



Brian W. Hammock  
Director State Affairs  
CSX Transportation

March 13, 2024

The Honorable Pamela Beidle  
3 East  
Miller Senate Office Building  
Annapolis, MD 21401

**RE: LETTER IN OPPOSITION TO SB1060**

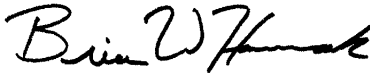
Dear Chair Beidle:

On behalf of CSX Transportation, I am writing to respectfully oppose SB1060. The bill requires freight railroads to meet six new mandates and greatly expands state regulatory oversight of an industry already heavily regulated at the federal level.

Railroads are vital arteries of Maryland's economy. Marylanders built the railroads nearly 200 years ago to keep the Port of Baltimore competitive against larger ports closer to the Atlantic. Baltimore's inland advantage, coupled with a robust rail network, helped offset the increased shipping costs to navigate up the Bay. Railroads play that same important role today.

Railroads are also the backbone of America's supply chain. Just like I-95, the CSX network running through Maryland connects Maine to Florida, while the broader network connects from Snow Hill, Maryland to San Francisco, California. Recognizing their importance to society, Congress has established significant regulations and oversights. The U.S. Department of Transportation, Surface Transportation Board, and Federal Railroad Administration are all designated as primary regulatory agencies for the rail industry.

Before disrupting the national uniform standards that have allowed railroads to serve their important purpose, please consider the attached information. CSX respectfully requests the committee to issue an unfavorable report on SB1060. Thank you for your consideration.

Very truly yours,  
  
Brian W. Hammock

## **TRAIN LENGTH – 8,500 FOOT LIMIT**

Arbitrarily restricting train lengths within the state will significantly impact the economic viability of the Port of Baltimore, runs counter to environmental best practices, and will have a direct negative impact on the Transportation Trust Fund, even beyond the \$18.4 million to \$23.2 million impacts outlined in the Fiscal Note.

Limiting train length would essentially eliminate Baltimore as a competitive container port. Intermodal trains, which carry containers to and from the port, are typically 11,000 feet or longer. This business is not economically viable with an 8,500-foot train limit, especially while surrounding states have no such limit.

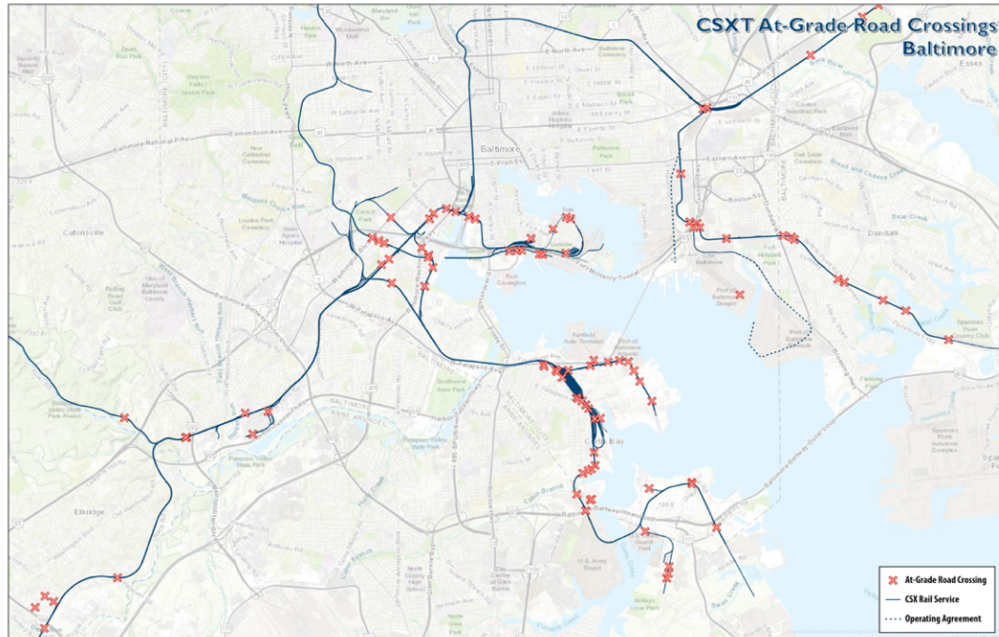
State and private entities are investing over \$2 billion to grow this business – the Howard Street Tunnel project, Trade Point Atlantic, Seagirt Marine Terminal – all significant state priorities that would be at risk. Growth of this business has a direct impact on the Transportation Trust Fund, which receives revenue from containers moved over the public docks at Seagirt.

