

# SENATE, No. 806

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator ROBERT M. GORDON**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Bateman**

**SYNOPSIS**

Requires owner or operator of certain trains to have discharge response, cleanup, and contingency plans to transport certain hazardous materials by rail.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the transport of certain hazardous materials by  
2 rail and supplementing Title 58 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. As used in P.L. c. (C. ) (pending before the  
8 Legislature as this bill):

9 "Cleanup and removal costs" means all direct costs associated  
10 with a discharge, and those indirect costs that may be imposed by  
11 the department pursuant to section 1 of P.L.2002, c.37 (C.58:10b-  
12 2.1) associated with a discharge, incurred by the State, or its  
13 political subdivisions, or their agents, or any person with written  
14 approval from the department in the: (1) removal or attempted  
15 removal of hazardous substances, or (2) taking of reasonable  
16 measures to prevent or mitigate damage to the public health, safety,  
17 or welfare, including, but not limited to, public and private  
18 property, shorelines, beaches, surface waters, water columns and  
19 bottom sediments, soils, and other affected property, including  
20 wildlife and other natural resources, and shall include costs incurred  
21 by the State for the indemnification and legal defense of contractors  
22 pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-  
23 23.11f8 et seq.);

24 "Commissioner" means the Commissioner of Environmental  
25 Protection;

26 "Contamination" or "contaminant" means any discharged  
27 hazardous substance, hazardous waste as defined pursuant to  
28 section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined  
29 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3);

30 "Department" means the Department of Environmental  
31 Protection;

32 "Discharge" means any intentional or unintentional action or  
33 omission resulting in the releasing, spilling, leaking, pumping,  
34 pouring, emitting, emptying, or dumping of hazardous substances  
35 into the waters or onto the lands of the State, or into waters outside  
36 the jurisdiction of the State when damage may result to the lands,  
37 waters, or natural resources within the jurisdiction of the State;

38 "Emergency response action" means those activities conducted  
39 by a local unit to clean up, remove, prevent, contain, or mitigate a  
40 discharge that poses an immediate threat to the environment or to  
41 the public health, safety, or welfare;

42 "Emergency services personnel" means a person who is  
43 employed as a law enforcement officer, emergency medical service  
44 technician, firefighter, emergency communications operator,  
45 hazardous materials responder, or in a related occupation or  
46 profession, or who serves as a volunteer member of a fire  
47 department, duly incorporated fire or first aid company, or  
48 volunteer emergency, ambulance, or rescue squad association,

1 organization, or company which provides emergency services for a  
2 local unit;

3 "Emergency services provider" means a law enforcement  
4 agency, emergency medical services unit, fire department,  
5 emergency communications provider, hazardous material response  
6 unit, volunteer fire department, duly incorporated fire or first aid  
7 company, or volunteer emergency, ambulance, or rescue squad  
8 association, organization, or company which provides emergency  
9 services for a local unit;

10 "Hazardous substances" means the "environmental hazardous  
11 substances" on the environmental hazardous substance list adopted  
12 by the department pursuant to section 4 of P.L.1983, c.315  
13 (C.34:5A-4); elements and compounds, including petroleum  
14 products, which are defined by the department, after public hearing,  
15 and which shall be consistent to the maximum extent possible with,  
16 and which shall include, the list of hazardous substances adopted by  
17 the federal Environmental Protection Agency pursuant to section  
18 311 of the "Federal Water Pollution Control Act Amendments of  
19 1972," Pub.L.92-500, as amended by the "Clean Water Act of  
20 1977," Pub.L.95-217 (33 U.S.C. s.1251 et seq.); the list of toxic  
21 pollutants designated by the Congress of the United States or the  
22 federal Environmental Protection Agency pursuant to section 53 of  
23 that act; and the list of hazardous substances adopted by the federal  
24 Environmental Protection Agency pursuant to section 101 of the  
25 "Comprehensive Environmental Response, Compensation, and  
26 Liability Act of 1980," Pub.L.96-510 (42 U.S.C. s.9601 et seq.);  
27 provided, however, that sewage and sewage sludge shall not be  
28 considered as hazardous substances for the purposes of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill);

