

# BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

## District of Columbia — State Legislative Board

### Amtrak / MARC / VRE



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#### TESTIMONY IN SUPORT - HB 352

“ Railroad Company – Movement of Freight – Required Crew”  
February 16, 2023

**Herbert Harris, Jr.**  
Chairman  
State Representative

#### Crew Bases

Pittsburg, PA

Huntington, WV

Baltimore, MD

Washington, DC

Manassas, VA

Charlottesville, VA

Fredericksburg, VA

Richmond, VA

Raleigh, NC

Charlotte, NC

Florence, SC

TO: Honorable Kumar P. Barve, Chairman  
House of Delegates – Environment and Transportation Committee

FROM: Herbert Harris, Jr  
Chairman / State Representative  
Brotherhood of Locomotive Engineers & Trainmen

Good afternoon, Chairman Brave and Members of the House – Environment and Transportation Committee.

Thank you for the opportunity to provide comments on HB 352: “Railroad Company – Movement of Freight – Required Crew.”

I am Herbert Harris, Jr., State Chairman, Brotherhood of Locomotive Engineers and Trainmen – District of Columbia.

I am the legislative representative and safety officer for the passenger and commuter locomotive engineers that operate Amtrak; Acela, Regional, and Inter-City Service, and MARC – Penn Line Commuter Service. I have 29 years of experience as a locomotive engineer.

#### LEGISLATION

Today, we offer our full support for HB-352. and encourage the committee to give your favorably approval. The legislation will establish a minimal two-person safety standard for freight trains operated in the State of Maryland.

In the absence of federal regulations and legislation on this important public safety issue, the responsibility to protect the towns and communities along Maryland’s railroad network falls to the state legislature.

A Division of the Rail Conference – International Brotherhood of Teamsters

Secondly, your approval of this legislation is not preempted by federal law or any collective bargaining agreement.

In 2021, the Ninth Circuit Court of Appeals ruled against the FRA and rail carriers in a case brought by the states of California, Washington, and Nevada that attempted to preempt state crew size laws.

The Court of Appeals ruled that attempts by the FRA to preempt states laws enacted to establish minimum crew size was “ arbitrary and capricious” and challenged assertions by the FRA and rail carriers reducing the number of crew members in the cab to one person could improve safety “ did not withstand scrutiny” and was lacking.

Today, five states Arizona, California, Wisconsin, and West Virginia, and New Mexico have enacted similar rail safety legislation. This legislation will establish a safety standard that places Maryland in the vanguard of state rail safety nationwide.

Third, your support and approval of this legislation will not only improve safety on the freight rail system it will also improve passenger and commuter rail safety.

### **FREIGHT AND PASSENGER RAIL CORRIDORS**

Maryland has 770 miles of railroad owned by the Class I railroads, Norfolk Southern, CSX, and Amtrak. An overlay of the state rail network shows the most populated and traveled passenger and commuter rail corridors are also the primary (North – South) and (East – West) freight rail corridors.

High speed passenger trains: ACELA, Regional, InterCity, share the same rail corridors with mixed freight and unit trains. The co-mingled and shared freight and passenger corridors place greater importance on this legislation for the safety of the traveling public and railroad network.

Maryland also hosts two of the busiest passenger railroad stations in the entire Amtrak system. Prior to the pandemic, Baltimore Penn Station was the 8<sup>th</sup> busiest Amtrak station with BWI Marshall Airport ranking 14<sup>th</sup> nationwide.

An average 1.8 million travelers and commuters annually utilized the Aberdeen, Baltimore, Cumberland, Rockville, New Carrollton, and BWI Marshall Airport stations.

## **INFRASTRUCTURE, INVESTMENT, and JOBS ACT (IIJA)**

The Infrastructure Investment and Jobs Act (IIJA) signed by President Biden will provide \$66 Billion dollars in federal support for the expansion and development of railroad projects.

Thirty six (\$36) Billion dollars of the federal funding is designated for competitive federal and state grants. Maryland is strategically positioned to maximize this new federal partnership.

We witnessed the potential of the IIJA with President Biden recent announcement in Baltimore launching the Frederick Douglas / B&P Tunnel replacement project. The project will eliminate a major rail infrastructure deficiency and provide a new modern rail tunnel into downtown Baltimore.

## **FUTURE POPULATIONS AND MOBILITY**

The U.S. Census Bureau projects the population of Maryland from 2007 – 2030 will grow by 25% to 7.0 million residents.

These new residents will select Maryland because of the key factors: 1. Employment, 2. Higher Education, 3. Public Safety, and 4. Housing.

Transportation will also be a key factor. Marylanders are demanding more frequent and faster commuter and passenger rail service. The safety of the rail network is a vital component of the future growth of Maryland.

## **Precision Schedule Railroading**

The Precision Schedule Railroading (PSR) operations paradigm dominating operations of the U.S. Class I railroads in our opinion undermines rail safety in favor of reduced operation ratios and profits.

Under PSR, a record 20,000 railroad workers were laid off in 2019. The Surface Transportation Board estimates the large freight carriers employ 30% fewer workers in comparison to 2018.

The reduction of the railroad workforce under PSR has placed greater demand on remaining employees. Employee fatigue due to unscheduled workdays and length away from home periods poses a major threat to public safety.

Draconian attendance policy and absence of paid sick and medical leave have reduced the quality of life for employees and prevents them from addressing family and medical obligations.

The size, length, and weight of trains have reached records numbers. Now, many trains exceed 12k – 15k feet and are two (2) stories tall. These long trains disrupt towns and communities and pose major challenges for crews and first responders.

Today, most railroad sidings and infrastructure are unable to accommodate the new behemoth sizes of these freight trains.

## **PREVENT THE NEXT TRAGEDY**

We have witnessed the tragedy and devastation that can occur in single person rail operations. You have an opportunity to prevent a major rail accident in Maryland.

In 2013, the rail disaster in Lac-Megantic Quebec, Canada killed 47 people and destroyed the city center. It is a chilling example of bad railroad policy - single-person operations. A lone locomotive engineer, Jim Hardy, was assigned to operate and secure a 72-car crude oil train.

On February 3, 2023, the derailment of a Norfolk Southern freight in Palestine, Ohio showed the importance of minimum two-person in the event of emergency.

The three (3) crew members despite the danger took action to separate and move the remaining rail cars from the location of the 10 derailed hazardous material cars. In the immediate aftermath of the derailment, their swift action prevented greater risk and loss of life in the surrounding communities.

Twenty four hundred (2400) residents had to be evacuated from their homes. The health and environmental impacts will be severe and long lasting for the residents of Palestine, Ohio and the surrounding communities.

Imagine if this incident occurring in Baltimore, Rockville, Frederick, La Plata, or Easton, MD ?

## **CONCLUSION**

Our brothers and sisters in freight railroad service are professionals trained to safely transport crude oil, hazardous material, and important commercial commodities.

No technology including Positive Train Control (PTC), or Artificial Intelligence (AI) equals the vigilantes, knowledge, and experience of a trained rail professional.

Most importantly, railroad crews are the initial responders to any incident, or emergency and provide important information to FIRE / EMS responders.

My colleagues and I rely on the expertise of the freight railroad crews to safely navigate the shared passenger and freight rail corridors.

As we enter a new era of high speed passenger service transporting commuters, guests, and travelers, it will be reassuring to know with enactment of this legislation two trained rail professionals; engineer and conductor, will be in the cab of that adjacent freight train.

Thank you again for the opportunity to present these comments. Again, I strongly encourage your approval and favorable report of HB-352.

I would welcome any questions you may have at this time.