

By Senator Taddeo

40-01092A-20

20201468\_\_

1                   A bill to be entitled  
2       An act relating to trains; creating s. 341.3023, F.S.;  
3       requiring, as a condition of operation in this state,  
4       that trains used in connection with the movement of  
5       freight and passengers have a crew that consists of at  
6       least two individuals; providing exceptions; defining  
7       terms; authorizing the Secretary of Transportation to  
8       exempt certain railroad carriers from specified  
9       provisions of law under certain conditions; providing  
10      requirements for such exemptions; authorizing the  
11      Department of Transportation to assess civil penalties  
12      against a person or an entity for a specified  
13      violation, subject to certain requirements; requiring  
14      the department to exercise certain authority to the  
15      extent that such authority is not preempted by federal  
16      law or regulation; creating s. 341.3024, F.S.;  
17      requiring, as a condition of operation in this state,  
18      that trains used in connection with the movement of  
19      certain materials and substances have a crew that  
20      consists of at least two individuals; authorizing the  
21      Secretary of Transportation to exempt certain railroad  
22      carriers from specified provisions of law under  
23      certain conditions; providing requirements for such  
24      exemptions; authorizing the department to assess civil  
25      penalties against a person or entity for a specified  
26      violation, subject to certain requirements; requiring  
27      the department to exercise certain authority to the  
28      extent that such authority is not preempted by federal  
29      law or regulation; providing an effective date.

40-01092A-20

20201468\_\_

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

WHEREAS, the safety of train passengers, crewmembers, commuters, and residents of the communities in this state which are traversed by trains, and the safe transport of the freight carried on those trains, are of paramount importance to this state, and

WHEREAS, the right to regulate statewide safety concerns that the United States Secretary of Transportation has not addressed through the promulgation of a specific rule, regulation, or standard covering and subsuming the subject matter falls exclusively to the state, and

WHEREAS, railroad operational challenges make it necessary, expedient, and a matter of public safety that at least two qualified persons operate the trains that traverse this state, and

WHEREAS, positive train control is, or once fully operational will become, a necessary safety overlay to the safe operations of passenger and freight train service in this state, but is not a replacement for minimal safe staffing requirements for trains, and

WHEREAS, the National Transportation Safety Board's recommendations regarding situational awareness, safety policies adopted by carriers, and regulatory requirements make a minimum train staffing level of at least two qualified persons in the cab of a leading locomotive indispensable and practically necessary, and

WHEREAS, the lives of hundreds of passengers in commuter and passenger trains in this state depend on the training, knowledge, skills, and expertise of at least two qualified

40-01092A-20

20201468\_\_

59 crewmembers to safely get them to their destination and to  
60 navigate the immediate aftermath of a train-related emergency in  
61 order to minimize injury and loss of life, and

62 WHEREAS, hazardous materials travel safely by train through  
63 our communities with the comfort of, and dependence on, a safety  
64 culture with safety overlays and required redundancy which is  
65 vital to avoiding accidents and of the utmost necessity when an  
66 accident does occur, particularly in populated areas of this  
67 state, and a minimum of two qualified persons is a required  
68 component of such a safe operational system, and

69 WHEREAS, first responders rely on and work directly with  
70 ground crewmembers during emergency situations and depend on  
71 them for their own safety while on and around the tracks, and it  
72 is necessary that at least one crewmember remain at the controls  
73 of the locomotive to ensure safety and vital communications, and

74 WHEREAS, a state regulation requiring that trains used in  
75 connection with the movement of freight and passengers have a  
76 crew that consists of at least two individuals is not  
77 incompatible with any law, regulation, or order of the United  
78 States Government, and

79 WHEREAS, most existing state rail operations have a minimum  
80 staffing level of two qualified persons, and this act makes  
81 reasonable exceptions and accommodations that will not  
82 negatively affect the intent to protect and enhance rail safety  
83 statewide, while not unreasonably burdening interstate commerce,  
84 NOW, THEREFORE,

85

86 Be It Enacted by the Legislature of the State of Florida:

87

40-01092A-20

20201468\_\_

88 Section 1. Section 341.3023, Florida Statutes, is created  
89 to read:

90 341.3023 Crew requirements for trains.-

91 (1) Except as otherwise provided in this section, as a  
92 condition of operation in this state, a train used in connection  
93 with the movement of freight or passengers must have a crew that  
94 consists of at least two individuals.

95 (2) A train engaged in the transport of passengers in this  
96 state may operate with one qualified individual in the train and  
97 one qualified individual in a connected rail car, provided that,  
98 in corridors that are not positive train control-protected or  
99 where positive train control systems are inoperable or known to  
100 be failing, at least two qualified individuals must operate in  
101 the train.

102 (3) A train may operate with fewer than two individuals if  
103 it is any one of the following:

104 (a) A train engaged in switching movements, whether at a  
105 rail yard, a line of road, or a customer facility. Such a train  
106 may operate with one qualified individual in the train and at  
107 least one qualified individual remotely operating the train.

108 (b) A train performing helper service. For purposes of this  
109 paragraph, the term "helper service" means the use of a train or  
110 group of trains to assist another train that has experienced  
111 mechanical failure or that lacks the power to traverse difficult  
112 terrain, and includes traveling to or from a location where  
113 assistance is provided.

