

PROGRAM BILL # 29

Legislative Bill Drafting Commission
12086-01-6

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

RAILLA
(Relates to railroad safety)

Rail. railroad safety

AN ACT

to amend the railroad law, the
transportation law, the highway law,
and the vehicle and traffic law, in
relation to requiring joint
inspection of traffic signals,
increasing penalties for the failure
to comply with regulations, aligning
railroad bridge inspection require-
ments with federal regulations,
establishing and increasing penal-
ties for failure to obey certain
signals and stops

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s31 Espallat	s27 Hoylman	s25 Montgomery	s56 Robach
s52 Akshar	s49 Farley	s09 Kaminsky	s40 Murphy	s10 Sanders
s46 Amedore	s17 Felder	s63 Kennedy	s54 Nozzolio	s23 Savino
s11 Avella	s02 Flanagan	s34 Klein	s58 O'Mara	s41 Serino
s42 Bonacic	s55 Funke	s28 Krueger	s62 Ortt	s29 Serrano
s04 Boyle	s59 Gallivan	s24 Lanza	s60 Panepinto	s51 Seward
s44 Breslin	s12 Gianaris	s39 Larkin	s21 Parker	s26 Squadron
s38 Carlucci	s22 Golden	s37 Latimer	s13 Peralta	s16 Stavisky
s14 Comrie	s47 Griffo	s01 LaValle	s30 Perkins	s35 Stewart-
s03 Croci	s20 Hamilton	s45 Little	s19 Persaud	Cousins
s50 DeFrancisco	s06 Hannon	s05 Marcellino	s61 Ranzenhofer	s53 Valesky
s32 Diaz	s36 Hassell-	s43 Marchione	s48 Ritchie	s08 Venditto
s18 Dilan	Thompson	s07 Martins	s33 Rivera	s57 Young

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a011 Jean-Pierre	a003 Murray	a076 Seawright
a092 Abinanti	a054 Dilan	a135 Johns	a133 Nojay	a087 Sepulveda
a084 Arroyo	a081 Dinowitz	a077 Joyner	a037 Nolan	a027 Simanowitz
a035 Aubry	a147 DiPietro	a094 Katz	a130 Oaks	a052 Simon
a120 Barclay	a115 Duprey	a074 Kavanagh	a069 O'Donnell	a036 Simotas
a106 Barrett	a004 Englebright	a142 Kearns	a051 Ortiz	a104 Skartados
a060 Barron	a109 Fahy	a040 Kim	a091 Otis	a099 Skoufis
a082 Benedetto	a071 Farrell	a131 Koib	a132 Palmesano	a022 Solages
a042 Bichotte	a126 Finch	a105 Lalor	a002 Palumbo	a114 Stec
a079 Blake	a008 Fitzpatrick	a013 Lavine	a088 Paulin	a110 Steck
a117 Blankenbush	a124 Friend	a134 Lawrence	a141 Peoples-	a127 Sturpe
a098 Brabenec	a095 Galef	a050 LentoI	Stokes	a112 Tedisco
a026 Braunstein	a137 Gantt	a125 Lifton	a058 Perry	a101 Tenney
a044 Brennan	a007 Garbarino	a072 Linares	a086 Pichardo	a001 Thiele
a119 Brindisi	a148 Giglio	a102 Lopez	a089 Pretlow	a061 Titone
a138 Bronson	a080 Gjonaj	a123 Lupardo	a073 Quart	a031 Titus
a093 Buchwald	a066 Glick	a010 Lupinacci	a019 Ra	a055 Walker
a118 Butler	a023 Goldfeder	a121 Magee	a012 Raia	a146 Walter
a103 Cahill	a150 Goodell	a129 Magnarelli	a006 Ramos	a041 Weinstein
a065 Cancel	a075 Gottfried	a064 Malliotakis	a043 Richardson	a024 Weprin
a062 Castorina	a005 Graf	a030 Markey	a078 Rivera	a059 Williams
a145 Ceretto	a100 Gunther	a090 Mayer	a056 Robinson	a113 Woerner
a047 Colton	a046 Harris	a108 McDonald	a068 Rodriguez	a143 Wozniak
a032 Cook	a139 Hawley	a014 McDonough	a067 Rosenthal	a070 Wright
a144 Corwin	a083 Heastie	a017 McKevitt	a025 Rozic	a096 Zebrowski
a085 Crespo	a028 Hevesi	a107 McLaughlin	a116 Russell	a020
a122 Crouch	a048 Hikind	a038 Miller	a149 Ryan	a033
a021 Curran	a018 Hooper	a015 Montesano	a009 Saladino	
a063 Cusick	a128 Hunter	a136 Morelle	a111 Santabarbara	
a045 Cymbrowitz	a029 Hyndman	a057 Mosley	a016 Schimel	
a053 Davila	a097 Jaffee	a039 Moya	a140 Schimminger	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

LBDC 05/04/16

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "rail safety act of 2016."

