

AMENDED IN SENATE AUGUST 14, 2014

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 16, 2014

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN SENATE MAY 28, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Dickinson
(Coauthor: Assembly Member Gatto)
(Coauthors: Senators Gaines and Hill)

February 14, 2013

An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, Dickinson. Spill response for railroads.

Existing law requires the Office of Emergency Services to implement regulations establishing minimum standards for business plans and area plans relating to the handling and release or threatened release of hazardous materials. Existing law requires the establishment of a statewide environmental reporting system for these plans.

This bill would require a rail carrier, as defined, to report specified information regarding the transportation of hazardous materials, beginning no later than January 31, 2015, to the office on a quarterly basis. The bill would require a rail carrier to prospectively estimate and submit to the office notification of the weekly movements of trains through a county, as specified. The bill would require a rail carrier to update that notification once every 6 months. The bill also would require a rail carrier to update and notify the office within 30 days of the rail carrier determining that there will be a material change in the estimated volume of Bakken oil, as defined, plus or minus 25% per week relative to the most recent estimate previously submitted to the office. The bill would require each rail carrier to maintain a response management communications center, as specified. The bill would require the office to disseminate information necessary for developing emergency response plans from the reports it receives pursuant to this act to each unified program agency, as defined, when the office determines a unified program agency area of responsibility may be impacted by a hazardous material or oil cargo spill. The bill would require each rail carrier to provide the office with a summary of the rail carrier's hazardous materials emergency response plan, as specified. The bill would require the office to provide a copy of each summary report of a rail carrier's hazardous materials emergency response plan to each unified program agency when the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo, as specified. The bill would prohibit a recipient of the reports and hazardous materials emergency response plan from divulging or making known that information to unauthorized recipients, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 5 (commencing with Section 25547) is
- 2 added to Chapter 6.95 of Division 20 of the Health and Safety
- 3 Code, to read:

1 Article 5. Spill Prevention and Response for Railroads

2
3 25547. For purposes of this article, the following terms have
4 the following meanings:

5 (a) “Bakken oil” means petroleum crude oil, Class 3, sourced
6 from the Bakken shale formation in the Williston Basin.

7 (b) “Hazardous material” means a substance or material that
8 the United States Secretary of Transportation has determined to
9 be capable of posing an unreasonable risk to the health, safety,
10 and property of residents when transported in commerce and has
11 been designated as hazardous pursuant to Section 5103 of Title 49
12 of the United States Code. Hazardous material includes hazardous
13 substances, as defined in Section 25501, hazardous wastes, marine
14 pollutants, elevated temperature materials, materials designated
15 as hazardous in Section 172.101 of Title 40 of the Code of Federal
16 Regulations, and materials that meet the defining criteria for hazard
17 classes and divisions in Part 173 of Title 49 of the Code of Federal
18 Regulations.

19 (c) “Office” means the Office of Emergency Services.

20 (d) “Oil” has the same meaning as in Section 8670.3 of the
21 Government Code.

22 (e) “Rail carrier” means a person providing common carrier
23 railroad transportation for compensation, but does not include
24 street, suburban, or interurban electric railways not operated as
25 part of the general system of rail transportation.

26 25547.2. (a) No later than January 31, 2015, and every three
27 months thereafter, a rail carrier shall prepare and submit to the
28 office commodity flow data for the prior three months broken
29 down by county and track route relevant to the 25 largest hazardous
30 material commodities transported through the state, including tank
31 cars loaded with oil cargo. The commodity flow data shall conform
32 to all of the following:

33 (1) Be in accordance with Subpart G of Part 172 of Title 49 of
34 the Code of Federal Regulations and in Standard Transportation
35 Commodity Code numeric sequence.

36 (2) Include a description of the hazardous material or oil cargo
37 and commodity name organized by number of carload type,
38 including tank cars and gondola cars, intermodal loads, including
39 trailers, containers and tank containers, and total loads transported
40 within a county over the prior three months.