114 (c) A train used for purposes of tourist, scenic, historic,  
115 or excursion operations and not operating as part of the rail  
116 system. However, if the train operates for 1.5 hours or more

40-01092A-20

20201468\_\_

117 during the hours between 11 p.m. and 5:30 a.m., it must be  
118 operated by two qualified individuals during those hours.

119 (d) A train that is not attached to any piece of equipment  
120 or is attached only to a caboose and that is not traveling more  
121 than 30 miles outside of a rail yard.

122 (e) A train performing hostler service. For purposes of  
123 this paragraph, the term "hostler service" means the movement of  
124 a train not attached to rail cars inside a rail yard.

125 (f) A freight train used for the purposes of mine loadout  
126 or plant dumping, or a similar operation in which a freight  
127 train is being loaded or unloaded in an assembly-line manner in  
128 an industry while the train moves at a speed of 10 miles per  
129 hour or less.

130 (4) (a) The Secretary of Transportation may exempt a  
131 railroad carrier with 15 or fewer employees from the limitations  
132 imposed by this section if a train is being operated under all  
133 of the following conditions:

134 1. The authorized maximum speed of the train is 15 miles  
135 per hour or less.

136 2. The average grade of any segment of the track on which  
137 the train travels is less than 1 percent over 3 continuous miles  
138 or 2 percent over 2 continuous miles.

139 (b) The secretary may exempt a carrier from this section  
140 after a full hearing for good cause shown and upon determining  
141 that the exemption is in the public interest and will not  
142 adversely affect safety. The exemption must be for a specific  
143 period of time and subject to review at least annually.

144 (5) The department may assess a civil penalty against a  
145 person or an entity that violates this section. If the

40-01092A-20

20201468\_\_

146 department assesses a civil penalty, it must do so as follows:

147 (a) If, within the 3 years before the violation occurred,  
148 the department has not assessed a civil penalty under this  
149 section against such person or entity, it may assess a penalty  
150 in an amount not less than \$250, but not more than \$1,000.

151 (b) If, within the 3 years before the violation occurred,  
152 the department has assessed one civil penalty under this section  
153 against such person or entity, it may assess a penalty in an  
154 amount not less than \$1,000, but not more than \$5,000.

155 (c) If, within the 3 years before the violation occurred,  
156 the department has assessed two or more civil penalties under  
157 this section against such person or entity, it may assess a  
158 penalty in an amount not less than \$5,000, but not more than  
159 \$10,000.

160 (6) The department shall exercise the authority granted  
161 under this section to the extent that such authority is not  
162 preempted by federal law or regulation.

163 Section 2. Section 341.3024, Florida Statutes, is created  
164 to read:

165 341.3024 Crew requirements for trains used in connection  
166 with the transport of certain materials and substances;  
167 penalties.—

168 (1) As a condition of operation in this state, a crew that  
169 consists of at least two individuals is required to operate a  
170 train used in connection with the movement of any of the  
171 following:

172 (a) One or more loaded freight rail cars containing  
173 materials poisonous by inhalation as defined in 49 C.F.R. s.  
174 171.8, including, but not limited to, anhydrous ammonia (UN

40-01092A-20

20201468\_\_

175 1005) and ammonia solutions (UN 3318).

176 (b) Ten or more loaded freight rail cars or freight rail  
177 cars loaded with bulk packaging as defined in 49 C.F.R. s. 171.8  
178 or with intermodal portable tanks containing any combination of  
179 materials poisonous by inhalation or any Division 2.1 flammable  
180 gases, Class 3 flammable liquids, or Division 1.1 or 1.2  
181 explosives listed in 49 C.F.R. part 173, or hazardous substances  
182 listed in 49 C.F.R. s. 173.31(f) (2).

183 (2) (a) The Secretary of Transportation may exempt a  
184 railroad carrier having 15 or fewer employees from the  
185 limitations imposed by this section if a train is being operated  
186 under all of the following conditions:

187 1. The maximum authorized speed of the train is 15 miles  
188 per hour or less.

189 2. The average grade of any segment of the track on which  
190 the train travels is less than 1 percent over 3 continuous miles  
191 or 2 percent over 2 continuous miles.

192 (b) The secretary may exempt a carrier from this section  
193 after a full hearing for good cause shown and upon determining  
194 that the exemption is in the public interest and will not  
195 adversely affect safety. The exemption must be for a specific  
196 period of time and subject to review at least annually.

197 (3) The department may assess a civil penalty against a  
198 person or entity that violates this section. If the department  
199 assesses a civil penalty, it must assess a penalty in an amount  
200 not less than \$2,500, but not more than \$10,000. However, if the  
201 Secretary of Transportation makes a finding of a willful  
202 violation of this section, the department may assess a penalty  
203 in an amount not more than \$100,000.

40-01092A-20

20201468\_\_

204       (4) The department shall exercise the authority granted  
205 under this section to the extent that such authority is not  
206 preempted by federal law or regulation.

207       Section 3. This act shall take effect July 1, 2020.