

P.L. 1997, CHAPTER 309, *approved January 8, 1998*
Assembly Committee Substitute for
Assembly, No. 1788

1 AN ACT concerning railroads and amending R.S.48:12-152 and
2 P.L.1979, c.150.

3

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

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7 1. R.S.48:12-152 is amended to read as follows:

8 48:12-152. [It shall not be lawful for any]a. No person other than
9 those connected with or employed upon the railroad [to walk along the
10 tracks of any railroad except when the same shall be laid upon a
11 public highway.

12 Any person injured by an engine or car while walking, standing or
13 playing on a railroad or by jumping on or off a car while in motion
14 shall be deemed to have contributed to the injury sustained and shall
15 not recover therefor any damages from the company owning or
16 operating the railroad. This section shall not apply to the crossing of
17 a railroad by a person at any lawful public or private crossing.] who
18 are acting within the scope of their employment shall enter upon the
19 right of way of any railroad or come into contact with any equipment,
20 machinery, wires or rolling stock of any railroad. This section shall
21 not prohibit a passenger for hire from utilizing those parts of a railroad
22 particularly intended for passenger use nor shall it prohibit a person
23 from using a crossing established by the railroad.

24 b. No person shall recover from the company owning or operating
25 the railroad or from any officer or employee of the railroad, any
26 damages for death or injury to person or property as a result of
27 contact with any equipment, machinery, wires or rolling stock of any
28 railroad, if death or injury occurred while that person was:

29 (1) under the influence of alcohol as evidenced by a blood alcohol
30 concentration of 0.10% or higher by weight of alcohol in the person's
31 blood; or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) under the influence of drugs, other than drugs medically
2 prescribed for use by that person and used in the manner prescribed;

3 or

4 (3) engaging in conduct intended to result in personal bodily injury
5 or death; or

6 (4) engaging in conduct proscribed by subsection a. of this section;

7 or

8 (5) using the property of any railroad in a manner in which it was
9 not intended to be used or in violation of posted regulations.

10 In the absence of proof to the contrary, any person injured while
11 attempting to board or disembark from a moving train shall be
12 presumed to have used the property in a manner in which it was not
13 intended to be used.

14 This subsection shall apply notwithstanding the provisions of
15 P.L.1973, c.146 (C.2A:15-5.1 et seq.).

16 c. This section shall not preclude recovery for injury or death of
17 a person who was, at the time of the injury, less than 18 years of age.
18 (cf: R.S.48:12-152)

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20 2. Section 8 of P.L.1979, c.150 (C.27:25-8) is amended to read
21 as follows:

22 8. a. The corporation or any subsidiary thereof shall not be
23 considered a public utility as defined in R.S.48:2-13 and except with
24 regard to subsection c. of this section, subsection b. of R.S.48:3-38
25 [and] , section 2 of P.L.1989, c.291 (C.27:25-15.1) and R.S.48:12-
26 152 the provisions of Title 48 of the Revised Statutes shall not apply
27 to the corporation or any subsidiary thereof.

28 b. The authority hereby given the corporation pursuant to section
29 6 of this act with respect to fares and service, shall be exercised
30 without regard or reference to the jurisdiction vested in the
31 Department of Transportation by R.S.48:2-21, 48:2-24 and 48:4-3.
32 The Department of Transportation shall resume jurisdiction over
33 service and fares upon the termination and discontinuance of a
34 contractual relationship between the corporation and a private or
35 public entity relating to the provision of public transportation services
36 operated under the authority of certificates of public convenience and
37 necessity previously issued by the department or its predecessors;
38 provided, however, that no private entity shall be required to restore
39 any service discontinued or any fare changed during the existence of
40 a contractual relationship with the corporation, unless the Department
41 of Transportation shall determine, after notice and hearing, that the
42 service or fare is required by public convenience and necessity.

43 c. Notwithstanding any other provisions of this act, all vehicles
44 used by any public or private entity pursuant to contract authorized by
45 this act, and all vehicles operated by the corporation directly, shall be
46 subject to the jurisdiction of the Department of Transportation with

1 respect to maintenance, specifications and safety to the same extent
2 such jurisdiction is conferred upon the department by Title 48 of the
3 Revised Statutes.

4 d. Before implementing any fare increase for any motorbus regular
5 route or rail passenger services, or the substantial curtailment or
6 abandonment of any such services, the corporation shall hold a public
7 hearing in the area affected during evening hours. Notice of such
8 hearing shall be given by the corporation at least 15 days prior to such
9 hearing to the governing body of each county whose residents will be
10 affected and to the clerk of each municipality in the county or counties
11 whose residents will be affected; such notice shall also be posted at
12 least 15 days prior to such hearing in prominent places on the railroad
13 cars and buses serving the routes to be affected.

14 (cf: P.L.1989, c.291, s.3)

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16 3. This act shall take effect immediately and shall apply to causes
17 of action which accrue on or after the effective date of this act.

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22 Provides that railroad immunity act controls in certain actions
23 concerning railroad-related injuries.