3 § 2. The railroad law is amended by adding a new section 53-f to read
4 as follows:

5 § 53-f. Joint inspection of traffic-control signals interconnected
6 with highway-rail at-grade crossing warning systems. 1. Notwithstanding
7 the provisions of any other law to the contrary, the commissioner is
8 authorized to establish, implement, and exercise oversight over a
9 program to coordinate the inspection of traffic-control signals inter-
10 connected with highway-rail at-grade crossing warning systems.

11 2. Pursuant to the program established under subdivision one of this
12 section, the department of transportation shall establish a procedure
13 applicable to every railroad corporation and each municipality having
14 jurisdiction of a highway on which there is an at-grade rail crossing
15 warning system interconnected with a traffic-control signal for the
16 coordinated operation and biennial inspection of any traffic-control
17 signal interconnected with a highway-rail at-grade crossing warning
18 system. Nothing in this section shall be deemed to alter or impair such
19 railroad corporation's existing responsibility for maintenance of, and
20 access to, the highway-rail at-grade crossing warning system.

21 3. For the purposes of this section, the term "traffic-control signal"
22 shall have the same meaning as such term is defined by section one
23 hundred fifty-four of the vehicle and traffic law.

24 § 3. The transportation law is amended by adding a new section 131-a
25 to read as follows:

26 § 131-a. Penalties for violations. 1. Any railroad company that oper-
27 ates as a common carrier that violates any provision of article five of
28 this chapter and regulations promulgated pursuant thereto shall, upon

1 direction by the commissioner, be liable for a penalty payable to the
2 people of the state of New York in the amount not to exceed five thou-
3 sand dollars.

4 2. Any railroad company that operates as a common carrier of property
5 that violates any provision of article five of this chapter and regu-
6 lations promulgated pursuant thereto with respect to one or more freight
7 cars required to be placarded by federal hazardous materials regulations
8 shall, upon direction by the commissioner, be liable for a penalty paya-
9 ble to the people of the state of New York in an amount not to exceed
10 fifteen thousand dollars.

11 3. Each violation shall be a separate and distinct offense, and, in
12 case of a continuing violation, every day's continuance thereof shall be
13 a separate and distinct offense.

14 4. Before imposing a penalty set forth in this section, the commis-
15 sioner shall afford the railroad company notice and an opportunity to be
16 heard. In assessing the penalty, the commissioner may consider the
17 following:

18 a. the railroad company's history of violating the law or the regu-
19 lations of the commissioner;

20 b. if the violation arises out of an accident, whether death or seri-
21 ous injury occurred as a result of the accident, whether the accident
22 resulted in an evacuation of the general public for one hour or more,
23 and whether the accident resulted in the closure of a major transporta-
24 tion artery or facility for one hour or more; and

25 c. any other factors the commissioner deems relevant.

26 5. If such penalty is not paid within four months, the amount thereof
27 may be entered as a judgment in the office of the clerk of the county of

1 Albany and in any other county in which the railroad company has a place
2 of business or through which it operates.

3 § 4. Section 236 of the highway law, as amended by chapter 455 of the
4 the laws of 1998, is amended to read as follows:

5 § 236. Program of railroad bridge inspection. 1. Program establish-
6 ment. Notwithstanding any other provision of law to the contrary, the
7 commissioner is authorized and directed to establish, implement and
8 exercise oversight over a program of railroad bridge inspection in
9 conformity with the rail safety improvement act of 2008, subchapter I of
10 chapter 201 of part A of subtitle V of title 49 of the United States
11 code as such law may, from time to time, be amended and part 237 of
12 title 49 of the code of federal regulations as such regulations may,
13 from time to time, be amended, by all railroads as defined herein which
14 shall apply to all railroad bridges whether publicly or privately owned.

