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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:

1 Section 1. Section 236 of the highway law, as amended by chapter 455  
2 of the laws of 1998, is amended to read as follows:  
3 S 236. Program of railroad bridge inspection. 1. Program establish-  
4 ment. Notwithstanding any other provision of law to the contrary, the  
5 commissioner is authorized and directed to establish, implement and  
6 exercise oversight over a program of railroad bridge inspection IN  
7 CONFORMITY WITH 49 USC S 20101 OR AS HEREAFTER AMENDED, THE "RAIL SAFETY  
8 IMPROVEMENT ACT OF 2008" AS PROMULGATED BY 49 CFR PART 237, THE BRIDGE  
9 SAFETY STANDARDS, OR AS HEREAFTER AMENDED, by all railroads as defined  
10 herein which shall apply to all railroad bridges whether publicly or  
11 privately owned.  
12 2. Bridge inventory. [(a)] Each railroad shall provide to the commis-  
13 sioner an inventory of every railroad bridge either owned or used by  
14 such railroad whether exclusively or with another railroad or rail-  
15 roads[. Each such inventory shall contain a statement as to the owner-  
16 ship of all railroad bridges listed thereon and, if not owned by the  
17 filing railroad, such railroad shall state the circumstances under which  
18 it is operating over such railroad bridges. With regard to bridges owned  
19 or maintained by the filing railroad, such inventory may be in the  
20 format currently maintained by each railroad provided the inventory  
21 identifies: (i) the owner of the railroad if different from the rail-  
22 road submitting the inventory; (ii) a description of each bridge  
23 reflecting the condition of the bridge as determined by the latest  
24 inspection report; and (iii) the maximum load for each of its lines.  
25 Each inventory submitted shall contain the following administrative data  
26 with regard to each bridge owned or maintained by the filing railroad:  
27 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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1 road line code (if applicable); the railroad mile post; the county; the  
2 operating railroad or railroads; other features carried (if applicable);  
3 features intersected description; features intersected code; owner or  
4 owners; maintenance responsibilities; and inspection responsibilities.  
5 Each inventory submitted shall also contain the following general data  
6 with regard to each bridge owned or maintained by the filing railroad:  
7 the year built; the year rehabilitated; the number of tracks crossing  
8 the bridge; the type of rail service; the number of spans; and the  
9 bridge type] AS REQUIRED TO BE MAINTAINED BY 49 CFR PART 237, THE BRIDGE  
10 SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

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

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

20 (b)] Each railroad shall develop A BRIDGE SAFETY MANAGEMENT PROGRAM  
21 and submit to the department written bridge management and inspection  
22 procedures[. Such procedures shall be developed under the supervision of  
23 a licensed professional engineer, and shall be consistent with generally  
24 accepted railway engineering standards and procedures for railroad  
25 bridge inspection and shall be in conformance with the standards devel-  
26 oped by the department as set forth in paragraph (a) of this subdivi-  
27 sion. The procedures shall contain a format for the reporting document  
28 to be submitted to the department. Such reports shall contain the qual-  
29 ifications of the individuals performing bridge inspection activities]  
30 AS REQUIRED TO BE MAINTAINED AND DEVELOPED BY 49 CFR PART 237, THE  
31 BRIDGE SAFETY STANDARDS, OR AS HEREAFTER AMENDED.

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

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

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

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

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

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

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

38 [5. Phase in of program. In order to permit the orderly implementation  
39 of the railroad bridge inspection program, the inventory of railroad  
40 bridges as herein provided shall be submitted to the commissioner by  
41 January twenty-ninth, nineteen hundred ninety-seven. All railroad bridg-  
42 es over which passenger rail service is provided shall be inspected not  
43 later than January first, nineteen hundred ninety-nine, and certifi-  
44 cation submitted to the department not later than March fifteenth,  
45 nineteen hundred ninety-nine. All other railroad bridges shall be  
46 inspected and certified not later than July first, nineteen hundred  
47 ninety-nine.]

48 S 2. This act shall take effect immediately.