

May 24, 2019

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, Maryland 21401

The Honorable Adrienne A. Jones
Speaker of the House
H-101 State House
Annapolis, Maryland 21401

Dear Mr. President and Madam Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed Senate Bill 252 and House Bill 66 – *Railroad Company – Movement of Freight – Required Crew*.

This legislation attempts to codify a private industry issue that should be negotiated between the employer and the employer's representatives and decided at the federal level since it involves interstate commerce and clearly falls within the federal government's regulatory purview.

For four years, I have made it my Administration's top priority to make sure Maryland is Open for Business. These bills attempt to circumvent the collective bargaining process in private industry and will ultimately kill job opportunities for the thousands of Maryland's citizens who depend on an economically viable Port of Baltimore, make our great state less competitive with our neighbors, burden our taxpayers, and bring confusion to the Mid-Atlantic region's complex rail network. I simply cannot allow these bills to become law.

Senate Bill 252 and House Bill 66 put the Port of Baltimore, one of our State's major economic engines, at a competitive disadvantage with neighboring ports. Only three states in the nation – California, Colorado, and Wisconsin – have a two-person crew requirement. No state in the Mid-Atlantic region, or on the East Coast for that matter, has this requirement, which means that no port that competes directly with the Port of Baltimore currently has this requirement. Freight rail is America's backbone of interstate commerce. Mandating that carriers in the State of Maryland use a larger crew size than would be required of the same railroads operating out of Norfolk, Philadelphia, or New York will directly result in an increase in shipping costs and deter carriers from operating in the state resulting in the loss of jobs directly

related to the Port. Those same jobs produce an average annual wage that is 9.5% higher than the state average.

During my administration, the Port of Baltimore and Seagirt Marine Terminal have grown significantly, breaking records in each of the last four years, adding jobs and economic activity in the process. Last year, the Port of Baltimore set a 44-year record for public and private cargo handled. Large volume surges can strain trucking resources. For this growth to continue, we need viable intermodal options to ensure cargo velocity remains at optimal levels. This includes rail connectivity to locations that are currently serviced only by truck. Tradepoint Atlantic is one such location that offers tremendous potential to increase cargo volume through the Port of Baltimore, however shipping cost is a serious challenge to fully realizing this potential. Carriers will always move cargo by the most efficient and economical means. As the Port is developing a rail shuttle solution, absorbing an additional layer of cost constitutes a serious burden in an industry that already operates on razor thin margins. In that respect, these bills send a disturbing message to the Port's private sector industry partners and would have a chilling effect on discussions with CSX as the Port continues to work towards modernizing the Howard Street Tunnel to allow for double-stack containers, essential to the future success of the Port of Baltimore.

In the three previous years that the General Assembly has considered crew size, no empirical data has been submitted that proves there is a link between railroad safety and the crew size. In fact, crew sizes have decreased over the years, and together with the implementation of advancements in technology we have seen a reduction in accident rates. The implementation of Positive Train Control will only contribute to this trend. Passing bills of this nature creates a false narrative that a larger crew size is the most critical factor to rail safety, which could deter future advancements in technology with the potential to have a far more significant impact on rail safety.

This legislation will also have a significant impact on the pending renewal of the State's access agreement with CSX for MARC Train Camden and Brunswick Line service, even more so this year than the year before. The net result of this will be as much as a \$5.2 million impact that CSX would pass on to the State through the MARC contract, which will undoubtedly impact train service and the 12,000 daily riders on both lines.

Lastly, these bills are clearly preempted by federal law. The Regional Rail Reorganization Act of 1973, in a section of Code titled "Preemption" and codified at 45 U.S.C. 797(j) states that "[n]o State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation to employ any specified number of persons to perform any particular task, function, or operation...." In fact, the United States Code *specifically identifies Maryland* as a State within the region in which "no State in the Region may adopt or continue in force any such law, rule,

regulation, order, or standard with respect to any railroad in the Region.” These bills would be in direct conflict with federal law.

Maryland cannot afford to be at a competitive disadvantage to our neighboring states. The increased costs associated with this legislation, negative impact on the approximately 37,300 jobs generated by port activity, and potential to jeopardize the livelihood of Maryland workers who depend on a thriving Port of Baltimore is too harmful to allow these bills to become law.

For these reasons, I have vetoed Senate Bill 252 and House Bill 66.

Sincerely,

Lawrence J. Hogan Jr.
Governor