



Brian W. Hammock
Resident Vice President
CSX Transportation

February 14, 2017

The Honorable Kumar P. Barve
Room 251
House Office Building, Room 251
Annapolis, MD 21401

RE: LETTER IN OPPOSITION TO HB 352

Dear Chairman Barve:

On behalf of CSX Transportation, I am writing to respectfully oppose HB 352. This bill would require two-person crews to operate freight trains in Maryland when operating on the same corridor as high-speed passenger or commuter trains. This mandate would make the Port of Baltimore less competitive and nearly double the cost to the state for the MARC Camden and Brunswick line commuter rail service. In addition, the potential negative impacts to interstate commerce and the supply chain are reasons why federal law preempts state-specific train crew mandates.

Impacts to Maryland's supply chain

If HB 352 becomes law, it would nearly double the cost of the Camden and Brunswick lines for the state, hindering efforts to increase commuter rail service in Maryland. The 2021 MARC Access Agreement between CSX and the Maryland Transit Administration includes reimbursement to CSX of up to \$6 million per year if the state imposes a train crew size mandate. This amount accounts for the potential future cost of having an additional crew member on freight trains when operating in the State of Maryland.

In general, a state crew size mandate would raise the cost of freight operations in Maryland compared to other East Coast ports and make it less competitive. Communities throughout Maryland are benefiting from the rapid growth in distribution, warehousing and logistics operations locating to the state. Logistics costs are a concern for cost-conscious shippers and adding to the cost of an important link in the supply chain could give them another reason to call on competing ports, such as Norfolk. The recently announced MSC container terminal at Trade Point Atlantic, and the state's historic investment in the Howard Street Tunnel project, highlight the importance of keeping Maryland's supply chain fluid and competitive.

Collective Bargaining

Train crew size is a complex issue that affects the efficiency and cost of train operations. As such, it is a matter of significant importance to both the workers and the employers in the railway industry. Collective bargaining provides a mechanism for these parties to negotiate and reach

agreements on a range of issues, including train crew size. This process allows both sides to have a voice in the decision-making process and to balance their respective interests.

Crew size has been raised in multiple rounds of bargaining dating back to the early 1900s. It has also been addressed by a variety of neutral fact finders, including presidential commissions, federal courts, arbitrators, and emergency boards appointed by the President. Crew size has historically been one of the most important issues in bargaining since at least World War II. The bargaining process has led to historic wages for railroad employees, including a recently announced 24 percent wage increase during the current five-year contract period.

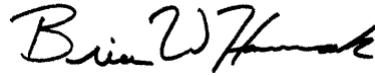
Federal Preemption

Federal law preempts state-specific train crew mandates as they would hinder the free flow of goods across state borders. The American supply chain depends on a unified and efficient transportation system, and a patchwork of state regulations would negatively impact the national economy.

The Rail Reorganization Act, also known as the 3R Act, was passed by Congress in 1974 in response to a railway crisis in the Northeast and Midwest. The Act was designed to reorganize the railroads to create an economically viable and cohesive railway system. The 3R Act has an express preemption clause that prohibits states in the Region from adopting laws or rules requiring a specified crew size for any task, function, or operation.

The United States District Court for the Northern District of Illinois recently struck down a similar state crew size law passed in Illinois. In that case, railroads in Illinois challenged a state-enacted two-person crew mandate similar in nature to HB351. Finding that the preemption language in the 3R Act is too specific to ignore, the court concluded: “Illinois wants to mandate a crew size of two to perform the task, function or operation of moving freight with a train or light engine; this is exactly what the 3R Act prohibits.” Indiana Rail Road Company v. Illinois Commerce Commission, No. 1:19-CV-06466 (N.D. Ill. 2021).

In conclusion, CSX respectfully requests the committee to issue an unfavorable report on HB 352. This bill would not enhance safety, increase the cost of commuter rail service, and make the Port of Baltimore less competitive. Thank you for your consideration.

Very truly yours,

Brian W. Hammock