30 "High hazard train" means any railroad locomotive propelling a  
31 railroad tank car or connection of railroad tank cars transporting  
32 200,000 gallons or more of petroleum or petroleum products or  
33 20,000 gallons or more of hazardous substances other than  
34 petroleum or petroleum products;

35 "Local unit" means any county or municipality, or any agency or  
36 other instrumentality thereof, or a duly incorporated volunteer fire,  
37 ambulance, first aid, emergency, or rescue company or squad;

38 "Major facility" shall have the same meaning as forth in section  
39 3 of P.L.1976, c.141 (C.58:10-23.11b);

40 "Natural resources" means all land, fish, shellfish, wildlife, biota,  
41 air, waters, and other resources owned, managed, held in trust, or  
42 otherwise controlled by the State;

43 "Owner" or "operator" means, with respect to any high hazard  
44 train, any person owning the high hazard train, or operating it by  
45 lease, contract, or other form of agreement; provided, however, that  
46 the owner or operator shall not mean a person who operates a high  
47 hazard train only for the purposes of positioning or moving railroad  
48 tank cars within the confines of a major facility, or a person whose

1 interest in a high hazard train solely involves the ownership or lease  
2 of one or more railroad tank cars without operational authority;

3 "Person" means public or private corporations, companies,  
4 associations, societies, firms, partnerships, joint stock companies,  
5 individuals, the United States, the State of New Jersey, and any of  
6 its political subdivisions or agents;

7 "Petroleum" or "petroleum products" shall have the same  
8 meaning as forth in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

9 "Remedial action" means those actions taken at a site or offsite if  
10 a contaminant has migrated or is migrating therefrom, as may be  
11 required by the department, including the removal, treatment,  
12 containment, transportation, securing, or other engineering or  
13 treatment measures, whether to an unrestricted use or otherwise,  
14 designed to ensure that any discharged contaminant at the site or  
15 that has migrated or is migrating from the site, is remediated in  
16 compliance with the applicable health risk or environmental  
17 standards;

18 "Remediation" or "remediate" means all necessary actions to  
19 investigate and clean up or respond to any known, suspected, or  
20 threatened discharge, including, as necessary, the preliminary  
21 assessment, site investigation, remedial investigation, and remedial  
22 action, provided, however, that "remediation" or "remediate" shall  
23 not include the payment of compensation for damage to, or loss of,  
24 natural resources. For the purpose of this definition, "remedial  
25 investigation" means a process to determine the nature and extent of  
26 a discharge of a contaminant at a site or a discharge of a  
27 contaminant that has migrated or is migrating from the site and the  
28 problems presented by a discharge, and may include data collected,  
29 site characterization, sampling, monitoring, and the gathering of  
30 any other sufficient and relevant information necessary to determine  
31 the necessity for remedial action and to support the evaluation of  
32 remedial actions if necessary and "site investigation" means the  
33 collection and evaluation of data adequate to determine whether or  
34 not discharged contaminants exist at a site or have migrated or are  
35 migrating from the site at levels in excess of the applicable  
36 remediation standards; and

37 "Waters" means the ocean and its estuaries to the seaward limit  
38 of the State's jurisdiction, all springs, streams, and bodies of surface  
39 or groundwater, whether natural or artificial, within the boundaries  
40 of this State.

41

42 2. a. The owner or operator of a high hazard train traveling  
43 within this State shall submit a discharge response, cleanup, and  
44 contingency plan to the Department of Environmental Protection.  
45 The owner or operator of a high hazard train shall submit a  
46 discharge response, cleanup, and contingency plan within six  
47 months of the effective date of P.L. , c. (C. ) (pending before  
48 the Legislature as this bill).

