

LFC Requester:	Joseph Simon Anne Hanika-Ortiz
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**NMDOT BILL ANALYSIS
2024 REGULAR SESSION**

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X Amendment _____
Correction ___ Substitute _____

Date 1/22/2024

Bill No. HB 119

Sponsor Dayan Hochman-Vigil

Agency Name and
Code Number: NMDOT - 805 - Rail Bureau

 Railroad Operation
Short Title Personnel Requirement

Person Writing Analysis: Bill Craven

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SECTION II: FISCAL IMPACT

None.

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 119 (HB 119) would add two new sections to Chapter 63, Article 3 NMSA and amend Section 63-2-2 NMSA. The effect of these changes would be to require class 1 and class 2 railroads in New Mexico to operate trains used in the movement of freight with a minimum of two crew members, a certified engineer and a certified conductor. Exceptions to this requirement are identified for certain engine moves, remote control operations in railyards, and as otherwise provided by federal law or regulation. Train movements of freight containing radioactive material would require three crew members.

FISCAL IMPLICATIONS

There are no fiscal implications for NMDOT from HB 119.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None for NMDOT.

ADMINISTRATIVE IMPLICATIONS

The State agency that would enforce this statute is not defined in the legislation.

There are no civil penalties identified for violations of this statute.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is similar to HB 105 as introduced in the 2023 Regular Session, SB 167 as introduced in the 2021 Regular Session, and HB 244 as introduced in the 2019 Regular Session.

This bill conflicts with a proposed Federal Railroad Administration (FRA) rule published in a notice of proposed rulemaking on July 28, 2022. The proposed FRA rule would establish minimum crew sizes for all railroads. Published news articles, as well as former FRA staff now working as consultants, have indicated FRA intends to publish its final rule in March 2024. This FRA rule would preempt any statutes by individual states establishing crew size requirements, including those described in this bill, when it is finalized.

TECHNICAL ISSUES

The State agency that would enforce this statute is not defined in the legislation.

There are no civil penalties identified for violations of this statute.

There is no definition of what constitutes radioactive material in the legislation.

OTHER SUBSTANTIVE ISSUES

This bill states that the two-person crew requirement would not apply if there is a Federal law or regulation covering this. While there currently are no federal laws or regulations mandating crew size on trains, on July 28, 2022, the Federal Railroad Administration (FRA) published a notice of proposed rulemaking (NPRM) that would mandate two-person crews for all railroads. Published news articles, as well as former FRA staff now working as consultants, have indicated FRA intends to publish its final rule in March 2024. A final FRA rule would preempt the requirements in this bill per Federal statute as well as per this bill's language. The class 1 railroads oppose efforts to enact both federal and state laws and regulations that would mandate crew sizes on trains.

The proposed three-person crew requirement for trains moving freight containing radioactive material does not include language addressing applicability of this requirement in the event this is addressed in federal law or regulation. It is possible that the final FRA rule, described above, may supersede this when published.

Also, if this bill is enacted and no Federal rule is adopted, trains operated by class 1 railroads across the state line could face crew size requirements in New Mexico that are different from crew size requirements in neighboring states that are defined by each railroads' operating rules and the terms of existing labor agreements with its unions. As of December 2023, 11 states have enacted statutes on crew size requirements, including Arizona and Colorado.

ALTERNATIVES

None are proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Class 1 railroads in New Mexico would continue to set train crew sizes according to each railroad's operating rules and the terms of existing labor agreements with its unions. Any class 2 railroad that may wish to operate in New Mexico (none presently do) would be able to set train crew sizes according to its operating rules and the terms of any existing labor agreements with its unions, if applicable.

AMENDMENTS

None suggested.