

# FEDERAL EMPLOYERS' LIABILITY ACT (FELA)

Congress enacted the Federal Employers' Liability Act (FELA) over 100 years ago for the purpose of providing compensation and protective rights to railroad employees who are injured on the job or if killed, to his or her surviving widow or husband and children of such employee.

The very people this law was created to protect generally don't understand the FELA and that is exactly how the huge railroad companies want it to stay.

Below is a breakdown to help understand the law, but it is important to understand that ***the railroad must be proven to be negligent*** in order to file a claim under the law. ***Just being at work, on duty is not enough.***

## 45 USC CHAPTER 2 - LIABILITY FOR INJURIES TO EMPLOYEES

### **45 U.S.C. § 51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; employee defined**

1. **To recover damages you must show the railroad was negligent, in whole or in part**, by any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment and this negligence resulted in the injury or death.

2. If you work at the railroad you are covered under the law.

### **45 U.S.C. § 52. Carriers in Territories or other possessions of United States**

1. All possessions and states of the U.S. are included.

### **45 U.S.C. § 53 Contributory negligence; diminution of damages**

1. If it was partially your fault, does not keep you from recovering damages, but the percentage amount the jury finds you at fault will result in your damages being **reduced by the same percentage**. Example: Jury

awards you \$1000 and attributes you 50% at fault for the injury, the \$1000 would be reduced by 50% by the judge.

2. If the injury was the **result of a violation of any statute enacted for the safety of employees**, then the injured party has no contributory negligence, regardless if they were 50% at fault. Example: Jury awards you \$1000 and attributes you 50% at fault for the injury, the \$1000 would be **reduced by 50%**.

#### **45 U.S.C. § 54. Assumption of risks of employment**

1. The injured employee is not held to have assumed the risks of his/her employment in any case where negligence on the railroad can be shown in whole or part.

2. The injured employee is not held to have assumed the risks of his/her employment in any case where the violation by the railroad of any statute enacted for the safety of employees contributed to the injury or death of such employee.

#### **45 U.S.C. § 54a. Certain Federal and State regulations deemed statutory authority**

1. All FRA rules and those imposed by the states are considered statutes under sections 53 and 54 of this law.

#### **45 U.S.C. § 55. Contract, rule, regulation, or device exempting from liability; set-off**

1. The railroads cannot negotiate, write a rule or anything else to exempt itself from any liability created by this law.

2. The railroads can off set the settlement amount by any sum it has contributed or paid to insurance, benefits or other compensation that may have been paid to the injured employee. Example: Railroad Retirement Sick benefits, but does not include RRB Disability Annuity payments.

#### **45 U.S.C. § 56. Actions; limitation; concurrent jurisdiction of courts**

1. **Any case must be started within three years from the date of the injury.** Commonly referred to as the statute of limitations.

2. Action can be brought in either Federal or State Courts.

#### **45 U.S.C. § 57. Who included in term “common carrier”**

1. The term “common carrier” includes the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

#### **45 U.S.C. § 58. Duty or liability of common carriers and rights of employees under other acts not impaired**

1. Nothing in this law will limit the liability of the railroads or impair the rights of the employees under any other Act or Acts of Congress.

#### **45 U.S.C. § 59. Survival of right of action of person injured**

1. The rights provided under this law given to a person suffering injury or death shall pass on in an orderly fashion. Example: surviving widow or husband and children, and if none, then the injured person’s parents, followed by next of kin if no parents.

2. In such cases there is only one recovery for the same injury.

#### **45 U.S.C. § 60. Penalty for suppression of voluntary information incident to accidents; separability**

1. The railroads cannot by contract, rule, intimidation or otherwise, for the purpose, intent or effect prevent employees of the railroad from furnishing voluntary information to a person in interest as to the facts of the event that caused injury or death of an employee.

2. Punishable by a fine up to \$1000 or imprisonment up to 1 year or both.