

STATE OF NEW YORK

380

2023-2024 Regular Sessions

IN ASSEMBLY

January 9, 2023

Introduced by M. of A. BURGOS, JOYNER -- 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 ~~[ex]~~, his or her officers or employ-
9 ees, every employee, or his or her legal representatives, shall have the
10 same rights and remedies for an injury, or for death, suffered by him or
11 her, from the act or omission of such corporation or receiver or of its
12 ~~[ex]~~, his or her officers or employees, as are now allowed by law, and,
13 in addition to the liability now existing by law, it shall be held in
14 such actions that persons engaged in the service of any railroad corpo-
15 ration, foreign or domestic, doing business in this state, or in the
16 service of a receiver thereof, who are intrusted by such corporation or
17 receiver, with the authority of superintendence, control or command of
18 other persons in the employment of such corporation or receiver, or with
19 the authority to direct or control any other employee in the performance
20 of the duty of such employee, or who have, as a part of their duty, for
21 the time being, physical control or direction of the movement of a
22 signal, switch, locomotive engine, car, train or telegraph office, are

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

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1 vice-principals of such corporation or receiver, and are not fellow-ser-
2 vants of such 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 or her legal representatives, against any such railroad corpo-
15 ration or receiver, on account of such injuries so received, the same
16 shall be prima facie evidence of negligence on the part of such corpo-
17 ration or receiver. [~~This section shall not affect actions or causes of~~
18 ~~action 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.