

SENATE NO. 2113

AN ACT TO PROVIDE COUNSELING SERVICES AND MEDICAL LEAVE FOR CREW MEMBERS OF A RAILROAD COMPANY INVOLVED IN AN ACCIDENT RESULTING IN LOSS OF LIFE OR SERIOUS BODILY INJURY

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter one hundred fifty-nine of the General Laws is hereby amended by inserting after
2 section 28 the following section:

3 Section 28A. (1)(a) Every Railroad corporation and railway company shall provide or make
4 available to every member of an operating crew involved in an accident on its railway or right of way
5 which results in loss of life or serious bodily injury, counseling services or other critical incident stress
6 debriefing services within 48 hours, provided, that the engineer, or other operating crew member
7 involved in said accident shall be relieved from duty with compensation and applicable benefits at the
8 site of said accident for a minimum of three days; provided, further, that said leave may be without
9 compensation and benefit if the railroad corporation makes the affirmative showing that the accident
10 was due to negligence of an engineer or other operating crew member;

11 provided, however, that any person who is otherwise eligible for these benefits and who has been
12 found to have not acted negligently shall not be precluded from participation due to the negligence of a
13 fellow crew member.

14 (B) Any engineer returning to duty following such leave shall, if he so requests, be assigned an
15 assistant engineer or other qualified person who shall accompany him for such reasonable time as may
16 be necessary to guarantee the public safety. Any engineer or crew member may be subject to an
17 examination at the discretion of the employer, pertaining to any mental or emotional impairment
18 caused by said incident during the period of leave, or upon return to duty, by a qualified medical
19 practitioner designated by the employer.

20 (c) The Department shall promulgate rules and regulations necessary for the implementation
21 and enforcement of the provisions of this section provided, however, that any person who is otherwise
22 eligible for these benefits and who has been found to have not acted negligently shall not be precluded
23 from participation due to the negligence of a fellow crew member.

24 (B) Any engineer returning to duty following such leave shall, if he so requests, be assigned an
25 assistant engineer or other qualified person who shall accompany him for such reasonable time as may
26 be necessary to guarantee the public safety. Any engineer or crew member may be subject to an
27 examination at the discretion of the employer, pertaining to any mental or emotional impairment
28 caused by said incident during the period of leave, or upon return to duty, by a qualified medical
29 practitioner designated by the employer.

30 (c) The Department shall promulgate rules and regulations necessary for the implementation
31 and enforcement of the provisions of this section.