

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Tolman, Steven (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to provide counseling services and medical leave for crew members of a railroad compnay involved in an accident resulting in loss of life or serious bodily injury.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Tolman, Steven (SEN)	Second Suffolk and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02113 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROVIDE COUNSELING SERVICES AND MEDICAL LEAVE FOR CREW
MEMBERS OF A RAILROAD COMPANY INVOLVED IN AN ACCIDENT RESULTING IN LOSS
OF LIFE OR SERIOUS BODILY INJURY.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Chapter one hundred fifty-nine of the General Laws is hereby amended by
2 inserting after section 28 the following section:

3 Section 28A. (1)(a) Every Railroad corporation and railway company shall provide or
4 make available to every member of an operating crew involved in an accident on its railway or
5 right of way which results in loss of life or serious bodily injury, counseling services or other
6 critical incident stress debriefing services within 48 hours, provided, that the engineer, or other
7 operating crew member involved in said accident shall be relieved from duty with compensation
8 and applicable benefits at the site of said accident for a minimum of three days; provided,
9 further, that said leave may be without compensation and benefit if the railroad corporation

10 makes the affirmative showing that the accident was due to negligence of an engineer or other
11 operating crew member;

12 provided, however, that any person who is otherwise eligible for these benefits and who has been
13 found to have not acted negligently shall not be precluded from participation due to the
14 negligence of a fellow crew member.

15 (B) Any engineer returning to duty following such leave shall, if he so requests, be
16 assigned an assistant engineer or other qualified person who shall accompany him for such
17 reasonable time as may be necessary to guarantee the public safety. Any engineer or crew
18 member may be subject to an examination at the discretion of the employer, pertaining to any
19 mental or emotional impairment caused by said incident during the period of leave, or upon
20 return to duty, by a qualified medical practitioner designated by the employer.

21 (c) The Department shall promulgate rules and regulations necessary for the
22 implementation and enforcement of the provisions of this section provided, however, that any
23 person who is otherwise eligible for these benefits and who has been found to have not acted
24 negligently shall not be precluded from participation due to the negligence of a fellow crew
25 member.

26 (B) Any engineer returning to duty following such leave shall, if he so requests, be
27 assigned an assistant engineer or other qualified person who shall accompany him for such
28 reasonable time as may be necessary to guarantee the public safety. Any engineer or crew
29 member may be subject to an examination at the discretion of the employer, pertaining to any

30 mental or emotional impairment caused by said incident during the period of leave, or upon
31 return to duty, by a qualified medical practitioner designated by the employer.

32 (c) The Department shall promulgate rules and regulations necessary for the
33 implementation and enforcement of the provisions of this section.