1       b. The discharge response, cleanup, and contingency plan shall  
2 contain the following information:

3       (1) A summary and detailed description of the emergency  
4 response measures to be used by the trained personnel or discharge  
5 cleanup contractors employed by the owner or operator of the high  
6 hazard train, as applicable, in responding to, and minimizing health  
7 and environmental dangers from, fires, explosions, or unauthorized  
8 discharges or releases of hazardous substances to the air, soil, or  
9 waters of the State, including: the planned deployment of personnel  
10 and equipment in the event of a discharge or other emergency, the  
11 chain of command for the emergency response measures, and the  
12 ability of the emergency response measures to comply with the  
13 timetables established pursuant to section 8 of P.L.       ,  
14 c. (C.       ) (pending before the Legislature as this bill);

15       (2) An identification of all equipment available for cleanup and  
16 emergency response measures, including all equipment located in a  
17 location other than the high hazard train, that is either under the  
18 direct control of the owner or operator of the high hazard train, or  
19 that is available, by contract, to the owner or operator of the high  
20 hazard train in the event of a discharge or other emergency;

21       (3) A list of the names, business addresses, home addresses,  
22 telephone numbers, electronic mail addresses, and qualifications of  
23 all emergency response coordinators employed by the owner or  
24 operator of the high hazard train, along with the authority and  
25 responsibilities of each emergency response coordinator in the  
26 event of a discharge or other emergency, and the names and  
27 qualifications of all other trained personnel employed by the owner  
28 or operator of the high hazard train, which have been trained to  
29 operate containment, cleanup, and removal equipment and are  
30 required to respond to a discharge or other emergency;

31       (4) The priorities for the deployment of trained personnel and  
32 emergency response, recovery, and containment equipment to  
33 protect residential, environmentally sensitive, or other areas against  
34 a discharge or other emergency based on use, seasonal sensitivity,  
35 or other relevant factors; and

36       (5) Any other information deemed necessary or useful by the  
37 department.

38       c. The discharge response, cleanup, and contingency plan shall  
39 certify that:

40       (1) trained personnel and emergency response, recovery, and  
41 containment equipment as specified in the discharge response,  
42 cleanup, and contingency plan are readily available on the high  
43 hazard train or can be speedily deployed to the high hazard train;

44       (2) the emergency response, recovery, and containment  
45 equipment is in good repair;

46       (3) the discharge response, cleanup, and contingency plan is  
47 consistent with applicable local, regional, and State emergency  
48 response plans;

- 1 (4) the discharge response, cleanup, and contingency plan  
2 complies with departmental regulations; and
- 3 (5) the discharge response, cleanup, and contingency plan was  
4 reviewed, and approved by a licensed professional engineer.
- 5 d. The discharge response, cleanup, and contingency plan shall  
6 provide for simulated emergency response drills, to be conducted at  
7 least once annually, to determine the adequacy of and personnel  
8 familiarity with the discharge response, cleanup, and contingency  
9 plan.
- 10 e. The owner or operator of a high hazard train shall include  
11 with the discharge response, cleanup, and contingency plan  
12 submitted to the department:
- 13 (1) An environmentally sensitive areas and habitats protection  
14 plan, reviewed and certified by a marine biologist and an  
15 ornithologist, that shall:
- 16 (a) identify all environmentally sensitive areas and wildlife  
17 habitats that could be affected by a discharge from the high hazard  
18 train that travels in proximity to the environmentally sensitive area;
- 19 (b) identify the seasonal sensitivity of the areas or habitats;
- 20 (c) in the event of a discharge, provide for the protection from,  
21 and mitigation of, any potentially adverse impact of the discharge  
22 on the identified areas or habitats; and
- 23 (d) provide for an environmental assessment of the impact of  
24 any discharge on the identified areas and habitats, including the  
25 effects on the habitat's flora, fauna, or organisms.
- 26 The environmentally sensitive areas and habitats protection plan  
27 shall, using criteria established by the department for identifying  
28 environmentally sensitive areas or habitats, identify any  
29 environmentally sensitive area or habitat that could be adversely  
30 affected by a discharge from the high hazard train;
- 31 (2) A copy of any existing agreement between the owner or  
32 operator of the high hazard train and an emergency services  
33 provider of a local unit located along the travel route of the high  
34 hazard train to coordinate the emergency response actions of the  
35 local unit and the owner or operator of the high hazard train; and
- 36 (3) A copy of all current contracts or agreements between the  
37 owner or operator of the high hazard train and a discharge cleanup  
38 organization for remedial action, including containment, cleanup,  
39 removal, and disposal.
- 40
- 41 3. a. The owner or operator of a high hazard train shall submit  
42 an application for renewal of the discharge response, cleanup, and  
43 contingency plan every five years to the department, unless the  
44 department requires a more frequent submission. Applications for  
45 discharge response, cleanup, and contingency plan renewals shall be  
46 accompanied by a summary of all unauthorized discharges within  
47 this State by the owner or operator of the high hazard train and any  
48 other information as may be deemed necessary or useful to the

