

# MAINE STATE LEGISLATURE

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Date: 4/2/24

L.D. 1937  
(Filing No. H-912)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1245, L.D. 1937, "An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Transportation of Hazardous Materials by Railroad Companies'

Amend the bill in the emergency preamble in the 3rd indented paragraph in the first line (page 1, line 8 in L.D.) by inserting after the following: "disclosure" the following: 'when those records are related to a train carrying hazardous materials that has derailed at any point from a main line train track'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2019, c. 667, Pt. B, §4, is further amended to read:

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. 2. 23 MRSA §5003, as enacted by PL 1987, c. 141, Pt. A, §4, is amended to read:

§5003. Collection of judgment against foreign railroad company lessee

COMMITTEE AMENDMENT

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1 When any foreign railroad company, ~~which~~ that is or has been doing business in this  
2 State as the lessee of any railroad; refuses or neglects for 60 days after demand to pay and  
3 discharge any judgment recovered by any person against the railroad company owning that  
4 leased road for damages to the property of the person by the doings, misdoings or neglects  
5 of the foreign railroad company, its agents or servants, ~~which and that~~ judgment belongs to  
6 the foreign railroad company to pay and discharge, the Superior Court, on complaint, may  
7 compel payment thereof of the judgment by the foreign ~~corporation~~ railroad company and  
8 make, pass and enforce all necessary orders, decrees and processes for the purpose.  
9 Nothing in this section allows for nonparticipation by foreign railroad company lessees.

10 **Sec. 3. 23 MRSA §7015** is enacted to read:

11 **§7015. Prevention and response plans and environmental impact analysis**

12 Within 180 days of the effective date of this section, a railroad company shall submit  
13 to the Commissioner of Environmental Protection a prevention and response plan including  
14 the environmental impact analysis submitted to the United States Department of  
15 Transportation, Pipeline and Hazardous Materials Safety Administration. The railroad  
16 company shall also provide any updates submitted to the Pipeline and Hazardous Materials  
17 Safety Administration to the Commissioner of Environmental Protection.

18 **Sec. 4. 23 MRSA §7311, sub-§2-A** is enacted to read:

19 **2-A. State, county, municipal notice.** In the event of a main line train derailment  
20 involving hazardous materials, a railroad company shall make a 9-1-1 call, as defined in  
21 Title 25, section 2921, subsection 17, to alert first responders, including municipal and  
22 county fire chiefs in the jurisdiction, and provide timely notice to the Department of Public  
23 Safety, the Department of Environmental Protection and the Maine Emergency  
24 Management Agency. The Maine Emergency Management Agency may notify the  
25 Department of Transportation and the municipal and county fire chiefs located within the  
26 affected area of the accident.

27 **Sec. 5. 23 MRSA §7311, sub-§2-B** is enacted to read:

28 **2-B. Public notice.** In the event of a main line train derailment involving hazardous  
29 materials, the Maine Emergency Management Agency shall, if requested by a municipal or  
30 county fire chief serving as incident commander, issue an alert through an emergency alert  
31 system or wireless emergency alert system for the area identified by the incident  
32 commander.

33 **Sec. 6. 23 MRSA §7311, sub-§2-C** is enacted to read:

34 **2-C. Failure to issue notice.** If a railroad company fails to provide timely notice as  
35 required under subsection 2-A, the Commissioner of Transportation may assess a fine up  
36 to \$25,000 per failed notice per day in the event of a main line train derailment involving  
37 hazardous materials.

38 **Sec. 7. 23 MRSA §7311, sub-§5** is enacted to read:

39 **5. Routine inspections.** Upon request of the Commissioner of Transportation, a  
40 railroad company shall submit reports of inspections conducted pursuant to federal agency  
41 requirements under 49 Code of Federal Regulations, Subtitle B, Chapter II by a railroad  
42 company of trains, rails, rail safety equipment and rail corridors. Records under this

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1 subsection are not public records pursuant to Title 1, section 402, subsection 3, paragraph  
2 U.

3 **Sec. 8. 23 MRSA §7313** is enacted to read:

4 **§7313. Mandatory training offered by railroad companies to fire and emergency**  
5 **medical services**

6 **1. Training.** A railroad company shall offer training to each fire department, each  
7 local organization for emergency management and each organization that has a mutual aid  
8 agreement with each fire department and each local organization for emergency  
9 management along routes over which the railroad company transports oil or other  
10 hazardous materials. Additional training must be offered to each fire department and each  
11 local organization for emergency management at least once every 3 years after the initial  
12 training provided for under this subsection.

