

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1788

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 3, 1996

The Assembly Transportation and Communications Committee favorably reports Assembly Bill No. 1788 with committee amendments.

This amended bill would clarify the Legislature's intent that the provisions of R.S. 48:12-152 would control in railroad-related injuries sustained by a trespasser; that is, there remains an absolute bar to recovery for these injuries despite the adoption of the comparative negligence doctrine in New Jersey.

R.S.48:12-152 provides that any person injured by a railroad engine or car while walking, standing or playing on a railroad shall be deemed to have contributed to the injury sustained and therefore shall not recover any damages from the company owning or operating the railroad. However, in the case of Renz v. Penn Central Corp., 87 N.J. 437 (1981), the New Jersey Supreme Court held, in effect, that the provisions of the comparative negligence act, P.L.1973, c.146 (C.2A:15-5.1 et seq.), rather than the provisions of R.S.48:12-152, should prevail in railroad-related injury cases. In Renz the Court determined that the absolute bar to recovery which existed in R.S.48:12-152 was grounded in the doctrine of contributory negligence, not trespass, and should be replaced by the apportionment of the loss among those who are at fault as under the comparative negligence doctrine. This bill would amend R.S.48:12-152 to specifically provide that its provisions shall apply notwithstanding the adoption of the comparative negligence act. The bill also amends the New Jersey Transit Corporation's enabling laws to clarify that the provisions of R.S.48:12-152 would apply to the corporation.

New Jersey Transit estimates that since 1981 over 300 trespasser cases have resulted in approximately \$24 million in actual and projected claim payouts by the corporation.

The committee amendments clarify the types of behavior which would fall under the provisions of R.S.48:12-152. The amendments also provide that the bar to recovery extends to suits brought against employees of a railroad company and clarify that the provisions of

R.S.48:12-152 would extend to the corporation. Finally, the committee amendments provide that the provisions of the bill would apply to causes of action which accrue on or after the effective date of the act.