1 department. Discharge response, cleanup, and contingency plan  
2 renewals may be limited to certifying that the existing discharge  
3 response, cleanup, and contingency plan on file with the department  
4 is current. Filing of a revised discharge response, cleanup, and  
5 contingency plan may be required by the department at the time of  
6 renewal so as to incorporate into the discharge response, cleanup,  
7 and contingency plan all amendments to the discharge response,  
8 cleanup, and contingency plan adopted since the filing of the  
9 original discharge response, cleanup, and contingency plan or its  
10 last renewal.

11 b. The owner or operator of a high hazard train shall file an  
12 amendment to the discharge response, cleanup, and contingency,  
13 not later than 30 days after any modification of the high hazard  
14 train, rail yards, fueling stations, or the high hazard train's route of  
15 travel.

16

17 4. The owner or operator of a high hazard train shall make  
18 available to the public on its website, to the extent that the release  
19 of the information shall not conflict with federal law, the following  
20 information:

21 a. The routes and volumes of cargoes updated on a monthly  
22 basis;

23 b. An analysis of the consequences of maximum discharges  
24 from the high hazard trains owned or operated in the State;

25 c. A copy of the most current discharge response, cleanup, and  
26 contingency plan submitted to the department pursuant to sections 2  
27 and 3 of P.L. c. (C. ) (pending before the Legislature as this  
28 bill); and

29 d. A railroad routing analysis, as required pursuant to section  
30 1551 of the "Implementing Recommendations of the 9/11  
31 Commission Act of 2007," Pub.L.110-53 (6 U.S.C.s.1201 et seq.),  
32 and any accompanying documentation that impacted the owner or  
33 operator's decision in routing the high hazard train through the  
34 State.

35

36 5. A copy of the discharge response, cleanup, and contingency  
37 plan, discharge response, cleanup, and contingency plan renewal,  
38 and all discharge response, cleanup, and contingency plan  
39 amendments shall be filed by the owner or operator of a high hazard  
40 train with the New Jersey Office of Emergency Management.

41

42 6. The owner or operator of a high hazard train shall, at all  
43 times, retain on file with the department evidence of financial  
44 responsibility for cleaning up and removing a discharge or release  
45 of a hazardous substance, and for the removal of any damaged or  
46 disabled high hazard train equipment or parts. The amount, nature,  
47 terms, and conditions of the financial responsibility shall be  
48 determined by the department. The owner or operator of a high

1 hazard train shall file evidence of financial responsibility with the  
2 department within 180 days of the effective date of P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill).

4  
5 7. The owner or operator of a high hazard train shall offer  
6 training to the emergency services personnel of every local unit  
7 having jurisdiction along the travel route of a high hazard train.  
8 Initial training shall be offered within one year of the effective date  
9 of P.L. c. (C. ) (pending before the Legislature as this bill)  
10 with renewal training offered to the emergency service personnel of  
11 every local unit having jurisdiction along the travel route of a high  
12 hazard train at least once every three years thereafter. The training  
13 shall address: the general hazards of the petroleum, petroleum  
14 products, or hazardous substances being transported by the high  
15 hazard train; techniques to assess hazards to the environment in the  
16 event of a discharge; techniques to assess the safety of emergency  
17 service personnel and the general public in the event of a discharge  
18 that poses an imminent threat to public health, safety, or welfare;  
19 factors an emergency service provider shall consider in determining  
20 whether to attempt to suppress a fire or to evacuate the public and  
21 emergency service personnel from an area in the event of a  
22 discharge that poses an imminent threat to public health, safety, or  
23 welfare; and other suggested protocols or practices for emergency  
24 service personnel to consider in the event of a discharge that poses  
25 an imminent threat to public health, safety, or welfare.

