

**Introduced by Senator Padilla
(Principal coauthor: Senator Wolk)
(Coauthors: Senators DeSaulnier, Hill, and Pavley)**

May 28, 2014

Senate Joint Resolution No. 27—Relative to railroad safety.

LEGISLATIVE COUNSEL'S DIGEST

SJR 27, as introduced, Padilla. Railroad safety: transportation of crude oil.

This measure would urge the United States Department of Transportation and other relevant federal entities to (1) safeguard communities and environmentally sensitive areas from rail accidents involving transportation of crude oil by expediting rail safety reforms, (2) prioritize safety considerations over cost-effectiveness in deliberations about improving the transport of crude oil by rail, (3) mandate, at a minimum, the best practices explained in a 2014 safety initiative, as specified and (4) partner with the Canadian Transportation Agency to improve safety of the North American railroad tank car fleet by swiftly adopting a stricter design standard, and by retrofitting or phasing out tank cars that do not meet that standard.

Fiscal committee: no.

1 WHEREAS, Recent years have seen a significant increase in
2 crude oil production from the Bakken region of North Dakota and
3 Montana as well as from the bituminous sands, commonly known
4 as tar sands, of Canada. Because crude oil currently is not
5 transported to California through pipelines, and because transport
6 by barge and truck is relatively expensive, energy companies have
7 turned to railroads for distribution of this crude oil; and

1 WHEREAS, According to the Association of American
2 Railroads, transportation of crude oil by rail has a 65 percent lower
3 spill rate than when transported by pipeline, that is, 2.2 vs. 6.3
4 gallons spilled per million ton-miles generated. Nonetheless, trains
5 carry crude oil throughout the country, including through many
6 densely populated and environmentally sensitive areas; and

7 WHEREAS, According to the Association of American
8 Railroads, roughly 400,000 carloads of crude oil traveled by rail
9 to refineries located along the West Coast, Northeast, and Gulf of
10 Mexico in 2013. This number is up from 9,500 in 2008, a 4,000
11 percent increase; and

12 WHEREAS, Because of this rapid change in the energy and
13 transportation sectors, safety rules, regulations, and oversight may
14 not be aligned with current operations; and

15 WHEREAS, The United States Pipeline and Hazardous
16 Materials Safety Administration and the Federal Railroad
17 Administration jointly initiated Operation Classification to test
18 samples, and verify labeling, of crude oil coming from the Bakken
19 formation. Bakken crude oil is now understood to be highly
20 flammable and more prone to ignite during an accident than
21 traditional heavy crude oil; and

22 WHEREAS, A series of derailments over the past year have
23 raised the profile of crude oil transportation by rail among local,
24 state, and federal officials. On July 6, 2013, a runaway train
25 carrying crude oil exploded upon derailment in downtown
26 Lac-Mégantic, Québec, causing the death of 47 people, the
27 evacuation of an entire community, the burning or spilling of 1.5
28 million gallons of crude oil, and over one billion dollars
29 (\$1,000,000,000) in damages. Since this tragedy, eight more
30 high-profile rail accidents involving transportation of crude oil
31 have occurred in four states and three Canadian provinces,
32 including, most recently, on April 30, 2014, in Lynchburg,
33 Virginia; and

34 WHEREAS, According to the Pipeline and Hazardous Materials
35 Safety Administration, the amount of crude oil spilled from tank
36 cars last year was more than all crude oil spilled during the four
37 decades since the federal government began collecting such data
38 (1.15 million gallons in 2013 compared to 800,000 gallons between
39 1975 and 2012). While the total number of accidents has decreased

1 over time, the environmental impact, as measured by gallons spilled
2 per million ton-miles, has dramatically increased; and

3 WHEREAS, Numerous local and state officials have called for
4 a thorough review and improvement of federal standards and
5 operational practices as they pertain to the transport of crude oil
6 by rail; and

7 WHEREAS, On February 21, 2014, United States Secretary of
8 Transportation Anthony Foxx and representatives of the country's
9 major freight railroads jointly released new voluntary operating
10 practices designed to increase the safety of transporting crude oil
11 by rail, including the use of safety technology, additional track
12 inspections, lower operating speeds, and improved emergency
13 response planning and training; and

14 WHEREAS, The United States Department of Transportation
15 announced an Emergency Order on May 7, 2014, requiring each
16 railroad carrier to notify the emergency response commission in
17 each state in which the railroad operates trains transporting at least
18 one million gallons of Bakken crude oil. The notification is
19 required to include an estimate of qualifying trains traveling
20 through each county in the state, describe the crude oil transported,
21 provide applicable emergency response information, identify the
22 routes over which the crude oil will be transported, and identify
23 at least one point of contact at the railroad in the case of an
24 accident; and

25 WHEREAS, The vulnerability of tank cars to punctures remains
26 an important threat to safety, as demonstrated in the most recent
27 rail accident involving transportation of crude oil in Lynchburg,
28 Virginia, which occurred despite the train traveling 15 miles per
29 hour under the voluntary, lower speed limit; and

