

## **Senate Joint Resolution No. 27**

### **RESOLUTION CHAPTER 114**

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

[Filed with Secretary of State August 13, 2014.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SJR 27, 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.

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

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

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

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

WHEREAS, The United States Pipeline and Hazardous Materials Safety Administration and the Federal Railroad Administration jointly initiated Operation Classification to test samples, and verify labeling, of crude oil coming from the Bakken formation. Bakken crude oil is now understood

to be highly flammable and more prone to ignite during an accident than traditional heavy crude oil; and

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

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

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

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

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

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

WHEREAS, Crude oil is the fastest-growing type of freight moving into, out of, or through California. According to the State Energy Resources Conservation and Development Commission, the volume of crude oil

imported into California by rail has increased from 45,491 barrels in 2009 to 6,169,264 barrels in 2013, a 135-fold increase in only four years; and

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

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

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

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

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

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

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

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

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

WHEREAS, The Federal Railroad Administration and the Pipeline and Hazardous Materials Safety Administration released a Safety Advisory on May 7, 2014, recommending that offerors and rail carriers of Bakken crude oil select and use, for interstate shipments, the tank car designs with the highest level of integrity reasonably available within their fleet. Further,

the agencies advised these offerors and carriers to avoid using older, legacy tank cars to the extent reasonably practicable; and

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

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

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

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

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

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the United States Secretary of Transportation, to the Administrator of the Federal Railroad Administration, to the Administrator of the Pipeline and Hazardous Materials Safety Administration, to each Senator and Representative from California in the United States Congress, and to the author for appropriate distribution.