26  
27 8. Following a discharge that requires emergency response  
28 action, the owner or operator of a high hazard train shall:

29 a. Within one hour of a discharge, identify an emergency  
30 response coordinator to advise the emergency services provider of  
31 the local unit. The emergency response coordinator may be made  
32 available by telephone, but is required to have authorization to  
33 deploy all necessary emergency response resources of the owner or  
34 operator of the high hazard train;

35 b. Within three hours of a discharge, deploy the emergency  
36 response coordinator and trained personnel to the discharge site to  
37 assess the discharge and to advise the emergency service provider  
38 of the local unit;

39 c. Within eight hours of a discharge, deliver and deploy  
40 emergency response, recovery, and containment equipment, trained  
41 personnel, and all other materials needed to provide on-site  
42 containment of the discharged petroleum, petroleum products, and  
43 hazardous substances and to protect environmentally sensitive areas  
44 and potable water intakes within one mile of the discharge site and  
45 within eight hours of calculated water travel time in any river or  
46 stream that the discharge site intersects; and

47 d. Within 60 hours of a discharge, deliver and deploy  
48 additional emergency response, recovery, and containment



1 equipment, trained personnel, and all other materials needed to  
2 provide containment and recovery of the discharged petroleum,  
3 petroleum products, and hazardous substances and to protect  
4 environmentally sensitive areas and potable water intakes at any  
5 location along the travel route of the high hazard train or in any  
6 river or stream that the discharge site intersects.

7  
8 9. The provisions of P.L. c. (C. ) (pending before the  
9 Legislature as this bill) shall not apply to the owner or operator of a  
10 high hazard train in circumstances where the high hazard train is  
11 operating or traveling entirely within a major facility.

12 Nothing contained herein shall be construed to exempt a major  
13 facility from the provisions of the "Spill Compensation and Control  
14 Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).

15  
16 10. a. Except as otherwise provided in subsection b. of this  
17 section, the department shall, as soon as practicable, but not later  
18 than six months following a filing of a discharge response, cleanup,  
19 and contingency plan or a renewal of a discharge response, cleanup,  
20 and contingency plan, or, in the case of amendments, within 60 days  
21 of the filing of the amendments, review the filing to determine  
22 compliance with all statutory requirements, including rules and  
23 regulations adopted pursuant thereto.

24 b. The department may, at any time during the discharge  
25 response, cleanup, and contingency plan, discharge response,  
26 cleanup, and contingency plan renewal, or discharge response,  
27 cleanup, and contingency plan amendment review period approve,  
28 conditionally approve, or disapprove a discharge response, cleanup,  
29 and contingency plan, discharge response, cleanup, and contingency  
30 plan renewal, or discharge response, cleanup, and contingency plan  
31 amendments. If a discharge response, cleanup, and contingency  
32 plan, discharge response, cleanup, and contingency plan renewal, or  
33 discharge response, cleanup, and contingency plan amendments are  
34 disapproved, the owner or operator of the high hazard train shall  
35 have 30 days from receipt of written notice of the disapproval, and  
36 the reasons therefor, with which to submit a revised discharge  
37 response, cleanup, and contingency plan or discharge response,  
38 cleanup, and contingency plan amendments. If after 30 days of  
39 receipt of a written request therefor, the owner or operator of the  
40 high hazard train fails to file a revised discharge response, cleanup,  
41 and contingency plan, discharge response, cleanup, and contingency  
42 plan renewal, or amendments to the department or fails to contest  
43 the department's request in accordance with the "Administrative  
44 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the discharge  
45 response, cleanup, and contingency plan, discharge response,  
46 cleanup, and contingency plan renewal, or discharge response,  
47 cleanup, and contingency plan amendments shall be deemed to have  
48 been disapproved by the department and the owner or operator of

1 the high hazard train shall be in violation of section 2 of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill). The  
3 department may, for good cause, extend by up to an additional 30  
4 days the time period for filing a revised discharge response,  
5 cleanup, and contingency plan or discharge response, cleanup, and  
6 contingency plan amendments.

