

# STATE OF NEW YORK

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8070

2021-2022 Regular Sessions

## IN ASSEMBLY

June 11, 2021

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Introduced by M. of A. BURGOS -- read once and referred to the Committee on Transportation

AN ACT to amend the railroad law, in relation to providing that inter-city rail passenger services and commuter rail services shall be liable for health care costs for injuries to railroad employees caused by passengers, customers or members of the public

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

1 Section 1. Section 64 of the railroad law is amended to read as  
2 follows:  
3 § 64. Injuries to employees. 1. In all actions against a railroad  
4 corporation, foreign or domestic, doing business in this state, or  
5 against a receiver thereof, for personal injury to, or death resulting  
6 from personal injury of any person, while in the employment of such  
7 corporation, or receiver, arising from the negligence of such corpo-  
8 ration or receiver or of any of its or his officers or employees, every  
9 employee, or his legal representatives, shall have the same rights and  
10 remedies for an injury, or for death, suffered by him, from the act or  
11 omission of such corporation or receiver or of its or his officers or  
12 employees, as are now allowed by law, and, in addition to the liability  
13 now existing by law, it shall be held in such actions that persons  
14 engaged in the service of any railroad corporation, foreign or domestic,  
15 doing business in this state, or in the service of a receiver thereof,  
16 who are intrusted by such corporation or receiver, with the authority of  
17 superintendence, control or command of other persons in the employment  
18 of such corporation or receiver, or with the authority to direct or  
19 control any other employee in the performance of the duty of such  
20 employee, or who have, as a part of their duty, for the time being,  
21 physical control or direction of the movement of a signal, switch, loco-  
22 motive engine, car, train or telegraph office, are vice-principals of

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

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1 such corporation or receiver, and are not fellow-servants of such  
2 injured or deceased employee.

3 2. If an employee, engaged in the service of any such railroad corpo-  
4 ration, or of a receiver thereof, shall receive any injury by reason of  
5 any defect in the condition of the ways, works, machinery, plant, tools  
6 or implements, or of any car, train, locomotive or attachment thereto  
7 belonging, owned or operated, or being run and operated by such corpo-  
8 ration or receiver, when such defect could have been discovered by such  
9 corporation or receiver, by reasonable and proper care, tests or  
10 inspection, such corporation or receiver shall be deemed to have had  
11 knowledge of such defect before and at the time such injury is  
12 sustained; and when the fact of such defect shall be proved upon the  
13 trial of any action in the courts of this state, brought by such employ-  
14 ee or his legal representatives, against any such railroad corporation  
15 or receiver, on account of such injuries so received, the same shall be  
16 prima facie evidence of negligence on the part of such corporation or  
17 receiver. [~~This section shall not affect actions or causes of action~~  
18 ~~existing on May twenty-ninth, nineteen hundred and six, and no~~]

19 3. If any employee, engaged in the service of any intercity rail  
20 passenger service, as defined by section ninety-seven of this article,  
21 or of a commuter rail service, as defined by section ninety-seven-a of  
22 this article, shall suffer a physical and/or mental injury that is  
23 caused by a passenger, customer or member of the public while the  
24 employee is performing an assigned duty, pursuant to subdivision eleven  
25 of section 120.05 of the penal law or otherwise, the intercity rail  
26 passenger service or commuter rail service shall be held liable for any  
27 health care costs attributable to such injury and, in cases where it is  
28 determined by his or her health care provider that such injured employee  
29 is unable to perform his or her assigned duties due to such injury, such  
30 employee shall be compensated by the intercity rail passenger service or  
31 commuter rail service at an amount not less than the employee would have  
32 earned on the assignment they would have worked until such time that  
33 such employee is designated able to return to work by his or her health  
34 care provider.

35 4. No contract, receipt, rule or regulation, between an employee and a  
36 railroad corporation or receiver, shall exempt or limit the liability of  
37 such corporation or receiver from the provisions of this section, howev-  
38 er a collective bargaining agreement may alternatively bargain for bene-  
39 fits greater than those provided by this section.

40 § 2. This act shall take effect immediately.