

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:

6

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.