

# Enrolled Senate Bill 271

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CHAPTER .....

AN ACT

Relating to rail safety oversight; amending ORS 824.045; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 824.045 is amended to read:

824.045. [(1) Except as provided in ORS 479.950, the Department of Transportation, by rule, shall establish a system safety program standard that applies to any municipal corporation that owns or operates a rail fixed guideway system that is not regulated by the Federal Railroad Administration. The Department of Transportation is designated as the state agency to monitor compliance with the standard, as required by federal law.]

[(2) As used in this section, "municipal corporation" means:]

[(a) A county;]

[(b) A city;]

[(c) A special district organized under ORS 198.705 to 198.845;]

[(d) A mass transit district organized under ORS 267.010 to 267.390;]

[(e) A transportation district organized under ORS 267.510 to 267.650;]

[(f) A metropolitan service district organized under ORS chapter 268;]

[(g) A port organized under ORS 777.005 to 777.725 or 777.915 to 777.953; or]

[(h) The Port of Portland created by ORS 778.010.]

**(1) For the purposes of this section:**

**(a) "Accident" means an event that involves one or more persons suffering a serious injury, property or equipment damage equal to or greater than \$25,000, a mainline derailment occurring at any location, or an evacuation of equipment or a station to prevent injury or loss of life.**

**(b) "Event" means any accident, incident or occurrence.**

**(c) "Hazard" means any real or potential condition that can cause injury, illness or death, damage to or loss of the facilities, equipment or property of a rail fixed guideway system, or damage to the environment.**

**(d) "Incident" means an event that exceeds the definition of "occurrence," but does not meet the definition of "accident."**

**(e) "Occurrence" means an event with no injuries, where damage occurs to property or equipment but does not affect transit operations.**

(f) "Transit Agency Safety Plan" means the comprehensive safety plan for a transit agency as required by 49 U.S.C. 5329(d), based on a safety management system and subject to federal regulations.

(2) Subject to ORS 479.950, the Department of Transportation, by rule, shall establish a state safety oversight program that applies to all rail fixed guideway systems in Oregon that are not subject to regulation by the Federal Railroad Administration.

(3) For purposes of 49 U.S.C. 5329(e), the department is designated as the state safety oversight agency to monitor compliance with the program for rail fixed guideway systems that are not subject to regulation by the Federal Railroad Administration. The state safety oversight agency:

(a) Shall implement the state safety oversight program in compliance with the requirements of 49 U.S.C. 5329.

(b) May review, approve, oversee and enforce the implementation, by the owner and operator of a rail fixed guideway system, of the public transportation agency safety plan adopted pursuant to 49 U.S.C. 5329(d).

(c) May inspect, investigate and enforce the safety of rail fixed guideway systems.

(d) May audit rail fixed guideway systems for compliance with the public transportation agency safety plan.

(e) May investigate any hazard or risk that threatens the safety of a rail fixed guideway system.

(f) May investigate any event involving a rail fixed guideway system.

(g) May investigate any allegation of noncompliance with a transit agency safety plan.

(4) The department shall implement the state safety oversight program for rail fixed guideway systems that are not subject to regulation by the Federal Railroad Administration and that are not subject to 49 U.S.C. 5329.

[3] (5) Unless prohibited by federal law, the department shall set an annual fee for owners and operators of rail fixed guideway systems to defray the costs of the safety program described in [subsection (1) of] this section and the costs associated with department responsibilities under ORS 267.230 (2). The department shall establish by rule the manner and timing of the collection of the fee.

(6) Fees collected by the department that are in excess of the combined actual cost of the safety program and the costs associated with department responsibilities under ORS 267.230 (2) shall be refunded to owners and operators of rail fixed guideway systems within one year following the end of the fiscal year in which the department collected the excess fees. In lieu of a refund, an owner or operator of a rail fixed guideway system may choose to have the excess fees credited against the subsequent year's fee payment.

**SECTION 2. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.**

**Passed by Senate April 30, 2015**

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House June 9, 2015**

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Tina Kotek, Speaker of House

**Received by Governor:**

.....M,....., 2015

**Approved:**

.....M,....., 2015

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Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State