

1999 DRAFTING REQUEST

Bill

Received: **01/24/2000**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB:

For: **Roger Breske (608) 266-2509**

By/Representing: **Dan Rossmiller**

This file may be shown to any legislator: **NO**

Drafter: **nilsepe**

May Contact: **Tom Dwire, United Trans. Union,**

Alt. Drafters:

Subject: **Transportation - railroads**

Extra Copies: **TNF**

Pre Topic:

No specific pre topic given

Topic:

Minimum number of train personnel to be located in lead locomotive

Instructions:

Require both persons required to be on moving train to be present in the lead locomotive; amend s. 192.25

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	nilsepe 02/02/2000	chanaman 02/02/2000	martykr 01/27/2000	_____	lrb_docadmin 01/27/2000		State
/2	nilsepe 03/21/2000	chanaman 03/21/2000	martykr 02/03/2000	_____	lrb_docadmin 02/03/2000	lrb_docadminState 02/04/2000	
/3			jfrantze 03/21/2000	_____	lrb_docadmin 03/21/2000	lrb_docadmin 03/21/2000	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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03-28-00
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1999 DRAFTING REQUEST

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Wanted: **As time permits**

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For: **Gary George (608) 266-2500**

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/2		<i>cmh</i> 02/02/2000	martykr 02/03/2000	_____	lrb_docadmin 02/03/2000	lrb_docadmin 02/04/2000	

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Self
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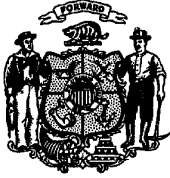
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4298/2
PEN.....

cm H
[Handwritten signature]

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

[Handwritten: DNOTE]

[Handwritten: gen stat]

1 AN ACT relating to: the minimum number of railroad employees required to
2 be present in the locomotive cab when the locomotive is in motion.

Analysis by the Legislative Reference Bureau

Current law prohibits any railroad train or locomotive from operating in this state unless the crew consists of at least two qualified persons. A locomotive engineer must operate the control locomotive at all times that the railroad train or locomotive is in motion. The other crew member may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job.

This bill requires that the two qualified crew members be present in the cab of the control locomotive at all times that the railroad train or locomotive is in motion.

The commissioner of railroads may grant exceptions to these requirements, if the exception will not endanger life or property.

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

5

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

3 SECTION 1. 192.25 (2) of the statutes is amended to read:
4 192.25 (2) No person operating or controlling any railroad, as defined in s.
5 85.01 (5), may allow the operation of any railroad train or locomotive in this state

1 unless the railroad train or locomotive has a crew of at least 2 individuals present
2 in the compartment of the locomotive from which the propelling power and power
3 brakes of the train are manually controlled. One of the individuals shall be a certified
4 railroad locomotive engineer. The other individual shall be either a certified railroad
5 locomotive engineer or a qualified railroad trainman. A certified railroad locomotive
6 engineer shall operate the control locomotive at all times that the railroad train or
7 locomotive is in motion. The other crew member shall be present in the compartment
8 at all times that the railroad train or locomotive is in motion, but may dismount the
9 railroad train or locomotive when necessary to perform switching activities and
10 other duties in the course of his or her job.

11 History: 1997 a. 42.

SECTION 2. Initial applicability.

12 (1) This act first applies to railroad trains or locomotives operated on July 1,
13 2000.

14 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4298/?dn

PEN.....

cm 14

January 25, 2000

Senator George:

I did not find any federal law that appeared to preempt this draft. However, because of the amount of federal law *regulating* railroads and their operation I recommend that the office of commissioner of railroads review this draft to determine whether this draft may be preempted by federal law. Under s. 192.25 (3) (b), this act will not apply to the extent that it is contrary to or inconsistent with a regulation or order of the Federal Railroad Administration.

The inserted language is taken from the definition of "cab" under 49 CFR 236.714.

