

# STATE OF NEW YORK

3953--A

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

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:

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

3 § 63-a. Minimum crew size. 1. Except as otherwise provided in subdivi-  
4 sion two of this section, no person operating or controlling any Class I  
5 or Class II railroad shall allow the operation of any railroad train or  
6 locomotive for the movement of freight in this state unless such rail-  
7 road train or locomotive has a crew of not less than two individuals.

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

10 3. As used in this section, the following terms shall have the follow-  
11 ing meanings:

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

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

18 (c) "Locomotive" means a self-propelled piece of on-track equipment  
19 designed for moving or propelling cars that are designed to carry  
20 freight, passengers, or other equipment, but which itself is not

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

LBD01826-05-1

1 designed or intended to carry freight, passengers (other than those  
2 operating the locomotive) or other equipment.

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

5 (e) "Switching service" means the classification of rail cars accord-  
6 ing to commodity or destination; assembly of rail cars for train move-  
7 ments; changing the position of rail cars for purposes of loading,  
8 unloading or weighing; placing of locomotives and rail cars for repair  
9 or storage; or moving of rail equipment in connection with work service  
10 that does not constitute train movement.

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

13 4. A violation of the provisions of subdivision one of this section  
14 shall be punishable by a civil penalty in an amount of not less than two  
15 hundred fifty dollars nor more than one thousand dollars for a first  
16 violation; for a second violation both of which were committed within a  
17 period of three years by a civil penalty of not less than one thousand  
18 dollars nor more than five thousand dollars; and for a third or subse-  
19 quent violation all of which were committed within a period of three  
20 years, by a civil penalty of not less than five thousand dollars nor  
21 more than ten thousand dollars.

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

31 § 3. This act shall take effect on the thirtieth day after it shall  
32 have become a law and shall expire and be deemed repealed if any federal  
33 agency determines in writing that this act would render New York state  
34 ineligible for the receipt of federal funds or any court of competent  
35 jurisdiction determines that this act would render New York state out of  
36 compliance with federal law or regulation; provided that the commission-  
37 er of transportation shall notify the legislative bill drafting commis-  
38 sion upon the occurrence of any federal agency determination in writing  
39 that this act would render New York state ineligible for the receipt of  
40 federal funds or any court of competent jurisdiction determines that  
41 this act would render New York state out of compliance with federal law  
42 or regulation in order that the commission may maintain an accurate  
43 and timely effective data base of the official text of the laws of the  
44 state of New York in furtherance of effectuating the provisions of  
45 section 44 of the legislative law and section 70-b of the public offi-  
46 cers law. Effective immediately, the addition, amendment and/or  
47 repeal of any rule or regulation necessary for the implementation of  
48 this act on its effective date are authorized to be made and completed  
49 on or before such effective date.