15 2. Bridge inventory. [(a)] Each railroad shall provide to the commis-
16 sioner an inventory of every railroad bridge either owned or used by
17 such railroad whether exclusively or with another railroad or rail-
18 roads[. Each such inventory shall contain a statement as to the owner-
19 ship of all railroad bridges listed thereon and, if not owned by the
20 filing railroad, such railroad shall state the circumstances under which
21 it is operating over such railroad bridges. With regard to bridges owned
22 or maintained by the filing railroad, such inventory may be in the
23 format currently maintained by each railroad provided the inventory
24 identifies: (i) the owner of the railroad if different from the rail-
25 road submitting the inventory; (ii) a description of each bridge
26 reflecting the condition of the bridge as determined by the latest
27 inspection report; and (iii) the maximum load for each of its lines.
28 Each inventory submitted shall contain the following administrative data

1 with regard to each bridge owned or maintained by the filing railroad:
2 the bridge identification number; the railroad bridge number; the rail-
3 road line code (if applicable); the railroad mile post; the county; the
4 operating railroad or railroads; other features carried (if applicable);
5 features intersected description; features intersected code; owner or
6 owners; maintenance responsibilities; and inspection responsibilities.
7 Each inventory submitted shall also contain the following general data
8 with regard to each bridge owned or maintained by the filing railroad:
9 the year built; the year rehabilitated; the number of tracks crossing
10 the bridge; the type of rail service; the number of spans; and the
11 bridge type] as required to be maintained by part 237 of title 49 of the
12 code of federal regulations as such regulations may, from time to time,
13 be amended.

14 [(b) In any instance in which more than one railroad operates over a
15 bridge, the inventory shall identify which railroad has responsibility
16 for the inspection and maintenance.]

17 3. Bridge inspection. [(a) The department shall develop and publish
18 railroad bridge inspection standards. Such standards shall be developed
19 in consultation with representatives of railroads operating within the
20 state and insofar as practicable, shall not be inconsistent with current
21 American railway engineering and maintenance of way association recom-
22 mended practices.

23 (b)] (a) Each railroad shall develop a bridge safety management
24 program and submit to the department written bridge management and
25 inspection procedures[. Such procedures shall be developed under the
26 supervision of a licensed professional engineer, and shall be consistent
27 with generally accepted railway engineering standards and procedures for
28 railroad bridge inspection and shall be in conformance with the stand-

1 ards developed by the department as set forth in paragraph (a) of this
2 subdivision. The procedures shall contain a format for the reporting
3 document to be submitted to the department. Such reports shall contain
4 the qualifications of the individuals performing bridge inspection
5 activities] as required to be maintained and developed by part 237 of
6 title 49 of the code of federal regulations as such regulations may,
7 from time to time, be amended.

8 [(c)] (b) Railroad bridge inspections shall be performed [by techni-
9 cians whose training and experience enable them to detect and record
10 indications of distress on a bridge. Inspectors must provide accurate
11 measurements and other information about the condition of the bridge in
12 sufficient detail to a licensed professional engineer who shall make an
13 evaluation of the capacity and safety of the bridge] by railroad bridge
14 inspectors in conformity with part 237 of title 49 of the code of feder-
15 al regulations as such regulations may, from time to time, be amended.
16 The term "railroad bridge inspectors" shall have the same meaning as
17 such term is defined by section 237.53 of title 49 of the code of feder-
18 al regulations as such regulations may, from time to time, be amended.

19 [(d)] (c) Each railroad shall conduct an inspection of every railroad
20 bridge located in the state for which it has inspection responsibility[,
21 in accordance with the bridge inventory set forth in subdivision two of
22 this section, at least once in each calendar year and following an
23 occurrence which the railroad reasonably believes may have reduced the
24 capacity of any bridge] consistent with part 237 of title 49 of the code
25 of federal regulations as such regulations may, from time to time, be
26 amended.

27 [(e)] (d) A copy of the inspection report for each railroad bridge
28 shall, consistent with part 237 of title 49 of the code of federal regu-

1 lations as such regulations may, from time to time, be amended, be main-
2 tained by the appropriate railroad for a period [of not less than five
3 years. The reports shall be comprehensible to a competent person without
4 interpretation by the reporting inspector] of not less than two years,
5 provided that each copy of an underwater inspection report shall be
6 retained until the completion and review of the next underwater
7 inspection of the bridge. If requested by the department, the railroad
8 shall submit the inspection report within thirty business days to the
9 department.

