



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-3857/1  
ZDW:emw

## 2015 SENATE BILL 427

December 3, 2015 - Introduced by Senators PETROWSKI, SHILLING, WIRCH, BEWLEY, CARPENTER, DARLING, HANSEN, C. LARSON, LASSA, MILLER, OLSEN and VINEHOUT, cosponsored by Representatives BILLINGS, OHNSTAD, BALLWEG, BARCA, BERCEAU, E. BROOKS, BROSTOFF, DANOU, DOYLE, HINTZ, JOHNSON, KAHL, KESSLER, KOLSTE, MILROY, A. OTT, SARGENT, SUBECK, C. TAYLOR, WACHS and ZEPNICK. Referred to Committee on Natural Resources and Energy.

1     **AN ACT to create** 20.155 (2) (h), 189.02 (2m), 189.02 (8), 192.45, 299.67 and  
2             778.25 (1) (a) 9. of the statutes; **relating to:** preparation and response required  
3             by railroad corporations in the event of discharge of transported materials and  
4             making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes the emergency preparedness required of railroad corporations transporting hazardous materials in the state and the response required by railroad corporations if a discharge of hazardous materials occurs.

This bill requires each railroad corporation operating in the state to submit to the Department of Natural Resources a plan detailing the measures the corporation will take to prevent the discharge of hazardous materials and to respond to discharges that may occur. Each railroad corporation is required to provide training to each fire department along the route upon which the corporation's trains operate. The training must include response preparedness relating to discharge and derailments and techniques to assess hazards to the environment. Each railroad corporation must complete these requirements once every three years.

This bill requires a railroad corporation operating a train that discharges material to provide an employee to advise the local incident commander within one hour. Within three hours, the corporation must deliver monitoring equipment and qualified personnel to assess the discharge. Within eight hours, the corporation must deliver equipment capable of containing 10 percent of the discharge. Within

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60 hours, the corporation must deliver equipment capable of containing 100 percent of the discharge.

This bill requires the Office of the Commissioner of Railroads (OCR) to employ rail safety inspectors who will inspect railroad tracks, rights-of-way, yards, and physical plants and review railroad safety requirements, security measures, and maintenance and repair records. This bill increases OCR's rail safety inspector positions by four positions. This bill also requires OCR to reimburse fire departments for certain expenses associated with the training required by this bill. This bill requires OCR to assess each railroad corporation a proportionate share, based on route miles operated in this state, of OCR's expenses related to the rail inspection and training required by this bill.

This bill requires OCR to submit to the legislature no later than January 15, 2017, a report on the emergency preparedness response framework within the state relating to incidents involving hazardous materials transported by rail. This report must include an assessment of training needs and must establish benchmarks for assessing training needs in the future. This bill also requires OCR to submit to the legislature no later than November 1, 2017, an update to the initial report that evaluates the effectiveness of training conducted and identifies funding sources and future funding needs.

This bill requires the Department of Transportation to submit to the legislature no later than November 1, 2017, a report that includes information to assist in risk management associated with rail transportation of hazardous materials, criteria for prioritizing at-grade crossing improvements, recommendations for safety improvements, and an analysis of rail inspection activities.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.155 (2) (h) of the statutes is created to read:

2           20.155 (2) (h) *Rail inspection, safety training, and response preparedness.* All  
3 moneys received under s. 189.02 (8) for activities of the office of the commissioner of  
4 railroads under s. 192.45 and for payments under s. 192.45 (2) (b).

5           **SECTION 2.** 189.02 (2m) of the statutes is created to read:

6           189.02 (2m) (a) The office shall employ rail safety inspectors who shall be  
7 responsible for all of the following:

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1           1. Inspection of mainline track, secondary track, railroad yard tracks, and  
2 industry track.

3           2. Inspection of railroad rights-of-way, including adjacent or intersecting  
4 drainage, culverts, bridges, overhead structures, traffic crossings, and other public  
5 crossings.

6           3. Inspection of railroad yards and physical plants.

7           4. Review and enforcement of safety requirements.

8           5. Review of maintenance and repair records.

9           6. Review of railroad security measures.

