

RAIL SAFTEY ACT
SPECIFIC PROVISIONS APPLICABLE TO TRAINMEN AND ENGINEMEN
PROVIDED BY
STEVE YOUNG
DESIGNATED LEGAL COUNSEL

The following is provided as a quick reference to three big changes made the Rail Safety Act of 2008. The following is an exact replication of the changes enacted by Congress dealing with the Hours of Service, rule training and enforcement and medical treatment and care for an injured worker.

HOURS OF SERVICE CHANGES

(b) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.--Section 21103 is amended--

<< 49 USCA § 21103 >>

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.--Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to--

"(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours--

"(A) on duty;

"(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

"(C) in any other mandatory service for the carrier;

"(2) remain or go on duty for a period in excess of 12 consecutive hours;

"(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

"(4) remain or go on duty after that employee has initiated an on-duty period each day for--

"(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier except that--

"(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

"(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

"(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if--

"(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective *4861 bargaining agreements entered into during such period expressly provide for such a schedule;

"(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

"(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.";

<< 49 USCA § 21103 >>

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

"(c) LIMBO TIME LIMITATION AND ADDITIONAL REST REQUIREMENT.--

"(1) A railroad carrier may not require or allow an employee--

"(A) to exceed a total of 40 hours per calendar month spent--

"(i) waiting for deadhead transportation; or

"(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

"(B) to exceed a total of 30 hours per calendar month spent--

"(i) waiting for deadhead transportation; or

"(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

"(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by--

"(A) a casualty;

"(B) an accident;

"(C) an act of God;

"(D) a derailment;

"(E) a major equipment failure that prevents the train from advancing; or

"(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

"(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead *4862 transportation from a duty assignment to the place of final release in excess of the requirements of paragraph (1).

"(4) If--

"(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus

"(B) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours."; and

<< 49 USCA § 21103 >>

(3) by adding at the end thereof the following:

"(e) COMMUNICATION DURING TIME OFF DUTY.--During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains."

TRAINING AND CONDUCTOR CERTIFICATION:

TITLE IV--RAILROAD SAFETY ENHANCEMENTS
SEC. 401. MINIMUM TRAINING STANDARDS AND PLANS.

<< 49 USCA § 20162 >>

(a) AMENDMENT.--Subchapter II of chapter 201, as amended by section 210 of this division, is further amended

by adding at the end the following new section:

"§ 20162. Minimum training standards and plans

"(a) IN GENERAL.--The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish--

"(1) minimum training standards for each class and craft of safety-related railroad employee (as defined in section 20102) and equivalent railroad carrier contractor and subcontractor employees, which shall require railroad carriers, contractors, and subcontractors to qualify or otherwise document the proficiency of such employees in each such class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

"(2) a requirement that railroad carriers, contractors, and subcontractors develop and submit training and qualification plans to the Secretary for approval, including training programs and information deemed necessary by the Secretary to ensure that all safety-related railroad employees receive appropriate training in a timely manner; and

"(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

"(b) APPROVAL.--The Secretary shall review and approve the plans required under subsection (a)(2) utilizing an approval process required for programs to certify the qualification of locomotive engineers pursuant to part 240 of title 49, Code of Federal Regulations.

"(c) EXEMPTION.--The Secretary may exempt railroad carriers and railroad carrier contractors and subcontractors from submitting training plans for which the Secretary has issued training regulations before the date of enactment of the Rail Safety Improvement Act of 2008."

<< 49 USCA prec. § 20101 >>

(b) CONFORMING AMENDMENT.--The chapter analysis for chapter 201, as amended by section 210 of this division, is amended by inserting after the item relating to section 20161 the following:

"20162. Minimum training standards and plans."

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SEC. 402. CERTIFICATION OF CERTAIN CRAFTS OR CLASSES OF EMPLOYEES.

<< 49 USCA § 20163 >>

(a) AMENDMENT.--Subchapter II of chapter 201, as amended by section 401 of this division, is further amended by adding at the end the following new section:

"§ 20163. Certification of train conductors

"(a) REGULATIONS.--Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary of Transportation shall prescribe regulations to establish a program requiring the certification of

train conductors. In prescribing such regulations, the Secretary shall require that train conductors be trained, in accordance with the training standards developed pursuant to section 20162.

PROMPT MEDICAL ATTENTION

SEC. 419. PROMPT MEDICAL ATTENTION.

(a) IN GENERAL.--Section 20109 is amended--

<< 49 USCA § 20109 >>

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

<< 49 USCA § 20109 >>

(2) by inserting after subsection (b) the following:

"(c) PROMPT MEDICAL ATTENTION.--

"(1) PROHIBITION.--A railroad carrier or person covered under this section may not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

"(2) DISCIPLINE.--A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, *4893 or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness of duty or, if there are no pertinent Federal Railroad Administration standards, a carrier's medical standards for fitness for duty. For purposes of this paragraph, the term 'discipline' means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record."

STEVE YOUNG
DESIGNATED LEGAL COUNSEL
1300 POST OAK BLVD. STE. 1750
HOUSTON, TEXAS 77056
713 333 3070
www.tavornminayoung.com