10 [(f)] (e) Not later than March fifteenth of each year, a licensed
11 professional engineer or other responsible officer of each railroad
12 shall file a certification that each bridge has been inspected in
13 accordance with [the bridge management and inspection procedures and
14 that every structure is safe for the loading imposed,] part 237 of title
15 49 of the code of federal regulations as such regulations may, from time
16 to time, be amended, and additionally, shall advise the commissioner of
17 any change affecting bridge safety which has occurred since the last
18 certification.

19 [(g)] (f) If, as a result of an inspection, a bridge is determined to
20 be unsafe, the railroad shall immediately notify the commissioner and
21 shall take appropriate remedial action to ensure that such structure is
22 safe. Upon completion of such remedial action, the railroad shall
23 provide the commissioner with a certification by a licensed professional
24 engineer or other responsible officer that the bridge is now safe for
25 the loadings imposed. If a railroad shall fail to take remedial action,
26 the commissioner may direct the railroad to take appropriate action,
27 including requiring the closing of the bridge. Any order of the commis-

1 sioner shall be reviewable in accordance with article seventy-eight of
2 the civil practice law and rules.

3 [(h)] (g) For purposes of this section, a "licensed professional engi-
4 neer" shall mean a professional engineer who is authorized to practice
5 engineering under title eight of the education law.

6 4. Powers of the commissioner. The commissioner shall have the power
7 to adopt, promulgate, amend and rescind such rules and regulations,
8 consistent with part 237 of title 49 of the code of federal regulations
9 as such regulations may, from time to time, be amended, as the commis-
10 sioner deems appropriate to carry out the provisions and purposes of
11 this article or to enforce any standards established hereunder. [All
12 existing rules and regulations requiring inspection and certification of
13 railroad bridges shall remain in effect until such time as new rules and
14 regulations are promulgated.] Additionally the commissioner shall be
15 authorized to review the inspection reports, inventories and other
16 supporting documents, to compel the production of any books, papers,
17 records and documents relevant to the railroad bridge inspection
18 program, and to subpoena witnesses, administer oaths and take testimony,
19 and to maintain a civil suit against any public or private entity to
20 compel compliance with the provisions of this chapter.

21 [5. Phase in of program. In order to permit the orderly implementation
22 of the railroad bridge inspection program, the inventory of railroad
23 bridges as herein provided shall be submitted to the commissioner by
24 January twenty-ninth, nineteen hundred ninety-seven. All railroad bridg-
25 es over which passenger rail service is provided shall be inspected not
26 later than January first, nineteen hundred ninety-nine, and certifi-
27 cation submitted to the department not later than March fifteenth,
28 nineteen hundred ninety-nine. All other railroad bridges shall be

1 inspected and certified not later than July first, nineteen hundred
2 ninety-nine.]

3 § 5. The vehicle and traffic law is amended by adding a new section
4 135-a to read as follows:

5 § 135-a. Railroad grade crossing. A location where a public highway or
6 private road, including associated sidewalks, crosses one or more rail-
7 road tracks at grade.

8 § 6. Section 1170 of the vehicle and traffic law, as amended by chap-
9 ter 300 of the laws of 1960, subdivision (b) as amended and subdivisions
10 (c) and (d) as added by chapter 430 of the laws of 1996, is amended to
11 read as follows:

12 § 1170. Obedience to signal indicating approach of train. (a) Whenever
13 any person driving a vehicle approaches a railroad grade crossing under
14 any of the circumstances stated in this section, the driver of such
15 vehicle shall stop not less than fifteen feet from the nearest rail of
16 such railroad, and shall not proceed until he can do so safely. The
17 foregoing requirements shall apply when:

18 1. An audible or clearly visible electric or mechanical signal device
19 gives warning of the immediate approach of a railroad train;

20 2. A crossing gate is lowered or when a human flagman gives or contin-
21 ues to give a signal of the approach or passage of a railroad train;

22 3. A railroad train approaching within approximately one thousand five
23 hundred feet of the highway crossing emits a signal audible from such
24 distance and such railroad train, by reason of its speed or nearness to
25 such crossing, is an immediate hazard; or

26 4. An approaching railroad train is plainly visible and is in hazard-
27 ous proximity to such crossing.

