

AMENDED IN SENATE AUGUST 21, 2014
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) “*Hazardous materials emergency response plan*” shall have
20 the same meaning as “*emergency response program to hazardous*
21 *substance release*” set forth in Section 1910.120(q) of Title 29 of
22 the Code of Federal Regulations.

23 ~~(e)~~

24 (d) “Office” means the Office of Emergency Services.

25 ~~(d)~~

26 (e) “Oil” has the same meaning as in Section 8670.3 of the
27 Government Code.

28 ~~(e)~~

29 (f) “Rail carrier” means a person providing common carrier
30 railroad transportation for compensation, but does not include
31 street, suburban, or interurban electric railways not operated as
32 part of the general system of rail transportation.

33 25547.2. (a) No later than January 31, 2015, and every three
34 months thereafter, a rail carrier shall prepare and submit to the
35 office commodity flow data for the prior three months broken
36 down by county and track route relevant to the 25 largest hazardous
37 material commodities transported through the state, including tank
38 cars loaded with oil cargo. The commodity flow data shall conform
39 to all of the following:

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

4 (2) Include a description of the hazardous material or oil cargo
5 and commodity name organized by number of carload type,
6 including tank cars and gondola cars, intermodal loads, including
7 trailers, containers and tank containers, and total loads transported
8 within a county over the prior three months.

9 (b) The office shall provide access to commodity flow data as
10 authorized by Part 15 (commencing with Section 15.1), Part 1520
11 (commencing with Section 1520.1), and Part 172 (commencing
12 with Section 172.1) of Title 49 of the Code of Federal Regulations
13 and Section 11904 of Title 49 of the United States Code.

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

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

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

39 25547.4. Each rail carrier shall maintain a response
40 management communications center, which shall provide real-time

1 information to an authorized public safety answering point or 911
2 emergency response center about the train consist involved in a
3 hazardous material or oil cargo spill or other critical incident,
4 including, but not limited to, both of the following:

5 (a) Hazardous material movement shipping papers, including
6 a way bill or total trace, detailing the hazardous material or oil
7 cargo.

8 (b) Information that can assist the primary local public safety
9 agency in containing and safely removing a hazardous material
10 spill.

11 25547.6. (a) Each rail carrier shall provide the office with a
12 summary of the rail carrier's hazardous materials emergency
13 response plan. The rail carrier's hazardous materials emergency
14 response plan summary shall not be posted on a public Internet
15 Web site.

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

27 25547.8. A recipient of the reports and plans provided pursuant
28 to Sections 25547.2 and 25547.6 shall comply with Part 15
29 (commencing with Section 15.1), Part 1520 (commencing with
30 Section 1520.1), and Part 172 (commencing with Section 172.1)
31 of Title 49 of the Code of Federal Regulations and Section 11904
32 of Title 49 of the United States Code for the purposes of
33 determining who may have access to the information contained in
34 the reports and shall not divulge or make known that information
35 to unauthorized recipients. Disclosure and dissemination of
36 information in the reports shall be done ~~solely for the purpose of~~
37 ~~providing the safe transport of hazardous material, crude oil, and~~

- 1 ~~Bakken oil through the state and is deemed necessary~~ to assist with
- 2 emergency response planning.

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