

AMENDED IN ASSEMBLY JULY 3, 2014

Senate Joint Resolution

No. 27

**Introduced by Senator Padilla
(Principal coauthor: Senator Wolk)**

(Coauthors: Senators DeSaulnier, Hill, and Pavley)

(Coauthors: Assembly Members Alejo, Ammiano, Atkins, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Cooley, Dababneh, Dahle, Daly, Dickinson, Eggman, Fong, Frazier, Garcia, Gatto, Gomez, Gonzalez, Gordon, Gray, Hagman, Hall, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Melendez, Mullin, Muratsuchi, Nazarian, Nestande, Pan, John A. Pérez, V. Manuel Pérez, Quirk, Rendon, Rodriguez, Skinner, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Williams, and Yamada)

May 28, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SJR 27, as amended, 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

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

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

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

22 WHEREAS, The United States Pipeline and Hazardous
23 Materials Safety Administration and the Federal Railroad
24 Administration jointly initiated Operation Classification to test
25 samples, and verify labeling, of crude oil coming from the Bakken
26 formation. Bakken crude oil is now understood to be highly
27 flammable and more prone to ignite during an accident than
28 traditional heavy crude oil; and

29 WHEREAS, A series of derailments over the past year have
30 raised the profile of crude oil transportation by rail among local,
31 state, and federal officials. On July 6, 2013, a runaway train
32 carrying crude oil exploded upon derailment in downtown
33 Lac-Mégantic, Québec, causing the death of 47 people, the
34 evacuation of an entire community, the burning or spilling of 1.5
35 million gallons of crude oil, and over one billion dollars

1 (\$1,000,000,000) in damages. Since this tragedy, eight more
2 high-profile rail accidents involving transportation of crude oil
3 have occurred in four states and three Canadian provinces,
4 including, most recently, on April 30, 2014, in Lynchburg,
5 Virginia; and

6 WHEREAS, According to the Pipeline and Hazardous Materials
7 Safety Administration, the amount of crude oil spilled from tank
8 cars last year was more than all crude oil spilled during the four
9 decades since the federal government began collecting such data
10 (1.15 million gallons in 2013 compared to 800,000 gallons between
11 1975 and 2012). While the total number of accidents has decreased
12 over time, the environmental impact, as measured by gallons spilled
13 per million ton-miles, has dramatically increased; and

14 WHEREAS, Numerous local and state officials have called for
15 a thorough review and improvement of federal standards and
16 operational practices as they pertain to the transport of crude oil
17 by rail; and

18 WHEREAS, On February 21, 2014, United States Secretary of
19 Transportation Anthony Foxx and representatives of the country's
20 major freight railroads jointly released new voluntary operating
21 practices designed to increase the safety of transporting crude oil
22 by rail, including the use of safety technology, additional track
23 inspections, lower operating speeds, and improved emergency
24 response planning and training; and

25 WHEREAS, The United States Department of Transportation
26 announced an Emergency Order on May 7, 2014, requiring each
27 railroad carrier to notify the emergency response commission in
28 each state in which the railroad operates trains transporting at least
29 one million gallons of Bakken crude oil. The notification is
30 required to include an estimate of qualifying trains traveling
31 through each county in the state, describe the crude oil transported,
32 provide applicable emergency response information, identify the
33 routes over which the crude oil will be transported, and identify
34 at least one point of contact at the railroad in the case of an
35 accident; and

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

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

7 WHEREAS, Two major (Class I) railroads are currently moving
8 crude oil into California, to receiving terminals in Richmond and
9 Bakersfield. Five additional terminals are planned or under
10 construction in Bakersfield, Benicia, Pittsburg, San Luis Obispo,
11 and Wilmington. In order to reach these terminals, crude oil must
12 travel through areas that are densely populated, environmentally
13 sensitive, or both; and

14 WHEREAS, The State Energy Resources Conservation and
15 Development Commission forecasts that with the shift in crude
16 oil transportation from ships to trains, and with the addition of
17 several rail receiving terminals by 2016, nearly 27 percent of the
18 crude oil refined in California will soon be imported by rail,
19 compared with the 1 percent of refined crude oil that arrives by
20 rail currently; and

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

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

28 WHEREAS, The Legislature has had two informational hearings
29 on the prevention of, and response to, rail accidents involving
30 transportation of crude oil, and is currently considering legislation
31 to improve first responder preparedness; and

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

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

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

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

11 WHEREAS, The Federal Railroad Administration and the
12 Pipeline and Hazardous Materials Safety Administration released
13 a Safety Advisory on May 7, 2014, recommending that offerors
14 and rail carriers of Bakken crude oil select and use, for interstate
15 shipments, the tank car designs with the highest level of integrity
16 reasonably available within their fleet. Further, the agencies advised
17 these offerors and carriers to avoid using older, legacy tank cars
18 to the extent reasonably practicable; and

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

23 *Resolved by the Senate and the Assembly of the State of*
24 *California, jointly*, That the Legislature of the State of California
25 urges the United States Department of Transportation and other
26 relevant federal entities to safeguard communities and
27 environmentally sensitive areas from rail accidents involving
28 transportation of crude oil by expediting rail safety reforms; and
29 be it further

30 *Resolved*, That the Legislature urges the United States
31 Department of Transportation and other relevant federal entities
32 to prioritize safety considerations over cost-effectiveness in
33 deliberations about improving the transport of crude oil by rail;
34 and be it further

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

1 *Resolved*, Most importantly, that the Legislature urges the United
2 States Department of Transportation and other relevant federal
3 entities to partner with the Canadian Transportation Agency to
4 improve safety of the North American railroad tank car fleet by
5 swiftly adopting a stricter design standard for new tank cars, and
6 by retrofitting or phasing out tank cars that do not meet that
7 standard; and be it further
8 *Resolved*, That the Secretary of the Senate transmit copies of
9 this resolution to the President and the Vice President of the United
10 States, to the United States Secretary of Transportation, to the
11 Administrator of the Federal Railroad Administration, to the
12 Administrator of the Pipeline and Hazardous Materials Safety
13 Administration, to each Senator and Representative from California
14 in the United States Congress, and to the author for appropriate
15 distribution.

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