1 5. Every person convicted of a violation of this subdivision shall for
2 a first conviction thereof be punished by a fine of not more than one
3 hundred fifty dollars or by imprisonment for not more than fifteen days
4 or by both such fine and imprisonment; for a conviction of a second
5 violation, both of which were committed within a period of eighteen
6 months, such person shall be punished by a fine of not more than five
7 hundred dollars or by imprisonment for not more than forty-five days or
8 by both such fine and imprisonment; upon a conviction of a third or
9 subsequent violation, all of which were committed within a period of
10 eighteen months, such person shall be punished by a fine of not more
11 than seven hundred fifty dollars or by imprisonment for not more than
12 ninety days or by both such fine and imprisonment.

13 (b) No person shall drive any vehicle through, around, or under any
14 crossing gate or barrier at a railroad crossing while such gate or
15 barrier is closed or is being opened or closed. Every person convicted
16 of a violation of this subdivision shall for a first conviction thereof
17 be punished by a fine of not less than two hundred fifty dollars nor
18 more than four hundred dollars or by imprisonment for not more than
19 thirty days or by both such fine and imprisonment; for a conviction of a
20 second violation, both of which were committed within a period of [eigh-
21 teen] thirty months, such person shall be punished by a fine of not less
22 than three hundred fifty dollars nor more than [five] seven hundred
23 fifty dollars or by imprisonment for not more than ninety days or by
24 both such fine and imprisonment; upon a conviction of a third or subse-
25 quent violation, all of which were committed within a period of [eigh-
26 teen] thirty months, such person shall be punished by a fine of not less
27 than six hundred dollars nor more than [seven hundred fifty] one thou-

1 sand dollars or by imprisonment for not more than one hundred eighty
2 days or by both such fine and imprisonment.

3 (c) 1. Any person convicted of a violation of this section while driv-
4 ing any vehicle carrying passengers under eighteen years of age, any bus
5 carrying passengers, any school bus or any vehicle carrying explosive
6 substances or flammable liquids as a cargo or part of a cargo, shall,
7 upon conviction of a first offense, be guilty of a class A misdemeanor,
8 and shall, upon conviction of a second or subsequent offense committed
9 within five years of the prior offense, be guilty of a class E felony.

10 2. Any person convicted of a violation of this section resulting in an
11 accident which causes physical injury, as that term is defined pursuant
12 to subdivision nine of section 10.00 of the penal law, serious physical
13 injury, as that term is defined pursuant to subdivision ten of section
14 10.00 of the penal law, or death to another person, shall be guilty of a
15 class E felony.

16 (d) Nothing contained in this section shall be construed to prohibit
17 or limit the prosecution of any violation, crime or other offense other-
18 wise required or permitted by law.

19 § 7. Section 1171 of the vehicle and traffic law is amended by adding
20 a new subdivision (f) to read as follows:

21 (f) Every person convicted of a violation of this section shall for a
22 first conviction thereof be punished by a fine of not more than one
23 hundred fifty dollars or by imprisonment for not more than fifteen days
24 or by both such fine and imprisonment; for a conviction of a second
25 violation, both of which were committed within a period of thirty
26 months, such person shall be punished by a fine of not more than five
27 hundred dollars or by imprisonment for not more than forty-five days or
28 by both such fine and imprisonment; upon a conviction of a third or

1 subsequent violation, all of which were committed within a period of
2 thirty months, such person shall be punished by a fine of not more than
3 seven hundred fifty dollars or by imprisonment for not more than ninety
4 days or by both such fine and imprisonment.

5 § 8. This act shall take effect immediately; provided, that sections
6 three, six and seven of this act shall take effect on December 1, 2016;
7 provided further, that effective immediately, the commissioner of trans-
8 portation is authorized to promulgate any rules or regulations necessary
9 for the implementation of this act; and provided further, that effective
10 immediately, the commissioner of transportation shall coordinate with
11 every railroad corporation, relevant state authority, and municipality
12 having jurisdiction of a highway on which there is an at-grade rail
13 crossing warning system interconnected with a traffic-control signal, to
14 establish a public awareness and education campaign related to the
15 provisions of sections three, six and seven of this act.