

# 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:

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.

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

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

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

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

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

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

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

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