30 WHEREAS, Crude oil is the fastest-growing type of freight
31 moving into, out of, or through California. According to the State
32 Energy Resources Conservation and Development Commission,
33 the volume of crude oil imported into California by rail has
34 increased from 45,491 barrels in 2009 to 6,169,264 barrels in 2013,
35 a 135-fold increase in only four years; and

36 WHEREAS, Two major (Class I) railroads are currently moving
37 crude oil into California, to receiving terminals in Richmond and
38 Bakersfield. Five additional terminals are planned or under
39 construction in Bakersfield, Benicia, Pittsburg, San Luis Obispo,
40 and Wilmington. In order to reach these terminals, crude oil must

1 travel through areas that are densely populated, environmentally
2 sensitive, or both; and

3 WHEREAS, The State Energy Resources Conservation and
4 Development Commission forecasts that with the shift in crude
5 oil transportation from ships to trains, and with the addition of
6 several rail receiving terminals by 2016, nearly 27 percent of the
7 crude oil refined in California will soon be imported by rail,
8 compared with the 1 percent of refined crude oil that arrives by
9 rail currently; and

10 WHEREAS, An increase in tank cars carrying crude oil through
11 California would increase the likelihood of an accident and,
12 therefore, the risks to human and environmental safety; and

13 WHEREAS, The state’s Public Utilities Commission performs
14 various rail safety inspections. Increasing inspections can aid the
15 safe transportation of crude oil by rail in California, but cannot
16 improve the safety of the tank cars themselves; and

17 WHEREAS, The Legislature has had two informational hearings
18 on the prevention of, and response to, rail accidents involving
19 transportation of crude oil, and is currently considering legislation
20 to improve first responder preparedness; and

21 WHEREAS, Federal law generally preempts states from
22 regulating rail transportation, including how hazardous materials,
23 such as crude oil, are transported by rail, material disclosures, train
24 routing, and tank car design standards; and

25 WHEREAS, Despite their hazardous contents, according to the
26 American Association of Railroads, 85 percent of tank cars carrying
27 flammable liquids, such as crude oil, do not meet the industry’s
28 higher voluntary safety standards, established in October 2011;
29 and

30 WHEREAS, Canadian National Railway and Canadian Pacific
31 Railway will charge higher rates for customers moving crude oil
32 in tank cars that do not meet the industry’s higher voluntary safety
33 standards. As of May 1, 2017, unmodified older tank cars will be
34 banned from Canadian railroads; and

35 WHEREAS, Canadian regulators said in April 2014 that they
36 will work with the United States Department of Transportation to
37 determine whether stricter requirements are needed for the North
38 American fleet of railroad tank cars intended to carry hazardous
39 material, such as crude oil; and

1 WHEREAS, The Federal Railroad Administration and the
2 Pipeline and Hazardous Materials Safety Administration released
3 a Safety Advisory on May 7, 2014, recommending that offerors
4 and rail carriers of Bakken crude oil select and use, for interstate
5 shipments, the tank car designs with the highest level of integrity
6 reasonably available within their fleet. Further, the agencies advised
7 these offerors and carriers to avoid using older, legacy tank cars
8 to the extent reasonably practicable; and

9 WHEREAS, Tank car manufacturers have called for a uniform,
10 lasting design standard to ensure that their current and planned
11 products can be sold to both United States and Canadian customers;
12 now, therefore, be it

13 *Resolved by the Senate and the Assembly of the State of*
14 *California, jointly,* That the Legislature of the State of California
15 urges the United States Department of Transportation and other
16 relevant federal entities to safeguard communities and
17 environmentally sensitive areas from rail accidents involving
18 transportation of crude oil by expediting rail safety reforms; and
19 be it further

20 *Resolved,* That the Legislature urges the United States
21 Department of Transportation and other relevant federal entities
22 to prioritize safety considerations over cost-effectiveness in
23 deliberations about improving the transport of crude oil by rail;
24 and be it further

25 *Resolved,* That the Legislature urges the United States
26 Department of Transportation and other relevant federal entities
27 to mandate, at a minimum, the best practices explained in the safety
28 initiative announced on February 21, 2014, by Secretary Foxx and
29 railroad industry representatives; and be it further

30 *Resolved,* Most importantly, that the Legislature urges the United
31 States Department of Transportation and other relevant federal
32 entities to partner with the Canadian Transportation Agency to
33 improve safety of the North American railroad tank car fleet by
34 swiftly adopting a stricter design standard for new tank cars, and
35 by retrofitting or phasing out tank cars that do not meet that
36 standard; and be it further

37 *Resolved,* That the Secretary of the Senate transmit copies of
38 this resolution to the President and the Vice President of the United
39 States, to the United States Secretary of Transportation, to the
40 Administrator of the Federal Railroad Administration, to the

- 1 Administrator of the Pipeline and Hazardous Materials Safety
- 2 Administration, to each Senator and Representative from California
- 3 in the United States Congress, and to the author for appropriate
- 4 distribution.