This mandate would also impact the Port of Baltimore position as the number one port in America for the import and export of automobiles. The State of Maryland and CSX partnered in the recent past to expand our automotive facility in Jessup, Maryland to accommodate longer auto trains, some that can be 12,000 feet or longer to accommodate the growth in volume at Baltimore. This business would not be economically viable with 8,500-foot trains. In a competitive MidAtlantic Market, this volume would likely move to other states.

Imposing a blanket restriction on train length will add over 80 new train sets to an already busy network. More freight trains mean less opportunity for passenger trains, countering the partnership CSX has with MDOT-MTA to achieve increased service on the MARC Camden and Brunswick lines.

## BLOCKED CROSSINGS – FIVE MINUTE LIMIT

As the first state to build a rail network, many state and local roads cross the railroad tracks at-grade, some within active rail yards. Each of our major rail yards in Baltimore have one or more at-grade crossings, including inside port facilities. Building a train of any length in the state almost always requires occupying at least one railroad crossing for more than five minutes. The railroad simply cannot operate with this restriction.



As drafted, the bill is vague and over prescriptive. As one example, “Highway grade crossing” is not defined. Under the Transportation Article, “highway” includes all roadway surfaces, subgrades, drainage facilities and structures, entrance plazas, approaches, including bicycle and walking paths in the State of Maryland.<sup>1</sup> This bill would restrict normal railroad operations whether a crossing is a private farm road, foot path, or interstate expressway.

In addition, nearly all federal and state courts that have considered similar blocked crossing laws have concluded that they are categorically—or completely—preempted because they specifically target railroad operations.<sup>2</sup> Moreover, the United States Supreme Court recently denied review in two federal case striking down ten-minute blocked crossing statutes in Ohio and Oklahoma.<sup>3</sup> The Supreme Court did so again when Ohio sought review of a decision finding its blocked-crossing law preempted.

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<sup>1</sup> Md. Code Ann., Transp. §8-101(i) (2022)([link](#)).

<sup>2</sup> See e.g., Friberg v. Kansas City Southern Rail-way Co., 267 F.3d 439, 443 (5th Cir. 2001); Ohio v. CSX Trans., Inc., 200 N.E.3d 215, 223 (Ohio 2022), cert. denied, 2024 WL 71898 (January 8, 2024); State v. BNSF Ry. Co., 432 P.3d 77, 84 (Ka. App. 2018).

<sup>3</sup> BNSF Railway Co. v. Hiatt, 22 F.4th 1190, 1194 (10th Cir.), cert. denied, 142 S. Ct. 2835 (2022). Ohio v. CSX Trans., Inc., 200 N.E.3d 215, 223 (Ohio 2022), cert. denied, 2024 WL 71898 (January 8, 2024).

## TWO PERSON CREW MANDATE

CSX has remained open and transparent about two-person crew discussions at a national level but believe state government mandates on national networks such as ours puts Maryland and the railroad industry at a practical disadvantage. This bill would make permanent a single staffing model for all freight railroads in Maryland, regardless of whether they are mainline, yard or switching operations. Except for two types of operations – “Hostler Service” or “Utility Employees in Yard Service” – which are not defined in the bill. State laws of this nature have been preempted by federal law for over 40 years.

A national crew size rule is likely to be issued by the Federal Railroad Administration any day,<sup>4</sup> detailing when and under what conditions train crews should be staffed to ensure optimal safety of our employees and the public. Locking Maryland into a rigid operating model, without any study or analysis of the impacts to the economy or supply chain, risks doing more harm than good.<sup>5</sup>

Like Maryland, other states have considered or enacted crew mandates in recent years as the Federal Railroad Administration considered a federal rule. 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 HB1446/SB1060. 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.”<sup>6</sup>

With comprehensive federal regulations establishing a national standard for train crew size expected any day, current collective bargaining agreements requiring a two-person crew, and federal law preempting state action, we urge the committee to continue to monitor this matter in future years.

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<sup>4</sup> Train Crew Size Safety Requirements, 87 Fed. Reg. 144 (proposed July 28, 2022) ([link](#)); Report on DOT Significant Rulemaking, Federal Railroad Administration, p. 21, Stage: Final Rule, Publication Date: March 2024 ([link](#)).

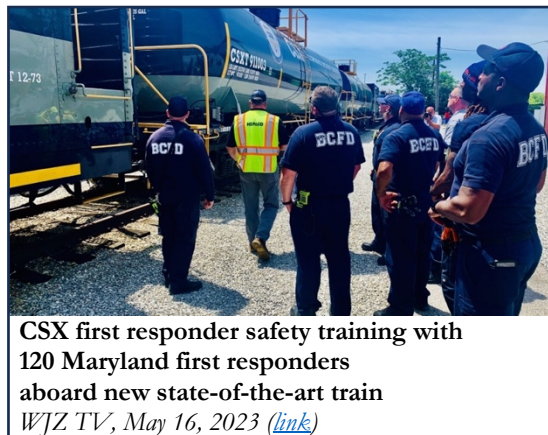
<sup>5</sup> Prior to adopting new railroad safety and health regulations, existing Maryland law requires an economic impact statement, including direct and indirect effects of the regulation on the railroad industry, the public, and railroad employees, and a review of alternative approach available to ensure the “least burdensome economic impact on the railroad industry, the public, and railroad employees. MD. Code Ann. Lab. & Empl. §5.5-108(2) ([link](#)).

<sup>6</sup> Indiana Rail Road Co. v. Illinois Commerce Comm’n, No. 1:19-CV-06466 (N.D. Ill. 2021) (finding the 3R Act has an express state preemption clause that **prohibits states in the Region, including Maryland, from adopting laws or rules requiring a specified crew size** for any task, function, or operation on the railroad.) ([link](#)).

## HAZARDOUS MATERIAL DATABASE

Under federal law, railroads must share hazardous material information with state emergency managers. Prior to operating high-hazard flammable (HHFT) trains in Maryland, the USDOT, Pipeline and Hazardous Materials Safety Administration, under the federal FAST Act of 2015, requires railroads to provide a detailed report for emergency response planning to the “appropriate local authorities.”<sup>7</sup> CSX provides this report annually, or more frequently, if necessary, to the Maryland Department of Emergency Management.

In addition, local authorities can – and many do, obtain a density study of hazardous materials moving through their communities upon request from the railroads. First responders also have access to real-time hazardous material information through the rail industry’s AskRail app so they can make an informed decision about how to respond to a rail emergency. CSX provides regular training for Maryland first responders on train accident response; including hands-on training aboard a variety of railcars.



Considering the federal reporting requirement and extensive engagement between the railroad and Maryland emergency managers, a state mandate is unnecessary. The committee may want to consider designating the “appropriate local authority” to receive future HHFT reports under the FAST Act. In a similar situation, the General Assembly in 2002 designed the Maryland Department of Environment as the “information repository” for reports required under the federal Emergency Planning and Community Right-to-Know Act of 1986.<sup>8</sup>

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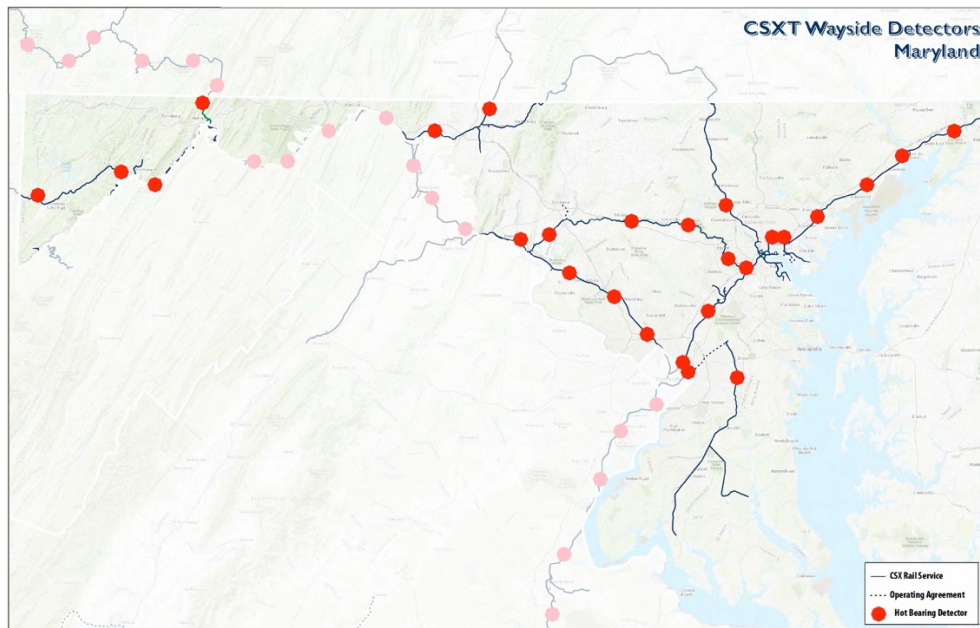
<sup>7</sup> 49 CFR § 174.312(a) ([link](#)).