7  
8 11. a. Whenever, on the basis of available information, the  
9 Commissioner of Environmental Protection finds that the owner or  
10 operator of a high hazard train is in violation of the provisions of  
11 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
12 any rule or regulation adopted pursuant thereto, the commissioner  
13 may:

14 (1) Levy a civil administrative penalty in accordance with  
15 subsection b. of this section; or

16 (2) Bring an action for a civil penalty in accordance with  
17 subsection c. of this section.

18 The exercise of any of the remedies provided in this section shall  
19 not preclude recourse to any other remedy so provided.

20 b. The commissioner is authorized to assess a civil  
21 administrative penalty of not more than \$25,000 for each violation  
22 of the provisions of P.L. c. (C. ) (pending before the  
23 Legislature as this bill), or any rule or regulation adopted pursuant  
24 thereto, and each day during which each violation continues shall  
25 constitute an additional, separate, and distinct offense. Any amount  
26 assessed under this section shall fall within a range established by  
27 regulation by the commissioner for violations of similar type,  
28 seriousness, duration, and conduct; provided, however, that prior to  
29 the adoption of the rule or regulation, the commissioner may, on a  
30 case-by-case basis, assess civil administrative penalties up to a  
31 maximum of \$25,000 per day for each violation, utilizing the  
32 criteria set forth herein. In addition to any civil administrative  
33 penalty assessed under this subsection and notwithstanding the  
34 \$25,000 maximum penalty set forth above, the commissioner may  
35 assess any economic benefits from the violation gained by the  
36 violator. Prior to assessment of a penalty under this subsection, the  
37 owner or operator of the high hazard train committing the violation  
38 shall be notified by certified mail or personal service that the  
39 penalty is being assessed. The notice shall include: a reference to  
40 the section of the statute or regulation violated; recite the facts  
41 alleged to constitute a violation; state the basis for the amount of  
42 the civil penalties to be assessed; and affirm the rights of the  
43 alleged violator to a hearing. The ordered party shall have 35  
44 calendar days from receipt of the notice within which to deliver to  
45 the commissioner a written request for a hearing. After the hearing  
46 and upon finding that a violation has occurred, the commissioner  
47 may issue a final order after assessing the amount of the fine  
48 specified in the notice. If a hearing is not requested, the notice shall

1 become a final order after the expiration of the 35 calendar day  
2 period. Payment of the assessment is due when a final order is  
3 issued or the notice becomes a final order. The authority to levy an  
4 administrative order is in addition to all other enforcement  
5 provisions in P.L. c. (C. ) (pending before the Legislature as  
6 this bill), or of any rule or regulation adopted pursuant thereto, and  
7 the payment of any assessment shall not be deemed to affect the  
8 availability of any other enforcement provisions in connection with  
9 the violation for which the assessment is levied. The department  
10 may compromise any civil administrative penalty assessed under  
11 this subsection in an amount and with conditions the department  
12 determines appropriate. A civil administrative penalty assessed,  
13 including a portion thereof required to be paid pursuant to a  
14 payment schedule approved by the department, which is not paid  
15 within 90 days of the date that payment of the penalty is due, shall  
16 be subject to an interest charge on the amount of the penalty, or  
17 portion thereof, which shall accrue as of the date payment is due. If  
18 the penalty is contested, an additional interest charge shall not  
19 accrue on the amount of the penalty until 90 days after the date on  
20 which a final order is issued. Interest charges assessed and  
21 collectible pursuant to this subsection shall be based on the rate of  
22 interest on judgments provided in the New Jersey Rules of Court.