10          (b) The office shall apply to and enter into agreements with the federal railroad  
11 administration to participate in the federal state rail safety participation program  
12 for training and certification of rail safety inspectors.

13          (c) A rail safety inspector who has been trained and certified in any of the  
14 federal state rail safety participation program disciplines may perform the duties  
15 relevant to that discipline.

16          (d) To the extent authorized by the federal railroad administration and the  
17 office, rail safety inspectors may issue citations for violations of requirements under  
18 chs. 190 to 192 that are punishable by forfeiture.

19          **SECTION 3.** 189.02 (8) of the statutes is created to read:

20           189.02 (8) In addition to any assessment under s. 195.60, the office shall  
21 annually assess each railroad corporation operating in this state a proportionate  
22 share, based on route miles operated in this state, of the actual cost of the expenses  
23 of the office under s. 192.45 and the payments under s. 192.45 (2) (b). The office shall  
24 credit all moneys received under this subsection to the appropriation account under  
25 s. 20.155 (2) (h).

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1           **SECTION 4.** 192.45 of the statutes is created to read:

2           **192.45 Emergency prevention and response.** (1) Each railroad  
3 corporation operating in this state shall submit to the department of natural  
4 resources a prevention and response plan that does all of the following:

5           (a) Describes the measures taken to prevent discharges from occurring.

6           (b) Identifies the individual with authority to implement response actions.

7           (c) Identifies how communication and incident command relationships will be  
8 established between the individual identified in par. (b) and all of the following:

9           1. Railroad employees who are responding to a discharge.

10           2. Federal, state, and local officials.

11           3. Other individuals providing emergency response equipment and personnel.

12           (d) Describes how the railroad corporation will ensure adequate equipment and  
13 personnel will be provided if there is a discharge.

14           (e) Contains copies of contracts, correspondence, and other documents in  
15 support of the description provided in par. (d).

16           (f) Describes the actions that will be taken by the individuals identified in par.  
17 (c) if there is a discharge.

18           (g) Describes the training and equipment testing that will be provided to  
19 ensure that the persons identified in par. (c) are prepared to respond to a discharge.

20           **(2)** (a) Each railroad corporation operating in this state shall provide training  
21 to each fire department having jurisdiction along the route upon which the railroad  
22 corporation's trains operate that addresses all of the following:

23           1. Response preparedness related to derailments, discharge incidents, and  
24 spills involving trains carrying oil or other hazardous substances.

25           2. The general hazards of oil and hazardous substances.

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1           3. Techniques to assess hazards to the environment, individuals responding to  
2 a discharge, and the public.

3           4. Factors a local incident commander must consider in responding to a  
4 discharge.

5           (b) From the appropriation under s. 20.155 (2) (h), the office shall make  
6 payments to fire departments to cover the following expenses relating to training  
7 provided under this subsection:

8           1. Actual training costs.

9           2. Purchase, maintenance, and replacement of gear and equipment.

10          3. Supplies procured for training or for gear and equipment.

11          4. Costs associated with emergency planning.

12          (c) The office shall prioritize the allocation of funds under par. (b) based on the  
13 following factors:

14          1. Training needs of fire departments.

15          2. Risk to the community.

16          3. Balanced distribution of funds through the state.

17          **(3)** Each railroad corporation required to comply with subs. (1) and (2) (a) shall  
18 complete the requirements of subs. (1) and (2) (a) within one year after the effective  
19 date of this subsection ... [LRB inserts date], and once every 3 years thereafter.

20          **(4)** Each railroad corporation operating in this state shall communicate at least  
21 once annually with the emergency manager of each county and city and the senior  
22 fire officer of each fire department having jurisdiction along the route upon which  
23 the railroad corporation's trains operate to coordinate emergency response activities.

24          **(5)** In the event of a discharge, the railroad corporation operating the train that  
25 discharged material shall do all of the following:

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1 (a) Within one hour of confirmation of a discharge, provide a qualified railroad  
2 employee to advise the local incident commander.

3 (b) Within 3 hours of confirmation of a discharge, deliver monitoring equipment  
4 and a trained operator to assist in the protection of responders and the public.

