STATE OF NEW YORK

6934

2023-2024 Regular Sessions

IN SENATE

May 15, 2023

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law, in relation to requiring the department of transportation to promulgate rules and regulations for the installation of heat safety gauges on freight rail tracks; and to amend the railroad law, in relation to requiring the installation of positive train control systems on all freight rail trains operating in the state

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

Section 1. Section 14 of the transportation law is amended by adding a new subdivision 37 to read as follows:

37. (a) To promulgate rules and regulations requiring every freight railroad corporation incorporated pursuant to the provisions of section five of the railroad law to install heat safety gauges or hot bearing detectors on all freight rail tracks within the state operated by such corporation in accordance with national best practices, but in increments of no greater than fifteen miles. Provided, additionally, that such gauges or detectors shall be installed in locations before a route serves major urbanized areas. Such rules and regulations shall also prescribe a process for immediately notifying the commissioner and the federal railroad administration if such a gauge or detector indicates that temperature differences between bearings on the same axle are greater than or equal to one hundred fifteen degrees fahrenheit.

(b) Within one year of the effective date of this subdivision, the department shall conduct a study on the benefits of installing heat safety gauges or hot bearing detectors at closer intervals in more populated areas, and shall update the rules and regulations promulgated pursuant to this subdivision based upon the results of such study.

§ 2. The railroad law is amended by adding a new section 77-d to read as follows:

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

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§ 77-d. Positive train control systems. (a) No freight train shall be operated within the state without a properly functioning positive train control system. The commissioner shall promulgate all rules and regulations necessary for the implementation of this section.

(b) Whenever the commissioner of transportation shall cause to be personally served upon any railroad corporation controlling any tunnel or part of a tunnel or track in this state for the purpose of transporting or delivering freight for compensation, by delivering a copy personally to the president, general manager or any director of such corporation of a notice or order of said commissioner of transportation, stating and specifying the deficiencies or failures causing such railroad corporation to be operating a freight train without a properly functioning positive train control system, said corporation shall, within ten days from and after the service of such notice or order as aforesaid, cause said infrastructure or right of way so used by it as aforesaid to function properly, in the manner and by the means and use of the mechanical apparatus and appliances specified and pointed out in said notice or order.

(c) After the expiration of ten days from the service of such order or notice specified in this section, as therein directed, if such corporation shall not have fully complied with such notice or order, the commissioner of transportation may commence an action or special proceeding hereunder, or under the transportation law, in the supreme court for a judgment to compel such corporation or corporations so neglecting or refusing to obey and comply with said order or notice to comply with and obey said notice or order, and said court shall have full power and authority to hear and determine such matter, and after giving the corporation or corporations proceeded against an opportunity to be heard in its or their defense, to compel such corporation or corporations so proceeded against to obey such order or notice, and forthwith comply with and carry out the provisions and requirements therein contained.

(d) Every corporation violating any of the provisions of this section shall be guilty of a misdemeanor and may be indicted therefor, and may be compelled to appear and plead to an indictment therefor in the person of its president, secretary, treasurer or any director thereof, and a bench warrant may issue out of any competent court to compel such attendance and pleading, and, upon conviction thereof, such corporations shall be punished by a fine of one thousand dollars, and an additional fine of five hundred dollars a day for each and every day or part of a day after thirty days from the due service of said notice or order that said corporation shall refuse or neglect to obey and carry out the requirements and provisions of the same, and duly sentenced to pay the same.

§ 3. This act shall take effect immediately; provided, however, that section two of this act shall take effect one year after it shall have become a law. Provided, further, that this act shall 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; and provided that the commissioner of transportation shall notify the legislative bill drafting commission upon such determination 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.