13 **2. Hazardous materials; techniques to assess hazards.** The training under  
14 subsection 1 must address the general hazards of oil and hazardous materials that travel  
15 through the jurisdiction or mutual aid agreement jurisdiction of each fire department and  
16 local organization for emergency management; techniques to assess hazards to the  
17 environment and to the safety of first responders and the public; factors that an incident  
18 commander must consider in determining whether to attempt to suppress a fire or to  
19 evacuate the public and first responders from an area; and other strategies for initial  
20 response by first responders.

21 **3. Suggested protocols.** The training under subsection 1 must include suggested  
22 protocols or practices for first responders to safely respond to a derailment; methods to  
23 identify railroad cars and hazardous material contents; first responder safety issues; railroad  
24 response tactics; public notification and evacuation considerations; environmental  
25 contamination response; railroad response personnel and resources coordination at an  
26 accident; and any other protocols and practices for safe initial local response, including the  
27 notification requirements and the responsibilities of an incident commander during any rail  
28 accident involving oil or other hazardous materials.

29 **Sec. 9. 23 MRSA §7314** is enacted to read:

30 **§7314. Post-accident reporting requirements**

31 **1. Post-accident review.** After an accident involving hazardous materials subject to  
32 review by the applicable federal agency or when an accident is not reviewed by the  
33 applicable federal agency but review is considered necessary by the Commissioner of  
34 Transportation, the commissioner shall ensure that a post-accident review and analysis is  
35 performed in a timely manner. The commissioner's review and analysis must be undertaken  
36 under an agreement with an entity having relevant knowledge and experience that is fully  
37 independent of the railroad carrier's companies.

38 **2. Evaluation requirements.** The Commissioner of Transportation's review and  
39 analysis process must include an after-action review and must evaluate, at a minimum,  
40 processes occurring during the accident for emergency assessment, hazard operations,  
41 population protection and accident management. The review and analysis must be designed  
42 to minimize disruption of the federal review of the accident.

1 3. Report. By March 1st following any calendar year in which one or more post-  
2 accident reviews and analyses are performed, the Commissioner of Transportation shall  
3 submit a report to the joint standing committees of the Legislature having jurisdiction over  
4 railroads and public records matters. The report must:

5 A. Provide a summary of the accidents, as long as the information provided does not  
6 include information excluded from the definition of "public records" pursuant to Title  
7 1, section 402, subsection 3, paragraph U;

8 B. Identify findings, conclusions and process changes;

9 C. Include any costs associated with accidents; and

10 D. Make recommendations for changes to laws and rules, if any.

11 **Sec. 10. Appropriations and allocations.** The following appropriations and  
12 allocations are made.

13 **TRANSPORTATION, DEPARTMENT OF**

14 **Multimodal Transportation Fund Z017**

15 Initiative: Provides allocations for accident reviews and analyses regarding hazardous  
16 materials performed by a qualified entity.

17	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
18	All Other	\$0	\$40,000
19			
20	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$40,000</u>

21

22 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
23 number to read consecutively.

24 **SUMMARY**

25 This amendment replaces the bill and does the following.

26 1. It adds records related to routine inspections of trains and rail corridors and safety  
27 equipment to an exception to the definition of "public records."

28 2. It clarifies that records related to a derailed train carrying hazardous materials is not  
29 an exception to the definition of "public records."

30 3. It requires railroad companies to submit prevention and response plans to the  
31 Department of Environmental Protection.

32 4. It provides procedures and notices to be provided to agencies and the public in the  
33 event of a train derailment involving hazardous materials.

34 5. It requires training to be offered by railroad companies to fire departments and  
35 emergency medical services to address train derailments.

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6. It requires a post-accident review to be conducted after any accident involving hazardous materials and a report to be submitted to the joint standing committees of the Legislature having jurisdiction over railroad and public records matters.

**FISCAL NOTE REQUIRED**

(See attached)



# 131st MAINE LEGISLATURE

LD 1937

LR 2549(02)

## An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-912)

Committee: Judiciary

Fiscal Note Required: Yes

### Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$40,000	\$40,000	\$40,000

#### Fiscal Detail and Notes

This bill includes an ongoing Other Special Revenue Funds allocation of \$40,000 in fiscal year 2024-25 to the Multimodal Transportation Fund in the Department of Transportation for accident reviews and analyses regarding hazardous materials performed by a qualified entity. The Fund has sufficient cash to fund the allocation.

Any revenue collected associated with civil fines assessed on railroad companies for not providing notices required would increase Other Special Revenue Funds to the Department of Transportation. It is not known at this time if any civil fines will be issued and no estimate of any potential increased revenue has been made.

Any additional costs to the Department of Defense, Veterans and Emergency Management associated with providing notifications and alerts are expected to be minor and can be absorbed within existing budgeted resources.