1 (b) The office shall provide access to commodity flow data as
2 authorized by Part 15 (commencing with Section 15.1), Part 1520
3 (commencing with Section 1520.1), and Part 172 (commencing
4 with Section 172.1) of Title 49 of the Code of Federal Regulations
5 and Section 11904 of Title 49 of the United States Code.

6 (c) (1) Beginning January 31, 2015, consistent with the United
7 States Department of Transportation’s Emergency Order Docket
8 No. DOT-OST-2014-0067, and any subsequent amendments to
9 that order, a rail carrier shall prospectively estimate and submit to
10 the office notification of the weekly movements of trains through
11 a county, including, but not limited to, track route and volumes of
12 shipments of Bakken oil in amounts equal to or greater than one
13 million (1,000,000) gallons per train consist. A rail carrier shall
14 update the notification provided pursuant to this paragraph once
15 every six months.

16 (2) Notwithstanding paragraph (1), a rail carrier shall update
17 and notify the office within 30 days of the rail carrier determining
18 that there will be a material change in the estimated volume of
19 Bakken oil plus or minus 25 percent per week relative to the most
20 recent estimate previously submitted to the office.

21 (d) The office shall disseminate information necessary for
22 developing emergency response plans from the reports prepared
23 pursuant to subdivisions (a) and (c) in whole or in summary form
24 to a unified program agency, as defined in Section 25501, when
25 the office determines a unified program agency area of
26 responsibility may be impacted by a hazardous material or oil
27 cargo spill. Rail carriers shall provide additional information to
28 the office related to the specific commodity flow data and Bakken
29 oil to assist a unified program agency with its emergency response
30 planning.

31 25547.4. Each rail carrier shall maintain a response
32 management communications center, which shall provide real-time
33 information to an authorized public safety answering point or 911
34 emergency response center about the train consist involved in a
35 hazardous material or oil cargo spill or other critical incident,
36 including, but not limited to, both of the following:

37 (a) Hazardous material movement shipping papers, including
38 a way bill or total trace, detailing the hazardous material or oil
39 cargo.

1 (b) Information that can assist the primary local public safety
2 agency in containing and safely removing a hazardous material
3 spill.

4 25547.6. (a) Each rail carrier shall provide the office with a
5 summary of the rail carrier's hazardous materials emergency
6 response plan. The rail carrier's hazardous materials emergency
7 response plan *summary* shall not be posted on a public Internet
8 Web site or be subject to public agency or public review and
9 approval processes. *site*.

10 (b) The office shall provide a copy of each summary report of
11 a rail carrier's hazardous materials emergency response plan to
12 each unified program agency, as defined in Section 25501, when
13 the office determines a unified program agency area of
14 responsibility may be impacted by a rail carrier spill of hazardous
15 material or oil cargo. The provision of the summary report of a
16 rail carrier's hazardous materials emergency response plan shall
17 comply with Part 15 (commencing with Section 15.1), Part 1520
18 (commencing with Section 1520.1), and Part 172 (commencing
19 with Section 172.1) of Title 49 of the Code of Federal Regulations
20 and Section 11904 of Title 49 of the United States Code.

21 25547.8. A recipient of the reports and plans provided pursuant
22 to Sections 25547.2 and 25547.6 shall comply with Part 15
23 (commencing with Section 15.1), Part 1520 (commencing with
24 Section 1520.1), and Part 172 (commencing with Section 172.1)
25 of Title 49 of the Code of Federal Regulations and Section 11904
26 of Title 49 of the United States Code for the purposes of
27 determining who may have access to the information contained in
28 the reports and shall not divulge or make known that information
29 to unauthorized recipients. Disclosure and dissemination of
30 information in the reports shall be done solely for the purpose of
31 providing the safe transport of hazardous material, crude oil, and
32 Bakken oil through the state and is deemed necessary to assist with
33 emergency response planning.

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