

Senate Bill No. 578

Passed the Senate August 29, 2005

Secretary of the Senate

Passed the Assembly August 25, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 309.7 and 7661 of the Public Utilities Code, relating to railroads.

LEGISLATIVE COUNSEL'S DIGEST

SB 578, Escutia. Railroads: safety.

Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail.

This bill would replace references to the safety division with references to the consumer protection and safety division.

Existing law requires every railroad corporation that transports hazardous materials, as defined, in the state to provide a system map of the state to the Office of Emergency Services and to the commission, showing certain information, to annually submit a copy of its emergency handling guidelines to the office, and to provide specified information in the event of an incident where there is a release or threatened release of a hazardous material. Existing law requires the commission to require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with that office, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety. Pursuant to existing law, the commission has adopted General Order 161 adopting rules and regulations governing the transportation of hazardous materials by rail. Existing law requires a railroad corporation to promptly notify the office, the department, and the public safety agencies, through a communication to the Warning Center of the office, if there is a runaway train or other uncontrolled train movement

threatening public safety, in accordance with the developed communications protocol.

This bill would require a railroad corporation to promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area, of certain information relative to hazardous materials, and in certain events, of train and track locations, whether or not an accident or spill occurs. The bill would require the consumer protection and safety division of the commission to investigate any incident that results in a notification pursuant to this requirement, and to report its findings concerning the cause or causes to the commission and would require the commission to include the division's report in its annual railroad safety report to the Legislature.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares each of the following:

(a) The transportation of hazardous materials by railroads through urban areas in California poses a potential danger that warrants heightened care by railroads and by the state, to prevent accidents and spills.

(b) Recent accidents in other states involving the release of toxic substances in lethal amounts, resulting in widespread injury and death, illustrate the need for reassessment by both state and federal authorities of equipment and facility standards, inspection and maintenance programs, and enforcement procedures.

SEC. 2. Section 309.7 of the Public Utilities Code is amended to read:

309.7. (a) The division of the commission responsible for consumer protection and safety shall be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. The consumer protection and safety division shall advise the commission on all matters relating to rail safety, and shall propose to the commission rules, regulations, orders, and other

measures necessary to reduce the dangers caused by unsafe conditions on the railroads of the state. The delegation of enforcement responsibility to the consumer protection and safety division shall not diminish the power of other agencies of state government to enforce laws relating to employee or environmental safety, pollution prevention, or public health and safety.

(b) In performing its duties, the consumer protection and safety division shall exercise all powers of investigation granted to the commission, including rights to enter upon land or facilities, inspect books and records, and compel testimony. The commission shall employ sufficient federally certified inspectors to ensure at the time of inspection that railroad locomotives and equipment and facilities located in class I railroad yards in California are inspected not less frequently than every 180 days, and all main and branch line tracks are inspected not less frequently than every 12 months. In performing its duties, the safety division shall consult with representatives of railroad corporations, labor organizations representing railroad employees, and the Federal Railroad Administration.

(c) The general counsel shall assign to the consumer protection and safety division the personnel and attorneys necessary to fully utilize the powers granted to the commission by any state law, and by any federal law relating to rail transportation, including, but not limited to, the Federal Rail Safety Act (45 U.S.C. Sec. 421m, et seq.), to enforce safety laws, rules, regulations, and orders, and to collect fines and penalties resulting from the violation of any safety rule or regulation.

(d) The activities of the consumer protection and safety division that relate to safe operation of common carriers by rail, other than those relating to grade crossing protection, shall also be supported by the fees paid by railroad corporations, if any, pursuant to Sections 421 to 424, inclusive. The activities of the consumer protection and safety division that relate to grade crossing protection shall be supported by funds appropriated therefor from the State Highway Account in the State Transportation Fund. On or before November 30 of each year, the commission shall report to the Legislature on the activities of the safety division, and shall fully document in the report all

expenditures of those funds in the audit report provided in subdivision (f) of Section 421.

SEC. 3. Section 7661 of the Public Utilities Code is amended to read:

7661. (a) The commission shall require every railroad corporation operating in this state to develop, within 90 days of the effective date of the act adding this section, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety.

(b) A railroad corporation shall promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies, through a communication to the Warning Center of the Office of Emergency Services, if there is a runaway train or any other uncontrolled train movement that threatens public health and safety, in accordance with the railroad corporation's communications protocol developed pursuant to subdivision (a).

(c) The notification required pursuant to subdivision (b) shall include the following information, whether or not an accident or spill occurs:

(1) The information required by subdivision (c) of Section 7673.

(2) In the event of a runaway train, a train list.

(3) In the event of an uncontrolled train movement or uncontrolled movement of railcars, a track list or other inventory document if available.

(d) The consumer protection and safety division shall investigate any incident that results in a notification required pursuant to subdivision (b), and shall report its findings concerning the cause or causes to the commission. The commission shall include the division's report in its report to the Legislature pursuant to Section 7711.

Approved _____, 2005

Governor