

2001 ASSEMBLY BILL 404

May 18, 2001 – Introduced by Representatives HAHN, SCHNEIDER, LIPPERT, STARZYK, RYBA, HUEBSCH, J. LEHMAN, SERATTI, KESTELL, POWERS, ALBERS, FREESE, GRONEMUS, LASSA, POCAN, MUSSER, BOYLE, JOHNSRUD, SHERMAN, KREIBICH, PETROWSKI, HUBLER, TURNER, PLOUFF, WASSERMAN, MILLER, COLON, LA FAVE and SHILLING, cosponsored by Senators BRESKE, JAUCH, HANSEN, COWLES, BURKE, ERPENBACH, WIRCH and GROBSCHMIDT. Referred to Committee on Transportation.

1 **AN ACT to repeal** 192.25 (1); **to amend** 192.25 (2) and 192.25 (3) (b); and **to**
 2 **create** 192.25 (3) (am) of the statutes; **relating to:** the minimum number of
 3 railroad employees required to be present in the cab of the lead control
 4 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. The office of the commissioner of railroads, by rule, may grant an exception to these requirements if the exception will not endanger the life or property of any person. Also, under state law, these requirements do not apply to the extent they are contrary to or inconsistent with federal law.

In *Burlington Northern and Santa Fe Railway Co. v. Doyle*, 186 F.3d 790 (7th Cir. 1999), the federal court of appeals held that these requirements are preempted by federal law except to the extent a train crew of at least two persons is required for over-the-road train operation (hauling train cars between terminals). However, the requirement of a train crew of at least two persons for over-the-road train operation may also be preempted if the federal railroad administration enters into an agreement with a railroad that expressly permits the railroad to conduct over-the-road train operation with a one-person crew.

ASSEMBLY BILL 404

This bill requires that 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, except when the railroad train or locomotive is in motion for the purpose of switching. This requirement does not apply to a railroad train or locomotive being operated as part of a rail passenger system providing commuter rail service, high-speed rail service, urban rail transit service, or excursion rail service, unless the railroad train or locomotive is carrying freight only.

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:

1 **SECTION 1.** 192.25 (1) of the statutes is repealed.

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

3 192.25 (2) No person operating or controlling any railroad, as defined in s.
4 85.01 (5), may allow the operation of any railroad train or locomotive in this state
5 unless the railroad train or locomotive has a crew of at least 2 individuals. One of
6 the individuals shall be ~~a certified railroad locomotive engineer. The other~~
7 ~~individual shall be either a certified railroad locomotive engineer or a qualified~~
8 ~~railroad trainman. A certified railroad locomotive engineer shall present in the cab~~
9 and shall operate the lead control locomotive at all times that the railroad train or
10 locomotive is in motion. The other crew member shall be present in the cab of the
11 lead control locomotive at all times that the railroad train or locomotive is in motion,
12 except when the railroad train or locomotive is in motion for the purpose of switching.
13 When the railroad train or locomotive is not in motion, the other crew member may
14 dismount the railroad train or locomotive when necessary to perform switching
15 activities and other duties in the course of his or her job.

16 **SECTION 3.** 192.25 (3) (am) of the statutes is created to read:

