

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 492 (Delegate Stein)
Environment and Transportation

Finance

Railroad Company - Movement of Freight - Required Crew

This bill prohibits, with specified exceptions, a train or light engine used in connection with the movement of railroad freight that shares the same rail corridor as a high-speed passenger or commuter train from operating in the State unless it has a crew of at least two individuals. The bill establishes criminal penalties for willful violations of that prohibition. The bill terminates if a federal rule requires two-person crews.

Fiscal Summary

State Effect: The Maryland Department of Labor (MDL) can handle the bill's requirements with existing resources. Potential Transportation Trust Fund (TTF) effects for the Maryland Port Administration (MPA) and the Maryland Transit Administration (MTA) are discussed below. The bill's penalty provisions are not anticipated to materially affect general fund revenues.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: None. The bill does not directly affect small businesses.

Analysis

Bill Summary: The bill does not apply to a train or light engine used in connection with the movement of railroad freight involving hostler service or utility employees in yard service.

A person who willfully violates the bill's prohibition is guilty of a misdemeanor and subject to a fine of \$500 for a first offense and a fine of \$1,000, per offense, for a second offense

or a subsequent offense committed within three years of the second offense. A railroad company is solely responsible for the actions of its agents or employees in violation of the bill.

A county or municipality may not enact and enforce more stringent measures regarding crew requirements than those in the bill.

If the Federal Railroad Administration (FRA) issues a rule requiring two-person train crews on crude oil trains and establishing minimum crew size standards for most main line freight and passenger rail operations, within five days after the issuance of the rule, the Commissioner of Labor and Industry within MDL must notify the Department of Legislative Services (DLS). On the date DLS receives the notification, the bill terminates.

Current Law:

Federal and State Regulation of Railroad Laws

In general, state regulatory authority over railroads is preempted by federal regulatory authority, because most remaining railroads in the United States are inherently a form of interstate transportation. Federal law requires that laws, regulations, and orders related to railroad safety or security be nationally uniform to the extent practicable. However, a state may adopt or continue in force a law, regulation, or order related to railroad safety or security until the U.S. Secretary of Transportation (with respect to railroad safety matters), or the U.S. Secretary of Homeland Security (with respect to railroad security matters), prescribes a regulation or issues an order covering the subject matter of the state requirement.

A state may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order (1) is necessary to eliminate or reduce an essentially local safety or security hazard; (2) is not incompatible with a law, regulation, or order of the federal government; and (3) does not unreasonably burden interstate commerce.

Regulations Requiring Two-man Crews Withdrawn

In March 2016, FRA proposed regulations establishing minimum requirements for the size of train crew staffs, depending on the type of operation. A minimum requirement of two crew members was proposed for all railroad operations, with exceptions for those operations that FRA believed did not pose significant safety risks to railroad employees, the general public, and the environment by using smaller crews than two individuals. However, the regulations were withdrawn.

State Fiscal Effect: MPA advises that the bill may result in higher shipping costs due to the additional expense associated with two-person crews, which could deter carriers from operating in the State. However, MPA is unable to determine the extent of the possible fiscal impact.

While the bill does not require two-person crews for passenger trains, MTA advises that CSX is likely to create an internal operational rule requiring all trains to have two engineers (both freight and passenger), which would affect MARC train service. If that were to occur as a direct result of the bill, MTA advises expenditures for the additional engineers would total at least \$2.4 million annually. MPA and MTA expenses are paid from TTF.

Both of these concerns were raised in the Governor's [veto letter](#) of substantively identical legislation in 2019.

Additional Information

Prior Introductions: HB 66 of 2019, a substantively identical bill, was passed by the General Assembly, but vetoed by the Governor for policy reasons. Its cross file, SB 252, was likewise vetoed. HB 180 of 2018, a similar bill, was passed by the General Assembly, but vetoed by the Governor for policy reasons. HB 381 of 2017, a similar bill, passed the House and passed second reading in the Senate; however, no further action was taken.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Public Service Commission; Maryland Department of Transportation; Anne Arundel, Baltimore, Charles, and Frederick counties; City of Havre de Grace; Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2021
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