Please read this draft closely to ensure that it meets your intent.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4298/1dn
PEN:cmh:km

January 27, 2000

Senator George:

I did not find any federal law that appeared to preempt this draft. However, because of the amount of federal law regulating railroads and their operation I recommend that the office of commissioner of railroads review this draft to determine whether this draft may be preempted by federal law. Under s. 192.25 (3) (b), this act will not apply to the extent that it is contrary to or inconsistent with a regulation or order of the Federal Railroad Administration.

The inserted language is taken from the definition of "cab" under 49 CFR 236.714.

Please read this draft closely to ensure that it meets your intent.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-429871
PEN:cmh:km

12

1999 BILL

refer
act

1 AN ACT to amend 192.25 (2) of the statutes; relating to: the minimum number
2 of railroad employees required to be present in the locomotive cab when the
3 locomotive is in motion.

Analysis by the Legislative Reference Bureau

Current law prohibits any railroad train or locomotive from operating in this state unless the crew consists of at least two qualified persons. A locomotive engineer must operate the control locomotive at all times that the railroad train or locomotive is in motion. The other crew member may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job.

This bill requires that the two qualified crew members be present in the cab of the control locomotive at all times that the railroad train or locomotive is in motion.

The commissioner of railroads may grant exceptions to these requirements, if the exceptions will not endanger life or property.

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

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

4 SECTION 1. 192.25 (2) of the statutes is amended to read:

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 02/03/2000

To: Senator George

Relating to LRB drafting number: LRB-4298

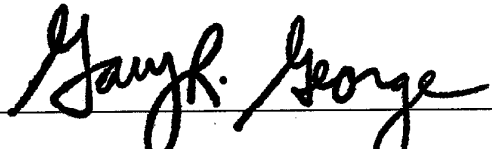
Topic

Minimum number of train personnel to be located in lead locomotive

Subject(s)

Transportation - railroads

1. **JACKET** the draft for introduction _____
in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.



2. **REDRAFT**. See the changes indicated or attached _____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney
Telephone: (608) 261-6926

WPO:
Not different
numbers

LRB 4488/S
PEN:cmh:jf

4298/3

1999 ASSEMBLY BILL 827

March 7, 2000 - Introduced by Representatives ~~Hahn, Brandemuehl, Huebsch, Turner, La Fave, Musser, Johnsrud, Suder, Black, Plale, Albers, Sinicki, Seratti, Travis, Young, Porter, Freese, Pohan, Gronemus, Sykora, Boyle and Ziegelbauer~~, cosponsored by Senators ~~Breske, Risser, Drzewiecki, Rosenzweig, Rude, Erpenbach, Schultz, Cowles, Jauch, Wirch, Plache and Grobsschmidt~~. Referred to Committee on Transportation.

reger cut

- 1 **AN ACT to amend** 192.25 (2) of the statutes; **relating to:** the minimum number
- 2 of railroad employes required to be present in the cab of the lead control
- 3 locomotive when the railroad train or locomotive is in motion.

Analysis by the Legislative Reference Bureau

Current law prohibits any railroad train or locomotive from operating in this state unless the crew consists of at least two qualified persons. A locomotive engineer must operate the control locomotive at all times that the railroad train or locomotive is in motion. The other crew member may dismount the railroad train or locomotive when necessary to perform switching activities and other duties in the course of his or her job. These requirements are preempted by federal law except to the extent that they prohibit over-the-road train operation unless the railroad train or locomotive has a train crew of at least two persons. Over-the-road operations, however, may also be exempted from this two-person train crew requirement by specific agreement between the Federal Railway Administration and an individual railroad. *Burlington Northern and Santa Fe Railway Co. v. Doyle*, 186 F.3d 1146 (1999).

This bill requires that the two crew members be present in the cab of the lead control locomotive at all times that the railroad train or locomotive is in motion.

The commissioner of railroads may grant exceptions to these requirements, if the exceptions will not endanger life or property.

F.3d 790

