

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1245 - L.D. 1937

An Act Regarding the Transportation of Hazardous Materials by Railroad Companies

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, records provided by railroad companies describing hazardous materials transported in the State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder are not subject to public disclosure; and

Whereas, this legislation makes those records subject to public disclosure when those records are related to a train carrying hazardous materials that has derailed at any point from a main line train track; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period because the potential for discharge of hazardous materials transported by a railroad company poses a threat to public health, safety and welfare; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2019, c. 667, Pt. B, §4, is further amended to read:

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of

hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. 2. 23 MRSA §5003, as enacted by PL 1987, c. 141, Pt. A, §4, is amended to read:

§5003. Collection of judgment against foreign railroad company lessee

When any foreign railroad company, ~~which~~ that is or has been doing business in this State as the lessee of any railroad; refuses or neglects for 60 days after demand to pay and discharge any judgment recovered by any person against the railroad company owning that leased road for damages to the property of the person by the doings, misdoings or neglects of the foreign railroad company, its agents or servants, ~~which and that~~ judgment belongs to the foreign railroad company to pay and discharge, the Superior Court, on complaint, may compel payment ~~thereof of the judgment~~ by the foreign ~~corporation~~ railroad company and make, pass and enforce all necessary orders, decrees and processes for the purpose. Nothing in this section allows for nonparticipation by foreign railroad company lessees.

Sec. 3. 23 MRSA §7015 is enacted to read:

§7015. Prevention and response plans and environmental impact analysis

Within 180 days of the effective date of this section, a railroad company shall submit to the Commissioner of Environmental Protection a prevention and response plan including the environmental impact analysis submitted to the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration. The railroad company shall also provide any updates submitted to the Pipeline and Hazardous Materials Safety Administration to the Commissioner of Environmental Protection.

Sec. 4. 23 MRSA §7311, sub-§2-A is enacted to read:

2-A. State, county, municipal notice. In the event of a main line train derailment involving hazardous materials, a railroad company shall make a 9-1-1 call, as defined in Title 25, section 2921, subsection 17, to alert first responders, including municipal and county fire chiefs in the jurisdiction, and provide timely notice to the Department of Public Safety, the Department of Environmental Protection and the Maine Emergency Management Agency. The Maine Emergency Management Agency may notify the Department of Transportation and the municipal and county fire chiefs located within the affected area of the accident.

Sec. 5. 23 MRSA §7311, sub-§2-B is enacted to read:

2-B. Public notice. In the event of a main line train derailment involving hazardous materials, the Maine Emergency Management Agency shall, if requested by a municipal or county fire chief serving as incident commander, issue an alert through an emergency alert system or wireless emergency alert system for the area identified by the incident commander.

Sec. 6. 23 MRSA §7311, sub-§2-C is enacted to read:

2-C. Failure to issue notice. If a railroad company fails to provide timely notice as required under subsection 2-A, the Commissioner of Transportation may assess a fine up

to \$25,000 per failed notice per day in the event of a main line train derailment involving hazardous materials.

Sec. 7. 23 MRSA §7311, sub-§5 is enacted to read:

5. Routine inspections. Upon request of the Commissioner of Transportation, a railroad company shall submit reports of inspections conducted pursuant to federal agency requirements under 49 Code of Federal Regulations, Subtitle B, Chapter II by a railroad company of trains, rails, rail safety equipment and rail corridors. Records under this subsection are not public records pursuant to Title 1, section 402, subsection 3, paragraph U.

Sec. 8. 23 MRSA §7313 is enacted to read:

§7313. Mandatory training offered by railroad companies to fire and emergency medical services

1. Training. A railroad company shall offer training to each fire department, each local organization for emergency management and each organization that has a mutual aid agreement with each fire department and each local organization for emergency management along routes over which the railroad company transports oil or other hazardous materials. Additional training must be offered to each fire department and each local organization for emergency management at least once every 3 years after the initial training provided for under this subsection.

2. Hazardous materials; techniques to assess hazards. The training under subsection 1 must address the general hazards of oil and hazardous materials that travel through the jurisdiction or mutual aid agreement jurisdiction of each fire department and local organization for emergency management; techniques to assess hazards to the environment and to the safety of first responders and the public; factors that an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and first responders from an area; and other strategies for initial response by first responders.

3. Suggested protocols. The training under subsection 1 must include suggested protocols or practices for first responders to safely respond to a derailment; methods to identify railroad cars and hazardous material contents; first responder safety issues; railroad response tactics; public notification and evacuation considerations; environmental contamination response; railroad response personnel and resources coordination at an accident; and any other protocols and practices for safe initial local response, including the notification requirements and the responsibilities of an incident commander during any rail accident involving oil or other hazardous materials.

Sec. 9. 23 MRSA §7314 is enacted to read:

§7314. Post-accident reporting requirements

1. Post-accident review. After an accident involving hazardous materials subject to review by the applicable federal agency or when an accident is not reviewed by the applicable federal agency but review is considered necessary by the Commissioner of Transportation, the commissioner shall ensure that a post-accident review and analysis is performed in a timely manner. The commissioner's review and analysis must be undertaken

under an agreement with an entity having relevant knowledge and experience that is fully independent of the railroad carrier's companies.

2. Evaluation requirements. The Commissioner of Transportation's review and analysis process must include an after-action review and must evaluate, at a minimum, processes occurring during the accident for emergency assessment, hazard operations, population protection and accident management. The review and analysis must be designed to minimize disruption of the federal review of the accident.

3. Report. By March 1st following any calendar year in which one or more post-accident reviews and analyses are performed, the Commissioner of Transportation shall submit a report to the joint standing committees of the Legislature having jurisdiction over railroads and public records matters. The report must:

A. Provide a summary of the accidents, as long as the information provided does not include information excluded from the definition of "public records" pursuant to Title 1, section 402, subsection 3, paragraph U;

B. Identify findings, conclusions and process changes;

C. Include any costs associated with accidents; and

D. Make recommendations for changes to laws and rules, if any.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Multimodal Transportation Fund Z017

Initiative: Provides allocations for accident reviews and analyses regarding hazardous materials performed by a qualified entity.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$40,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$40,000

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.