

**SENATE . . . . . No. 1986**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Steven A. Tolman**

*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 maintain the classification of commuter-rail workers.**

PETITION OF:

NAME:

Steven A. Tolman

DISTRICT/ADDRESS:

Second Suffolk and Middlesex

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT TO MAINTAIN THE CLASSIFICATION OF COMMUTER-RAIL WORKERS.

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

1       A. When a rail line is acquired by the [Department of Transportation][Executive Office of  
2       Transportation] and/or Massachusetts Bay Transportation Authority for commuter rail  
3       operations, the [Department][EOT] and/or MBTA will require that any person engaged to  
4       provide transportation by railroad on that property, shall

- 5           1. be considered a rail carrier as defined in section 10102(5) of title 49, United  
6           States Code, for purposes of this title and any other statute that adopts that  
7           definition or in which that definition applies, including the Railway Labor Act  
8           (45 U.S.C. §151 et seq.), the Railroad Retirement Act (45 U.S.C. §231 et seq.)  
9           and the Federal Employers Liability Act (45 U.S.C. §51 et seq.), and
- 10          2. directly provide all train operations; inspection, maintenance, renewal and  
11          rehabilitation of the line, right of way, signal system, communication system,  
12          and train dispatching system: inspection, maintenance, renewal and  
13          rehabilitation of the locomotives and rolling stock; clerical; and train  
14          dispatching functions. However, nothing in this provision will alter existing  
15          collective bargaining agreements concerning contracting-out of work.

16           3. enter into agreements with the unions that represent employees performing  
17           work involved with rail operations on the line and/or for operations on the line  
18           prior to acquisition of the line.

19           a. At a minimum, the agreements will provide for continued employment  
20           of those workers as railroad workers in their respective classes and  
21           crafts in accordance with their existing seniority; and their continued  
22           performance of work on and for the line, under their existing collective  
23           bargaining agreements with continued representations by their unions.

24           b. The agreements will be entered before the commencement of work for  
25           commuter/passenger rail operations; deadlocks in negotiations will be  
26           resolved by arbitration. Such agreements will remain in effect until  
27           changed in accordance with the procedures of the Railway Labor Act,  
28           45 U.S.C. §151 et seq.

29           c. When the person engaged to provide transportation by railroad already  
30           has an existing collective bargaining agreement with a union that  
31           represents employees working on and/or for operations of the line  
32           prior to the acquisition, an agreement between that person and the  
33           union to extend that collective bargaining agreement to work on and/or  
34           for operations on the acquired line will satisfy this provision.

35        B. In the event of any planned change of operator or operations that will adversely affect  
36        railroad workers, there will be advance notice of the change, negotiations, and, if  
37        necessary, arbitration of protective arrangements for employees consistent with what is

38 required by the 1974 13(c) Agreement between the MBTA and the Railway Labor  
39 Executive's Association as amended and Supplemented.