Amendments to the Railway Safety Act

Transport Canada proposed a Bill to amend the Railway Safety Act (RSA) based on recommendations from the 2008 RSA review. Most of these amendments came into force on May 1, 2013. They will increase railway safety because they:

- Give Transport Canada greater oversight and enforcement capacity;
- Expand the use of Safety Management Systems;
- Increase the importance of environmental protection; and
- Clarify the Minister’s authority and responsibilities in railway matters.

Key amendment highlights

New regulation-making power for:

1. **Railway Operating Certificates (ROC)**
   - Require all railways under federal jurisdiction to obtain a ROC.
   - Give existing companies two years from the coming into force of the regulations to meet the requirements for their certificates.
   - Give the Minister the authority to:
     — suspend or cancel a ROC if a company fails to continue to meet the baseline requirements; and
     — exempt certain companies from needing a ROC.

2. **Administrative Monetary Penalties**:
   - Introduce administrative monetary penalties as a new enforcement tool.
   - Set maximum levels to $50,000 for an individual and $250,000 for a corporation.

3. **Safety Management Systems (SMS)**:
   - Require each SMS to name an ‘accountable executive’ responsible for safety.
   - Introduce protection for railway employees who report safety violations to their companies.
   - Require companies to demonstrate that they continuously manage risks.
Judicial penalties:

- Increase judicial fines to align with other modes of transport. Maximum fines for convictions on indictment under the RSA would be $50,000 for an individual and one million dollars for a corporation.
- Increase maximum fines on summary convictions under the RSA to $25,000 for an individual and $500,000 for corporations, for each day of non-compliance.

Minister’s Authority and Responsibilities:

- Clarify that the RSA falls within Parliament’s legislative authority, ensuring that all companies operating on federal track are subject to the same high level of safety requirements.
- Clarify that on-duty railway safety inspectors exercise powers under the RSA and act for and on behalf of the Minister.
- Allow the Minister to enter into agreements with provinces.

Regulation-making authorities:

- Require railway companies to submit environmental management plans and allow authorities to collect information and label equipment related to the release of pollutants in the environment.
- Give Transport Canada the ability to recover costs/charge fees for rail safety services.

NEW DEFINITIONS under RSA Amendments

**company** means a “railway company” or a “local railway company”.

**fatigue science** means a scientifically based, data-driven and systematic method used to measure and manage human fatigue.

**highest level of safety** means the lowest acceptable level of risk as demonstrated by a risk management analysis.

**local railway company** means a person, other than a “railway company” or a person acting for and on behalf of a “railway company”, that operates railway equipment on a “railway”.

**railway** means a “railway” within the legislative authority of Parliament and includes:
(a) branches, extensions, sidings, railway bridges, tunnels, stations, depots, wharfs, rolling stock, equipment, stores or other things connected with the railway, and
(b) communications or signalling systems and related facilities and equipment used for railway purposes.

**railway company** means a person that constructs, operates or maintains a “railway”.

Contact us at railsafety@tc.gc.ca or at 613-998-2985 should you have any questions. For more information on rail safety in general, visit: www.tc.gc.ca/railsafety.