

SENATE NO. 2117

AN ACT RELATIVE TO THE SECURITY OF RAIL FACILITIES

*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 and Sixty One C (161C) of the General Laws is hereby
2 amended by adding the following new section : -

3 (1) Risk Assessment: Not later than 180 days after the enactment of this Section, every
4 operator of rail facilities in Massachusetts shall provide to the Executive Office of Public Safety
5 and the Executive Office of Transportation a risk assessment of all rail facilities in
6 Massachusetts, which shall describe –

7 (a) all facilities and their functions;

8 (b) the types of cargo that have moved through such facilities within the preceding twelve
9 months, including the approximate quantities of hazardous materials and oil subject to
10 Chapter I of Title 49 of the Code of Federal Regulations;

11 (c) the extent to which hazardous materials and/or oil are stored in rail facilities, including
12 the location of such facilities and the approximate quantities of hazardous materials
13 and/or oil stored;

14 (d) the location of any rail facility through which hazardous materials and/or oil are
15 transported or at which such cargo is stored that lies within a fifteen mile radius of a
16 school, hospital, nursing home, public utility, or public safety facility; and

17 (e) the rail operator's current security plan, which shall include:

18 (i) a description of the practices of the rail operator designed to prevent acts of
19 sabotage, terrorism or other crimes on rail facilities;

20 (ii) the training program the rail operator provides to its employees;

21 (iii) the emergency response procedures of the rail operator in dealing with acts
22 of sabotage, terrorism or other crimes; and

23 (iv) the procedures of the rail operator in communicating with local and state law
24 enforcement personnel, emergency personnel, transportation officials, and other
25 first responders in the event of acts of sabotage, terrorism or other crimes.

26 (2) Community Protection Plan: Not later than 360 days after the date of enactment of this
27 Section, all rail operators in Massachusetts shall have in place a Community Protection Plan
28 designed to protect rail infrastructure and traffic in Massachusetts from acts of sabotage,
29 terrorism or other crimes.

30 (a) The Community Protection Plan shall provide specifically for the security of critical
31 infrastructure, including all points of vulnerability of the rail system that handle
32 hazardous cargo and/or oil, including rights of way, yards, bridges, tunnels, and signal
33 systems.

34 (b) With respect to rail infrastructure, generally, the Community Protection Plan shall –

35 (i) describe the rail operator's methods for protecting critical infrastructure from
36 acts of sabotage, terrorism, or other crimes;

37 (ii) describe the manner and substance of initial and recurrent training provided by
38 the rail operator to its employees to enable them to identify security threats and
39 respond appropriately to acts of sabotage, terrorism or other crimes;

40 (iii) describe the emergency response procedures of the rail operator in dealing with
41 acts of sabotage, terrorism, or other crimes; and

42 (iv) describe the procedures of the rail operator in communicating with local and
43 state
44 law enforcement personnel, emergency personnel, transportation officials, and
45 other first responders in the event of acts of sabotage, terrorism or other crimes.

46 (c) With respect to any rail facility through which hazardous materials and/or oil is
47 transported or at which such cargo is stored that lies within a fifteen mile radius of a
48 school, hospital, nursing home, public utility, or public safety facility, the Community
49 Protection Plan shall also provide for –

50 (i) inspection on a regular basis by personnel trained to determine the condition of
51 the facility and its vulnerability to acts of sabotage, terrorism, of other crimes;

52 (ii) storage of hazardous materials and/or oil only in secure facilities designed for
53 such storage, which shall not include rights of way;

54 (iii) procedures to prevent leaving locomotive equipment running while unattended,
55 and leaving unattended locomotive equipment unlocked;

56 (iv) methods by which the cabs of occupied locomotives may be secured against un-
57 authorized entry; and

58 (v) security for all remote control devices to prevent access to such devices by
59 unauthorized personnel.

60 (d) Each rail operator in Massachusetts shall provide a copy of its Community Protection
61 Plan to the Executive Office of Public Safety and the Executive Office of
62 Transportation.

63 (e) The Executive Office of Public Safety and the Executive Office of Transportation shall
64 review the Community Protection Plan; shall have the authority to order a rail operator
65 to improve, modify, or change its plan to comply with the requirements of this Section;
66 and shall have the authority to fine a rail operator \$50,000 per day for failure to
67 comply with its orders or the requirements of this Section.

68 (f) The Community Protection Plan shall be updated by the rail operator at least once every
69 year, and the updated plan shall be submitted to the Executive Office of Public Safety
70 and the Executive Office of Transportation.

71 (3) Worker Protection: No rail operator or any other person covered by this Section may
72 discharge or in any way discriminate against an employee who reports a violation of this
73 Section. An employee who alleges a violation of this Section may seek punitive damages of up
74 to \$1,000,000 for each said violation, in addition to whatever other remedies may be available.

75 (4) Scope: This Section shall apply to rail operators, contractors or subcontractors working on
76 the facilities of a rail operator, and any other individual or corporation performing work on rail
77 facilities in Massachusetts. All employees of rail operators, contractors or subcontractors, and
78 other individuals or corporations performing work on rail facilities in Massachusetts, shall
79 receive the training prescribed in subsection (2). In addition, employees of rail contractors or
80 subcontractors, and other individuals or corporations performing work on rail facilities in
81 Massachusetts, shall be required to undergo the same background, skills and fitness for duty
82 checks as employees of the rail operator. If any provision of this Section is at any time

83 determined to be in conflict with any law, such provision will continue in effect only to the
84 extent permitted by such law. If any provision of this Section is or becomes invalid or
85 unenforceable, such invalidity or unenforceability will not affect or impair any other term or
86 provision of this Section.

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