STATE OF NEW YORK

3953--B

2021-2022 Regular Sessions

IN SENATE

February 1, 2021

Introduced by Sens. KENNEDY, BORRELLO, RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the railroad law, in relation to requiring certain trains and locomotives to have a crew size of not less than two persons; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The railroad law is amended by adding a new section 63-a to read as follows:

§ 63-a. Minimum crew size. 1. Except as otherwise provided in subdivision two of this section, no person operating or controlling any Class I or Class II railroad shall allow the operation of any railroad train or locomotive for the movement of freight in this state unless such railroad train or locomotive has a crew of not less than two individuals.

2. The provisions of subdivision one of this section shall not apply to a railroad train or locomotive engaged in switching service.

3. As used in this section, the following terms shall have the following meanings:

(a) "Class I railroad" means a railroad that has been classified as a Class I railroad by the federal surface transportation board in accordance with 49 C.F.R. part 1201 section 1-1.

(b) "Class II railroad" means a railroad that has been classified as a Class II railroad by the federal surface transportation board in accordance with 49 C.F.R. part 1201 section 1-1.

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

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(c) "Locomotive" means a self-propelled piece of on-track equipment designed for moving or propelling cars that are designed to carry freight, passengers, or other equipment, but which itself is not designed or intended to carry freight, passengers (other than those operating the locomotive) or other equipment.

(d) "Railroad" means a commercial entity that operates locomotives to transport passengers or freight.

(e) "Switching service" means the classification of rail cars according to commodity or destination; assembly of rail cars for train movements; changing the position of rail cars for purposes of loading, unloading or weighing; placing of locomotives and rail cars for repair or storage; or moving of rail equipment in connection with work service that does not constitute train movement.

(f) "Train" means one or more locomotives, coupled with or without cars.

4. A violation of the provisions of subdivision one of this section shall be punishable by a civil penalty in an amount of not less than two hundred fifty dollars nor more than one thousand dollars for a first violation; for a second violation both of which were committed within a period of three years by a civil penalty of not less than one thousand dollars nor more than five thousand dollars; and for a third or subsequent violation all of which were committed within a period of three years, by a civil penalty of not less than five thousand dollars nor more than ten thousand dollars.

§ 2. Severability. If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, or if any federal agency determines in writing that this act would render New York state ineligible for the receipt of federal funds, such judgment or written determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment or written determination shall have been rendered.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that this act shall expire and be deemed repealed if any federal agency determines in writing that this act would render New York state ineligible for the receipt of federal funds or any court of competent jurisdiction finally determines that this act would render New York state out of compliance with federal law or regulation; provided, further, that the commissioner of transportation shall notify the legislative bill drafting commission upon the occurrence of the provisions of section two of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.