

# 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:

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

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

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

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

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

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1     § 77-d. Positive train control systems. (a) No freight train shall be  
2 operated within the state without a properly functioning positive train  
3 control system. The commissioner shall promulgate all rules and regu-  
4 lations necessary for the implementation of this section.

5     (b) Whenever the commissioner of transportation shall cause to be  
6 personally served upon any railroad corporation controlling any tunnel  
7 or part of a tunnel or track in this state for the purpose of transport-  
8 ing or delivering freight for compensation, by delivering a copy  
9 personally to the president, general manager or any director of such  
10 corporation of a notice or order of said commissioner of transportation,  
11 stating and specifying the deficiencies or failures causing such rail-  
12 road corporation to be operating a freight train without a properly  
13 functioning positive train control system, said corporation shall, with-  
14 in ten days from and after the service of such notice or order as afore-  
15 said, cause said infrastructure or right of way so used by it as afore-  
16 said to function properly, in the manner and by the means and use of the  
17 mechanical apparatus and appliances specified and pointed out in said  
18 notice or order.

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

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

45     § 3. This act shall take effect immediately; provided, however, that  
46 section two of this act shall take effect one year after it shall have  
47 become a law. Provided, further, that this act shall be deemed repealed  
48 if any federal agency determines in writing that this act would render  
49 New York state ineligible for the receipt of federal funds or any court  
50 of competent jurisdiction finally determines that this act would render  
51 New York state out of compliance with federal law or regulation; and  
52 provided that the commissioner of transportation shall notify the legis-  
53 lative bill drafting commission upon such determination in order that  
54 the commission may maintain an accurate and timely effective data base  
55 of the official text of the laws of the state of New York in furtherance  
56 of effectuating the provisions of section 44 of the legislative law and

1 section 70-b of the public officers law. Effective immediately, the  
2 addition, amendment and/or repeal of any rule or regulation necessary  
3 for the implementation of this act on its effective date are authorized  
4 to be made and completed on or before such effective date.