

STATE OF NEW YORK

4020--A

2021-2022 Regular Sessions

IN SENATE

February 1, 2021

Introduced by Sens. COMRIE, RAMOS -- 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

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-

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

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1 motive engine, car, train or telegraph office, are vice-principals of
2 such corporation or receiver, and are not fellow-servants of such
3 injured or deceased employee.

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

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

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

41 § 2. This act shall take effect immediately.