5 (c) Within 3 hours of confirmation of a discharge, deliver qualified personnel  
6 to assess the discharge and advise the local incident commander.

7 (d) Within 8 hours of confirmation of a discharge, deliver equipment capable  
8 of containing 10 percent of the discharge.

9 (e) Within 60 hours of confirmation of a discharge, deliver equipment capable  
10 of containing 100 percent of the discharge.

11 (6) The office shall plan and coordinate activities necessary to carry out the  
12 purposes of this section, including rail safety inspection.

13 **SECTION 5.** 299.67 of the statutes is created to read:

14 **299.67 Safety requirements for railroads.** The department shall do all of  
15 the following:

16 (1) Assist the office of the commissioner of railroads in providing training on  
17 the general hazards of oil and hazardous substances, as required under s. 192.45 (2)

18 (a).

19 (2) Assist the office of the commissioner of railroads in conducting emergency  
20 preparedness drills and training.

21 (3) Assist railroad corporations in identifying measures to prevent  
22 environmental pollution.

23 (4) Conduct inspections and drills as necessary to ensure railroad corporation  
24 preparedness to prevent environmental pollution.

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1           **(5)** Review prevention and response plans submitted to the department under  
2 s. 192.45 (1).

3           **SECTION 6.** 778.25 (1) (a) 9. of the statutes is created to read:

4           778.25 **(1)** (a) 9. Under chs. 190 to 192.

5           **SECTION 7. Nonstatutory provisions.**

6           (1) **RAIL INSPECTORS.** The authorized FTE positions for the office of the  
7 commissioner of railroads, funded from the appropriation under section 20.155 (2)  
8 (h) of the statutes, are increased by 4.0 PR positions for the purpose of increasing the  
9 number of rail safety inspector positions.

10          (2) **REPORT ON RESPONSE PREPAREDNESS.** No later than January 15, 2017, the  
11 office of the commissioner of railroads shall submit to the appropriate standing  
12 committees of the legislature under section 13.172 (3) of the statutes a report that  
13 includes all of the following:

14           (a) The emergency preparedness response framework within the state relating  
15 to incidents involving oil and other hazardous materials transported by rail.

16           (b) An assessment of the training needs of fire departments and first  
17 responders to respond to discharges or spills involving oil and other hazardous  
18 materials transported by rail, including the estimated cost to provide such training  
19 and benchmarks for assessing training needs in the future.

20           (c) An inventory of public and private resources for responding to a spill or  
21 discharge, including response equipment, equipment staging locations, mutual aid  
22 agreements, and the capacities across industries involved in the transportation and  
23 storage of oil and other hazardous materials.

24           (d) Information on the amount assessed under section 189.02 (8) of the statutes  
25 and an explanation of how that assessment was calculated.

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1 (e) Recommendations for long-range incident preparedness related to oil and  
2 other hazardous materials.

3 (f) Recommendations for proposed legislative changes.

4 (3) EVALUATION OF RESPONSE PREPAREDNESS FUNDING. No later than November  
5 1, 2017, the office of the commissioner of railroads shall submit to the appropriate  
6 standing committees of the legislature under section 13.172 (3) of the statutes a  
7 report that includes all of the following:

8 (a) An update to the initial report of response preparedness that identifies  
9 significant changes.

10 (b) An evaluation of the effectiveness of training using the benchmarks  
11 identified in the initial report of response preparedness.

12 (c) Identification of current sources of funds, funding levels, and funding needs  
13 for response preparedness activities.

14 (d) Analysis of equity in the distribution of funding sources for preparedness  
15 activities, including an examination of the public-private partnership financing  
16 model and a review of balance across industries involved in storage and distribution  
17 of oil and other hazardous materials.

18 (e) Recommendations for proposed legislative changes.

19 (4) REPORT BY THE DEPARTMENT OF TRANSPORTATION. No later than November 1,  
20 2017, the secretary of transportation shall submit to the appropriate standing  
21 committees of the legislature under section 13.172 (3) of the statutes a report that  
22 includes all of the following:

23 (a) Information that assists in risk management associated with  
24 transportation of oil and other hazardous materials by rail.

25 (b) Criteria for prioritizing needs and improvements of at-grade crossings.