<sup>8</sup> MD. Code Ann. Envir. §7-602 ([link](#)).

## WAYSIDE DETECTORS

Wayside detectors refer to an array of advancing technologies designed to reduce risk in railroad operations by identifying poorly performing equipment before accidents occur. As drafted, the bill grants new regulatory authority to the Maryland Department of Labor in a highly technical matter not in keeping with the department's current role with railroad safety.<sup>9</sup>

The Federal Railroad Administration, in partnership with America's railroads, are driving innovation in this technology. Through a national data sharing effort among the six largest railroads in the country, real-time trending information provides early defect detection, making an already safe railroad safer. In March 2023, the Federal Railroad Administration issued Safety Advisory 2023-01, calling on railroads to use the data to establish thresholds for inspections of suspected faulty equipment, use real-time trend analysis as a criterion for inspection, ensure proper training and qualification of personnel responsible for the calibration, inspection, and maintenance of wayside detectors, and ensure proper inspection of rolling stock with alerts.<sup>10</sup>



While the larger railroads can invest in these new technologies, the equipment can be cost-prohibitive for smaller, shortline railroads, of which Maryland has eight, including the state-owned Canton Railroad. To encourage investment in safety improvements by smaller railroads, other states have established grant programs. Ohio appropriated \$10 million this fiscal year for a new shortline railroad wayside detector grant program. New state regulations in this area are not necessary and would be duplicative of efforts on the national level.

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<sup>9</sup> For the past 24 years, the Maryland Department of Labor has had minimal regulatory oversight of the railroads, primarily focused on: sanitary conditions at rail facilities, basic health and safety standards for drinking water and placement of hand towel facilities, and enclosures of toilet facilities. *See* Md. Code Ann. Lab & Empl. Art. §5.5-110 (2023) ([link](#)).

<sup>10</sup> Federal Railroad Administration, Safety Advisory 2023-01, Evaluation of Policies and Procedures Related to the Use and Maintenance of Hot Bearing Wayside Detectors (March 3, 2023) ([link](#)).

## RAILROAD UNION INSPECTORS

While appreciating the bill's safety focus, granting private individuals broad law enforcement authority is entirely unnecessary and duplicative of existing federal and state law. The provision would let up to ten authorized union representatives<sup>11</sup> have unrestricted access to investigate railroad property for any "violations of federal or state laws and regulations" or "safety hazards that may result in injury or death to a railroad employee." Such a grant of authority is unprecedented in Maryland law and is in keeping with powers granted to federal, state, and local law enforcement.

The Federal Rail Safety Act does acknowledge a role for state oversight in this arena, setting forth the procedures for states to establish limited investigative programs under the authorization of the USDOT.<sup>12</sup> The Federal Railroad Administration has enacted comprehensive regulations detailing when, how, and where a state may engage in rail safety inspections, investigation, or surveillance. We encourage Maryland to access this program, with the appropriate federal oversight prescribed.<sup>13</sup> States are preempted from establishing regulations outside of the framework established by Congress.<sup>14</sup>

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<sup>11</sup> The bill authorized "up to **two** authorized railroad union representatives **for each** union representing the railroad company's employees." CSX has five unions representing our employees.

<sup>12</sup> See 49 USC § 20105(a) ([link](#)).

<sup>13</sup> See 49 CFR Part 212 ("It is the policy of the FRA to monitor State investigative and surveillance practices at the program level.") ([link](#)).

<sup>14</sup> See, e.g., CSX Transp. v. Public Utility Comm., 701 F. Supp. 608, 616-17 (S.D. Ohio 1988) (state's hazardous material inspection regime is preempted by federal law).