



# THE MARYLAND AND DELAWARE RAILROAD COMPANY

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January 28, 2021

*Via First Class Mail and Email to Kumar.Barve@house.state.md.us*

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

## **RE: HB 492 “Railroad Company – Movement of Freight – Required Crew”**

Dear Chairman Barve:

I am writing to express The Maryland and Delaware Railroad Company’s (MDDE) concerns regarding HB 492, “Railroad Company – Movement of Freight – Required Crew.”

While HB 492 is ostensibly targeted towards freight operations that share the same corridor as high-speed passenger or commuter trains, we believe this type of legislation is disadvantageous not only to Class I Railroads, but also to short line railroads like MDDE.

MDDE believes that safety is of the utmost importance. We are very proud to have built an exemplary record of safety over the past 40 years of serving freight customers on Delmarva. We also believe, however, that regulations should be based on empirical, scientific and/or historical evidence. The Federal Railroad Administration (FRA) recently acknowledged that there is no “reliable and conclusive data” to suggest that trains operating with two-member crews are safer than single-person crews. This was also supported by the findings of Oliver Wyman, a leading management research firm commissioned by the American Association of Railroads (AAR) to analyze data on rail operations and crew size. In 2013/2014, the American Short Line and Regional Railroad Association (ASLRRA) also undertook a series of surveys of its membership and analysis of accident databases and concluded that “nothing in this study or in the data we examined indicated that two-person crews might be safer than one-person crews.”

In fact, railroad operations in the United States have become remarkably safer even as crew size has decreased, with the overall train accident rate having declined 44 percent from 2000 to 2017, according to data collected by the Federal Railroad Administration.

Although MDDE currently operates with a two-person crew, many small business short line railroads often operate with one person in the cab of the locomotive, or on the ground controlling a remote-control locomotive, and continue to operate safely and efficiently nonetheless.

You may be aware that we have opposed similar legislation in the past. I would note that there have been two notable developments since the last time a crew size bill was being considered by the Legislature:

- On May 29, 2019, the Federal Railroad Administration, the expert federal regulatory agency that has authority pursuant to 49 U.S.C. § 20103(a) to establish national standards in every area of railroad safety, determined after review of an extensive record that there is no data showing two-person crews are safer than one-person crews. 84 Fed. Reg. 24,735-40 (May 29, 2019). FRA concluded that regulation of minimum train crew is not justified and indicated its intent to preempt all state laws and regulations on that topic. *Id.* at 24,735, 24,741.

- On September 30, 2020, the U.S. District Court for the Northern District of Illinois held that an Illinois state crew size law very similar to H.B. 492 was preempted by the Federal Railroad Safety Act (FRSA), 49 U.S.C. § 20106(a)(2). See *Ind. R.R. Co. v. Ill. Commerce Comm'n*, No. 19-6466 (N.D. Ill. Sept. 30, 2020). This decision provides a very compelling argument against the legitimacy of state minimum crew size laws.

In conclusion, I would like to reiterate that laws like HB 492 will increase operating costs of small business railroads, hinder advancements in safety, reduce the likely development of increased freight for small business short line railroads, and increase truck traffic on the highways. New developments in transportation – including driverless trucks – already pose a significant threat to the ability of small railroads like ours to remain competitive, especially on shorter hauls. Mandating crew size only exacerbates this difficulty and makes it more challenging for small businesses to survive and thrive.

For these reasons, we ask that the committee deliver an unfavorable report on HB 492.

Sincerely,



Cathrin S. Banks  
President

CC: *(Via Email)*

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