

# PROGRAM BILL # 29

## GOVERNOR'S PROGRAM BILL 2016 MEMORANDUM

AN ACT to amend the railroad law, transportation law, the highway law, and the vehicle and traffic law

### Purpose of the Bill:

The purpose of this bill is to provide for greater rail and public safety, efficiency and modernization.

### Summary of Provisions:

Section 1 of the bill would set forth the title of the act as "Rail Safety Act of 2016."

Section 2 of the bill would add a new Section 53-f to the Railroad Law to require every railroad corporation and every municipality or state agency having jurisdiction of a highway on which there is an at grade crossing to conduct, at a minimum, biennial inspections of any traffic control devices interconnected with a highway-rail at-grade crossing warning system, under the oversight of the New York State Department of Transportation ("DOT").

Section 3 of the bill would add a new section 131-a to the Transportation L. to authorize the Commissioner of Transportation to impose monetary penalties for violations of laws and regulations against railroad companies that act as common carriers, and increases fines for railroad companies for similar violations while carrying hazardous materials.

Section 4 of the bill would amend Highway L. § 236 to align reporting requirements for railroad bridge inspections conducted by private railroads with current federal requirements.

Section 5 of the bill would add a new § 135-a to the Vehicle and Traffic Law (VTL) to provide a new definition for "railroad grade crossings" in line with federal definitions.

Section 6 of the bill would amend VTL § 1170 to provide penalties for repeat offenders for failing to obey signals indicating the approach of a train, including not stopping within 15 feet of the crossing: up to \$500 and/or 45 days of imprisonment for the second offense that occurs within eighteen months of the first; and up to \$750 and/or 90 days of imprisonment for a third or subsequent offense all of which occur within eighteen months. It would also increase penalties for repeat offenders for driving through, around, or under any gate or barrier at railroad crossings by providing: up to \$750 and/or 90 days of imprisonment for the second offense; and up to \$1,000 and/or 180 days of imprisonment for a third or subsequent offense. The look back for repeat offenses would be increased from 18 months to 30 months.

Section 7 would amend VTL § 1171 to increase penalties on repeat offender operators of certain vehicles, including buses, vehicles carrying hazardous materials, and vehicles with a gross vehicle rating of more than 10,000 pounds, that fail to stop at all railroad grade crossings: up to \$500 and/or 45 days of imprisonment for the second offense that occurs within thirty months of the first; and up to \$750 and/or 90 days of imprisonment for a third or subsequent offense all of which occur within thirty months.

Section 8 of the bill would make it effective immediately, except as to new penalties on railroad companies and motorists, which take effect on December 1, 2016. This section also requires the DOT to coordinate with railroads and municipalities on a public education campaign regarding the new penalties.

**Existing Law:**

There is no definition of “railroad grade crossings” in New York State law.

Although the Commissioner of Transportation is authorized to levy penalties under Transportation L. §131 against any common carrier; including common carriers that use trains, trucks, or other means of conveyance, and common carriers that carry goods or passengers, the maximum penalty that may be imposed under Section 131 is only \$5,000 for each offense.

Inventory and inspection of railroad bridges in New York State are currently governed by NYS Highway Law. The Federal Railroad Administration (FRA) has adopted its final rule 49 CFR Part 237 requiring railroad track owners to implement bridge management programs that include annual inspection of railroad bridges. However, state law does not align with the FRA’s new requirements.

VTL § 1170 does not expressly provide penalties for a failure to obey signals indicating the approach of a train, including not stopping within 15 feet of the crossing. Section 1170(b) provides penalties for driving through, around, or under any gate or barrier at railroad crossings: up to \$400 and/or 30 days of imprisonment for the first offense; up to \$500 and/or 90 days of imprisonment for the second offense that occurs within eighteen months of the first; and up to \$750 and/or 180 days of imprisonment for a third or subsequent offense all of which occur within eighteen months.

VTL § 1171 does not expressly provide penalties for operators of certain vehicles, including buses, vehicles carrying hazardous materials, and vehicles with a gross vehicle rating of more than 10,000 pounds, that fail to stop at all railroad grade crossings.

**Statement in Support:**

In 2014, there were over 250 crossing-collision deaths in the United States. The Federal Railroad Administration's acting administrator, Sarah Feinberg, recently stated that "Ninety-four percent of grade crossing accidents are linked to a driver's behavior." Moreover, grade crossing accidents frequently occur at local grade crossings in the community of a driver: 50% of train-motor vehicle collisions are reported to occur within five miles of the motorist’s home; 75% of such collisions occur within 25 miles of a person’s home.

Existing provisions of New York's Vehicle and Traffic Law require motorists to observe safe driving behaviors at grade crossings, but law enforcement reports that many motorists fail to follow these critical safety requirements, risking their own safety as well as others. The proposed legislation, by increasing penalties on railroad companies and motorists for operations in violation of the law, will deter repeat offenders from ignoring existing safety requirements, thereby reducing the risk of grade crossing accidents.

Moreover, the transportation of hazardous materials by railroad companies through the State of New York also raises significant concerns for public safety, public health, and environmental conservation. The risk has been greatly increased with the transport of crude oil throughout New York. State regulations require entities to report certain railroad incidents within a period of one hour after the event (17 NYCRR § 924.1) in order to facilitate emergency response coordination. By increasing the penalties for failure to comply with regulations, this bill establishes a strong incentive for railroad companies to ensure that incidents are reported within the time limits required by regulation.

Finally, this legislation will eliminate confusion and unnecessary duplication by aligning state law requirements for railroad bridge inspections with federal law. In addition, a single set of laws will allow for improved communication between the railroad company and the federal and state governments.

**Budget Implications:**

Minimal cost to implement.

**Local Impact:**

None noted.

**Effective Date:**

Immediate, except that the amendments made to sections 3, 6, and 7 of this act shall take effect on December 1, 2016; provided further, that effective immediately, the Commissioner of Transportation is authorized to promulgate any rules or regulations necessary for the implementation of this act, and to coordinate a public education campaign on new penalties.