroad submitting the inventory; (ii) a description of each bridge reflecting the condition of the bridge as determined by the latest inspection report; and (iii) the maximum load for each of its lines. Each inventory submitted shall contain the following administrative data with regard to each bridge owned or maintained by the filing railroad: the bridge identification number; the railroad bridge number; the rail-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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road line code (if applicable); the railroad mile post; the county; the operating railroad or railroads; other features carried (if applicable); features intersected description; features intersected code; owner or owners; maintenance responsibilities; and inspection responsibilities. Each inventory submitted shall also contain the following general data with regard to each bridge owned or maintained by the filing railroad: the year built; the year rehabilitated; the number of tracks crossing the bridge; the type of rail service; the number of spans; and the bridge type] AS REQUIRED TO BE MAINTAINED BY 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

[(b) In any instance in which more than one railroad operates over a bridge, the inventory shall identify which railroad has responsibility for the inspection and maintenance.]

3. Bridge inspection. (a) [The department shall develop and publish railroad bridge inspection standards. Such standards shall be developed in consultation with representatives of railroads operating within the state and insofar as practicable, shall not be inconsistent with current American railway engineering and maintenance of way association recommended practices.

(b)] Each railroad shall develop A BRIDGE SAFETY MANAGEMENT PROGRAM and submit to the department written bridge management and inspection procedures[. Such procedures shall be developed under the supervision of a licensed professional engineer, and shall be consistent with generally accepted railway engineering standards and procedures for railroad bridge inspection and shall be in conformance with the standards developed by the department as set forth in paragraph (a) of this subdivision. The procedures shall contain a format for the reporting document to be submitted to the department. Such reports shall contain the qualifications of the individuals performing bridge inspection activities] AS REQUIRED TO BE MAINTAINED AND DEVELOPED BY 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

[(c)] (B) Railroad bridge inspections shall be performed [by technicians whose training and experience enable them to detect and record indications of distress on a bridge. Inspectors must provide accurate measurements and other information about the condition of the bridge in sufficient detail to a licensed professional engineer who shall make an evaluation of the capacity and safety of the bridge] BY RAILROAD BRIDGE INSPECTORS AS DEFINED BY 49 CFR 237.53 OR AS HEREAFTER AMENDED, AND CONSISTENT WITH 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

[(d)] (C) Each railroad shall conduct an inspection of every railroad bridge located in the state for which it has inspection responsibility[, in accordance with the bridge inventory set forth in subdivision two of this section, at least once in each calendar year and following an occurrence which the railroad reasonably believes may have reduced the capacity of any bridge] CONSISTENT WITH 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

[(e)] (D) A copy of the inspection report for each railroad bridge shall be maintained by the appropriate railroad for a period [of not less than five years. The reports shall be comprehensible to a competent person without interpretation by the reporting inspector] OF NOT LESS THAN TWO YEARS, CONSISTENT WITH 49 CFR PART 237.109, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED. IF REQUESTED BY THE DEPARTMENT THE RAILROAD SHALL SUBMIT THE INSPECTION REPORT WITHIN FIVE BUSINESS DAYS TO THE DEPARTMENT.

[(f)] (E) Not later than March fifteenth of each year, a licensed professional engineer or other responsible officer of each railroad shall file a certification that each bridge has been inspected in accordance with [the bridge management and inspection procedures and that every structure is safe for the loading imposed] 49 CFR PART 237 OR AS HEREAFTER AMENDED, and additionally, shall advise the commissioner of any change affecting bridge safety which has occurred since the last certification.

[(g)] (F) If, as a result of an inspection, a bridge is determined to be unsafe, the railroad shall immediately notify the commissioner and shall take appropriate remedial action to ensure that such structure is safe. Upon completion of such remedial action, the railroad shall provide the commissioner with a certification by a licensed professional engineer OR OTHER RESPONSIBLE OFFICER that the bridge is now safe for the loadings imposed. If a railroad shall fail to take remedial action, the commissioner may direct the railroad to take appropriate action, including requiring the closing of the bridge. Any order of the commissioner shall be reviewable in accordance with article seventy-eight of the civil practice law and rules.

[(h)] (G) For purposes of this section, a "licensed professional engineer" shall mean a professional engineer who is authorized to practice engineering under title eight of the education law.

4. Powers of the commissioner. The commissioner shall have the power to adopt, promulgate, amend and rescind such rules and regulations, CONSISTENT WITH 49 CFR PART 237, THE BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED, as the commissioner deems appropriate to carry out the provisions and purposes of this article or to enforce any standards established hereunder. [All existing rules and regulations requiring inspection and certification of railroad bridges shall remain in effect until such time as new rules and regulations are promulgated.] Additionally the commissioner shall be authorized to review the inspection reports, inventories and other supporting documents, to compel the production of any books, papers, records and documents relevant to the railroad bridge inspection program, and to subpoena witnesses, administer oaths and take testimony, and to maintain a civil suit against any public or private entity to compel compliance with the provisions of this chapter.

[5. Phase in of program. In order to permit the orderly implementation of the railroad bridge inspection program, the inventory of railroad bridges as herein provided shall be submitted to the commissioner by January twenty-ninth, nineteen hundred ninety-seven. All railroad bridges over which passenger rail service is provided shall be inspected not later than January first, nineteen hundred ninety-nine, and certification submitted to the department not later than March fifteenth, nineteen hundred ninety-nine. All other railroad bridges shall be inspected and certified not later than July first, nineteen hundred ninety-nine.]

S 2. This act shall take effect immediately.