23 c. Any owner or operator of a high hazard train who violates  
24 the provisions of P.L. c. (C. ) (pending before the Legislature  
25 as this bill), or any rule or regulation adopted pursuant thereto, or  
26 who fails to pay in full a civil administrative penalty levied  
27 pursuant to subsection b. of this section, or who fails to make a  
28 payment pursuant to a penalty payment schedule entered into with  
29 the department, or who knowingly makes any false or misleading  
30 statement, representation, or certification on any application,  
31 record, report, or other document required to be submitted to the  
32 department, shall be subject, upon order of a court, to a civil penalty  
33 not to exceed \$25,000 for each day during which the violation  
34 continues. Any civil penalty imposed pursuant to this subsection  
35 may be collected, and any costs incurred in connection therewith  
36 may be recovered, in a summary proceeding pursuant to the  
37 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
38 et seq.). In addition to any penalties, costs or interest charges, the  
39 court may assess against the violator the amount of economic  
40 benefit accruing to the violator from the violation. The Superior  
41 Court shall have jurisdiction to enforce the "Penalty Enforcement  
42 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

43 d. The owner or operator of a high hazard train that  
44 experiences a discharge shall be subject to the penalty and  
45 injunctive relief provisions of section 22 of P.L.1976, c.141  
46 (C.58:10-23.11u).



1       The bill requires the owner or operator of a high hazard train to  
2 offer training to the emergency services personnel of every local  
3 unit having jurisdiction along the travel route of the high hazard  
4 train. The initial training is to be offered within one year of the  
5 effective date of this bill and renewal training offered at least once  
6 every three years thereafter.

7       The bill requires the owner or operator of a high hazard train that  
8 has experienced a discharge that requires emergency response  
9 action to deliver and deploy sufficient emergency response,  
10 recovery, and containment equipment and trained personnel to  
11 contain and recover the discharged materials and protect the public  
12 within a certain timeframe.

13       The provisions of the bill are not applicable to the owner or  
14 operator of a high hazard train in circumstances where the train is  
15 operating or traveling entirely within a major facility. The bill  
16 clarifies that it is not to be construed to exempt major facilities from  
17 the provisions of the “Spill Compensation and Control Act.”

18       The bill requires the department to review plans or plan renewals  
19 within six months of filing and plan amendments within 60 days of  
20 filing. If a plan, plan renewal, or plan amendment is disapproved,  
21 the owner or operator of the high hazard train is required to submit  
22 a revised plan or plan amendment within 30 days from the receipt of  
23 written notice of the disapproval. The bill permits the department  
24 to issue civil administrative penalties for violations under the bill.  
25 Under the bill, the owner of a high hazard train that experiences a  
26 discharge is subject to the penalty and injunctive relief provisions  
27 of the “Spill Compensation and Control Act.”

28       The bill requires NJ OEM to provide each county office of  
29 emergency management and emergency services provider having  
30 jurisdiction along the travel route of a high hazard train with any  
31 information that NJ OEM receives from an owner or operator of a  
32 high hazard train as a result of federal Department of Transportation  
33 emergency order, rule, or regulation or with any plan, plan renewal,  
34 or plan amendments received from an owner or operator of a high  
35 hazard train.

36       The bill defines “high hazard train” as any railroad locomotive  
37 propelling a railroad tank car or connection of railroad tank cars  
38 transporting 200,000 gallons or more of petroleum or petroleum  
39 products or 20,000 gallons or more of hazardous substances other  
40 than petroleum or petroleum products. The bill defines “owner” or  
41 “operator” as, with respect to any high hazard train, any person  
42 owning the high hazard train, or operating it by lease, contract, or  
43 other form of agreement; provided, however, that the owner or  
44 operator shall not mean a person who operates a high hazard train  
45 only for the purposes of positioning or moving railroad tank cars  
46 within the confines of a major facility, or a person whose interest in  
47 a high hazard train solely involves the ownership or lease of one or  
48 more railroad tank cars without operational authority.