

1 HB642
2 213609-1
3 By Representative Bracy
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 22-APR-21

8 SYNOPSIS: This bill would establish the Safe Freight
9 Act to prohibit the operation of a train unless the
10 train has a crew consisting of at least two
11 individuals.

12 This bill would provide criminal penalties
13 for a violation.

14 This bill would provide exceptions for the
15 prohibition under certain circumstances.

16 This bill would authorize the Public Service
17 Commission to provide an exemption to certain
18 trains under certain circumstances.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of
22 Alabama of 1901, as amended, prohibits a general
23 law whose purpose or effect would be to require a
24 new or increased expenditure of local funds from
25 becoming effective with regard to a local
26 governmental entity without enactment by a 2/3 vote
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. However,
8 the bill does not require approval of a local
9 governmental entity or enactment by a 2/3 vote to
10 become effective because it comes within one of the
11 specified exceptions contained in the amendment.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Relating to trains; to provide for the Safe Freight
18 Act, to provide minimum crew requirements for the operation of
19 a train, with exceptions; to provide criminal penalties for a
20 violation; and in connection therewith would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds within the meaning of Amendment 621
23 of the Constitution of Alabama of 1901, now appearing as
24 Section 111.05 of the Official Recompilation of the
25 Constitution of Alabama of 1901, as amended.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Safe Freight Act.

3 Section 2. (a) Except as provided in subsection (b)
4 and subsection (c), a train may not be operated unless the
5 train has a crew consisting of at least two individuals. Any
6 individual who violates this section, on conviction, shall be
7 guilty of a Class C misdemeanor and shall be fined as follows:

8 (1) On a first conviction, the individual shall be
9 subject to a fine of not less than two hundred fifty dollars
10 (\$250) nor more than five hundred dollars (\$500).

11 (2) On a second conviction within three years of the
12 first conviction, the individual shall be subject to a fine of
13 not less than five hundred dollars (\$500) nor more than two
14 thousand five hundred dollars (\$2,500).

15 (3) On a third or subsequent conviction within three
16 years of the first conviction, the individual shall be subject
17 to a fine of not less than two thousand five hundred dollars
18 (\$2,500) nor more than five thousand dollars (\$5,000).

19 (b) A freight train may be operated with a crew of
20 less than two individuals under the following conditions:

21 (1) The train is performing helper service by using
22 a locomotive or group of locomotives to assist another train
23 that has incurred mechanical failure or lacks the power to
24 traverse difficult terrain. Helper service includes traveling
25 to or from a location where assistance is provided.

1 (2) The train is a tourist, scenic, historic, or
2 excursion operation that is not part of the general railroad
3 system of transportation.

4 (3) The train is a lite locomotive, which is a
5 locomotive or consist of locomotives not attached to any piece
6 of equipment or attached only to a caboose and not traveling
7 more than 30 miles outside of a rail yard.

8 (4) The train is inside a rail yard, not attached to
9 railcars, and being operated by or under the supervision of a
10 hostler.

11 (5) The train is being loaded or unloaded in an
12 assembly line manner at an industry while the train moves at
13 10 miles per hour or less.

14 (c) (1) The Alabama Public Service Commission may
15 exempt from the two-person crew requirement a railroad carrier
16 having not more than 15 employees covered by this section from
17 the limitations imposed by this section when a train is being
18 operated under the following conditions:

19 a. The maximum authorized speed of the train is
20 limited to 15 miles per hour or less.

21 b. The average grade of any segment of the track
22 operated over is less than one percent over three continuous
23 miles or two percent over two continuous miles.

24 (2) The Alabama Public Service Commission may allow
25 the exemption in subdivision (1) after a full hearing, for
26 good cause shown, and on deciding that the exemption is in the
27 public interest and will not adversely affect safety. The

1 exemption shall be for a specific period of time and is
2 subject to review at least annually.

3 (d) Notwithstanding subsection (b) or (c), a minimum
4 of two crew members is required when any train is transporting
5 either of the following:

6 (1) One or more loaded freight cars containing
7 materials poisonous by inhalation as defined in 49 C.F.R. §
8 171.8, including anhydrous ammonia (UN 1005) and ammonia
9 solutions (UN 3318).

10 (2) Twenty or more loaded freight cars or freight
11 cars loaded with bulk packages as defined in 49 C.F.R. § 171.8
12 or intermodal portable tanks containing any combination of
13 these materials or any Division 2.1 flammable gases, Class 3
14 flammable liquids, Class 1.1 or 1.2 explosives, or hazardous
15 substances listed in 49 C.F.R. § 173.31(f) (2).

16 Section 3. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended, because the
22 bill defines a new crime or amends the definition of an
23 existing crime.

24 Section 4. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.